



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION  
MODULE 2B - UK STATISTICS AUTHORITY**

**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 Modules 2, 2A, 2B and 2C 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 2B provides that this module will examine the decision-making by the Welsh Government during the Coronavirus pandemic. Further modules are being announced on a rolling basis to address other aspects of the Inquiry's Terms of Reference.
3. On 6 November 2023, the Inquiry received an out of time application from UK Statistics Authority ("UKSA") for Core Participant status in Module 2B. This Notice sets out my final decision on the application.

**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. Applications for Core Participant status made outside the Inquiry's timescales are considered in line with paragraph 10 of the Inquiry's [Core Participant Protocol](#) which provides:

*When inviting applications, the Inquiry will set a timeframe for applications to each module, or part of a module. Applicants are asked not to submit applications outside the timelines given by the Inquiry. The Inquiry will not consider applications that are outside the timescales provided by the Inquiry, unless the applicant provides an acceptable explanation as to why they did not submit their application within the relevant timeframe.*

6. In accordance with the approach set out in my Opening Statement and the Inquiry's [Core Participant Protocol](#), I have considered whether the UKSA has provided an acceptable explanation as to why it did not submit its application within the relevant timeframe and 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 2B.

### **Summary of Application**

7. UKSA explains that it is an independent statutory body established under the Statistics and Registration Service Act 2007 ('the 2007 Act'). It operates at arm's length from the government as a non-ministerial department and reports directly to the UK Parliament, the Scottish Parliament, the Welsh Parliament and the Northern Ireland Assembly. In practice, the Application explains, the Office for National Statistics ("ONS") operates as

the executive office of UKSA. The ONS is the UK's internationally recognised National Statistical Institute and largest producer of official statistics in the UK. It does not have a separate legal personality. The application therefore requests that Core Participant status is afforded to 'the UK Statistics Authority operating by its executive office, the Office for National Statistics'.

8. UKSA seeks Core Participation status on the basis that, as per the requirements of Rule 5(2)(a), it played a 'direct and significant role in relation to the matters to which the inquiry relates' in relation to Module 2B of the Inquiry and states that it is likely that it has 'a significant interest in an important aspect of the matters to which the inquiry relates' for the purposes of Rule 5(2)(b).
9. The application states that UKSA has considered the provisional scope of Module 2B and in particular paragraph 4, which states that '*Access to and use in decision-making of medical and scientific expertise, data collection and modelling relating to the spread of the virus in Wales; the measuring and understanding of transmission, infection, mutation, re-infection and death rates in Wales; and the relationship between and operation of relevant systems for the collection, modelling and dissemination of data*'. It is submitted that as a result of a recent Rule 9 request sent by Module 2B to the National Statistician, Professor Sir Ian Diamond, UKSA is likely to have a significant and ongoing interest in the evidence provided both by itself and other witnesses in relation to statistical data.
10. The application is put on the basis that throughout the pandemic, the ONS informed decision making with data and insights across the economic, social and health themes. Where further insight was required, it introduced new surveys and data sources at pace to rapidly inform policy decisions about the pandemic.
11. Further it is said that the Welsh Government's use of ONS data and analysis to inform its response throughout the pandemic, together with the request from Module 2B for a Rule 9 witness statement from Professor Diamond (National Statistician) with the possibility of him being called as a witness for Module 2B, demonstrate the significant role the ONS played in relation to the pandemic in relation to Module 2B.
12. UKSA's explanation for making its application outside the Inquiry's timescales is that there has been a change in circumstances in relation to its role in Module 2B. UKSA says it has reconsidered its status by virtue of the fact that the National Statistician,

Professor Sir Ian Diamond has been requested to provide a Rule 9 witness statement to Module 2B and may be called to give evidence in the Module 2B substantive hearings. It notes that the extent of any further participation in Module 2B is not yet known.

