



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6 - TRADES UNION CONGRESS

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 19 January 2024 the Inquiry received an application from the Trades Union Congress 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 Trades Union Congress ("TUC") has applied for Core Participant status under Rule 5(a) and (b) of the Inquiry Rules 2006. It states that it will be working in partnership with Wales TUC, the Scottish TUC and the Northern Ireland Committee of the Irish Congress of Trade Unions.
7. TUC submits that the following affiliated unions played a direct and significant role in, and have a particular significant interest in, the matters relating to Module 6: UNISON (with around 157,000 members in the social care sector across adult and children care work); GMB (with around 50,000 members in the social care sector) and UNITE (with a broad range of workers within the social care sector). The Applicant asserts that it represent the three largest UK unions with social care membership, and that the TUC, its sister organisations, its affiliated unions and members of those unions played a direct and significant role in the topics listed in the Provisional Outline of Scope. The Applicant outlines examples of how it and its affiliated unions worked on topics in the Provisional Outline of Scope, including (but not limited to): highlighting issues around the structure of the sector; making representations to improve infection control and working conditions; being involved in various working groups and stakeholder meetings; disseminating information and communicating guidance to employers and

workers; helping develop sector-specific guidance; the provision and distribution of PPE in the social care sector; conducting research; fielding concerns and complaints by social care sector staff; supporting workers to raise complaints and concerns about workplace health and safety with employers. The Applicant also highlights that members of the affiliated unions played a direct role in its work in the sector.

8. In relation to significant interest, TUC submits that around 500 social care workers died of Covid-19 in the first year of the pandemic and that those working in nursing homes and community care were more than three times as likely to have died from Covid-19 than the general working population. The Applicant submits that care workers worked in “stressful and traumatic” conditions, experiencing the loss of lives, being required to enforce unpopular rules like limits on visitation and were exposed to risk of infection with inadequate PPE. The Applicant submits that the unequal impacts of the Covid-19 pandemic were keenly felt in the care sector as a result of the demographic of the workforce as the majority were female and more likely to be BAME, older and/or disabled than the rest of the population.

Decision for the Applicant

9. I have considered carefully everything that is said in the application. 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 publicly and privately funded Adult Care Sector in England, Wales, Scotland and Northern Ireland. it will consider the impact on people's experiences 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. The application is put on the basis that the Applicant has played a direct and significant role in the matters to which Module 6 relates (Rule 5(2)(a)) and that the Applicant has a significant interest in an important aspect of the matters to which Module 6 relates (Rule 5(2)(b)).

12. For a number of reasons I consider that the Applicant is well placed to assist the Inquiry to achieve its aims in Module 6. In particular, I bear in mind that the Applicant represents the collective interests of a broad spectrum of people working in the adult social care sector, across all four nations.

Legal Representation

13. 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.

14. I am satisfied that the Applicant has appointed Gerard Stilliard of Thompsons Solicitors as its qualified lawyer in relation to this Module. I therefore designate Gerard Stilliard as the Applicant's recognised legal representative in accordance with Rule 6(1).
15. 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