



NOTICE OF DETERMINATION CORE PARTICIPANT APPLICATION

MODULE 3 - THE ROYAL COLLEGE OF ANAESTHETISTS, THE FACULTY OF INTENSIVE CARE MEDICINE AND THE ASSOCIATION OF ANAESTHETISTS

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 4 December 2022 the Inquiry received an application from The Royal College of Anaesthetists, the Faculty of Intensive Care Medicine and the Association of Anaesthetists ("the Applicants") 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 Applicants make a joint application for Core Participant status in Module 3. The Applicants state that between their organisations they represent over 24,000 doctors and healthcare workers. The application sets out the significant and extensive impact that the Covid-19 pandemic had on the doctors and healthcare workers the Applicants represent. Further, the Applicants state that they collected substantial data on the issues affecting the professionals they represent and the NHS's ability to cope with the pandemic, including issues such as pre-existing workforce shortages; organisation and coordination of services and how this impacted the ability of the NHS to respond; intensive care capacity; PPE; Covid-19 testing and the effect of the pandemic on the mental health and wellbeing of healthcare workers. The Applicants are also said to have provided guidance and assistance to communities of healthcare workers to help them better understand and manage Covid-19.
7. The Applicants state that they believe a grant of Core Participant status would substantially boost the Inquiry's ability to pursue its objectives and that given the Applicants' insight they could propose lines of investigation or questioning of witnesses and confirm or deny the veracity of claims made in official documentation if

it were disclosed to them. Further, the Applicants say that it is vital that the doctors and healthcare staff working on the frontline are heard and have the ability to be represented in opening and closing statements at any hearing.

Decision for the Applicant

8. I have considered with great care everything that is said in the joint application. Having done so, I have decided to grant the Royal College of Anaesthetists, the Faculty of Intensive Care Medicine and the Association of Anaesthetists Core Participant status 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 Applicants played, or may have played, a direct and significant role in relation to healthcare systems during the Covid-19 pandemic and that they have a significant interest in important aspects of the matters to which Module 3 of the Inquiry relates. The Applicants therefore meet Rule 5(2)(a) and (b) of the Inquiry Rules 2006.
11. Further, while I am bound to consider the factors set out in Rule 5(2), it is also open to me to take into account other relevant matters. I have regard in particular to the need to manage the Inquiry effectively and efficiently. I am determined to run the Inquiry as thoroughly and as efficiently as possible, bearing in mind the Inquiry's wide-ranging Terms of Reference and the need for the Inquiry process to be rigorous and fair.
12. For a number of reasons I consider that the Applicants are well placed to assist the Inquiry to achieve its aims in Module 3. This includes that they can assist the Inquiry in understanding the experiences of healthcare workers from the central role played by

intensive care medical staff and anaesthetists in the response to the Covid-19 pandemic, as well as assisting the Inquiry with understanding the perspectives of, and impact on, those healthcare staff whose specialities required rapid transformation due to being at the forefront of the response to the pandemic.

13. For the avoidance of doubt, I grant Core Participant status to the Applicants as one collective group rather than each constituent member of the group being individually granted Core Participant status.

Legal Representation

14. 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.

15. I am satisfied that the Applicants have not appointed a qualified lawyer in relation to this Module. I therefore have not designated a recognised legal representative in

accordance with Rule 6(1) for the Applicants at this time. This does not preclude the Applicants from making an application for the designation of a recognised legal representative at a later stage.

16. 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