

UK COVID-19 INQUIRY

SUBMISSIONS FOR PRELIMINARY HEARING IN MODULE 1 ON 4 OCTOBER 2022

ON BEHALF OF NHS NATIONAL SERVICES SCOTLAND (NHS NSS)

1. NHS NSS welcomes this Inquiry into the preparations and response to the Covid-19 pandemic, which affected all of our lives. NHS NSS will support the Inquiry in any way it can. A brief submission is made now in relation to paragraph 21 of Counsel to the Inquiry's Note on the agenda for this hearing- the stated intention to seek to minimise duplication with the Scottish Inquiry.
2. The Chair has already indicated in her opening statement of 21 July 2022 that after completion of Modules 1 and 2 (including 2A, 2B and 2C), when the Inquiry returns to each of the devolved nations in later modules, her intention in relation to Scottish matters is to leave as many devolved issues as possible to the Scottish Inquiry. She considered it necessary to be clear to the people across the UK which Inquiry is responsible for looking at particular issues. She referred to the need to be considerate to those organisations and individuals that will be called to give evidence and to give them confidence that there will not be repeated calls for the same material from different inquiries. NHS NSS agrees with and appreciates this approach.
3. Also in her opening statement of 21 July, the Chair stated that when the Inquiry investigates issues relating specifically to Scotland, she will seek to minimise duplication of investigation, evidence gathering and reporting with the Scottish inquiry. This is in accordance with the Inquiry's terms of reference paragraph 2. The terms of reference for the Scottish Inquiry similarly provide that it must make reasonable efforts to minimise duplication with any other public inquiry.
4. In relation to minimising duplication between inquiries, paragraph 2 of this Inquiry's terms of reference also states "To achieve this, this Inquiry will set out publicly how it intends to minimise duplication, and will liaise with any public inquiry established by the devolved governments, before it investigates any matter which is also within that inquiry's scope."

5. There is a clear overlap between issues under consideration by the two inquiries. NHS NSS is concerned about potential duplication between the two inquiries and has advised both inquiry teams of this. It would welcome early publication of the method by which this duplication will be minimised.

5.1 The first concern relates to resources within NHS NSS in dealing with two inquiries, and potential duplication of information requests increasing the workload of staff, particularly if the requests are in slightly different rather than identical terms. Any increase in resources needed and the necessary duplication of legal representation also results in an increased cost to the public purse. We note that in terms of section 17(3) of the Inquiries Act 2005, in making decisions as to the procedure or conduct of an inquiry, the Chair must act with fairness and with regard also to the need to avoid any unnecessary costs (whether to public funds or to witnesses or others).

5.2 The second concern relates to the overlap between the terms of reference of the two inquiries. Each inquiry requires to investigate and establish the relevant facts, identify the lessons to be learned and make recommendations. This gives rise to the risk of the two inquiries in their reports making different or contradictory findings, and different or contradictory recommendations, in relation to Scottish matters.

6. In the Scottish Inquiry, applications for Core Participant status were invited by 16 September 2022. A timetable for substantive public hearings has not yet been issued. It may be that this Inquiry's Module 1 at least will be completed before there are any substantive hearings in the Scottish Inquiry. Given that investigations are now underway for Module 1 of this Inquiry, with the substantive public hearing scheduled for May 2023, NHS NSS would welcome the Inquiry's finalisation and publication of its proposed method of minimising duplication between the inquiries, as required by its terms of reference.