



## **Counsel to the Inquiry's Note for the Second Preliminary Hearing in Module 2A of the UK Covid-19 Inquiry on 21 March 2023**

### **Introduction**

1. The purposes of this note are to provide the agenda for, and introduce the matters to be addressed at the second module 2A preliminary hearing on 21 March 2023. The first preliminary hearing took place on 1 November 2022 and those who have been granted Core Participant status have been provided with updates of progress made by the module 2A Inquiry legal team on 2 December 2022, 11 January 2023 and 13 February 2023 (collectively, the "Update Notes"). However, the preliminary hearing is an opportunity to draw this information together and ensure that it is up to date, as well as allowing a public update on the Inquiry's work so far.
2. This note, and the second preliminary hearing in module 2A will address the following issues:
  - a. Start date for the oral hearings
  - b. Cooperation with the Scottish Covid-19 Inquiry
  - c. Update on Rule 9 requests
  - d. Identity of and disclosure to Core Participants
  - e. Instruction of expert witnesses
  - f. Witnesses and hearing timetable
  - g. Parliamentary privilege
  - h. Evidence proposal procedure and Rule 10
  - i. Opening and Closing Statements
  - j. The Listening Exercise ("Every Story Matters") and Commemoration
3. Should any Core Participant wish to file brief written submissions on any of the issues set out above, they must be received by the Inquiry by **4pm on 14 March 2023**.

### **Start date for the oral hearings**

4. In a Ruling, dated 17 February 2023, issued by the Chair to the Inquiry, Baroness Hallett, the start date for the module 1 public hearing has been postponed from 2 May 2023 to 13 June 2023. A copy of this Ruling has been published on the Inquiry's website and is available [here](#).
5. As a result of the above Ruling, and the knock-on effect which this will have for the oral hearings in module 2, the anticipated start date for the module 2A public hearings of Autumn 2023 is no longer achievable. It will therefore be necessary to fix an alternative start date.
6. As a result of the necessary changes to the preceding modules' timetables, the Inquiry legal team proposes that the module 2A public hearings should start on **Monday 15 January 2024**. The current proposal is that the hearings would end on Thursday 1 February 2024. These proposed dates are subject to the Chair's decision once she has heard submissions from the Core Participants. Please note that we have been liaising with the Scottish Covid-19 Inquiry team in relation to hearing dates in order to try and avoid clashes.
7. We will also be inviting the Chair to consider fixing a third Preliminary Hearing for module 2A in late October/early November 2023. Further details will follow in due course.
8. As indicated at the last preliminary hearing in module 2A, the substantive oral hearings in module 2A will take place in Scotland. Discussions are ongoing with the Scottish Covid-19 Inquiry team about the use of hearing venues in Scotland.

### **Cooperation with the Scottish Covid-19 Inquiry**

9. On 23 February 2023, the Inquiry published a Memorandum of Understanding between the UK Covid-19 Inquiry and the Scottish Covid-19 Inquiry which can be viewed [here](#).
10. Both Inquiries commit to cooperating to:
  - a. provide clarity for the public about how each Inquiry is discharging its Terms of References in relation to Scottish matters;
  - b. minimise duplication of work as far as possible, to reduce the burden on material providers and witnesses engaging with both Inquiries; and
  - c. maximise value for the public purse.
11. The solicitor teams of both the UK Covid-19 Inquiry and the Scottish Covid-19

Inquiry are currently working together in order to develop a set of operational arrangements to deliver the commitments of the Memorandum of Understanding. Those operational arrangements will include, but not be limited to, the sharing of timetabling and plans; the process for document recovery; and the redaction of documents. The solicitor teams are meeting regularly. More details about the work being undertaken by the solicitor teams on the operational arrangements will follow in the monthly Core Participant updates, as well as through communications issued by both Inquiries.

