



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - DURHAM COUNTY COUNCIL**

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 Durham County Council for Core Participant status in Module 3.
4. I made a provisional decision dated 13 January 2023 not to designate the Applicant as a Core Participant in Module 3, thereby declining Durham County Council's application ("the Provisional Decision") The Applicant was provided with an opportunity to renew the application in writing by 20 January 2023.
5. On 20 January 2023 the Applicant submitted a renewed application for Core Participant status in Module 3. This notice sets out my final determination of the application for Core Participant status in Module 3.

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 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 is the first tier authority responsible, inter alia, for public health and adult social care in County Durham. The original application appears wholly based on the issue of discharge from hospital into care homes. The basis upon which the application is put is as follows: (i) that government policy for the last decade has been to integrate healthcare and social care, (ii) as a result it is not possible to review healthcare decision-making and its impact without looking at the Local Authority role in the process, (iii) the Applicant was involved in the hospital discharge process, discharging to care homes/care settings and the discharge policy must be examined and (iv) the Applicant has one of the highest number of care beds in the country.

9. The Applicant's renewed application provides helpful further information, which I have considered with care. In summary, the renewed application submits that any consideration of the impact of the Covid-19 pandemic on healthcare in County Durham will be incomplete without reference to the County Council's role. It submits that where there is an integrated health and social care provision, as there is in County Durham, the work of local authorities and the NHS overlaps and works as a system, and that in examining healthcare systems and the care sector in separate modules, the Inquiry has failed to recognise the reality of healthcare delivery and its interface with local authority work.

Decision for the Applicant

10. I have considered with great care everything that is said in the Applicant's renewed application. I have also reminded myself of what was said in the original application to enable me to assess the merits of the application for Core Participant status as a whole. Having done so, I remain of the view that the Applicant does not meet the criteria set out in Rule 5(2). I have therefore decided not to designate the Applicant as a Core Participant in Module 3.
11. I am grateful to the Applicant for taking care to set out more detail in their renewed application. I appreciate that the Applicant plays an important role in the integrated health and social care system in County Durham. However, as an individual local authority, its role in relation to the matters to which this Module relates, namely healthcare systems in England, Scotland, Wales and Northern Ireland and the impact of the Covid-19 pandemic upon them, is not direct and significant such that it ought to be granted Core Participant status under Rule 5(2)(a). 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 important aspects of matters to which Module 3 relates. The focus of this Module is on healthcare rather than social care. While I recognise that the Applicant considers that the Inquiry should examine healthcare and social care together due to the increasing integration between the two, I have a wide discretion as to how to manage the work of the Inquiry, and I have decided to examine the impact of the Covid-19 pandemic on healthcare systems in Module 3 and to examine the social care sector in a separate later module.
12. I have taken into account the fact that there are a number of ways in which the Applicant can participate in Module 3 without being a Core Participant, many of which

have been recognised as adequate alternatives to Core Participant status in other recent statutory inquiries. For example, as I noted in my Provisional Decision, 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, in due course, the Inquiry will seek information from a range of individuals, organisations and bodies to gain their perspective on the issues raised in the modules and, where appropriate, to ask for witness statements and documents.

13. More generally, and to the extent that the issues the Applicant raised are intended to be addressed by Module 3 as opposed to later modules, I have every confidence in the independent legal team whom I have appointed specifically for the purpose of pursuing all legitimate lines of inquiry with the investigatory and analytical rigour that a statutory inquiry of this scale and importance demands.
14. Therefore, having considered all of the information the Applicant provided in light of the Provisional Outline of Scope for Module 3, I remain of the view that the Applicant did not play a direct and significant role and does not have a significant interest in the matters for investigation in 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.
15. My decision not to designate the Applicant as a Core Participant in Module 3 does not preclude the Applicant 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
16 February 2023