UK COVID 19 INQUIRY: MODULE 4

SUBMISSIONS ON BEHALF OF THE MIGRANT PRIMARY CARE ACCESS GROUP ('MPCAG') FOR THE PRELIMINARY HEARING ON 13 SEPTEMBER 2023

Introduction

1. On 17 July 2023, the Chair to the Inquiry granted MPCAG Core Participant status for Module 4 pursuant to Rule 5(2)(b) of the Inquiry Rules 2006.

2. On 4 August 2023, Mr. Paul Heron of the Public Interest Law Centre ('PILC') was designated as the recognised legal representative for MPCAG pursuant to Rule 6 of the Inquiry Rules 2006.

3. On 22 August 2023, the Chair to the Inquiry approved separate Counsel representation for MPCAG. Accordingly, Ms. Sonali Naik KC and Ms. Maria Moodie of Garden Court Chambers have been instructed to represent MPCAG.

4. MPCAG wishes to express its appreciation to the Chair for these determinations.

5. These written submissions, supported by brief oral submissions at the Preliminary Hearing on 13 September 2023, seek to assist the Inquiry with summarising MPCAG's key areas of interest, addressing issues arising from the agenda and proposing an expansion to the scope of Module 4.

MPCAG Organisations

6. MPCAG comprises four organisations specialising in advancing the rights of migrants and other marginalised groups, with experience across England, Scotland, and Wales:

    i. **Doctors of the World UK (DOTWUK)** is an independent humanitarian organisation committed to facilitating equitable access to medical services for disadvantaged communities and

those who are marginalised from mainstream healthcare systems. Most of the patients accessing the DOTWUK volunteer-led medical clinics in England, and its advice line that is available across England, Scotland, and Wales, lack formal immigration status but have been resident in the UK for a significant period. Typically, these individuals are destitute and profoundly isolated. DOTWUK is engaged in qualitative and quantitative research that has shaped public health discussions concerning vulnerable refugees, migrants, and undocumented people in the UK. During the pandemic, DOTWUK engaged with national and local government and health systems in England, Scotland and Wales to address barriers to vaccination appointments.

ii. **Joint Council for the Welfare of Immigrants (JCWI)** is a national UK charity which aims to advance justice, fairness, and equality within the realm of British immigration and asylum law. Their work includes policy research, parliamentary advocacy, campaigning, capacity building and providing legal assistance and strategic litigation services to protect migrants' rights.

iii. **Kanlungan Filipino Consortium (Kanlungan)** is an organisation consisting of several Filipino and Southeast and East Asian grassroots community groups working together for the welfare and interests of migrants, refugees, and diaspora communities from the Philippines and East and Southeast Asians living in the UK. This is delivered through workshops and training, advice, organised activities, mental health, and wellbeing support, as well as campaigning and lobbying government.

iv. **Medact** is a collective of healthcare professionals from across the NHS, community services, public health and academia that investigate and analyse social and environmental factors that have a detrimental impact on health. Medact's specialist knowledge contributes to policy discussions regarding health disparities including, *inter alia*, advocating for improved access to healthcare for migrants.

7. For ease and in the interests of succinctness, the terms "migrant" or "migrant community" are used within these submissions, but it is important to highlight

at the outset that the individuals represented by MPCAG compromise widely diverse characteristics depending on their immigration status and individual circumstances. Furthermore, an individual's immigration status is not static and may have changed during the course of the Covid-19 pandemic. The following is a non-exhaustive list of the different sub-groups to which MPCAG seek to give a voice, which would otherwise not be heard in their evidence to the Inquiry, and will be examined in greater detail in due course:

i. Asylum seekers whose applications remains outstanding.

ii. Asylum seekers who have been granted refugee status or humanitarian protection.

iii. Failed asylum seekers who are either appealing a negative decision, appeal rights exhausted and/or are seeking to submit a fresh claim.

iv. Failed asylum seekers facing removal but who could not be imminently removed from the UK during the Covid-19 pandemic or at all.

v. Migrants with indefinite or long-term leave to remain.

vi. Migrants with limited fixed term leave to remain.

vii. Migrants on a dependency visa or subject to on-going eligibility conditions.

viii. Migrants subject to a 'No Recourse to Public Funds' condition.

ix. Unaccompanied or separated migrant or asylum-seeking children.

x. Migrants detained in immigration detention.

xi. Migrants incarcerated in prison as serving prisoners, on remand or held there under Immigration Act detention powers.

xii. Asylum-seekers and failed asylum-seekers living in remote Home Office accommodation sites subject to restrictive conditions.

xiii. Migrant victims of human trafficking or modern slavery.

xiv. Undocumented migrants with no lawful immigration status.

