



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 9 - ECONOMIC RESPONSE
NORTHERN IRELAND COVID-19 BEREAVED FAMILIES FOR JUSTICE (NICBFFJ)

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 9 July 2024, the Inquiry opened Module 9 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 6 August 2024.
2. The Inquiry has published the [Provisional Outline of Scope for Module 9](#), which states that this module will examine how economic support was delivered by the UK Government, the Devolved Administrations and Local Government by examining a broad range of economic interventions in response to the Covid-19 pandemic. This includes economic support for business, jobs, the self-employed, vulnerable people and those on benefits. It will also consider additional funding given to relevant public services and the voluntary and community sectors.
3. On 6 August 2024, the Inquiry received an application from Northern Ireland Covid-19 Bereaved Families For Justice (NICBFFJ) ('the Applicant') for Core Participant status in Module 9.
4. On 13 September 2024 I made a provisional decision not to designate the Applicant a Core Participant in Module 9 ('the Provisional Decision'). The Applicant was provided with an opportunity to renew the application in writing by 4pm on 20 September 2024.

5. The Applicant subsequently submitted a renewed application for Core Participant status in Module 9. This notice sets out my final determination of the Applicant's application for Core Participant status in Module 9.

Application

6. 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.*

7. 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 9.

Summary of Application

8. NICBFFJ's original application stated that they are a campaign group of family members bereaved by Covid-19. The Applicant relies on Rules 5(2)(a) and 5(2)(b).
9. The Applicant states that it played a direct and significant role in the matters to which Module 9 relates as 'economic interventions sat on the very interface between lockdowns, other non-pharmaceutical interventions and the need to protect the vulnerable from Covid'. The application refers to evidence heard in Module 2C

regarding the balance to be struck between protecting the economy and the public health response to Covid-19 and the Applicant is critical of the balance struck in Northern Ireland, which it states its members were directly affected by.

10. Further, it is stated that the Applicant's members were potential beneficiaries of the various economic schemes and therefore experienced first-hand many of the issues which the Inquiry will investigate. It is stated that areas of Northern Ireland are the poorest in the United Kingdom and therefore implementation of effective economic measures in those areas to assist the most vulnerable was more significant than elsewhere in the United Kingdom. The application explains that bereaved families were concerned about access to financial support and eligibility, which forced them to continue working rather than isolating or shielding and as a result they were exposed to the virus and sadly lost their lives. The Applicant is able to assist the Inquiry with first-hand accounts of how lack of financial support had catastrophic consequences for them and their families. Therefore the application states that the Applicants, individually and collectively, have significant interests in important matters to which the Inquiry relates
11. NICBFFJ's renewed application provides further submissions and information, which I have considered with care. In making this determination, the fact that I have not referred to every matter or detail which is set out in the application does not mean that I have not considered it. The points addressed below are intended to capture what appear to be the most important points made in support of the application.
12. In its renewed application, the Applicant reiterates that, pursuant to Rule 5(2)(b) of the Inquiry Rules 2006, it has a significant interest in an important aspect of the matters to which the Inquiry relates.
13. The Applicant submits that it has a significant interest in the matters being examined by the Inquiry in Module 9, particularly in relation to economic interventions or financial support available in Northern Ireland as *'Too many bereaved in Northern Ireland lost their loved ones in the direct aftermath of that late or erroneous decision-making which was directly influenced by the unavailability of economic interventions or an absence of financial support.'*

14. The Applicant submits that the ‘focus’ of NICBFFJ is broader than on bereaved families and includes how and why their members came to be bereaved, which includes issues with economic interventions and financial support. Further the application states ‘theirs is a broad church, and where (as is often the case) their bereavement is as a direct or indirect result of the (un)availability or (in)adequacy of economic interventions available to individuals, businesses, public services or in other sectors, it is important that their experiences inform the Inquiry’s progress.’
15. In support of its significant interest, the Applicant draws my attention to the experiences of individual members and evidence heard in Module 2C’s hearings. The Applicant states that it has a significant interest in areas where they say financial support was inadequate or non-existent and as a result attendance at workplaces resulted in deaths of loved ones. This includes concerns in relation to the care sector where NICBFFJ states support was provided too late, focused on short term fixes and came with burdensome bureaucratic requirements. The renewed application submits that Core Participant status would allow the Inquiry to comply with domestic law and protect the Article 2 rights of the bereaved. The application states that NICBFFJ can assist the Inquiry ‘efficiently and effectively’ by representing the collective interests of a broad spectrum of those bereaved in Northern Ireland.

Decision for the Applicant

16. I have considered with great care everything that is said in the Applicant’s original application and in its renewed application. I have assessed the merits of the application for Core Participant status in its totality. Having done so, I remain of the view that the Applicant does not meet the criteria set out in Rule 5(2). I have therefore decided not to designate the Applicant as a Core Participant in Module 9.
17. Once again, I reiterate my deep sympathy to all those represented by the Applicant regarding the deaths of their family members, as well as to those who have suffered, and continue to suffer, from adverse health, illness and disability as a result of the Covid-19 pandemic.
18. As I set out in my provisional determination, whilst I appreciate that the Applicant brings a representative voice from bereaved families across the Northern Ireland, the

focus of Module 9 is on economic support across a broad range of interventions in response to the pandemic including support for businesses, relevant public services, grants, loans schemes, the voluntary and community sector as well as support for the vulnerable, benefits and sick pay.

