



MODULE 2A – OPENING STATEMENT
ON BEHALF OF THE SCOTTISH COVID BEREAVED

My name is Claire Mitchell KC. I, along with my colleagues Kevin McCaffery, and Kevin Henry are instructed by Aamer Anwar and Company, Solicitors on behalf of the Scottish Covid Bereaved at both the UK and Scottish Public Inquiries.

As we set out at the start of Module 1 we learned that as a result of the policy of austerity, the vulnerable became more vulnerable, the poor poorer, the sick sicker. Life expectancy declined. The NHS was chronically underfunded. Added to this, preparations for Brexit took place – replacing any work on pandemic planning, leaving the UK virtually defenceless. Despite the benefit of time – of watching in real time the wave of covid sweep towards the UK's shores. The politicians, in particular the Prime Minister Boris Johnson, prevaricated, trolled, and flip-flopped in deadly days of delay during which action ought to have been taken as the disease quickly multiplied and overtook the UK.

So far in Module 2 the Scottish Covid Bereaved has sought to understand the UK's Government's initial response, find out about decision making by our central government: politicians, civil servants, special advisors. Repeatedly politicians, and it is politicians in particular, asked to offer their condolences to the bereaved, expressed their views on how important this inquiry was, and whilst the evidence, yet when it came to answering questions there were repeated instances of obfuscation. The view taken on the evidence is for the Chair alone, but the view of the Scottish Covid Bereaved is that when presented with evidence, or asked to comment on issues not in their favour, explanations were tendered that would strain the belief even of the most gullible. The then Prime Minister's inability to

act decisively was re packaged with a philosophical spin; his lack of ability to harness what he considered to be the greatest tool, that of communication, was not reflected on with any form of acceptance— despite there been very many significant examples flagged up by an independent expert of his and his colleagues, inability to properly define what rules were to be followed by whom. In evidence he seized upon the idea that in a future pandemic any Prime Minister should speak to the whole UK as if it was a revelatory idea, rather than the actual job he should have been carrying out. Finally, both he and Mr. Gove seemed interested in exploring a topic – the source of the pandemic – which was not within the scope of Inquiry terms which Mr. Johnston had set – a red herring which the press ate up. The toxic, misogynistic and macho atmosphere at the centre of government was presented as an environment to get the best out of people, whilst there appeared no recognition of the fact that their characterization was not shared by the senior civil servants working for and that this environment sidelined and excluded women, and perhaps more specifically important for Government sidestepped the procedural safeguards of collective decision making in cabinet. Our present Prime Minister Rishi Sunak was able to remember very little of some very important decisions and conversations taken when he was present, yet when on more solid ground, was able to point to the detail of evidence which supported his position, his recollections were clear. The reason for highlighting this in the present module is that the Scottish Covid Bereaved wish to say, loudly and clearly to politicians in Scotland that they want better – on behalf of their relatives, they deserve better– they want politicians to answer questions put to them directly, to reflect upon their time during the pandemic and they want them to wholly engage in the process of finding out what happened putting politics and political careers aside : quite frankly the work of this Inquiry more important. Considered and careful reflection on what went on and how things could have been done better may literally save lives in the next pandemic. We would ask that politicians in particular remember this when they come to give evidence.

In Module 2 some of the best evidence – the most unguarded, contemporaneous evidence - came from informal methods of communications such as Whatsapps and texts. The sorry history of the difficulty that this Inquiry has had obtaining those documents from the Scottish Government, is a cause of considerable concern to the SCB. Media reports have suggested that senior figures in pandemic decision making – such as Nicola Sturgeon and Jason Leitch - have failed to retained messages. If these reports are correct, the SCB hope that, whatever evidence may be gleaned from surviving WhatsApps, nothing of significance has been lost as a result of this apparently willful deletion of messages. SCB are further aware from media reports that it may be suggested that, as final decisions

were not taken via WhatsApp, there was no need to retain these important messages. They look forward to hearing how our politicians and civil servants attempt to justify this position. Are the people of Scotland to believe that the Scottish Government placed no reliance on informal messaging services, which were routinely used by individuals and businesses throughout the pandemic? As the Inquiry will no doubt hear, in March and April 2021, promises were made not only to the SCB but the people of Scotland in the manifesto on which the members of the Scottish Government stood, that there would be a public inquiry into the handling of the pandemic. It ought to have been obvious to politicians, advisors, and civil servants at least from then if not earlier, that the evidence of contemporaneous discussions in relation to the pandemic response would be of vital importance to the subsequent inquiry. Were no steps taken to secure these messages? Did the deletion of messages continue after Spring 2021? SCB listened with great concern as CTI set out at the Preliminary Hearing the difficulties faced by the Inquiry in securing evidence from the Scottish Government. It is hoped that this is not indicative of the approach to be taken at the hearings. As noted, one of the recommendations suggested by the group at the end of Module 2 was the retention of all messages, in whatever form, that relate to the business of government. It is hoped that this is not a lesson which has been learned too late.

As the Inquiry is aware, SCB represent just some of those who lost their loved ones in Scotland. As of June last year, there were more than 17,000 deaths in Scotland where Covid-19 was mentioned on the death certificate. Each one of those deaths was a tragedy. While witnesses in this Module may point to opinion polling during the pandemic favourably contrasting the Scottish Government's communications and strategy with those of the UK Government, positive poll numbers are no consolation to the bereaved. If Bute House was not as chaotic as Downing Street, if the Scottish Government's public health messaging was to be preferred to that of the UK Government, if at no point were decisions in Scotland taken for political reasons, why did so many lose their lives in Scotland? Did our politicians fail to protect some of the most vulnerable in our society, such as those in care homes?

Of course, it has been suggested that the then First Minister Nicola Sturgeon and other Scottish politicians were "playing politics" rather than properly engaging in decision making to save lives – was this projection by UK Politicians as to their own behaviour or is there any truth in this? Were cancellations of mass gatherings "totemic"? Were decisions taken lift lockdowns at a different time from England just for the sake of doing things differently, or a reflection of a different stage in the progress of the virus? Was the decision to change the masks in schools policy another example of

taking a separate decision from the rest of the UK? Was the Scottish Government sidelined? Excluded from crucial decision making? Were meetings of COBR a sham, to “be nice” to the Devolved Administrations? Was the democratic process in Scotland undermined by the UK Government? Equally, were politicians happy to accentuate political and constitutional differences to distract from similar policies either side of the border? Was valuable time and resources wasted pursuing a futile elimination strategy? The SCB hope these questions will be answered in full. As the chair knows, questions about decisions taken in relation to covid contracted in hospital and care home deaths are of the upmost interest to those in the SCB: it is of course acknowledged that further additional evidence will be led about these issues in later modules.

The SCB would also like to take the opportunity to highlight what was said in the closing speech of Module 2 regarding the press. The press, as the 4th estate, has an important part to play in acting as a legitimate political safeguard performing a watchdog function over the branches of government.

The SCB welcomes the part the press have to play in doing so. However, there have been calculated attempts to undermine the work of this Inquiry in some sections of the media, including not only attacks on the work of the Inquiry but personal attacks on those involved. It is clear such attacks have not had any effect, but let the Scottish Covid Bereaved be clear – any attack on the work of the UK Covid Inquiry is an attack on the bereaved who want the work of this Inquiry to be a legacy for those that they loved and lost.

These are the submissions of Aamer Anwar & Company on behalf of the Scottish Covid Bereaved.

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