



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 7 - THE DEPARTMENT FOR EDUCATION**

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 19 March 2024 the Inquiry opened Module 7 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 26 April 2024.
2. On 23 April 2024 the Inquiry received an application from the Department for Education (“the Applicant”) for Core Participant status in Module 7. This Notice sets out my determination of the application.
3. The Inquiry has published the [Provisional Outline of Scope](#) for Module 7, which states that this Module will consider the policies and strategies developed and deployed to support the test, trace and isolate system by the UK Government and the Devolved Administrations. Further modules will be announced and opened in due course, to address other aspects of the Inquiry’s Terms of Reference.

Application

4. 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.*

5. In accordance with the approach set out in my Opening Statement and the Inquiry's [Core Participant Protocol](#), I 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 7.

Summary of Application

6. The application is made on behalf of the Department for Education on the basis of Rule 5(a) and (b) of the Inquiry Rules 2006. In particular, the application submits that the Applicant played a direct and significant role in the matters being covered by Module 7.
7. The Applicant had significant input into many of the key decisions on testing in education, childcare and children's social care settings. The education testing programme was one of the largest and most significant testing programmes. The Department for Education therefore also has a significant interest in the matters to which Module 7 relates. The involvement of the Applicant in testing tracing and isolation included working with Public Health England and NHS Test & Trace on a LFD testing pilot scheme in schools, testing in Higher Education Institutions ("HEIs") (the first use case for LFD based mass asymptomatic testing) and mass asymptomatic testing for staff and pupils in other education settings. The application notes it was one of the largest and most significant testing programmes with the 500 million LFD tests were distributed to schools and colleges October 2020 to March 2022, representing 25.1% of the total number of LFD tests distributed for England. The Applicant also notes it was closely involved in the formulation of policies and decision

making and implementation of programmes in relation to testing in education and childcare settings.

Decision for the Applicant

8. Module 7 will consider a range of issues relating to the policies and strategies developed and deployed to support the test, trace and isolate system by the UK Government and the Devolved Administrations. This will include the capacity and infrastructure which existed and that which was developed, the use of various testing and tracing technologies and the structure of the system and decision making. It will consider testing, tracing and isolation procedures and factors influencing compliance and finally it will address the preservation of infrastructure, capacity and research to improve and develop test, trace and isolate schemes for future pandemics.
9. I have considered with great care everything that is said in the application. Having done so, I have decided, in my discretion, to designate the Department for Education as a Core Participant in Module 7. Given its role in developing testing in educational settings and the proportion of testing that related to alongside its role in the formulation of policies and decision making and implementation of programmes in relation to testing in education and childcare settings, I consider the criteria under Rule 5(2)(a) and (b) are met.

Legal Representation

10. 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.

11. I am satisfied that the Department for Education has appointed Daniel Rapport of Government Legal Department as its qualified lawyer in relation to this Module. I therefore designate Daniel Rapport as the Department for Education's recognised legal representative in accordance with Rule 6(1).

12. 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' Costs Protocol](#).

Rt Hon Baroness Heather Hallett DBE

Chair of the UK Covid-19 Inquiry

17 May 2024