



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6**

CARE HOME RELATIVES SCOTLAND AND CHRS LOST LOVED ONES

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 18 January 2024 the Inquiry received an application from Care Home Relatives Scotland (“CHRS”) and CHRS Lost Loved Ones (“the Applicants”) 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.

6. I decided not to designate the Applicant as a Core Participant in Module 6 on 27 February 2024.
7. On 29 February 2024 email correspondence was received from the Applicant asking me to further reconsider my decision. I keep the designation of Core Participants under review. I have therefore decided to reconsider the Applicant's application.

Application

8. 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.*

9. 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

10. This application is by Care Home Relatives Scotland and CHRS Lost Loved Ones, organisations formed in August 2020 to address the "absence of a voice for care

home relatives” in Scotland. The original application sets out that the Applicants consist of groups of 2,000 members and 100 members respectively and that they wish to be granted Core Participant status jointly and in a representative capacity on behalf of their respective members.

11. They emphasise the disproportionate impact the pandemic had on care home residents. Their members witnessed first hand their loved ones deteriorate (as a result, they say, of restrictions on access to care homes) and claim that guidance from the Scottish Government “did not take the general guidance applied to the rest of society”.
12. In the original application, the Applicants state that they performed a leading role in providing a voice for care home relatives and their families during the pandemic and became an unofficial helpline for relatives, providing support throughout the pandemic. The Applicants contacted care home providers, Care Inspectorate, Public Health Scotland and had in excess of 130 meetings with the Scottish Government. Further, members of the Applicants served on several advisory groups, ran online petitions, contributed to Scottish Human Rights Commission statements, held demonstrations, had meetings with the Health Secretary and conducted surveys of members.
13. In the renewed application, the Applicants submitted that three key aspects to the Applicants’ work met Rules 5(2)(a) and 5(2)(b) namely: (i) provision of information and advice to decision makers, in order to guide, influence and direct the development of policy, guidance and legislation, with the renewed application referencing meetings with various members of the Scottish Government, (ii) monitoring and reporting on the implementation of policies and guidance through the use of surveys and (iii) providing support and information to members. The renewed application states that the Applicants have a significant interest in and lobbied the Scottish Government regarding all aspects of the Provisional Outline of Scope of Module 6 and that they are the only organisation in Scotland who could be said to have played such a direct and significant role.

Decision for the Applicants

14. I wish to reiterate my deep sympathy to each and every individual who has experienced the tragic loss of a loved one or been impacted as a consequence of the Covid-19 pandemic.
15. I have considered with great care everything that is said in the renewed application by Care Home Relatives Scotland and CHRS Lost Loved Ones and the email sent on their behalf on 29 February 2024. 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 Applicants do not meet the criteria set out in Rule 5 for designation as a Core Participant in Module 6.
16. When considering whether any applicant satisfies the requirements of Rule 5(2)(a) and (b) I bear in mind the Provisional Outline of Scope for Module 6. Even if the criteria under Rule 5 are met, I have a broad discretion as to whether or not to designate any application as a Core Participant. In exercising that discretion, I consider a range of relevant factors, including whether an applicant is sufficiently representative to be a Core Participant and whether others having a similar interest may be better placed to assist my investigation through designation as a Core Participant.
17. Bearing in mind that context, I am grateful to the Applicants for taking care to set out more detail about their role in their renewed application. While I appreciate the important and commendable work the Applicants undertook to advocate on behalf of care home residents and their families during the pandemic and the evidence that they can provide with regard to impact and the lessons that may be learned from its experience, I consider that they do not meet the criteria in Rule 5(2)(a).
18. I acknowledge that the Chair of the Applicant organisation held meetings with decision makers in relation to visiting guidance in Scotland, which they reviewed and then monitored and therefore played a role in relation to visiting guidance, I am not satisfied, however, that it was a role that was direct and significant. Further, the impact of visiting guidance is just one aspect of the Provisional Outline of Scope for Module 6 and I am not satisfied that the Applicants played a direct and significant role with regard to any of the other aspects of the Provisional Outline of Scope for Module 6.

19. I have also considered whether the Applicants satisfy Rule 5(2)(b). Whilst the Applicants have an interest in the Care Sector, the application has not demonstrated that the interest is “significant” to satisfy Rule 5(2)(b) in the context of the provisional scope of Module 6. I note that the Applicants’ groups were formed in August 2020, some months into the pandemic and at a point where a number of key decisions, which form a significant part of the Provisional Outline of Scope for Module 6, had already been taken. Further, I note that the renewed application makes particular reference to a survey reported in the Scottish Parliament on 13 November 2020 in which 347 of its 2100 members responded. This is in the context of there being in excess of 1,000 care homes in Scotland and approximately 40,000 registered places. Accordingly, I am not satisfied that the Applicants are sufficiently representative or had an interest in the matters outlined in the Provisional Outline of Scope for Module 6 that can properly be described as “significant”.

20. I am satisfied that Rules 5(2)(a) and (b) are not met. Nonetheless even if I am wrong about that, I would have exercised my discretion not to designate the Applicants as a Core Participant given the range of other organisations that I have designated. I consider that other Applicants for Core Participant status are more representative and better placed in any event to advance such interests. I consider that a combination of the John’s Campaign, Care Rights UK, the Patient Association, the Disabled People’s Organisation, Covid Bereaved Families for Justice UK, Covid Bereaved Families for Justice Cymru, Northern Ireland Covid Bereaved Families for Justice and Scottish Covid Bereaved can assist the Inquiry in examining the impact of visiting restrictions in Scotland and across the UK, as well as other matters in the Provisional Outline of Scope. I am also assisted by Counsel to the Inquiry and the Rule 9 evidence collation process. Rule 5(2)(c) does not arise.

21. 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 Applicants as Core Participants. 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.

22. It is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. The Applicants may have relevant information to give in relation to the matters being examined in the Inquiry and the Inquiry will be contacting a wide 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.
23. For all of those reasons, having considered all of the information provided by the Applicants, in light of the Provisional Outline of Scope for Module 6, I consider that the Applicants 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 the Applicants should not be designated as joint Core Participants in Module 6 and I confirm that this is my final decision.
24. I will keep the scope of Module 6 and the designation of Core Participants under review. My decision not to designate the Applicants as a Core Participant in Module 6 does not preclude it from making a further application in respect of any later modules (albeit that the Applicants have stated that they will not be applying in any other module). 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

Reissued 6 March 2024