12. Separately, both Inquiries are coordinating on the arrangements for their respective listening exercises.

### **Update on Rule 9 requests**

13. The Inquiry's module 2A legal team has now issued 100 formal requests for evidence, pursuant to Rule 9 of the Inquiry Rules 2006. Requests have been made to Scottish Government departments, public bodies in Scotland, organisations and bodies representing at-risk or vulnerable groups, members of the Scottish Government Covid-19 Advisory Group, and other relevant organisations. These requests have sought extensive documentation relating to the scope of module 2A and, in certain cases, corporate statements.
14. Information has been provided to Core Participants about the recipients of Rule 9 requests within the Update Notes provided to date. A summary of the requests, and an update on the responses to date, is set out within **Annex A** to this Note.
15. Module 2A anticipates sending a number of Rule 9 individual witness statement requests in due course. Details will be provided in future monthly updates.
16. The Inquiry is also likely to issue follow up queries on Rule 9 requests to organisations where it considers that matters have not been explained or addressed sufficiently in the first response or where the Inquiry's review of material received gives rise to further questions or areas for investigation.
17. To date, it has not been suggested by Core Participants that there are significant gaps in the range or identity of organisations and entities to which the Inquiry has directed Rule 9 requests. The number of Rule 9 requests, and the wide range of organisations, entities and individuals who have received such requests, although highlighting the scale of the Inquiry's task, provides reassurance that the Inquiry has cast its investigative net sufficiently widely. However, should any Core Participant consider that there are organisations or individuals who do not appear in Annex A but, in relation to whom, there is reason to believe that the issuing of a Rule 9 request would benefit module 2A then please indicate this as soon as possible. Any suggestions will be considered and, where appropriate, acted upon.

### **Identity of and disclosure to Core Participants**

18. Since the first preliminary hearing in November, Core Participant status for module 2A has been granted by the Chair to Disability Rights UK and Inclusion Scotland.
19. Annex A sets out a status update on module 2A requests. To date, the Inquiry has received material, relevant to module 2A, from the following material providers:
  - a. The Scottish Government
  - b. The Scottish Trades Union Congress (STUC)
  - c. National Police Chief's Council (NPCC)
  - d. Individual members of the Scottish Government Covid-19 Advisory Group (SGCAG)
  - e. Various groups and organisations in response to joint requests sent by module 2A alongside other modules on the Inquiry, including Scottish Covid Bereaved; Children in Scotland; Age Scotland; Enable Scotland; and Scottish Women's Aid

This is more fully set out in Annex A.

20. As set out in some detail within the Update Note of 13 February 2023, the Inquiry legal team has undertaken to redact from materials the names of junior officials where it can be demonstrated that (a) the disclosure of that individual's name is not considered necessary and (b) by virtue of their junior position, they have a reasonable expectation of privacy. In order to ensure this process does not disproportionately delay the process of disclosure, the Inquiry considers it necessary to take a broad approach to redactions of names and contact details and, in particular, where they appear in lengthy lists of email recipients or those copied into email chains. Where such an approach has been taken, a redaction type of 'Name(s) Redacted' is being applied. This is not intended to avoid transparency, nor to avoid any proper scrutiny of the materials, but is considered the most proportionate and pragmatic approach to achieve swift disclosure to Core Participants.
21. Each redaction applied is provisional and is subject to change as a result of the Inquiry's own scrutiny of the evidence, or in response to matters raised by Core Participants. Should the Inquiry be informed that there are good grounds for believing that any document has had relevant content redacted, or for example that it is necessary to have greater clarity about the recipient of any given document or email, it will be reconsidered without delay.
22. The Inquiry is also now exploring means of automating the process of redaction of names which, as a result of the legal team's scrutiny of the materials, have been

provisionally identified to be irrelevant.

23. Module 2A has not yet disclosed any documents received from material providers to its Core Participants. As set out in Annex A, a considerable number of the deadlines set in the Inquiry's Rule 9 requests fall within the next month. Therefore, it is not possible at this stage to give a precise indication of the volume of documents that Core Participants may expect by way of disclosure.
24. However, the Inquiry hopes to make disclosure to Core Participants on a regular basis. It is anticipated that documentation for module 2A will begin to be disclosed to Core Participants from April 2023.

