



Protocol on Leave to Appear

1. Introduction

- 1.1 The Chair to the Scottish COVID-19 Inquiry has determined that, from the date set out at paragraph 9.1 below, this protocol will apply in respect of leave to appear at all Inquiry hearings.
- 1.2 Core participants who wish to appear at hearings of the Inquiry require to obtain leave from the Chair to do so.
- 1.3 The requirement to obtain leave to appear applies separately to each block of hearings held by the Inquiry – leave to appear at one block of hearings does not confer leave to appear for any subsequent block of hearings.
- 1.4 Leave to appear does not guarantee any places within the hearing room, which will be allocated subject to the available space. Priority will be given to those core participants with witnesses giving evidence.

2. Do all core participants need leave to appear?

- 2.1 Core participants without leave to appear will not generally be able to appear at a hearing or do any of the things described in section 5 below.
- 2.2 Leave to appear is not necessary to participate in the Inquiry's "Let's Be Heard" project, to submit evidence to the Inquiry, to give a witness statement or to appear as a witness. Leave to appear is not required simply to observe hearings of the Inquiry, either via the Inquiry's YouTube channel or in person (spaces will be allocated on a first come first served basis).
- 2.3 The Chair may allow a recognised legal representative or a core participant (where unrepresented) to make a closing statement,

notwithstanding that they have not been granted leave to appear for that hearing.

### 3. Qualification for leave to appear

3.1 Unless otherwise directed by the Chair, core participants shall have leave to appear at procedural hearings relating to the parts of the Inquiry terms of reference for which their status was designated. Procedural hearings will be formally named as such in all communications from the Inquiry.

### 3.2 **The test to be applied for leave to appear in non-procedural hearings will be whether the person seeking leave to appear:**

3.2.1 **played, or may have played, a direct and significant role in relation to the matters to which the hearing relates;**

3.2.2 **has a significant interest in an important aspect of the matters to which the hearing relates; or**

3.2.3 **may be subject to significant or explicit criticism during the proceedings at the hearing.**

### 4. Withdrawal of leave to appear

4.1 The Chairman may at any time specify in writing that a person ceases to have leave to appear. In reaching such a determination, the Chair may consider the terms of any Protocol on Leave to Appear in force at that time.

### 5. What does "appear" mean for these purposes?

5.1 Those granted leave to appear at any hearing of the Inquiry will:

5.1.1 be given copies of documents to be referred to at the hearing, prior to these being made available to the public, in advance of the hearing taking place;

5.1.2 be able to request Counsel to the Inquiry to ask certain questions of witnesses;

- 5.1.3 be able to put questions to witnesses (with the permission of the Chair); and
- 5.1.4 be able to make opening submissions at the hearing where the Chair directs that such submissions are required.
- 5.2 Those who are given space within the hearing room will be notified of the number of representatives they can have present during the hearing in question. It will be for representatives to decide how they allocate those places.
6. How and when to apply
  - 6.1 Applications should be submitted according to the timetable directed by the Chair for each hearing. This will be set out either at the procedural hearing preceding the hearing in question, or, if there is not to be a procedural hearing, in the notice of a forthcoming hearing on the Inquiry's website (which notice will be published approximately three months before a hearing takes place). Generally, a period of four weeks will be allowed for applications to be made.
  - 6.2 Applications should be made using the form which is available on the website. The form should be completed in full and submitted to [coreparticipants@scotland19inquiry.scot](mailto:coreparticipants@scotland19inquiry.scot) before the deadline specified in the order or notice. Forms may be completed and submitted by a legal representative on behalf of an applicant.
  - 6.3 The Chair will decide all applications for leave to appear. Before doing so, he may ask the applicant for further information in support of the application. If the Chair grants leave to appear, that may be subject to such conditions as are considered appropriate.
  - 6.4 The Solicitor to the Inquiry will notify all applicants of the outcome of their application within two weeks of the closing date for applications or of the date on which such further information as has been requested by the Chair has been submitted, whichever is later.
7. Late applications
  - 7.1 Circumstances may arise as a result of which someone who had previously taken the view that they did not qualify for leave to

appear changes that view – perhaps as a result of unexpected material being included in a list of documents, or unexpected evidence being led, for example.

- 7.2 In such circumstances, an application for leave to appear should be made without delay. The application should be made on the form referred to at paragraph 6.2.
- 7.3 In providing the explanation on the form as to why the applicant qualifies for leave to appear, an explanation should be given as to why it was not possible to make an application in accordance with the timetable set out in section 6. The form should be sent by email to [coreparticipants@covid19inquiry.scot](mailto:coreparticipants@covid19inquiry.scot) with the subject line:

“Urgent: Late Application for Leave to Appear”.

- 7.4 Following receipt of the application, it will be put in front of the Chair at the earliest possible opportunity. There may be some unavoidable delay, particularly if the late application is made after the hearings are actually underway. The Chair’s decision will be communicated to the applicant as soon as possible, and if leave is granted it will take immediate effect.

## 8. Further information

- 8.1 If you have any questions about any of the above, please email [coreparticipants@covid19inquiry.scot](mailto:coreparticipants@covid19inquiry.scot) marked for the attention of the Solicitor to the Inquiry.

## 9. Version control

- 9.1 This version of the Protocol on Leave to Appear is dated 31 December 2024 and is issued under the authority of the Chair to the Scottish COVID-19 Inquiry. It is the second version of this Protocol.