

NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION – ‘KK’

---

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 KK for Core Participant status dated 14 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. In the application submitted on behalf of KK, it is stated that he spent two separate periods of time detained in Brook House IRC, the first of which was during 2015. His more recent detention was from 1 March to 3 April 2017; a period which immediately precedes and overlaps with the first three days of the five-month period the Inquiry is investigating.
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 KK 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 four issues that KK’s application touches upon directly. The first of those is the management of self-harm at Brook House in the relevant period. The second

issue specifically referenced in KK's application is the use of segregation. The third specific issue is the extent and suitability (or otherwise) of the specialist mental health provision at Brook House during the relevant time period. The fourth issue is the assessment of vulnerability using Rule 35 of the Detention Centre Rules 2001.

8. However, I also note that the large majority of KK's time in detention, and equally the majority of the incidents relating to the issues set out above, fall outside the time period covered by the Inquiry's Terms of Reference.
9. Only three days of KK's detention fall inside the relevant period. Those three days coincide with the acceptance by the Home Office that KK's detention was no longer justified, and with his release from detention. KK does not assert that he was the victim of, or witness to, any specific acts of mistreatment during those three days. Nevertheless, I recognise that the last three days of detention are said to be part of a continuing pattern of mistreatment which lasted throughout KK's detention. I am satisfied that KK 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 KK 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 those at risk of suicide or self-harm. Again, the majority of the issues raised by KK and in which he has an interest fall outside the time period covered by the Terms of Reference, But KK remained detained during a short part of the relevant period, and I consider that KK's significant interest in the Inquiry, pursuant to Rule 5(2)(b) of the Inquiry Rules, is demonstrated by his application.

### Conclusion

12. I have considered the statutory tests and determined that the application submitted by KK 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 KK 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 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.*

14. KK applied for Mr Hamish Arnott of Bhatt Murphy Solicitors to be his recognised legal representative. I initially determined that it would be fair and proper for KK to be represented by one of the existing legal teams representing former detainee Core Participants. However, since that determination I have granted the organisation Medical Justice core participant status. I have designated Mr Arnott as Medical Justice's recognised legal representative.

15. I have therefore reconsidered my previous determination and considering all of the circumstances, I am satisfied that KK has appointed Mr Hamish Arnott of Bhatt Murphy Solicitors as his qualified lawyer and I designate Mr Arnott as KK's recognised legal representative in accordance with Rule 6 (1) of the Inquiry Rules 2006.

**Kate Eves**

**Chair to the Brook House Inquiry**

**12 October 2020**