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## **Module 9: CTI Speaking note for First Preliminary Hearing 23rd October 2024**

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### **Introduction**

1. On the 17th March 2020, in a speech in Downing Street, the Chancellor of the Exchequer declared that ‘The coronavirus pandemic is a public health emergency. But it is also an economic emergency. We have never, in peacetime, faced an economic fight like this one’. He continued ‘This government effort will be underpinned by government interventions in the economy on a scale unimaginable only a few weeks ago<sup>1</sup>’.
2. My name is Richard Wright KC and I am the senior counsel with responsibility for the preparation and delivery of Module 9: Economic response. Module 9 is the only module in the inquiry that will examine in depth the economic response of government to the pandemic across the four nations of the United Kingdom. Given the scale of that response, the potential scale of this Module should not be underestimated. I will return to that subject when I address the provisional scope of Module 9 a little later in this hearing.
3. I appear at this preliminary hearing today with my learned friends Miss Wilson and Miss Dhanoa who are part of the counsel team for Module 9.
4. In accordance with the agenda for this preliminary hearing, I will address you, so far as this module is concerned, on the following areas:
  - a. Designation of Core Participants
  - b. Outline of the provisional scope
  - c. Evidence gathering, including Rule 9 Requests
  - d. Instruction of Expert Witnesses
  - e. Disclosure to Core Participants

- f. Every Story Matters
  - g. Future hearing dates for Module 9.
5. There will then be an opportunity for those designated as Core Participants in Module 9 to make submissions if they wish to do so.

### **The Hearing**

6. These proceedings are, of course, being recorded, and live-streamed to other locations. In making these arrangements, your Ladyship is fulfilling the obligation (pursuant to section 18 of the Inquiries Act 2005) to take such steps as you consider reasonable to ensure that members of the public are able to attend or see and hear a simultaneous transmission of the proceedings. Live streaming this hearing also allows the hearing to be followed by a greater number of people than would be able to be accommodated within the hearing room or any overspill rooms.
7. There are 15 Core Participants present in the hearing room today and further 3 are attending remotely.
8. As is routine in public inquiries where there may, from time to time, be matters mentioned of a potentially sensitive nature, the broadcasting of the hearing will be conducted with a 3-minute delay. This provides the opportunity for the feed to be paused if anything unexpected is aired which should not be. We do not expect this to arise over the course of today but I mention it so that those who are following proceedings from further afield can understand the reasons for any such short delay.

### **Designation of Core Participants**

9. Pursuant to Rule 5 of the Inquiry Rules 18 applicants (some of whom were joint applicants) have been designated as Core Participants in Module 9. They are (in no particular order):
- a. Trades Union Congress (TUC): Sam Jacobs
  - b. UK Hospitality: Not legally represented today but their Chief Executive Kate Nicholls OBE is present and very welcome here today
  - c. Disabled People's Organisations: Danny Friedman KC
  - d. Child Poverty Action Group (CPAG): Julia Smyth

- e. Long Covid Groups (Long Covid Support and Long Covid SOS): Sarah Hannett KC
- f. Cabinet Office: Richard Cole
- g. HM Treasury (HMT): Neil Block KC
- h. His Majesty's Revenue and Customs (HMRC): Neil Block KC
- i. Department for Work and Pensions (DWP): Neil Block KC
- j. Department for Business and Trade (DBT) (formerly BEIS): Nicholas Moss KC
- k. Ministry of Housing Communities and Local Government (formerly DLUHC): Robert Dickason
- l. Department for Transport (DfT): Jonathan Glasson KC
- m. Scottish Ministers: Michael Way appearing remotely
- n. Convention of Scottish Local Authorities (COSLA): Laura Thomson KC appearing remotely
- o. Welsh Government: Jack Castle
- p. Local Government Association and Welsh Local Government Association: Thelma Stober
- q. The Department for the Economy ('DfE') of the Northern Ireland Government: Joseph Aiken KC appearing remotely
- r. British Business Bank: Claire Whittle

10. A list of the Core Participants you have designated for M9 has now been published on the web-site.

11. For those who were either not granted Core Participant status or for those who did not apply to be designated a Core Participant, I wish to reiterate that not being a Core Participant in Module 9 in no way precludes any person, entity or group from: (1) bringing any matter to the attention of the Inquiry; (2) providing evidence and information; (3) where appropriate and relevant, giving evidence at a hearing; and (4)

in the case of an individual affected by the pandemic, taking part in the Inquiry's listening exercise, Every Story Matters.