### **Instruction of expert witnesses**

25. As set out in the previous Update Notes, module 2, in conjunction with modules 2A, 2B and 2C, has issued instructions to the following experts:
- a. Professor Ailsa Henderson from the University of Edinburgh has been instructed to report on the political structures for devolution within the UK and mechanisms for inter-governmental decision-making between the UK Government and the devolved administrations during the Covid-19 pandemic.
  - b. Professor Thomas Hale from the Blavatnik School of Government, University of Oxford, has been instructed to report on international data relating to the Covid-19 pandemic, in particular in analysing the effectiveness of the decision-making of the UK and each devolved administration in response to the Covid-19 pandemic in comparison to other countries.
  - c. Alex Thomas from the Institute for Government has been instructed to report on the decision-making structures of the UK Government in an emergency, in particular the Cabinet Office, Cabinet Committees and the Office of the Prime Minister.
  - d. Gavin Freeguard, former Programme Director and Head of Data and Transparency at the Institute for Government, has been instructed to report on the access to and use of data by the UK Government and devolved administrations during the Covid-19 pandemic.
26. Draft reports have now been received from Professor Henderson, Professor Hale and Alex Thomas. These are being reviewed by the legal team. The draft expert report from Gavin Freeguard is expected to be received by the end of March 2023. In due course, module 2A will disclose such expert reports which contain evidence relevant to module 2A.

27. Following disclosure of the draft expert reports, Core Participants will be invited to raise points of clarification or new matters (that are agreed by the Inquiry to be relevant) with each expert. Given the number of Core Participants across modules 2, 2A, 2B and 2C, it may be necessary for there to be some limitations imposed as to the scope and/or number of matters able to be raised by each. Further information about the intended process for this engagement by Core Participants will be provided in due course.

### **Witnesses and hearing timetable**

28. It is important that the Inquiry legal team properly reflects, in light of the statements and documents that are now starting to be received, on the scope of module 2A and identifies to Core Participants, and the wider public, the key issues which will fall to be explored at the oral hearing. That clarity will undoubtedly help all parties focus their review of the materials and preparations for the hearing.

29. Given the need to conduct a meaningful review of the relevant materials, including many of the key statements listed in Annex A, and the need to ensure a broad consistency of approach with modules 2, 2B and 2C (the Preliminary Hearings in which have been or are to be held on 1 March 2023 and 29 March 2023 respectively), module 2A will circulate a list of issues to Core Participants in due course. Further details will follow in future monthly updates.

30. Thereafter, the Inquiry legal team envisages the supply to Core Participants of a provisional list of witnesses for module 2A, on which Core Participants' views will be sought. Once those observations have been considered, a provisional timetable for the oral hearing in module 2A will be circulated to Core Participants.

31. In advance of circulating the provisional list of witnesses, the Inquiry will be writing to all those who have received Rule 9 requests to ask that the individual providing the witness statement submits to the Inquiry any dates to avoid.

### **Parliamentary privilege**

32. The issue of parliamentary privilege within the UK Parliament has been raised in connection with module 2. It was raised there given the amount of parliamentary debate, reports and other material discussing many of the issues which themselves fall to be examined within the Inquiry's Terms of Reference as a whole. It is important to understand the ways in which the potential application of parliamentary privilege relating to the UK Parliament, which, if it is applicable, cannot be waived, may nevertheless be side-stepped by the Inquiry by way of the various means by which it acquires information.

33. It should be emphasised that the principles set out in this note apply only to the Parliament of the United Kingdom. They do not apply to the Scottish Parliament (Pàrlamaid na h-Alba), the Welsh Parliament (the Senedd Cymru) or the Northern

Ireland Assembly. The issues which have arisen have been addressed within module 2 and the position adopted by CTI there is repeated here for the sake of completeness.

34. The issue of parliamentary privilege does still have the potential to be raised in module 2A, given that module 2A will deal with Scottish political decision-making which may touch upon decision-making within the UK Government, such as within the Office of the Secretary of State for Scotland.
35. The doctrine of parliamentary privilege originates from Article IX of the Bill of Rights 1689, which provides, “That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament”.
36. An important point of principle potentially arises, namely whether, in a statutory Inquiry, the impeaching or questioning of statements made in or to the UK Parliament, or the introduction into these proceedings of parliamentary statements or reports for the truth, worth or validity of what is said infringes Art IX.
37. If the privilege attaches, the Inquiry cannot question proceedings in the UK Parliament, including statements made in or to the Houses of Parliament, including to select committees, or introduce such material, or allow witnesses to introduce it, so as to gainsay or support evidence given in the Inquiry.
38. The broad principles as to when debates or proceedings in the UK Parliament might be “impeached or questioned” are as follows:
  - a. It is permissible to refer to things that were said and done in the UK Parliament as a matter of historical fact or to provide context. A mere reference to, or production in legal proceedings of, what was said in the UK Parliament, or production of a report, does not of itself infringe Article IX.
  - b. It is not permissible:
    - i. to draw inferences from such parliamentary material or to use it as evidence for or against disputed factual matters;
    - ii. to rely upon such parliamentary material as evidence of the truth of a proposition; or
    - iii. to deny, dispute or question the worth, truth, genuineness or accuracy of the content of such parliamentary material.
39. A wide range of different categories of parliamentary material is protected by parliamentary privilege as “debates or proceedings in [the UK] Parliament”, including:

