



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6
ROYAL COLLEGE OF NURSING

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 the Royal College of Nursing (“RCN”) (“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. The Applicant sets out that it has a membership of more than half a million registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets. The Applicant is a pan-UK representative group that is the largest representative group of nursing staff in the world. The RCN's members are said to work in a variety of community settings in the NHS and the independent sector, including almost 33,000 nurses who work in the adult social care sector.
7. The application is made on the basis of Rule 5(2)(a) and (b). It is submitted that the Applicant played a direct and significant role in relation to many of the matters to which Module 6 relates. For example, during the pandemic, the Applicant provided support services and ran a call centre, which received over 3,700 calls from members working in the care sector on issues to do with Covid-19. This, the Applicant says, has given it a clear insight into the day-to-day experiences of nurses and other allied health professionals directly relevant to Module 6. It was also heavily involved in the compiling and provision of advice and guidelines and in campaigns and consultations

relevant to the care sector. The Applicant is said to have institutional knowledge and relevant data from research and regular surveys undertaken of its membership. This is said to be in addition to the direct experiences of its members who work on the ground in a variety of care settings across the UK.

8. As for Rule 5(2)(b), the Applicant states that it has a demonstrable and significant interest in important aspects of matters to which Module 6 relates by virtue of its membership being on the frontline of the next pandemic. It is keen therefore to ensure that lessons are identified and reported on and that improvements are made.

Decision for the Applicant

9. I have considered with great care everything that is said in the application. Having done so, I have decided to designate the RCN 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 a direct and significant role in the matters to which Module 6 relates (Rule 5(2)(a)) and has a significant interest in important aspects of those matters (Rule 5(2)(b)). I do not consider that the Applicant played, or may have played, a direct and significant role in the context of Module 6, however, I do find that they have a significant interest in important aspects of the matters being investigated in Module 6. 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. I am satisfied that the Applicant has appointed Matthew Smith of Bates Wells as its qualified lawyer in relation to this Module. I therefore designate Matthew Smith as the Applicant'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' Costs Protocol](#).

Rt Hon Baroness Heather Hallett DBE

Chair of the UK Covid-19 Inquiry

8 February 2024