## **Scope**

12. The unprecedented economic challenge presented by the pandemic can be measured by the corresponding scale of the economic response of the UK Government and the Governments of the Devolved Nations. The number of distinct interventions across those Governments runs to several hundred. The interventions of government ranged from well known UK wide schemes to protect jobs, such as the Coronavirus Job Retention Scheme (commonly known as furlough) to less familiar targeted support for key sectors or industries such as the Travelling Show People fund administered by the Scottish Government.
13. There will be few, if any, individuals or organisations throughout the United Kingdom that were unaffected by the economic impact of the pandemic and who did not, to some extent, engage with the economic interventions introduced by government. The scale of the economic impact and the corresponding scale of the response means that the Inquiry will have to maintain a tight focus on the key themes and issues that emerge from the evidence that we are in the process of gathering.
14. The Provisional Scope of Module 9 is in these terms:

*This module will identify the broad range of economic interventions taken by government across all nations of the United Kingdom in response to the pandemic, such as:*

- i) support for business, jobs and the self-employed, including the Coronavirus Job Retention Scheme, the Self-Employment Income Support Scheme, loan schemes, business rates relief and grants;*
- ii) additional funding for relevant public services;*
- iii) additional funding for the voluntary and community sector; and*
- iv) benefits and sick pay and support for vulnerable people*

*The module will consider how economic support was in fact delivered by the UK*

*Government, the Devolved Administrations and Local Government by conducting an examination of some of the key interventions. In doing so, it will consider issues including*

- 1. How was economic decision making structured and undertaken by the UK Government, the Devolved Administrations and Local Government? To what extent was there an open exchange of economic information, forecasting and expert advice? In particular who was providing economic advice and how was that advice received, considered and shared within the UK Government, the Devolved Administration and Local Government? How effectively were the structures and systems for economic decision making across those Governments aligned and with what effect? How wide was the consultation as to the range of economic measures considered or implemented?*
- 2. How were the interventions made by the UK Government, the Devolved Administrations and Local Government funded? In particular, how were the allocated funds identified or generated?*
- 3. By what criteria and with what policy objectives were individual economic interventions identified and developed? In particular how was the timing of interventions determined and communicated across the UK Government and the Devolved Administrations? What consideration, if any, was given to the equality of impact of the economic support delivered as between particular groups including those who were at greater risk or otherwise vulnerable?*
- 4. How were mechanisms for delivery identified, developed and implemented? How effective and successful were such mechanisms? How was success defined, evaluated and / or monitored? How was it ensured that support was appropriately targeted and effective? How, if at all, was the equality of the impact of support delivered monitored and were steps taken to reduce any disparities?*
- 5. How were decisions taken to end the support provided and what criteria determined the timing of the cessation of support?*
- 6. What steps were taken to safeguard public monies and manage*

*financial risk? What steps were taken to reduce or prevent fraudulent and erroneous claims? Were those measures adequate and appropriate?*

*7. Was there any variation in the support offered across the United Kingdom? If so, how and why did that variation come about and did any identified departure from a UK wide approach of support, reduce or increase the efficacy of the support offered?*

15. My Lady, I am going to make both some general observations on the draft outline of scope and also some short submissions relating to some of the matters raised in the written submissions received from Core Participants prior to this preliminary hearing. Generally, those Core Participants who have provided written submissions have acknowledged the need for a focused approach to the scope of this module and supported the approach that we have advocated in our written note.

16. In keeping with the need to maintain a tight focus, the provisional scope, consistent with the Terms of Reference of the Inquiry, reflects the fact that Module 9 is primarily an investigation into the response of government to the economic impact of the pandemic; it is not an investigation of the nature and scale of that impact.

17. The focus of the module is not upon establishing an exhaustive factual narrative account of the economic measures taken by government, but rather a forensic examination of the systems and structures that were in place across government to manage the economic response to the pandemic, the identification of the core policy objectives of government that informed its economic response, and an evaluation of the design, implementation and efficacy of the measures taken as against their stated objectives.

