



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6 - NATIONAL CARE ASSOCIATION

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 15 January 2024 the Inquiry received an application from the National Care Association (“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. This application is made by the National Care Association ("NCA"), a not for profit representative body whose membership comprises small to medium sized care providers, incorporating all elements of social care provision across the country. The Applicant has 1200+ members providing 34000+ care home places across England, including provision for older people and those with long term conditions, learning disabilities or mental health problems.
9. The Applicant applies for Core Participant status under 5(2)(a) and 5(2)(b) of the Inquiry Rules 2006. The application states that its sector (and members) were placed at the front line of challenging decisions on social care which include (but are not limited to):

PPE, testing, vaccinations and visiting restrictions. The Applicant states that it can collate important evidence from its membership and the wider sector, which will include care homes, home care, learning disability and support for mental health. The Applicant can also present statements from its workforce, who it states were often vilified with no right to reply.

10. The Applicant submits that government actions regarding Covid-19 had a fundamental impact on its members, its staff and those they support. These actions include (but are not limited to): discharge of residents from hospital to care homes without testing for Covid-19, inadequate government guidance, loss of staff due to vaccination as a condition of deployment and issues with PPE. In its application, the Applicant provide details on the impact of the withdrawal of primary health services from those in receipt of care, visiting restrictions between residents and their loved ones, staff shortages prior to the pandemic, lack of regulatory support from the Care Quality Commission, reliance on agency staff, restricted access to medicines during the pandemic, the use of DNACPRs and data issues.

Decision for the Applicant

11. 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, including residents and loved ones and workers in 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.
12. The application is made on the basis that the Applicant played a direct and significant role in the matters to which Module 6 relates (Rule 5(2)(a)) and has a significant interest in important aspects of those matters (Rule 5(2)(b)). I note that no application has been received from the Care Provider Alliance, of which the NCA and other applicants are members.
13. I have considered with great care everything that is said in the application. Having done so, in my discretion, I have decided not to grant the NCA Core Participant status

in Module 6. I do not consider that the Applicant played, or may have played, a direct and significant role in the context of Module 6, however, I do find that the Applicant has a significant interest in important aspects of the matters being investigated in Module 6. 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. Whilst I recognise the importance of the work that the Applicant does in representing service providers and the assistance it says it can provide to the Inquiry, there are other organisations to whom I have granted CP status who also represent providers of care, including to older people and those with long term conditions, learning disabilities and mental health conditions. I am mindful of the need to manage the Inquiry as effectively and efficiently as possible. It is my view that those organisations are representative and well placed to assist the Inquiry on issues that providers of adult social care faced during the Covid-19 pandemic.

14. 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 National Care Association should not be designated as a Core Participant in Module 6 and I confirm that this is my final decision.
15. 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.
16. 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