



PROVISIONAL NOTICE OF DETERMINATION

CORE PARTICIPANT APPLICATION

MODULE 2 - LOCAL GOVERNMENT ASSOCIATION, WELSH LOCAL GOVERNMENT ASSOCIATION AND THE ASSOCIATION OF DIRECTORS OF ADULT SOCIAL SERVICES

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. On 23 September 2022 the Inquiry received an application from Local Government Association (“LGA”), the Welsh Local Government Association (“WLGA”), and the Association of Directors of Adult Social Services (“ADASS”), (together, “the Applicants”) for joint Core Participant status in Module 2. This Notice sets out my provisional decision on the application.
3. The Inquiry has published the [Provisional Outline of Scope](#) for Module 2, which states 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.

Application

4. 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.

5. In accordance with the approach set out in my Opening Statement and the Inquiry's [Core Participant Protocol](#), I 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.

Summary of Application

6. This is an application on behalf of the Local Government Association ("LGA"), Welsh Local Government Association ("WLGA") and the Association of Directors of Adult Social Services ("ADASS"). The application states that the LGA is the representative of local authorities in England and all 22 local authorities in Wales are full or associate members of the WLGA, which speaks for them all on relevant local government matters. It also states that the status of the WLGA and ADASS were explained in letters dated 16 August 2022.
7. The application is made on the basis that the Applicants played a role and have a significant interest in the subject matters of the Inquiry, as local authorities in England and Wales were on the forefront of the UK's response to Covid-19 and through their public health functions councils were a key component of the public health system. Councils had a key focus on protecting vulnerable groups and were responsible for enforcing legislation and regulations related to NPIs in the context of businesses.

8. The application explains that LGA and ADASS communicated with government departments, passed information to councils, gave advice on how government policy could be improved and delivered vital support to councils in relation to social care. Welsh local authorities have statutory duties in relation to civil contingencies, public protection and environmental health, adult social services, education and other functions which played significant roles in preparing for and responding to the pandemic. Furthermore WLGA coordinated and facilitated regular dialogue between the Welsh Government and local authority leaders. The application further states that it is possible that local government's response to the pandemic and the LGA's role in informing government policy and communications may be subject to criticism and that WLGA expect that criticisms may be made of councils individually and collectively.

Decision for LGA and WLGA

9. I have considered with great care everything that is said in the application. Having done so, I have decided, in my discretion, to designate the Applicants as a Core Participant in Module 2. I consider that although the Applicants did not play a direct and significant role in relation to the core political and administrative decision-making in response to the Covid-19 pandemic, that they do have a significant interest in Module 2 of the Inquiry and may be subject to explicit or significant criticism.

Provisional Decision for ADASS

10. I have considered with great care everything that is said in the application. I do not consider that ADASS played a direct or significant role in core political and administrative decision-making in the context of Module 2 (Rule 5(2)(a)), instead playing an operational, advisory, liaison and implementation role at local government level. Similarly, while the Applicant has a significant interest, it will be appreciated that many government departments, organisations and individuals share that significant interest. The applicant is not aware of any criticisms of its response to the pandemic and I am satisfied that Rule 5(2)(c) is not made out. Furthermore, I do not consider, having regard in particular to the need to manage the Inquiry effectively and efficiently, that either its role or its interest in the areas in the provisional outline of scope is sufficiently significant as to grant it Core Participant status in this Module.
11. I am determined to run the Inquiry as thoroughly and as efficiently as possible, bearing in mind the Inquiry's wide-ranging terms of reference and the need for the Inquiry

process to be rigorous and fair. In the exercise of my discretion therefore I am not minded to designate the ADSS as a core participant.

12. As the Applicant will be aware it is also not necessary to be a Core Participant in order to provide evidence to the Inquiry and the Inquiry welcomes any assistance ADASS can provide.
13. As I am minded to decline the application, I will offer ADASS an opportunity to renew the application. If ADASS wishes to renew the application, they must do so in writing to the Solicitor to the Inquiry by **12pm on 20 October 2022**. Renewed applications should not repeat information provided in the original application but should provide any additional information that may assist me in considering the renewed application. I intend to determine any applications on paper without oral submissions, other than in exceptional circumstances. If the application is not renewed, I will confirm this Provisional Decision has become final.
14. I will keep the scope of Module 2 and the designation of Core Participants under review. My decision not to designate ADASS as a Core Participant in Module 2 does not preclude them from making a further application in respect of any later modules. I will consider any future applications ADASS may wish to make on their merits at the time they are made.

Legal Representation

15. 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.

16. I am satisfied that LGA and WLGA have jointly appointed Thelma Stober of LGA as its qualified lawyer in relation to this Module. I therefore designate Thelma Stober as LGA and WLGA's recognised legal representative in accordance with Rule 6(1).

17. 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' Costs Protocol](#).

Rt Hon Baroness Heather Hallett
Chair of the UK Covid-19 Inquiry
13 October 2022