- a. Opinions of an individual member of either the House of Commons or the House of Lords, expressed in either House.
  - b. Evidence or memoranda given to a select committee of either House.
  - c. Any document published by order of either House. This includes all National Audit Office (“NAO”) reports.
  - d. Reports put before Parliament.
40. There will be other categories of material which, whilst not themselves covered by parliamentary privilege, may raise issues of parliamentary privilege by quoting, referring to or relying upon material which would itself be covered by parliamentary privilege if adduced within the context of the Inquiry. Given the wide variety of forms in which this material might exist, the Inquiry proposes to approach such material on a case by case basis.
41. These principles are easier to understand in context. By way of non-exhaustive examples only, we have set out below a few common scenarios where parliamentary privilege is likely to arise as an issue in a witness’ oral or written evidence, as well as the Inquiry’s understanding of the position that the principles of parliamentary privilege require:
- a. Witness A refers to evidence previously given in parliament: It is unlikely to be permissible for Witness A simply to refer back to his or her previous evidence to a parliamentary committee and rely on it before the Inquiry. This is due to the fact that, if anyone wishes to cross-examine Witness A, it is likely that they will be unable to do so without “impeaching or questioning” proceedings in Parliament, contrary to Article IX. The position would be the same if the reference was to a previous statement made in proceedings in the Chamber of either House. However, a witness may provide fresh evidence to the Inquiry. It does not matter if it is the same in substance as the evidence provided to the select committee or the statement made in proceedings in the Chamber of either House. Once the fresh evidence is provided, that is a statement made outside proceedings in Parliament and may be examined by the Inquiry in any way that it thinks appropriate.
  - b. Witness A refers to evidence previously given by Witness B in Parliament: It is likely to be permissible for Witness A to cite evidence given by Witness B to either House as part of the background to his or her own evidence (for example, citing the fact that a particular matter was raised in parliamentary evidence on a particular date, for the purpose of showing that the issue had been mentioned in public by that date). A summary is also permissible provided it complies with the principles set out above. However, any commentary on Witness B’s evidence is likely to be



impermissible, given the risks of impeaching or questioning the content of that evidence.

- c. Witness A refers to the content of a report published by a select committee: Whether or not it is permissible for a witness to refer to, or summarise, the evidence, findings and conclusions included in a report published by a select committee will depend on the purpose for which the evidence is included and the nature of the evidence. It is likely to be permissible to receive into evidence, or summarise, the content of a report as long as it is done for the purposes of setting the historical scene and providing context, so that the focus of the witness' evidence is not on the content of the report but on what was done or said in response to it. However, the receipt into the Inquiry's process of parliamentary materials as evidence of the truth of proposition contained in them is as objectionable as an attempt to deny or dispute the content of that material, as it puts the Inquiry into the position of having to risk questioning the proceedings in Parliament or of leaving the point undisputed. If a statement made in a report is, or may be, contentious then any questioning upon the basis of the evidence contained in the statement is likely to infringe Article IX. Similarly, one cannot refer to the opinion or finding of a select committee on an issue which the Inquiry has to determine for itself. The Inquiry considers that this is likely to apply equally to formal responses to a select committee report which is submitted to the select committee, at least to some degree where those formal responses evaluate, engage critically with or respond directly to the report.

42. It is at least arguable that, as a statutory public inquiry with the power to examine witnesses under oath, parliamentary privilege applies:

- a. On the face of it, the Inquiry would appear to be 'a court or place out of Parliament'.
- b. The Joint Committee on parliamentary privilege of March 1999 opined that 'place' included a tribunal, and that, were the matter to arise in the context of the Tribunals of Inquiry (Evidence) Act 1921 - the predecessor Act to the Inquiries Act 2005 - the privilege would apply.
- c. That Committee recommended that 'place' should be defined in statute to include any tribunal having power to examine witnesses on oath, so that any statutory inquiry would be such a 'place'. This would bring the position into line with the statutory position in Australia under the Parliamentary Privileges Act 1987 (Australia) which replaced 'court or place' with 'any court or tribunal'.
- d. In principle, the application of parliamentary privilege extends beyond

courts and tribunals capable of determining civil or criminal liability (which determination, it is acknowledged, this Inquiry cannot carry out, by virtue of s 2(1) of the Inquiries Act 2005) to public law proceedings, in which there is no determination of civil or criminal liability.

