

### **Decision on the application for a Restriction Order and Special Measures by M3/W1**

1. Under section 19(2)(b) of the Inquiries Act 2005 ("the Act"), I may grant or refuse a restriction order in the case of an individual's identity. The Covid Inquiry Protocol on Applications for Restriction Orders sets out the process following receipt of a restriction order application.
2. On 5 August 2024, I issued a 'minded to' decision to make a restriction order prohibiting the disclosure and publication of the real name of M3/W1 and special measures relating to their oral evidence for the reasons set out below. I invited submissions from the Core Participants and representatives of the media.
3. In reaching this decision, I considered the application for a restriction order submitted by the applicant's representatives. In summary, the application for a restriction order is based on the applicant's personal circumstances. The applicant is a migrant worker who still works in the same hospital as they did during the pandemic in a non-clinical role. The applicant submits that were their identity made public, there is a significant risk that they would be unfavourably treated at their place of work and/or lose their job. The applicant has not provided any evidence for me to assess whether they have demonstrated an objective risk of harm or damage. However this is not fatal to the application. The applicant has provided evidence of a subjective risk of harm or damage should their identity be made public. They have understandable concerns about being able to provide for their family should they not have job security and the likely negative impact on their mental health. I accept that they have a genuine fear of reprimand and potential dismissal should their identity be identified.
4. I am satisfied that a restriction order in respect of the applicant's identity would assist the Inquiry in fulfilling its terms of reference under section 19(3)(b) of the Act. The applicant's evidence will assist the Inquiry to fulfil its Terms of Reference in the following ways:
  - a. Consider any disparities evident in the impact of the pandemic on different categories of people: the applicant is a migrant worker.
  - b. Listen to and consider carefully the experiences of bereaved families and others who have suffered hardship or loss as a result of the pandemic: the applicant has explained the mental and psychological hardship they have suffered as a result of working on the frontline during the pandemic.
  - c. The impact on health and care sector workers and other key workers and the management of the pandemic in hospitals: the applicant has detailed their

experiences of working in a non-clinical role in a private hospital during the pandemic.

- d. The procurement and distribution of key equipment and supplies: the applicant has provided their experience of Personal Protective Equipment during the pandemic.
  - e. Identify the lessons to be learned from the above, to inform preparations for future pandemics across the UK: the applicant's evidence will assist the Inquiry to do this.
5. I have also considered the Module 3 Provisional Outline of Scope. I am satisfied that the applicant's evidence will assist the Inquiry in its examination of the issues, in particular, the impact of the pandemic on healthcare staff including specific groups of healthcare workers, for example, by reference to ethnic background and preventing the spread of Covid-19 within healthcare settings.
  6. Guardian News & Media Limited (GNM) responded to my 'minded to' decision on behalf of eight media organisations. The submissions noted that the evidence presented in support of the application may have been insufficient to justify a derogation from open justice, however, they would not be making submissions on the application due to the *"very specific factual circumstances in which the applications have been made"*. I did not receive any submissions from the Core Participants.
  7. I am grateful to the media for their submissions and acknowledge that in considering whether restrictions on disclosing or publishing the applicant's name are justified, I must also balance the principle of open justice and the fact that knowledge of a witness' identity may be important to Core Participants and the public when considering and assessing a witness' evidence (as I did in my 'minded to' decision). As important as these factors are, given the purpose of this evidence and my Module 3 investigation, I have reached the conclusion that this does not militate against granting an order. The purpose of this investigation is to obtain evidence of systemic issues across the healthcare systems in the UK and not to investigate individual cases or hospitals. Accordingly, I do not consider that it is necessary for Core Participants to know the applicant's identity to exercise their rights, or for the public to know it in order to understand their evidence.
  8. I am satisfied that the applicant's fears and personal circumstances are such that they will be unable to provide evidence to the Inquiry in an effective and efficient way (section 19(4)(d)(i) of the Act) unless I grant the application and that the applicant's subjective fear of the risk of harm or damage to them should their identity be in the public domain is genuine and can be addressed by granting the restriction order application and special measures stated above pursuant to section 19(4)(b) of the Act.

Pursuant to s. 19(3)(b) I am also satisfied that prohibiting disclosure or publication of their identity is necessary in the public interest.

9. I have, therefore, concluded that a restriction order in respect of the applicant's identity is appropriate and will assist me in fulfilling the Inquiry's terms of reference under section 19(3)(b) of the Act.
10. I order the following special measures to enable the applicant to give evidence while protecting their identity:
  1. Only Core Participants, their legal teams and Inquiry team members present at the hearing centre will be permitted to see the applicant when they give evidence.
  2. During the applicant's evidence, the public gallery will not be open for the general public and the media, who may instead follow proceedings in the viewing room or online.
  3. The broadcast of the applicant's evidence to the viewing room and to the public via the internet will not include any images of the applicant.

**The Right Honourable Baroness Hallett**

**Chair of the Covid-19 UK Inquiry**

**22 August 2024**