



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 2 - DISABLED PEOPLE'S REPRESENTATIVE ORGANISATIONS

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 2 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 23 September 2022 the Inquiry received an application from the Disabled People's Representative Organisations ('DPOs') ('the Applicants') for Core Participant status in Module 2. This Notice sets out my provisional decision on the application.
3. The Inquiry has published the [Provisional Outline of Scope](#) for Module 2, which states that this module will examine the decision-making by the UK 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 2.

Summary of Application

6. The Applicants describe themselves collectively as Disabled People's Representative Organisations, being organisations run by and for disabled people, representing approximately 250,000 individuals. The term 'disabled people' is used in the applications to refer to people facing societal barriers due to their impairments or conditions (regardless of their age) which includes physical impairments, mental health conditions, hearing impairments, deaf people with BSL as their first language, visual impairments, learning difficulties and neurodiverse people. Some of the Applicants also explain how they supported bereaved families of disabled people who died during the pandemic. An appendix to the submissions helpfully sets out the background and remit of the Applicants.
7. The applications are made on the basis that the Applicants have played a direct and significant role in relation to the matters which will be investigated in Module 2 and that they have a significant interest in the matters which will be investigated in Module 2. The applications also made detailed submissions based on the Inquiry having certain obligations under the Human Rights Act 1998 and the Equality Act 2010, including the duty effectively to investigate issues of discrimination and inequality insofar as they relate to loss of life and significant harm amounting to inhuman and

degrading treatment during the pandemic under Articles 2, 3 and 14 of the ECHR, and the Public Sector Equality Duty.

Decision for Disability Rights UK, Disability Action Northern Ireland, Inclusion Scotland and Disability Wales and provisional decision for the remaining DPOs

8. I acknowledge the specific impact of the Covid-19 pandemic on the disabled. 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 applications, I am minded, in my discretion, to designate Disability Rights UK, Disability Action Northern Ireland, Inclusion Scotland and Disability Wales as Core Participants in Module 2. This is on the basis of a joint grant, noting that the organisations will be jointly represented. However, in the exercise of my discretion I decline to grant Core Participant status to the remaining 14 Disabled People's Representative Organisations.
9. I consider that none of the Applicants satisfy Rule 5(2)(a) and did not play a direct or significant role in high level core political and administrative decision making. I do accept that each has a significant interest (Rule 5(2)(b)). The Core Participant Protocol provides that while I am bound to consider the factors set out in Rule 5(2), it is also open to me to take into account other relevant matters. I am also not obliged to designate a person or organisation that meets the criteria set out in Rule 5 of the Inquiry Rules as a Core Participant. It further explains that I particularly invite applications from groups of individuals and organisations with similar interests, rather than from individual persons and organisations and that the designation of Core Participant status to groups representing the interests of more than one person would assist the fair and efficient running of the Inquiry. I additionally have regard to my duty to act with fairness and with regard to the need to avoid any unnecessary cost to public funds.
10. I have considered with great care everything that is said in the application. For a number of reasons, I consider that Disability Rights UK, Disability Action Northern Ireland, Inclusion Scotland and Disability Wales jointly are well placed to assist the Inquiry as to whether the interests of the disabled and those with pre-existing health inequalities were considered as part of the process of core political and administrative

decision-making in response to Covid-19 without considering in detail any individual cases. I consider that they will be able to assist me on this issue. Set against this, I do not consider that the remaining 14 Disabled People's Representative Organisations are sufficiently representative to meet those aims bearing in mind the aforementioned considerations.

11. I note the assistance that they believe they can provide. It is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry and I consider that their assistance is better achieved in that way, if they so choose. The Inquiry will also listen to and consider carefully the experiences of those who have suffered hardship or loss as a result of the pandemic. 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 on those who come forward to be used as evidence during the Inquiry's module hearings. It will be run in such a way that as many people as possible who wish to share their experience may do so.
12. As I am minded to decline the 14 remaining applications, I will offer these organisations an opportunity to renew their applications. If they wish to renew the applications, they must do so in writing to the Solicitor to the Inquiry by **12pm on 20 October 2022**. Renewed applications should not repeat information provided in the original application but should provide any additional information that may assist me in considering the renewed application. I intend to determine any applications on paper without oral submissions, other than in exceptional circumstances. If the application is not renewed, I will confirm this Provisional Decision has become final.
13. I will keep the scope of Module 2 and the designation of Core Participants under review. My decision not to designate the remaining Applicants as Core Participants in Module 2 does not preclude them from making further applications in respect of any later modules. I will consider any future applications these organisations may wish to make on their merits at the time they are made.

Legal Representation

14. 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.

15. I am satisfied that Disability Rights UK, Disability Action Northern Ireland, Inclusion Scotland and Disability Wales, have jointly appointed Shamik Dutta of Bhatt Murphy Solicitors as their qualified lawyer in relation to this Module 2. I therefore designate Shamik Dutta as recognised legal representative for Disability Rights UK, Disability Action Northern Ireland, Inclusion Scotland and Disability Wales, in accordance with Rule 6(1).

16. Directions will be given in relation to applications for an award under section 40(1)(b) of the Inquiries Act 2005 of expenses to be incurred in respect of legal representation, at the forthcoming preliminary hearing. 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

Chair of the UK Covid-19 Inquiry

13 October 2022