



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - WELSH LOCAL GOVERNMENT ASSOCIATION**

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 four applications for Core Participant status in Module 3 on behalf of the following organisations: The Local Government Association ("the LGA"), the Welsh Local Government Association ("WLGA"), the Association of Directors of Adult Social Services ("ADASS") and the Association of Directors of Social Services Cymru ("ADSS Cymru").
4. The applications are said to be "Joint Applications for Core Participant status". While I note that all four organisations have the same legal representative and that the applications are made on similar grounds, each application is a separate document and is made on its own merits. Accordingly, I have considered the applications separately.

5. The Applicant did not renew the application by the prescribed deadline. Accordingly, this Notice sets out my final decision on the application from the **Welsh Local Government Association** (the “Applicant”) for Core Participant status in Module 3.
6. I made a provisional decision dated 16 January 2023 not to designate the Applicant as a Core Participant in Module 3, thereby declining the application (“the Provisional Decision”). The Applicant was provided with an opportunity to renew the application in writing by 4pm on 23 January 2023.

Application

7. 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.*

8. 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

9. The Applicant is the membership body for all 22 local authorities, together with the fire and rescue authorities and national park authorities in Wales. The application states that the Applicant speaks for all its members on matters of local government in general or matters which concern councils or associate members.
10. The application does not expressly identify, by reference to Rule 5(2)(a), (b) or (c), or to the specific criteria in any of those Rules, the basis upon which the application is made. However, it does set out factual material under three sub-headings that appear to broadly reflect, respectively, the content of each of those sub-rules. These three sub-headings are *“Describe your role in the subject matter of the Inquiry”*; *“Provide details of any significant interest you have in the Inquiry”*; and *“Do you think you may be criticised during the Inquiry or in its report”*. As such, I take what is said under each subheading to be intended as material relied upon in relation to Rule 5(2)(a), (b) and (c) respectively. I have therefore considered in each case whether the relevant sub-rule is met.
11. The Applicant states it played a direct and significant role (Rule 5(2)(a)) and that it has a significant interest (Rule 5(2)(b)) in an important aspect of the matters to which the Inquiry relates on the basis that the ability of the NHS to successfully deliver healthcare being "interrelated and dependent" with and on the care sector and other functions of local government. The application places reliance on local authority involvement in (i) discharge of patients into social care settings, including such discharge without testing; (ii) delivery of support and non-medical assistance to the extremely vulnerable, and/or those shielding and in particular the clinically extremely vulnerable (“CEV”); (iii) the Applicant’s involvement in discussions with the Welsh Government and the Wales Council for Voluntary Action in relation to these matters, specifically as to food boxes and other support needs for those advised to stay at home; and (iv) the setting up of temporary Nightingale hospitals known as "Enfys" (Rainbow) hospitals in Wales.
12. The Applicant states it is possible that it may be criticised by other organisations in relation to the handling of the discharge of patients from hospital without testing into the care sector, support provided to the CEV, the setting up on temporary Nightingale Hospitals and the role of the Applicant or its members in informing government policy.

13. The Applicant states that it wishes to assist the Inquiry with the collection of information and data from its members.

Decision for the Applicant

14. I have considered with great care everything that is said in the application. Having done so, I consider that the Applicant does not meet the criteria set out in Rule 5 for designation as a Core Participant in Module 3 and, therefore, I have decided not to designate the Applicant as a Core Participant in Module 3.
15. 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.
16. This application is made on the basis that the Applicant represents all 22 local authorities in Wales and that local government bodies were involved in providing a wide range of advice and assistance to government departments including in relation to matters relevant to Module 3. In particular, the applicant contends that the NHS delivery of healthcare is "interrelated and dependent" with and on the care sector, and upon other functions of local government. Specific examples cited are the discharge without testing of NHS patients into social care settings; delivery of support and non-medical assistance to the extremely vulnerable, and/or those shielding and in particular the CEV; the Applicant's involvement in discussions with the Welsh Government and the Wales Council for Voluntary Action in relation to these matters, specifically as to food boxes and other support needs for those advised to stay at home; and the setting up of temporary Nightingale hospitals known as "Enfys" (Rainbow) hospitals in Wales.

17. As stated above, I take these facts to be advanced in support of the Applicant having played a direct and significant role in the matters to which Module 3 relates (Rule 5(2)(a)), and that it has a significant interest in an important aspect of the matters to which the Inquiry relates (Rule 5(2)(b)). The application states that there is the possibility of some criticism by reference to Rule 5(2)(c).
18. So far as Rule 5(2)(a) is concerned, I recognise that the Applicant's members in local government may well have played an important role during the Covid-19 pandemic in relation to the activities described in the application, particularly in relation to the care of those patients discharged to social care settings, for those shielding and the CEV, and in the setting up of the Enfys hospitals. However that role was in my view neither a direct nor a significant one in relation to the matters to which Module 3 relates, namely healthcare systems and the impact of the pandemic upon them.
19. For the same reasons, so far as Rule 5(2)(b) is concerned, I do not consider that the Applicant and its members in local government have a significant interest in important aspects of matters to which Module 3 relates. The focus of Module 3 is on healthcare systems rather than the social care systems. Given the vast numbers of people who were involved with, or adversely affected by, the Covid-19 pandemic, very many people and organisations in this country could potentially have an interest in the Inquiry. Not everyone can be granted Core Participant status for the purpose of the Inquiry hearings.
20. While the Applicant states there may be the potential for it to be criticised, it is too early at this stage in the Inquiry for me to determine whether any criticism will be made, particularly whether it might amount to explicit or significant criticism and so Rule 5(2)(c) is not met at this stage.
21. Even if I had not come to the conclusions above, and having regard in particular to the need to manage the Inquiry efficiently and effectively, in my discretion I decline to designate the Applicant as a Core Participant in Module 3. 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 and Module 3 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.

22. Further, I note the matters within the application relating to the involvement of local authorities in relation to the discharge of patients into social care settings, and for the operation of the care sector itself. The care sector will be considered in a separate designated Module later in the Inquiry.

23. The application states that the Applicant wishes to assist the Inquiry with collecting information and data from its members. It is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. 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 Module and, where appropriate, will make requests for witness statements and documents.

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

25. I will keep the scope of Module 3 under review. My decision not to designate the Applicant 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 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

14 February 2023