Key topics of interests

8. The four MPCAG member organisations emerged as prominent experts on the health consequences of the pandemic for migrants in the UK. MPCAG's application for Core Participant status in Module 4 was made on the basis that, collectively, it can provide compelling evidence on barriers and inequalities to Covid-19 vaccine uptake including the impact this had on exceptionally vulnerable groups with multiple protected characteristics.

9. The Chair to the Inquiry expressly noted in her determination granting Core Participant Status to MPCAG on 17 July 2023 that *"[MPCAG] can, among other things, aid the Inquiry in understanding the experiences and perspectives of those with uncertain immigration status and how and why this may have affected their access to vaccines.*" [at § 9].

10. Below is a summary of the evidence that will be provided by MPCAG in relation to (i) the underlying causes to barriers and inequalities experienced by the migrant community in accessing vaccines and, (ii) the steps taken by the MPCAG organisations to overcome these barriers and support migrants to access vaccines.

Barriers and inequalities

11. The UK's Covid-19 strategy relied firstly on people being registered with GPs to be identified as eligible for early vaccinations (for clinical reasons) and to book a vaccine appointment through the 'National Booking System'. Secondly it relied on sick people to attend hospital. Both required an individual to trust, attend and share key personal information with medical staff and institutions without fear of reprisals or punishment.

12. The Government's persisting commitment to implementing a Hostile Environment[1] in the UK for migrants with the focus on immigration status rather than access to health care, and its strong anti-migrant rhetoric, has created a deep culture of fear and mistrust that directly undermined the foundations of its Covid-19 strategy for this cohort and directly prevented access to the vaccine and/or treatment.

[1] From 2014 under the Theresa May as Home Secretary, later re-named from 2018 as the 'Compliant Environment' by then Home Secretary Sajid Javid.

13. The main factors inhibiting vaccine uptake by migrants can be summarised as follows:

    i. Hostile Environment policies including the NHS data-sharing, the NHS charging regime and No Recourse to Public Funds ("NRPF") condition that undermined trust in authorities and resulted in the migrant community avoiding NHS services based on fear of reprisals or immigration enforcement action, particularly amongst undocumented migrants.

    ii. Chronic low levels of GP registration in migrant and refugee communities exacerbated by the government's and health systems' failure to address systemic refusals by GP practices to register migrants and refugees as patients, particularly those without immigration papers, those in Home Office provided asylum support accommodation or experiencing homelessness. This created a situation where the NHS failed to identify for early vaccination those within the migrant community who were clinically vulnerable and directly prevented individuals from booking vaccination appointments.

    iii. The inadequacy of the UK government's identification of vulnerable migrants and responsiveness to their public health and support requirements during the pandemic, including poor communication strategies to ensure public health information was shared in community spaces and in diverse languages.

    iv. Poor government decision-making and interactions with private sector partner companies involved in detention centres, accommodation provision, and immigration application processes that compounded mistrust.

    v. Access barriers including socioeconomic challenges such as poverty and NRPF, limited healthcare, lack of transportation or language barriers, particularly amongst undocumented migrants.

14. Furthermore, the majority of people supported by MPCAG are from BAME backgrounds. They additionally faced institutional and structural racism when accessing health care, including when trying to access the vaccine during the pandemic.

MPCAG support to overcome barriers and inequalities

15. The MPCAG organisations all shouldered significant public health responsibilities during the pandemic, forced to fulfil the role of the State, to combat a decade of austerity, anti-migrant rhetoric and Hostile Environment policies that catastrophically prevented vaccine uptake for migrants.

16. DOTWUK underwent significant adaptations and expansions in their support services to refugees and migrants facing challenges in accessing NHS services. DOTWUK ran vaccination clinics in London and supported people to obtain an NHS number to book an appointment. They provided information in over 64 languages on access to vaccines and NHS services. Their advice line signposted people to walk-in vaccine centres. Through community outreach, education, and advocacy efforts they sought to inform migrants and refugees on their rights to access healthcare without fear of repercussion. Throughout 2021 and 2022 DOTWUK campaigned for access to the vaccine for all. This included mapping the limitations within NHS systems for those without an NHS number and GP registration which excluded them from being identified for early vaccination (if clinically indicated) and prevented vaccine appointments being made. DOTWUK and Bevan Healthcare CIC conducted research to explore attitudes to the COVID-19 vaccination in migrant communities, which found uncertainty about entitlement to the vaccine, fear of personal information being shared with the Home Office, distrust in systems and organisations responsible for vaccine delivery and lack of reliable information in appropriate language and formats that all contributed to low vaccine uptake. DOTWUK worked with NHS England and Public Health England to send a letter (in 24 languages) to everyone in Home Office asylum accommodation providing information on how to register with a GP and get the vaccine. DOTWUK worked with local authorities to ensure walk-in centres did not ask for proof of ID or an NHS number and had clearly communicated that patient data would not be shared with the Home Office.

