



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION  
MODULE 1 - REFUGEES FOR JUSTICE**

**Introduction**

1. In my [Opening Statement](#) on 21 July 2022, I explained that Modules would be announced and opened in sequence, with those wishing to take a formal role in the Inquiry invited to apply to become Core Participants for each module. On the same day, the Inquiry opened Module 1 and invited anyone who wished to be considered as a Core Participant to that Module to submit an application in writing to the Solicitor to the Inquiry by 16 August 2022.
2. The [Provisional Outline of Scope](#) for Module 1 provides that this module will examine the resilience and preparedness of the United Kingdom for a Coronavirus pandemic. Further modules will be announced and opened in due course, to address other aspects of the Inquiry's Terms of Reference.
3. On 16 August 2022 the Inquiry received an application from Refugees for Justice ("RFJ") for Core Participant status in Module 1.
4. I made a provisional decision not to designate RFJ as a Core Participant in Module 1, thereby declining the application ("the Provisional Decision"), on 7 September 2022. RFJ was provided with an opportunity to renew the application in writing by 4pm on 16 September 2022.
5. On 16 September 2022, RFJ submitted a renewed application for Core Participant status in Module 1. This notice sets out my determination of their application for Core Participant status in Module 1.



## Application

6. Applications for Core Participant status are considered in accordance with Rule 5 of the Inquiry Rules 2006, which provides:

*5.—(1) The chairman may designate a person as a core participant at any time during the course of the inquiry, provided that person consents to being so designated.*

*(2) In deciding whether to designate a person as a core participant, the chairman 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.*

*(3) A person ceases to be a core participant on—*

- (a) the date specified by the chairman in writing; or*
- (b) the end of the inquiry.*

7. In accordance with the approach set out in my Opening Statement and the Inquiry's [Core Participant Protocol](#), I have considered whether the application fulfils the requirements set out in Rule 5(2) in relation to the issues set out in the Provisional Outline of Scope for Module 1.

## Summary of Application

8. The original application states that RFJ is an organisation formed by refugees and asylum seekers in Scotland, who were removed from safe residential accommodation and placed in hotel accommodation during COVID-19 pandemic. The initial application was put on the basis that RFJ have a significant interest in relation to Module 1, in that the analysis of preparedness policies and resourcing of the emergency response to Covid-19 directly affects this group of people. The application further stated that its



members have direct experience of the impact of a lack of planning and the severity of the impact of a lack of planning and preparedness and also referred to refugees and asylum seekers' protected rights under the Equality Act 2010.

9. The renewed application does not repeat the points previously raised but submits that certain obligations under the Human Rights Act 1998 and Article 2 ECHR are engaged because RFJ is comprised of individuals including bereaved and survivors of Covid-19 who have suffered near death experiences and who have therefore been directly affected by the contingency arrangements, planning and preparations for a pandemic. It is submitted that the Article 2 investigative duty can only be properly discharged through RFJ's participation in the Inquiry as Core Participants.

### **Decision for the Applicant**

10. I have considered with great care everything that is said in both the original and the renewed applications.
11. I wish to extend my deep sympathy to all those represented by RFJ who have lost family members, as well as those who have suffered, and who may continue to suffer, from adverse health and other effects as a result of contracting coronavirus during the pandemic. I also acknowledge the disproportionate effects that the Covid-19 pandemic may have had on refugees and asylum seekers in Scotland and elsewhere in the UK and I wish to repeat my ongoing commitment, as set out in the Terms of Reference and repeated in my Opening Statement, that inequalities will be at the forefront of the Inquiry's investigations. This will include a focus on the disparities evident in the impact of the pandemic on different categories of people.
12. However, given the wide impact of the pandemic, there will inevitably be a very significant number of organisations and groups whose members were impacted by the pandemic and accordingly, and understandably, have a very real interest in



understanding how that impact could or should have been mitigated by planning in advance.

