



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 2A - THE SCOTTISH WOMEN'S RIGHTS 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 Modules 2, 2A, 2B and 2C and invited anyone who wished to be considered as a Core Participant to those Modules 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 are being announced on a rolling basis to address other aspects of the Inquiry's Terms of Reference.
3. On 11 May 2023 the Inquiry received an out of time application from Scottish Women's Aid, Engender, Close the Gap, Rape Crisis Scotland, and JustRight Scotland/Scottish Women's Rights Centre, collectively known as the Scottish Women's Rights Organisations ("the Applicants") for Core Participant status in Module 2A. This Notice sets out my final decision on the application.

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. Applications for Core Participant status made outside the Inquiry's timescales are considered in line with paragraph 10 of the Inquiry's [Core Participant Protocol](#) which provides:

When inviting applications, the Inquiry will set a timeframe for applications to each module, or part of a module. Applicants are asked not to submit applications outside the timelines given by the Inquiry. The Inquiry will not consider applications that are outside the timescales provided by the Inquiry, unless the applicant provides an acceptable explanation as to why they did not submit their application within the relevant timeframe.

6. In accordance with the approach set out in my Opening Statement and the Inquiry's [Core Participant Protocol](#), I have considered whether the Applicants have provided an acceptable explanation as to why they did not submit their application within the relevant timeframe and 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

7. The joint application by the Scottish Women’s Rights Organisations, on behalf of Scottish Women’s Aid¹, Engender², Close the Gap³, Rape Crisis Scotland⁴, and JustRight Scotland/Scottish Women’s Rights Centre⁵ states that the Applicants, all of which are registered charities, are organisations which are heavily focused on delivering support and advice to extremely vulnerable women, children and young people, and to ensuring that the issues impacting these groups are raised at the highest levels of government in policy development and decision making. It is stated that individually, and as a group, the Applicants have a wealth of knowledge and experience to contribute to the Inquiry, highlighting diverse issues around gender-based violence, domestic abuse, women’s and children’s homelessness, employment issues and inequality, financial security, health and care, access to services, as well as criminal justice issues and the impact on women. On this basis, it is said that the groups collectively are uniquely placed to assist the Inquiry in evaluating Scottish Government decision-making, particularly in respect of the identification of at risk and vulnerable groups in Scotland and the assessment of the likely impact of non-pharmaceutical interventions on such groups in light of existing inequalities. Because of this, they have made a joint application for joint Core Participant status as one Scottish Women’s Rights Organisations group, which will allow them to share their resources across the organisations in order to participate and engage efficiently and effectively with the Inquiry with one voice.

¹ Scotland’s leading voluntary sector organisation working to end domestic abuse and promote effective policy and practice responses for women, children and young people who experience domestic abuse. SWA is the national umbrella organisation for 34 autonomous, grassroots services that deliver direct support and advocacy to women, children and young people across Scotland.

² Scotland’s feminist policy and advocacy organisation working to realise a Scotland where women and men have equal access to power, resources, rights and safety. Engender works with Scottish, UK and international policymakers to ensure that systemic inequality between women and men is made visible and addressed.

³ Scotland’s policy advocacy organisation working on women’s labour market equality and action to tackle the gender pay gap through engagement with policymakers, employers and unions.

⁴ The leading organisation in Scotland working to end sexual violence by influencing justice reform and gender inequality, delivering prevention work to young people in schools and higher education settings, and running a helpline. RCS has 17 member centres that provide life-saving support and advocacy services to survivors of sexual violence, and it coordinates the National Advocacy Project which delivers advocacy services to survivors across Scotland.

⁵ Provides direct legal advice to people who would otherwise struggle to access justice. JRS operates the Scottish Women’s Rights Centre (“SWRC”) in collaboration with RCS and the University of Strathclyde Law Clinic, providing free legal information, advice and representation to women affected by abuse and violence in Scotland. Informed by its direct work with victims/survivors of gender-based violence, JRS seeks to influence national policy, research and training to improve processes and systems, and improve the outcomes for women who have experienced gender-based violence.

