



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6 - PUBLIC HEALTH WALES

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 17 January 2024 the Inquiry received an application from Public Health Wales (“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 Applicant’s 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 15 February 2024, the Applicant submitted a renewed application for Core Participant status in Module 6. This notice sets out my determination of the 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 original application sets out that Public Health Wales, established in 2009, is the national public health agency in Wales. It works to protect and improve health and well-being and to support the reduction in health inequalities for the people of Wales. The application states that the Applicant played a key role in supporting the care sector during the pandemic by providing specialist advice to the Welsh Government on matters including preventative measures, testing, availability of PPE, access restrictions and IPC and by establishing an Enclosed Setting Cell and national call handling and advice centre. The Applicant was also involved in the monitoring of deaths related to Covid-19 of residents and staff.

9. In its renewed application, the Applicant sets out in greater detail the specialist advice offered to the Welsh Government throughout the pandemic response with regards to testing, incident and outbreak management, IPC, PPE and non-pharmaceutical interventions and ensuring that UK policy was tailored to the Welsh context and supported by effective guidance to the Care Sector. It is submitted that the Applicant prepared, adapted, disseminated and updated professional specialist public health guidance to the Care Sector, with the renewed application referring to work undertaken on admissions policy and testing, and that the Applicant was the key contact for the Care Sector for the provision of reactive and proactive advice. The renewed application also sets out how the Applicant worked in partnership with the Environmental Health Officers of the 22 Welsh Local Authorities. The Applicant submits that it fulfils the requirements of Rule 5(2)(a), (b) and (c).

Decision for the Applicant

10. I have considered with great care everything that is said in the Applicant's renewed application and I am grateful to the Applicant for taking the time to expand upon its original application. Having done so, I consider that the Applicant does meet the criteria set out in Rule 5(2) for designation as a Core Participant in Module 6 and I have decided to designate the Applicant as a Core Participant in Module 6.
11. Taking everything that is said on the Applicant's behalf into account, I am of the view that the Applicant did play, or may have played, a direct and significant role in the matters to which Module 6 relates and has a significant interest in an important aspect of Module 6. While it is too early in the Inquiry for me to determine whether any criticism will be made, I consider there is also the potential for the Applicant to be subject to explicit or significant criticism in Module 6.
12. In reaching my decision, I have had particular regard, in the renewed application, to the extent to which the Applicant was involved with the drafting and provision of specialist public health guidance to the adult care sector, its direct involvement with partners in responding to the pandemic in the context of the care sector, and its provision of advice to the Welsh Government on key issues including testing of social care workers, access to testing for care homes, incident management, infection prevention and control, PPE and non-pharmaceutical interventions. I also consider that

the Applicant is well placed to assist the Inquiry to achieve its aims given the extent to which it collected data on cases of Covid-19.

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 Rhiannon Holtham of NWSSP Legal and Risk Services as its qualified lawyer in relation to this Module. I therefore designate Rhiannon Holtham 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's Costs Protocol](#).

Rt Hon Baroness Heather Hallett DBE

Chair of the UK Covid-19 Inquiry

27 February 2024