



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6 - NO RECOURSE TO PUBLIC FUNDS COALITION**

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 Provisional Outline of Scope for Module 6 provides 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 19 January 2024 the Inquiry received an application from the No Recourse to Public Funds Coalition (“NRPF”) (“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 15 February 2024.
5. On 14 February 2024, the Applicant submitted a renewed application for Core Participant status in Module 6. This notice sets out my determination of the Applicant’s application for Core Participant status in Module 6.

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 an organisation that focuses on assisting people who have leave to remain subject to a condition that they have no recourse to public funds. In its original application, the Applicant submitted that many people with no recourse to public funds support themselves through agency work, typically as cleaners or care workers. It was said that the impact of the no recourse to public funds condition became acute during the pandemic as a substantial proportion of key workers, who were subject to it, worked in the care sector in low-paid jobs and many relied on zero-hour contracts and were thus unable to access sick pay or financial support through the Job Retention Scheme. They were also unable to access state benefits and housing. This

meant that care workers with no recourse to public funds had to continue working or face destitution, even when required to self-isolate.

9. The original application set out various ways in which the Applicant could assist the Inquiry, particularly in respect of the disparities of the impact of government decisions and policies, during the pandemic, on low-paid migrant workers in the care sector. The Applicant also highlighted the ways in which it brought the issues of key workers with no recourse to public funds to the government's attention, both before and throughout the pandemic. It was further submitted that the Applicant was uniquely placed to assist the Inquiry in Module 6 by: identifying relevant meetings and decision-making to ensure that key information is disclosed and considered; providing contemporaneous evidence and insight into the policy context and impact of those issues on individuals and those they cared for; and identifying relevant witnesses affected by those matters and supporting witnesses to provide relevant evidence to the Inquiry.

10. The renewal application states that my provisional decision to decline the application for CP status rests on a misapprehension that (i) the NRPF policy is not of direct and significant relevance to the care sector in the context of the pandemic; and (ii) the Applicant's expertise in relation to the NRPF's policy and its impacts is too narrow in the context of the wide range of aspects regarding the care sector being considered in Module 6. The Applicant submits in its renewal application that the no recourse to public funds condition is of direct and significant relevance in considering the pandemic experience for care workers and that it follows that the Applicant's interest is a significant one. The Applicant explains that it is not seeking thoroughgoing participation in Module 6, but it does seek to provide subject-matter expert input in relevant aspects of the module that a more generalised focus on care sector workers, or even migrant care sector workers, may otherwise overlook or lack the expertise to interrogate adequately.

Decision for the Applicants

11. I have considered with great care everything that is said in the renewed application by the Applicant and I am grateful to them for taking the time to expand upon their original application. I have also reminded myself of what was said in the original application to enable me to assess the merits of the application as a whole. Having

done so, I remain of the view 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. I acknowledge that the adult care sector across the UK relies heavily on migrant workers, who are often employed in low-paid, precarious jobs, working unsociable hours and on zero-hour contracts. I further acknowledge that these workers may have been disproportionately impacted by government decisions and policies that applied or were made during the pandemic. In particular, I recognise the challenges these workers faced during the pandemic due to their ineligibility for state support or entitlement to sick pay which may have meant that they were unable to stop working during the pandemic, even after testing positive for Covid. I wish to repeat my ongoing commitment, as set out in the Terms of Reference and repeated in my Opening Statement, that inequalities will be at the forefront of the Inquiry's investigations. This will include a focus on the disparities evident in the impact of the pandemic on different categories of people.
13. That being so, I remain of the view that the Applicant does not meet the criteria in Rule 5(2)(a) or (b). Whilst I recognise that the 'no recourse to public funds' policy may be of relevance to the care sector in the context of the pandemic, under Rule 5(2)(a), I have to consider that the applicant played, or may have played, a direct and significant role in relation to the matters to which the inquiry relates. As stated in my provisional decision, whilst I recognise the importance of the work that the Applicant did for its members prior to and throughout the pandemic, I do not consider that the test in Rule 5(2)(a) has been met. As for Rule 5(2)(b), whilst the Applicant may not have an interest in all of the matters being considered in Module 6, I accept that it may have a significant interest in some important aspects such as the impact of the pandemic on those working within the Care Sector, including the unequal impacts on them, and the key decisions made in respect of the Care Sector, including the decisions relating to the discharge of patients from hospitals into care and residential homes.
14. However, in the exercise of my discretion, and having regard in particular to the need to manage the Inquiry effectively and efficiently, I decline to designate the Applicant as a Core Participant. As I said in my provisional determination, 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. I have already granted CP status to a number of Core Participants who I consider are well placed to represent and advance the interests of low paid migrant workers, including those who have no recourse to public funds.

15. I also bear in mind that it is not necessary for an individual or organisation to be a Core Participant in order to provide evidence or assistance to the Inquiry. The Applicant may have relevant information to give in relation to the 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 perspectives on the issues raised in the modules and, where appropriate, to ask for witness statements and documents.
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 have therefore decided that the NRPF Coalition should not be designated as a Core Participant in Module 6 and I confirm that this is my final decision.
17. 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