

NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION – BBC

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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. A deadline was set for 19 May 2020.
2. I received a written application from the British Broadcasting Corporation ('BBC') for Core Participant status dated 20 May 2020, having agreed a slight extension of time for this to be submitted. 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 the BBC, the applicant’s role is stated as the following: *“BBC Panorama investigated conditions at Brook House during April-August 2017 which was included in a 60 minute documentary called “Undercover: Britain's Immigration Secrets” broadcast on BBC One on 4 September 2017. It was Panorama's investigation which led to the setting up of this Inquiry.”*
5. The application seeks the granting of core participant status and indicates that Rule 5(2)(a) and (c) of the Inquiry Rules 2006 may apply.

### **Decision**

6. I have considered the application in line with my approach as set out below. I have decided to grant the application for the reasons given.

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

7. The application summarises the BBC’s direct and significant role as follows: *“It was the BBC's investigation which directly led to this Inquiry. Callum Tulley was a Detainee Custody officer at Brook House from January 2015 until his last shift on 6 July 2017. From March 2017, whilst still employed by G4S, he was also engaged by the BBC as an undercover reporter for Panorama”*.

8. It is clear that, through the BBC's engagement with Callum Tulley, the organisation had a direct and significant role in events at Brook House in the 'relevant period' (1 April to 31 August 2017). Callum Tulley filmed covert footage of events in Brook House which were then shown as part of the Panorama programme.

#### The test under rule 5(2)(c): The potential for explicit or significant criticism

9. I turn now to the possibility that the BBC, or individuals employed by the BBC, may face explicit or significant criticism during the Inquiry's proceedings or in its reports. As the producer of the Panorama programme, it is reasonable to consider that the BBC's actions and decisions may be scrutinised throughout the Inquiry's proceedings. It is accordingly possible that there may be explicit or significant criticism of the BBC as a result.

#### Conclusion

10. I have considered the statutory tests and determined that the application submitted on behalf of the BBC provides sufficient evidence of its direct and significant role in the specific events at Brook House in the relevant period. I also consider that there are reasonable grounds to believe that the organisation may be subject to criticism during the course of the Inquiry. I therefore grant the BBC status 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 the BBC has appointed Ms Elizabeth Grace of the BBC as its qualified lawyer, I designate Ms Grace as the BBC's recognised legal representative in accordance with Rule 6(1) of the Inquiry Rules 2006.

**Kate Eves**

**Chair to the Brook House Inquiry**

**06 August 2020**