

NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION – ‘MT’

1. The Brook House Inquiry was announced by the Secretary of State for the Home Department on 5 November 2019. In my opening statement on 21 April 2020, I formally invited those who wished to be considered for Core Participant status to submit a written application. An initial deadline for applications was set for 19 May 2020 but I committed to considering any applications I received as the Inquiry progressed.
2. I received a written application from MT for Core Participant status dated 15 March 2021. I have given careful consideration to the application and I have decided to grant the application, for the reasons set out in detail below.

Application

3. The designation of individuals or organisations as Core Participants (‘CPs’) in an Inquiries Act inquiry is governed by Rule 5 of the Inquiry Rules 2006. The relevant paragraphs provide:

“Core participants

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.”

4. In the application submitted on behalf of MT, it is stated that he was detained at Brook House for a period of approximately four weeks during the five-month period the Inquiry is investigating (the ‘relevant period’). The application goes on to state that, during that time, he was mistreated by staff at Brook House.
5. The application seeks the granting of core participant status under Rule 5(2)(a) and (b) of the Inquiry Rules 2006.

Decision

6. I have considered the application in line with my approach as set out below. I have concluded that MT meets the requirements of Rule 5(2)(a) and (b) for the following reasons:

The test under rule 5(2)(a): a direct and significant role

7. In my opening statement on 21 April 2020, I referred to a list of specific issues that I consider need to be examined in order for the Inquiry to meet its terms of reference. Amongst that list are seven issues that MT’s application touches upon directly. The first of those is the extent and suitability (or otherwise) of the specialist mental health provision at Brook House during the relevant time period. The second is the assessment of detainee

vulnerability, including the Rule 35 process and the Adults at Risk Policy. The third issue is whether clinical care issues caused or contributed to mistreatment. The fourth issue is the staff and management culture at Brook House at the time. The fifth issue that MT raises is in relation to the response to bullying and intimidation. The sixth issue is the management of self-harm and food refusal, and the seventh and final issue relates to language barriers and the use of interpreters.

8. In addition to the seven issues above, the application submitted on MT's behalf asserts that:

- i. *MT was subject to mistreatment in that we consider that he was unlawfully detained and detention was maintained notwithstanding evidence that he was a victim of torture and at least a Level 2 Adult at Risk, and:*
- ii. *MT was detained in breach of the Dublin III Regulation and domestic legislation, not least the Transfer for Determination of an Application for International Protection (Detention) (Significant Risk of Absconding Criteria) Regulations 2017.*

9. I issued a determination on the Inquiry's scope on 8 January 2021. While the Inquiry will follow where the evidence leads, my current view is that initial Home Office decisions to detain or the resolution of legal questions such as the lawfulness of detention are not within the Inquiry's Terms of Reference. Notwithstanding this, I am satisfied that MT may have played a direct and significant role in relation to the matters this Inquiry will investigate.

The test under Rule 5(2)(b): a significant interest in an important aspect

10. Following an assessment of the extent and nature of the mistreatment at Brook House, the Inquiry will turn to the question of the degree to which policies, practices and systems

caused or contributed to it. It is then my intention to focus on the question of the adequacy of the safeguards designed to detect mistreatment. Finally, I will address the issue of whether the broadcast of the Panorama programme resulted in any changes and, crucially, whether those changes were adequate.

11. The application submitted on behalf of MT includes a summary of his experiences while being detained in Brook House. I consider that he has a significant interest in several important aspects of the Inquiry's remit, specifically in relation to the provision of care to detainees with mental health needs, the assessment of detainee vulnerability and the staff culture at Brook House. I consider that MT's significant interest in the Inquiry, pursuant to Rule 5(2)(b) of the Inquiry Rules, is clearly demonstrated by his application.

Conclusion

12. I have considered the statutory tests and determined that the application submitted by MT provides sufficient evidence of his direct and significant role and his significant interest in the specific events at Brook House in the relevant period, such to satisfy the Inquiry Rules. I therefore designate MT as a Core Participant to the Brook House Inquiry.

Legal Representative

13. 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 as follows:

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 4 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.

12. Accordingly, as I am satisfied that MT has appointed Mr Hamish Arnott of Bhatt Murphy Solicitors as his qualified lawyer, I designate Mr Arnott as MT's recognised legal representative in accordance with Rule 6(1) of the Inquiry Rules 2006.

Kate Eves
Chair to the Brook House Inquiry
30 March 2021