



NOTICE OF DETERMINATION
CORE PARTICIPANT APPLICATION
MODULE 7 - THE FEDERATION OF ETHNIC MINORITY HEALTHCARE ORGANISATIONS
(FEMHO)

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 19 March 2024 the Inquiry opened Module 7 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 26 April 2024.
2. The Inquiry has published the [Provisional Outline of Scope](#) for Module 7, which states that this Module will consider the policies and strategies developed and deployed to support the test, trace and isolate system by the UK Government and the Devolved Administrations. Further modules will be announced and opened in due course, to address other aspects of the Inquiry's Terms of Reference.
3. On 26 April 2024 the Inquiry received an application from the Federation of Ethnic Minority Healthcare Organisations ("the Applicant") for Core Participant status in Module 7.
4. I made a provisional decision not to designate the Applicant as a Core Participant in Module 7, thereby declining the application ("the Provisional Decision"), on 16 May 2024. The Applicant was provided with an opportunity to renew the application in writing by 4pm on 23 May 2024.

5. On 23 May 2024, the Applicant submitted a renewed application for Core Participant status in Module 7. This notice sets out my determination of the application for Core Participant status in Module 7.

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 7.

Summary of Application

8. In the original application, FEMHO stated that they are a multi-disciplinary consortium that represents over 55,000 individual members and 43 organisations and networks. FEMHO's membership represents and advocates for the interests of workers from ethnic minority communities at all levels within the health and social care sector across the devolved nations of the UK. The application states that FEMHO's membership straddles the intersection of two key and manifestly disproportionately affected

groups: ethnic minorities and health and social care workers (“HCWs”). In their current application, they submit that their members played a direct and significant role (Rule 5(2)(a)), they (FEMHO) have a significant interest (5(2)(b)) and that I should exercise my discretion to grant them Core Participant status.

9. As regards Rule 5(2)(a), they submit that their members played a direct and significant role and highlight examples of the relevant roles played by FEMHO members who operated within the UK health and social care system, particularly in operationalising and implementing Test Trace and Isolate (“TTI”) strategies and the active role of members in management within respective health settings, as well as via advocacy, engagement and campaigning in relation to ensuring or seeking to ensure the effectiveness of these strategies and address their differential impact on their marginalised communities.
10. The examples they rely on include reference to senior members directly involved, in some instances, in strategizing and engaging with senior officials to seek clarity on how enforcement should be handled; staff in remote areas having to wait for a test for extended periods disrupting work schedules and the impact of frequent exposure alerts on members in terms of increased pressure to work and/or increased repercussions of missing work. The application also stresses the degree to which the TTI system was compromised by poor cultural competency regarding race and ethnicity with lack of comprehensive planning and inadequate consideration of cultural nuances undermining the effectiveness of TTI implementation and eroding trust in public health measures among marginalised populations. This compromised the work of FEMHO members and had wider ramifications for wider public health challenges and the perpetuation of social inequalities. FEMHO refers to the role members played in addressing TTI gaps, especially concerning the engagement of so-called 'hard-to-reach' communities.
11. As regards Rule 5(2)(b), FEMHO stress that in addition to those matters referred to in the provisional determination, their members offer valuable insights into the roll out of the TTI scheme and the gaps that existed in its conceptualisation and implementation in the health sector, noting the structural issues that underpinned operational failures and hindered efforts to capture data based on race and ethnicity and the broader community impact.

12. FEMHO raises a concern that the decision on Core Participant status in this module is inconsistent with their designation as Core Participant in Modules 2, 4 and 5. FEMHO submit that grant of CP status in other modules is irrelevant to whether or not they be granted CP status in Module 7. Notwithstanding other ways FEMHO can engage with this Module they submit that a grant of CP status would allow a more active and impactful participation in the inquiry process.

Decision for the Applicant

13. I have considered with great care everything that is said in the Applicant's renewed application and I am grateful to them for taking the time to expand upon their original application. Having done so, I consider that the Applicant does meet the criteria set out in Rule 5(2) for designation as a Core Participant in Module 7 and I have decided to designate the Applicant as a Core Participant in Module 7.

14. Taking everything that is said on the Applicant's behalf into account, I am of the view that the Applicant has a significant interest in an important aspect of Module 7 and that the test contained in Rule 5(2)(b) is met.

15. In reaching my decision, I have had particular regard, in the renewed application, to the nature of FEMHO's membership, straddling the intersection of two disproportionately affected groups ethnic minorities and health and social care workers ("HCWs"), the extent to which the Applicant's members, who operated within the UK health and social care system, were particularly active in operationalising and implementing Test Trace and Isolate ("TTI") strategies and their work seeking to address the differential impact of these strategies on their marginalised communities. I also consider that the Applicant is well placed to assist the Inquiry to achieve its aim to consider operational challenges surrounding TTI and the broader community effects of gaps that existed in the conceptualisation and implementation of the policies and systems developed.

Legal Representation

16. 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.

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

18. 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

31 May 2024