



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - CHANCELLOR OF THE DUCHY OF LANCASTER

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 the Chancellor of the Duchy of Lancaster ("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 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, by reason of his ongoing responsibility for overseeing all Cabinet Office policy, civil contingencies, resilience and national security, applies to be designated as a Core Participant in respect of Module 3 of the Inquiry in order to represent the interests of the Cabinet Office. While the application acknowledges that the Cabinet Office is unlikely to have played a direct and significant role in relation to all matters which are to be examined within the scope of Module 3, it is nonetheless submitted that the Cabinet Office did play a direct and significant role in shaping the capacity of healthcare systems to respond to the Covid-19 pandemic. In collaboration with the Department of Health and Social Care ("DHSC") and NHS England ("NHSE"), the Cabinet Office exercised oversight of decision-making relating to staffing levels

and critical care capacity, as well as the establishment and use of Nightingale hospitals.

9. The application states that the Cabinet Office also exercised significant oversight in relation to other aspects of the response to the Covid-19 pandemic within healthcare settings, including the levels of demand for and supply of PPE and ventilators, as well as the development and implementation of the shielding policy for the clinically vulnerable. As such, the Applicant submits that he did play a direct and significant role (Rule 5(2)(a)). In terms of Rule 5(2)(b), the Applicant states that he has a significant interest in better understanding how decisions made within the Cabinet Office were implemented within healthcare settings, together with the effect which they had upon people's experiences of healthcare during the pandemic. The Applicant further states that he wants to learn lessons for the future and is likely to be directly affected by any recommendations which the Chair might make in relation to the healthcare consequences of the governments' response to the pandemic.
10. If granted Core Participant status, the Applicant states that he will represent the interests of the Prime Minister's Private Office and Policy Unit, the Crown Commercial Service, the Government Property Agency and the joint HM Treasury/Cabinet Office Public Sector Fraud Authority.

Decision for the Applicant

11. I have considered with great care everything that is said in the Applicant's 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.
12. 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.

13. The application is put on the basis that the Applicant played a direct and significant role in the matters to which Module 3 relates (Rule 5(2)(a)), and that the Applicant has a significant interest in an important aspect of the matters to which Module 3 relates (Rule 5(2)(b)).

14. I do not currently consider the Applicant played a direct and significant role in the matters to which Module 3 relates. I accept that the Applicant had an important role in decision-making concerning government policy in relation to the Covid-19 pandemic, and that such decision-making will have included decisions made, alongside the DHSC and NHSE, which concerned and impacted healthcare systems. I also accept that, again alongside DHSC and NHSE, the Applicant had some oversight of matters relating to the operation of healthcare systems. However, I do not consider that the Applicant played or may have played a direct and significant role in the matters with which Module 3 is concerned. Government decision-making will be examined in Modules 2, 2A, 2B and 2C. Module 3 is rather concerned with the impact of Covid-19 upon healthcare structures, and through them, upon the recipients of that healthcare. I have granted Core Participant status to the Secretary of State for Health and Social Care and NHSE in order to deal with relevant aspects of core decision-making and leadership within healthcare systems during the pandemic. As the application makes plain, the Applicant's role was one of oversight and his role therefore appears to have been indirect rather than direct.

15. Further, as to Rule 5(2)(b), I do not currently consider that the Applicant has a significant interest in an important aspect of the matters to which Module 3 relates. It may be that he has an interest in understanding how decisions made were implemented within healthcare settings, in learning lessons, and separately, that he may have an interest in any recommendations made in this Inquiry. However, the Applicant's interest in these matters arises from the nature of his and his department's role, and is such that the Applicant will have a general interest in the outcome of all modules within the Inquiry. I do not consider that this amounts to a significant interest in the matters to which Module 3 relates in accordance with Rule 5(2)(b).

16. 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.
17. 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.
18. 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.
19. 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 him 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