- e. In DK (India) and RH (India) v SSHD [2021] UKUT 61 (IAC) the Upper Tribunal held that parliamentary privilege applied to it. The UT is a statutory tribunal conferred with statutory powers to do court-like things and make findings under the Tribunals, Courts and Enforcement Act 2007.

43. However, the issue of whether or not the privilege applies presents no practical problem, since the Inquiry can continue to search for the truth by replicating such statements or materials to which parliamentary privilege may attach by formulating its requests under Rule 9 of the Inquiry Rules 2006 in full knowledge of what it knows the witnesses to have already said or provided to Parliament.
44. The Inquiry will, for example, question Ministers and officials on their role and decision-making before, during and after the Covid-19 pandemic, notwithstanding that they have contributed to parliamentary debates or given evidence to select committees. It will do so by seeking stand-alone statements from those witnesses, which may be requested to cover the same issues on which they have previously given evidence, pursuant to Rule 9 of the Inquiry Rules 2006. It will then conduct any questioning of such witnesses based on the content of their evidence to the Inquiry, not on any statements that they may have made previously to Parliament.
45. It may also be necessary for the Inquiry to navigate the findings and conclusions of select committee reports, particularly where they have contributed to the process whereby the government has drawn lessons from the Covid-19 pandemic. The Inquiry proposes to disclose them to Core Participants so as to provide necessary explanatory context. However, in order to avoid the risk of impeaching or questioning the content of those reports, the Inquiry will, again, seek stand-alone statements which do not refer to proceedings in Parliament, other than by way of historical context. Where a witness seeks to rely upon information that was presented to a select committee, or activity that was undertaken in response to its reports, that witness can of course replicate that information in his or her statement.
46. The Inquiry will also, within the context of certain modules, examine the structures available to provide oversight of the public health and coronavirus legislation and regulations that were proposed and enacted during the Covid-19 pandemic. It will, however, do so without seeking to question or impeach proceedings in the UK Parliament.
47. Accordingly, and as the Chair has determined in the context of module 1, no ruling is required on whether, in principle, parliamentary privilege applies to this Inquiry.

The issue will, however, be kept under review as the process of collating and assembling the evidence continues.

### **Evidence proposal procedure and Rule 10**

48. Rule 10 of the Inquiry Rules 2006 states:

*10.— (1) Subject to paragraphs (2) to (5), where a witness is giving oral evidence at an inquiry hearing, only counsel to the inquiry (or, if counsel has not been appointed, the solicitor to the inquiry) and the inquiry panel may ask questions of that witness.*

*(2) Where a witness, whether a Core Participant or otherwise, has been questioned orally in the course of an inquiry hearing pursuant to paragraph (1), the chairman may direct that the recognised legal representative of that witness may ask the witness questions.*

*(3) Where—*

*(a) a witness other than a Core Participant has been questioned orally in the course of an inquiry hearing by counsel to the inquiry, or by the inquiry panel; and*

*(b) that witness's evidence directly relates to the evidence of another witness, the recognised legal representative of the witness to whom the evidence relates may apply to the chairman for permission to question the witness who has given oral evidence.*

*(4) The recognised legal representative of a Core Participant may apply to the chairman for permission to ask questions of a witness giving oral evidence.*

*(5) When making an application under paragraphs (3) or (4), the recognised legal representative must state—*

*(a) the issues in respect of which a witness is to be questioned; and*

*(b) whether the questioning will raise new issues or, if not, why the questioning should be permitted.*

49. Module 2A has a significant amount of ground to cover during its hearing, and a relatively limited amount of time within which to do so. As with all aspects of the Inquiry's work, it is important that the hearing is conducted as efficiently and swiftly as possible.

