



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - PATIENT WELFARE 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 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 2 December 2022 the Inquiry received an application from Patient Welfare Association ("the Applicant") for Core Participant status in Module 3.
4. I made a provisional decision dated 16 January 2023 not to designate the Patient Welfare Association as a Core Participant in Module 3, thereby declining the Applicant's application ("the Provisional Decision"). The Applicant was provided with an opportunity to renew the application in writing by 4pm on 23 January 2023.
5. On 24 January 2023 the Applicant submitted a renewed application for Core Participant status in Module 3. Although the renewed application was received late, I nevertheless proceeded to consider it. This notice sets out my final determination of the Applicant's application for Core Participant status in Module 3.

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 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

8. The original application states that the Applicant is an unincorporated association established as a result of concerns about the care of Bangladeshi patients in the NHS. It is said that the Applicant assists those patients in the NHS to understand their rights. The Applicant states that it has about 1,000 people – mainly of Bangladeshi origin – who have posted comments on the Association's Facebook page. The application is put on the basis that the Applicant is not aware of any other organisation that is representing this particular ethnic minority group (which numbers about 650,000 in the United Kingdom) in relation to the Inquiry; it is therefore said that the Applicant is well placed to participate on behalf of the Bangladeshi community. The application refers to a number of published documents regarding healthcare inequalities;

including research that is said to show that, in the first wave of the pandemic, all ethnic minority groups had a higher risk of death than the white British population and, in the second wave, the risk of death in South Asian populations remained higher than the white British population. The application also explained that the Applicant made representations to an NHS Trust responsible for the management of five East London hospitals, bringing about a change in policy.

9. The application was put on the basis that the Applicant should be represented in Module 3 because, as the Covid-19 pandemic unfolded, the Applicant played a role in the matters identified in the Provisional Outline of Scope for Module 3, namely, the response of healthcare systems and health-related inequalities affecting the Bangladeshi community and it had and continues to have a significant interest in those matters.
10. The Applicant's renewed application provides helpful further information, which I have considered with care. In summary, the Applicant highlights several issues which those within its membership came across during the Covid-19 pandemic, said to arise from healthcare systems, to support the contention that it has a significant interest in Module 3. The Applicant explains how many within its community were unable to communicate effectively in healthcare systems or question the appropriate level of care to be provided. The Applicant also sets out how those within its community from a Bangladeshi and Islamic background were particularly impacted by cultural or religious factors which conflicted with the way healthcare systems are said to have operated, such as the need to conduct post-mortem investigations delaying burials and infection control measures preventing the children of those in hospital from caring for their parents in hospital or bringing them home.

Decision for the Applicant

11. I have considered with great care everything that is said in the Applicant'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, I remain of the view that the Applicant does not meet the criteria set out in Rule 5(2). I have therefore decided not to designate the Applicant as a Core Participant in Module 3.

12. I am grateful to the Applicant for taking care to set out more detail in their renewed application and, in particular, for the detail provided on the specific issues said to be connected to healthcare systems which the Applicant considers that those it represents experienced. I recognise that the issues raised by the Applicant are of importance and may have had a considerable impact on those within its community. However, I remain of the view that the Applicant has not demonstrated a significant interest in the matters to which Module 3 relates for the purposes of Rule 5(2)(b).
13. The issues raised by the Applicant indicate that there may have been characteristics of the Applicant's community which meant that some within it experienced challenging circumstances within healthcare systems during the pandemic. There may also have been features of the way healthcare systems functioned which had a pronounced effect on some within the Applicant's community. However, I do not consider that in the context of the range of matters set out in the provisional scope of Module 3, this amounts to a "significant" interest within the meaning of rule 5(2)(b), so as to justify the granting of Core Participant status in this specific module.
14. As mentioned in the Provisional Decision, I acknowledge that those from particular backgrounds may have been disproportionately impacted by the Covid-19 pandemic. With this in mind, I have granted Core Participant status in Module 3 to a number of organised groups representing individuals from varied backgrounds who experienced or may have experienced an unequal impact of the pandemic due to or in connection with the way healthcare systems were organised, functioned or operated during or immediately before the pandemic. I consider that amongst those currently designated as Core Participants in Module 3, there is adequate representation of those matters raised within the Applicant's application, which do not apply solely to the Applicant's community. In particular, I am confident that several Core Participants will address issues with communication barriers for patients within healthcare systems and/or a lack of patient understanding of processes, as well infection prevention measures which may have impacted on patient experience.
15. I wish to reiterate my ongoing commitment, as set out in the Terms of Reference and repeated in my Opening Statement, that inequalities will be at the forefront of the Inquiry's Investigations. This remains the case. However, as mentioned in the Provisional Decision, the Inquiry shall address health inequalities and the impact of Covid-19 directly in another dedicated Module. In the circumstances, it will not be

practicable to examine these, other than with respect to specific healthcare-related issues, within Module 3.

16. More generally, and to the extent that the issues the Applicant raised are intended to be addressed by Module 3 as opposed to later modules, I have every confidence in the independent legal team whom I have appointed specifically for the purpose of pursuing all legitimate lines of inquiry with the investigatory and analytical rigour that a statutory inquiry of this scale and importance demands.
17. I have also taken into account the fact that there are a number of ways in which the Applicant can participate in Module 3 without being a Core Participant, many of which have been recognised as adequate alternatives to Core Participant status in other recent statutory inquiries. As I noted in my Provisional Decision, it is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. The Applicant may have relevant information to give in relation to matters being examined in the Inquiry and, in due course, the Inquiry will seek information from a range of individuals, organisations and bodies to gain their perspective on the issues raised in the modules and, where appropriate, to ask for witness statements and documents.
18. The Inquiry will also hear and consider carefully the experiences of bereaved families and others who have experienced hardship or loss as a result of the pandemic, through the listening exercise. Those individuals whose interests the Applicant represents may wish to contribute to the work of the Inquiry through this process. I made clear in my Opening Statement that this listening exercise is a significant and important task which will lead to summary reports of the impact of the pandemic to be used as evidence during the Inquiry's Module hearings.
19. Therefore, having considered all of the information the Applicant provided in light of the Provisional Outline of Scope for Module 3, I remain of the view that the Applicant does not have a significant interest in the matters for investigation in Module 3. I have therefore decided that the Applicant should not be designated as a Core Participant in Module 3 and I confirm that this is my final decision.
20. My decision not to designate the Applicant as a Core Participant in Module 3 does not preclude the Applicant from making any further applications in respect of any later

modules. I will consider any future applications the Applicant may wish to make on their merits at the time they are made.

Rt Hon Baroness (Heather) Hallett DBE

Chair of the UK Covid-19 Inquiry

16 February 2023