



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 5 - DIAGNOSTICS.AI**

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 24 October 2023 the Inquiry opened Module 5 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 17 November 2023.
2. The Provisional Outline of Scope for Module 5 provides that this module will consider and make recommendations regarding the procurement and distribution to end-users across the four nations of the United Kingdom of key healthcare related equipment and supplies, including PPE, ventilators and oxygen. Further modules will be announced and opened in due course, to address other aspects of the Inquiry's Terms of Reference.
3. On 17 November 2023 the Inquiry received an application from diagnostics.ai for Core Participant status in Module 5.
4. I made a provisional decision not to designate diagnostics.ai as a Core Participant in Module 5, thereby declining diagnostics.ai's application ("the Provisional Decision"), on 13 December 2023. Diagnostics.ai was provided with an opportunity to renew the application in writing by 4pm on 21 December 2023.
5. On 21 December 2023, diagnostics.ai submitted a renewed application for Core Participant status in Module 5. This notice sets out my determination of diagnostics.ai's application for Core Participant status in Module 5.

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 5.

Summary of Application

8. Diagnostics.ais original application was made on the basis of Rule 5(2)(b) of the Inquiry Rules 2006. The applicant submits that they have a significant interest in the matters to which Module 5 of the Inquiry relates, particularly in relation to lateral flow and PCR testing protocols including how funds were spent, value achieved and alleged testing inaccuracies (and their resultant impact on public health). The applicant further submits that their technical expertise and direct experience with procurement processes uniquely positions us to engage with the intricacies of the matters at hand, allowing for a depth of questioning and comprehension. The Applicant has been

involved in legal action with DHSC relating to its procurement decision to award a contract for the selection of software for PCR result analysis.

9. In its renewed application, diagnostics.ai restates its understanding that its legal settlement with the government over Covid-19 testing inaccuracies was unique. The applicant emphasises the outsized impact of data analysis for the screening and testing of potentially infected persons, with diagnostics.ai's expertise in this area enabling it to make a unique contribution to this Module. This expertise can also provide insight into decision-making flaws surrounding diagnostic testing procurement. The applicant suggests that its data and experiences offers a lens through which the Inquiry can examine and understand the complexities and implications of diagnostic testing decisions on the general public.

Decision for the Applicants

10. I have considered with great care everything that is said in diagnostics.ai's renewed application. I have also reminded myself of what was said in its original application to enable me to assess the merits of the application for Core Participant status as a whole. Having done so, in my discretion, I do not consider that diagnostics.ai played a sufficiently direct and significant role in relation to the procurement and distribution of key equipment and supplies during the pandemic. Having regard to the provisions of Rule 5(2)(a) and (b) in particular, I have decided not to designate diagnostics.ai as a Core Participant in Module 5.
11. 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 this country could potentially have an interest in it and not everyone can be granted Core Participant status for the purposes of the Inquiry hearings.
12. It is also not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. Diagnostics.ai may have relevant information to give in relation to matters being examined in the Inquiry, and the Inquiry will be contacting a range of individuals, organisations and bodies to seek information, to

gain their perspective on the issues raised in the modules and, where appropriate, to ask for witness statements and documents. For all of those reasons, having considered all of the information provided by diagnostics.ai in light of the Provisional Outline of Scope for Module 5, I have therefore decided that they should not be designated as a Core Participant in Module 5 and I confirm that this is my final decision.

13. I will keep the scope of Module 5 under review. My decision not to designate diagnostics.ai as a Core Participant in Module 5 does not preclude them from making any further applications in respect of any later modules. I will consider any future applications diagnostics.ai 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
12 January 2024