



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - TRADES UNION CONGRESS**

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 Trades Union Congress ("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 has 48 member unions including 11 unions for healthcare workers. These are UNISON, UNITE, GMB, Royal College of Midwives, Chartered Society of Physiotherapists, Society of Radiographers, British Dietetics Association, Royal College of Podiatry, British Orthoptic Society Trade Union, Hospital Consultants and Specialists Association, and POA (the union representing staff in secure psychiatric settings).
7. The application states that given the broad representation of the Applicant's affiliated unions across health services in all four devolved nations and the key role their members played in all aspects of healthcare and interaction with patients in the Covid-19 pandemic, the affiliated unions played a direct and significant role in most (if not all) of the list of topics identified in the Provisional Outline of Scope for Module 3. Several of the unions were involved in many key meetings across the UK throughout the government. The Applicant explains that a number of the unions are members of the NHS Staff Council and the UNISON Head of Health is the Staff Side Chair of the NHS Staff Council. Additionally, the National Ambulance Strategic Partnership Forum is said to comprise GMB, UNISON, UNITE, Royal College of Nursing and national NHS ambulance employers. The application states that members of the affiliated unions representing health service managers led the creation of the Nightingale units,

managed schemes to bring back registered clinicians into the workforce, managed discharge from hospitals and developed programmes to support the well-being of staff.

8. The Applicant is said to have a significant interest in important aspects of the matters to which Module 3 relates given the number of NHS staff who have lost their lives in the Covid-19 pandemic, with a disproportionate impact on ethnic minority healthcare workers and because of how many workers experienced extremely stressful and traumatic conditions.

Decision for the Applicant

9. I have considered carefully 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 meets the criteria in both Rule 5(2)(a) and 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, having regard to the need to manage the Inquiry effectively and efficiently. I bear in mind in particular that the Applicant represents a collective of different professions and a wide-ranging set of individuals, given the scale of its membership. I also acknowledge that the Applicant brings together 13 affiliated trade unions whose members are directly involved in the workings of healthcare systems across the four nations. As set out within paragraph 7

of the Provisional Outline of Scope for Module 3, this Module will be investigating the impact of the pandemic on healthcare workers and those working within healthcare settings. I also note that the Applicant appears to be in a position to comment on specific issues with respect to ambulances and that it had involvement with the creation of Nightingale units. I am satisfied that the Applicant can assist the Inquiry with understanding the perspectives and experiences of those working within healthcare systems across the UK.

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 Gerard Stilliard of Thompsons Solicitors as its qualified lawyer in relation to this Module. I therefore designate Gerard Stilliard 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