

**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATIONS**

1. On 25 January 2016 the Inquiry invited anyone who wished to be designated as a core participant in the investigation into institutional responses to allegations of child sexual abuse concerning the late Lord Janner of Braunstone QC to make an application to the Solicitor to the Inquiry by 22 February 2016. I will refer to the late Lord Janner of Braunstone QC as “Lord Janner” in the rest of this determination. No discourtesy is intended.
  
2. In an application dated 9 January 2017 Daniel Janner QC, Rabbi Laura Janner-Klausner and Marion Janner OBE applied for core participant status in the investigation. Daniel Janner QC and Rabbi Laura Janner-Klausner seek designation both as the executors of the estate of their late father and, individually, as children of Lord Janner. Marion Janner seeks designation individually, as the daughter of her late father. I will refer to the three applicants collectively as “the family” of Lord Janner. This notice sets out my determination of these core participant applications.
  
3. Applications for core participant status are considered under Rule 5 of The Inquiry Rules 2006 (‘the Rules’) which provides:
  - (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.*

4. In determining the applications, the matters listed in Rule 5(2) must be considered, but the list is not exhaustive and other relevant matters can also be taken into account.

**Request for Recusal**

5. In their applications the family of Lord Janner request that I do not determine their applications for core participant designation. It is said that this is because Daniel Janner QC has asked that I stand down as Chair of the Inquiry.
6. As Chair, pursuant to rule 5(1) of the Inquiry Rules 2006, I am the only person who may lawfully designate core participants. I understand that since lodging their application the family of Lord Janner have indicated that they understand I alone can consider these applications. The family have confirmed that they do not object to me so doing. In the circumstances, as the family have provided their consent, I have set aside the request in their application that I do not consider these applications.

**The Time Delay**

7. The applications have been lodged approximately 12 months after the deadline for core participant applications on the investigation were due. Notwithstanding the delay, I have a discretion pursuant to Rule 5(1) to designate a core participant “at any time” during the course of the Inquiry.
8. I am aware that the family of Lord Janner have previously indicated that they do not wish to seek designation as core participants. In a letter dated 2 June 2016, the solicitors then acting on behalf of the family, BLM, confirmed that at that stage they did not wish to seek designation.

9. Since the letter of 2 June 2016, there has been further correspondence and discussion between the Inquiry's legal team and the family of Lord Janner on the issue of core participant status. I will not repeat that in any detail in this notice as, although it is plain that the three applicants could have sought designation earlier in the investigation, and have not provided a reason for only doing so now, I am satisfied that the delay should not otherwise disbar their applications for core participant status.

### **The Applications**

10. At the time that these applications were lodged, I had recently issued a notice of provisional determination, dated 16 December 2016, which proposes (amongst other things) that the investigation into institutional responses to the allegations of child sexual abuse involving Lord Janner should continue. I have yet to receive written submissions from core participants in response to that provisional determination, and nothing that I say in this notice should be taken to suggest that I have reached a concluded view on any of the matters set out in the provisional determination. It is plain however for the purpose of deciding the merits of the applications that I should assume that the investigation will, in some form, continue. Should that not be the case any person designated as a core participant on the investigation would cease to be one on a date I specify in writing, as per Rule 5(3) of the Inquiry Rules 2006.
11. As currently described in the provisional determination it is proposed that the investigation will focus on the institutional responses to allegations of child sexual abuse involving Lord Janner. This may include the adequacy and propriety of law enforcement investigations and prosecutorial decisions, the extent to which Leicestershire County Council were aware of allegations and the adequacy of their response, the extent to which the Labour Party and government departments were aware of allegations and the adequacy of their response and the extent to which any other public or private institution may have failed in its duty to protect children from sexual abuse. The underlying allegations of child sexual abuse that provide the factual backdrop to this proposed investigation into institutional responses are all allegations that have been made against Lord Janner.

12. As a starting point, and adopting for the purposes of this determination the scope proposed in my provisional decision of 16 December 2016, I am satisfied that if Lord Janner was alive it is very likely that I would have exercised the discretion contained in the Rules to designate him as a core participant in this investigation. As the individual against whom the underlying allegations have been made, he may have been at risk of explicit, or significant, criticism during the Inquiry proceedings. He would also have been someone who (through, for example, his evidence to the Kirkwood Inquiry) could have been said to have played a direct and significant role in relation to matters under investigation, and he would have had a significant interest in an important aspect of the matters under investigation. In all of the circumstances, I consider it very likely that, had Lord Janner still been alive, he would have been entitled to designation as a core participant.
  
13. In seeking designation for themselves, Lord Janner's family say that, as their father is deceased, they have a significant interest in the outcome of the Inquiry and, in particular in ensuring that their late father's reputation is "safeguarded" from allegations of child sexual abuse. They seek disclosure of materials and express a wish to be treated "even handedly" as those already designated as core participants, some of whom have also issued civil proceedings against their late father's estate. It seems to me that the interest that Lord Janner's family are claiming in this investigation overlaps very considerably with the interest that their father would have had, had he still been alive.
  
14. In such circumstances, particularly bearing in mind that Lord Janner's children have expressed a wish, on his behalf, to play a part in the investigation to protect their late father's reputation, and in light of the existence of civil proceedings against his estate, I am satisfied that Daniel Janner QC, Rabbi Laura Janner-Klausner and Marion Janner should each be designated as a core participant on behalf of their late father's estate.
  
15. As I have mentioned above, of the three applicants only Daniel Janner QC and Rabbi Laura Janner-Klausner have been formally appointed as executors of Lord Janner's

estate. However, it is also quite clear to me that all three children share a joint desire to represent their father's interests in this investigation. The children have expressed a collective interest to "safeguard" their late father's reputation, which may during the investigation be subject to criticism. In those circumstances, I am satisfied that all three applicants are entitled to core participant status in that capacity.

16. In granting these core participant applications, it is important to note that disclosure of relevant materials in this investigation, when it is made, will only be provided to those core participants who complete and sign a confidentiality undertaking. The undertaking will require that disclosed materials are kept confidential and secure until such time, if at all, that the materials are adduced in evidence in the public hearings. Disclosed materials may only be used for the purposes they are disclosed for in the Inquiry, and any related legal challenges, not for other legal proceedings.

### **Designation of Legal Representatives**

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 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.*

18. At present, Daniel Janner QC, Rabbi Laura Janner-Klausner and Marion Janner have not indicated whether they wish to appoint a recognised legal representative. Should the family of the late Lord Janner wish to appoint a recognised legal representative they should provide details of that individual by **14 February 2017** so their designation can be considered.

**Professor Alexis Jay**  
**31 January 2017**