



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION  
MODULE 3 - NHS HEALTH EDUCATION ENGLAND**

**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 NHS Health Education England ("the Applicant") for Core Participant status in Module 3.
4. I made a provisional decision not to designate the Applicant as a Core Participant in Module 3, thereby declining the application ("the Provisional Decision"), on 13 January 2023. The Applicant was provided with an opportunity to renew the application in writing by 4pm on 20 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 identifies itself as a non-departmental public body accountable to the Secretary of State and Parliament. The application is put on the basis that the Applicant works with partners to plan, recruit, educate and train the health workforce so NHS England has the right number of staff, with the right skills, knowledge, and values. This includes supporting future workforce supply, transforming and upskilling the current workforce and improving the quality of education and training.
9. The application is put on the basis that the Applicant will have a significant interest in an important aspect of the matters to which the Inquiry relates and/or played or may have played a direct and significant role in relation to the matters to which the Inquiry relates, including the allocation of staff and resources and the impact of the Covid-19

pandemic upon healthcare staff (including those in training). The application is also put on the basis that the Applicant will have a significant interest in an important aspect of Module 3 given its statutory obligation to ensure an effective education and training system. Furthermore, the Applicant identifies that, if the Inquiry determines that there are lessons to be learned in relation to the experience of this group within the healthcare workforce, it is appropriate that it should be involved as a Core Participant so that it can fully understand the basis upon which any such recommendations are made. The Applicant identifies that it may also wish to make representations to assist the Inquiry with any considerations about the specific role of students, learners and trainees and their experiences in the response to the pandemic.

10. The Applicant is anticipated to be formally merged with NHS England from 1 April 2023. It is said that at that point the Applicant's responsibilities will transfer to NHS England. The application is put on the basis that, given that the Applicant's role and responsibilities were distinct from NHS England at all relevant times, and that the evidence to be contributed to the Inquiry will arise independently, its application is not made jointly with NHS England.

### **Decision for the Applicant**

11. 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.
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 it is also said that the Applicant has a significant interest in an important aspect of the matters to which Module 3 relates (Rule 5(2)(b)).
14. While I recognise the important work the Applicant may have done and the expertise which the organisation can offer, I do not consider that the Applicant meets the criteria within Rule 5(2)(a) for the purposes of Module 3. This is because the majority of the work which the Applicant is said to have done is one step removed from the operation of healthcare systems. The issue of the training of clinicians can be dealt with by other organisations that have been designated as Core Participants in Module 3.
15. Furthermore, while I recognise that the Applicant may have an interest in healthcare systems, that interest is not “significant” in an important aspect of the matters to which Module 3 relates, in accordance with Rule 5(2)(b). Given the vast numbers of people who were involved with, or adversely affected by, the Covid-19 pandemic, very many people and organisations in this country could potentially have an interest in the Inquiry and not everyone can be granted Core Participant status for the purpose of the Inquiry hearings. It is said that the Applicant will be merging with NHS England in April 2023; NHS England has been designated as a Core Participant and therefore the Applicant’s interest in Module 3 will be represented by NHS England.
16. 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.
17. 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.
18. 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**

**17 February 2023**