



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 5 - FRONTLINE MIGRANT HEALTH WORKERS GROUP

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. The Provisional Outline of Scope for Module 5 provides 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.
3. On 17 November 2023 the Inquiry received an application from the Frontline Migrant Health Workers Group ("FMHWG") for Core Participant status in Module 5.
4. I made a provisional decision not to designate the FMHWG as a Core Participant in Module 5, thereby declining the FMHWG's application ("the Provisional Decision"), on 13 December 2023. The FMHWG was provided with an opportunity to renew the application in writing by 4pm on 21 December 2023.
5. On 20 December 2023, the FMHWG submitted a renewed application for Core Participant status in Module 5. This notice sets out my determination of the FMHWG's application for Core Participant status in Module 5.

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 5.

Summary of Application

8. The original application was made on behalf of the FMHWG, a group of three organisations whose memberships are made up of a broad range of key workers across healthcare and other front line services who have on the ground experience of the shortages in key healthcare equipment and the lack of guidance. The FMHWG consists of the following three organisations: United Voices of the World ("UVW"), Independent Workers Union of Great Britain ("IWGB") and Kanlungan Filipino Consortium ("Kanlungan").

9. UVW is a national trade union which organises predominantly low paid, migrant & precarious workers. UVW brings together workers across several sectors including cleaning, security, catering and portering from the predominantly outsourced facilities services sector. The IWGB is a trade union founded by Latin American cleaners which has subsequently expanded their membership across a number of sectors including couriers, cleaners, porters, security officers, and private hire drivers, many of whom work in outsourced positions providing the healthcare sector. Kanlungan is a registered charitable incorporated organisation that works for the welfare and interests of migrants, refugees, and diaspora communities from the Philippines and Southeast Asia living in the UK. It provides immigration, welfare, and employment advice whilst also campaigning for workers and migrants rights through lobbying local and national government.
10. The original application submits that the Applicant has an important perspective to offer the Inquiry on the procurement of key medical equipment and supplies to end-users prior to and during the pandemic particularly in relation to the availability and suitability of PPE and medical equipment to key workers, the adequacy of guidance relating to PPE and the impact of outsourcing on procurement processes.
11. The application states that the Applicant organisations were closely involved in holding employers to account in their approach to procurement of key medical equipment and supplies, lobbied the government for an improvement to health and safety guidance for workers and for greater government intervention for procurement of key healthcare supplies and equipment, and were involved in sourcing PPE for their members directly via mutual aid networks nationally and internationally, and through DIY PPE manufacture.
12. In its renewed application, the FMHWG states that it organises workers in those sectors that have never previously been organised: low paid, migrant & precariously employed workers who are on short time contracts, or work in the 'gig economy.' In contrast to FEMHO, the applicant unions are grass-roots, member-led, representing predominantly BAME and migrant workers in low-paid and precarious employment who seek to challenge exploitative practices which deny its members basic worker rights.

13. Those employed in outsourced companies that increasingly service the NHS (particularly in the areas of cleaning, security and catering), were often the last to be considered for PPE, and were therefore left to work in unsafe environments, with inadequate safety measures taken. Issues such as ethnicity and race, immigration status, language barriers, and educational background further impacted on their access to services and to appropriate protection in the workplace during the pandemic.

Decision for the Applicants

14. I wish to reiterate my deep sympathy to each and every person who has experienced the tragic loss of a loved one as a consequence of the Covid-19 pandemic. I am mindful of the impact the pandemic has had on the Applicant's membership. I wish to reassure the Applicant of my ongoing commitment 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 the pandemic on different categories of people.
15. 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, and whilst I appreciate that the Applicant's membership have undertaken valuable and important work during the pandemic, I remain of the view that the Applicant's involvement in the matters to be covered by Module 5 was not sufficiently significant to satisfy the criteria in Rule 5(2)(a). Similarly, the interest that the Applicant may have in important aspects to be explored by Module 5 is not sufficiently significant to require Core Participant status to be granted, where I have granted Core Participant status to other more representative organisations. I am confident that Counsel to the Inquiry assisted by those other Core Participants will ensure effective consideration of the interests of the Applicant's members in Module 5.
16. 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 a significant one at that, but not everyone can be granted Core Participant status for the purposes of the Inquiry hearings. The Applicant refers to their draft Rule 9 statement to Module 3 which raises issues including what it states was a lack of procurement and distribution of PPE to Uber drivers, the inadequate provision of PPE to the outsourced non-clinical hospital staff when compared to inhouse staff and inadequate provision of PPE to Filipino nurses, to domestic Healthcare workers and to outsourced security staff. The Applicant should be aware, however, that I have sought to ensure that the interests of at risk and other vulnerable groups (including those with protected characteristics) are considered during Module 5 in accordance with the provisional outline of scope and the Terms of Reference. In furtherance of those aims I have designated those I consider to be most representative or best placed to advance their interests as Core Participants. There is a broad spectrum of designated organisations across a number of at-risk and other vulnerable groups. I am satisfied that those organisations taken together provide sufficient representation. I will of course keep this under review.

17. I note the assistance the Applicant believes it can provide in Module 5. 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 the Inquiry will be contacting 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. 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 Applicant and those it represents will have the opportunity to contribute to the Inquiry, through the listening exercise if they choose. Finally, may I take this opportunity to thank the Applicant for their helpful submissions.

18. Mindful of the need to manage the Inquiry effectively and efficiently, in my discretion, I have decided not to designate the Applicant as a Core Participant in Module 5. I

confirm that this is my final decision. My decision not to designate the Applicant as a Core Participant in Module 5 does not preclude them 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. 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

12 January 2024