



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION  
MODULE 4 - NHS ENGLAND (NHSE)**

**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 5 June 2023, the Inquiry opened Module 4 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 30 June 2023.
2. The Inquiry has published the [Provisional Outline of Scope](#) for Module 4, which states that this module will consider a range of issues relating to the development of Covid-19 vaccines and the implementation of the vaccine rollout programme in England, Wales, Scotland and Northern Ireland. Issues relating to the treatment of Covid-19 through both existing and new medications will be examined in parallel. Further modules will be announced and opened in due course, to address other aspects of the Inquiry's Terms of Reference.
3. On 29 June 2023 the Inquiry received an application from NHS England ("the Applicant") for Core Participant status in Module 4. 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 4.

### **Summary of Application**

6. The Applicant is NHS England (NHSE). The application sets out that NHSE satisfies the requirements of Rule 5(2)(a) in that it played a direct and significant role in relation to the matters to which Module 4 relates. In particular, the Applicant explains that under section 7A of the National Health Service Act 2006, the Secretary of State for Health and Social Care delegated responsibility to NHSE for the operational delivery of the Covid-19 vaccines deployment programme in England.
7. The Applicant states that it had responsibility for: ensuring that there were enough staff, volunteers and vaccination sites; developing the national approach to workforce training; ensuring vaccination sites had the appropriate facilities; and developing a new national booking service for Covid-19 vaccinations. The application also explains that NHSE was responsible for: delivering the maximum available doses of vaccine (with high uptake in priority groups); ensuring accurate and consistent recording of vaccination events at sites across England (and ensuring timely publication of this information to support public awareness); and ensuring cohesion between Covid-19 and flu vaccine delivery. The application states that NHSE also played a significant role

in clinical trials, including the Recovery trial, to support the rapid testing and deployment of novel therapeutic and antiviral treatments.

8. NHSE further contends that it satisfies the requirements of Rule 5(2)(b) in that it has a significant interest in the matters to which Module 4 relates, including any lessons to be learned in respect of vaccines and therapeutics. This interest is said to be derived from NHSE's system leadership role in the NHS and its statutory duty to exercise its functions with a view to securing continuous improvement of the quality of services and the performance of its duties.

### **Decision for the Applicant**

9. I have considered with great care everything that is said in the application. Having done so, I have decided, in my discretion, to designate NHSE as a Core Participant in Module 4.
10. Module 4 will consider a range of issues relating to the development of Covid-19 vaccines and the implementation of the vaccine rollout programme in England, Wales, Scotland and Northern Ireland. Thematic issues relating to unequal vaccine uptake will be examined, to include the identification of groups which were the subject of unequal uptake, potential causes of such unequal uptake and the Government response. The module will also address issues of public concern relating to vaccine safety and the current system for financial redress under the UK Vaccine Damage Payment Scheme. Issues relating to the treatment of Covid-19 through both existing and new medications will also be examined.
11. I consider that NHSE satisfies the criteria in Rule 5(2)(a). The Applicant played a direct and significant role in relation to the matters to which Module 4 relates because it was responsible for the operational delivery of the Covid-19 vaccine deployment programme in England. Further, it played a direct and significant role in respect of clinical trials supporting the deployment of new treatments for Covid-19. I consider that the Applicant also has a significant interest in these important aspects of Module 4 and therefore satisfies the criteria in Rule 5(2)(b).

## 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 NHSE has appointed Mr Alistair Robertson of DAC Beachcroft as its qualified lawyer in relation to this Module. I therefore designate Mr Robertson as NHSE'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**

**17 July 2023**