

UK Covid-19 Inquiry Before Baroness Heather Hallett

Submission on behalf of Scottish Ministers

re

Module 2A Preliminary Hearing: 21st March 2023

The Scottish Ministers are grateful for the opportunity to make this submission. There are two points that we would like to mention. Both are positive. They are well known to the Inquiry, yet may not be widely appreciated by those who are not involved in the day-to-day preparation for the Inquiry.

The Memorandum of Understanding

1. The first relates to the Memorandum of Understanding between the UK and Scottish Covid-19 Inquiries. We respectfully submit that this is a timely and logical development. The Memorandum aims: to provide the public with clarity on how each Inquiry is progressing through its workload; to minimise duplication of work between the Inquiries; and to maximise value for money. From the perspective of Ministers, this is welcome for the following reasons.
2. The Scottish Government played a central role in the handling of the pandemic in Scotland. Consequently, the Scottish Government is likely to be one of the main providers of documents to the Inquiries. In addition, Ministers and Scottish Government employees may feature among the witnesses who are called by the Inquiries to give evidence.
3. Over the past several months, the Scottish Government has been working hard to comply with the UK Inquiry's requests for documents, and corporate witness statements. Thus far, many hundreds of documents and several witness statements have been provided in response to those requests, not only in relation to Module 2A, but also Module 1 and Module 2. In due course, the Scottish Inquiry will doubtless make similar requests. Those requests will likely cover much of the same issues, documents and witnesses as Modules 1, 2 and 2A.
4. With two Inquiries running simultaneously, both charged with examining similar issues, some duplication of effort in relation to investigation, evidence gathering and reporting is inevitable. We stress, as we have submitted before, that the Ministers are fully committed to both the UK and Scottish Inquiries, and to the process of finding answers to the many questions that will be asked regarding the handling of the pandemic in Scotland. That said, an agreement that has as its goal the pursuit of efficiency and value for money can only

be seen as a 'good thing'. It works to the advantage of both the public, who have an interest in the findings of the Inquiries; as well as to the core participants, who are currently assisting the Inquiries with their investigations.

Cooperation with the Inquiry

1. The second point serves to underline the good working relationship that has developed between the UK Inquiry and the Scottish Government.
2. As already mentioned, the Scottish Government has been working hard to provide the Inquiry with a significant volume of evidence in response to the Inquiry's requests. A distinct Division exists within the Scottish Government for that purpose. The Scottish Government's engagement with the Inquiry team that is overseeing Module 2A has been extremely positive, and we are grateful to the Inquiry Team for their understanding and cooperation while the evidence is ingathered, collated and ultimately produced. The Scottish Government would be happy to facilitate the sharing of material between the two Inquiries, or to assist in any other way.
3. Finally, we appreciate the intention of the Inquiries to share information regarding the timetabling of the public hearings, in order to avoid clashes. This is plainly an important consideration, if organisations who are core participants in both Inquiries (such as the Scottish Government) are to contribute meaningfully to both.

13th March 2023

**Geoffrey D. Mitchell, KC
Fiona C. Drysdale
Jennifer Nicholson-White
Kenneth McGuire
Julie McKinlay**

Counsel for Scottish Ministers

(Instructed by Caroline Beattie, Scottish Government Legal Directorate)