8. The application is made on the basis that individually and collectively the Applicants have a significant interest in an important aspect of the matters to which Module 2A relates. It said that the pandemic exacerbated existing gender inequalities in Scotland and existing systems and processes within the Scottish Government failed to mainstream gender and equalities considerations into crisis management, ongoing strategy and policy responses, crisis funding, programme development, service design and recovery plans. This failure entrenched the unequal impacts that were affecting women and marginalised groups across Scotland.
9. The application is further made on the basis that the Applicants engaged extensively with the Scottish Government, Scottish Parliament and other key policy makers to raise awareness of gendered impacts of the pandemic. They provided evidence, briefings and support on issues such as homelessness, gender violence, workplace equality issues and domestic abuse. A list of reports and briefings was helpfully annexed to the application, which I have read and considered alongside the application.
10. I note that there are no other Core Participants designated in Module 2A that represent the rights of women and children, particularly those at risk, but that two similar groups are designated Core Participant status in Module 2 - Solace Women's Aid and Southall Black Sisters "recognising the significant interest that similar organisations in England have when considering Westminster decision-making".
11. With regard to the failure to apply for Core Participant status within the timescales set by the Inquiry, the Applicants' legal representative in the covering email to which the application was attached explains that, although broadly aware that the UK Covid-19 Inquiry had been established, the concept of Core Participant designation was not known or understood by the Applicants. It is accepted it took some time after the Inquiry requested information from Scottish Women's Aid (by way of a Rule 9 request on behalf of Module 2 and 2A which was sent on 15 December 2022) for the Applicants: to become aware that there was a module in the UK Covid-19 Inquiry specific to Scottish Government decision-making; to understand the issues under investigation in Module 2A; to identify the option of Core Participant designation; to coordinate within their organisations about the possibility of seeking Core Participant

designation; and to reach the decision to make this application. It is said that each of the organisations have “limited capacity and resources to direct towards non-core activities”. It is argued that it is therefore reasonable that, once aware of the nature of Core Participant designation and the issues under consideration in Module 2A, it took an amount of time for the organisations to coordinate and to agree their approach. It is submitted that this amount of time was “small”. The email states “Given that the work of Module 2A is ongoing for only a short number of months, we would urge the Inquiry to recognise the acceptability of the timing of this application and to balance the significant and important contribution that the Scottish Women’s Rights Organisations can make as participants to Module 2A, with any inclination to adhere strictly to the Inquiry’s initial deadlines.” It is requested that they should not be prejudiced for failing to comply with a deadline of which they were unaware.

5. The Applicants submit that the requirement to establish an "acceptable explanation" for applications made out of time should be construed generously, “acknowledging that while there are some applicants who lobbied for an Inquiry, there are others with just as significant an interest and contribution to make, who only became aware of the Inquiry and gained an understanding of the nature of Inquiry proceedings over a longer time-frame”. I am invited to exercise my discretion and to consider the application out of time. If I am not minded to consider the application out of time, I am asked to invite the Applicants to become Core Participants in accordance with paragraph 12 of the Inquiry’s Core Participant Protocol.

Decision for the Applicant

12. As is acknowledged by the Applicants, the deadline for applications for Core Participant Status to Module 2A was 23 September 2022. The Applicants explain that the reason for their delay in applying for Core Participant status was that the concept of Core Participant designation was not known or understood by the organisations within the Applicant group. Once they became aware, they needed time for the organisations to coordinate and agree their approach with making their application.
13. I consider that the Applicants have provided an acceptable explanation for the delay and I have therefore decided, in my discretion, to consider the application despite the

fact that it was made out of time. In so deciding I have borne in mind that the Module 2A hearing will not commence for over 6 months and there is time to make this designation worthwhile and without distracting the module team from their preparations.

14. I acknowledge the specific impact of the Covid-19 pandemic on women, young people and children, and those at risk and vulnerable. I wish to reaffirm my commitment 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, including women, young people and children. I have considered with great care everything that is said in the Applicants' application. Having done so, in my discretion, I consider that the Applicants do meet the criteria set out in Rule 5 for designation as Core Participants in Module 2A and therefore I am minded, in my discretion, to designate the Scotland Women's Rights Organisations as a Core Participant in Module 2A on the basis of a joint grant.

15. I consider that none of the organisations within 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 the Applicants as a group have 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. 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. I have considered with great care everything that is said in the application. Accordingly, for a number of reasons, I consider that the Scottish Women's Rights Organisations are jointly well placed to assist the Inquiry achieve its aims by representing the various interests of a wide number of people in Scotland in relation to Module 2A. This is because each organisation can assist the Inquiry in understanding the perspectives of women, children, young people and those at risk and vulnerable in Scotland when it examines the core political and administrative decisions taken in response to Covid-19 and whether the interests of those groups were considered as part of this process,

without considering in detail any individual cases. I am minded to grant Core Participant status to all organisations within the Applicant group on the basis that they each have different memberships and may represent different interests, both of which are equally important to the considerations of the Inquiry, but can be represented collectively.

Legal Representation

1. 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.

2. I am satisfied that the Applicants have appointed Dierdre Domingo of Innovo Law Solicitors as their qualified lawyer in relation to this Module. I therefore designate her as the Applicants' recognised legal representative in accordance with Rule 6(1).
3. At the preliminary hearing for Module 2A on Tuesday 1 November 2022, I made directions regarding funding under section 40 of the Inquiries Act 2005. 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

26 June 2023