

Note for the Preliminary Hearing in Module 1 of the UK Covid-19 Inquiry

Introduction

1. The purpose of this Note is threefold. First, it sets out, in overarching terms, the background to the UK Covid-19 Inquiry. Second, it introduces the agenda for the Preliminary Hearing in Module 1 on 4 October 2022. Third, it sets out, primarily for the benefit of core participants, information concerning the nature of the Inquiry's work so far, to enable them to file written submissions, if they wish, in advance of the Preliminary Hearing and to prepare for that hearing. Any brief written submissions should be received by 4pm Wednesday 28 September.

2. The Preliminary Hearing in Module 1 will address the following issues:
 - a. The commencement of the Inquiry
 - b. Designation of Core Participants
 - c. Scope of Module 1
 - d. Rule 9 Requests
 - e. Disclosure to Core Participants
 - f. Instruction of Expert Witnesses
 - g. The Listening Exercise
 - h. Commemoration
 - i. Future Hearings Dates

The Commencement of the Inquiry

3. On 12 May 2021 the then Prime Minister made a statement in the House of Commons in which he announced that there would be a public inquiry under the Inquiries Act 2005. He stated that it would examine the UK's preparedness and response to the Covid-19 pandemic and learn lessons for the future.
4. On 15 December 2021, the Prime Minister, as the sponsoring Minister, appointed the Rt Hon Baroness Heather Hallett DBE as Chair of the Covid-19 Inquiry.
5. In the written appointment letter the Prime Minister confirmed that he would be consulting with Ministers from the devolved administrations. Such consultation is required by section 27 of the Inquiries Act 2005 to enable the inclusion in the terms of reference of an inquiry, for which a United Kingdom Minister (including the Prime Minister) is responsible, of anything that would require the inquiry to determine facts wholly or primarily concerned with a Scottish matter or a Welsh matter or a transferred Northern Ireland matter.
6. Draft terms of reference were drawn up making clear that the Inquiry would consider and report on the state's preparations and response to the pandemic, and would consider reserved and devolved matters in all four nations.
7. On 10 January 2022, Baroness Hallett wrote to the Prime Minister recommending certain amendments to ensure greater clarity in the Inquiry's remit and enable it to be conducted at an appropriate pace. She also sought an express mandate to publish interim reports so as to ensure that any urgent recommendations could be published and considered in a timely manner.
8. In addition, given her view that the Inquiry would gain greater public confidence and help the nation to come to terms with the pandemic if it was open to the accounts that many people - including those who have been bereaved - would wish to give, she suggested adding explicit acknowledgement of the need to hear about people's experiences and to consider any disparities in the impact of the pandemic.
9. On 4 February 2022, the Prime Minister responded, accepting, with three caveats and a small number of clarificatory textual refinements, the detailed changes that had been proposed.

10. On 10 March 2022, having consulted with Ministers from the devolved administrations, the Prime Minister wrote to Baroness Hallett to inform her of certain further changes to the draft terms of reference which had been made in response to comments from the devolved administrations.
11. The same day the Inquiry's draft terms of reference were published. On 11 March 2022 the Chair wrote an open letter to the public in which she announced the launch of a public consultation process on the Inquiry's draft terms of reference so that public concerns could be reflected in the final terms of reference and inform the scope of the Inquiry's investigations.
12. The Inquiry issued a consultation document seeking the public's views on whether the Inquiry's draft terms of reference covered all the areas that they thought should be addressed, and on whether the Inquiry should set a planned end-date for its public hearings. The consultation was open to everyone, and the public could contribute on the Inquiry's website, by email or by writing.
13. Baroness Hallett consulted widely across all four nations, visiting towns and cities across England, Wales, Scotland and Northern Ireland and speaking, in particular, to a number of the bereaved. In parallel, the Inquiry team met with representatives of more than 150 organisations in 'roundtable' discussions, covering themes such as equality and diversity, healthcare, business, and education and young people, among others.
14. In total the Inquiry received over 20,000 responses to the consultation, of which 19,903 were received through an online consultation form. An independent research consultancy was commissioned to analyse the responses and produce a comprehensive independent report, summarising respondents' views and the key themes that emerged from the consultation process.
15. In light of the views expressed, the Inquiry recommended a number of significant changes to the draft terms of reference. Baroness Hallett wrote to the Prime Minister on 12 May 2022 recommending her changes to the terms of reference.
16. In his response on 28 June 2022, the Prime Minister accepted her proposed changes in full. The 'set up date' was confirmed to be 28 June.
17. On 21 July 2022 the Inquiry was formally opened. Baroness Hallett announced the decision to conduct the Inquiry in modules, which would be announced and opened in

