

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

Core Participants Policy

Purpose of policy

1. The purpose of this Policy is to:
 - Explain what a Core Participant is;
 - Explain the rules governing applications to be designated a Core Participant in this Inquiry;
 - Notify those who may wish to be designated a Core Participant in this Inquiry that applications may now be made, and explain the process for making such an application; and
 - Explain the designation of recognised legal representatives in this Inquiry.

Core Participants

2. A Core Participant is a person, an organisation or other entity (hereafter “**a person**”) with a significant interest in the subject matter of the Inquiry and designated a Core Participant in the Inquiry pursuant to this policy.

3. Core Participants enjoy participatory rights in the Inquiry. Anyone designated a Core Participant will:

- be provided with disclosure of evidence which the Commissioner considers is relevant to their participation in the Inquiry. Such disclosure will be subject to any restrictions issued and undertakings required by the Commissioner in accordance with the Protocol for Receipt and Handling of Documents, Redaction and Records Management;
- have the opportunity to make opening and closing statements at the main Inquiry hearing, either via their recognised legal representatives or, if unrepresented, themselves (unless the Commissioner directs otherwise);
- be able to suggest lines of questioning at oral hearings via Counsel to the Inquiry; and
- be able to apply through their recognised legal representatives to the Commissioner to ask questions of witnesses during the main Inquiry hearing.

4. It is, however, important to stress that it is not necessary to be designated as a Core Participant in order to:

- provide information or evidence to the Inquiry or to be a witness during the Inquiry's proceedings;
- receive expenses for attending the Inquiry as a witness if the relevant criteria are met (in accordance with the Protocol relating to Legal Representation at Public Expense ("**the Funding Protocol**"));
- watch or attend public hearings (unless the Commissioner decides to hear evidence in private); or
- read transcripts of hearings, witness statements and other documents or evidence that is available on the Inquiry's website (www.coircomp.gi).

Grant of Core Participant status

5. When considering applications to be designated a Core Participant, the Commissioner will consider, in particular, whether:

- the person played or may have played a significant role in relation to matters to which the Inquiry relates;
- the person has a significant interest in an important aspect of the matters to which the Inquiry relates; or
- the person may be subject to significant criticism during the Inquiry proceedings or in its final or any interim report.

6. Whilst applications are welcomed from those who suggest that one or more of the circumstances mentioned above exist in their case, the Commissioner is not obligated to designate anyone as a Core Participant on the grounds that such circumstances are found to exist in the case of such an applicant. The Commissioner will additionally have regard to the need for him to act fairly and to avoid any unnecessary cost. Indeed, the Commissioner has a wide discretion in considering applications and this will be exercised with an open mind: fairly; consistently, and objectively.

7. It is not mandatory for persons who were affected by the matters to which the Inquiry relates to be designated as Core Participants in order to play a role in the Inquiry. It is possible to be a witness or to attend hearings without such designation. Indeed, the Funding Protocol also includes provisions for the recognition of legal representatives for witnesses without needing those witnesses to be Core Participants.

8. The Inquiry has determined that Core Participant Status will be granted to the four participants who, according to the relevant provisions of the Police Act 2006, could theoretically have played a role in the retirement of the ex-Commissioner of Police, namely the ex-Commissioner of Police Mr Ian McGrail himself, the Chief Minister the Hon Fabian Picardo QC MP, the Interim Governor at the relevant time Mr Nicholas Pyle OBE and the Gibraltar Police Authority (known collectively as "the Statutory Participants") are each to be granted Core Participant Status. Further, the Inquiry has determined that Her Majesty's

Attorney-General for Gibraltar, Michael Llamas CMG QC, should be granted Core Participant Status.

Invitation to submit applications to be designated a Core Participant

9. Applicants are invited to submit applications for designation as a Core Participant to the Solicitor to the Inquiry no later than **7 October 2022** by email Charles.simpson@retcom.gi, and Sebastian.triay@retcom.gi, or by post to:

Charles Simpson
Triay Lawyers
28 Irish Town
Ref: CS/ST

10. If an applicant requires assistance with making an application, they should contact the Solicitor to the Inquiry at Charles.simpson@retcom.gi, and Sebastian.triay@retcom.gi.

