



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 5 - PROCUREMENT

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 24 October 2023 the Inquiry opened Module 5 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 17 November 2023.
2. On 17 November 2023 the Inquiry received an application from the Federation of Ethnic Minority Healthcare Organisations (“FEMHO”) for Core Participant status in Module 5. This Notice sets out my determination of the application.
3. The Inquiry has published the [Provisional Outline of Scope](#) for Module 5, which states that this module will consider and make recommendations regarding the procurement and distribution to end-users across the four nations of the United Kingdom of key healthcare related equipment and supplies, including PPE, ventilators and oxygen. Further modules will be announced and opened in due course, to address other aspects of the Inquiry’s Terms of Reference.

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 5.

Summary of Application

6. The application is made by FEMHO, a multi-disciplinary consortium currently representing over 55,000 individual members and 43 organisations or networks that represents and advocates for the interests of ethnic minority workers in the healthcare sector. The application is made on the basis of Rule 5(2)(a) and (b) of the Inquiry Rules 2006.
7. The Applicant submits that its members played a direct and significant role in the matters to which Module 5 relates, as many of them were closely involved in PPE distribution and planning, and who reported issues about the suitability of the supplies procured. The application states that these issues included a lack of alternative PPE for those whom “standard” PPE did not provide a protective fit, a lack of clarity in PPE guidance on provision, confusion about expiry dates and what products could safely be reused, and a lack of available mechanism for translating feedback about PPE concerns.

8. The application further submits that, as a consortium, the Applicant has a significant interest in the matters to be covered by Module 5. The application states that the Applicant can provide accounts of and insights on potential structural inequalities which impacted ethnic minorities. These include members' disproportionate exposure to infection, their experience of poorly fitted procured equipment and PPE, the incompatibility of procured PPE with religious dress, and the effect of equipment and PPE being baselined on white caucasian males. The Applicant also has concerns about whether and when instructions for LFTs and PCR tests were made publicly available in various languages.

Decision for the Applicant

9. I have considered with great care everything that was said in the application. Having done so, I consider that the Applicant's members have a significant interest in the procurement and distribution of key equipment and supplies during the pandemic. Having regard to the provisions of Rule 5(2)(b) in particular, I have decided to exercise my discretion to designate FEMHO as a Core Participant in Module 5.

Legal Representation

10. 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.

11. I am satisfied that FEMHO has appointed Cyril Knight of Saunders Law as its qualified lawyer in relation to this Module. I therefore designate Cyril Knight as FEMHO's recognised legal representative in accordance with Rule 6(1).

12. 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' Costs Protocol](#).

Rt Hon Baroness Heather Hallett DBE

Chair of the UK Covid-19 Inquiry

11 December 2023