

Protocol for considering applications for core participant status

What is a core participant?

1. Core participant status may be granted to an individual, group of individuals or entity under Rule 5 of the Inquiry Rules 2006.
2. Those designated as core participants will:
 - a. be provided with electronic disclosure of evidence relevant to the particular subject matter of the Inquiry in respect of which they are so designated, subject to any restrictions made under section 19 of the Inquiries Act 2005;
 - b. have the right to make opening and closing statements at any hearing;
 - c. have the right to suggest lines of questioning to be pursued by Counsel;
 - d. have the right to apply to the Inquiry Panel to ask questions of witnesses during a hearing.
3. It will not be necessary for victims and survivors who bear witness at a Truth Project hearing to be designated as core participants due to the informal nature of the Truth Project hearings.

Applications for core participant status

4. All applications received by the Inquiry for core participant status will be determined by the Chair. In reaching decisions on these applications the Chair will have regard to the matters set out in Rule 5 of the Inquiry Rules 2006.
5. Rule 5(2) states that when determining any applications the Chair must, in particular, consider whether:
 - a. the person played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;
 - b. the person has a significant interest in an important aspect of the matters to which the inquiry relates; or
 - c. the person may be subject to explicit or significant criticism during the inquiry proceedings or in the report, or in any interim report.
6. While the Chair is bound to consider the factors set out in Rule 5(2), it is open to her to take into account other relevant matters. The Chair is also not obliged to designate a person or organisation that meets the criteria set out in Rule 5 of the Inquiry Rules as a core participant. She has a wide discretion that she will exercise fairly, consistently and with an open mind.

7. The Inquiry's terms of reference are broad. Throughout the life of the Inquiry, the Inquiry Panel (the Panel) will announce areas of investigation that fall within the Inquiry's terms of reference. When considering applications for core participant status and, in particular any applicant's links to "matters to which the Inquiry relates" the Chair is likely to consider how any application relates to one of the Inquiry's ongoing areas of investigation. There will be few if any persons or organisations who are designated as core participants for whole Inquiry.

Timescale for applications

8. The Inquiry will invite applications for designation in relation to specific areas of investigation. Applications for core participant status will be sought investigation by investigation and details and deadlines will be posted on the relevant pages of the Inquiry's website.
9. When inviting applications for designation, the Inquiry will set a timeframe within which applications, in relation to that investigation or part of an investigation, should be received. Applicants are requested to refrain from submitting applications outside the specific timelines specified by the inquiry. The Inquiry will not consider applications that are outside of the timescales provided by the Inquiry, unless the applicant provides an explanation as to why they did not submit their application within the relevant time frame.
10. Where applications are received that do not relate to investigations for which invitations have been invited, or that relate to areas not under current investigation by the Inquiry, the Chair may exercise her discretion not to determine such applications. Those whose applications fall within this category will be informed and will be invited to re-submit an application at a later date during the appropriate application window.
11. If at any stage during the course of the Inquiry the Chair considers it appropriate to do so, she may invite such individuals or institutions to become core participants. It will be a matter for each individual or institutions as to whether they wish to be designated as a core participant.
12. Except where exceptional circumstances apply, all applications should be submitted in writing to the Solicitor to the Inquiry. The Chair may either determine applications on paper without hearing oral submissions or with submissions at a preliminary hearing.

Content of applications

13. Applications should be submitted, in writing, to the Solicitor to the Inquiry, by email to solicitors@iicsa.org.uk. If any applicant is unable to provide their application in writing they should contact the Inquiry by telephone on 0800 917 1000 and ask that the Solicitor authorise an alternative means of application.
14. Applications should specify in what respects the applicant considers that they meet the criteria for designation. As a minimum, all applications should:
 - a. confirm that the applicant consents to being designated as a core participant, if their application is successful;
 - b. indicate in respect of which investigation(s) the application is made;
 - c. indicate which of the matters within Rule 5(2) of the Inquiry Rules applies to the application and why;
 - d. confirm whether the applicant is or wishes to be legally represented and, if so, the details of the lawyer concerned.
15. In relation to each individual or institution making an application for designation, the application should be made on no more than 4 sides of A4 paper.

Legal representation

16. The subject of legal representation is separate to the decision to designate an individual or institution as a core participant and further guidance will be provided to those designated as core participants.
17. Where a core participant has appointed a qualified lawyer to act on their behalf, the Chair will normally designate that lawyer as that person's designated legal representative in respect of the Inquiry proceedings, in accordance with Rule 6 of the Inquiry Rules.
18. However, where two or more core participants each seeks to be legally represented and the Chair considers that:
 - a. their interests in the outcome of the Inquiry are similar;
 - b. the facts they are likely to rely on during the course of the Inquiry are similar;
 - and
 - c. it is fair and proper for them to be jointly represented;

in accordance with the rule 7(2) of the Inquiry Rules 2006, the Chair will direct that those core participants shall be represented by a single recognised legal representative.

19. Where the Chair makes such a direction, core participants must agree the designation of a single legal representative. If they do not do so within a reasonable period, the Chair will designate an appropriate lawyer who she considers has sufficient knowledge and experience to act in that capacity.

Funding

20. Applications for an award of legal expenses in accordance with section 40 of the Inquiries Act 2005 should be made following designation as core participant and in accordance with the deadlines and timetable for each investigation set out on the Inquiry website. Applications for such awards will be made in accordance with the Inquiry's Costs Protocol and the Minister's determination under section 40(4) of the 2005 Act, both of which are available on the Inquiry website.