



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 2 - SCOTTISH COVID-19 BEREAVED FAMILIES 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 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 19 September 2022 the Inquiry received an application from the Scottish Covid-19 Bereaved Families for Justice (“the Applicant”) for Core Participant status in Module 2. This Notice sets out my determination of 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 Applicant Group is the Scottish branch of the Covid-19 Bereaved Families for Justice (CBFJ) representing the interests of Scottish Bereaved Families of individuals who died from Covid-19. The Applicant Group was said to have been part of the CBFJ for the purposes of campaigning for a UK public inquiry into the Covid-19 pandemic. The individual applicants are a number of unnamed Scottish bereaved. The Applicant sets out that the Scottish Bereaved Families have a significant interest in respect of Module 2, namely that the response to the pandemic involved decision making by the Westminster Government that impacted directly on the Scottish Bereaved Families. The application further deals with the wish of the Applicant Group and Applicant Individuals to participate effectively in the Inquiry and argues that granting Core Participant status would be consistent with the Inquiry's duty to act with fairness and in line with the Article 2 rights of the bereaved.

Decision for the Applicant

7. I wish to reiterate my deep sympathy to each and every individual who has experienced the tragic loss of a loved one as a consequence of the Covid-19 pandemic. 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 and 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.

8. I have considered with great care everything that is said in the application. Having done so, I am minded, in my discretion, to designate Scottish Covid-19 Bereaved Families For Justice as a Core Participant in Module 2. For a number of reasons I consider that the Scottish Covid-19 Bereaved Families For Justice group is well placed to assist the Inquiry to achieve its aims by representing the collective interests of a broad spectrum of those bereaved by Covid-19 in Scotland, in relation to Module 2, having regard to the need to manage the Inquiry effectively and efficiently. This is because Scottish Covid-19 Bereaved Families For Justice can assist the Inquiry in understanding the perspective of the bereaved in Scotland, without considering in detail any individual cases of harm or death.
9. As with the Applicant Group, I have considered with great care everything that is said in the applications made on behalf of individuals, alongside the factors I have set out above. Having done so, I am minded, in my discretion, not to designate any of the Applicant Individuals as Core Participants in Module 2 because it is not the purpose of the Inquiry, including in Module 2, to explore individual deaths. For that reason, I consider that the application does not meet the criteria set out in Rule 5(2)(a) or (b).
10. Having already designated the Applicant Group as a Core Participant for Module 2, I consider that the individual interests of the Applicant Individuals are best represented by the Applicant Group, having regard to its ability to represent the collective interests of a broad spectrum of those bereaved by Covid-19 in Scotland and also to the need to manage the Inquiry effectively and efficiently.

11. If the Applicant Individuals wish to contribute to the Inquiry's work, it is not necessary for them to become Core Participants. The individual applicants may have relevant evidence to give at the public hearings of the Inquiry. Furthermore, the Inquiry will listen to and consider carefully the experiences of bereaved families and others 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 application, I will offer the Applicant Individuals an opportunity to renew the application. If they wish to renew the application, they must do so in writing to the Solicitor to the Inquiry by **12pm on Thursday 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.

Legal Representation

13. 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.

14. I am satisfied that the Scottish Covid-19 Bereaved Families for Justice has appointed Aamer Anwar of Aamer Anwar & Co as its qualified lawyer in relation to this Module. I therefore designate Aamer Anwar as the Scottish Covid-19 Bereaved Families for Justice's recognised legal representative in accordance with Rule 6(1).

15. 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 DBE

Chair of the UK Covid-19 Inquiry

13 October 2022