

NOTICE OF DETERMINATION CORE PARTICIPANT APPLICATION – ‘IA’

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 IA for Core Participant status dated 18 May 2020 and a supporting letter dated 19 May 2020. I have given careful consideration to the application and letter 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 IA it is stated that IA was detained at Brook House from 28 April to 28 July 2017 and that, during that time, he was himself mistreated. The application states that IA witnessed others being mistreated and that he was witness to an event shown on the Panorama programme to which this Inquiry relates, during which he himself was physically restrained. Further, IA’s application states that he experienced a ‘lack of proper clinical care in relation to seeking treatment’ when he was unwell and that he witnessed the ‘clear mental distress’ of other detainees. IA’s application also references self-harm witnessed by the applicant.
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 decided to grant the application for the reasons given.

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

7. The application submitted by IA clearly articulates his direct and significant role in matters of importance to this Inquiry such to comply with Rule 5(2)(a) of the Inquiry Rules. IA’s

reported experiences at Brook House, both in relation to his own treatment and events that he says he witnessed, are clearly of relevance to the first question that I consider this Inquiry needs to address: that is the prevalence and severity of mistreatment taking place at Brook House in 2017.

8. 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 three issues that IA's application touches upon directly. The first of those is the management of self-harm at Brook House in the period covered by the Inquiry's Terms of Reference ["the relevant period"]. The second issue specifically referenced in IA's application is the use of control and restraint techniques. The third specific issue is the extent and suitability of the specialist mental health provision at Brook House during the relevant period. I am satisfied that IA played, or 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

9. 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.
10. In the application submitted by IA he explains his motivations for wanting to participate in this Inquiry: "*I want to ensure that justice is done; and that other detainees do not have to experience what I and others experienced at Brook House*". While the Inquiry can make no findings of criminal or civil liability, I do accept and hope that the Inquiry outcome will

bring some resolution to any detainees that I find to have been mistreated in detention at Brook House. I consider that IA's significant interest in many important aspects of the matters to which the inquiry relates, such to satisfy Rule 5(2)(b) of the Inquiry Rules, is clearly demonstrated by his application.

Conclusion

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

Legal Representative

12. 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.

13. IA applied for Burton & Burton Solicitors to be his recognised legal representatives. I initially determined that it would be fair and proper for IA to be represented by one of the existing legal teams representing former detainee Core Participants. Since that determination IA has agreed to be represented by Mr Lewis Kett of Duncan Lewis Solicitors. I therefore designate Mr Kett as IA's recognised legal representative in accordance with Rule 6(1) of the Inquiry Rules 2006.

14. In addition, I give approval for Mr Jafferji of counsel to be part of the recognised legal representative's team, to assist IA solely in the preparation of his evidence to the Inquiry and to represent him when he gives oral evidence. The Solicitor to the Inquiry will liaise directly with Mr Kett about the nature and scope of the work that Mr Jafferji may undertake in that role.

Kate Eves
Chair to the Brook House Inquiry
4 December 2020