sequence. Those wishing to take a formal role in the Inquiry were invited to apply to become core participants, within the meaning of Rule 5 of the Inquiries Rules 2006, for each module, rather than throughout the Inquiry as a whole.

18. This module, Module 1, was opened on 21 July 2022, and a document outlining its provisional scope was published on 31 August 2022. This is addressed further below. The Inquiry also published Core Participant and Costs protocols on 21 July 2022 and 21 March 2022, respectively.
19. The Module 2 provisional outline of scope was published on 31 August 2022. Module 2 will look essentially at the core political and administrative governance and decision-making in the UK concerning the high-level response to the pandemic in March 2020 and thereafter.
20. This Inquiry is obliged under section 27 of the Inquiries Act 2005 and its Terms of Reference to consider both reserved and devolved matters in respect of Scotland, Wales and N Ireland. Therefore, having considered the picture from a UK-wide (and also English) perspective in Module 2, Modules 2A, 2B and 2C will address the same overarching and strategic issues from the perspective of Scotland, Wales and Northern Ireland.
21. However, on account of the fact that an Inquiry has been established in Scotland under Lady Poole to look at matters devolved to the Scottish government, this Inquiry's intention, in relation to Scottish matters, is to seek to minimise duplication of investigation, evidence gathering, and reporting with the Scottish Inquiry.
22. The public hearings in Module 1 and Module 2 will take place in London. Modules 2A, 2B and 2C will take place in Scotland, Wales and Northern Ireland, respectively. Modules 2, 2A, 2B and 2C were opened on 31 August 2022, and documents setting out their provisional scope were published the same day.
23. Module 3 will examine the impact of Covid, and of the governmental and societal responses to it, on healthcare systems generally across the UK. Among other issues, it will investigate the general impact of the pandemic on healthcare systems and governance, hospitals, healthcare staff, primary care (including GPs and dentists), NHS 111 services and ambulance services. It will address the use of 'do not resuscitate' notices, the rationing of critical care, capacity, triage systems, the shielding and care of

the extremely vulnerable, NHS backlogs and waiting times, and the treatment of those suffering from long Covid. It is a UK 'system' module, and will look across all four nations, utilising in addition data from the initial stages of the listening exercise.

24. Later modules, details of which will be published in the coming months, will address, very broadly, 'system' and 'impact' issues across the UK. The system modules will include vaccines, therapeutics and antiviral treatment; the care sector; government procurement and PPE; testing; tracing; government business and financial responses across the UK. The impact modules will look at health inequalities and the impact of Covid-19 on the education and business sectors; on children and young persons; and on public services and on other public sectors. Neither the provisional scope nor the order of the modules has been determined.
25. In later modules the Inquiry will return to Scotland, Wales and Northern Ireland to address the local decision-making during the pandemic (other than as considered in the earlier modules) and remaining devolved issues.

Designation of Core Participants

26. The applications for core participant status in Module 1 have been considered by the Chair 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.”*

27. In making determinations, the Chair considered whether, in each case, the application fulfilled the criteria set out in Rule 5(2) in relation to the issues set out in the

Provisional Outline of Scope for Module 1 and exercised her very wide discretion, accordingly.

