



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION  
MODULE 3 - NICE**

**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 30 November 2022 the Inquiry received an application from the National Institute for Health and Care Excellence ("the Applicant") for Core Participant status in Module 3. This Notice sets out my determination of the application.

**Application**

4. 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.*

5. 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**

6. The application is put on the basis that the Applicant is a non-departmental public body under the Health and Social Care Act 2012 and that it played a direct and significant role in Module 3 (Rule 5(2)(a)).
7. A key area of the Applicant's work is the production of guidance relating to medicines and medical technology and guidelines for use in clinical settings, social care, public health and medicines practice. In relation to the pandemic, the Applicant was asked by NHS England to produce guidelines on Covid-19 topics. These guidelines became known as 'Covid-19 Rapid Guidelines'. 24 Rapid Guidelines were produced in 2020.
8. The Applicant also produced six rapid evidence reviews for NHS England on medicines to manage Covid-19 or its symptoms; as well as playing a role in the design and implementation of the Research to Access Pathway for Investigational Drugs in Covid-19. Finally, the Applicant provided advice to the Chief Medical Officer on the strength of clinical effectiveness evidence of proposed Covid-19 treatments.

## Decision for the Applicant

9. I have considered with great care everything that is said in the application. Having done so, I have decided 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 Covid-19 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.
11. The application is made on the basis that the Applicant played a direct and significant role in relation to the matters to which Module 3 relates (Rule 5(2)(a)).
12. I consider that the Applicant played a direct and significant role in the healthcare systems' response to the pandemic, satisfying Rule 5(2)(a) of the Inquiry Rules 2006, by providing advice and guidance to NHS England and to those involved in the healthcare system. A number of the guidelines prepared by the Applicant covered topics that are of significant interest to Module 3, including 'Managing Covid-19', 'Managing the long-term effects of Covid-19', 'Arranging planned care in hospitals and diagnostics services' and 'Delivery of systemic anti-cancer treatments'

## Legal Representation

13. Applications for designation as the Recognised Legal Representative of a Core Participant are governed by Rules 6 and 7 of the Inquiry Rules 2006, which provide:

*6.—(1) Where—*

- (a) a core participant, other than a core participant referred to in rule 7; or*
- (b) any other person required or permitted to give evidence or produce documents during the course of the inquiry,*

*has appointed a qualified lawyer to act on that person's behalf, the chairman must designate that lawyer as that person's recognised legal representative in respect of the inquiry proceedings.*

*7.—(1) This rule applies where there are two or more core participants, each of whom seeks to be legally represented, and the chairman considers that—*

- (a) their interests in the outcome of the inquiry are similar;*
- (b) the facts they are likely to rely on in the course of the inquiry are similar; and*
- (c) it is fair and proper for them to be jointly represented.*

*(2) The chairman must direct that those core participants shall be represented by a single recognised legal representative, and the chairman may designate a qualified lawyer for that purpose.*

*(3) Subject to paragraph (4), any designation must be agreed by the core participants in question.*

*(4) If no agreement on a designation is forthcoming within a reasonable period, the chairman may designate an appropriate lawyer who, in his opinion, has sufficient knowledge and experience to act in this capacity.*

14. I am satisfied that the Applicant has appointed Steffan Groch of DWF Law LLP as its qualified lawyer in relation to this Module. I therefore designate Steffan Groch as the Applicant's recognised legal representative in accordance with Rule 6(1).

15. Directions will be given in relation to applications for an award under section 40(1)(b) of the Inquiries Act 2005 of expenses to be incurred in respect of legal representation, at the forthcoming preliminary hearing. I will determine any such applications in accordance with the provisions of section 40 of the Inquiries Act 2005, the Inquiry Rules 2006, the [Prime Minister's determination](#) under section 40(4) and the [Inquiry's Costs Protocol](#).

**Rt Hon Baroness Heather Hallett DBE**

**Chair of the UK Covid-19 Inquiry**

**16 January 2023**