



**NOTICE OF DETERMINATION  
CORE PARTICIPANT APPLICATION  
MODULE 6 - CARE ENGLAND**

**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 12 December 2023 the Inquiry opened Module 6 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 19 January 2024.
2. On 18 January 2024 the Inquiry received an application from Care England (“the Applicant”) for Core Participant status in Module 6. This Notice sets out my determination of the application.
3. The Inquiry has published the [Provisional Outline of Scope](#) for Module 6, which states that this module will examine the impact of the Covid-19 pandemic on the publicly and privately funded adult social care sector (the “Care Sector”) 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.

**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 6.

### **Summary of Application**

6. This application is made by Care England, a registered charity representing 175 providers across 3,000 care services. Care England works on behalf of small, medium and large providers who provide 101,000 care home places across England. The Applicant is part of the Care Provider Alliance, a non-constituted alliance of 10 care associations in England. The Applicant applies for Core Participant status under Rule 5(2)(a) and (b).
7. Care England submits that it played a direct and significant role by having continued communication with government and other key stakeholders across the 8 aspects of the Provisional Outline of Scope for Module 6 through various means. Care England submits that it represents care providers who played an essential role in the response to the Covid-19 pandemic. The Applicant submits that Care England, as an advocate for the sector, had a direct and significant interest in every aspect of the Provisional Outline of Scope.
8. The application raises issues regarding hospital discharge policies, infection prevention and control measures, DNACPR orders, government support funds, funding allocation to Local Authorities, vaccination as a condition of deployment, parity

in Government response between the NHS and adult social care including the role of primary, acute and emergency services within the context of social care settings.

### **Decision for the Applicant**

9. I have considered carefully this application and having done so, I have decided to designate the Applicant as a Core Participant in Module 6.
10. Module 6 will consider the impact of the Covid-19 pandemic on the adult social care sector in England, Wales, Scotland and Northern Ireland. This will include consideration of the consequences of government decision making on those living in adult care and residential homes and those receiving care at home. It will also address the steps taken in adult care and residential homes to prevent the spread of Covid-19 and examine the capacity of the adult care sector to respond to the pandemic. The module will also consider the impact of the pandemic on residents and their loved ones and the impact on staff working within the adult care sector.
11. The application is made on the basis that the Applicant played, or may have played, a direct and significant role in relation to the matters to which Module 6 relates (R5(2)(a)) and that it has a significant interest in important aspects of the matters to which Module 6 relates (Rule 5(2)(b)). I have considered with great care everything that is said in the application. For a number of reasons I consider that the Applicant is well placed to assist the Inquiry to achieve its aims in Module 6. I have therefore decided in the exercise of my discretion to designate the Applicant as a Core Participant in Module 6.

### **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. Rule 7(1) of the Inquiry Rules 2006 provides a process for managing legal representation, and thereby any associated legal costs, of core participants (a) whose interests in the outcome of the inquiry are similar, (b) who are likely to rely on similar facts in the course of the Inquiry, and (c) in relation to whom it would be fair and proper for them to be jointly represented. If I am satisfied that the criteria of Rule 7 are met in respect of any core participants, I must direct that those core participants are represented by a single legal representative.

14. I have designated the National Care Forum and Homecare Association as core participants in this Module. I consider that this Applicant, the National Care Forum and Homecare Association share a similar interest in the outcome of the Inquiry and are also likely to rely on similar facts in the course of the Inquiry for the purposes of Rule 7. Furthermore, it would in my view be fair and proper for them to be jointly represented and I note that in their separate applications they have all in principle instructed Anthony Collins Solicitors LLP and have expressed an intention to work collectively. I therefore direct that the National Care Forum, Homecare Association and the Applicant shall be represented by a single recognised legal representative pursuant to Rule 7, Tim Coolican of Anthony Collins Solicitors LLP.

**Rt Hon Baroness Heather Hallett DBE**

**Chair of the UK Covid-19 Inquiry**

**8 February 2024**