28. The Chair is under a duty to ensure that the Inquiry is conducted as thoroughly and as efficiently as possible, bearing in mind the Inquiry's wide-ranging Terms of Reference. Given the vast numbers of people who were involved with, or adversely affected by, the Covid-19 pandemic, very many people in this country could potentially have an interest in the Inquiry process. That, however, is not the test, and the Chair was obliged in essence to assess very carefully whether, in reality, applicants can assist the Inquiry in Module 1, the focus of which is the UK's resilience, planning and preparedness.
29. By way of overview, the Inquiry received 130 applications for core participant status in Module 1. Of these 130 applications, 26 applicants have been designated as core participants in Module 1; they are:
 - a. Covid-19 Bereaved Families for Justice
 - b. Scottish Covid-19 Families for Justice
 - c. Covid-19 Bereaved Families for Justice Cymru
 - d. Northern Ireland Covid-19 Bereaved Families for Justice
 - e. The Chancellor of the Duchy of Lancaster (Cabinet Office)
 - f. HM Treasury
 - g. Secretary of State for Health and Social Care
 - h. Secretary of State for the Home Department
 - i. Secretary of State for Business, Energy and Industrial Strategy
 - j. Secretary of State for the Environment, Food and Rural Affairs
 - k. Office of the Chief Medical Officer
 - l. UK Health Security Agency
 - m. NHS England

- n. Government Office for Science
 - o. Association of Directors of Public Health
 - p. Imperial College of Science and Technology
 - q. Local Government Association
 - r. Welsh Local Government Association
 - s. National Police Chiefs' Council
 - t. Scottish Ministers
 - u. Public Health Scotland
 - v. NHS National Services Scotland
 - w. The Welsh Government
 - x. Public Health Wales
 - y. The Executive Office of Northern Ireland
 - z. Northern Ireland Department of Health
30. A number of unsuccessful applicants have re-applied for core participant status. These applications are being considered in writing and will be determined in advance of the Preliminary Hearing, thereby allowing those who are successful to participate in it.
31. For the avoidance of doubt, the determinations which have been made by the Chair in relation to Module 1 in no way prejudice the ability of any applicant to apply in another, later, module which may in any event be more suited to the application.
32. It is also, of course, not necessary for an individual or organisation to be a core participant in order to provide information or evidence to the Inquiry. All applicants may have relevant information to give in relation to matters being examined in the Inquiry and the Inquiry will be approaching, in due course, 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.

Scope of Module 1

33. Module 1 is primarily concerned with whether the UK was properly prepared for the pandemic that ensued.
34. The document setting out the provisional outline of scope for Module 1 states:

“This module will examine the resilience and preparedness of the United Kingdom. Was the risk of a Coronavirus pandemic properly identified and planned for? Was the UK ready for such an eventuality?”

The module will look at the UK’s preparedness for whole-system civil emergencies, including resourcing, the system of risk management and pandemic readiness. It will scrutinise government decision-making and seek to identify whether lessons were learned from earlier incidents and simulations and from international practices and procedures.

The module will examine:

- 1. The basic characteristics and epidemiology of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) and Coronavirus disease (COVID-19).*
- 2. The Government structures and specialist bodies concerned with risk management and civil emergency planning, including devolved administrations and their structures, local authorities and private sector bodies, historical changes to such structures and bodies as well as the structures in place as at January 2020, inter-organisational processes and cooperation.*
- 3. The planning for a pandemic, including forecasting, resources, and the learning from past simulation exercises (including coronavirus, new and emerging high-consequence infectious diseases and influenza pandemic/epidemic exercises), the emergency plans that were in place, biosecurity issues relevant to the risk of pandemics/epidemics, international comparisons and the history of, and learning from, past policy-related investigations.*
- 4. Public health services, including the structure of public health bodies, their development over time and readiness and preparation in practice; public health capacity, resources and levels of funding, any impact arising from the UK’s departure from the European Union, and the way in which relevant bodies monitored and communicated about emerging disease.*
- 5. Economic planning by relevant Government bodies, including capacity and spending commitments and efficiency and anti-fraud controls, in the context of emergency planning.*

6. Planning for future pandemics, including (in outline) the state of international preparedness; the risks of new variants of Covid 19, other viruses of concern, and diseases from human contact/viral transmission with animals.”

