



**NOTICE OF DETERMINATION**  
**CORE PARTICIPANT APPLICATION**  
**MODULE 7 - PUBLIC HEALTH SCOTLAND**

**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 26 April 2024 the Inquiry received an application from Public Health Scotland (“the Applicant”) for Core Participant status in Module 7. This application was made jointly with NHS National Services Scotland. 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. Public Health Scotland (PHS) is the national public health agency in Scotland. Alongside a central advisory role regarding testing, tracing and isolation policy, it's application provides that it was central in the development and rollout of key operational aspects of the testing and tracing procedure in Scotland, including:
- The development and management of Test and Protect.
  - Development, and operation of digital platforms for Test and Protect, including publicly accessible apps and web platforms.
  - Logistics for PCR testing consumables, equipment and laboratories.
  - Commissioning and operation of the National Contact Centre (NCC) providing support to Test and Protect, Covid-19 vaccinations and Covid-19 status certification.
  - Operational delivery of the UK National Testing Programme in Scotland working with UKHSA, local authorities, health boards and Scottish Ambulance Service to ensure access to appropriate Covid-19 testing for the population.

## Decision for the Applicant

7. I have considered with great care everything that is said in the application, which is an application for Public Health Scotland (PHS) to be represented jointly with National Services Scotland (NSS) as a Core Participant in Module 7. Having done so, I have decided, in my discretion, to designate PHS and NSS as a joint Core Participant in Module 7.
8. Module 7 will consider a range of issues relating to the development of Covid-19 testing, tracing and isolation policies and the implementation of Test and Protect in Scotland. This includes the design and the development of policies relating to surveillance, testing and isolation periods in Scotland. It will address the acquisition and management of data relating to testing and contact tracing. It will also consider the operational deployment of testing and tracing services in Scotland. This includes, but is not limited to, the development and distribution of tests, the management of contract tracing data and the development and use of contract tracing apps and web platforms.
9. I consider that PHS satisfies the criteria in Rule 5(2)(a). The Applicant played a direct and significant role in relation to the matters to which Module 7 relates because of its role in Scotland in advising on the development and management of Test and Protect, the operational delivery of testing and tracing, and the management of the microbiology, virology, testing and surveillance infrastructure. Further, I consider that the Applicant also has a significant interest in these important aspects of Module 7 and therefore satisfies the criteria in Rule 5(2)(b). I also accept the Applicant's submission that Rule 5(2)(c) is 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 Public Health Scotland and NHS National Services Scotland have jointly appointed Mr Robbie Wightman of the NHS Scotland Central Legal Office as their qualified lawyer in relation to this Module. I therefore designate Mr Robbie Wightman as Public Health Scotland and NHS National Services Scotland'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**