



INDEPENDENT INQUIRY CHILD SEXUAL ABUSE

NOTICE OF DETERMINATION

CORE PARTICIPANT APPLICATION

1. On 24 March 2017 the Inquiry invited anyone who wished to be designated as a core participant in the investigation into the extent of any institutional failures to protect children in the care of the Nottinghamshire Councils for sexual abuse and exploitation to make an application to the Solicitor to the Inquiry by 21 April 2017.
2. On 2 February 2018 an application for core participant status was made by Howe and Co solicitors on behalf of F52. I made a provisional ruling that I was minded to decline the application on 8 February 2018. I received written submissions on behalf of F52 renewing her application on 2 March 2018. In those written submissions, F52 also asks for the opportunity to renew the application orally.
3. I have carefully considered the written application for core participant status made on behalf of F52 dated 2 February 2018 and the written submissions dated 2 March 2018 renewing F52's application. I have reminded myself of the statutory criteria that govern the determination of core participant status in Rule 5 of the Inquiry Rules 2006. F52 relies on the provision of Rules 5(2)(a) and (b) which direct me to consider whether a person has played, or may have played, a direct and significant role in matters to which the inquiry relates, and whether a person has a significant interest in an important aspect of the matters to which the inquiry relates. In considering these factors, I retain discretion as to whether I designate a person as a core participant.
4. F52's original application set out that she was sexually abused as a child by her teacher whilst a pupil of a school in the Nottinghamshire area. The school was described as a voluntary maintained school under the control of the local education authority which was Nottinghamshire County Council. F52 was said to have disclosed the abuse to the headteacher of the school and following her disclosure her



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mother attended a meeting with education officers of Nottinghamshire County Council. The application stated that as a result of that meeting, F52 was expelled from school.

5. It was submitted that F52 had a significant interest in the matters identified in the scope of the investigation on the basis that she was sexually abused *'whilst in the care of the school and local authority, who failed to properly and adequately care for [F52]'* and it is stated that *'officials from the local authority expelled [F52] when she disclosed her sexual abuse to the school.'* It was also submitted that F52 had an interest in important matters identified in the Definition of Scope for the Nottinghamshire Councils investigation, including *'the appropriateness of the response of the Councils ... to reports of child sexual abuse involving children care for by the Councils, and/or reports of child sexual abuse by individuals who were employed by or contracted by the Councils, with access to children.'*
6. It was submitted that F52 would be able to provide evidence in relation to her abuse in a *'Nottinghamshire council-run school by "individuals who were employed or contracted by the Councils, with access to children", and the serious failings of that school, Nottinghamshire County Council, police and others in preventing abuse...'*
7. I provisionally declined the application on the basis that I did not consider F52's experiences to fall within the scope of this particular investigation as she was not a child *'in the care of* the Nottingham City Council or the Nottinghamshire County Council.
8. It is submitted in F52's renewed application that F52 *'meets numerous aspects of the Scope of the Investigation'*. It is said that she was *'in a legal sense'* in the care of Nottinghamshire County Council *'as they were the owners of her school and the employers of her abuser'* so *'it is highly probable that a legal duty of care existed between F52 and Nottinghamshire County Council.'*



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9. It is further submitted that '*in the care of*' should not be interpreted as meaning '*under a care order*'. It is stated that if I had wanted the scope of the investigation to be limited to those under a care order I would have proposed that in the scope document. In this respect, it is also submitted that it cannot be my intention to do so as I have already granted core participant status to others who have not been under a formal care order and one example is provided.
10. It is also said that F52's experiences are relevant to paragraph 2.2 of the scope which deals with any failures by the Councils to protect children from sexual abuse because she '*was not only sexually abused in the care of a Council-owned and run school, by a Council employee, but actually reported this abuse to the Headteacher of the same school*'.
11. Finally, it is submitted that F52 experiences are relevant to paragraph 2.3 of the scope which refers to the response of institutions to abuse of children in the care of the Councils '*and/or reports of child sexual abuse by individuals who were employed by or contracted by the Councils, with access to children*.' It is submitted that F52's abuser, a teacher, is said to be an employee of the Council with access to children.
12. I have carefully considered these submissions. I agree that it is not necessarily helpful to adopt a strict legal definition of the meaning of 'in care' for the purposes of this investigation and that there should be a broader consideration of the applicant's factual background when considering the issue of whether I should exercise my discretion to designate them as a core participant in this investigation.
13. In this respect, I consider it important to be guided by the focus of this investigation, as set out in the definition of scope and subsequent submissions made at the preliminary hearings on 11 May 2017 and 31 January 2018, and my determination in relation to the case studies to be pursued at the substantive hearing in October this year, which is on those children in the care of the Councils who have been placed by the Councils in children's homes and/or foster homes. It is evident from this stated



