



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 2C - YVONNE STEWART**

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 23 September 2022 the Inquiry received an application on behalf Yvonne Stewart for Core Participant status in Module 2C.
4. I made a provisional decision not to designate Ms Stewart as a Core Participant in Module 2C, thereby declining Ms Stewart's application ("the Provisional Decision"), on 13 October 2022. Ms Stewart was provided with an opportunity to renew the application in writing by 12pm on 20 October 2022.
5. On 20 October 2022, a renewed application was submitted on behalf of Ms Stewart ("the Applicant") for Core Participant status in Module 2C. This notice sets out my determination of Ms Stewart's application for Core Participant status in Module 2C.

6. I have taken into account all of the information upon which the Applicant has relied. 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.

Application

7. 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.

8. 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.

Summary of Application

9. The initial application made on behalf of Ms Stewart, stated that her father, John Fleming, contracted Covid-19 on a ward at Craigavon Area Hospital and subsequently died. For understandable reasons, the application focused on the actions of the Southern Trust, the Department of Health, the Chief Medical Officer and the Coroner's Office in relation to Mr Fleming's treatment and death.
10. In the renewed application, which is made on behalf of Ms Stewart but also refers to the interests of the Fleming family, it is emphasised that the Applicant can only deal with and is only concerned with her own family case. However the Applicant considers that it is vital that the Inquiry should receive evidence about her father's case because it is only by hearing about experiences, like that of her family, that the Inquiry can understand failures of decision-making or lack of preparedness in Northern Ireland. The Applicant also emphasises the uniqueness of both her family's experiences and the role which they have played in bringing to attention the wider implications of their experiences.
11. The Applicant is also concerned that if she and her family do not have Core Participant status that the Inquiry will get a one sided version of events. They are particularly concerned about this because they consider that there was a cover-up in relation to Mr Fleming's death. They believe that the death of Mr Fleming was not reported to the Coroner and an invalid and incorrect Death Certificate was issued. I am informed that this is now accepted in respect of the Certificate.
12. The Applicant is also unclear as to how the Inquiry suggests that she could be part of the Inquiry process. The renewed application states that the Applicant was told that "Module 1 would not apply to them" and that she should consider an application under Module 2. The Applicant understands that when she applied to Module 2C she was informed that she could not participate in her own right but that if she joined a group or organisation the position may change.

Decision for the Applicant

13. I have considered with great care everything that is said in Ms Stewart's renewed application and what is said about the Fleming family's interests for the purposes of

the 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 Ms Stewart does not meet the criteria set out in Rule 5 for designation as a Core Participant in Module 2C and, therefore, I have decided to not to designate Ms Stewart as a Core Participant in Module 2C.

14. I stated in the Provisional Decision that the purpose of Module 2C is to examine the high level decision-making of the government in Northern Ireland in response to the Covid-19 Inquiry. Its focus will be on the key decisions made by the government, for example, in relation to non-pharmaceutical interventions. I also noted that Module 2C will not consider how the decisions made impacted upon specific individuals and that it would not examine the circumstances of any one, particular death.
15. The Provisional Decision also pointed out that I intended, in my discretion, to grant Core Participant status in Module 2C to a single organisation which would represent the interests of large numbers of bereaved family members. I consider that, in designating a single organisation, it can represent the collective interests of all bereaved persons effectively. I am aware that in a further email of 19 October 2022, the legal team to the Inquiry further explained to the Applicant that the Protocol on Core Participant applications placed emphasis on the fact that applications from groups of people with similar interests, rather than individuals, would be preferred and that was to ensure the Inquiry received the benefit of the input of such collective groups.
16. I should like to emphasise that there are other ways in which people like the Applicant may be able to contribute to the Inquiry, particularly in later modules. It has always been my intention to call evidence that throws light on possible systemic failings at the public hearings. The Inquiry may well hear from an individual bereaved about the circumstances of their loved one's death if their account provides such evidence. I cannot offer the Applicant any assurance that she will be called to give evidence. As I am sure she will understand, that is a decision for later.
17. It will also be possible to contribute through the Inquiry's listening exercise. This is a significant and important part of the work which the Inquiry is doing to ensure that the

experiences of individuals informs the work of the Inquiry. As I set out in the provisional letter, the listening exercise will lead to summary reports of the impact of the pandemic to be used as evidence during the Inquiry's module hearings.

18. I acknowledge the personal suffering of the Fleming family (for which they have my sympathy) and the work which they have done, for example to challenge the certification of Mr Fleming's death and the broader issues which they submit his death raises. However, I am not persuaded that the statutory criteria set out in Rules 5(a) or (b) are met. It is not suggested that the Rule 5(a) is engaged and even if the Applicant does have a significant interest for the purposes of Rule 5 (b), it does not meet the level of a sufficient interest for the purposes of this Module. In addition, I have designated a single organisation to protect the interests of the bereaved.
19. In any event, even if the criteria had been met, I would nonetheless, in the exercise of my discretion, have concluded that the Applicant's interest in the matters under consideration does not warrant the grant of Core Participant status for the following reasons.
20. **First**, I reiterate the point that, more so than in any other Inquiry, there will be vast numbers of individuals and organisations who have a significant interest in the matters which will be subject to investigation. Many individuals across the United Kingdom can submit that their suffering was enormous and the circumstances of each loss will be unique to each grieving family. It is thus necessary that the Inquiry finds ways of reconciling the scale of the losses and suffering experienced by individuals with the need to run the Inquiry in a way which achieves its terms of reference and which is rigorous and fair. It is for that reason that the Inquiry cannot investigate the circumstances of individual deaths unless they throw light on possible systemic issues as mentioned above.
21. **Second**, sight must not be lost of the fact that the focus of Module 2C will be on the key decision-making, by the most senior levels of government in Northern Ireland. It will be the work of the Inquiry to investigate that decision-making assisted in its work by other Core Participants including the representative organisation which I have appointed to be a Core Participant. It will represent the interests of all bereaved persons in Northern Ireland. I repeat the point that being a member of such an

organisation does not mean that the individual is treated as a Core Participant or that the circumstances of their bereavement will be considered. Rather, this organisation will play an important role in informing areas of investigation, identifying possible witnesses from whom evidence could be sought and informing the content of hearings, based upon the collective interests of those whom it represents. I am satisfied that the interests of all bereaved persons including the Applicant are served by appointing one organisation to represent their collective interests.

22. **Third**, I would decline this application in my discretion for the additional reason that the Applicant could play a part in the Inquiry through the listening exercise. As I have noted above, the purpose of this is not just to provide a forum within which individuals can give an account of their experiences, those accounts will be used to inform the development of the inquiry.

23. 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. In my judgment, these aims would not be furthered by making the Applicant a Core Participant in Module 2C.

24. For all of those reasons, having considered all of the information provided on behalf of Ms Stewart, in light of the Provisional Outline of Scope for Module 2C, I consider that she should not be designated as a Core Participant in Module 2C and I confirm that this is my final decision.

25. I will keep the scope of Module 2C under review. My decision not to designate Ms Stewart as a Core Participant in Module 2C does not preclude her from making any further applications in respect of any later modules.

Rt Hon Baroness Heather Hallett DBE

Chair of the UK Covid-19 Inquiry

25 October 2022