



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - CARE QUALITY COMMISSION**

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 8 November 2022, the Inquiry opened Module 3 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 5 December 2022.
2. The Inquiry has published the [Provisional Outline of Scope](#) for Module 3, which states that this Module will consider the impact of the Covid-19 pandemic on healthcare systems in England, Wales, Scotland and Northern Ireland. Further Modules will be announced and opened in due course, to address other aspects of the Inquiry's Terms of Reference.
3. On 2 December 2022 the Inquiry received an application from the Care Quality Commission ("the Applicant") for Core Participant status in Module 3.
4. I made a provisional decision dated 9 January 2023 not to designate the Applicant as a Core Participant in Module 3, thereby declining the application ("the Provisional Decision"). The Applicant was provided with an opportunity to renew the application for Core Participant status in Module 3 in writing by 4pm on 16 January 2023.
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 3.

Summary of Application

8. The Applicant was established by the Health and Social Care Act 2008 in 2009 as the independent regulator of health and adult social care in England. The Applicant is responsible for the registration, monitoring, inspection, and regulation of health and adult social care services which fall within its regulatory remit. Further, the Applicant has a duty to monitor how these services exercise their powers and discharge their duties when patients are detained in hospital, subject to community treatment orders or guardianship.
9. The Applicant acknowledges that it may be the “care sector” module where the Applicant would best meet the criteria for being designated as a Core Participant. That said, the Applicant contends that it has a significant interest under Rule 5(2)(b) in the

Inquiry's analysis of how decisions were made to discharge hospital patients into care homes where they may have been asymptomatic but were still capable of transmitting the virus. The Applicant also observes that it does not consider it meets the relevant criteria for Core Participant status in relation to infection control but that it does hold material relevant to this topic.

Decision for the Applicant

10. I have considered with great care everything that is said in the application. Having done so, I consider that the Applicant does not meet the criteria set out in Rule 5 for designation as a Core Participant in Module 3 and, therefore, I have decided not to designate the Applicant as a Core Participant in Module 3.
11. Module 3 will consider the impact of the Covid-19 pandemic on healthcare systems in England, Wales, Scotland and Northern Ireland. This will include consideration of the healthcare consequences of how the governments and the public responded to the pandemic. It will examine the capacity of healthcare systems to respond to a pandemic and how this evolved during the pandemic. It will consider the primary, secondary and tertiary healthcare sectors and services and people's experience of healthcare during the pandemic, including through illustrative accounts. It will also examine healthcare-related inequalities (such as in relation to death rates, PPE and oximeters), with further detailed consideration in a separate designated Module.
12. The application is based on the Applicant either having played a direct and significant role in the matters to which Module 3 relates (Rule 5(2)(a)) or having a significant interest in an important aspect of those matters (Rule 5(2)(b)), and appears also to be put on the basis that there is a possibility that it may be subject to explicit or significant criticism under Rule 5(2)(c).
13. I do not consider the Applicant played a direct and significant role in the matters to which Module 3 relates and so Rule 5(2)(a) is not met. The Applicant's role as the independent inspectorate and regulator of health and adult social care in England is one step removed from the operation of healthcare systems in England and the impact of the pandemic on patients, groups and services. While the Applicant can be said to have an interest in matters within the scope of Module 3, in particular in

relation to discharge of patients from hospital and infection prevention or control, this does not amount to a significant interest in an important aspect of the matters to which Module 3 relates, in accordance with Rule 5(2)(b). 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 the UK could potentially have an interest in the Inquiry. Not everyone can be granted Core Participant status for the purposes of the Inquiry hearings.

14. I also bear in mind that the Applicant has placed emphasis on the matters about which they would like to provide the Inquiry with evidence. However, it is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. It is likely that the Inquiry will in due course seek information from a range of individuals, organisations and bodies who may have information relevant to the issues raised in the Modules and, where appropriate, make requests for witness statements and documents.
15. For all of those reasons, having considered all of the information provided by the Applicant in light of the Provisional Outline of Scope for Module 3, I have decided that the Applicant should not be designated as a Core Participant in Module 3 and I confirm that this is my final decision.
16. I will keep the scope of Module 3 under review. My decision not to designate the Applicant as a Core Participant in Module 3 does not preclude it from making any further applications in respect of any later Modules. I will consider any future applications the Applicant 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
13 February 2023