



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

**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. On 17 June 2024, the Inquiry received an application from the Office of Qualifications and Examinations Regulation (Ofqual) for Core Participant status in Module 8. This Notice sets out my determination of the application.
3. 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.
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## Application

5. 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.*

6. 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 8.

## Summary of Application

7. The Applicant is the Office of Qualifications and Examinations Regulation (Ofqual), who are the independent regulatory body responsible for regulating qualifications, examinations and assessments in England.
8. The application is made pursuant to Rule 5(2)(a), (b) and (c) of the Inquiry Rules 2006. The Applicant submits that it played a direct and significant role in relation to the matters that the Inquiry will investigate in Module 8, that it has a 'significant interest' in an important aspect of those matters and it may be subject to explicit or significant criticism during the Inquiry proceedings or in its report.

9. In particular, the Applicant submits it was involved in discussions and decision making alongside the Department for Education regarding examinations in the summer of 2020 and 2021, and designed and implemented the regulatory frameworks under which qualifications were awarded. The Applicant also notes that its equivalent body, the Scottish Qualification Authority (SQA) has been granted Core Participant status in the Scottish Covid-19 Inquiry.

### **Decision for the Applicant**

10. I have considered with great care everything that is said in the application. Having done so, I have decided to designate the Applicant as a Core Participant in Module 8. With regard to the provisions of Rule 5(2), I am satisfied that Ofqual played a direct and significant role in the matters to which Module 8 relates and has a significant interest in an important aspect of the matters to be examined in this Module.
11. The Applicant played a significant role in discussions and decision making (with the Department for Education) in relation to examinations in the summer of 2020 and 2021 and in the design and implementation of the regulatory frameworks under which qualifications were awarded. The Applicant therefore meets the criteria in Rule 5(2)(a), and (b) of the Inquiry Rules: (a) it played a direct and significant role in several of the areas under consideration in this Module; and (b) it has a significant interest in those matters.
12. The application is also made on the basis of Rule 5(2)(c), however, as the Applicant acknowledges, it is too early in the Inquiry's proceedings whether Ofqual may be subject to explicit or significant criticism during the Inquiry proceedings or in any report. In any event, the Applicant satisfies the other limbs of Rule 5(2) and I intend to grant Core Participant status on this basis.

### **Legal Representation**

13. 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.

14. I am satisfied that the Applicant has appointed Andrea McMahon of Gowling WLG as its qualified lawyer in relation to this Module. I therefore designate Andrea McMahon as Ofqual's recognised legal representative in accordance with Rule 6(1).

15. 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**

**8 July 2024**