35. Module 1 is primarily concerned with high-level pandemic resilience, preparedness and planning across all four nations. It will examine whether the correct structures, bodies, procedures and policies were in place at UK and at regional and national levels, and look at their history, development, co-operation, and performance. In terms of inquiring into pandemic planning, this will include examination of the forecasting processes, the extent to which past knowledge of actual events and simulated exercises were learnt from, the degree of readiness preparation, and the general resources that were available. The Module is concerned with how the relevant entities prepared and whether they were ready by way of general response.
36. International comparisons will be drawn, and the funding, capacity and maintenance of emergency planning and public health structures examined (including any impact arising from the UK's departure from the European Union). Evidence will be given in relation to the planning for future pandemics, including the forecasting of new Covid-19 variants, other viruses of concern, and diseases from human contact/viral transmission with animals.
37. This scope, whilst ambitious, is necessarily provisional. Although it introduces a wide range of areas relating to resilience, planning and preparedness, it is neither practical nor advisable to identify at this stage all the issues that will be addressed at the Module 1 public hearing, let alone the questions. Much will depend on the evidence and materials obtained under the Rule 9 process, which has been designed of course to obtain a mass of documentation from which the issues can be further distilled.
38. The Inquiry believes that the provisional scope provides a proper framework in which to include all the issues and matters that the Inquiry is likely to inquire into, and a sufficient indication for persons and organisations who have relevant information and evidence, as well as core participants, to be able to commence their preparations. The issues will, however, be further developed once the responses to the majority of the Rule 9 requests for evidence have been received and analysed.

39. Nevertheless, if there are broad matters or areas of inquiry relating to resilience and preparedness that the core participants would additionally wish the Inquiry to consider as part of the provisional scope, these will be considered.

Rule 9 Requests

40. The Inquiry has issued formal requests for evidence, pursuant to Rule 9 of the Inquiry Rules 2006, to the following organisations, which appear to the Inquiry to have played a central or significant role in relation to the UK's resilience, planning and preparedness:
- a. The Cabinet Office;
 - b. The Department for Levelling Up, Housing and Communities; and
 - c. The Department for Health and Social Care.
41. They request information and documents (including policy documents, agendas, meeting notes and minutes) and the identities of key figures and decision-makers (including Ministers, civil servants and advisers) relating to relevant preparedness decision-making between 11 June 2009, when WHO announced that the scientific criteria for an influenza pandemic had been met for what became known as the 2009-2010 Swine Flu Pandemic, and 21 January 2020, which is the date on which the WHO published its '*Novel Coronavirus (2019-nCoV) Situation Report - 1*'. The requests confirm the relevancy of materials and documents falling outside the proposed date range, but which nevertheless bear directly on the issues raised by the Provisional Outline of Scope.,
42. Broadly, the areas of inquiry made in relation to planning and preparedness include the development and functions of the relevant organisations; resources and levels of funding; the monitoring and communication of new and emerging infectious diseases; the application of the duties and responsibilities under the Civil Contingencies Act 2004 and associated regulations; policies and operational strategy, including those set out in various pandemic preparedness and strategy documents and reports; an explanation and analysis of the government's forecasting of influenza and high-consequence infectious diseases; institutional learning and the simulation and

training exercises from Exercise Winter Willow in 2007 through to Exercise Pica in 2018; public health services and resources, including the stockpiling of essential resources; and cooperation within government and between government and the devolved administrations, regional and local government, expert advisory groups, public sector bodies, the private sector, and international partners (including the Global Health Security Initiative (“GHSI”), the Working Group on Respiratory Viral Pandemic Threats, WHO and the European Centre for Disease Prevention and Control (“ECDC”)).

