



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION  
MODULE 2A - THE SCOTTISH POLICE FEDERATION (SPF)**

**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 30 October 2023 the Inquiry received an out of time application from The Scottish Police Federation ("SPF") 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 SPF have provided an acceptable explanation as to why it did not submit its 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 application states that SPF ("the Applicant") is the staff association for officers of the Police Service of Scotland of the ranks of constable (including special constables and cadets), sergeant, inspector and chief inspector (98% of all serving officers). SPF is created by statute and is charged with representing officers in all matters affecting their welfare and efficiency.

8. SPF has Core Participant status in the Scottish Covid-19 Inquiry. SPF have become concerned that the areas of interest to them may not be adequately covered, or covered at all, by the Scottish Covid-19 Inquiry. SPF argues that it played a direct and significant role (Rule 5(2)(a)) and has a significant interest (Rule 5(2)(b)) in parts of the Module 2A Provisional Outline of Scope i.e. parts 3 and 6.
9. SPF is concerned that it was not involved in the Scottish Government decision-making process so that the operational needs of officers could be factored into decisions. Further, SPF has concerns about the decisions taken on NPIs, their effect on policing by consent, their proportionality, their efficacy and the risk they presented to officers. The application also refers to reports and studies which are said to reflect the experience of members of SPF in the pandemic.
10. The Applicant's explanation for making its application outside the Inquiry's timescales is that the Scottish Covid-19 Inquiry had published a series of Investigative Portfolios for their intended areas of work (broadly equivalent to the UK "Module" approach). This included "Public Sector Response". The topics said to fall under this portfolio appear to replicate some of those within the scope of Module 2A. SPF had, perhaps prematurely, assumed that matters of concern to their members would be addressed by the Scottish Covid-19 Inquiry. They had, prior to the setting up date of the inquiry, received some assurance in correspondence from the Deputy First Minister that the Terms of Reference of the Scottish Covid-19 Inquiry were sufficiently wide to cover those matters.
11. The Applicant goes on to explain that it recently became apparent to it that some matters of significant concern to them may ultimately fall outside the intended scope of the relevant portfolios of the Scottish Covid-19 Inquiry and are likely to feature in the UK Inquiry Module 2A. When a hearings schedule was published by the Scottish Covid-19 Inquiry, Public Sector Response was not included. That remains the position. SPF have corresponded with the Scottish Covid-19 Inquiry and received no assurance.

## Decision for the Applicant

*Whether the application should be considered out of time*

12. The deadline for applications for Core Participant Status to Module 2A was 23 September 2022, meaning that this application was received significantly late, 401 days after the deadline expired. The application was received with only 11 weeks remaining until Module 2A's public hearings begin.
13. I remind myself that paragraph 10 of the Inquiry's Core Participant protocol states: *"...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."*
14. The aim of this Inquiry is to provide prompt and useful reports and recommendations. To achieve that aim, I must impose firm deadlines at different stages of the Inquiry. Compliance with those deadlines is important to ensure that the challenging timetable will be met. I also have to consider the need to be fair to all Applicants who have made their application for Core Participant status within the time period available as well as those who have made applications outside the application window and more generally that there is no unfair advantage obtained by a late application.
15. I therefore have first considered whether the Applicant has provided an acceptable explanation for the failure to comply with the deadline imposed for renewal.
16. I note that the application was received 401 days after the deadline. The application window was open from 31 August 2022 to 5pm on 23 September 2022. The application was therefore received over one year after the closure of the application window, which had itself been open for over three weeks. The Module 2A Provisional Outline of Scope was published on 31 August 2022, giving the Applicant sufficient time to consider making an application to this inquiry.
17. If I accept the Applicant's reasons for a delayed application as acceptable explanations then, in effect, the deadline has no force. I also bear in mind that this is not a situation where material identified in the course of the Inquiry has come to light

or circumstances have changed so that it is appropriate for an application to be made outside the initial window. I have also taken into consideration the need to be fair to all Applicants.

18. Accordingly, I do not consider that the Applicant has provided an acceptable explanation as to why it did not submit its application within the relevant timeframe. I am minded, in my discretion, to decline the Applicant Core Participant status for Module 2A for the reasons set out above.

19. I also bear in mind that simply because an Applicant has been refused Core Participant status in Module 2A that does not bar them from applying for or being granted Core Participant status in a later module or from providing relevant evidence to the Inquiry.

20. For completeness, I will also go on to provide my conclusion on whether the Applicant would have been granted Core Participant status in Module 2A had its application been received during the application window.

*The substance of the application*

21. I have considered with great care everything that is said in the Applicant's application. Having done so, in my discretion, I consider that the Applicant does meet the criteria set out in Rule 5 for designation as a Core Participant in Module 2A.

22. I accept the significant interest the Applicant has in the matters for provisional investigation in Module 2A (Rule 5(2)(b)). However, 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. I am not obliged to designate a person or organisation that meets the criteria set out in Rule 5 of the Inquiry Rules as a Core Participant.

23. I have already designated the National Police Chiefs' Council as a Core Participant in Module 2A and there are other ways in which the Applicant can contribute to the Inquiry. The Inquiry team will ensure that the interests of the Applicant (and its members) are properly considered where appropriate.

24. I will keep the scope of Module 2A under review. I will consider any future applications the Applicant 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**

**07 November 2023**