17. JCWI's pandemic response efforts included urgent legal support and advice, assistance with GP registration and accessing vaccines, and the provision of accessible information on access to healthcare. JCWI regularly produced detailed briefings for MPs, published two evidence-based research reports highlighting the impact of Covid-19 on migrant communities and two briefings examining the impact of Hostile Environment policies on migrants' experiences of the pandemic, with a focus on the NRPF condition.

18. Kanlungan conducted pop-up clinics (supported by Hackney Council), attended by people from all over the UK, offering the vaccine at a community centre with the NHS North-East London Trust for undocumented migrants, specifically Filipino, Vietnamese, and Indonesian communities.

19. Medact joined the "Vaccines for All" campaign ("VFA") to raise awareness and build provision for the vaccination roll out to include migrant communities. This campaign gained support from over 370 organisations, including Local Authorities and medical royal colleges, calling for an end to NHS charging and data-sharing, and fear amongst the migrant community. Medact and Migrants Organise prepared a briefing note calling on the Department of Health and Social Care to ensure access to the vaccine for everyone in the UK, regardless of immigration status, proof of address or ID. In the lead up to the launch of the VFA campaign, Medact supported Regularise and DOTW during an event with Nadhim Zahawi, then-Vaccine Minister to set out the impact Hostile Environment policies were having on access to NHS care, including the vaccine. Following on from the VFA campaign, Patients Not Passports campaigners urged key vaccine delivery stakeholders in their communities, most often local Councillors and public health officials, to raise the issues of the Hostile Environment and stress the need for clinics that not only offered access to the vaccine without ID, but also expressly advertised this.

Participation of the Secretary of State for the Home Department ('SSHD')

20. It is noted that a number of government departments have been designated as Core Participants for Module 4 (as identified within the Counsel to the Inquiry's Note, dated 22.08.23), namely the Department for Health and Social Care (DHSC), the Department for Science, Innovation and Technology (DSIT) and the Secretary of State for Foreign, Commonwealth and Development Affairs.

21. The SSHD is not a Core Participant.

22. Although this will neither prevent the SSHD from providing information or evidence to the Inquiry of her own motion, nor prevent the Inquiry from making a Rule 9 request for information from the SSHD, the non-participation of the SSHD as a Core Participant, alongside other relevant government departments, particularly when the issue of obstructed or unequal access to

vaccines for the migrant community is front and centre of MPCAG's evidence, is stark.

23. Whilst it is duly accepted that the SSHD cannot be compelled to be a Core Participant as Rule 5 of the Inquiries Rules 2006 requires consent for such designation, MPCAG wishes to register its concern.

24. Successive policies and laws introduced and implemented by the SSHD intentionally created the Hostile Environment that created and reinforced the inequality and barriers experienced by the wider migrant community in the UK in accessing vaccines and therapeutic services.

25. The harm caused by these policies in the context of barriers to vaccine uptake, and concern regarding the SSHD's failure to take any or any adequate steps to counteract the punitive and isolating measures imposed by the Hostile Environment as part of cross-departmental coordination and collaboration during the pandemic, requires direct engagement and evidence from the SSHD.

26. MPCAG submits that the absence of any direct or self-motivated participation by the SSHD in Module 4 will risk hampering the Inquiry's ability to fully assess the causes and consequences of inequalities for this marginalised and isolated group. This in turn will risk restricting the scope of any recommendations made by the Inquiry for lessons learned and future preparedness relevant to migrants.

27. MPCAG invites the Inquiry to ensure that comprehensive and probing Rule 9 requests are made to ensure evidence and information is provided by the SSHD to enable a thorough assessment of any steps taken to mitigate the Hostile Environment, encourage and facilitate vaccine uptake and, importantly, foster trust amongst the wider migrant community during the pandemic.

Key Lines of Enquiry ('KLOE') – Every Story Matters

28. It is noted that the Inquiry's legal team and research specialists will, in the coming weeks, be identifying research questions and priority audiences for targeted qualitative research in relation to '*Experiences receiving information on the Covid-19 vaccines*', '*Public trust in the safety of Covid-19 vaccines and the importance of being vaccinated'* and *'Practicalities of vaccine roll-out'* [at § 58 of Counsel to the Inquiry's Note, dated 22.08.23].

