



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 6 - HM TREASURY**

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 12 December 2023 the Inquiry opened Module 6 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 19 January 2024.
2. On 4 October 2024 the Inquiry received an application from His Majesty's Treasury ("HMT") for Core Participant status in Module 6. This Notice sets out my provisional decision on the application.
3. The Inquiry has published the [Provisional Outline of Scope](#) for Module 6, which states that this module will examine the impact of the Covid-19 pandemic on the publicly and privately funded adult social care sector (the "Care Sector") in England, Wales, Scotland and Northern Ireland. 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 6.

Summary of Application

6. The Applicant states that it performs a central role in setting budgets and applying spending controls for Government departments. Specifically, with regards to the adult social care sector, the Applicant notes that it approved funding for the Infection Control Fund, the Enhanced Discharge scheme, the Rapid Testing Fund and, in conjunction with other government departments, provided grants to local authorities.
7. The Applicant also notes that it was involved in discussions around proposed restrictions on staff movement and financial support for workers. In light of the foregoing, and a Rule 9 request received from the Inquiry dated 29 August 2024, the Applicant asserts that it meets the direct and significant role criteria (Rule 5(2)(a)) and the significant interest criteria (Rule 5(2)(b)). The application also refers to criticism from Core Participants made during oral submissions at the first Preliminary Hearing into Module 6 on 19 March 2024 and states that they may be the subject of explicit or significant criticism sufficient to justify a grant of Core Participant status (Rule 5(2)(c)).

Provisional Decision

Whether the application should be considered out of time

8. Renewed applications for Core Participant status made outside the Inquiry's timescales are considered in line with paragraph 10 of the Inquiry's Core Participant Protocol which provides:

When inviting applications, the Inquiry will set a timeframe for applications to each module, or part of a module. Applicants are asked not to submit applications outside of the timelines given by the Inquiry. The Inquiry will not consider applications that are outside the timescales provided by the Inquiry, unless the applicant provides an acceptable explanation as to why they did not submit their application within the relevant timeframe.

9. In accordance with the approach set out in my Opening Statement and the Inquiry's Core Participant Protocol, I have considered whether the Applicant has provided an acceptable explanation as to why they did not submit this application within the relevant timeframe.
10. On 4 October 2024, the Applicant applied for Core Participant status. The deadline for any application for Core Participant status in Module 6 was 19 January 2024. The application is therefore significantly out of time, some 259 days after the deadline expired.
11. The aim of this Inquiry is to provide prompt and useful reports and recommendations. To achieve that aim, I must impose firm deadlines at different stages of the Inquiry. Compliance with those deadlines is important to ensure that the challenging timetable will be met. I also have to consider the need to be fair to all Applicants who have made their application for Core Participant status within the time period available as well as those who have made applications outside the application window and more generally that there is no unfair advantage obtained by a late application.
12. I therefore have first considered whether the Applicant has provided an acceptable explanation for the failure to comply with the deadline imposed. The Applicant states that they elected not to apply for Core Participant status prior to the deadline as there was no reference to the issue of funding in the Provisional Outline of Scope for Module 6. The Applicant asserts that this decision was reconsidered following receipt of a Rule 9 request dated 29 August 2024 which asked a series of questions relating

to the funding of the adult social care sector and a series of pandemic related mitigations. As a consequence, the Applicant relies on what they assert is a change in the scope of Module 6.

13. There has been no change in the scope of Module 6 and the fact that the Applicant received a Rule 9 request seeking information relevant to the funding of the adult social care sector does not mean that the scope has been amended. Many witnesses and organisations hold information which is likely to assist Module 6's examination of the impact of the pandemic on the adult social care sector but it does not follow that in receiving a Rule 9 request the requirements of Rule 5 are or will be satisfied and/or that the scope has changed. The role of witnesses and core participants is different. Given that there has been no change to the scope of Module 6, I consider that the Applicant has not provided an acceptable explanation as to why it failed to comply with the deadline.

14. For completeness, 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 6.

The substance of the application

15. I have considered with great care everything that is said in the application made by His Majesty's Treasury. Having done so, in my discretion, I consider that the Applicant does not meet the criteria set out in Rule 5 for designation as a Core Participant in Module 6 and, therefore, I would have decided not to designate the Applicant as a Core Participant in Module 6 had an application been made in time.

16. While acknowledging that the Applicant played a role with regards to funding the adult social care sector, which provides important context, I do not consider that they played, or may have played, a direct or significant role in the matters to be covered in Module 6. Similarly, while the Applicant has an interest in the adult social care sector, and thus is in a similar position to many other government departments organisations and individuals, I do not consider that they have a significant interest in an important aspect of Module 6. In my view therefore the Applicant does not satisfy the requirements of Rule 5(2)(b)).

17. While the Applicant states that there may be the potential for them to be criticised, it is too early in the Inquiry for me to determine whether any criticism will be made, particularly whether it might amount to explicit or significant criticism warranting the designation of core participant status. Further, I note that some of the potential criticisms identified in the application would appear to relate to matters which are outside the Provisional Outline of Scope for Module 6. Accordingly, Rule 5(2)(c) is not met at this stage.

18. Even if that were not the case, in the exercise of my discretion, and having regard in particular to the need to manage the Inquiry effectively and efficiently, I would decline to designate the Applicant as a Core Participant. I am determined to run the Inquiry as thoroughly and as efficiently as possible, bearing in mind the Inquiry's wide-ranging terms of reference and the need for the Inquiry process to be rigorous and fair.

19. As set out above, it is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. By virtue of the Rule 9 request, the Applicant has relevant information to give in relation to the matters being examined in the Inquiry and can assist the Inquiry by responding to the Rule 9 Notice dated 29 August 2024.

20. I will keep the scope of Module 6 and the designation of Core Participants under review. My decision not to designate HMT as a Core Participant in Module 6 does not preclude it from making a further application in respect of any later modules. I will consider any future applications HMT may wish to make on their merits at the time they are made.

Rt Hon Baroness Heather Hallett

Chair of the UK Covid-19 Inquiry

31 October 2024