

# The Fingerprint Inquiry | Scotland

## APPLICATION FOR DESIGNATION AS A CORE PARTICIPANT, AND FOR FUNDING FOR LEGAL REPRESENTATION IN THAT CAPACITY

### NOTES FOR APPLICANTS

#### General

1. You should use this form to apply:-
  - To be designated a core participant in the Fingerprint Inquiry;
  - To have your chosen lawyer regarded as your recognised legal representative;
  - For public funding for your legal representation.
2. You are not obliged to apply to be a core participant but if you are not approved as a core participant your right to participate at Inquiry hearings (whether in person or through any lawyer of your choice) will be limited.
3. As a core participant you will be eligible to apply for wider participation in the hearings but you may not be permitted to be represented by the lawyer of your choice. You may be required to join with other persons with a similar interest and be represented jointly by one lawyer (or legal team) and, if you fail to reach agreement on the appointment of a joint lawyer, the Chairman may approve the appointment of a lawyer to represent you and the others with a similar interest.
4. No person can be designated as a core participant without his consent.
5. The Chairman may designate a person as a core participant at any time during the course of the Inquiry.
6. Eligibility for public funding of legal representation is not confined to core participants. A separate application form and notes are available for those who may be eligible to apply for their legal expenses to be met from public funds but who do not wish to be core participants. Please note that no person (whether or not a core participant) can receive public funding for legal work that has been done without prior approval of the Inquiry Chairman.
7. The Chairman will use the information that you include on this form to decide whether or not to grant your application or applications. He may, however, allow you to make further representations for example at a hearing fixed for that purpose.
8. You should read these notes along with the Inquiries Act 2005, the Inquiries (Scotland) Rules 2007 and the Notice of Determination by the Scottish Ministers placed before the Scottish Parliament on 5 June 2008. The Notice of Determination includes some important limitations as to the extent of funding available for legal representation. In particular, **you cannot receive**

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**funding for legal work that has been done for you without the prior approval of the Inquiry Chairman.**

9. A person is eligible to be considered for an award of funding only if they are:-
  - A person who, in the opinion of the Chairman, has such a particular interest in the proceedings or outcome of the inquiry as to justify such an award, or
  - Attending the inquiry to give evidence or to produce any document or other thing.
10. In making any decision as to the procedure or conduct of the inquiry, including a decision about an award of this type, the Chairman must act with fairness and with regard to the need to avoid any unnecessary cost, whether to public funds or to witnesses or others.
11. When the Chairman is considering any application for funding, he will take into account the financial resources of the applicant and the public interest so far as relating to the making of an award.

## **Part I: Application for Designation as a core participant**

12. The Chairman may decide that a person should be a core participant for all or part of the inquiry.

A core participant or his lawyer has the right to apply to the Chairman for permission to examine any witness who is giving oral evidence to the inquiry.

Some of the matters that will be relevant to the Chairman's decision as to whether a person should be a core participant are:-

- Whether the person played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates;
  - Whether the person has a significant interest in an important aspect of the matters to which the inquiry relates;
  - Whether the person may be subject to significant or explicit criticism during the inquiry or in any report by the inquiry.
13. You should include your full name, address and contact details as requested on the form.
  14. You should provide a short statement setting out why you consider it would be appropriate for the Chairman to designate you as a core participant. You should include information relevant to the three bullet points in paragraph 12 of these Notes, and any other information you think will assist the Chairman in dealing with your application. You should also bear in mind the terms of reference of the Inquiry, and how your interest in the Inquiry relates to these.

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If there is not enough space on the form, please use a separate sheet of paper.

## Part II – Your recognised legal representative

15. Please provide the details of the lawyer you wish to represent you. **It is your responsibility to ensure that the lawyer concerned is willing to act on your behalf.**

## Part III Public Funding

### (a) Why you need legal representation in relation to the Inquiry

16. You should use this part of the form to explain why you need a lawyer to represent you.

### (b) Your financial resources

17. You should use this part of the form to provide information about your financial resources. The Chairman requires to take your financial resources into account when he is deciding whether you should receive funding for legal representation.

18. Please provide a note of your **net income** which should be calculated as your gross income after a deduction of tax, NI contributions and all pension contributions (including private pension contributions) but no other deductions.

19. Please provide details of your **dependants** including children under 18 living with you. You need not provide details of any household outgoings unless you wish to draw the Chairman's attention to expenditure of an unusual or exceptional nature.

20. Please provide a note of your **capital assets** including savings, investments, the estimated value of any endowment or other with-profits policies, any land or property or other assets of significant value. You should exclude household goods and tools and equipment used for work.

21. Please provide a note of any **capital liabilities** including the balance of any outstanding loans, store cards and credit card debts.

22. Please confirm that you have **no other resources** which might provide funding for legal representation at the Inquiry. These might include: -

- funding from a professional association or trade union;
- funding from an insurance policy providing legal expenses insurance or professional indemnity insurance;

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- funding from an employer in terms of your contract of employment.

If you have no other source of funding, write “none” in the space provided.

23. Please advise of **any other matters** relating to your financial resources which may be of relevance in considering whether you should be granted funding for legal representation.

## (c) The public interest

24. You should use this part of the form to say why it would be in the public interest for funding for legal representation to be made available to you. The Chairman requires to take into account the public interest in so far as relating to the making of an award when deciding whether or not to grant your application.

## Part IV: Extent of Legal Representation

25. Your application should include information as to the nature and estimated duration of the legal representation for which you would like funding. **The Chairman will take into account in considering the parts of the Inquiry for which you may need legal representation the information you have given in Part I about why you should be a core participant and the aspects of the inquiry in which you have an interest.**

### Section 1: The type of work your lawyer will do in representing you

26. You should include here details of the work your lawyer will do for you. This might include attending the hearing during oral evidence that is relevant to your interests, considering documents, applying to examine witnesses, and making opening or final submissions where permitted.

### Section 2: Information about your proposed legal team

27. You should include here information as to:-

- The level of seniority of the qualified lawyer you wish to be your recognised legal representative.
- If you want other qualified lawyers to assist your recognised legal representative:-
  - The names of these other lawyers
  - The seniority of these other lawyers
  - Why the team of lawyers needs to be composed in this way.
- If it is thought necessary to instruct counsel:-
  - The reasons for doing so

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- The date of call of counsel.

## **Section 3: Proposed hourly rates**

28. You should include information here as to the proposed hourly charging rate for all qualified lawyers in the recognised legal representative's team, and, if applicable, of counsel, subject to the maximum hourly rates stipulated in the Notice of Determination under section 40(4). In the first instance, this information will be used for the Inquiry solicitor to try to come to an agreement with you about the hourly rates to be charged by your lawyers. If you and the Inquiry solicitor cannot agree about this, the Chairman will decide what the rate should be, and may ask for further information or representations about this matter.

## **Section 4: Time to be spent on Inquiry Work**

29. You should include information here as to:-

- the numbers of hours each week for which it is anticipated that the recognised legal representative and each member of the legal team will be engaged on Inquiry work, and in relation to what, having regard to:-
  - your interest as core participant, and
  - those aspects of the subject matter of the terms of reference in relation to which you as core participant wish to participate.
- the number of hours each week for which it is anticipated that counsel (if permitted at public expense) will be engaged on Inquiry work.

## **Section 5: Any other expenses relating to legal representation**

30. You should include information here about any other expenses relating to legal representation. This might include, for example, the costs of any investigative work. However, investigative work is normally done by the Inquiry team, and you would have to show why it is necessary for your lawyer to do it.