

NOTE BY SENIOR COUNSEL FOR SCOTTISH COVID BEREAVED

MODULE 2

We note that module 2 covers a very broad range of issues, perhaps ambitiously so. For those in Scotland we represent the following issues are raised

ONE - DISCLOSURE

As with the first Preliminary Hearing we have no disclosure as yet. We understand the process of receiving disclosure in tranches will begin before Christmas 2022. We welcome this process beginning as soon as possible in order that we can assist the inquiry in identifying any areas which may not have yet been considered as issues. Given the significant number of documents which will doubtless be the subject of disclosure orders, and their undoubted voluminous nature, does the Inquiry envisage any potential delays with recovery and in the time required for consideration of disclosures? If so, will allowance be made for such delays, should they arise?

TWO – MODULES

It would assist our understanding of the process if the breakdown of modules could be given to us in as much detail as possible. In doing so the Inquiry will help the understanding of those we represent as to what shape the Inquiry takes and will allow them to see whether areas of particular concern to them will be dealt with in later modules.

THREE – EVIDENCE

We noted in the first hearing that the proposed length of the first module is hoped to be one month. It would assist us in understanding that ambitious timescale as to how long module two is likely to last, how the evidence is likely to be led. Does the Inquiry consider a lot of the evidence will be led in writing? Will this be “read in” to the proceedings? We presume that evidence and reports will be made available online contemporaneously with the evidential hearings. We will raise separate issues in relation to the module that relates to Scotland alone.

FOUR – THE LISTENING EXERCISE

As no doubt the Inquiry fully appreciates, finding out what happened, for example, in a hospital setting, will rarely be found out only by scrutiny of documents alone. The Scottish Covid Bereaved understand that the listening project will be an important part of finding out what

happened to people during that time. We note the terms of the letter by the solicitor to the Inquiry dated 13th September 2022, which was made available online on the 4th October setting out in some detail how that will work. It would assist those we represent to know how the Report will fit into the hearing process. For example, will the Listening Exercise still be running contemporaneously with the hearing of evidence? It is anticipated that there may be people who listen to the evidence and do not recognise their experiences reflected and then contact the Listening Exercise to share their position. It would be helpful to know if there will be a delay after hearings to allow those who may have been influenced by what they heard in evidence to have their say as part of the Listening Exercise.

Claire Mitchell KC
Faculty of Advocates
Edinburgh
(Aamer Anwar & Co Solicitors and Notaries)
20 October 2022