

CHAIR'S STATEMENT OF APPROACH TO CORE PARTICIPANT STATUS, JOINT REPRESENTATION AND FUNDING OF LEGAL REPRESENTATION

ISSUED ON 10 NOVEMBER 2021

Introduction

1. It is a basic principle that participation in the Inquiry does not depend upon being a "Core Participant" as defined in the Inquiry Rules 2006 nor upon having legal representation. Every person who has been affected by events at Muckamore Abbey Hospital has an account that will add to the Inquiry's store of knowledge. This means that the personal accounts and experiences of those affected or those who have worked there who are not Core Participants are of no less value in the eyes of the Inquiry, than those of a person who is a Core Participant. Being a Core Participant does not mean that person's evidence is of greater value.
2. The role of Core Participants requires persons to go beyond giving a personal account of their experience of the matters under investigation by the Inquiry. I expect the involvement of Core Participants to further the work of the Inquiry and to assist it in fulfilling its Terms of Reference effectively and within a reasonable time frame. I have the discretion to designate a person as a Core Participant to the Inquiry at any time, provided that person consents to being so designated.

The legislative framework

3. Under Rule 5 of the Inquiry Rules, I 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. I must consider certain factors in deciding whether to designate a person as a Core Participant.
4. In deciding whether to designate a person as a Core Participant, Rule 5(2) says that I 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.”
5. In each of (a), (b) and (c) a key word is “significant”. This is an emphatic word: not everyone who played a role, nor everyone who is interested in the Inquiry or parts of it, is included, and the effect of Rule 5(2)(a) - (c) is that the significant nature of the role, interest or criticism indicates the difference between being a “participant” in an Inquiry and a “Core Participant”. Not all who may have an interest in the conclusions of the Inquiry will necessarily fall within Rule 5(2)(a) - (c), or indeed will necessarily be Core Participants. However, this rule does not exclude other considerations being taken into account, nor limit what those may be.
 6. This Statement sets out my intended approach to applications for Core Participant status by persons affected by abuse at Muckamore, or those who may have other relevant evidence to give, and the related matters of joint representation and funding of legal representation for such persons. Importantly, it must be read alongside the [Protocols on Core Participants](#) and [Funding of Legal Representation](#).

Core Participants

7. One of the matters which I must consider is the need to act with fairness and to avoid unnecessary costs, whether to public funds, to witnesses or to others (section 17 of the Inquiries Act 2005). I will also consider the extent to which designation as a Core Participant would assist the Inquiry in fulfilling its Terms of Reference. It is necessary for the Inquiry to approach its task with reasonable speed and without excessive cost. I must therefore make decisions as to Core Participant status which will facilitate the better management of the Inquiry as a whole.
8. To that end, and subject to any submissions I receive, I intend to approach applications for Core Participant status as set out below.
9. I am aware that a number of individuals who may have been patients or are family or friends of patients of Muckamore have formed associations or groups to campaign for an Inquiry into abuse at Muckamore Abbey Hospital, or to discuss issues relating to the hospital. By those actions, those individuals have already demonstrated a significant role and/or interest in the matters to be examined by this Inquiry, as well as how important the conclusions of the Inquiry are for them. I met persons affiliated to those groups/associations in the engagement sessions which I undertook in October and November 2021. It was apparent at those sessions that the associations/groups already have detailed collective knowledge and experience of some of the issues which will be examined by the Inquiry. That leads me to the provisional conclusion that, in general, those individuals who are affiliated to the following groups/associations should be granted Core Participant status, if they wish to have it:

- a. Action for Muckamore.
 - b. The Society of Parents and Friends of Muckamore Abbey Hospital.
10. Core Participant status will not be granted unless applied for. This is to respect the right of any individual to make his or her own choice as to whether they wish to be a Core Participant, a right reflected in the wording of Rule 5(1).
 11. In setting out these provisional views, I am not excluding applications for Core Participant status from those who are not affiliated to the above groups or associations.
 12. Other applications for Core Participant status will be determined by applying the factors detailed above, starting with those in Rule 5(2) and including the additional matters I have set out in the Core Participant protocol. I will also take into account in particular the extent to which individuals can show that their involvement as Core Participants would add to achieving the aims of the Inquiry. I will of course also take into account any additional feature particular to an individual case which that individual wishes to raise in his or her application.