19. The Applicant's primary focus and the unifying feature of its membership is bereaved families. In keeping with the other bereaved groups, the Applicant has an interest in understanding those decisions which may have impacted upon their members, the number of people who died during the pandemic or the number who have have been put at risk from Covid-19 (for example the experiences of those who were shielding or otherwise vulnerable). To this end, I designated the Applicant a Core Participant in Module 2C. They are also Core Participants in Modules 1, 3, 4, 5, 6 and 7. This has enabled the Applicant to play a significant part in the examination of those decisions or actions which may be most relevant to their members. Module 9 will not revisit those issues.
20. In support of its application, I am referred to evidence heard during Module 2C's hearing. The Applicant expresses concern that access to financial support strongly influenced decisions to lift restrictions on Northern Irish society. Module 9 will focus on the economic response to the pandemic and will not revisit issues relevant to core decision-making, which were explored in Module 2 and 2C, or in relation to non-pharmaceutical interventions.
21. I accept that the concerns of the Applicant's members relate to a broad spectrum of important issues regarding the management of the pandemic. However, whilst some of its members (I do not know how many) will have an interest in financial support provided to some individuals during the pandemic, and in particular in relation to Statutory Sick Pay ('SSP'), the Applicant's interest in a number of areas set out in the Provisional Outline of Scope in Module 9 is limited. For example, the applications are not put on the basis that the Applicant or its members have an interest in support for business, loan schemes, business grants, the transport sector or the voluntary and community sector.
22. I note that a significant concern of the bereaved is in relation to compliance with testing requirements and the impact of financial support to healthcare workers on

compliance and infection. I have already designated the Applicant Core Participant status in Module 7 which will investigate the financial support put in place as part of the Test Trace and Isolate systems adopted, as one of the factors influencing compliance.

23. Further, whilst I accept that some members may well have an interest in some of the decision-making and policy matters which will be examined in Module 9, the Applicant is not a group focused primarily on economic or employment issues. It is not focused on the issues to be investigated in Module 9.

24. Finally, on the issue of the Applicant's interest in Module 9, it is concerned with the economic response across all of the economy, and is, therefore, necessarily broad in its compass. Any person who required financial support or who isolated during the pandemic could potentially have an interest in Module 9. The same may be said of many organisations which support those in employment or reliant on benefits, or many businesses or business owners who experienced financial hardship.

25. I do not, therefore, consider that the Applicant's interest in these matters is sufficiently significant as to grant it Core Participant status in this module.

26. In relation to the role the Applicant's members played, whilst I appreciate that the Applicant's members have first-hand experience and knowledge of the economic interventions and were affected by the economic effects of Covid-19, I do not consider that as a result the Applicant necessarily played, or may have played, a direct or significant role in the matters being investigated in Module 9.

27. Even if I were wrong about whether or not the Applicant has a sufficiently significant interest in Module 9, I would still decline to exercise my discretion to designate it a Core Participant, having regard to the need to manage the Inquiry effectively. Whilst 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 factors. I am not obliged to designate any particular person or organisation as a Core Participant. There are other organisations which, in my view, are better placed to assist the Inquiry in relation to the economic response to the pandemic. Module 9 is a technical module and the Inquiry is assisted by those with particular unique perspectives or particular knowledge or expertise in relation to the

broad range of issues to be addressed. With this in mind, I am minded to designate only those applicants who can either speak to a range of areas of the economic response and/or demonstrate a particular interest or expertise in the economic response to the pandemic. I additionally have regard to my duty to act with fairness and with regard to the need to avoid cost to public funds which is not justified.

28. The renewed application submits that Core Participant status would include the bereaved to the extent necessary to safeguard his or her legitimate interests in accordance with Article 2. As I have set out above, the bereaved groups do not have a sufficiently significant interest in Module 9 as a whole. The proportion of Module 9 in which the bereaved have a legitimate interest is relatively small. The bereaved have been designated CPs in 10 modules of the Inquiry. They have been afforded effective participation in the parts of the Inquiry to which their interests most significantly relate.

29. 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. I am satisfied that the interests of the bereaved, represented by the Applicant will be well served by the approach that I intend to take to Module 9

30. I have also taken into account the fact that there are a number of ways in which the Applicant can participate in Module 9 without being a Core Participant, many of which have been recognised as adequate alternatives to Core Participant status in a number of other recent statutory inquiries. As I noted in my Provisional Decision, it is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. The Inquiry will also hear and consider carefully the experiences of those who have suffered hardship as a result of the pandemic, through the listening exercise, Every Story Matters. The Applicant and its members may wish to contribute to the work of the Inquiry through this process. 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.

31. Having considered all the information provided by the Applicant, in light of the Provisional Outline of Scope for Module 9, I remain of the view that the Applicant did

not play a direct and significant role in relation to the matters sought to be investigated in Module 9, nor does it have a significant interest in an important aspect of the matters to which Module 9 relates. Even if I was wrong about that, I would still exercise my discretion to refuse the application. I have therefore decided that NICBFFJ should not be designated as a Core Participant in Module 9 and I confirm that this is my final decision.

32. I will keep the scope of Module 9 under review.

Rt Hon Baroness Heather Hallett DBE

Chair of the UK Covid-19 Inquiry

30 September 2024