



**NOTICE OF DETERMINATION**  
**CORE PARTICIPANT APPLICATION**  
**MODULE 8 - CHILDREN AND YOUNG PEOPLE**  
**ARTICLE 39**

**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 21 May 2024, the Inquiry opened Module 8 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 17 June 2024.
2. The Inquiry has published the [Provisional Outline of Scope for Module 8](#), which states that this module will examine the impact of the pandemic on children and young people across society in the UK, including in education, health and social care, the criminal justice system and the immigration system. Module 8 will also examine the extent to which children and young people were considered as part of decision-making in response to the pandemic and the wider and long term impact of those decisions on children and young people. Further Modules will be announced and opened in due course, to address other aspects of the Inquiry's Terms of Reference.
3. On 17 June 2024, the Inquiry received an application from Article 39 ("Article 39" or the "Applicant") for Core Participant status in Module 8.
4. I made a provisional decision not to designate Article 39 as a Core Participant in Module 8 ("the Provisional Decision"), on 8 July 2024. Article 39 was provided with an opportunity to renew the application in writing by 4pm on 15 July 2024.

5. On 15 July 2024, Article 39 submitted a renewed application for Core Participant status in Module 8. This notice sets out my determination of the application for Core Participant status in Module 8.

## **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 8.

## **Summary of Application**

8. Article 39's original application stated that it is a small independent charity which takes its name from Article 39 of the United Nations Convention on the Rights of the Child, which grants every child who has been abused or suffered other rights violations the right to recover in environments where their health, self-respect and dignity are nurtured. Article 39's work is focussed on advocating for the rights of children living in

state and privately-run institutions in England (children's homes, mental health units, boarding and residential schools, immigration detention, mental health inpatient units, prisons and supported accommodation), and its work during the pandemic concentrated in particular on the regulation of these environments. The original application stated that Article 39 has a unique contribution to make to Module 8 of the Inquiry, having brought a legal challenge to the UK Government's decision during the pandemic to introduce the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. Through this litigation and its wider advocacy in relation to these issues, Article 39 stated that it played a role in seeking to preserve children and young people's access to social care services during and since the pandemic.

9. The Applicant's renewed application provides helpful further submissions and information, which I have considered with care. In its renewed application, Article 39 states that children in institutional settings, including those detained in mental health and custodial institutions, are particularly vulnerable because of their isolation, which was exacerbated during the pandemic. It describes a series of specific actions it took between April 2020 and October 2021 which demonstrate that it led children's rights advocacy on behalf of key groups of highly vulnerable children and thus played a direct and significant role in matters to be considered by Module 8. This included facilitating online peer support sessions for independent advocates, challenging the amendments contained in the Adoption and Children (Coronavirus) (Amendment) Regulations 2020, making submissions on children in care, children in custody and children detained under the Mental Health Act 1983 to a Joint Committee on Human Rights inquiry and lobbying Government Ministers in respect of the treatment of children in custody.
10. Article 39 further submits in its renewed application that none of the organisations granted Core Participant status for Module 8 played a direct and significant role in challenging the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. It states that none of the organisations granted Core Participant status have a specific remit in respect of the rights of children in institutional settings and therefore its assistance to the Inquiry would be unique and complementary.

## **Decision for the Applicant**

11. I have considered with great care everything that is said in Article 39's renewed application. I have also reminded myself of what was said in the original application to enable me to assess the merits of the application for Core Participant status as a whole. Having done so, in my discretion, I consider that Article 39 does meet the criteria set out in Rule 5 for designation as a Core Participant in Module 8 and, therefore, I have decided to designate Article 39 as a Core Participant in Module 8.
  
12. Module 8 is concerned with the impact of the pandemic on children and young people in the UK. As part of this, it will examine the impact of the pandemic on children and young people in various institutional settings, including children and young people in care and those in the youth custody estate.
  
13. Taking everything that is said on Article 39's behalf into account, including the further details provided in the renewed application, I am of the view that Article 39 did play, or may have played, a direct and significant role in and/or has a significant interest in an important aspect of the matters to which Module 8 relates. In reaching my decision, I have had regard to the position of children and young people in institutional settings, their particular vulnerability, especially during the pandemic, and the potential challenges in enabling their voices to be heard. I have taken into account the specific expertise of Article 39 and the actions it took during the pandemic to protect the rights of this vulnerable cohort.
  
14. I am now persuaded that Article 39 is well-placed to assist the Inquiry in respect of Issues 2, 5, 6, 7 and potentially also 3 and 4 of the Provisional Outline of Scope and have decided in the exercise of my discretion to grant it Core Participant status.

## **Legal Representation**

15. 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.*

16. I am satisfied that Article 39 has appointed Chris Callender as its qualified lawyer in relation to this Module. I, therefore, designate Chris Callender as the Applicant's recognised legal representative in accordance with Rule 6(1).

17. 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's Costs Protocol](#).

**Rt Hon Baroness Heather Hallett DBE**

**Chair of the UK Covid-19 Inquiry**

**21 August 2024**