



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 and 17 November 2023 the Inquiry received two applications from the Local Government Association (“LGA”) and the Welsh Local Government Association (“WLGA”) for joint Core Participant status in Module 5. This Notice sets out my determination of those applications.
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 applications for joint Core Participant status are made on behalf of the LGA and the WLGA. The applications are made on the basis of Rule 5(2)(a), (b), and (c).
7. The applications submit that the LGA and WLGA have a significant interest in all aspects of Module 5 on the basis of their membership. The LGA is the national membership representative body for local councils in England. All but two English councils are members of the LGA. The WLGA represents the twenty-two Welsh unitary councils who also have LGA membership through the WLGA. The LGA represents the Welsh unitary councils on non-devolved matters and the LGA and WLGA work closely together on non-devolved and common matters.
8. The applications submit that the LGA and WLGA, on behalf of their members, played a significant role in relation to matters relevant to Module 5 of the Inquiry. The applications state that LGA engaged with government departments and organisations during the pandemic particularly relating to the lack of PPE availability. Further, the

LGA played a significant role in cascading information and guidance relating to procurement and PPE back to councils in England, collaborated with central government on a Procurement Policy Note related to emergency procurement, and, helped to shape DHSC's guidance and communications to ensure they reflected the reality for councils and care providers. The WLGA engaged regularly with local government leaders and senior officials and national partners including Public Health Wales and the Welsh Government, played a central role in coordinating procurement activities across local authorities in Wales to ensure critical equipment was available to supply front line services in Social Care and Education, and coordinated local government input into development of policies and delivery.

9. Finally, the applications state that the LGA, WLGA, their members, and/or the local government sector may be the subject of criticism in Module 5 particularly in relation to procurement, distribution and communication with regards to issuing PPE for frontline workers.

Decision for the Applicants

10. I have considered with great care everything that was said in the applications. Having done so, I consider that the Applicants 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)(a), (b) and (c) in particular, I have decided to exercise my discretion to designate the LGA and the WLGA as joint Core Participants in Module 5.

Legal Representation

11. 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.

12. I am satisfied that the LGA and the WLGA have appointed Thelma Stober of the LGA as their qualified lawyer in relation to this Module. I therefore designate Thelma Stober as the LGA and the WLGA's recognised legal representative in accordance with Rule 6(1).

13. 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