



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION**

**MODULE 3 - GROUP COMPRISING BEREAVED RELATIVES WHOSE LOVED ONES DIED IN  
CARE HOMES IN SCOTLAND, CURRENT AND FORMER CARE HOME STAFF MEMBERS  
AND A REPRESENTATIVE OF THE SKYE COMMUNITY RESPONSE TEAM**

**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 28 November 2022 the Inquiry received an application from a group comprising bereaved relatives whose loved ones died in care homes in Scotland, current and former care home staff members and a representative of the Skye Community Response team ("the Applicant Group") for Core Participant status in Module 3.
4. I made a provisional decision dated 16 January 2023 not to designate the Applicant Group as a Core Participant in Module 3, thereby declining the application ("the Provisional Decision"). The Applicant Group was provided with an opportunity to renew the application for Core Participant status in Module 3 in writing by 4pm on 23 January 2023.

5. The Applicant Group did not renew the application by the prescribed deadline. Accordingly, this Notice sets out my final decision on the application.

## **Application**

6. 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.*

7. In accordance with the approach set out in my Opening Statement and the Inquiry's [Core Participant Protocol](#), I have 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**

8. The Applicant Group is a group of individuals comprising bereaved relatives whose loved ones died in care homes in Scotland, current and former care home staff members and a representative of the Skye Community Response team.
9. The common interest of members of the Applicant Group is said to be the way in which care homes prepared for and dealt with the Covid-19 pandemic. In that way, the

Applicant Group is said to be distinguishable from Scottish Covid Bereaved, whose members are understood to have disparate concerns around aspects of health care systems.

10. The Applicant Group states it has a significant interest in important aspects of the matters to which Module 3 relates (Rule 5(2)(b)).
11. The Applicant Group sets out its specific concerns about inadequate planning by care home providers, admissions and transfers to care homes from hospitals, lack of training of care home staff, inadequate guidance to ensure the virus was not transmitted, use of DNACPR notices, inadequacy of the inspection regime of the Care Inspectorate, excess deaths and unsatisfactory procedures for determining the cause of deaths and the accurate recording of whether an individual died with Covid-19 or from Covid-19.

### **Decision for the Applicant Group**

12. I wish to reiterate my 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 Group represents.
13. I have considered with great care everything that is said in the application. While I recognise the important work the Applicant Group is said to have done during the Covid-19 pandemic and the expertise which it can offer, my view is that the Applicant Group does not meet the criteria in Rule 5(2) for the purposes of Module 3.
14. 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.

15. The application is put on the basis that the Applicant Group has a significant interest in the matters to which Module 3 relates (Rule 5(2)(b)).
16. I do not consider the Applicant Group's interest, which appears to be primarily concerned with events which took place in care homes in Scotland, meets the criteria set out within Rule 5(2)(b) for the purposes of Module 3. The focus of this module is healthcare systems. This is distinct from what occurred in the care sector, which will be addressed in a separate module later in the Inquiry. It is for this reason that I do not consider that Rule 5(2)(b) is met.
17. 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 factors. I am not obliged to designate any particular person or organisation as a Core Participant. 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. Given the vast numbers of people who were involved with, or adversely affected by, the Covid-19 pandemic, very many people in the UK could potentially have an interest in the Inquiry. Not everyone can be granted Core Participant status for the purposes of the Inquiry hearings.
18. It is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. The Applicant Group may have relevant information to give in relation to matters being examined in the Inquiry and it is likely that the Inquiry will in due course seek information from a range of individuals, organisations and bodies who may have information relevant to the issues raised in the Modules and, where appropriate, make requests for witness statements and documents.
19. The Inquiry will also hear and consider carefully the experiences of bereaved families and others who have suffered hardship or loss as a result of the pandemic, through the listening exercise. The Applicant Group and those it represents may wish to contribute to the work of the Inquiry through this process. I made clear in my Opening Statement that this listening exercise is a significant and important task which will lead to summary reports of the impact of the pandemic to be used as evidence during the Inquiry's Module hearings.

20. For all of those reasons, having considered all of the information provided by the Applicant Group in light of the Provisional Outline of Scope for Module 3, I have decided that the Applicant Group should not be designated as a Core Participant in Module 3 and I confirm that this is my final decision.

21. I will keep the scope of Module 3 under review. My decision not to designate the Applicant Group as a Core Participant in Module 3 does not preclude it from making any further applications in respect of any later Modules. I will consider any future applications the Applicant Group may wish to make on their merits at the time they are made.

**Rt Hon Baroness (Heather) Hallett DBE**

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

**13 February 2023**