29. Within these categories, MPCAG considers that the following are the most important when considering the accessibility of vaccines to the wider migrant community:

> *The quality (e.g. clarity, appropriateness, persuasiveness, sufficiency and timeliness) of targeted messaging for specific groups*
>
> *Perceptions surrounding whether public messaging was sufficient inclusive and culturally sensitive*
>
> *Drivers of trust / mistrust in government public messaging*
>
> *Confidence: Drivers and barriers to trust in safety of Covid-19 vaccines*
>
> *Other drivers of vaccine hesitancy and unequal uptake, including how these differ for different groups, and the causes of such disparities*
>
> *Experiences and particular barriers to accessing vaccines for those from vulnerable or marginalised groups*

30. The Inquiry is specifically invited to consider and examine in closer detail the issue of language barriers, the long-standing and pervasive culture of mistrust and fear generated by the SSHD's on-going 'Hostile Environment' policies, and the widespread disenfranchisement of this cohort.

31. Potential audience groups have been identified according to "*residency*", *"ethnicity"*, *"socioeconomic circumstances"*, and *"health concerns"* [at § 59 of Counsel to the Inquiry's Note, dated 22.08.23].

32. It is crucial that a full range of voices and experiences from the wider migrant community are captured in this targeted research, particularly those who may not themselves volunteer to participate and thus require direct encouragement and invitation to be involved.

33. The proposed potential audience list fails to capture the fundamental difference in access to vaccines based on *immigration status* in the UK. Identifying potential audience based on '*ethnicity*' alone does not go far enough and is an insufficient basis on which to identify and include the full spectrum of migrant voices. It risks either directly or indirectly overlooking or excluding those who are not British in the absence of more precise identification of non-national migrants being prioritised as a target audience.

34. MPCAG therefore invites the Inquiry to specifically include in the target audience list for KLOE *'non-British nationals"* to ensure inclusion of migrants to the UK.

35. On a practical level, this will require translation services to overcome language barriers and clear messaging to promote trust and confidence amongst migrant participants to share information without fear of information-sharing, reprisals, or punishment or any other adverse consequences.

36. Although the four organisations of MPCAG will be providing evidence on these points, the individual experiences of migrants whose circumstances cover the full range of potential immigration status such as those with limited or conditional leave, those with long-term leave, asylum seekers and failed asylum seekers and those who are in the UK without any lawful status (i.e without leave to enter or remain), recorded in their own words, is crucial to informing the lessons learned outcome of the Inquiry and is important to shaping the outcomes with regard to having respect for human dignity regardless of immigration status in this context.

Amendment to the scope of Module 4

37. According to the "Module 4 Provisional Outline of Scope" (June 2023) document, the following two areas will, *inter alia,* be considered by the Inquiry:

> *" 3. Vaccine delivery in England, Wales, Scotland and Northern Ireland, including roll-out procedures such as: arrangements on the ground and public messaging; Joint Committee on Vaccination and Immunisation recommendations on eligibility / prioritisation and decisions taken by policy makers; the ethics of prioritisation decisions and impact on particular groups such as those with comorbidities.*
>
> *4. Barriers to vaccine uptake, including vaccine confidence and access issues and the effectiveness, timeliness and adequacy of Government planning for and response to inequalities relevant to vaccine uptake."*

38. Under the umbrella of points 3 and 4 (reproduced above), MPCAG will provide evidence on the impact of the government's vaccine delivery for the wider migrant community, with particular focus on successive policies, legislation

and practices that created significant barriers for this cohort and the impact of the same.

39. In examining the full spectrum of individual circumstances of migrants, the Inquiry is respectfully invited to ensure that the scope of Module 4 expressly extends to considering the situation of (i) migrants in the immigration detention estate and (ii) migrants living in remote Home Office accommodation sites subject to freedom of movement and other restrictions, including the specific barriers and lack of agency they experienced in accessing vaccines.

40. This expansive approach would be consistent with the terms of reference for the Inquiry, specifically Aim 1a) that refers to *'the public health response across the whole of the UK'*, including to *"prisons and other places of detention"*.

41. As far as MPCAG are aware, there are no other Core Participants for Module 4 who will address the Inquiry on the situation of detained individuals, or individuals subject to specific Home Office restrictions linked to their accommodation, in relation to vaccine accessibility.

42. MPCAG's evidence on this niche issue will be crucial in giving a voice otherwise not heard/denied to an exceptionally isolated sub-group within the migrant community.

Dated: 4 September 2023

Sonali Naik KC
Maria Moodie
Garden Court Chambers

Instructed by the Public Interest Law Centre