



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 2 - IMPERIAL COLLEGE LONDON

Introduction

1. In my [Opening Statement](#) on 21 July 2022, I explained that Modules would be announced and opened in sequence, with those wishing to take a formal role in the Inquiry invited to apply to become Core Participants for each module. On 31 August 2022, the Inquiry opened Module 2 and invited anyone who wished to be considered as a Core Participant to that Module to submit an application in writing to the Solicitor to the Inquiry by 23 September 2022.
2. The Provisional Outline of Scope for Module 2 provides that this module will examine the decision-making by the UK Government during the Coronavirus pandemic. Further modules will be announced and opened in due course, to address other aspects of the Inquiry's Terms of Reference.
3. On 23 September 2022 the Inquiry received an application from Imperial College London ("the Applicant") for Core Participant status in Module 2.
4. I made a provisional decision not to designate the Applicant as a Core Participant in Module 2, thereby declining the Applicant's application ("the Provisional Decision"), on 13 October 2022. The Applicant was provided with an opportunity to renew the application in writing by 12pm on 20 October 2022.
5. On 20 October 2022, the Applicant submitted a renewed application for Core Participant status in Module 2. This notice sets out my determination of the Applicant's application for Core Participant status in Module 2.

Application

6. Applications for Core Participant status are considered in accordance with Rule 5 of the Inquiry Rules 2006, which provides:

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.*

(3) A person ceases to be a core participant on—

- (a) the date specified by the chairman in writing; or*
- (b) the end of the inquiry.*

7. In accordance with the approach set out in my Opening Statement and the Inquiry's [Core Participant Protocol](#), I have considered whether the application fulfils the requirements set out in Rule 5(2) in relation to the issues set out in the Provisional Outline of Scope for Module 2.
8. I have taken into account all of the information which the Applicant has relied upon. The fact that I have not, in making this determination, referred to every matter which is set out in the application does not mean that I have not considered it. The summary below is intended to capture what appear to be the most important points made in support of the application.

Summary of Application

9. The Applicant's original application was made on the basis that Imperial played a direct and significant role in relation to the matters set out in the provisional scope for Module 2. It was said that many of Imperial's academics were independent participants in SAGE and members of multiple other advisory committees and groups

providing expertise and advice during the Covid-19 response including the New and Emerging Respiratory Virus Threats Advisory Group (“NERVTAG”) and the Scientific Pandemic Influenza Group on Modelling (“SPI-M”). The application also states that throughout the Covid-19 pandemic, Imperial academics faced explicit and significant criticism, ad hominem attacks on their credibility and in some cases threats and abuse. Imperial believes the Inquiry proceedings, the reporting of Inquiry proceedings, and the Inquiry's reports may generate repeated explicit and significant criticism of Imperial academics and consequent risks to their reputation and wellbeing as a result.

10. In its renewed application, the Applicant addresses in detailed and helpful submissions how the Applicant meets the criteria under Rule 5(2). The Applicant emphasises the unique role played by its academics and the widespread public identification of Imperial’s central role within the decision-making process. Imperial’s academics were not decision makers but they played a significant role in providing evidence and advice on which decisions were made. From the start of the pandemic the government stated that it would ‘follow the science’ and be ‘led by the science’. In doing so the government clearly signalled in the public mind that science was a significant driver of decisions and that it was constrained to follow that advice. If government is, as it claims, being ‘led by the science’ then science occupies the ground that would normally be left to political judgement and discretion. The public and politicians have linked government decision-making with advice given by SAGE of which Imperial academics were significant participants.
11. The submissions set out how these circumstances inevitably drew Imperial into the public eye, which raises issues under Rule 5(2)(c). The public has identified, and been led to identify, Imperial academics on SAGE as the source of scientific expertise and advice relied upon for decision-making and this has placed Imperial academics firmly in the firing line of public criticism. The Applicant places weight on the longstanding, sustained and high-level criticism of some Imperial academics and the university. They submit that this will only increase during Module 2 and add that the Inquiry will benefit from Imperial being able to respond during the course of the Inquiry.

Decision for the Applicant

12. I have considered with great care everything that is said in the Applicant's renewed application. I have also reminded myself of what was said in the original application to enable me to assess the merits of the application for Core Participant status as a whole. I remind myself that contrary to what was submitted, the issue of Rule 5(2)(c) was addressed in the provisional decision.
13. Having done so, I consider that the Applicant does meet the criteria set out in Rule 5 for designation as a Core Participant in Module 2 and, therefore, I have decided in my discretion, to designate the Applicant as a Core Participant in Module 2.
14. I am grateful to the assistance the Applicant has provided to the Inquiry in the form of the provision of statements. Whilst I do not accept that the provision of statements or the volume of statements equates to Core Participant status, I am of the view that the Applicant played, or may have played, a direct and significant role in relation to the core political and administrative decision-making in response to the Covid-19 pandemic. Furthermore, I am satisfied that they have a significant interest in Module 2 of the Inquiry and that they may be subject to explicit or significant criticism.
15. In reaching my decision, I have had particular regard in the renewed application, to the particular role Imperial and its academics played in providing advice that did or may have impacted on core political decision-making within the provisional scope of Module 2. Due to that role, I acknowledge that there is a risk the Applicant may be subject to explicit or significant criticism during the course of Module 2.
16. I note that the original application states that of the many Imperial academics and staff involved in the Covid-19 response, none of these individuals intend to apply for Core Participant status in their own right. I am informed that they are part of Imperial and consider their involvement would be appropriately and most efficiently facilitated by that status being conferred on Imperial. I make my decision on this basis.

Legal Representation

17. 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:

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.

18. I am satisfied that the Applicant has appointed Paul Ridge of Bindmans LLP as its qualified lawyer in relation to this Module. I, therefore, designate Paul Ridge as the Applicant's recognised legal representative in accordance with Rule 6(1).

19. Directions will be given in relation to applications for an award under section 40(1)(b) of the Inquiries Act 2005 of expenses to be incurred in respect of legal representation, at the forthcoming preliminary hearing. I will determine any such applications in accordance with the provisions of section 40 of the Inquiries Act 2005, the Inquiry Rules 2006, the [Prime Minister's determination](#) under section 40(4) and the [Inquiry's Costs Protocol](#).

Rt Hon Baroness Heather Hallett DBE

Chair of the UK Covid-19 Inquiry

25 October 2022