



**NOTICE OF DETERMINATION**  
**CORE PARTICIPANT APPLICATION**  
**MODULE 2C - EMMA LITTLE-PENGELLY**

**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 2C 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. The [Provisional Outline of Scope](#) for Module 2C provides that this module will examine the decision-making by the government in Northern Ireland 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.
3. On 22 September 2022 the Inquiry received an application from Ms Emma Little-Pengelly (the "**Applicant**") for Core Participant status in Module 2C.
4. I made a provisional decision not to designate the Applicant as a Core Participant in Module 2C, thereby provisionally declining the Applicant's application, on 13 October 2022. The Applicant was provided with an opportunity to renew the application in writing by 12pm on 20 October 2022.
5. The Applicant did not renew the application by the prescribed deadline. Accordingly, this Notice sets out my final decision on the application.

**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 2C.
8. I have taken into account all of the information which the Applicant has relied upon. The fact that I have not, in making this determination, referred to every matter which is set out in the application does not mean that I have not considered it. The summary below is intended to capture what appear to be the most important points made in support of the application.

### **Summary of Application**

9. The Applicant was a Special Adviser for various periods from January 2020 to February 2022. The Applicant is said to have played a direct and significant role by advising the First Minister on Executive decision-making in relation to the matters being considered by the Inquiry during this phase.

### **Decision for the Applicant**

10. I have considered with great care everything that is said in the Applicant's application. Having done so, in my discretion, I consider that the Applicant does not meet the criteria set out in Rule 5 for designation as a Core Participant in Module 2C and, therefore, I have decided not to designate the Applicant as a Core Participant in Module 2C.
11. The focus of Module 2C is on the key decisions which were made by the government in Northern Ireland in response to the Covid-19 Pandemic. The application identifies that the Applicant was an adviser to the First Minister, but not a decision-maker in her own right nor a member of any decision-making body. It therefore appears to me, having regard to the criteria set out in Rule 5 that whilst the Applicant, as an adviser to the First Minister, played a part in the high level response to the Covid-19 Pandemic, the Applicant did not have a direct or significant role in the core political and administrative decision-making (Rule 5(2)(a)).
12. Whilst recognising that the Applicant has an interest in the matters being investigated, her role as an adviser (again, distinct from that of a decision-maker) means that her interest does not meet the threshold of being significant for the purposes of Rule 5(2)(b). The Applicant has not suggested that she might face explicit or significant criticism by reason of the advice she provided (Rule 5(2)(c)). Whilst 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. It is relevant in this regard that the former First Ministers have sought and will be granted Core Participant status. This is a relevant consideration as they will be able to provide evidence as to what advice was received, but critically why they did or did not accept certain advice. In making this decision, I have also had regard to the need to manage the Inquiry effectively and efficiently and to the requirements of proportionality.
13. As I have set out, it is the former First Ministers (and other Ministers who comprised the Executive Office) whose decision-making will be the focus of Module 2C.
14. It is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. The Applicant may have relevant information to give

in relation to the matters being examined by Module 2C and if appropriate, a request for a witness statement may be issued in due course.

15. For all of those reasons, having considered all of the information provided by the Applicant, in light of the Provisional Outline of Scope for Module 2C, I consider that the Applicant did not play a direct and significant role in relation to the matters sought to be investigated in Module 2C, nor does the Applicant have a significant interest in an important aspect of the matters to which Module 2C relates. I have therefore decided that the Applicant should not be designated as a Core Participant in Module 2C and I confirm that this is my final decision.

16. I will keep the scope of Module 2C under review. My decision not to designate the Applicant as Core Participant in Module 2C does not preclude her from making any further applications in respect of any later modules. The Applicant may wish to consider applying for Core Participant status in relation to future modules likely to deal more directly with the matters which have been referred to in the application. I will consider any future applications the Applicant 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**

**26 October 2022**