



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6 - DURHAM COUNTY COUNCIL

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. 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.
3. On 18 January 2024 the Inquiry received an application from Durham County Council (“the Applicant”) for Core Participant status in Module 6.
4. I made a provisional decision not to designate the Applicant as a Core Participant in Module 6, thereby declining the application (“the Provisional Decision”), on 8 February 2024. The Applicant was provided with an opportunity to renew the application in writing by 4pm on Thursday 15 February 2024.
5. The Applicant did not renew the application by the prescribed deadline. Accordingly, this Notice sets out my final decision on the application.

Application

6. 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.*

7. In accordance with the approach set out in my Opening Statement and the Inquiry's [Core Participant Protocol](#), I have 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

8. The Applicant is the first tier authority for County Durham, responsible for public health and adult social care. The application deals extensively with the issue of discharge from hospital into care homes. The application states that the Applicant has one of the highest number of Care Home beds in the country and that a total of 507 people died of Covid-19 in those homes in 2020. The application states that the Applicant was involved in the hospital discharge process, discharging to care homes and has received criticism from Amnesty International for their application of the same. It is submitted that the discharge policy must be examined.

9. The application goes on to consider paragraphs (2), (4), (6), (7) and (8) of the provisional outline of scope. The Applicant states that it can provide evidence relating to the structure of the Care sector and that they were involved in providing support to Care Homes through the purchase of PPE, the supply of staff and through infection control teams created by the Director of Public Health. Given the Applicant's involvement with the local care sector, the application sets out that it can assist with the consideration of changes to inspection regimes.
10. In the circumstances, the application is made on the basis of Rule 5(2)(a), having a direct and significant role; Rule 5(2)(b), having a significant interest in an important aspect and Rule 5(2)(c), potential explicit or significant criticism in that it has already been criticised in the press and by Amnesty International.

Decision for the Applicant

11. I have considered with great care everything that is said in the Applicant's application. Having done so, in my discretion, I consider that the Applicant does not meet the criteria set out in Rule 5 for designation as a Core Participant in Module 6 and, therefore, I have decided not to designate the Applicant as a Core Participant in Module 6.
12. 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 the 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.
13. The application is based on the Applicant having played a direct and significant role in the matters to which Module 6 relates (Rule 5(2)(a)), having a significant interest in an important aspect of those matters (Rule 5(2)(b)) and potentially being the subject of explicit or significant criticism (Rule 5(2)(c)).
14. I do not consider that the Applicant played, or may have played, a direct and significant role in the matters to which Module 6 relates. While I recognise the

important work the Applicant is said to have done and the expertise which the Applicant can offer, I do not consider that the Applicant meets the criteria within Rule 5(2)(a) for the purposes of Module 6. While the Applicant may play a direct role with regards to the Care Sector in County Durham, I do not consider that its role could be said to be significant given the geographical limited nature of the Applicant's remit. Equally, while the Applicant can be said to have an interest in the Care Sector for County Durham, the application does not demonstrate that this interest was "significant" within the meaning of Rule 5(2)(b) and in the context of Module 6.

15. While the Applicant states there may be the potential for it to be criticised, it is too early in the Inquiry for me to determine whether any criticism will be made, particularly whether it might amount to explicit or significant criticism and so Rule 5(2)(c) is not met at this stage. Even if that were not the case, in the exercise of my discretion, and having regard in particular to the need to manage the Inquiry effectively and efficiently, I would decline to designate the Applicant as a Core Participant. I am determined to run the Inquiry as thoroughly and as efficiently as possible, bearing in mind the Inquiry's wide-ranging terms of reference and the need for the Inquiry process to be rigorous and fair. Given the vast numbers of people who were involved with, or adversely affected by, the Covid-19 pandemic, very many people in this country could potentially have an interest in it and not everyone can be granted Core Participant status for the purposes of the Inquiry hearings.
16. For all of those reasons, having considered all of the information provided by the Applicant, in light of the Provisional Outline of Scope for Module 6, I consider that the Applicant did not play a direct and significant role in relation to the matters sought to be investigated in Module 6, nor does it have a significant interest in an important aspect of the matters to which Module 6 relates. I have therefore decided that Durham County Council should not be designated as a Core Participant in Module 6 and I confirm that this is my final decision.
17. It is also not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. The Applicant may have relevant information to give in relation to matters being examined in the Inquiry and the Inquiry will be reaching out in due course to a range of individuals, organisations and bodies to seek

information, to gain their perspective on the issues raised in the modules and, where appropriate, to ask for witness statements and documents.

18. I will keep the scope of Module 6 and the designation of Core Participants under review. My decision not to designate the Applicant as a Core Participant in Module 6 does not preclude it from making a further application in respect of any later modules. I will consider any future applications the Applicant may wish to make on their merits at the time they are made.

Rt Hon Baroness (Heather) Hallett DBE

Chair of the UK Covid-19 Inquiry

27 February 2024