



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION  
MODULE 3 - CARE ENGLAND**

**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 5 December 2022 the Inquiry received an application from Care England ("the Applicant") for Core Participant status in Module 3.
4. I made a provisional decision dated 16 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 in writing by 4pm on 23 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 describes itself as the largest and most diverse representative body for independent providers of adult social care in England. The application states that as at 5 December 2022, the Applicant had 163 members who provide circa 120,000 care home places across England. The Applicant submits that healthcare and social care are in many respects linked and interrelated in their operations and that the core decision-making and policies and procedures adopted in relation to healthcare have a clear and tangible effect on care providers. Specifically, the Applicant asserts that its members play a key role in supporting its service users to access health services and that during the Covid-19 pandemic, decisions were made to withdraw a wide range of healthcare services for those supported by social care providers. The Applicant further states that in many cases it was then social care providers and their staff who were

expected to meet their medical needs, without appropriate support, guidance or training.

9. The Applicant also highlights its interest in 111/999 calls, and the manner, nature and timings of patient discharges from hospital during the Covid-19 pandemic, which is said to have had a “profound and significant impact” on its members. The application identifies the protocols around isolation and testing on discharge as being of particular importance. The Applicant refers to the impact of the implementation of, and communication surrounding, DNACPRs and also the diversion of PPE from the care sector to the NHS. The application sets out that the Homecare Association and the National Care Forum (“NCF”) will make their own applications for Core Participant status. It is said that they will represent different membership groups but that they will work jointly wherever appropriate. The three organisations have appointed the same firm of solicitors and it is said that they will raise points collectively where possible but will make independent submissions where necessary.

### **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 put on the basis that the Applicant has a significant interest in an important aspect of the matters to which Module 3 relates (Rule 5(2)(b)).

13. The application focuses on matters that relate to what happened within the care home sector such as discharge policy, protocols around isolation and testing and also the diversion of PPE from the care sector to the NHS. I recognise that the operation of care homes during the Covid-19 pandemic is an important aspect of the response to the pandemic but the focus of Module 3 is on healthcare systems. The care sector will be considered in a separate dedicated Module later in the Inquiry.
14. The application states that during the Covid-19 pandemic many healthcare services for those in the care sector were withdrawn and social care providers were expected to meet their medical needs. While I accept that the Applicant has an interest in issues such as how healthcare was provided to those not accessing mainstream healthcare services, the implementation of, and communication surrounding, DNACPRs and the impact of these matters on those living and working within the care sector, I do not consider that this amounts to a significant interest in the matters to which Module 3 relates, namely healthcare systems. I therefore do not consider that the Applicant has a significant interest in an important aspect of Module 3, in accordance with Rule 5(2)(b) of the Inquiry Rules 2006.
15. While I am bound to consider the factors set out in Rule 5(2), it is also open to me to take into account other relevant matters. Given the vast numbers of people who were involved with, or adversely affected by, the Covid-19 pandemic, very many people and organisations in the UK could potentially have an interest in the Inquiry and not everyone can be granted Core Participant status for the purpose of the Inquiry hearings. Further, 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 Module and, where appropriate, will make requests for witness statements and documents.
16. 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.

17. 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. The Applicant 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 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**