

NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION - GDWG

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 Gatwick Detainees Welfare Group ('GDWG') for Core Participant status dated 10 March 2020 and further submissions on 15 May 2020. 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. The application to designate Gatwick Detainees Welfare Group ('GDWG') as a Core Participant can be summarised as follows. GDWG submits that it meets the criteria provided by Rule 5(2)(a) and (b) because it played a direct and significant role in relation to the matters to which the inquiry relates; and has a significant interest in an important aspect of the matters to which the inquiry relates.

5. Regarding (a), GDWG submits that the organisation is *'the only charity which has been working with detainees at Brook House IRC ("Brook House") since it opened. It was, during 2017, the only charity that went into Brook House daily to offer a wide range of emotional and practical support to detainees. GDWG's visitors and staff therefore saw and spoke with hundreds of detainees at Brook House during the period that the Inquiry is focussing on (1 April 2017 and 31 August 2017, 'the relevant period'). As a result of this close contact with Brook House detainees and GDWG's regular presence at the centre, GDWG's visitors and staff also had extensive contact with Brook House detention officers and managers during the relevant period.'*

6. In relation to (b), GDWG submits that it has:

'...a significant interest in all of the matters identified in the Inquiry's Terms of Reference. In particular, as a detainee welfare organisation committed to the well-being of those detained at the Gatwick IRCs, GDWG has a significant interest in

ensuring: (a) that the mistreatment of detainees at Brook House is robustly investigated and fully identified by this Inquiry, (b) that the Inquiry identifies how such mistreatment occurred (including whether methods, policies, practices and management arrangements (both of the Home Office and its contractors) caused or contributed to such mistreatment, and/or whether any clinical care issues caused or contributed to the mistreatment of detainees), and, crucially, (c) that the Inquiry helps to prevent the mistreatment of detainees in future (including by identifying those changes to the methods, policies, practices and management arrangements (both of the Home Office and its contractors), and to clinical care, that would help to prevent a recurrence of such mistreatment).'

Decision

7. 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.
8. This Inquiry's terms of reference relate to the experiences of detainees at Brook House in the relevant period. I intend to hear, as far as possible, directly from those detainees who can be identified and are willing to share their experiences with the Inquiry.
9. Where an NGO has played a direct and significant role in relation to the issues being considered by the Inquiry and can, for example, provide first-hand insights not available from those detained, it may well be appropriate that such an organisation is designated as a core participant. The approach I have taken is to determine NGO Core Participant applications on the basis of the specificity of their experience of, and involvement in, the relevant events at Brook House.

10. As Chair, I am required by rule 5(2) to consider the specific statutory tests set out above. I should emphasise, though, that an applicant who meets one or more of those tests will not necessarily be designated a Core Participant. Conversely, an applicant who does not meet any of those tests may have some other good reason for being designated a Core Participant. The work of NGOs may mean that their applications for CP status in public inquiries do not always fit readily into the statutory tests. NGOs will tend to be neither alleged victims nor alleged perpetrators, and they will often not be at risk of criticism. Their work may not relate squarely to the matters under investigation. The statutory tests may therefore not be as easy to apply to NGO applications as they are to many other CP applications. In approaching the applications for Core Participant status from NGOs, I have applied the relevant statutory tests, and in doing so I have considered the following matters:

- i. The proximity of the organisation's role or remit to the Inquiry Terms of Reference;
- ii. The extent and nature of its insights into events at Brook House and/or relevant systemic or structural issues.

11. I have also considered the following:

- i. Whether the applicant's proposed contribution as a CP could *as* effectively or *more* effectively be made by another organisation or individual/s;
- ii. Whether the applicant needs CP status in order to participate properly in the Inquiry, or whether the applicant could contribute effectively through the provision of written and/or oral evidence;
- iii. Whether it might be appropriate to reconsider the application at a later stage of the Inquiry, if it is not appropriate to grant CP status now.

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

12. In the application submitted on its behalf, GDWG states that its volunteers had contact with 380 newly detained individuals at Brook House between 1 April 2017 and 31 August 2017 (the 'relevant period'). GDWG also comments upon its volunteers' direct interactions with Brook House staff and members of other organisations, most notably the Independent Monitoring Board ('IMB') and states that some of those interactions relate directly to the issues to be addressed by this Inquiry.

13. My consideration of this element of the application has included a careful review of the general information provided by GDWG about the primary focus of its work and the context in which its staff and volunteers engaged with detainees, staff and others at Brook House. I accept that in the course of GDWG volunteers' regular presence in Brook House in the 'relevant period', and in their capacity to improve detainees' welfare and wellbeing, they are likely to have played a direct and significant role in relation to matters which this Inquiry will investigate.

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

14. GDWG's involvement with immigration detainees at Brook House is primarily focused on the treatment of those individuals while in detention. I conclude that its remit is sufficiently proximate to a number of the issues that this Inquiry will address to constitute a significant interest in important aspects of its work.

Other factors

The role of others as Core Participants

15. I have concluded that GDWG has a more direct and greater role and interest in the Inquiry's ToR than other applicants and I do not consider that their proposed contribution as a CP could *as* effectively or *more* effectively be made by another organisation or individual/s.

The provision of evidence by the Applicant

16. I turn now to the information provided in the application relating to GDWG's specific insights into the experience of detainees at Brook House in the relevant period. As stated above, this Inquiry will seek to understand the reported experiences of detainees at Brook House in the relevant period through hearing from directly wherever possible. However, as also explained above, in an instance where an NGO can provide first-hand insights not available from those detained, I consider that it may well be appropriate that such an organisation is designated as a core participant.
17. I have concluded that GDWG, or its volunteers, are likely to be able to provide such first-hand insights. GDWG interactions with Brook House staff, and/or members of other external organisations may have taken place without detainees present and these interactions may be of relevance to the Inquiry.

Conclusion

18. I have considered the statutory tests, and have taken account in particular of the specificity of GDWG's role in relation to conditions of detention; their regular and long-term presence

in Brook House and the significant number of detainees with whom they had interactions during the 'relevant period'. I therefore grant the application.

Legal Representative

19. 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.

20. Accordingly, as I am satisfied that GDWG has appointed Ms Joanna Thomson of Deighton Pierce Glynn as its qualified lawyer, I designate Ms Thomson as GDWG's recognised legal representative in accordance with Rule 6 (1) of the Inquiry Rules 2006.

Kate Eves

Chair to the Brook House Inquiry

14 August 2020