13. Module 1 is primarily concerned with the core systems and structures within the United Kingdom for preparedness and resilience for an event such as the Covid-19 pandemic, and with high-level pandemic resilience, preparedness and planning. It will examine whether the correct structures, bodies, procedures and policies were in place at UK and at regional and national levels and look at their history, development, co-operation and performance. In terms of inquiring into pandemic planning, this will include examination of the forecasting processes, the extent to which lessons were learned from knowledge of actual events and simulated exercises, the degree of readiness preparation and the general resources that were available. The Module is therefore concerned with how the relevant entities prepared and whether they were ready by way of general response.
14. In order to manage the investigative work of the Inquiry in as proportionate manner as possible, and to ensure the timely publication of my findings, lessons learned and recommendations for the future, it is not possible for Module 1 to consider the state of preparedness by reference to the potential impact of an event such as the Covid-19 pandemic on every sector of society.
15. I will of course keep the Provisional Outline of Scope for Module 1 under review and, as I explained out in my Opening Statement, other aspects of the Inquiry's Terms of Reference will be covered in future modules for which Provisional Outlines of Scope will be prepared and published in due course. It is likely that health inequalities, the impact of Covid-19 on the vulnerable including the homeless and migrants and the preparations made in relation to them will be the subject of future modules in the Inquiry.



16. I have also considered the submissions made in the renewed application that the Inquiry has obligations under the European Convention on Human Rights (“ECHR”), and that the Article 2 duty can only be properly discharged through RFJ’s participation in the Inquiry which in turn can only be achieved through the grant of Core Participant status. I do not consider it necessary at this stage to make any determination as to whether or not Article 2 is in fact engaged by RFJ and those individuals whom they represent. There is no automatic obligation under the ECHR to designate the bereaved family members or survivors of an event which does engage Article 2 as Core Participants in an Inquiry that investigates the event. Even if engaged therefore, Article 2 does not require me to grant RFJ Core Participant status in Module 1.
  
17. There are a number of ways in which RFJ can participate in Module 1, if necessary, without being a Core Participant. For example, it is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. RFJ may have relevant information to give in relation to matters being examined in the Inquiry and the Inquiry will be reaching out in due course to a range of individuals, organisations and bodies to seek information, to gain their perspective on the issues raised in the modules and, where appropriate, to ask for witness statements and documents.
  
18. I do not doubt that RFJ have valuable insight to share and I welcome them sharing their views and concerns with the Inquiry. Such issues can be considered, as necessary by the Inquiry’s independent legal team in whom I have every confidence to pursue all reasonable lines of inquiry with the investigatory and analytical rigour that a statutory inquiry of this scale and importance demands.
  
19. The Inquiry will also listen to and consider carefully the experiences of bereaved families and others who have suffered hardship or loss as a result of the pandemic, through the listening exercise. I made clear in my Opening Statement that this listening exercise is a significant and important task which will lead to summary reports of the



impact of the pandemic to be used as evidence during the Inquiry's module hearings. RFJ has the opportunity to contribute to the Inquiry, through the listening exercise, if it chooses.

20. For all of the reasons above, having considered all of the information provided by RFJ in light of the Provisional Outline of Scope for Module 1, I consider that RFJ did not play a direct and significant role in relation to the matters to which Module 1 relates nor does it have a significant interest in an important aspect of the matters to which Module 1 relates. Accordingly, in my discretion I decline to designate RFJ as a Core Participant in Module 1.

21. Insofar as the application concerns bereaved families, I have granted Core Participant status in Module 1 to a number of organised groups representing the interests of large numbers of bereaved family members. This is because I consider that they are better placed to help the Inquiry to achieve its aims by representing the collective interests of a broad spectrum of those bereaved by Covid-19, having regard in particular to the need to manage the Inquiry effectively and efficiently. I am determined to run the Inquiry as thoroughly and as efficiently as possible, bearing in mind the Inquiry's wide-ranging terms of reference and the need for the Inquiry process to be rigorous and fair. Given the vast numbers of people who were involved with, or adversely affected by, the Covid-19 pandemic, very many people in this country could potentially have an interest in it. I must therefore assess very carefully whether, in reality, applicants can assist the Inquiry.

22. I appreciate the disappointment that my decision will cause. However, it may be possible for the interests of some of those represented by RFJ to be represented by one of the organised groups to which I refer above. If this is something that is of interest to those whom RFJ represents, the Solicitor to the Inquiry's team will be able to pass on the contact details for the appropriate group.



23. My decision not to designate RFJ as a Core Participant in Module 1 does not preclude them from making any further applications in respect of any later modules. I will consider any future applications RFJ may wish to make on their merits at the time they are made.

**Rt Hon Baroness Heather Hallett DBE**

**Chair of the UK Covid-19 Inquiry**

**28 September 2022**