



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 2 - NHS Digital

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 23 September 2022 the Inquiry received an application from the Health and Social Care Information Centre ('NHS Digital') for Core Participant status in Module 2.
4. I made a provisional decision not to designate the Health and Social Care Information Centre ('NHS Digital') as a Core Participant in Module 2, thereby declining NHS Digital's application ("the Provisional Decision"), on 13 October 2022. NHS Digital was provided with an opportunity to renew the application in writing by 12pm on 20 October 2022.
5. The Applicant confirmed they would not renew the application. 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 the Health and Social Care Information Centre ('HSCIC'), now known as NHS Digital. The application is put on the basis that NHS Digital had a direct and significant role in a number of areas of the pandemic response, including in the collection and dissemination of data to support the pandemic response and in the

creation of the Shielded Patient List. Furthermore, NHS Digital asserts a significant interest in an important aspect of Module 2, namely data collection/use relevant to NHS Digital's functions as (i) the national information and technology partner to the health and care system and (ii) its role as the National Safe Haven for patient data. The application also sets out NHS Digital's specialist expertise on data-related issues and states that NHS Digital is well-placed to share its expertise about the quality, limitations and recommended future improvements to national data sets and how this data can assist in responding to future pandemics.

Decision for the Applicant

10. I have considered with great care everything that is said in NHS Digital's application. Having done so, in my discretion, I consider that NHS Digital 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 NHS Digital as a Core Participant in Module 2.
11. The focus of Module 2 is high-level decision-making by the UK Government. NHS Digital was not a decision maker. Many organisations and individuals provided data and material which contributed to national decision making. NHS Digital did not have a direct or significant role in core political and administrative decision making (Rule 5(2)(a)). Whilst its interest can be said to be significant (Rule 5(2)(b)) in the context of this Inquiry those interests are better met through other entities, for example NHS England.
12. 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.
13. 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.

14. It is also not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. NHS Digital 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.

15. For all of those reasons, having considered all of the information provided by NHS Digital, in light of the Provisional Outline of Scope for Module 2, I consider that NHS Digital did not play a direct and significant role in relation to the matters sought to be investigated in Module 2, nor does NHS Digital have a significant interest in an important aspect of the matters to which Module 2 relates. I have therefore decided that NHS Digital should not be designated as a Core Participant in Module 2 and I confirm that this is my final decision.

16. I will keep the scope of Module 2 under review. My decision not to designate NHS Digital as Core Participants in Module 2 does not preclude it from making any further applications in respect of any later modules. NHS Digital 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 NHS Digital 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