



## **NOTICE OF DETERMINATION CORE PARTICIPANT APPLICATION**

### **MODULE 4 - NORTHERN IRELAND COVID 19 BEREAVED FAMILIES FOR JUSTICE (NICBFJ)**

#### **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 5 June 2023, the Inquiry opened Module 4 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 30 June 2023.
2. The Inquiry has published the [Provisional Outline of Scope](#) for Module 4, which states that this module will consider a range of issues relating to the development of Covid-19 vaccines and the implementation of the vaccine rollout programme in England, Wales, Scotland and Northern Ireland. Issues relating to the treatment of Covid-19 through both existing and new medications will be examined in parallel. Further modules will be announced and opened in due course, to address other aspects of the Inquiry's Terms of Reference.
3. On 30 June 2023 the Inquiry received an application from a group of individuals who apply individually and collectively for joint Core Participant status as NI Covid 19 Bereaved Families for Justice ("NI CBFJ") ("the Applicant") for Core Participant status in Module 4. This Notice sets out my determination of 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. 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 4.

## **Summary of Application**

6. The application is made by a group of individuals who apply individually and collectively for joint Core Participant status as NI Covid 19 Bereaved Families for Justice ("NI CBFJ").
7. The application is made on the basis of Rule 5(2)(a) and (b).
8. In relation to Rule 5(2)(a), the applicants say that they played a direct and significant role in relation to the matters to which the Inquiry relates, because they experienced first-hand many of the issues which the Inquiry will investigate in this Module including but not limited to (i) the development, procurement, manufacture and approval of vaccines; (ii) development, trials and use of new therapeutics in addition to existing medications; (iii) vaccine delivery in Northern Ireland; and (iv) barriers to vaccine uptake. The application further states that the applicants have a significant interest in the same issues for the purposes of Rule 5(2)(b). It notes that it is significant that Module 4 will be examining vaccine delivery in Northern Ireland, which has a

significantly different public health care service and structure than the rest of the UK. Northern Ireland had the lowest vaccination rate of the four UK nations.

9. The application also relies on section 17(3) of the Inquiries Act 2005, which provides that "*In making any decision as to the procedure or conduct of an inquiry, the chairman must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others).*" The applicants submit that fairness will likely require groups of victims/bereaved in all jurisdictions to be designated as Core Participants for Module 4. It acknowledges the risk of duplication of work but asserts that NI CBFJ has demonstrated commitment to a collaborative approach in working with the CBFFJ UK and accordingly designating NI CBFJ as a Core Participant would serve to help avoiding unnecessary cost.

### **Decision for the Applicant**

10. I wish to reiterate my deep sympathy to each and every individual who has experienced the loss of a loved one as a consequence of the Covid-19 pandemic including those which the applicant represents.
11. The Core Participant Protocol provides that while I am bound to consider the factors set out in Rule 5(2), it is open to me to take into account other relevant matters. I am also not bound to designate a person or organisation which meets the criteria set out in Rule 5 as a Core Participant. I have a wide discretion which I exercise fairly and with an open mind. The Protocol further explains that I particularly invite applications from groups of individuals and organisations with similar interests, which assists 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.
12. I have considered with great care everything that is said in the application. Having done so, I have decided, in my discretion, to designate NI CBFJ as a Core Participant in Module 4.
13. Module 4 will consider the use of the Covid-19 vaccine and therapeutics. This will include consideration of the delivery of the vaccine and the use of new and existing therapeutics in each of the devolved nations. It will also consider disparities in vaccine

uptake and the reasons for vaccine hesitancy. I consider that the applicant is well placed to assist the Inquiry to achieve its aims in Module 4 by representing the collective interests of a broad spectrum of those bereaved in Northern Ireland as a result of the Covid-19 pandemic in relation to matters relevant to Module 4.

14. For the avoidance of doubt, I grant Core Participant status to the NI CBFJ Group as one collective group rather than to each individual. Having designated NI CBFJ as a Core Participant for Module 4, I consider that the individual interests of the individual applicants are best represented by NI CBFJ, having regard to its ability to represent the collective interests of the group in relation to Module 4 matters and also to the need to manage the Inquiry effectively and efficiently.

## **Legal Representation**

15. 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.*

16. I am satisfied that NI CBFJ has appointed Conal McGarrity of P.A. Duffy Solicitors as its qualified lawyer in relation to this Module. I therefore designate Mr McGarrity as NI CBFJ's recognised legal representative in accordance with Rule 6(1).
17. 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's Costs Protocol](#).

**Rt Hon Baroness Heather Hallett DBE**  
**Chair of the UK Covid-19 Inquiry**  
**17 July 2023**