18. As Your Ladyship has made absolutely clear throughout the Inquiry to date, the unequal impact of the pandemic and the response to it on 'at risk' or vulnerable people has been at the heart of this Inquiry since its inception. Consideration of the equality or inequality of the support that was provided will run through all aspects of the investigation with a focus on what consideration, if any, was given to those who were at greater social or economic risk, how the impact on vulnerable groups was monitored and what steps were taken to reduce any disparities identified. We intend to take a broad approach when considering this unequal impact in Module 9, consistent with your Ladyship's approach in earlier modules, and the Inquiry's

Equalities strategy. Further, we also intend to include specific consideration of those who were 'economically vulnerable'. Our consideration will not be limited to the support of businesses or those who were and remained in work throughout the pandemic. Those who were socially or economically vulnerable before the pandemic, or who became so as a result of the pandemic plainly fall within the scope of Module 9.

19. The examination of the broad sets of questions identified in the provisional outline of scope will be conducted by an in depth analysis of some of the key economic interventions of government. That will involve the examination of interventions that were delivered by the UK Government, and also interventions delivered by the devolved administrations and through local government. Which interventions are identified for in depth analysis, and the final form and content of that analysis, will be informed by the process of evidence gathering and by our ongoing engagement with the Core Participants. Given the scale of the economic response we submit that an in depth examination of a proportionate selection of schemes will best enable the Inquiry to identify lessons that can be learnt and inform any recommendations for the future.
20. The provisional scope reflects the Terms of Reference of the Inquiry in also requiring Module 9 to consider additional funding for relevant public services. Consistent with the general economic focus of Module 9 this strand of investigation will be focused upon measures taken by government to support public services that were central to the wider functioning of the economy; for example the support provided to Rail and Bus Networks and operators to ensure that essential transport infrastructure was maintained during the pandemic.
21. It is also important to stress that additional funding for the voluntary and community sector is an important strand of the scope. A number of Core Participants have commented upon the need to capture the experiences of those who worked in those sectors and I will say a little more about that when I address your Ladyship on the Rule 9 and evidence gathering process.
22. The scope also references the requirement in the Terms of Reference that the Inquiry considers steps taken to safeguard public money and manage financial risk and that includes consideration of measures taken to reduce fraud and error. That aspect of the investigation is likely to focus on scheme design and implementation and not,

given the temporal remit of the inquiry ends with the day it was established, upon the success or otherwise of measures taken post-pandemic to audit, reclaim or recover monies expended in error or as a result of fraud.

23. The issues will undoubtedly continue to be refined over time and some may emerge during the evidence gathering process. We are grateful to all Core Participants for their constructive engagement in preparation for this preliminary hearing and for the considered written submissions that we received. I need to briefly address some of those submissions at this stage.

24. A number of Core Participants have stressed that from their perspectives the pre-pandemic economic context for the groups that they represent is paramount and that any examination of the economic response of government must be conducted through the lens of that pre-existing economic context. Whilst those Core Participants are right to observe that the investigation in Module 9 must have due regard to the pre-existing context, we make the following submissions:

(i) Module 9 follows earlier modules, and in particular Modules 1 and 2, that have considered to some significant extent the context in which the pandemic occurred. Module 9 does not present an opportunity to re-tread the ground that has already been covered in those earlier modules, rather it will build on the evidence that has previously been received by the Inquiry.

(ii) Whilst Module 9 must have regard to the pre-pandemic context, it is not within the scope of this module to investigate the political decisions of previous governments that gave rise to it.

(iii) Module 9 is concerned with the economic response of government to the pandemic. The pre-existing structures through which that response was delivered, including the benefits system, will of course have to be examined in this module. The examination of those structures does not in our submission bring within the scope of this module a political analysis and argument as to the wider ambit of state support outside the response to the pandemic.

25. We are also invited by those representing Long Covid Groups to give assurances that consideration of those suffering from Long Covid will run through all aspects of our investigation in this module. The Inquiry has well in mind the experience of those who have contracted Long Covid and those who may have consequently become



economically vulnerable, but any examination of those issues must be proportionate and within the constraints of the wider module. With that in mind, to take an example, the funding of occupational support specifically for healthcare workers suffering from Long Covid appears to fall outwith the scope of Module 9.

26. The TUC note in their submissions the overlap between Module 7 (test, trace and self-isolate) which will consider factors influencing compliance including the 'financial and practical support to those required to isolate' and this module which will consider a broad range of support including benefits, sick pay and support for vulnerable people. Your Ladyship explained in your ruling on 10 July 2024 that Module 7's focus will be on what practical and financial support was available in the limited context of how that support impacted on isolation as a result of testing and tracing policies. Module 7 will investigate, in a focused and proportionate way, the specific financial support put in place as part of the TTI systems adopted, as one of the factors influencing compliance. The Counsel teams on Module 7 and this module are working closely together and Module 9 is intended to commence where the boundaries of Module 7 and other earlier modules end. Whereas Module 7 is considering those matters from a public health perspective, Module 9 will examine them from an economic perspective only.

