



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - FRONTLINE MIGRANT HEALTH WORKERS GROUP

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 8 November 2022, the Inquiry opened Module 3 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 5 December 2022.
2. The Inquiry has published the [Provisional Outline of Scope](#) for Module 3, which states that this module will consider the impact of the Covid-19 pandemic on healthcare systems 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.
3. On 5 December 2022 the Inquiry received individual applications from the Independent Workers Union of Great Britain ("IWGB"), the United Voices of the World ("UVW") and Kanlungan Filipino Consortium ("Kanlungan") ("the Applicants").
4. I made a provisional decision not to designate any of the Applicants as Core Participants in Module 3, thereby declining each of their individual applications ("the Provisional Decisions"). The decision in relation to IWGB is dated 11 January 2023, the decision with respect to UVW is dated 13 January 2023 and the decision with respect to Kanlungan is dated 16 January 2023. Each of the Applicants was provided with an opportunity to renew their application in writing within seven days of the date of the Provisional Decisions. Following a request from the Applicants, the Inquiry extended

these deadlines. On 24 January 2023, IWGB and UVW submitted a joint renewal application for Core Participant status in Module 3, seeking designation as the Frontline Migrant Health Workers Group (“FMHWG”). On 27 January 2023 Kanlungan submitted a separate application seeking designation as a Core Participant as part of FMHWG. This notice sets out my determination of the Applicants’ applications, considered together as a joint application as FMHWG, for Core Participant status in Module 3.

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 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 3.

Summary of Application

7. IWGB is described as a trade union founded by Latin American cleaners in 2012. Its membership includes couriers, charity workers, cleaners, security officers, nannies, university workers, foster carers, and private hire drivers. Members are said to overwhelmingly be from minority backgrounds in low-paid employment. IWGB was

said to have played a direct and significant role in the matters to which Module 3 relates and have a significant interest in an important aspect of the matters to which the Inquiry relates. Three specific groups of workers represented by the IWGB were mentioned, as well as the specific issues they experienced. These groups included cleaners, couriers and private drivers. Each of these were said to have experienced specific issues exposing them to the risk of infection of Covid-19 in the course of undertaking their work.

8. UVW is described as a national trade union which organises low paid, migrant workers and precariously employed workers on short term contracts or working in the gig economy. Its members include cleaners, security guards, caterers and porters in the NHS. UVW's application was put on the basis that it played a direct and significant role in the matters to which Module 3 relates and had a significant interest in an important aspect of the Module. UVW stated its desire to highlight the impact of the pandemic on precarious, frontline, migrant and outsourced workers. UVW members were said to have been required to source their own PPE and the application explained that the UVW would be able to set out how they did this, how they distributed it and the failure of the outsourced companies and the NHS to provide properly for it.
9. Kanlungan describes itself as a registered charity consisting of several Filipino and Southeast and East Asian grassroots community organisations working closely together for the welfare and interests of migrants, refugees, and diaspora communities from the Philippines and Southeast Asia living in the UK. The application was put on the basis that it had both a significant interest and played a direct and significant role in relation to the matters to which Module 3 relates. The application described how in May 2020, about 20,000 Filipinos worked for the NHS, the largest national group after British and Indian workers. Despite comprising only 3.8% of the nursing workforce, by this time it is said that they accounted for 22% of Covid-19 deaths among nurses. The application stated that the Kanlungan's lobbying work led to Covid-19 public health information being translated into Tagalog, the NHS setting up a Filipino language helpline for staff and further research into the impact of Covid-19 on ethnic minority workers.
10. Through its joint renewed application, helpful information is provided on the distinction between the workers represented by the Applicants and those within the

Trade Union Congress (“TUC”) or the Federation of Minority Healthcare Workers (“FEMHO”). While the TUC and FEMHO are said to represent those in traditional employment or directly employed by the NHS, the Applicants are described as grassroots, member-led organisations. It is said that neither FEMHO nor the TUC have as much knowledge on the issues pertaining to low-paid workers within the healthcare system such as private hire drivers, cleaners, security guards, couriers and caterers (which together UVW and IWGB represent). It is said to be vital for the Inquiry to hear from members of these groups who are employed in the NHS, but particularly those employed by outsourced companies that service the NHS, whose working terms and conditions are said to be worse than those workers from established trade unions directly employed by the NHS itself. Kanlungan has explained further that it is a consortium of 11 grassroots community organisations. Its membership is also said to be primarily drawn from those in low-paid and precarious employment and Kanlungan’s work with those employed under outsourced contracts and with undocumented migrants is directly highlighted as demonstrating a distinction between it and FEMHO, which is said to be an umbrella organisation primarily consisting of professional bodies working within the NHS.

Decision for the Applicant

11. I have considered with great care everything that is said in the Applicants’ renewed application. I have also reminded myself of what was said in the original applications to enable me to assess the merits of the application for Core Participant status as a whole. Having done so I consider that together the Applicants do meet the criteria set out in Rule 5(2), and I have decided to designate FMHWG as a Core Participant in Module 3.

12. Taking everything that is said on the Applicants’ behalf into account, I am of the view that the Applicants did play, or may have played, a direct and significant role in and have a significant interest in an important aspect of the matters to which Module 3 relates. In reaching my decision, I have had particular regard, in the renewed application, to the distinction drawn between the Applicants and other groups who have been designated as Core Participants in Module 3, such as the TUC and FEMHO. I accept that the individuals represented by the Applicants, namely those in predominantly low paid roles, migrants and precariously employed workers on short

term contracts within healthcare systems would not fall within the membership of the TUC and/or FEMHO. I recognise that those employed within healthcare systems, though not in mainstream healthcare roles, played an important role in the healthcare response to the Covid-19 pandemic. This is directly relevant to paragraph 7 of the Provisional Outline of Scope for Module 3. I have come to the view that the Applicants' interest, and those of its members, are sufficiently distinct from those of the TUC and FEMHO as to warrant designation as a separate Core Participant, taking account of the considerations to which I must have regard in managing this Inquiry efficiently and effectively.

13. I also consider that the Applicants, taken together as the FMHWG, are well placed to assist the Inquiry to achieve its aims through its wide-ranging voice on issues such as the impact of the pandemic on those working within healthcare systems during the pandemic, including any differential treatment related to characteristics such as ethnicity, race, immigration status and language barriers.

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 Applicants have appointed Helen Mowatt of Public Interest Law Centre as its qualified lawyer in relation to this Module. I therefore designate Helen Mowatt as the FMHWG'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

16 February 2023