

NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION – ‘NAO’

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 NAO for Core Participant status dated 11 May 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 NAO, it is stated that he was detained at Brook House for two separate periods, totalling approximately three weeks, during the five-month period the Inquiry is investigating (the ‘relevant period’). The application seeks the granting of core participant status under Rule 5(2)(a) and (b) of the Inquiry Rules 2006.

Decision

5. I have considered the application in line with my approach as set out below. I have concluded that NAO 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

6. 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. NAO’s application makes direct reference to ten of the issues on the list within my opening statement. His application states that he has direct experience of, or was witness to, events that are of relevance to the Inquiry in relation to the following:
 - i. Mistreatment of detainees
 - ii. Staff management and culture

- iii. The prevalence of racist attitudes and behaviours and the measures for addressing such attitudes/ behaviours
- iv. The assessment of vulnerability including the Rule 35 process and Adults at Risk policy
- v. The incidence and management of self-harm and food refusal
- vi. The control of drug availability and drug use.
- vii. Clinical care issues causing or contributing to mistreatment
- viii. The extent and suitability of specialist mental health provision
- ix. The use of control and restraint techniques, including pain compliance
- x. Response to bullying and intimidation

7. I am satisfied that NAO 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

8. 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.
9. The application submitted on behalf of NAO 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 and the staff culture at Brook House. I consider that

NAO's significant interest in the Inquiry, pursuant to Rule 5(2)(b) of the Inquiry Rules, is clearly demonstrated by his application.

Conclusion

10. I have considered the statutory tests and determined that the application submitted by NAO 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 NAO as a Core Participant to the Brook House Inquiry.

Legal Representative

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

Kate Eves

Chair to the Brook House Inquiry

14 May 2021