11. Applications should not exceed 5 pages of A4 paper in size 12 font and must:

- state the factual basis for the application, and in particular:
 - i. state the applicant's connection with the matters being investigated by this Inquiry;
 - ii. identify the topics on which the applicant could give evidence;
- specify, having regard to the factual basis for the application, how the applicant satisfies one or more of the criteria in paragraph 5 above;
- indicate how the grant of Core Participant status would assist the Inquiry in furtherance of its Terms of Reference;
- confirm the applicant provides consent to be designated a Core Participant (it is expected that anyone applying for Core Participant status would be willing to be designated a Core Participant before submitting their application);
- confirm whether the applicant is represented or wishes to be represented by a legal representative;
- if the applicant is legally represented, details of the legal representative.

12. The Inquiry will assist individuals who do not have legal representation to complete the application.

13. The Commissioner will consider all applications submitted and, if he considers that further information is required before he can make a decision, he may require the applicant to provide such further information as he considers necessary. Further, if he considers it to be necessary,

the Commissioner may require an applicant to appear before him to make an oral application for Core Participant status including via video-link or telephone.

14. It is the Inquiry's aim to consider and make decisions on Core Participants' applications expeditiously. The Commissioner will begin the process of making decisions as soon as applications are received. Applications must be made no later than **7 October 2022**, being the deadline set out in paragraph 9. The Commissioner will not consider applications made after that date, unless the applicant gives a good reason for the delay.

Applications submitted prior to the publication of the Core Participant Protocol

15. The Inquiry asks any person who had submitted an application for Core Participant status prior to publication of this Policy to check it is compliant with the requirements outlined in paragraph 11 of this Policy. Any missing information should be submitted as soon as reasonably practicable so that the Inquiry has a complete application for consideration.

Designation of recognised legal representatives

16. The Inquiry's designation of recognised legal representatives (as defined in paragraph 7 of the Funding Protocol) for Core Participants is separate from the Commissioner's decision to designate an individual as a Core Participant.

17. Where a Core Participant in receipt of a Legal Expenses Funding Award pursuant to the Funding Protocol appoints a qualified lawyer to act on their behalf, the Commissioner will determine whether to designate that lawyer as that Core Participant's recognised legal representative for the purposes of the Legal Expenses Funding Award.

Applications for legal representation at public expense

18. Once the Inquiry has considered an application for Core Participant status, it will also consider whether to invite an application by that Core Participant for a Legal Expenses Funding Award in accordance with the Funding Protocol. Paragraph 3 of the Funding Protocol states that the Commissioner must take into account whether making an award is in the public interest. It should therefore not be assumed that the grant of Core Participant status automatically entitles a Core Participant to receive funding for their legal representation.

Confidentiality

19. As set out in paragraph 3 of this Policy, the designation of Core Participant status affords an individual access to certain disclosure and an advance copy of reports. Core Participants and their legal representatives must agree to treat the information contained in these materials confidentially. Confidentiality is important to the work of the Inquiry as it helps maintain trust and allows the Inquiry to undertake its work fairly. To this end, Core Participants and their legal representatives will be required to sign confidentiality undertakings before they can have access to certain documents.

20. The confidentiality undertaking will set out the terms that Core Participants and their legal representative will have to adhere to and the terms will include:

- a prohibition on using the information for any other purpose than taking part in the Inquiry's proceedings (without the express permission of the Inquiry); and
- a prohibition on disseminating or circulating the information provided by the Inquiry to a third party (without the express permission of the Inquiry).

Removal/termination of Core Participant Status

21. A person will cease to be a Core Participant either: upon the Commissioner deciding to remove such status (in which case this would take place on a date specified by the Commissioner) or at the end of the Inquiry.

Issued under the authority of the Commissioner on 22 September 2022, updated 22 May 2023