



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - A GROUP OF WELSH NHS BODIES

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 a group of Welsh NHS bodies comprising: Aneurin Bevan University Health Board; Betsi Cadwaladr University Health Board; Cwm Taf Morgannwg University Health Board; Hywel Dda University Local Health Board; Swansea Bay University Health Board; and Velindre University NHS Trust excluding NHS Wales Shared Services Partnership ("the Applicant Group") 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 made on behalf of 5 out of 7 of the Welsh Local Health Boards, plus a Welsh NHS Trust which provides specialist services in cancer care, blood and transplant services and a range of national support services.
7. The application is made on the basis that each member of the Applicant Group played a direct and significant role in relation to the matters to which Module 3 relates (Rule 5(2)(a)) as they were the bodies responsible for primary care and hospital care for the majority of the population in Wales. It is also said that Applicant Group and each of its members has a significant interest in the lessons that will be learned from the Inquiry, and that therefore Rule 5 (2)(b) is also satisfied.

Decision for the Applicant Group

8. I have considered with great care everything that is said in this application. Having done so, I have decided to designate the Applicant Group as a Core Participant in Module 3.
9. 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.
10. I consider that the Applicant Group played, or may have played, a direct and significant role in relation to healthcare systems in Wales during the Covid-19 pandemic and that they have a significant interest in Module 3 of the Inquiry. This is on the basis that the Applicant Group comprises the majority of Welsh Local Health Boards and a Welsh NHS Trust in Wales and that collectively, as set out in the application, those Boards/Trusts were responsible for primary and hospital care for the majority of the population in Wales.
11. For the avoidance of doubt, I grant Core Participant status to the Applicant Group as one collective group rather than each constituent member of the group being individually designated Core Participant status.

Legal Representation

12. 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.

13. I am satisfied that the Applicant Group has appointed Sarah Watt of NWSSP Legal and Risk Services as its qualified lawyer in relation to this Module. I therefore designate Sarah Watt as the Applicant Group's recognised legal representative in accordance with Rule 6(1).

14. 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

18 January 2023