Joint representation

13. A Core Participant has a right to designate a legal representative. I am aware that the association Action for Muckamore has already instructed a specific firm of solicitors to act for them. If that association requests me to do so, I will designate that firm as the association's recognised legal representative in this Inquiry. Given the role which I expect Core Participants to play in this Inquiry, I consider that it would be of assistance for the Society of Parents and Friends of Muckamore Abbey Hospital to instruct a legal representative to represent them at the Inquiry, and I therefore encourage them to do so.
14. I am conscious of Rules 6 and 7 of the Inquiry Rules, which are aimed at Core Participants sharing a common interest being represented by the same legal representative. I am also mindful of the statutory requirement for me to avoid unnecessary costs to public funds. I consider that, normally, where Core Participants share a common interest, it would be unwieldy and not conducive to an efficient and effective Inquiry for all those persons to be separately represented. Having regard to that, and my provisional views already expressed in relation to the grant of Core Participant status to the associations named above, I envisage that those affected will be represented by either two or three groups of legal representatives:
 - a. Group 1: those representing Action for Muckamore.
 - b. Group 2: those representing the Society of Parents and Friends of Muckamore Abbey Hospital (if they take up my encouragement to instruct a legal representative).
 - c. Group 3: those representing other individuals who have been affected by events at Muckamore Abbey Hospital but who are not affiliated to the

associations in groups 1 and 2. In order to achieve this, I intend to carry out a process of identifying an independent firm of solicitors to act for this group. Those in Group 2 may of course choose this firm as well.

15. I therefore encourage those individuals who wish to apply for Core Participant status and who wish to be legally represented to instruct legal representatives already acting for one of those groups. Once the identities of those legal representatives become clear I will provide their details on the Inquiry's website.
16. As required by Rule 7, I will direct that Core Participants of the category described above shall be represented by one of the two or three groups of legal representatives outlined above where I am satisfied that:
 - a. the Core Participants' interests in the outcome of the Inquiry are similar;
 - b. the facts that they are likely to rely on during the course of the Inquiry are similar; and
 - c. it is fair and proper for them to be jointly represented.

Funding of legal representation

17. In addition, it should not be assumed that Core Participant status automatically confers a right to receive funding for legal representation. I do not consider that it would be a reasonable expenditure of public funds for a number of Core Participants with common interests to have separate legal representation funded by the Inquiry. Therefore, though all depends on the particular circumstances of any applicant, where it appears to me that an individual has no conflict with others represented by one of the firms acting for groups 1, 2 or 3, I am likely to be less inclined to award public funds for other representation.
18. Provisionally, and subject to a formal application demonstrating fulfilment of the criteria set out in the Funding of Legal Representation Protocol and any other submissions, I consider that I am more likely to grant an award for funding of legal representation for a Core Participant who instructs one of those firms acting for groups 1, 2 and 3.
19. I recognise that others who do not fall into the above categories of patients, their families or friends may wish to become Core Participants, particularly those who had worked at the hospital in any capacity. Again where there is a commonality of interest I will encourage others to seek common representation and may refuse funding where this has not been fully considered. In those circumstances, I may direct joint representation.
20. It is important to emphasise again that it is not necessary for every person who has been affected by events at Muckamore Abbey Hospital who wishes to engage with the Inquiry to be designated as a Core Participant. The interests and experiences of persons who have been affected or who can provide any relevant evidence, whether Core Participants or not, will be a central focus of

the Inquiry's work. All such persons will be able to provide evidence to the Inquiry and follow its work through regular updates on the Inquiry's website. Regular engagement meetings with people who have been affected will be held throughout the Inquiry, irrespective of Core Participant status. Where appropriate, information will be available on the website, including transcripts of the majority of the proceedings.

Point of contact

Any issue arising from or query relating to this Statement should be addressed to the Solicitor to the Inquiry at solicitor@mahinquiry.org.uk