

## **Submissions on behalf of the Frontline Migrant Health Workers Group by MS SEN GUPTA KC**

Good afternoon, my Lady. I appear on behalf of the Frontline Migrant Health Workers Group, together with my learned friend Piers Marquis. We are instructed by the Public Interest Law Centre.

Our clients are very grateful to have been granted Core Participant status by your Ladyship.

This is the first occasion on which our clients have made oral submissions as part of this Module. Accordingly, we take this opportunity to introduce our clients and to identify their key interests before we make brief submissions on: one, the scope of Module 3 and the provisional list of issues; two, expert evidence; three, Rule 9 requests; and, four, witness evidence.

### **Introduction to the Frontline Migrant Health Workers Group**

First, our clients. The Frontline Migrant Health Workers Group is a collective group of two trade unions, United Voices of the World, (UVW), and Independent Workers' Union of Great Britain, (IWGB), and a consortium of community organisations, Kanlungan. They have joined together for the purpose of participation in Module 3 of this Inquiry.

**Kanlungan** is a charitable incorporated organisation representing a consortium of Filipino, South East and East Asian grassroots community organisations. They work closely together for the welfare and interests of migrants, refugees and diaspora communities from those regions living in the UK. Kanlungan members work across the healthcare sector as nurses, cleaners and domestic healthcare staff. In May 2020, about 20,000 Filipinos worked for the NHS. They were the largest national group after British and Indian workers. Despite comprising only 3.8% of the nursing workforce, by May 2020 Filipinos accounted for 22% of Covid-19 deaths among nurses.

**The IWGB** is a non-TUC affiliated national trade union founded by Latin American cleaners in 2012. They have membership across a number of sectors, including couriers, cleaners, porters, security officers and private hire drivers. Many of their members work in outsourced positions within the healthcare sector. Members are overwhelmingly working class and from black, Asian and minority ethnic backgrounds, in low paid and precarious employment. The IWGB has been at the forefront of organising previously unorganised workers. Over a decade of action, advocacy and campaigning, they have become a leading grassroots trade union.

**UVW** is a non-TUC affiliated national trade union which organises low paid, migrant and precariously employed workers on short-term contracts or working in the gig economy. Its members include cleaners, security guards, caterers and porters in the NHS across at least ten London hospitals, as well as others across England. Most of their healthcare members are outsourced workers serving the NHS. Where members are employed directly by the NHS, this has often been the result of industrial action organised by the union to bring workers in-house.

All three organisations represent precariously employed, frontline, predominantly migrant workers. Many of those members are outsourced and subcontracted key workers without the contractual protections of NHS employed staff. Their members consist of the unseen and the unheard.

All three organisations campaigned throughout the pandemic in order to protect their members.

All three organisations thank your Ladyship for acknowledging that as well as doctors and nurses, non-clinical support workers such as outsourced hospital cleaners, porters and medical couriers played an important role in the healthcare response to the Covid-19 pandemic.

Your Ladyship's acknowledgement of their importance by granting them CP status is a key first step for the group. As a result of your Ladyship's ruling, our clients' members will be seen and will be heard by this Inquiry. Second, key areas of interest. We submit that an examination of the key systemic issues that detrimentally impacted on the resilience of the healthcare system is vital to fulfilling the Inquiry's statutory role.

Our clients are profoundly concerned about the detrimental impact that systemic issues had and continue to have on healthcare provision and the working conditions of their members. Those systemic issues of particular concern to our clients are chronic underfunding of the NHS, outsourcing and the impact of privatisation, hostile environment immigration policies, inadequate sick pay provision, and structural racism.

We submit that a thorough and critical examination of those systemic issues is essential for the Inquiry to fulfil its aim of informing preparations for future pandemics across the UK. It is against that background that we make our submissions.

### **Topic 1, scope and provisional list of issues.**

We're grateful to CTI [Counsel to Inquiry] for providing a provisional list of issues, and also her clarification today regarding scope. We had made some important observations on the list in our written submissions, which seem to have been accepted by CTI. Crucially, we understand that version 2 of the list will now expressly refer to non-clinical support staff.

The words "non-clinical" would include those such as hospital porters, hospital cleaners, catering workers and medical couriers, whose contributions to healthcare are all so vital and who were hugely impacted by the pandemic.

We submit that this will need to be reflected throughout version 2, including at issues 1, 3, 7, 8 and 10 of the current draft. We were concerned that, without specific reference to non-clinical staff, there was a risk that our clients' members may become an afterthought, as they were during the pandemic. We're grateful to CTI for clarifying that there will be express reference to non-clinical staff in version 2.

Also in relation to the provisional list of issues, we had raised the issue of migrant domestic healthcare workers being considered in Module 3. We understand from CTI's opening this morning that they will be considered as part of Module 6. We shall be grateful for confirmation of this. Our clients' main concern is ensuring that these domestic workers and the crucial role they played are not overlooked as part of this Inquiry.

Our final observation on the provisional list of issues is its use of the terms "staff", "healthcare staff" and "healthcare workers". We understand the Inquiry team is using these terms interchangeably to include those directly employed by the NHS, as well as those who were not so directly engaged, i.e. outsourced workers.

As your Ladyship has already recognised, all individuals who contribute to the work of the NHS, whether directly employed or outsourced workers, are essential to its efficacy. When considering the impact of the pandemic, it is vital that the Inquiry considers and reports on the impact on all those working in a healthcare setting, and we should be grateful for clarity in version 2 of the list of issues to ensure that it expressly includes outsourced workers, as we understand is intended.

Those are our submissions on scope and the provisional list of issues.

My remaining topics are much shorter.

**Topic 2, expert evidence.**

My Lady, we're grateful to CTI for the information provided thus far with regard to expert evidence in this module, and we understand that the scope of expert evidence is still under review. We take this opportunity to submit that this Inquiry would be greatly assisted in Module 3 by expert evidence on outsourcing and the impact of privatisation in the NHS, and the impact of hostile environment immigration policies on healthcare services. These are complex areas of law and policy that require significant technical understanding to properly assess their impacts, and we submit that these matters cannot properly be considered without the benefit of expert evidence. Your Ladyship may already be in the process of instructing experts in these areas, but if not, we invite consideration on the subject by your Ladyship.

**Topic 3, Rule 9 requests.**

As your Ladyship will be aware, we have responded to the Inquiry's Rule 9 request and await any comments from the Inquiry team on our draft response.

**Topic 4, witness evidence.**

Where possible, our Rule 9 statement has addressed the concerns of members using those members' own accounts of their frontline experiences during the pandemic. Like the TUC [Trade Union Congress], we emphasised the importance of the Inquiry hearing directly from individuals who worked on the frontline. We're grateful to CTI for confirming that the public hearings will include hearing evidence from those working within the healthcare system.

My Lady, in conclusion, the Frontline Migrant Health Workers Group regard this Inquiry as vitally important to their members and to the future of the NHS. Many of the systemic issues that the group's members faced during the relevant period still persist.

Your Ladyship's report will include an essential analysis of these issues. Your Ladyship's recommendations will be crucial in addressing them so that our healthcare system is prepared for future pandemics.

We're very grateful to your Ladyship and the Inquiry team for all your work, and will continue to assist the Inquiry in whatever ways we can.

My Lady, those are our submissions, unless I can be of any further assistance.