

## **IN THE UK COVID-19 PUBLIC INQUIRY**

**BEFORE BARONESS HEATHER HALLETT**

**IN THE MATTER OF:**

**THE PUBLIC INQUIRY TO EXAMINE THE COVID-19 PANDEMIC IN THE UK**

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### **Request for a Review of the Provisional Decision to Refuse the Covid 19 Bereaved Families For Justice Group Core Participant status in sub-Modules 2a, 2b and 2c.**

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1. By letter dated 13 October 2022, the Chair accorded Core Participant status for the UK-wide Covid 19 Bereaved Families For Justice Group for Module 2. By letter dated 14 October 2022, the Chair made a provisional decision to refuse CP status for the group for sub-Modules 2a, b and c. This is a formal request for re-consideration of that refusal. We do not repeat the matters dealt with in our CP application for Module 2 and the three sub-modules, and note that the Chair has clearly agreed that the bereaved should be designated CPs for these modules/sub-modules. The issue, therefore, is which groups should be accorded CP status for which ones.
2. The CBFFJ has a membership drawn from across the UK. This is a UK Inquiry, which necessarily includes devolved issues and matters relating to the three devolved nations/jurisdictions, and how those devolved matters and issues fitted and interacted with the overall UK context and decisions, including the discussions and information sharing between the UK government and the devolved nations (in both directions). It is not four separate inquiries. If the CBFFJ does not have CP status for M2a, b and c it will mean that members of the CBFFJ group (and their lawyers) will only be able to see partial disclosure, based upon where their loved ones died. That partial disclosure will be different for each group of families as related to each other and, due to the complication referred to below, will be different again for the two groups of Scottish and Welsh families. The fact that the group's lawyers will be subject to the same limitations will undermine their ability to give advice and represent the group.
3. The model of representation adopted by the CBFFJ reflects the approach of the Inquiry, in that it has a central UK legal team and it seeks to have three complementary devolved teams. The attached update Note from the Directors sets out the factual position, and the current complication with respect to representation of members in Scotland and Wales. The basis of the request for reconsideration is the same in principle for all three sub-modules, but with different practical consequences with respect to M2a and b, and M2c.
4. The CBFFJ has always been an inclusive group and has recognised that the interests of its members and supporters require maximum unity. It has been remarkably successful in this endeavour, save with respect to the current issue. It is a matter of common

experience from other tragedies and the investigations into them, that there has been far less agreement and unity of action between those most affected, than with respect to this Inquiry.

5. We fully respect the need for the Chair to exercise her discretion with regard to how the Inquiry will be best assisted and to public resources. Manifestly, it would be optimal if the bereaved were to be represented by one legal team working collaboratively. That is what CBFFJ and its Directors have tried to achieve, and have been successful so far as concerns NI. A substantial number of the families in Scotland and Wales want the same collaborative approach, however a number of others do not. That is their right. However, the exercise of their right to be autonomous from the CBFFJ should not be allowed to adversely affect those Scottish and Welsh families who are part of the main group.
6. We do not want to reduce this to an issue of comparative numbers, as no family is more or less important than any other. We do not know what numbers are involved with the autonomous groups, and we certainly do not oppose their involvement in the Inquiry. However, as the Directors indicate, most members of CBFFJ in Scotland and Wales have remained within the CBFFJ group, and are therefore committed to the CBFFJ position on collaborative working. It would be wholly wrong to exclude them from those parts of the Inquiry which most directly affect them. Therefore, we respectfully ask that the CBFFJ be accorded CP status for Module 2a and 2b to ensure consistency of participation and representation, in accordance with the requirements of fairness and the rationale for the grants of CP status that the Chair has already made. We address how such participation and representation will work under the heading 'resources' below.
7. The position regarding Module 2c is different. As stated, there is a collaborative working arrangement between CBFFJ and CBFFJ (NI) (which is a branch of the former). That working arrangement means that the NI legal team will lead and undertake most of the work on NI devolved issues. However, as CBFFJ is UK-wide, and in order to make the working arrangement effective, CBFFJ should also be accorded CP status for Module 2c. Indeed, it will make the collaborative arrangement between the CBFFJ central and NI legal teams unworkable if the CBFFJ and its central team is excluded. In our submission, there are two issues here: principle and resources. We address the latter below, but we make clear that the working arrangement between the teams has taken full account of the need to make our work efficient and non-duplicative.

### *Resources*

8. This is a UK Inquiry which will consider UK-wide issues, the way in which relevant matters and issues in the three devolved nations and jurisdictions were dealt with by their administrations and Governments, and how those matters and issues worked with respect to the UK Government and UK position generally. This reality is why the CBFFJ is organised in the way in which it is.

9. The attached Directors' Update sets out the way in which legal representation for CBFFJ has always operated. There is a central legal team and the intention to have three devolved teams. The role of the devolved teams is to:
  - a. Represent the families from their nation/jurisdiction in (separate) devolved inquiries;
  - b. Have primacy in representing the families on devolved matters within the UK Inquiry; and
  - c. Take a full part in UK-wide matters collaboratively with the central team, either embedded within it, or separately but with an agreed plan whereby there would be no duplication or conflict.
10. As stated, this arrangement is agreed and operating with respect to NI. If CBFFJ is not accorded CP status for Module 2c, it will render this agreement unworkable, and it will mean that CBFFJ members from NI will have different disclosure to those within England, Scotland and Wales.
11. If CBFFJ is accorded status for Module 2c, the central team will only seek resourcing to the extent that it can provide UK-wide advice and representation, take account of NI matters and issues within the wider UK picture, and assist on the way in which the UK Government and institutions operated. The central team will not seek resources relating to the work within Module 2c, or representation at its hearings, beyond that which is necessary to make the arrangement between the teams work, and properly advise the wider UK membership.
12. Obviously, the position with respect to Module 2a and b is different. Efforts to try to achieve unity in Scotland and Wales have only recently come to an end, and a new approach will now be necessary. If CBFFJ is accorded CP status for Module 2a and b, in the short term, we will seek to add Scottish and Welsh counsel to the central team, and their first task will be to try to determine how far the teams can work collaboratively to assist the Inquiry and limit duplication of effort, with the minimum of extra resourcing.

20 October 2022

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