

Core participant protocol

Purpose of the protocol

1. The purpose of this protocol is to:
 - explain what a core participant is;
 - explain how a core participant can participate in the Inquiry; and
 - provide information as to how a person, group or organisation can apply for core participant status.

What is a core participant and how can they participate in the Inquiry?

2. A core participant includes an individual, organisation or entity that has a significant interest in the Inquiry. A core participant has additional rights to others participating in the Inquiry. A core participant or their legal representative may participate in the Inquiry in a number of ways, they may:
 - receive, in advance of hearings, disclosure of evidence insofar as that evidence relates to their interest in those hearings;
 - be invited to contribute suggestions to the list of issues to be considered by the Inquiry and the list of witnesses who will give evidence to the Inquiry;
 - make opening and closing statements at hearings;
 - suggest questions or lines of questioning to Counsel to the Inquiry to ask of a witness;
 - with the Chair's permission, ask questions of witnesses; and
 - see the Inquiry report or interim report before it is published.

3. It is not necessary to be a Core Participant in order to be able to meaningfully engage with the Inquiry. There are other ways in which to participate effectively in the work of the Inquiry. Individuals, organisations and entities can contribute in other ways, for example, by giving a written statement or the provision of documentation if requested by the Inquiry.

What are the criteria for becoming a core participant?

4. Rule 4 of the Inquiries (Scotland) Rules 2007 (“the 2007 Rules”) provides the criteria by which the Chair may decide whether to designate an individual, organisation or entity as a core participant. In making that decision the Chair must have particular regard to the desirability of including as core participants, persons who –
 - (a) played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;
 - (b) have a significant interest in an important aspect of the matters to which the inquiry relates; or
 - (c) may be subject to significant or explicit criticism –
 - (i) during the proceedings at the inquiry; or
 - (ii) in the report or any interim report.

Applications for core participant status

5. Applications to be designated a core participant must be made in writing to the Solicitor to the Inquiry. Applications should be addressed to the Solicitor to the Inquiry and submitted by email to legal@emmacaldwellinquiry.scot. Applications should not exceed 4 sides of A4 paper (1.5 line spacing). Initial applications for core participant status were to be submitted to the Inquiry by Tuesday 6 January 2026. Applications for core participant status may, however, be submitted to the Inquiry at any time during the course of the Inquiry.

6. Applicants must specify in their applications how they satisfy one or more of the above criteria in paragraph 3 (a) – (c). Please provide as much information as you can as this will assist the Chair in determining whether or not the criteria are met.
7. Applicants must confirm in their application that they consent to being designated a core participant, if their application is successful. Applications must also confirm whether the applicant wishes to be legally represented, and, if so, provide details of their legal representative.
8. The Solicitor to the Inquiry will write to you with the Chair's decision on your application.
9. The names of those designated with core participant status will be published on the Inquiry website.

How does the Chair decide on applications?

10. When the Chair is deciding applications, matters he will consider include:
 - 10.1 Does the applicant satisfy one or more of the criteria set out in paragraph 3 above (Rule 4(2) of the 2007 Rules)?
 - 10.2 Is it fair in all the circumstances to designate the applicant as a core participant, having regard also to the need to avoid any unnecessary cost (Section 17(3) of the Inquiries Act 2005)?
11. The Chair is not obliged to designate every person or organisation meeting the requirements of Rule 4(2) (and set out in paragraph 3 above) as a core participant. The Chair will take into account all relevant factors. The Chair will exercise his discretion whether to designate an applicant as a core participant fairly, consistently and with an open mind.
12. The designation of an applicant as a core participant should facilitate the better management of the Inquiry, and assist it in fulfilling its terms of reference.

13. If the Chair needs more information to make a decision, he may ask you to provide further information.

Invitation to be a core participant

14. In addition to the application process, if, at any stage during the course of the Inquiry, the Chair considers it appropriate to do so, he may invite a person, organisation or entity to become a core participant. They will only be designated as a core participant if they consent.

Legal Representation

15. Where a core participant has appointed a qualified lawyer to act on their behalf, the Chair must regard that lawyer as that person's recognised legal representative in respect of the Inquiry proceedings. A change in legal representation can result in a delay in the Inquiry proceedings. If you propose to change legal representatives, you should notify the Solicitor to the Inquiry as soon as possible.

16. Where two or more core participants each seek to be legally represented, and the Chair considers that –

- (i) their interests in the outcome of the inquiry are similar;
- (ii) the facts they are likely to rely on during the course of the inquiry are similar; and
- (iii) it is fair and proper for them to be jointly represented;

the Chair may direct that those core participants be represented by a single recognised legal representative and approve a qualified lawyer for that purpose.

17. Where the Chair has approved a qualified lawyer to act as a single legal representative, the core participants must agree the designation of a single legal representative. If they fail to do so within a reasonable period, the Chair may designate an appropriate lawyer who, in the opinion of the Chair, has sufficient knowledge and experience to act on their behalf.

Cost of legal representation

18. If a core participant cannot afford to pay their lawyer's fees, they can apply to the Chair for an award to made for the cost of legal representation. More information can be found in the protocol for costs of legal representation.

Issued under the authority of the Chair on 9 December 2025.

Revised on 5 March 2026.