



**NOTICE OF DETERMINATION**  
**CORE PARTICIPANT APPLICATION**  
**MODULE 2A - 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 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. The Provisional Outline of Scope for Module 2A provides 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.
3. On 23 September 2022 the Inquiry received an application from Refugees for Justice ("the Applicant") for Core Participant status in Module 2A.
4. I made a provisional decision not to designate the Applicant as a Core Participant in Module 2A, thereby declining the Applicant's application ("the Provisional Decision"), on 13 October 2022. The Applicant was provided with an opportunity to renew the application in writing by 12pm on 20 October 2022.
5. On 26 October 2022, the Applicant submitted a renewed application for Core Participant status in Module 2A. This notice sets out my determination of the Applicant's application for Core Participant status in Module 2A.

## 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 2A.

## Summary of Application

8. The Applicant's original application was made on the basis that Refugees for Justice is an organisation formed by refugees and asylum seekers in Scotland who were removed from safe residential accommodation during COVID-19 and placed in hotel accommodation. Refugees for Justice is based in Glasgow and is comprised of individuals who were seeking asylum and were subject to asylum accommodation within Scotland. The application stated that Refugees for Justice has a significant interest in relation to Module 2A as the decision-making of the Scottish Government during the pandemic directly affected this group. The application also highlights the obligations imposed by the Human Rights Act 1998 and Article 2 ECHR, and states

that the investigative duty can only be properly discharged through Refugees for Justice's participation in the Inquiry as a Core Participant.

9. In its renewed application, the Applicant reiterates that their clients were directly affected by the matters to be investigated in Module 2A and states that in addition to the reasons set out in their original application, they further submit that Core Participant status should be granted for two reasons. Firstly because Refugees for Justice, along with other groups, have been politically active in pushing for an inquiry, including making representations to the Scottish and UK governments so that inquiry or inquiries would scrutinise, examine and assess accountability in respect of decisions made during the pandemic. In particular, they pressed for an inquiry to investigate the situation and circumstances which led to asylum seekers and refugees in Glasgow being moved to hotels and the consequences of that decision.
10. Secondly, the Applicant submits that in order properly to examine core political and administrative decision-making in Scotland it is necessary to consider the impact of that decision making on refugees as represented by the RFJ group. In not being granted Core Participant status, it is argued that the Applicant and the clients it represents will not be able to participate in the testing of evidence, make comments and/or challenges.
11. The Applicant relies on the Terms of Reference, the aims of which include consideration of any disparities evident in the impact of the pandemic on different categories of people and the public health response including immigration and asylum. It is submitted that in furtherance of this aim, the RFK will need to have Core Participant status "*not merely or simply as victims*". Limiting evidence to be heard to that of government officials and agencies will mean that the Inquiry will not properly be able to consider "*a) decision making in respect of the refugees located in Scotland (background and all salient facts) b) decision(s) re housing and relocation during the pandemic c) the impact on refugees and asylum seekers relocated to hotels*".
12. With regard to recommendations and lessons learned, it is submitted that the evidence of the Applicant will assist the inquiry to make complete

recommendations to the Scottish Government about their core political and administrative decision-making process regarding refugees and vulnerable groups of individuals.

13. The Applicant notes that it is not necessary for an individual or organisation to be a Core Participant to provide evidence to the Inquiry. However, the listening exercise will not, if it is submitted, ensure effective participation for RFJ. Effective participation can only be achieved through the grant of Core Participant status.

### **Decision for the Applicants**

14. I have considered with great care everything that is said in the Applicant's renewed application. I have also reminded myself of what was said in the original application to enable me to assess the merits of the application for Core Participant status as a whole. 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 2A and, therefore, I have decided to not to designate the Applicant as a Core Participant in Module 2A.
15. As I set out previously, I acknowledge the disproportionate effect 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 in my Opening Statement, that inequalities will be at the forefront of the Inquiry's investigations. This will include (as identified by the Applicant) a focus on the disparities evident in the impact of the pandemic on different groups of people including migrant communities.
16. The focus of Module 2A is high level core political and administrative decision making by the Scottish Government with particular scrutiny to be paid to decisions taken by the First Minister and other Scottish Ministers, as advised by the Civil Service, senior political, scientific and medical advisers, and relevant sub-committees. The Applicant does not suggest that they played any role in such decision making and I do not consider that the Applicant played a direct or significant role (Rule 5(2)(a)).

17. The decisions in which the Applicant asserts an interest, namely the decisions to remove refugees and asylum seekers in Scotland from safe residential accommodation during COVID-19 and place them in hotel accommodation are unlikely to form part of the evidence under consideration in Module 2A.
18. Whilst I recognise that the Applicant has an interest in the issues under investigation in Module 2A, I do not consider having regard to the need to manage the Inquiry effectively and efficiently, that its interest in decision making by the Scottish Government is sufficiently significant as to grant it Core Participant status in this Module. 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 and organisations in this country could potentially have an interest in it and a significant interest in it. It will be appreciated that not everyone can be granted Core Participant status for the purposes of the Inquiry hearings.
19. The Applicant does not suggest nor do I consider that it is likely to be subject to any criticism (Rule 5(2)(c)).
20. As set out in my original determination there are a number of ways in which the Applicant can participate in the inquiry.
21. 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 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.
22. 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 reiterate 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.

The Applicant and those it represents will have the opportunity to contribute to the Inquiry through the listening exercise if they choose.

23. It is also a relevant factor that I have adopted a modular approach with different issues and strands to be investigated as the Inquiry progresses. This includes specific focus in later modules dealing directly with the impact of Covid-19 on public services including housing/homelessness, health inequalities and the vulnerable, including migrant communities. In my Opening Statement, I said that I will publish more information about the issues intended to be covered by later modules in the coming months. The Applicant may wish to consider making an application for Core Participant status in a future module. I will consider any future applications the Applicants may wish to make on their merits at the time they are made.
24. 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 2A, I consider that the Applicant did not play a direct and significant role in relation to the matters sought to be investigated in Module 2A, nor does the Applicant have a significant interest in an important aspect of the matters to which Module 2A relates. I have therefore decided that Applicant should not be designated as a Core Participant in Module 2A and I confirm that this is my final decision.
25. I will of course keep the scope of Module 2A under review. My decision not to designate the Applicant as Core Participant in Module 2A does not preclude it from making any further applications in respect of any later modules.

**Rt Hon Baroness Heather Hallett DBE**  
**Chair of the UK Covid-19 Inquiry**  
**27 October 2022**