

NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION – SERCO

1. The Brook House Inquiry was announced by the Secretary of State for the Home Department on 5 November 2019. In my opening statement on 21 April 2020, I formally invited those who wished to be considered for Core Participant status to submit a written application. An initial deadline for applications was set for 19 May 2020 but I committed to consider any application I received as the Inquiry progressed.
2. I received a written application from Serco Group PLC ('Serco') for Core Participant status dated 6 January 2022. I have given careful consideration to the application and I have decided to grant the application, for the reasons set out in detail below.

Application

3. The designation of individuals or organisations as Core Participants ("CPs") in an Inquiries Act inquiry is governed by Rule 5 of the Inquiry Rules 2006. The relevant paragraphs provide:

"Core participants

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.”

4. The application to designate Serco as a Core Participant can be summarised as follows. Serco submits that it meets the criteria provided by Rule 5(2)(b) because it has a significant interest in an important aspect of the matters to which the inquiry relates.
5. In the application submitted on behalf of Serco, the organisation’s relationship to Brook House IRC is described as follows:

‘Serco currently operates the centre and has done so since May 2020. It has a significant interest in evidence relating to methods, policies, practices and management arrangements and, in particular, may be affected by recommendations made by the inquiry as to future operation of the centre.’

6. The application also submits that Serco can provide evidence relating to point three of the Inquiry’s Terms of Reference relating to the methods, policies, practices and management arrangements (both of the Home Office and its contractors), specifically in relation to:

‘Whether any changes to these methods, policies, practices and management arrangements would help to prevent a recurrence of any identified mistreatment’.

Decision

7. I have considered the application in line with my approach as set out below and have decided to grant the application for the following reasons.

The test under rule 5(2)(b): a significant interest in an important aspect

8. In relation to whether changes methods, policies, practices and management arrangements (both of the Home Office and its contractors) may prevent future mistreatment, I accept that Serco is likely to have a significant interest. I have therefore concluded that the organisation's role as the current operator of Brook House is likely to result in Serco having a significant interest in an important aspect of the matters to which the Inquiry relates.

Conclusion

9. I have considered the statutory tests and have taken account in particular of Serco's unique role as the current operator of Brook House. I therefore grant the application.

Legal Representative

10. Applicants 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 as follows:

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.

11. Accordingly, I designate Ms Joanne Witheford of DWF Law LLP as Serco's recognised legal representative in accordance with Rule 6(1) of the Inquiry Rules 2006.

Kate Eves

Chair to the Brook House Inquiry

13 January 2022