50. In accordance with Rule 10(1), only Counsel to the Inquiry may ask questions of the witness, and requires no permission from the Chair to do so. However, the Inquiry recognises the important part that Core Participants have to play and, of course,

they have the right to seek permission from the Chair under Rule 10(4) to ask questions themselves of the witness. The process of evidence proposals (set out below), together with the ability to make applications to ask their own questions of witnesses, will ensure that Core Participants have a meaningful opportunity to engage in the process.

51. Each witness called to give oral evidence at the hearing before the Inquiry will have a paper bundle of documents prepared for them for use at the hearing. This will include the witness' Inquiry witness statement(s) and any documents to which the witness may be referred.
52. An evidence proposal will be prepared for every such witness, which will be circulated to Core Participants in advance of the witness giving evidence. This will include a list of the topics that the witness will be examined about, references to relevant parts of the witness statements and exhibits, and a draft index of those documents that will form the witness bundle, including those documents about which the witness may be asked questions.
53. Core Participants will be asked to review the evidence proposals and to provide any comments, as well as submissions as to any additional issues which they wish to be raised with a particular witness or any new documents they consider should be included. The Inquiry will consider these carefully and a finalised proposal will be circulated before the witness gives evidence.
54. In addition, the Inquiry proposes to institute a further process (also outwith the provisions of Rule 10) under which the Core Participants may be permitted to meet Counsel to the Inquiry, following the submission of their observations, so as to be able better to explain the rationale underpinning those observations. This is, in effect, an informal route by which they can seek to persuade the Inquiry team that there are areas or issues that are of such centrality that they must be raised in the course of the witnesses' evidence.
55. The Chair has made a determination in module 1 to the effect that such a process be instituted.
56. A provisional timetable for module 2A and module 2 will be provided to Core Participants in due course.

### **Opening and Closing Statements**

57. Rule 11 of the Inquiry Rules 2006 states:

*11.—(1) The recognised legal representative of a Core Participant may—*

*(a) make an opening statement to the inquiry panel at the commencement of the first of any oral hearings, and*

*(b) make a closing statement to the inquiry panel.*

*(2) A Core Participant who does not have a recognised legal representative may make the opening and closing statements referred to in paragraph (1).*

58. It is the current intention of CTI to make an opening statement at the commencement of the public hearing. It is unlikely that there will be a closing statement.
59. Those Core Participants who wish to make opening and closing statements will of course be permitted to do so. However, CTI will be inviting the Chair to impose strict time limits in which to do so. This is likely to be determined in part by the number of participants. Written statements must be submitted to the Inquiry within a time frame which will be set out in due course.

### **The Listening Exercise (“Every Story Matters”) and Commemoration**

60. A note from the Solicitor to the Inquiry regarding the listening exercise and proposals for commemoration was circulated with the February Update Note, but is also attached as **Annex B**.
61. In the course of her Ruling on Module 1 of 17 February 2023, the Chair noted that some of the bereaved family members felt that they had not received sufficient information on the details of the listening exercise (“Every Story Matters”). She stated that it had always been her intention to provide as much information as possible at every stage of the development of the exercise and she directed the Inquiry team to consider if there are any ways in which the Inquiry could improve its communication with them.
62. Further details about Every Story Matters are now available in the [March 2023 Newsletter](#) which was published on 3 March 2023.
63. Please note that the Inquiry team will be hosting a webinar on Every Story Matters to give an opportunity for further questions to be asked. This webinar is open to organisations and individuals rather than legal representatives. To sign up (by the deadline of 10 March 2023) and find out more about how organisations' feedback has influenced the development of Every Story Matters, please click through to our [UK Covid-19 Inquiry Every Story Matters feedback page](#).
64. The module 2A team would like to thank all of those who have contributed to the recent request made by the Inquiry team for stories to feed into the Commemoration exercise. With particular thanks to the Scottish Covid Bereaved group.

