



Decision on the application for a Restriction Order by M3/W4

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, including the use of a discretion to issue a ‘minded to’ decision (paragraph 8).
2. On 22 August 2024, I issued a ‘minded to’ decision to make a restriction order prohibiting the disclosure and publication of the real name of M3/W4 for the reasons set out below. The applicant will not be required to give oral evidence, therefore I was not minded to make an order in respect of special measures. I invited submissions from the Core Participants and representatives of the media.
3. In reaching this decision to grant the application, I have considered the application for a restriction order submitted by the applicant’s representatives. In summary, the applicant is an ethnic minority healthcare worker, who was a Speciality and Specialist (“SAS”) doctor in a clinical role in a hospital during the pandemic and continues to work in such a role. The applicant submits that if their identity were to be made public, there is a significant risk that they would be unfavourably treated at their place of work and/or lose their job.
4. The applicant has provided evidence to support their assertion that they have established an objective risk of harm or damage should their identity be made public. Footnotes to their application detail reports in the media showing that healthcare professionals face detriment and possible retribution for ‘whistleblowing’. A report from the British Medical Association also found that minority ethnic healthcare workers are the least empowered to speak-up about mistreatment. The applicant believes that SAS doctors face specific and higher risks of *“bullying, harassment and discrimination”* and are *“statistically more likely to face referral for disciplinarys and investigations and suffer worse outcomes”* if they are an SAS doctor and/or ethnic minority healthcare worker. The applicant’s draft statement refers to a report by the Nursing and Midwifery Council in support of this assertion, but it is not included in their application.
5. On balance, I am not presently persuaded that there is an objective risk of harm or damage to the Applicant should their identity be disclosed to Core Participants or made public. However, this is not fatal to the application.
6. The applicant has provided evidence that they have a subjective risk of harm or damage should their identity be made public. They have understandable and genuine

concerns about being able to provide for their family should they not have job security. I have taken into account that they work in the same hospital as they did during the pandemic and they fear unfair treatment and potential dismissal should their identity be identified.

7. In considering whether restrictions on disclosing or publishing M3/W4's name are justified, I must also balance the principle of open justice and the fact that it may be important to Core Participants and the public to know a witness's identity when considering and assessing their evidence. However, given the purpose of this evidence and my Module 3 investigation is to obtain evidence of systemic issues across the healthcare systems in the UK, rather than to investigate individual cases or hospitals, I do not currently consider it is necessary for Core Participants to know M3/W4's identity to exercise their rights, or for the public to know it in order to understand their evidence.
8. Guardian News & Media Limited (GNM) previously responded to my 'minded to' decision in respect of M3/W1 and M3/W2 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.
9. I understand the concerns previously expressed by the media and have considered them very carefully. Nonetheless, 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 an ethnicity minority healthcare 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 as a SAS doctor in a clinical role in an NHS hospital during the pandemic.

- d. The procurement and distribution of key equipment and supplies: the applicant has provided their experience of personal protective equipment (PPE) 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.
10. 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.
11. I am satisfied that the applicant's subjective fear of harm or damage to them should their identity be put in the public domain that is genuine. It can be addressed by the granting of the restriction order application pursuant to section 19(4)(b) of the Act. Further, pursuant to s. 19(3)(b) I am satisfied that the prohibiting disclosure or publication of their true identity is necessary in the public interest.
12. In considering section 19(4)(d)(i) of the Act, I am satisfied that should I not grant the application based on the risks that the applicant describes, they are likely to be unable to provide evidence to the Inquiry in an effective way.
13. Accordingly, I have decided to grant the application.

The Right Honourable Baroness Hallett

Chair of the Covid-19 UK Inquiry

30 August 2024