



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 2A - DISABILITY RIGHTS UK AND INCLUSION SCOTLAND**

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 31 August 2022, the Inquiry opened Module 2A 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 23 September 2022.
2. On 8 November 2022 the Inquiry received an application from Disability Rights UK and Inclusion Scotland (the “Applicants”) for Core Participant status in Module 2A. This Notice sets out my determination of the application.
3. The Inquiry has published the Provisional Outline of Scope for Module 2A, which states that this module will examine the decision-making by the Scottish Government during the Coronavirus pandemic. Further modules will be announced and opened in due course, to address other aspects of the Inquiry’s Terms of Reference.

Application

4. 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.*

5. In accordance with the approach set out in my Opening Statement and the Inquiry's [Core Participant Protocol](#), I 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 2A.

Summary of Application

6. Inclusion Scotland is a Disabled People's Organisation (DPO) founded upon the social model of Disability. It is a national network of Disabled people, their organisations and allies. Its aims are to achieve positive changes to policy and practice, so that Disabled people are fully included throughout Scottish society as equal citizens. Inclusion Scotland states that it leads on the development and delivery of numerous projects designed to promote and involve the voice and choices of Disabled people in public policy.
7. Inclusion Scotland conducted research into the impact of Covid-19 on Disabled people in Scotland by carrying out surveys and publishing reports focused on Disabled people's experience of lockdown and shielding and their rights at risk as a result of Scotland's alleged failure to engage in emergency planning for Disabled people in respect of the pandemic. Reference was made to these surveys and reports in the Scottish Parliament.
8. Disability Rights UK is a national disability organisation led by Disabled people which has a number of member organisations based in Scotland. The application states that

the organisation actively represents the interests of Disabled people in central government.

9. The application is made on the basis that Inclusion Scotland played a direct and significant role in seeking to influence decision making by the Scottish Government in response to the pandemic by sharing information about disabled people's experiences in the form of reports and survey findings. The group engaged with decision makers throughout the pandemic and ensured they were aware of the impact of their decisions on Disabled people through meetings with the Scottish Government Equality Unit, sitting on advisory groups and in meetings with Scottish Ministers. It is further submitted that Inclusion Scotland's role will be relevant to the Inquiry in their investigation in Module 2A of the extent to which the Scottish Government considered at risk people including Disabled People when making decisions in response to the pandemic.
10. It is further made on the basis that both Applicants have a significant interest in the matters which will be investigated by Module 2A, including the decisions made by the Scottish Government in respect of non-pharmaceutical interventions and the impact these had on their respective members.
11. The Application maintains its earlier submissions in respect of its application to Module 2, particularly in respect of their rights to effective participation in the Inquiry arising from the European Convention on Human Rights and the Equality Act 2010.

Decision for the Applicant

12. As is acknowledged by the Applicants, the deadline for applications for Core Participant Status to Module 2A was 23 September 2022, meaning that this application was received 46 days after the deadline expired. The Applicants explain that the reason for their delay in applying for Core Participant status was as a result of a misapprehension that their application to Module 2 covered an application for participation in Modules 2 A, B and C. The Applicant had made an application for Core Participant status for Module 2 within the application window. The Applicant states that it has made this application as soon as reasonably possible having become aware that separate applications were required for Modules 2 A, B and C. I find that the

Applicants have provided an acceptable explanation for the delay and I have therefore decided, in my discretion, to consider the application despite the fact that it was made out of time.

13. I acknowledge the specific impact of the Covid-19 pandemic on Disabled people. 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. Having considered with great care everything that is said in the application, I am minded, in my discretion, to designate Inclusion Scotland and Disability Rights UK as Core Participants in Module 2A. I granted Core Participant Status to both organisations, along with Disability Action Northern Ireland and Disability Wales, as Core Participants in Module 2 on the basis of a joint grant, noting that the organisations will be jointly represented. I grant the applications in respect of Module 2A to Inclusion Scotland and Disability Rights UK on the same basis of a joint grant. I make this decision acknowledging that granting Core Participant status to groups representing the interests of more than one person will both assist the fair and efficient running of the Inquiry and avoid any unnecessary costs to public funds.
14. Whilst I do not consider that either Applicant satisfies Rule 5(2)(a), in that I am not satisfied that either Applicant played a direct or significant role in high-level core political or administrative decision making in Scotland, I do accept that each has a significant interest in Module 2A. For a number of reasons, I consider that both Applicants are best placed to assist the Inquiry achieve its aims by representing the various interests of a wide number of Disabled People in Scotland in relation to Module 2A. This is because both organisations can assist the Inquiry in understanding the perspectives of different groups of Disabled People in Scotland when it examines the core political and administrative decisions taken in response to Covid-19 and whether the interests of Disabled People were considered as part of this process, without considering in detail any individual cases. I am minded to grant Core Participant status to both organisations on the basis that they each have different memberships and may represent different interests, both of which are equally important to the considerations of the Inquiry.

Legal Representation

15. Applications for designation as the Recognised Legal Representative of a Core Participant are governed by Rules 6 and 7 of the Inquiry Rules 2006, which provide:

6.—(1) Where—

- (a) a core participant, other than a core participant referred to in rule 7; or*
- (b) any other person required or permitted to give evidence or produce documents during the course of the inquiry,*
has appointed a qualified lawyer to act on that person's behalf, the chairman must designate that lawyer as that person's recognised legal representative in respect of the inquiry proceedings.

7.—(1) This rule applies where there are two or more core participants, each of whom seeks to be legally represented, and the chairman considers that—

- (a) their interests in the outcome of the inquiry are similar;*
- (b) the facts they are likely to rely on in the course of the inquiry are similar; and*
- (c) it is fair and proper for them to be jointly represented.*

(2) The chairman must direct that those core participants shall be represented by a single recognised legal representative, and the chairman may designate a qualified lawyer for that purpose.

(3) Subject to paragraph (4), any designation must be agreed by the core participants in question.

(4) If no agreement on a designation is forthcoming within a reasonable period, the chairman may designate an appropriate lawyer who, in his opinion, has sufficient knowledge and experience to act in this capacity.

16. I am satisfied that the Applicant has appointed Shamik Dutta of Bhatt Murphy Solicitors as its qualified lawyer in relation to this Module. I therefore designate Shamik Dutta as the Applicant's recognised legal representative in accordance with Rule 6(1).

17. At the preliminary hearing for Module 2A on Tuesday 1 November 2022, I made directions regarding funding under section 40 of the Inquiries Act 2005. I will determine any such applications in accordance with the provisions of section 40 of the Inquiries Act 2005, the Inquiry Rules 2006, the [Prime Minister's determination](#) under section 40(4) and the [Inquiry' Costs Protocol](#).

Rt Hon Baroness Heather Hallett DBE

Chair of the UK Covid-19 Inquiry

16 November 2022