



**NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 3 - THE 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 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 an application from the British Medical Association ("the Applicant") for Core Participant status in Module 3. This Notice sets out my determination of the application.

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 3.

Summary of Application

6. The Applicant is described as the professional body and trade union for doctors in the UK. It represents, supports and negotiates on behalf of doctors and medical students in the UK, and has a membership of approximately 173,000 members.
7. The application explains that the Applicant conducted its own lessons learned exercise, the "BMA COVID-19 Review" comprising the following five published reports: A. How well protected was the medical profession from Covid-19?; B. The impact of the pandemic on the medical profession; C. Delivery of healthcare during the pandemic; D. The public health response by UK Governments to Covid-19; and E. The impact of the pandemic on population health. The Applicant states that the BMA COVID-19 Review demonstrates its significant interest in the matters to which Module 3 relates. The Applicant highlights its knowledge of the impact of the pandemic on the delivery of healthcare services and people's experiences of healthcare, as well as its knowledge of the impact of the pandemic on healthcare workers and its members. The application states that it is difficult to imagine an organisation or group that has a more significant interest than the Applicant in the impact of the pandemic on healthcare workers, and in the impact on healthcare systems, structures and services.

8. It is submitted that the Applicant played a direct and significant role as it has worked non-stop to support its members and to ensure their expertise were heard and understood by senior decision makers. The Applicant had regular contact with ministers, Government departments and agencies, NHS England and devolved health bodies, providers of health services and other influential bodies throughout the pandemic, including meeting Secretaries of State, Ministers for Health and Chief Medical Officers. In addition to providing advice, the Applicant says that it was vocal in standing up for its members and calling out decisions that put staff and patients at risk. Examples include highlighting critical PPE supply chain problems, demanding urgent measures to ensure staff had adequate PPE, and lobbying for all healthcare workers to be prioritised as part of the initial rollout of vaccinations. The Applicant issued a wide range of guidance to doctors and their employers during the pandemic, as well as providing significant support on an individual basis.

Decision for the Applicant

9. I have considered with great care everything that is said in the application and having done so, I have decided to designate the Applicant as a Core Participant in Module 3.
10. Module 3 will consider the impact of the Covid-19 pandemic on healthcare systems in England, Wales, Scotland and Northern Ireland. This will include consideration of the healthcare consequences of how the governments and the public responded to the pandemic. It will examine the capacity of healthcare systems to respond to a pandemic and how this evolved during the pandemic. It will consider the primary, secondary and tertiary healthcare sectors and services and people's experience of healthcare during the pandemic, including through illustrative accounts. It will also examine healthcare related inequalities (such as in relation to death rates, PPE and oximeters), with further detailed consideration in a separate designated Module.
11. The Application is put on the basis that the Applicant played a direct and significant role in the matters to which Module 3 relates (Rule 5(2)(a)) and has a significant interest in an important aspect of those matters (Rule 5(2)(b)).
12. I consider that the Applicant's role was direct and significant in accordance with Rule 5(2)(a) of the Inquiry Rules 2006. The Applicant had direct involvement with the UK's

healthcare systems throughout the Covid-19 pandemic and its members were at the forefront of the delivery of healthcare.

13. I also consider that the Applicant has a significant interest in an important aspect of the matters to which Module 3 relates (Rule 5(2)(b)). The Applicant was involved in highlighting decisions relating to staff and patients throughout the Covid-19 pandemic. As a representative body for doctors the Applicant has a significant interest in various issues within the Provisional Outline of Scope for Module 3, including the impact of the pandemic on those it represents.
14. While I am bound to consider the factors set out in Rule 5(2), it is also open to me to take into account other relevant matters. I also bear in mind, in granting Core Participant status, the Applicant's knowledge and expertise and the work it has undertaken in exploring some of the issues which fall within the scope of Module 3. I consider the Applicant is well placed to assist the Inquiry as to a number of issues to be investigated in this Module.

Legal Representation

15. 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.

16. I am satisfied that the Applicant has appointed Deirdre Domingo of Innovo Law Ltd as its qualified lawyer in relation to this Module. I therefore designate Deirdre Domingo as the Applicant's recognised legal representative in accordance with Rule 6(1).

17. 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

18 January 2023