



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 1 - BRITISH MEDICAL ASSOCIATION**

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 the same day, the Inquiry opened Module 1 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 16 August 2022.
2. The [Provisional Outline of Scope](#) for Module 1 provides that this module will examine the resilience and preparedness of the United Kingdom for a Coronavirus pandemic. Further modules will be announced and opened in due course, to address other aspects of the Inquiry's Terms of Reference.
3. On 16 August 2022 the Inquiry received an application from the British Medical Association ("BMA") for Core Participant status in Module 1.
4. I made a provisional decision not to designate the BMA as a Core Participant in Module 1, thereby declining the BMA's application ("the Provisional Decision"), on 7 September 2022. The BMA was provided with an opportunity to renew the application in writing by 4pm on 16 September 2022.
5. On 16 September 2022, the BMA submitted a renewed application for Core Participant status in Module 1. This notice sets out my determination of the BMA's application for Core Participant status in Module 1.



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 1.

Summary of Application

8. The BMA's original application stated that the BMA is a trade union for doctors in the UK. It is officially recognised by the government for collective bargaining purposes at both national and local levels. It represents, supports and negotiates on behalf of all doctors and medical students in the UK and has over 160,000 members.



9. The original application further stated that, during the pandemic, doctors and other public health and healthcare staff worked tirelessly to safeguard the nation's health within underfunded, understaffed and underprepared systems, often experiencing daily exposure to a deadly virus with inadequate protection. It also noted that the impact of the pandemic on the medical workforce across the UK cannot be underestimated and that doctors and healthcare staff have been placed under unprecedented pressure by the workload required to care for huge influxes of patients and have experienced distress and injury as a result. As for the BMA itself, the application noted that it has worked non-stop to protect and support its members through a period in which they have never been more critical to the functioning of the NHS or the health of the nation. The BMA has been engaged in advocating in numerous ways in relation to measures concerned with PPE, procurement, the rights of dependents of medical personnel to remain in the UK, care packages, lockdown and other restrictions and the delivery of vaccines. It continues to support members through the after effects of the pandemic in terms of wellbeing and burnout, the impact of long COVID and employers' responsibilities through health and safety law. The application argued that the BMA has had a direct and significant role and has a significant interest in matters to be examined in Module 1 including, disease characteristics and epidemiology, lessons learned and past simulations, planning and structure and capacity of health services. The BMA is seeking to ensure better preparedness for future pandemics.

10. In its renewed application, the BMA states that it and its membership have played a direct and significant role in examining the historic resilience and preparedness of the public health and healthcare systems of the United Kingdom to withstand a health emergency; it provides evidence of the BMA's research and expertise on contributing to local and national policies in respect of public health and the NHS's preparedness. The renewed application continues that senior elected BMA members have been part of emergency preparedness and major incident management, including the Government's Emergency Preparedness, Resilience and Response Clinical Reference



Group (a group that provides medical advice to the Secretary of State and to Cobra in an emergency). The renewed application adds that senior elected BMA members were stakeholders in a number of pandemic preparedness simulations: Exercises Cygnet and Cygnus in 2016, a simulation exercise about pandemic preparedness, and Exercise Pica in 2018, which considered NHS primary care pandemic preparedness. The BMA was also consulted on the NHS Guidance on pandemic flu in 2013, and by NHS England in relation to an NHS Surge and Triage discussion paper on pandemic preparedness in 2017. The BMA and its membership are said to be uniquely placed to provide a perspective on the capacity and system issues within the public health and health service prior to the pandemic. The BMA avers that it and its members have a significant interest in Module 1, which is demonstrated not only by the composition of its membership but by the reviews it has conducted in respect of the matters to which Module 1 relates.

Decision for the Applicant

11. I have considered with great care everything that is said in the BMA'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 the BMA does meet the criteria set out in Rule 5 for designation as a Core Participant in Module 1 and, therefore, I have decided to designate the BMA as a Core Participant in Module 1.

12. Module 1 is primarily concerned with the core systems and structures within the United Kingdom for preparedness and resilience for an event such as the Covid-19 pandemic, and with high-level pandemic resilience, preparedness and planning. It will examine whether the correct structures, bodies, procedures and policies were in place at UK and at regional and national levels, and look at their history, development, co-operation and performance. In terms of inquiring into pandemic planning, this will include examination of the forecasting processes, the extent to which lessons were



learned from knowledge of actual events and simulated exercises, the degree of readiness preparation and the general resources that were available. The Module is therefore concerned with how the relevant entities prepared and whether they were ready by way of general response.

13. Taking everything that is said on the BMA's behalf into account, I am of the view that the BMA 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 1 relates. In reaching my decision, I have had particular regard, in the renewed application, to the focus, depth and standing of the BMA's contribution to policy and research and its members' roles in relation to the resilience and preparedness of the United Kingdom's public health services. This is directly relevant to Issues 3 and 4 of the Provisional Outline of Scope for Module 1. I also consider that the BMA is well placed to assist the Inquiry to achieve its aims in that it represents, through its significant membership, a wide-ranging voice of a section of the medical profession.

Legal Representation

14. 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.

15. I am satisfied that the BMA has appointed Brian Stanton of Innovo Law Ltd as its qualified lawyer in relation to this Module. I, therefore, designate Brian Stanton as the BMA's recognised legal representative in accordance with Rule 6(1).

16. 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

28 September 2022