## **Decision for the Applicants**

*Whether the application should be considered out of time*

13. The deadline for applications for Core Participant Status to Module 2B was 23 September 2022, meaning that this application was received significantly late, over a year after the deadline expired. The application was received only three and a half months before Module 2B's public hearings are due to commence.
14. I remind myself that paragraph 10 of the Inquiry's Core Participant protocol states: *"...The Inquiry will not consider applications that are outside the timescales provided by the Inquiry, unless the applicant provides an acceptable explanation as to why they did not submit their application within the relevant timeframe."*
15. The aim of this Inquiry is to provide prompt and useful reports and recommendations. To achieve that aim, I must impose firm deadlines at different stages of the Inquiry. Compliance with those deadlines is important to ensure that the challenging timetable will be met. I also have to consider the need to be fair to all Applicants who have made their application for Core Participant status within the time period available as well as those who have made applications outside the application window and more generally that there is no unfair advantage obtained by a late application.
16. I therefore have first considered whether UKSA has provided an acceptable explanation for the failure to comply with the deadline imposed for application.
17. The window for Core Participant applications to Module 2B was open from 31 August 2022 to 5pm on 23 September 2022. This application was therefore received over one year after the closure of the application window, which had itself been open for over three weeks.

18. UKSA states that its significance to Module 2B is apparent from the Provisional Outline of Scope for Module 2B, which was published on 31 August 2022. I note that UKSA did apply, on time and successfully, for Core Participant Status in relation to Module 2, the Inquiry's investigation into the core political and administrative UK decision making. I consider that UKSA had an opportunity to consider the Provisional Outline of Scope for Module 2B, in light of its input into decision making in Wales and could have applied for Core Participant status for this Module within the set timeframe. UKSA has therefore had ample opportunity to make an application and I consider that it has not provided an acceptable explanation for the significant delay in doing so.
19. If I accept UKSA's reasons given as acceptable explanations then, in effect, the deadline has no force. I also bear in mind that this is not a situation where material identified in the course of the Inquiry has come to light or circumstances have changed so it is appropriate for an application to be made outside the initial window. I have also taken into consideration the need to be fair to all applicants.
20. Accordingly, I do not consider that UKSA has provided an acceptable explanation as to why it did not submit its application within the relevant timeframe. I am minded, in my discretion, to decline UKSA Core Participant status for Module 2B for the reasons set out above.
21. As a witness statement is being obtained from UKSA (through the National Statistician), this determination does not prevent it providing evidence to Module 2B and the Inquiry will consider that evidence carefully.
22. I also bear in mind that simply because an applicant has been refused Core Participant status in Module 2B that does not bar them from applying for or being granted Core Participant status in a later module or from providing relevant evidence to the Inquiry.
23. For completeness, I will also go on to provide my conclusion on whether UKSA would have been granted Core Participant status in Module 2B had its application been received during the application window.

*The substance of the application*

24. I have considered with great care everything that is said in the UKSA's application. Having done so, in my discretion, I consider that UKSA would meet the criteria set out in Rule 5 for designation as a Core Participant in Module 2B and, therefore, if the application had been made in time, my decision would have been to designate UKSA as a Core Participant in Module 2B.
25. The application provides details of the role of the ONS in offering advice and trusted statistics throughout the pandemic to the Welsh Government. In the context of the provisional scope of this Module, I am satisfied that UKSA had a direct or significant role in core political and administrative decision making in Wales (Rule 5(2)(a)). I also consider that UKSA satisfied the criteria in Rules 5(2)(b) and 5(2)(c). However, the Core Participant Protocol provides that while I am bound to consider the factors set out in Rule 5(2), it is also open to me to take into account other relevant matters. I am not obliged to designate a person or organisation that meets the criteria set out in Rule 5 of the Inquiry Rules as a Core Participant.
26. The Inquiry team will ensure that the interests of UKSA are properly considered where appropriate. As I have already stated, it is not necessary, for example, for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry.
27. I will keep the scope of Module 2B under review. My decision not to designate UKSA as Core Participant in this module does not preclude UKSA from making any further applications in respect of any later modules. I will consider any future applications UKSA may wish to make on their merits at the time they are made.

**Rt Hon Baroness Heather Hallett DBE**  
**Chair of the UK Covid-19 Inquiry**  
**20 November 2023**