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focus that 'in care' is taken by the Inquiry to mean that the local authority has some responsibility for the child's care arrangements.

14. I note that it has at no point been suggested that this investigation would look at the response to allegations of sexual abuse associated with any Council-run institutions or activities, such as schools or youth clubs, made by children who are not in the care of the Council in the sense set out above. I consider that the issue of whether the Council owed a duty of care to F52 is very different to the focus of this investigation which is on children who had been taken into the care of the Councils in the ordinary sense of the phrase. It is apparent from F52's application and the renewed application that she was not in the care of the Nottinghamshire Councils for the purposes of this investigation.
15. The renewed application draws my attention to other aspects in paragraph 2 of the scope for this investigation in order to demonstrate that F52's experiences come within the scope of the investigation. I have considered these aspects and think it is first important to note that paragraph 2 must be read in conjunction with paragraph 1 of the scope. Paragraph 1 requires the Inquiry to investigate the nature and extent of, and institutional responses to, the sexual abuse of children *in the care* of the Nottinghamshire Councils. Paragraph 2 states that *in doing so* that inquiry will investigate the various matters listed. It therefore follows that the investigation into the nature and extent of the failures of the Councils to protect children from sexual abuse and the investigation into the institutional response to reports of child sexual abuse by individuals who were employed or contracted by the Councils with access to children in care, will be concerned with children *in the care* of the Councils in the sense that I have described above.
16. I have considered the submission that I should grant core participant status to F52 as I have granted core participant status to others in this investigation who have not been formally under a care order. I consider each application on its own merits and in some cases will seek clarification from the applicant or their legal representative as



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to the applicant's specific relationship with the Nottinghamshire Councils before making a decision. When exercising my discretion to designate someone as a core participant, I look at whether it appears from the facts set out in the application, or from the subsequent clarification provided, that the applicant was a child in the care of the Councils for the purposes of this investigation, bearing in mind the way in which the investigation has clearly been focused to date. This approach is entirely consistent with the approach that I have taken to F52's application.

17. This investigation will examine the nature and extent of, and institutional responses to, allegations of sexual abuse of children *in the care* of the Nottingham City Council and Nottinghamshire County Council. F52 was not a child in the care of the Nottinghamshire Councils and I do not therefore consider that her experiences fall within the scope of this investigation. F52's experiences of child sexual abuse within a school in the Nottinghamshire area are of course relevant to the Inquiry's wider terms of reference and she may of course wish to share her experience with the Inquiry's Truth Project.
18. I have considered F52's application for core participant status, and the renewed application, and for the reasons I have set out above, I consider that F52 does not satisfy the criteria set out in Rule 5(2). I do not therefore in my discretion designate her as a core participant in this investigation.
19. Given that F52 has had the opportunity to renew her application in writing, I do not consider that it is necessary to receive oral submissions on the renewed application and to do so would delay my consideration of her application by over two months.
20. I will keep the scope of the investigation and the designation of core participants under review as the Inquiry progresses and further invitations to apply for core participant status may be made as the investigation proceeds. I should add that I shall consider on its own merits any application that F52 may make in future to be designated as a core participant in any other investigation.



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Professor Alexis Jay OBE

3 May 2018

Chair, Independent Inquiry into Child Sexual Abuse