**Counsel to the Inquiry**

**7 March 2023**

**Jamie Dawson KC**

**Usman Tariq**

**Bethany Condron**

**Stephanie Painter**

## Annex A - Update on module 2A Rule 9 Requests for Evidence

### Government Departments, arm's length bodies and other non-governmental organisations

<b>Rule 9 recipient</b>	<b>Status of Rule 9 response</b>
<b>Module 2A requests</b>	
<b>The Scottish Government</b>	Draft witness statement and documents received on 28 February 2023.
<b>National Health Service (NHS) National Services for Scotland (NSS)</b>	Draft witness statement and documents expected in March 2023.
<b>Public Health Scotland</b>	Draft witness statement and documents expected in March 2023.
<b>Scottish Government Health and Social Care Directorate</b>	Draft witness statement and documents expected in March 2023.
<b>Chief Medical Office Directorate and Chief Scientist Office</b>	Draft witness statement and documents expected in March 2023.
<b>Convention of Scottish Local Authorities (COSLA)</b>	Draft witness statement expected in March 2023.
<b>The Scottish Trades Union Congress (STUC)</b>	Draft witness statement received on 10 February 2023.
<b>Office of Secretary of State for Scotland</b>	Discussions are ongoing in respect of timescales for responding.
<b>Scottish Government Covid-19 Advisory Group</b>	Draft witness statement and documents expected in March 2023.
<b>Children and Young People's Commissioner Scotland</b>	Draft witness statement and documents expected in March 2023.
<b>Education and Justice Directorate (Re Education)</b>	Discussions are ongoing in respect of timescales for responding.
<b>Financial Management Directorate</b>	Discussions are ongoing in respect of timescales for responding.
<b>Equality, Inclusion and Human Rights Directorate</b>	Discussions are ongoing in respect of timescales for responding.
<b>Education and Justice Directorate (Re Justice)</b>	Discussions are ongoing in respect of timescales for responding.
<b>Transport Scotland</b>	Discussions are ongoing in respect of timescales for responding.

<b>Crown Office and Procurator Fiscal Service</b>	Discussions are ongoing in respect of timescales for responding.
<b>Scottish Human Rights Commission</b>	Draft witness statement expected in March 2023.
<b>External Affairs Directorate (Re Covid Coordination Directorate)</b>	Discussions are ongoing in respect of timescales for responding.
<b>Scottish Care</b>	Discussions are ongoing in respect of timescales for responding.
<b>Joint requests with module 2</b>	
<b>Intensive Care National Audit &amp; Research Centre (ICNARC)</b>	Response received.
<b>National Police Chiefs' Council (NPCC)</b>	Response received.
<b>JUSTICE</b>	Response received.
<b>British Medical Association (BMA)</b>	Response received.
<b>UK Statistics Authority (UKSA) / Office for National Statistics</b>	Response Received

### **Independent participants of SGCAG**

In December 2022, module 2A issued 16 Rule 9 questionnaires to participants of SGCAG. Each recipient received an updated version of the questionnaire in January 2023. To date, we have received responses from 12 participants in SGCAG.

### **Organisations and bodies relevant to at-risk or vulnerable groups**

Module 2A, in conjunction with modules 2, 2B and 2C, has issued Rule 9 requests to organisations and bodies representing the following at-risk and vulnerable groups (listed above):

- Women
- Race
- Children and young people
- Health inequalities
- Mental health
- Older people
- Disability
- Workers
- Health professionals
- The bereaved
- LGBTQIA+



- The Traveller, Gypsy and Roma community

A large number of responses have been received and are being reviewed in anticipation of disclosure to Core Participants.

Responses have been received from, but not limited to, the following which are relevant to module 2A: Inclusion Scotland, Scottish Covid Bereaved, Scottish Women's Aid, Enable Scotland and Children in Scotland.



## **Annex B**

### **Solicitor to the Inquiry Update Note - Listening Exercise and Commemoration**

Further to my previous notes about the Inquiry's plans in respect of a listening exercise and for commemoration, I write with the following update.

#### **1. Every Story Matters**

- 1.1. The listening exercise will be known as 'Every Story Matters.' The Chair chose this name following feedback the Inquiry obtained from organisations and from testing with both a nationally representative sample of 1000 adults and via focus groups with those impacted by the pandemic.
- 1.2. The Inquiry has worked with its suppliers Ipsos and M&C Saatchi to progress the design of Every Story Matters. It has also consulted 80 external organisations, around the UK, representing groups most impacted by the pandemic.
- 1.3. The Inquiry is looking to procure several new contracts to support the delivery of the next phase of the listening exercise. It is likely to include research and analytics, communications and community engagement suppliers.
- 1.4. Every Story Matters aims to offer an open and inclusive way for people to share their experience. The Inquiry is looking at different ways for people to share their story such as the webform, and an offer for those with access needs of phone line assistance and a paper option. It wishes to hold community listening events across the UK during the lifetime of the listening exercise. This will include sessions attended by the Chair and other members of Inquiry staff.
- 1.5. The Inquiry will also take a more targeted approach to listening to ensure that it is hearing from seldom heard groups in line with its Terms of Reference. This will include working with local organisations and groups to reach these audiences.
- 1.6. Every Story Matters will take a trauma informed approach to gathering people's experiences. This will include bespoke training for all staff who

conduct the interviews, so they are clear what trauma is, how it may present and how to apply this knowledge for these specific conversations.

