



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULES 2A, 2B AND 2C - COVID-19 BEREAVED FAMILIES 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 Modules 2, 2A, 2B and 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 Outlines of Scope for Modules 2A, 2B and 2C provides that those modules will examine the decision-making by the Scottish Government, the Welsh Government and the government in Northern Ireland respectively, 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 the Covid-19 Bereaved Families for Justice (the "Applicant Group") for Core Participant status in Modules 2A, 2B and 2C.
4. I made a provisional decision not to designate the Applicant Group as a Core Participant in Modules 2A, 2B and 2C, thereby declining the Applicant Group's application ("the Provisional Decision"), on 14 October 2022. The Applicant Group was provided with an opportunity to renew the application in writing by 12pm on 20 October 2022.
5. On 20 October 2022, the Applicant Group submitted a renewed application for Core Participant status in Modules 2A, 2B and 2C. I made a final decision not to designate

the Applicant Group as a Core Participant in Modules 2A, 2B and 2C, thereby declining the Applicant Group's application ("the Final Decision"), on 25 October 2022.

6. On 21 September 2023, the Applicant Group submitted a letter to request a review of the Final Decision ("the application"). This notice sets out my determination of the Applicant Group's request for a review of the Final Decision.

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 Outlines of Scope for Modules 2A, 2B and 2C.
9. I have taken into account all the information upon which the Applicant Group has relied. In making this determination, the fact that I have not 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

10. The Applicant Group explains that it was organised as a cohesive group with a central legal team at the outset; after a period of time, some of the Welsh and Scottish families decided to operate autonomously from the Applicant group and set up their own groups. The formation of the autonomous groups involved only a proportion of the families within Wales and Scotland represented by the Applicant; it currently has 194 and 218 family members from Wales and Scotland respectively.
11. The Applicant Group has been given Core Participant status in Module 2 but not Modules 2A, 2B or 2C, and the Northern Ireland group is a Core Participant within Modules 2 and Module 2C. The autonomous groups for Scotland (i.e. Scottish Covid Bereaved) and Wales (i.e. Covid-19 Bereaved Families for Justice Cymru) are Core Participants within Module 2 as well as 2A and 2B respectively.
12. It is said that this arrangement leaves a significant number of bereaved families without disclosure or participation in the hearings of Modules 2A and 2B despite the fact that their interests are within Scotland and Wales. The position regarding Northern Ireland is said to be different given the organisation of CBFFJ and NI CBFFJ and the arrangement between the legal teams, although there remain difficulties relating to disclosure of Module 2C material.
13. The application is put on the basis that two of the Inquiry's recent decisions significantly change the factual basis upon which Core Participant status was originally considered and I am asked, therefore, to revisit the issue and accord Core Participant status for Modules 2A, 2B and 2C. The two decisions are:
 - a. To consider the evidence from Module 2 together with the evidence from Modules 2A, 2B, and 2C and to deliver one overarching report; and
 - b. To call witnesses from the devolved nations such as First Ministers and former First Ministers only within the Module relevant to their jurisdiction namely Modules 2A, 2B or 2C.

14. It is submitted that the effect of the first decision means that the Applicant Group will only be in a position to consider or address part of the M2 evidence with respect to the overarching report.
15. Further, the second decision means that all its members from across the UK will be unable to see the disclosure relating to the participation of the devolved administrations in the UK response and will be unable to participate in the examination of the degree of cooperation between the UK government and devolved administrations. If witnesses from the devolved nations are to be heard within Modules 2A, 2B and 2C and not within Module 2 itself, then the Applicant Group will be able to see disclosure and participate and make submissions relating to one side of this evidence only. Its Scottish and Welsh members will not be able to see the disclosure or participate in the hearings most central to their interests.

Decision for the Applicants

16. I have considered with great care everything that is said in the 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 have decided not to designate the Applicant Group as a Core Participant in Modules 2A, 2B and 2C.
17. I consider that the two decisions highlighted in the application do not amount to a sufficient (if any) change in circumstances to justify granting the Applicant Group Core Participant status in Modules 2A, 2B and 2C.
18. As I have said on previous occasions, I have at the forefront of my mind the interests of bereaved families; it is vital that their views be represented in this Inquiry. I fully accept that bereaved families have a significant interest in Modules 2A, 2B and 2C. Furthermore I appreciate the work that has been undertaken by the Applicant Group to date (having been granted Core Participant status in Modules 1 and 2) and I know that work will continue to help the Inquiry achieve its aims. I also understand that as a result of my determination, its Scottish, Welsh, and Northern Irish members will not receive disclosure from the Modules in which they may have the most interest. However, having a significant interest is not the only consideration for granting core

Participant status and it is not the purpose of this Inquiry, including Modules 2A, 2B and 2C, to examine individual deaths or the experiences of individual bereaved families. I have already taken the decision to grant Core Participant status to Scottish Covid Bereaved, Bereaved Families for Justice (Cymru), and Northern Ireland Covid-19 Bereaved Families for Justice in Modules 2A, 2B and 2C respectively to represent the interests of the bereaved in those nations. I also note that there continues to be a co-operative working relationship between the Applicant Group and the Northern Irish Group.

19. Whilst I appreciate that the wider Applicant Group also represents the interests of bereaved families in the devolved nations, I am satisfied that the devolved bereaved family groups are best (and well) placed to assist the Inquiry and represent the significant interests of bereaved families in Modules 2A, 2B and 2C.

20. 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 in this country could potentially have an interest in it and not everyone can be granted Core Participant status for the purposes of the Inquiry hearings.

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 Group may have relevant information to give in relation to matters being examined in the Inquiry and the Inquiry will be seeking information in due course from a range of individuals, organisations and bodies 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 made clear in my Opening Statement that this listening exercise is a significant and important task which will lead to summary reports of the impact of the pandemic to be used as evidence during the Inquiry's module hearings. The Applicant Group and those whom it represents will have the opportunity to contribute to the Inquiry, through the listening exercise if they choose.

23. For all of those reasons, having considered all of the information provided by the Applicant Group, in light of the Provisional Outline of Scope for Modules 2A, 2B and 2C, I have decided that the Applicant Group should not be designated as a Core Participant in Modules 2A, 2B and 2C and I confirm that this is my final decision.

24. My decision not to designate the Applicant Group as Core Participants in Modules 2A, 2B and 2C does not preclude it from making any further applications in respect of any later modules. I will consider any future applications the Applicant Group 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

09 October 2023