

## UK COVID-19 INQUIRY

SUBMISSIONS FOR THE SECOND PRELIMINARY HEARING IN MODULE 1 OF THE  
UK COVID-19 INQUIRY ON 14 FEBRUARY 2023

ON BEHALF OF  
NHS NATIONAL SERVICES SCOTLAND (“NHS NSS”)

### Introduction

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1. NHS NSS makes the following submissions in relation to duplication with the Scottish Covid-19 Inquiry.

### Duplication with the Scottish Covid-19 Inquiry

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2. NHS NSS previously made submissions in advance of the first preliminary hearings for Modules 1 and 2A in relation to the need to minimise duplication with the Scottish Covid-19 Inquiry. For completeness, those submissions are incorporated herein.
3. The UK Covid-19 Inquiry’s terms of reference state, *inter alia*:

“In carrying out its work, the Inquiry will consider reserved and devolved matters across the United Kingdom, as necessary, but will seek to minimise duplication of investigation, evidence gathering and reporting with any other public inquiry established by the devolved governments. To achieve this, the Inquiry will set out publicly how it intends to minimise duplication, and will liaise with any such inquiry before it investigates any matter which is also within that inquiry’s scope.”  
(emphasis added)

4. Since the first Preliminary Hearing in Module 1 which took place on 4 October 2022, NHS NSS has been aware that a draft Memorandum of Understanding is being negotiated between the respective Inquiry teams. NHS NSS understands that priority is being given to

arranging an early meeting between the teams of the UK Covid-19 Inquiry and the Scottish Covid-19 Inquiry in order to agree on a plan as to how the two Inquiries will seek to implement the requirement to minimise duplication. NHS NSS also understand that the plan may include a proposal to have a joint contact to discuss information planning between the respective Inquirers (thus far, each Inquiry has access to a shared platform which allows one Inquiry to see what requests are being made by the other).

5. This development is welcomed by NHS NSS as the matter of duplication remains of most concern to NHS NSS in the Inquiry as a whole. It may well be the case that progress will be made between the second preliminary hearing in Module 1 (assigned for 14 February 2023) and the public hearings for that Module that have been assigned for May 2023. However, it remains the case that nothing has been published yet and it is not clear that the publishing of a Memorandum of Understanding between the Inquiries alone will fulfil the obligation to minimise duplication under the terms of reference.
6. Of course, the issue of duplication arises where the UK Covid-19 Inquiry investigates any matter to be covered by the Scottish Covid-19 Inquiry and is not simply an issue for Module 2A. Despite this issue not having been resolved prior to investigations being commenced, NHS NSS has already been obliged to respond to the UK Covid-19 Inquiry's Module 1 Rule 9 Request and has prepared a draft witness statement with supporting documents, without any clear indication of what practical steps are to be put in place to minimise duplication.
7. Further, duplication is not simply a matter as between the two Inquiries, but also within each Inquiry. For example, NHS NSS are aware that the Module 3 team have requested training on the background of the NHS in Scotland when this had already been provided to the Module 1 team.

## Concluding comments

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8. Whilst it is reassuring to be informed that further discussions are to take place in relation to the issue of duplication, NHS NSS is still left in an uncertain position, which is of some concern, given that the Module 1 hearings are due to commence in less than three months' time.
  
9. NHS NSS fully intends to assist both Inquiries as much as possible to allow the Inquiries to consider the best evidence available. The NHS in Scotland (as with the other parts of the UK) is currently dealing with severe winter pressures. The individuals within NHS NSS who require to be consulted in order to finalise responses to the Inquiries are often the key members of staff working to address the whole-system pressures. The same staff are often already assisting with responses to other requests from both Inquiries. Insofar as possible, NHS NSS invites the Chair to bear these matters in mind when considering how best to address the issue of duplication.
  
10. NHS NSS appreciates that the issue of duplication is not a straightforward matter. However, the terms of reference seem unambiguous in their requirements.

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8 February 2023