

1. PANELLISTS

We note that a decision has only recently been taken that the Chair will sit without panel. It is disappointing that a decision taken so late and in such proximity to the hearings beginning is given under explanation that the PM was conscious of the not wishing to delay the production of a Report from this Inquiry. This desire does not seem to be a consistent approach by Government in dealing with requests from the Inquiry, in particular in relation to its response to Rule 9s

2. RULE 9 REQUESTS

The Scottish Covid Bereaved are obliged to Counsel to the Inquiry and the Inquiry Legal Team for providing us with an update on the rule 9 procedure and progress to date. It will come as no surprise to the Inquiry that the Scottish Covid Bereaved are concerned to understand that this process is not been carried out as it should.

As it ought to have been clear to those organisations that the information provided would be insufficient, this suggests a lack of co- operation with the work of the Inquiry at the most fundamental level of the provision of specific information. The Scottish Covid Bereaved are grateful in respect of the transparent way in which the Chair is dealing with this matter and, anticipate that those in receipt of Rule 9 letters which have been responded to in a less than satisfactory way will now be required to do so.

However, the way in which these rule 9 responses have been dealt with, does not provide the Scottish Covid Bereaved with confidence that, where appropriate, the same parties understand and are properly implementing their disclosure duties in respect of relevant documents

REDACTION OF MATERIAL

Despite an unequivocal request by the Chair, using her statutory power under s21 of the 2005 Act , for unredacted copies of a range of documents, consisting of WhatsApp messages, diaries and notebooks, that she considered to be potentially relevant, The Cabinet Office has taken the view that it is permitted to redact what it judges to be “unambiguously irrelevant material” before they are provided to the Inquiry. Latterly, the Cabinet Office has disclosed that documents that have been requested for some months are not held by it.

We note that as at present this matter has not been resolved. Doubtless matters will have moved on by the time oral submissions require to be made and the Scottish Covid Bereaved will wish to reflect on the up to date position and provide focused submissions at that time.

Briefly, however, the Scottish Covid Bereaved wish to provide the Chair with some observations :

It will come as no surprise to this Inquiry that the view of the Scottish Covid Bereaved that Whatever is supplied, redacted or otherwise, the process of consideration and redaction will have to be carried out by the Inquiry. Given the very short timescale left, caused by the unnecessary delay caused by the Cabinet Office it is submitted that this in and of itself should be sufficient for the Inquiry to consider it should be given the documents unredacted and carry out

the redactions themselves, rather than wait to have the job carried out twice, potentially delaying the project.

The second issue of concern is that the Cabinet Office considers it is in a place to consider what is relevant to this Inquiry, for only then could it be assured that it is redacting things that it considers are patently irrelevant. The Scottish Covid Bereaved do not share the confidence of the Cabinet Office in this task. This Inquiry needs to obtain and provide to core participants documents that provide a transparent insight into the working of Government during a lengthy period of national crisis. Families of those who died during Covid have heard so far from those who made the decisions, it does not inspire any confidence that by obtaining only formal documents will suffice. Matters which may not strike the Cabinet Office as relevant, may be highly relevant in context. The Inquiry is of course best placed to have the best insight into what is and is not relevant and that is why Parliament has enacted a statutory scheme that it should carry out the task.

Finally what is being sought is written records recording the work of public servants involved in taking decisions which affected millions of people in the UK. This Inquiry has repeatedly stated it will be robust, and its actions to date support that claim. A robust approach in the present circumstances is the ingathering of potentially relevant information in an unredacted form and allowing the Inquiry, the body best placed to do so, to carry out its job of assessing the relevancy.

If parts of documents are clearly irrelevant they can be redacted by the Inquiry, only then can there be confidence the job is being done in application of the proper test for the disclosure and that it has been in a transparent way. There can be no good reason for failing to provide the documents requested to the Inquiry in an unredacted form save for a pathological need to protect information for its own sake, rather than there being anything intrinsic to the information that requires it being kept secret. The Government is, or at least should be, answerable to the people. The public, through this inquiry, are entitled to know what decisions were taken, by whom and why.

WHATSAPP MESSAGES

We note that a request has been made for over 30 Cabinet Office witnesses to provide relevant communications to this Inquiry that may be held in informal systems such as WhatsApp, but only 2 have complied and even then there have been redactions to the documents

The Scottish Covid Bereaved note media reporting of Matt Hancock MP's *Pandemic Diaries: The inside story of Britain's battle against Covid*, where it is reported he stated: "*We now chew over big decisions elsewhere and relegate formal meetings to rubber-stamping exercises.*"

It is therefore vital to understand where, when and using what information these big decisions were being taken, and that is why it is vital that this information is captured and presented to the Inquiry in an unredacted format to allow this to happen.

Again, it appears that matters may have moved on by the time the hearing takes place and the Scottish Covid Bereaved will address the position in oral submissions at the hearing.

MATERIALS RELEVANT TO WHITEHALLS ENGAGEMENT WITH SCOTLAND

Clearly it is central to module 2, to obtain the agendas, briefings and minutes which records the communication between the then First Minister Nicola Sturgeon and Whitehall in respect of the pandemic. We note that to date no documents have been provided and time limits have not been respected.

We note that the Cabinet Office is required to have this disclosure to the Inquiry by the date of the PH and again we would reserve our position on submissions until the factual position is known.

OVERDUE STATEMENTS

We note the particular concern about the delay in receiving corporate witness statements from DHSC and UKHSA, this is particularly disappointing where they are core participants and will understand from all the previous hearings the need for progress to be made. Again, we note that a request has been made for the statements to be lodged or explanation provided by the PH, and we will reserve further comment till then.

CABINET COLLECTIVE RESPONSIBILITY

(Not to be discussed unless raised first by CTI)

We note that, only recently, the principle of Cabinet Collective Responsibility has been invoked. We understand that the principle of collective responsibility requires that Ministers should be able to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. This therefore requires that this privacy be maintained in correspondence etc.

We note that this is a principle, not a rule or a legal requirement.

The Scottish Covid Bereaved are of the view that there is no principle which in the modern day should prevent proper scrutiny being brought to bear on the decision-making process taken by publicly elected servants in circumstances where the lives of millions of people depended on those decisions being properly taken.

The purpose of the Inquiry would be thwarted if this principle were to be allowed to stand in the way of proper and full disclosure. If an application is received as is expected, the Scottish Covid Bereaved would wish to provide legal submissions on sight of the application.

DISCLOSURE TO CORE PARTICIPANTS

We note the progress being made with disclosure and the work being done to provide these as soon as possible. We are concerned that the timing of disclosure, which we appreciate is driven by when documents have been received into the Inquiry, means that there may be little time for core participants to assess these to any meaningful degree before Module 2 is due to begin. In order for the Scottish Covid Bereaved to meaningfully participate in the Inquiry it is not enough that we have been given disclosure – we must have sufficient opportunity to consider it, so that our input into evidence proposals and is meaningful. Progress must be made, but should not be made at the cost of the point of the Inquiry. We will continue to monitor the rate and timing of disclosure, but must highlight the difficulties in which we may find ourselves when being asked to provide our input into a module where the documents have only just been disclosed.

EVERY STORY MATTERS

The Scottish Covid Bereaved have taken part in the making of the tapestry and the Impact Films, and are pleased to have been able to contribute in this practical way. We look forward to seeing the first of the Impact Films on the 13th June.

