



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 2 - BAIL FOR IMMIGRATION DETAINEES, DOCTORS OF THE WORLD, JOINT
COUNCIL FOR THE WELFARE OF IMMIGRANTS

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 31 August 2022, the Inquiry opened Module 2 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 23 September 2022.
2. The Provisional Outline of Scope for Module 2 provides that this module will examine the decision-making by the UK Government during the 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 23 September 2022 the Inquiry received an application from Bail for Immigration Detainees, Doctors of the World and the Joint Council for the Welfare of Immigrants ('the Applicants') for Core Participant status in Module 2.
4. I made a provisional decision not to designate the Applicants as a Core Participant in Module 2, thereby declining the Applicants' application ("the Provisional Decision"), on 13 October 2022. The Applicants were provided with an opportunity to renew the application in writing by 12pm on 20 October 2022.
5. On 20 October 2022, the Applicants submitted a renewed application for Core Participant status in Module 2. This notice sets out my determination of the Applicants' application for Core Participant status in Module 2.

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 2.
8. I have taken into account all of the information which the Applicant has relied upon. The fact that I have not, in making this determination, referred to every matter which is set out in the application does not mean that I have not considered it. The summary below is intended to capture what appear to be the most important points made in support of the application.

Summary of Application

9. The initial application was from five organisations representing migrant communities: Bail for Immigration Detainees (BID), Doctors of the World (DOTW), Joint Council for the Welfare of Immigrants (JCWI), Medact and Migrants Organise and Kanlungan. The first three organisations have sought a re-determination of my provisional decision.

10. The Applicants' original application stated that it is one of five linked applications by organisations, all seeking to represent the interests of migrant communities in the UK in the Inquiry. While the organisations broadly represent the same interests, each is said to have distinct and important perspectives and expertise to offer to the Inquiry.
11. Bail for Immigration Detainees (BID) is described in the application as being an independent national charity, established in 1999 to promote access to justice for those held in immigration detention. The application describes the type of legal advice and representation BID provides as well the lobbying, campaigning work and contributions it has made to various parliamentary inquiries, committees, reviews and policy consultations. The application is made on the basis that BID played a direct and significant role throughout the pandemic by being a leading organisation providing legal advice and representation to and advocating for the rights of immigration detainees in the UK. It is also said that BID has a significant interest in the matters to be covered in the Inquiry, including inequalities. The application sets out further details of the significant interest asserted by BID.
12. Doctors of the World (DOTW) is said to provide volunteer-led healthcare, information and resources to the most vulnerable people in the UK, mostly those without formal immigration status who are living in extreme poverty and experiencing acute social isolation. The application states that DOTW also publishes regular evidence based policy reports and research and conducts parliamentary advocacy. The application is made on the basis that DOTW played a direct and significant role throughout the pandemic by facilitating access to Covid-19 treatment and other medical care for thousands of vulnerable people. It is also said that DOTW has a significant interest in seeking public understanding and accountability in respect of access to healthcare during the pandemic. The application sets out further details of the significant interest asserted by DOTW.
13. The Joint Council for the Welfare of Immigrants (JCWI) is a national independent charity established in 1967. It is said that the organisation promotes justice, fairness and equality in British immigration and asylum law and policy, and supports and empowers migrant communities. The application sets out how the organisation does this through a combination of policy research and parliamentary advocacy;

campaigning and communications; community organising; and legal casework and strategic litigation relating to all areas of migrants' rights.

14. The applications set out how each organisation had a significant role and significant interest in the subject matter of Module 2.
15. In their renewed application, it is submitted that if the Inquiry is to properly examine the decision-making outlined in Module 2, it is essential that those affected by the immigration, asylum and immigration detention system are able to actively engage with the Inquiry's work. The Applicants add that if the Inquiry is only able to hear from and be guided by those at the helm of the decision-making process over this period, it will be unable to achieve its fundamental aims to consider the impacts on these groups.
16. Each of the three organisations set out in a similar vein to the initial application, how their expertise can assist the Inquiry.
17. BID sets out that through analysing data collected whilst preparing bail applications, and through supporting individuals preparing their own applications, BID is able to provide key insights into the impact of government decisions on those held under immigration powers during the pandemic. This includes extensive information gathered relating to the safety of individuals held in detention; mental health concerns relating to lockdowns and the prolonged use of cell confinement and solitary confinement. BID is also able to provide important data regarding the necessity of detaining individuals who could not be removed from the UK and the impacts on those individuals.
18. DOTW provided direct clinical support to excluded individuals. They submit that they were the only organisation that works on access to all NHS services, including primary care, secondary care, vaccination and testing. As a result, they have as close to complete a picture of what access to healthcare for migrants was like during the pandemic of any organisation in the UK.
19. JCIW sets out how their integrated combination of services, advocacy and campaigning provides them with access to key data about the impact of high-level

government decision making during the pandemic on migrants. They are currently analysing the extensive data they collected during the Covid-19 pandemic and are producing research that will be of significant value to the Inquiry in Module 2.

Decision for the Applicants

20. 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, in my discretion, I consider that the Applicants do not meet the criteria set out in Rule 5 for designation as a Core Participant in Module 2 and, therefore, I have decided to not to designate the Applicants as a Core Participant in Module 2. I confirm that this is my final decision.
21. I note the valuable work the Applicants individually and collectively have undertaken in this field. However, in the context of the provisional scope of Module 2, I am satisfied that the Applicants did not have a direct or significant role in core political and administrative decision-making (Rule 5(2)(a)).
22. Whilst recognising the Applicant's interest, I do not consider that it reaches the threshold of a significant interest in the context of matters for investigation in Module 2. Furthermore, I do not consider, having regard in particular to the need to manage the Inquiry effectively and efficiently, that its interest in decision making by the UK Government is sufficiently significant as to grant it Core Participant status in this Module. 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. Given the vast numbers of people who were involved with, or adversely affected by, the Covid-19 pandemic, very many people and organisations in this country could potentially have an interest in it and not everyone can be granted Core Participant status for the purposes of the Inquiry hearings.
23. As I set out previously, I acknowledge that migrants and vulnerable people, including those held in immigration detention and those without formal immigration status were seriously impacted by the pandemic. I wish to emphasise 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 will include a focus on the disparities evident in the impact of Covid-19 on different groups of people, including migrant communities.

24. My decision not to designate the Applicants as Core Participants in Module 2 does not preclude it from making any further applications in respect of any later modules. In my Opening Statement, I said that I will publish more information about the issues intended to be covered by later modules in the coming months. The Applicants may consider making an application for Core Participant status in future modules likely to deal directly with the impact of Covid-19 on public services, health inequalities and the vulnerable, including migrant communities and with regard to DOTW, health systems I will consider any future applications the Applicants may wish to make on their merits at the time they are made.

25. I note that each of the Applicants refer in their submission to information or data in their possession which may be of assistance. It is not necessary for an individual or organisation to be a Core Participant in order to provide evidence to the Inquiry. The Applicants may have relevant information to give in relation to matters being examined in the Inquiry and the Inquiry will be reaching out in due course to a range of individuals, organisations and bodies to seek information, to gain their perspective on the issues raised in the modules and, where appropriate, to ask for witness statements and documents.

26. The Inquiry will also listen to and consider carefully the experiences of bereaved families and others who have suffered hardship or loss as a result of the pandemic, through the listening exercise. 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 on those who come forward to be used as evidence during the Inquiry's module hearings. The Applicants and those it represents will have the opportunity to contribute to the Inquiry, through the listening exercise if they choose.

Rt Hon Baroness Heather Hallett DBE

Chair of the UK Covid-19 Inquiry

25 October 2022