



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

**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 determination of the application from the **Association of Directors of Social Services Cymru** (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 describes itself as the professional and strategic leadership organisation for social services in Wales. It is composed of statutory directors of social services, heads of service for children and adults, and tier three managers who support the delivery of statutory responsibilities. The Applicant states its role is "to represent the collective, authoritative voice of senior leaders who support vulnerable adults and children, their families and communities" in Wales.
10. The application does not expressly identify by reference to Rule 5(2)(a), (b) or (c), or to the specific terms of the criteria in any of those sub-rules, the basis upon which the application is made. However it does set out factual material under three sub-headings that appear broadly to reflect, respectively, the content of each of those sub-rules. These three sub-headings are "*Describe your role in the subject matter of the Inquiry*"; "*Provide details of any significant interest you have in the Inquiry*"; "*Do you think you may be criticised during the Inquiry or in its report*"; "*What other reasons are there for you to be made a core participant?*" In the circumstances I take what is said under each sub-heading to be intended as material relied upon in relation to 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's case that it played a direct and significant role in the matters to which the Module relates (Rule 5(2)(a)), and its case that it has a significant interest in an important aspect of the matters to which the Module relates (Rule 5(2)(b)), are advanced on the basis that the ability of the NHS successfully to deliver healthcare is said to be "interrelated and dependent" with and on the social care sector, as well as other functions of local government. It is said that the Applicant was jointly involved with other agencies, including Welsh local authorities, in influencing strategic decisions about health and social care. Specific issues raised in the application include: (i) the discharge of patients from hospital into care homes; (ii) support for those advised to shield and the position of the clinically extremely vulnerable ("CEV"); (iii) DNACPRs; (iv) the classification of deaths; (v) post Covid condition and (vi) Enfy's hospitals (described as temporary Nightingale hospitals).
12. The Applicant also states that it considers there is a risk that as a leadership organisation it might be criticised during the Inquiry. Areas of potential criticism are said to relate to: its failure to challenge partner organisations appropriately; its

handling of the discharge of patients from hospitals; and the support provided to the clinically vulnerable.

### **Decision for the Applicant**

13. 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 therefore, I have decided not to designate the Applicant as a Core Participant in Module 3.
14. 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.
15. As stated above, the application is advanced on the basis that the ability of the NHS successfully to deliver healthcare is "interrelated and dependent" with and on the social care sector, and other functions of local government; that the Applicant was jointly involved with other agencies, including Welsh local authorities, in influencing strategic decisions about health and social care. Specific issues raised include the discharge from hospital into care homes; support for those advised to shield; the position of the CEV; DNACPRs; the classification of deaths; post Covid condition; and Enfys hospitals.
16. So far as Rule 5(2)(a) is concerned, I do not consider that the Applicant played or may have played a direct and significant role in the matters to which Module 3 relates. I recognise that it 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 non-medical assistance provided to those patients discharged into social care settings and for those shielding and the CEV. I note that many of those activities

described in the application appear to have been those of local authorities, rather than of the Applicant's members and that there is no specific indication of what role the Applicant's members may have had in many of them. However, in any event, given their professional position, any role undertaken by the Applicant's members must have been one relating to social care. It was in my view 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.

17. For the same reasons, I do not consider that the Applicant has a significant interest in an important aspect of the matters to which Module 3 relates. The focus of Module 3 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 and not everyone can be granted Core Participant status for the purpose of the Inquiry hearings.
18. While the Applicant states there may be the potential for it to be criticised, it is too early in the Inquiry 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.
19. 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.
20. Further, I note the matters within the application relating to local authority responsibility for the consequences of discharge of patients from hospital 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.

21. I also bear in mind that the Applicant has placed emphasis on the matters about which it 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 Module and, where appropriate, will make requests for witness statements and documents.
22. 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.
23. 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**