



**NOTICE OF DETERMINATION**  
**CORE PARTICIPANT APPLICATION**  
**MODULE 2 - HEALTH AND SAFETY EXECUTIVE**

**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 22 September 2022 the Inquiry received an application from the Health and Safety Executive ('HSE') for Core Participant status in Module 2.
4. I made a provisional decision not to designate the Health and Safety Executive ('HSE') as a Core Participant in Module 2, thereby declining the HSE's application ("the Provisional Decision"), on 13 October 2022. The SE was provided with an opportunity to renew the application in writing by 12pm on 20 October 2022.
5. The Applicant did not renew the application by the prescribed deadline. Accordingly, this Notice sets out my final decision on the application.

## 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. This application is made by HSE, a UK government agency sponsored by the Department of Work and Pensions. It is Britain's national regulator for workplace health and safety and operates across England, Scotland and Wales. The application sets out details of HSE's involvement and actions during the pandemic in relation to regulatory

and enforcement, as well as the involvement of HSE's Science Division in advising the UK Government and participating in SAGE.

10. The application is put on the basis that HSE played a direct and significant role and has a significant interest in the matters to which Module 2 relates. The application provides detail about HSE's role and interest in each of the six issues identified in the Provisional Outline of Scope for Module 2, including HSE Chief Scientific Adviser's input into discussions and advisory role as a participant at SAGE and SAGE EMG, involvement in the development of guidance and advice for health and social care providers and its advisory role in relation to NPIs.
11. The application states that while HSE was not the enforcing body for the Coronavirus Regulations, it was the enforcing body for workplace safety, which included Covid safety. The application is also put on the basis that HSE may be subjected to criticism should the Inquiry consider HSE's enforcement actions under HSWA as part of Module 2, as those actions have been the subject of criticism.

### **Decision for the Applicant**

12. I have considered with great care everything that is said in the Health and Safety Executive ('HSE')'s application. Having done so, in my discretion, I consider that the HSE does not meet the criteria set out in Rule 5 for designation as a Core Participant in Module 2 and, therefore, I have decided not to designate the HSE as a Core Participant in Module 2.
13. Whilst I appreciate the Applicant's role and experience in related areas, I do not consider that the Applicant played a direct or significant role in core political and administrative decision-making (Rule 5(2)(a)). Indeed, the application concedes that they did not, instead playing an advisory and enforcement role. Similarly, while the Applicant has a significant interest, it will be appreciated that many government departments, organisations and individuals share that significant interest. I do not consider that the Applicant may be subject to explicit or significant criticism in the context of the matters under consideration for Module 2.

14. Furthermore, I do not consider, in any event, having regard in particular to the need to manage the Inquiry effectively and efficiently, that its interest in decision making by the UK Government is sufficiently significant as to grant it Core Participant status in this Module. 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. Given the vast numbers of people who were involved with, or adversely affected by, the Covid-19 pandemic, very many people in this country could potentially have an interest in it and not everyone can be granted Core Participant status for the purposes of the Inquiry hearings.
15. In my Opening Statement, I said that I will publish more information about the issues intended to be covered by later modules in the coming months. The applicant is encouraged to consider making an application for Core Participant status in relation to future modules which are of relevance to them.
16. It is also not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. The HSE may have relevant information to give in relation to matters being examined in the Inquiry and the Inquiry will be reaching out in due course to a range of individuals, organisations and bodies to seek information, to gain their perspective on the issues raised in the modules and, where appropriate, to ask for witness statements and documents.
17. For all of those reasons, having considered all of the information provided by the Health and Safety Executive ('HSE'), in light of the Provisional Outline of Scope for Module 2, I consider that the HSE did not play a direct and significant role in relation to the matters sought to be investigated in Module 2, nor does the HSE have a significant interest in an important aspect of the matters to which Module 2 relates. I have therefore decided that the HSE should not be designated as a Core Participant in Module 2 and I confirm that this is my final decision.
18. I will keep the scope of Module 2 under review. My decision not to designate the HSE as Core Participants in Module 2 does not preclude it from making any further applications in respect of any later modules. The HSE may wish to consider applying for Core Participant status in relation to future modules likely to deal more directly with

the matters which have been referred to in the application. I will consider any future applications the HSE 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**

**26 October 2022**