



**NOTICE OF DETERMINATION**  
**CORE PARTICIPANT APPLICATION**  
**MODULE 3 - THE SCOTTISH COVID BEREAVED**

**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 2 December 2022 the Inquiry received an application from the Scottish Covid Bereaved ("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 Applicant was formerly known as Scottish Covid 19 Bereaved Families for Justice. It submits that it has a significant interest in the impact of the Covid-19 pandemic on the healthcare system in Scotland, as well as in certain aspects of the impact of the healthcare system in the rest of the UK. The application states that it has an interest in the capacity of the healthcare system in Scotland to respond to the pandemic, and the healthcare consequences of how the Scottish Government and the public responded to the pandemic. The application emphasises that issues relating to health and the healthcare system have primarily been devolved matters since powers were transferred to the Scottish parliament on 1 July 1999.
7. The Applicant is said to have a significant interest in the core decision-making and leadership within the healthcare system in Scotland and the impact they had on their loved ones' deaths. It is also said to be clear that the response to the pandemic involved decision-making by the Westminster Government that impacted directly on the people of Scotland and on the Applicant. The issue of healthcare provision and treatment for patients with Covid-19, the quality of care for those patients, and the decision-making involved in their care is said to be of clear and direct relevance to the Applicant. As well as the significant matter of their lost loved ones, the Applicant is

said to include healthcare professionals, those who were in the shielding category, ethnic minorities and those who suffer from Post-Covid Condition.

### **Decision for the Applicant**

8. I wish to reiterate my deep sympathy to each and every individual who has experienced the tragic loss of a loved one as a consequence of the Covid-19 pandemic including those the Applicant represents.
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 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 put on the basis that the Applicant has a significant interest in an important aspect of the matters to which Module 3 relates (Rule 5(2)(b)).
12. For a number of reasons I consider that the Applicant is well placed to assist the Inquiry to achieve its aims in Module 3 by representing the collective interests of a broad spectrum of those bereaved in Scotland as a result of the Covid-19 pandemic. I also bear in mind that the Applicant includes healthcare professionals, those who were in the shielding category, ethnic minorities and those who suffer from Post-Covid Condition. I consider that the Applicant can, amongst other things, aid the Inquiry in understanding the experiences and perspectives of the bereaved when it considers the impact of the Covid-19 pandemic on healthcare systems in the UK and in particular the health care system in Scotland, without examining in detail individual cases of harm or death.

## 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 Aamer Anwar of Aamer Anwar and Co as its qualified lawyer in relation to this Module. I therefore designate Aamer Anwar 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**

**17 January 2023**