



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6 - DEPARTMENT FOR LEVELLING UP, HOUSING AND COMMUNITIES

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 Department for Levelling Up, Housing and Communities (“DLUHC”) (“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 15 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. This application is made by DLUHC. The original application was made on the basis that the Applicant played, or may have played, a direct and significant role in relation to the matters to which Module 2 relates. While acknowledging that the Department of Health and Social Care ("DHSC") is the lead government department for the Care Sector, the application sets out that local government is a key delivery partner and that the Applicant plays a lead role in funding local authorities and provided additional capacity to DHSC during the pandemic.

9. The application sets out that the Applicant, through its funding role, had a direct impact on the experience of people in the Care Sector by making available additional funds necessary to deliver safe levels of care and discharging its statutory role to regulate and monitor the finance and service delivery of local government. It is also set out that the Applicant supported DHSC in funding discharges to Care Homes and was involved in drafting guidance on discharge requirements, conducted exercises to assess stock levels and demands for PPE from care providers, advised DHSC on measures to support IPC in the care setting and advised ministers on the impact of workers moving between settings.
10. The application also sets out that the Applicant has a significant interest in an important aspect of matters to which Module 6 relates through its role in emergency preparedness, risk management and oversight of local authorities and due to the complexity of interaction between the Applicant and DHSC. Finally, the application states that given the evidence and submissions received as part of earlier modules regarding the levels of funding for local governance and the adult care sector, that the Applicant may be subject to explicit or significant criticism during the Inquiry proceedings or in the report, or in any interim report.
11. In its renewed application, the Applicant offered some further submission on the matters covered by Rule 5(2)(a) and 5(2)(b). It is noted that the Applicant has responsibility for how local government funds the Care Sector in England, with the Applicant responsible for setting levels of grants and locally raised income and being responsible through the Spending Review process and sponsorship of the CQC. However, the primary focus of the renewed application is on Rule 5(2)(c). The Applicant draws the Inquiry's attention to aspects of the evidence considered by the Inquiry in Module 2 and public criticism of underfunding of the Care Sector from other bodies. While not accepting these criticisms, the Applicant states it should be afforded Core Participant status to allow it the best opportunity to address any such matters.

Decision for the Applicants

12. I have considered with great care everything that is said in the Applicant's renewed application and I am grateful to DLUHC for taking the time to expand upon its 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.

13. I do not consider that the Applicant played, or may have played, a direct or significant role in relation to the Care Sector in the context of Module 6 (Rule 5(2)(a)), instead noting, as acknowledged in the original application, that the Department for Health and Social Care is the lead government department for the Care Sector, with local government acting as the delivery partner. While acknowledging that the Applicant played a role with regards to funding, it is not considered that it played, or may have played, a direct or significant role in the matters to be covered in Module 6, with the original application noting that the Applicant only had “a degree of responsibility for how local government delivery of social care is funded.” Similarly, the renewed application sets out that “care homes are overseen by the CQC who inspect the quality of care, overseen by DHSC, rather than LAs or DLUHC.” While the Applicant may have played a role with regard to the funding of discharges from hospitals to care homes and assessing stock levels of PPE, it is not considered that this role was direct and significant. Similarly, while the Applicant has a significant interest, it will be appreciated that many government departments, organisations and individuals share that interest and not all can be designated as a Core Participant for the purposes of the Inquiry hearing. I also consider that the interests relied upon are in any event likely to be represented or advanced by others who have been granted such status.
14. While the Applicant states there may be the potential for criticism, 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.
15. 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.

16. It is 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 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.
17. 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 DLUHC should not be designated as a Core Participant in Module 6 and I confirm that this is my final decision.
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