



**NOTICE OF DETERMINATION**  
**CORE PARTICIPANT APPLICATION**  
**MODULE 3 - ASSOCIATION OF DIRECTORS OF ADULT SOCIAL SERVICES**

**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 four applications for Core Participant status in Module 3 on behalf of the following organisations: The Local Government Association ("the LGA"), the Welsh Local Government Association ("WLGA"), the Association of Directors of Adult Social Services ("ADASS") and the Association of Directors of Social Services Cymru ("ADSS Cymru").
4. The applications are said to be "Joint Applications for Core Participant status". While I note that all four organisations have the same legal representative and that the applications are made on similar grounds, each application is a separate document and is made on its own merits. Accordingly, I have considered the applications separately.

5. The Applicant did not renew the application by the prescribed deadline. Accordingly, this Notice sets out my final decision on the application from the **Association of Directors of Adult Social Services** (the “Applicant”) for Core Participant status in Module 3.
6. 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.

### **Application**

7. 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.*

8. 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**

9. The Applicant is a membership organisation directly involved in adult social care and its members are the Directors of Adult Social Services for all of the 152 councils with social services responsibilities in England.
10. The application does not expressly identify by reference to Rule 5(2)(a), (b) or (c), or to the specific criteria in any of those Rules, the basis upon which the application is made. It includes a number of factual submissions (summarised below) which appear to be intended to identify the role that it played during the Covid-19 pandemic. It contains a series of specific submissions on various topics relevant to the Provisional Outline of Scope for Module 3. The Applicant explains by reference to these why it considers it should be a Core Participant in this Module. As such, I take what is said by the Applicant in the factual and specific submissions made, to be intended as material relied upon in relation to each of Rule 5(2)(a), (b) and (c) respectively. I have therefore considered in each case whether the relevant sub-rule is met.
11. The Applicant states that it played a direct and significant role in the matters to which Module 3 relates (Rule 5(2)(a)) for the following reasons: It undertook close engagement with the Department of Health and Social Care (“DHSC”), the Care Quality Commission (“CQC”) and a wide range of other organisations nationally and regionally on matters including worsening healthcare, the risk of mortality in social care and in communities being higher than in hospitals, and the provision of healthcare, PPE and vaccinations. The Applicant also identifies concerns raised by it with those bodies and others as follows: (1) concerns that the focus on the need to maintain acute hospital provision was having a negative impact (in terms of both financial resources and numbers of healthcare staff) on community health services, GPs and other primary care services; (2) concerns about the policy of discharge from hospitals to social care settings, without testing; (3) concerns that deaths caused by the Covid-19 pandemic within care homes and among care staff may have been increased as a result of this policy, and as a result of PPE being prioritised for the NHS; (4) concerns about the risks of mortality in social care and in communities being higher than in hospitals; and (5) concerns about shielding policies and their ramifications on social care issues generally (including domestic abuse).

12. The Applicant states it has a significant interest in an important aspect of the matters to which the Inquiry relates (Rule 5(2)(b)) and the Applicant wishes to inform the Inquiry as to all the matters stated about its work during the Covid-19 pandemic.
13. As to rule 5(2)(c), the Applicant states that it is possible that other organisations may criticise its work but that it is not presently aware of any such criticisms.

### **Decision for the Applicant**

14. 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.
15. 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.
16. The application makes no express reference to the criteria within Rule 5(2) of the Inquiry Rules 2006 which I must consider when deciding whether to designate an Applicant as a Core Participant. However, given the contents of the application, and for the reasons given above, I have considered whether the Applicant meets any of the limbs of that Rule.
17. The basis of the application can be summarised as follows: the Applicant undertook close engagement with DHSC, the CQC, and a wide range of other organisations; raising questions including worsening healthcare, the risk of mortality in social care and in communities being higher than in hospitals, and provision of healthcare, PPE and vaccinations. Specific concerns raised relate to: (1) the focus on the need to

maintain acute hospital provision being to the detriment of primary care; (2) the policy of discharge from hospitals to social care settings, without testing; (3) deaths caused by the Covid-19 pandemic within care homes; (4) the risks of mortality in social care being higher than in hospital; and (5) shielding policies and their ramifications on social care issues generally (including domestic abuse).

18. So far as Rule 5(2)(a) is concerned, my view is that the Applicant did not play a direct and significant role in the matters to which Module 3 relates. I recognise that the Applicant may have played an important role during the Covid-19 pandemic in relation to the activities described in the application, including in relation to the support and assistance provided to those patients discharged from hospitals to social care settings and for those shielding and clinically extremely vulnerable. However, given their professional positions, any role undertaken by the Applicant's members must have been one relating to social care. In my view, it was neither a direct nor a significant role in relation to the matters to which this Module relates, namely healthcare systems and the impact of the pandemic upon them.
19. For the same reasons, so far as Rule 5(2)(b) is concerned, I do not consider that the Applicant has a significant interest in an important aspect of the matters to which this Module relates. The focus of this Module is on healthcare systems rather than the social care systems. 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. Not everyone can be granted Core Participant status for the purpose of the Inquiry hearings.
20. The Applicant states that it is possible that other organisations may criticise its work but that it is not presently aware of any such criticisms. It is too early for me to determine whether any criticism will be made, particularly whether it might amount to explicit or significant criticism and so Rule 5(2)(c) is not met at this stage.
21. Even if I had not come to the conclusions above, and having regard in particular to the need to manage the Inquiry efficiently and effectively, in my discretion I decline to designate the Applicant as a Core Participant in Module 3. 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 factors. I am not obliged to designate any particular person or

organisation as a Core Participant. I am determined to run the Inquiry and Module 3 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.

22. Further, I note the matters within the application relating to local authority responsibility for the consequences of discharge of patients into social care settings and for the operation of the care sector itself. The care sector will be considered in a separate designated Module later in the Inquiry.
23. I also bear in mind that the Applicant has placed emphasis on the matters about which it and its members may be able 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 Module and, where appropriate, will make requests for witness statements and documents.
24. 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.
25. 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**  
**14 February 2023**