

Ms Gillian Lindsay
[REDACTED]

5 December 2014

Dear Ms Lindsay

EDINBURGH TRAM INQUIRY

You will be aware that the Scottish Ministers have commissioned a Public Inquiry to investigate various matters relating to the Edinburgh Tram Project. More specifically these matters relate to the reasons why it took longer than anticipated to construct the tram line, cost considerably more than originally expected and delivered a line that is shorter than planned. The Inquiry is chaired by Lord Hardie and I have been appointed as Solicitor to the Inquiry.

The terms of reference for the Inquiry are as follows –

To inquire into the delivery of the Edinburgh Trams project (“the project”), from proposals for the project emerging to its completion, including the procurement and contract preparation, its governance, project management and delivery structures, and oversight of the relevant contracts, in order to establish why the project incurred delays, cost considerably more than originally budgeted for and delivered significantly less than was projected through reductions in scope.

To examine the consequences of the failure to deliver the project in the time, within the budget and to the extent projected.

To otherwise review the circumstances surrounding the project as necessary, in order to report to the Scottish Ministers making recommendations as to how major tram and light rail infrastructure projects of a similar nature might avoid such failures in future.

My role as solicitor to the Inquiry is to ensure as best I can that all relevant evidence is led by Counsel at the Inquiry to enable Lord Hardie to prepare a report that fulfils the remit set by Ministers. I am not representing the interests of any particular party and therefore do not have any particular interest to defend or pursue.

I understand that Carol Campbell, Head of Legal, Risk and Compliance at City of Edinburgh Council, wrote to you on 25 August 2014, at our request, to ask whether you would be willing to have your name and address passed to this Office as we

anticipated that it would assist our preparations for the Inquiry if we could speak to you. I understand that you did not agree to this information being passed to this Office.

Since Ms Campbell wrote to you Scottish Ministers have taken the decision to convert the Inquiry, which had been operating on a voluntary basis, into a statutory inquiry to which the provisions of the Inquiries Act 2005 apply. Following that conversion, Lord Hardie decided to exercise the power under section 21 to require the Council to provide a list of names and addresses of relevant former employees. The Council has, in response to the notice issued by Lord Hardie, provided this information which includes your name and address.

It would be extremely helpful if my colleague, Jane Ferrier, and I could speak to you given your close involvement in the Project as the Council's solicitor. We would like to discuss the extent of your involvement in the project and any other matters that may assist in our understanding of why the Project was delivered late and over-budget, and was less extensive than originally planned.

From discussion with others we believe that the terms of the relevant contracts, particularly but not only the Infraco contract, will be of key importance. We would like to discuss the reasons for adopting the approach of having separate contracts with different parties for the design work, utilities diversion and infrastructure, and the subsequent novation of the design contract to Bilfinger. We would also like to understand the respective roles of the Council's legal department, TiE Ltd and DLA Piper and the approach taken to the contractual relationships.

I hope that you will be willing to reconsider your initial reluctance to co-operate with the Inquiry and that you will be willing to meet with us at your earliest convenience. We will of course be willing to meet at a time and place that is convenient for you, within reason.

Lord Hardie has the power under the 2005 Act to compel a person to provide evidence in the form of a written statement and to provide documents in his or her custody but I would hope that it will be possible for us to conduct our investigations without the need for a formal notice.

Yours sincerely

GORDON McNICOLL
Solicitor to the Edinburgh Tram Inquiry
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