- 1.7. Emotional support will be available via an emotional support phone line, for those sharing their experiences directly with trained researchers and will be promoted directly to participants.
- 1.8. For those submitting their experiences through the refreshed webform later in the Spring, names and email addresses will not be collected. However, the webform will collect some personally identifiable information, to allow the Inquiry to gather statistics on webform usage, enable people to 'save and continue' their submission, and give people the 'right to withdraw' their submission from the research. This will be set out clearly online in the privacy notice.
- 1.9. Experiences will be gathered and analysed by research and analysis companies to ensure that the conclusions are methodologically robust. Reports will be produced for each relevant module investigation, and will be submitted as evidence which will be disclosed and published as part of the Inquiry's module hearings. This will help the Inquiry obtain as broad an evidence base about the impact of the pandemic as possible, to assist it in reaching robust findings and recommendations.

## **2. Communications**

- 2.1. Public communications are needed to engage people across all four nations of the UK and equip them with the knowledge and motivation to take part in Every Story Matters. The Inquiry requires specialist communication expertise to help it determine the best way to engage people to share their experiences, especially from those who are under-represented or not always heard.
- 2.2. The appointed communication supplier will not be carrying out any of the listening or see any of the experiences shared by individuals. This will be handled by the Inquiry and its appointed research and analysis supplier and will be completely separate from the communications necessary to promote Every Story Matters.

## **3. Next steps**

- 3.1. The Inquiry will procure the services it needs to deliver Every Story Matters through Crown Commercial Service, which provides commercial expertise to a wide number of public and third sector organisations. It provides the Inquiry with a quick and cost-effective route to market through a pre-approved

framework of suppliers enabling the Inquiry to secure the services it needs to deliver this aspect of its work.

- 3.2. It would not be lawful or part of a proper procurement process to exclude any particular company from being on the framework or bidding for work if they wish to do so. The Inquiry will however seek assurances from any potential supplier that they declare conflicts of interest and show processes they could put in place to avoid any conflicts in the event they were successful in the procurement.
- 3.3. These new contracts will replace the Inquiry's initial contracts with M&C Saatchi and Ipsos.

#### **4. Commemoration**

- 4.1. The Inquiry has been exploring options for commemorative content online, in the hearings themselves, and in the form of a physical installation at the Hearing Centre.
- 4.2. The Inquiry spoke to several external organisations - including a number of Core Participants - towards the end of 2022, to understand different perspectives and views on what this activity needs to achieve and discuss some early ideas. It is very grateful for all of the input received.
- 4.3. The Chair has reviewed the options and decided a tapestry should be created as a physical installation at the Hearing Centre comprising an initial 15 panels. Each panel will be created by a different artist, working with a particular community or communities to develop it. The intention is for the first panels to be unveiled at the Inquiry's Hearing Centre in due course in time for the first public hearings in May.
- 4.4. As well as being transportable across the UK, the tapestry has the potential to grow and be added to over the lifetime of the Inquiry. The Inquiry is also exploring options to allow people to access the tapestry digitally, via the Inquiry website, to take the tapestry to wider audiences than those who attend the Inquiry's proceedings in person.
- 4.5. It is also developing video content to be played at the start of the first Module 1 public hearing in May to help set it in the context of the hardship and loss the pandemic caused. Different videos are being planned to be played at the start of the public hearings for each of the subsequent modules, the idea being that their content will be relevant to the module concerned.
- 4.6. These short videos will feature people talking about the impact that the pandemic has had upon them. The Inquiry hopes to reflect a diverse range of experience from those who suffered hardship and loss in a way that is both respectful and appropriate.

- 4.7. Over the next few months, the Inquiry will be working to progress both the tapestry and the video content. It welcomes the involvement of Core Participants in this work and has already requested assistance from the Bereaved Families for Justice groups.

**Martin Smith**  
**Solicitor to the Inquiry**

**27 January 2023**