43. They seek a detailed understanding of the role, function and responsibilities of the receiving department or organisation in connection with whole system risk management, civil emergencies, high-consequence infectious diseases, and epidemics and pandemics generally.
44. They seek disclosure of key actions, activities, initiatives, policies, operational strategies and publications by the UK government and the devolved administrations in preparation for new respiratory or high-consequence diseases. Included is the impact on resources following the EU membership referendum in June 2016 and the EU exit.
45. It is expected that within the next few weeks, Rule 9 Requests will also be sent to:
 - a. The UK Health Security Agency;
 - b. HM Treasury;
 - c. The Welsh Government;
 - d. The Government in Northern Ireland; and
 - e. The Scottish Government.
46. The Rule 9 Requests are being issued on an iterative basis, as part of which further requests will be made of recipients, focusing on particular issues or topics. They are lengthy, complex and wide-ranging. Their purpose is to enable the Inquiry to examine the quality and nature of the UK’s state of preparedness prior to the Covid-19 pandemic, to understand the extent to which lessons had been learnt from earlier outbreaks of disease, institutional learning, and simulated exercises, to inquire into

whether the UK was ready, and to assess the degree of readiness in light of future risks.

47. They further seek detailed information relating to the positions, committees, working groups, specialist bodies and associated entities specifically involved in planning and preparedness, including bodies such as the the Cabinet Secretary, the National Security Secretariat (NSS), the National Security Council (NSC), the National Security Advisor (NSA), the Health and Social Care Cabinet Committee; the Threats, Hazards, Resilience and Contingency Cabinet Sub-Committee, the Civil Contingencies Secretariat (CCS), the Civil Contingencies Committee (CCC), the Scientific Advisory Group on Emergencies (SAGE), the National Situation Centre (SitCen), as well as various government financial and anti-fraud bodies.
48. Further Rule 9 Requests will be issued, on a rolling basis, to other organisations.

Disclosure to Core Participants

49. The principal aim of disclosure to core participants will naturally be to provide a focused and proportionate amount of material to enable them to participate effectively in the hearing.
50. Disclosure will be reviewed by the Inquiry in Module 1 to ensure that it is reasonable, proportionate and fair, with regard to:
 - a. Its relevance to the issues in the Provisional Outline of Scope of Module 1;
 - b. The quantity of data / documents which are received by Module 1;
 - c. The timetable for the Module 1 hearings; and
 - d. The Inquiry's resources.
51. No final decision has been taken as to which electronic disclosure system will be used to provide documents to core participants, although this is expected very shortly, in advance of the Preliminary Hearing. Only those who have provided a signed undertaking to the Chair will be permitted access to the material that the Inquiry discloses to core participants.
52. It is anticipated that disclosure will commence in tranches in the late Autumn.

Expert material and the instruction of expert witnesses

53. The Inquiry will review existing national and international research material relating to pandemic preparedness, and will make relevant material available. A significant number of qualified experts and persons with recognised expertise are also likely to be giving evidence at the public hearing as witnesses of fact.
54. However, the Inquiry will also appoint qualified experts in particular fields of expertise as experts to the Inquiry. They will assist the Inquiry, either individually or as part of a group of such persons, by way of the provision of written reports and opinions (including the answering of specific questions asked of them by, or through, the Inquiry) and, where appropriate, the giving of oral evidence at the public hearing.
55. Such reports and evidence will inform and support the Inquiry's work during the public hearings, as well as Baroness Hallett's recommendations, by ensuring that its factual conclusions are soundly based and supported by the weight of the best expert opinion.
56. Such experts will have the appropriate expertise and experience for the particular instruction. They will be independent and objective and subject to an overriding duty to assist the Inquiry on matters within their expertise (whether or not they may also be considered as witnesses of fact in relation to matters falling within the scope of the Inquiry).
57. Written reports will, as evidence, be shared with core participants and published on the Inquiry's website. Where there are significant differences of view or emphasis among the members of a group, these will be made clear on the face of the reports and, of course, these can be tested during oral hearings.
58. The appointment of experts to the Inquiry, and their assignment to a group, are matters exclusively for Baroness Hallett, although she will consider suggestions from core participants as to who should be appointed.
59. Letters of instruction setting out the parameters of the experts' work and the questions for their consideration will be prepared. The questions that the experts are asked to address will be made available to core participants in advance of the report being finalised and core participants will be provided with an opportunity to provide observations on them.

