



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION  
MODULE 5 - PROCUREMENT**

**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. On 16 November 2023 the Inquiry received an application from the Welsh Government for Core Participant status in Module 5. This Notice sets out my determination of the application.
3. The Inquiry has published the [Provisional Outline of Scope](#) for Module 5, which states 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.

**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 5.

### **Summary of Application**

6. The application is made by the Welsh Government on the basis of Rule 5(2)(a), (b), and (c).
7. The application submits that the Welsh Government has a direct and significant interest in Module 5 because of its executive competence (alongside the legislative competence of The Senedd) in relation to devolved contracting authorities in Wales (including the NHS).
8. The application states that the Welsh Government:
- (i) is responsible for developing public sector procurement policy in Wales which includes providing procurement policy advice to the Welsh public sector;

(ii) during the pandemic, developed and managed framework agreements which were vital to the procurement of key healthcare equipment and supplies both before and during the pandemic;

(iii) participated on a four-nation basis in the procurement of antibody blood tests processed in laboratories;

(iv) put in place arrangements to procure healthcare equipment and supplies, specifically around PPE;

(v) played a role in ensuring that fraudulent PPE did not reach the Welsh public sector; and,

(vi) established the Critical Equipment Requirements Engineering Team (“CERET”) in March 2020 to respond to the urgent demand for critical items for the NHS and social care, including PPE, medical devices such as ventilators, and cleaning products, with a focus on Welsh manufacturing solutions.

### **Decision for the Applicant**

9. I have considered with great care everything that was said in the application. Having done so, I consider that the Applicant played, or may have played, a significant and direct 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), I have decided to exercise my discretion to designate the Welsh Government as a Core Participant in Module 5.

### **Legal Representation**

10. 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.*

11. I am satisfied that the Welsh Government has appointed Stephanie McGarry of Browne Jacobson LLP as its qualified lawyer in relation to this Module. I therefore designate Stephanie McGarry as the Welsh Government's recognised legal representative in accordance with Rule 6(1).

12. 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' Costs Protocol](#).

**Rt Hon Baroness Heather Hallett DBE**  
**Chair of the UK Covid-19 Inquiry**  
**11 December 2023**