



**NOTICE OF DETERMINATION**  
**CORE PARTICIPANT APPLICATION**  
**MODULE 7 - THE SCOTTISH HEALTH BOARDS**

**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 24 April 2024 the Inquiry received an application from the Scottish Health Boards (“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 Applicant comprises Scotland's fourteen territorial health boards together with five national non-geographic special health boards.
7. The application is brought on the basis that the approach in Scotland differed to that taken in the other devolved nations. In Scotland, the system was not delivered through outsourcing; rather, it was delivered principally by the Scottish Health Boards. For that reason, the Scottish Health Boards had significant involvement in the implementation of the Scottish test, trace and isolate system.
8. Examples of the Boards' involvement in the test, trace and isolate system, at both a local and national level, are listed in the application and include:
- Implementation of government guidance and policies in relation to testing, tracing and isolation, and development of associated procedures.
  - Provision of Test and Protect services, including contact tracing, to the Scottish population.
  - Decision-making on local budget allocations.
  - Sourcing, recruiting, and deploying staff into test and trace roles.
  - Hosting the National Regional COVID testing hubs.

- Management of the Mobile Testing Units, supported by the armed forces.
- Collaboration with local authorities through Health and Social Care Partnerships.
- Liaising with national bodies, for example, through the Test and Protect Steering Group Board, and the Incident Management Team.

### **Decision for the Applicant**

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 Scottish Health Boards as a Core Participant in Module 7.
  
10. Module 7 will consider a range of issues in relation to the implementation of test, trace and isolate policies in the UK. This includes, but is not limited to, the policies and strategies developed and deployed throughout the pandemic, the capacity of the systems that were implemented and their effectiveness. The Scottish Health Boards were involved with the development and operational delivery of Test and Protect in Scotland, played a role in the delivery of testing hubs, provided contact tracing services, and developed policies and guidance on testing, tracing and isolation.
  
11. I consider that the Scottish Health Boards meet the criteria in Rule 5(2)(a) in that they played a direct and significant role in the matters to which Module 7 relates in Scotland. I also consider that the Applicant meets the criteria in Rule 5(2)(b), as they have a significant interest in these important aspects of Module 7.

### **Legal Representation**

12. 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.*

13. I am satisfied that the Scottish Health Boards have appointed Elaine Coull of the NHS Central Legal Office as their qualified lawyer in relation to this Module. I therefore designate Elaine Coull as the Scottish Health Boards' recognised legal representative in accordance with Rule 6(1).

14. 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**