60. The Inquiry has provisionally identified a number of specialist topics on which the assistance of expert witnesses will be sought in Module 1 (a significant number of experts have already been conditionally approached). Additional suggestions from core participants are welcome.
61. These areas are:
- a. The basic characteristics and epidemiology of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) and Coronavirus disease (COVID-19).
 - b. Identification, history and funding of the structures and bodies at government, devolved administration, and local authority levels concerned with risk management and civil emergency planning; historical changes to such structures and bodies as well as the structures in place as at January 2020; inter-organisational processes and cooperation.
 - c. Identification of international bodies concerned with risk management, civil emergency and preparedness; comparative examination of the UK structures and bodies with equivalent bodies in other countries.
 - d. Identification, history and funding of UK public health bodies, their development over time, and readiness and preparation in practice.
 - e. Forecasting of epidemic trends; transmission of diseases from animals to humans; international processes dealing with surveillance and control of infectious diseases and viruses.

Listening Exercise

62. The Inquiry is in the process of designing and setting up a process by which the experiences of those affected by the pandemic and the UK's response to it will be gathered, analysed and summarised. Details of the listening exercise are set out in the Note from the Solicitor to the Inquiry (STI).
63. The Inquiry is designing the listening exercise to obtain broad and representative information from anyone who wishes to contribute, i.e. both from the bereaved and anyone else who was impacted by the pandemic. It is being designed bearing in mind

the potential for hundreds of thousands, if not millions, of people to contribute if they wish.

64. These experiences will be anonymised and reviewed by research specialists, and will be collated into summary reports. The resulting reports, rather than individual accounts, will be aligned with and fed into the Inquiry's later modules, particularly those dealing with the direct and indirect consequences of the pandemic on the health and care systems, the vulnerable, the elderly, children and the disabled, the public sector, businesses and other sectors of the economy. They will be disclosed to core participants. The summary reports will then be formally adduced in evidence so they form part of the Inquiry's record.

Commemoration

65. Given the scale of the tragedy brought about by the pandemic, and the grief and loss suffered by the bereaved, the Inquiry wishes to provide opportunities for those who were lost to be commemorated as part of the Inquiry's process.
66. This commemoration will begin with Baroness Hallett leading a moment of reflection at the start of the Inquiry's first preliminary hearing on 4 October 2022.
67. Baroness Hallett also believes it appropriate to recognise the human suffering arising from the pandemic, including the loss of loved ones, by ensuring that it is reflected throughout the Inquiry's work. The inquiry is exploring ways in which this can be done, including by way of a commemorative memorial in the future hearing centre, through the inquiry's public hearings, and through the Inquiry website. Further details are given in the Note from STI.
68. The Inquiry has received submissions asking for extensive pen portrait evidence and evidence of individual deaths to be received at the public hearings. While the heartfelt submissions that have been made are acknowledged, as is the value that such procedures can bring in an inquest or an inquiry performing the role of an inquest, Counsel to the Inquiry suggest that this is unlikely to be possible or indeed appropriate in an inquiry such as this, which is much more broadly drawn.
69. The special and important position occupied by the bereaved is recognised. However, the Inquiry's core function is not to inquire into the direct circumstances of

the tragic deaths that occurred, but is instead to examine the pandemic that led to those deaths, and the UK's response to it, in order to try and ensure that, in future, death and suffering and harm cannot occur on such a scale again.

Future Hearings

70. A further Preliminary Hearing for Module 1 will be held early in 2023 in London on a specific date and at a venue to be confirmed.
71. The public hearing in Module 1 will take place in London in May 2023 and will last 4 weeks.

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22 September 2022

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