



**NOTICE OF DETERMINATION**  
**CORE PARTICIPANT APPLICATION**  
**MODULE 3 - DISABILITY RIGHTS UK, DISABILITY WALES, INCLUSION SCOTLAND AND**  
**DISABILITY ACTION NORTHERN IRELAND**

**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 Disability Rights UK, Disability Wales, Inclusion Scotland and Disability Action Northern Ireland ("the Applicant Group") for Core Participant status in Module 3.
4. I made a provisional decision dated 13 January 2023 not to designate the Applicant Group as a Core Participant in Module 3, thereby declining the Applicant Group's application ("the Provisional Decision"). The Applicant Group was provided with an opportunity to renew the application in writing by 4pm on 20 January 2023.
5. On 20 January 2023 the Applicant Group submitted a renewed application for Core Participant status in Module 3. This notice sets out my final determination of the Applicant Group's application for Core Participant status in Module 3.

## 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 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 consists of organisations run by and for disabled people, meaning people facing disabling societal barriers due to their impairments or conditions (regardless of their age). In its original application, the Applicant Group was said to have played a direct and significant role in the matters to which Module 3 relates. Disability Rights UK and Inclusion Scotland campaigned about correspondence from GPs to disabled people suggesting they agreed to DNACPRs (do not attempt cardiopulmonary resuscitation) if they became unwell with Covid-19; Disability Rights UK raised concerns about the impact of cancelled appointments, issues relating to the clinically vulnerable and shielding; Disability Action Northern Ireland provided healthcare related advocacy and advice to disabled people

throughout the pandemic; Disability Wales issued a statement to the Chief Medical Officer and Chief Nursing Officer for Wales setting out various demands relating to the provision of healthcare; and Disability Wales raised concerns about people with multiple conditions who were still not identified as clinically vulnerable.

9. The Applicant Group was also said to have a significant interest in Module 3 as a result of the impact of the pandemic on disabled people. The Applicant Group highlighted the number of deaths suffered by disabled people, the higher risk of Covid-19 related death among some disabled people, the differential treatment of disabled people in respect of healthcare, inappropriate use of DNACPRs for disabled people and delays in recognising and responding to barriers to effective communication for disabled people within healthcare systems.
10. The Applicant Group's renewed application sets out helpful further information, which I have considered with care. In summary, the Applicant Group considers that it played or may have played a direct and significant role in healthcare systems. It is said that Disability Action Northern Ireland received funds from the Department of Health to support the implementation of the physical and sensory strategy and to deliver mental health services. The renewal application also highlights the distinction between the Applicant Group and the Disability Charities Consortium ("DCC"), to whom Core Participant status has been granted. The Applicant Group is said to be majority led, directed, governed and staffed by disabled people, whereas the DCC consists of organisations for, rather than run by, disabled people. Finally, the Applicant Group states that there are practical considerations which would support it being designated as a Core Participant in Module 3. As the Applicant Group has Core Participant status in Module 2 it states that it can perform a bridging function, identifying links between disclosure they have reviewed for Module 2 and the impact on healthcare identified in Module 3.

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

11. I have considered with great care everything that is said in the Applicant Group's renewed application. I have also reminded myself of what was said in the original application to enable me to assess the merits of the application for Core Participant status as a whole. Having done so, I consider that although the Applicant Group has a significant interest in Module 3 (Rule 5(2)(b)) that is not sufficient to warrant designation as a Core Participant in circumstances where I consider that the interests

of disabled people can be properly advanced within Module 3 by other organisations, including the DCC, to whom I have designated Core Participant status. I have therefore decided not to designate the Applicant Group as a Core Participant in Module 3.

12. The renewed application is partly made on the basis that the Applicant Group satisfies the Rule 5(2)(a) criteria and the Applicant Group provides further information about the involvement of Disability Action Northern Ireland in supporting the implementation of the physical and sensory strategy and delivering mental health services. I recognise that the Applicant Group will have played an important and valuable role in campaigning and supporting the running of some services for disabled people. However, I remain of the view that the Applicant Group was not sufficiently closely connected with healthcare systems so as to constitute a “direct and significant role” in the context of Module 3 as a whole.
13. In my original determination, I accepted the Applicant Group had a significant interest in Module 3. I remain of that view. As I have previously indicated, however, 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 am also not obliged to designate any particular person or organisation as a Core Participant. I additionally have regard to my duty to act with fairness and with regard to the need to avoid any unnecessary cost to public funds.
14. I am grateful for the further detail provided within the renewed application. I recognise the emphasis which the Applicant Group has placed in distinguishing itself from the DCC on the basis that its members are disabled charities run *by* rather than solely *for* disabled people. However, I remain of the view that, for the purposes of Module 3, the interests of disabled people can be sufficiently and appropriately represented by the DCC. As noted in the Provisional Decision, the DCC has a broad membership of charities which collectively represent individuals across a range of disabilities. I do not consider the Applicant Group’s interests to be sufficiently distinct from the DCC so as to warrant designation as a separate Core Participant, in light of the considerations to which I must have regard in managing this Inquiry efficiently and effectively.
15. I do not accept that the practical considerations to which the Applicant Group refers amount to a good reason to designate it as a Core Participant. As I have made clear, the Inquiry has chosen to take a modular approach, with each module investigated

individually and Core Participant decisions taken on their merits with respect to each module. To place any weight on the fact that the Applicant Group is a Core Participant in Module 2 would risk unfairness to other applicants.

16. I have also taken into account the fact that there are a number of ways in which the Applicant Group can participate in Module 3 without being a Core Participant, many of which have been recognised as adequate alternatives to Core Participant status in other recent statutory inquiries. As I noted in my Provisional Decision, 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, in due course, the Inquiry will seek information from a range of individuals, organisations and bodies to gain their perspective on the issues raised in the modules and, where appropriate, to ask for witness statements and documents.
17. Therefore, having considered all of the information the Applicant Group provided in light of the Provisional Outline of Scope for Module 3, I remain of the view that the interests of disabled people can be properly represented and understood without the granting of Core Participant status to the Applicant Group. I have decided that Disability Rights UK, Disability Wales, Inclusion Scotland and Disability Action Northern Ireland should not be designated as a Core Participant in Module 3 and I confirm that this is my final decision.
18. As stated above, my decision not to designate the Applicant Group as a Core Participant in Module 3 does not preclude the Applicant Group or any of its members 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**

**16 February 2023**