



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6
REGULATION AND QUALITY IMPROVEMENT AUTHORITY

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 17 January 2024 the Inquiry received an application from the Regulation and Quality Improvement Authority ("RQIA") ("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 application describes the Applicant as an arm's length body of the Department of Health in Northern Ireland ("the Department"). Its general duties, as set out in The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003, are said to be: (a) Keeping the Department informed about the provision of services and in particular about their availability and quality; and (b) encouraging improvement in the quality of services. Nursing and residential care homes are registered services under Part III of the 2003 Order and in accordance with The Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005 the RQIA must arrange to inspect registered premises which provide residential and nursing home care twice within a 12-month period.
7. The application states that as the designated body responsible for the inspection of services registered under Part III of the 2003 Order, including nursing and residential care homes, the Applicant has a significant interest in an important aspect of the

matters to which the Inquiry related (Rule 5(2)(b)), specifically changes in inspection regimes. Further, the application states that there is a clear possibility of the Applicant being subject to explicit or significant questioning (Rule 5(2)(c)). This is argued on the basis of the Applicant's position as a body to whom services users, HSC staff, families of service users and the general public can raise concerns and its role as a body to which health and social care organisations and providers can make protected disclosures.

8. The application also notes that the Applicant will be able to assist the Inquiry by providing detailed knowledge and information in relation to matters such as the legal and regulatory framework, adequacy of methods available to communicate concerns and the issue of physical inspection of services.

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. The application is based on having played a direct and significant role in the matters to which Module 6 relates (Rule 5(2)(a)) and a significant interest in those matters (Rule 5(2)(b)). It is also possible, as the Applicant notes, that the RQIA may be the subject of significant or explicit criticism in due course.
10. Module 6 will consider the impact of the Covid-19 pandemic on the publicly and privately funded adult Care Sector in England, Wales, Scotland and Northern Ireland. It will consider the impact on people's experience of the Care Sector, the structure of same, the key decisions in respect of the Care Sector and the management of the pandemic in adult care and residential homes, including discharge, IPC, testing, availability of PPE, use of DNACPRs and changes to the regulatory regime.
11. I consider that the Applicant played, or may have played, a direct and significant role in the Northern Irish Care Sector's response to the pandemic, satisfying Rule 5(2)(a) of the Inquiry Rules 2006, I am also satisfied that it has a significant interest in important aspects of the matters to which Module 6 relates and thus also satisfies Rule 5(2)(b).

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. The Applicant is invited to confirm the identity of its recognised legal representative, in accordance with Rule 6(1), by **12pm Thursday 15 February 2024**.

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