



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - SOUTHERN HEALTH & SOCIAL CARE TRUST

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 Southern Health and Social Care Trust ("the Applicant") for Core Participant status in Module 3.
4. I made a provisional decision dated 11 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 18 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 provides a full range of primary, secondary and community based healthcare services, employing over 14,000 staff with a budget of over £700 million per annum. It provides services in two acute hospitals, two non-acute hospitals and a range of homes, day care centres and primary care clinics. It asserts it played a direct and significant role in relation to the matters to which Module 3 relates, pursuant to Rule 5(2)(a). The Applicant made decisions about: healthcare provision, treatment for patients with Covid-19, the allocation of staff and resources, the impact on those requiring care for reasons other than Covid-19, quality of treatment for Covid-19 and non-Covid-19 patients, delays in treatment, waiting lists, people not seeking or receiving treatment, palliative care, the discharge of patients from hospital and preventing the spread of Covid-19 within healthcare settings, all of which it believes

will be considered by the Inquiry. The Applicant states that it considers there will be particular scrutiny and potential criticism in relation to the spread of Covid-19 within its healthcare facilities given the age of its buildings and limitations imposed on it. The Applicant was involved in a Level 3 Significant Adverse Incident due to Covid-19 outbreaks within the hospitals, which were contributory factors in the deaths of 15 patients which it considers will be of interest to the Inquiry and others who may become Core Participants.

Decision for the Applicant

9. 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.
10. 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.
11. The application is based on the Applicant having played a direct and significant role in the matters to which Module 3 relates (Rule 5(2)(a)) and is also put on the basis that there is a possibility that it may be subject to explicit or significant criticism under Rule 5(2)(c).
12. I do not consider the Applicant played a direct and significant role in the matters to which Module 3 relates. I accept that the Applicant did play a direct role in the matters that are relevant to Module 3 as a provider of primary, secondary and community-based healthcare services in Northern Ireland. However, as an individual trust, its role is not "significant" such that it ought to be granted Core Participant status

under Rule 5(2)(a), as opposed to any other individual trust or board of its type. I also do not consider the Applicant to have a significant interest in those matters for the reasons set out above and so in my view, Rule 5(2)(b) is also not met.

13. While the Applicant states there may be the potential for it to be criticised, it is too early at this stage in the Inquiry for me to determine whether any criticism will be made, particularly whether it might amount explicit or significant criticism and so Rule 5(2)(c) is not met at this stage.
14. Even if that were not the case, in the exercise of my discretion, and having regard in particular to the need to manage the Inquiry effectively and efficiently, I would still decline to designate the Applicant as a Core Participant. 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 and a significant one at that. Not everyone can be granted Core Participant status for the purposes of the Inquiry hearings.
15. This will be kept under review and in due course it may be that the operational response of individual healthcare boards or trusts will be examined as case studies as part of Module 3 and the Applicant may be identified in that regard. Whether it should then be designated as an individual Core Participant could be revisited.
16. Paragraph 8 of the Inquiry's Core Participant Protocol sets out my invitation for groups of organisations with similar interests to submit an application for Core Participant status. While the Applicant has indicated that it explored making a group application with other Arms Length Bodies and thought it would not be practicable and that there may be potential conflicts of interest, the Applicant has not identified a reason why it could not form a group with the other Northern Irish Trust (Belfast Health and Social Care Trust) that applied.
17. It is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. The Applicant may have relevant information to give in relation to matters being examined in the Inquiry and 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 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