### **Evidence Requests and Rule 9 update**

27. The Inquiry Legal Team has already made what we consider to be very good progress in terms of commencing the process of evidence gathering. As we hope was clear from our written note circulated to Core Participants in advance of this hearing, we are adopting a multi-faceted approach to evidence gathering. In addition to the issuing of Rule 9 requests to organisations and individuals we are, in parallel, gathering evidence from organisations that are broadly representative of those businesses and individuals who are likely to have experienced and accessed the schemes implemented by government in their economic response to the pandemic. The experience of individuals will be captured by the use of the Inquiry's listening project, Every Story Matters. None of these evidence gathering tools sit in silos and, for example, if responses to questionnaires identify further areas of investigation then further Rule 9 requests may be made of organisations or individuals.

28. The Inquiry has already sent questionnaires to an initial tranche of 56 organisations

that represent the interests of the self-employed, business and charitable groups across a range of different sectors. The returns from these questionnaires will assist the Inquiry in gathering information, identifying themes and informing areas for further investigation that can be targeted in Rule 9 requests where appropriate. This is very much a first tranche and further questionnaires will follow.

29. In that respect, we acknowledge that the initial 56 organisations do have a primarily business focus and that it might appear that the voluntary and community sector and those representing vulnerable groups have not been included in this strand of investigation. We assure those Core Participants who raised this concern that the Inquiry Legal Team has very much in mind the need to gather evidence from organisations that are representative of, or operating within, those sectors. We are in the process of issuing a further tranche of questionnaires to a number of those organisations, having adapted the form and content of the questionnaires with the aim of capturing information of particular relevance to those sectors.
30. The Rule 9 requests themselves are being / will be issued on an iterative basis. The first tranche of requests will be to institutions and I am happy to report that the Rule 9 request to HMT has been issued in draft form. The requests that will be made of recipients, will be focused on particular issues or topics arising from the Provisional Outline of Scope for Module 9. The Inquiry Legal Team has very much in mind the potential breadth of this module and the corresponding need for Rule 9 requests to be as tightly focused as possible on the key issues and themes that will run through our investigation.
31. The TUC, CPAG, Long Covid Groups and the DPO have included suggestions in their submissions for recipients of either questionnaires or Rule 9 requests. We thank those Core Participants for their engagement on this issue and those suggestions will be considered.
32. Further rule 9 requests will be issued, on a rolling basis, to other relevant individuals, organisations, professional bodies and other entities who hold information relevant to Module 9's investigation. It goes without saying that anyone who holds information or documents that they wish to provide to the Inquiry as being relevant to the Module 9 Provisional Outline of Scope may do so, without awaiting a Rule 9 request. Where organisations or individuals have previously provided evidence to the Inquiry we are taking that as the baseline for our investigation and are seeking to build on the evidence and material previously provided.

33. In line with a determination made in Module 1, Core Participants will not be provided with copies of the Rule 9 requests made by the Inquiry. Disclosure to the Core Participants of the Rule 9 requests themselves (as opposed to the relevant documents and material generated by them) is neither required by the Inquiry Rules nor generally established by past practice. Furthermore, it would serve little practical purpose given the wide scope and detailed nature of the Rule 9 requests that are being made.
34. To ensure that Core Participants are kept properly informed, the Inquiry will ensure that the Module 9 lead solicitor provides monthly updates to Core Participants on the progress of Rule 9 work. Such updates will include a summary of who has received Rule 9 requests, the topics those requests cover, what categories of documents have been requested, when the request was made and by when a response is expected. The Inquiry Legal Team confirm that, for the purposes of Module 9, Core Participants will receive monthly updates commencing at the beginning of December 2024.

## **Experts**

35. The Inquiry currently considers expert evidence will assist the Module 9 investigation to establish the economic context in which the pandemic occurred and the range of viable economic policy options that were available to government. The Inquiry has, therefore, provisionally identified a number of topics on which the assistance of expert witnesses may be sought. These broad areas are:
- a. Economic policy making: consideration of the principles of good policy making in the design and delivery of economic interventions within the framework governing public expenditure. An assessment of the structures and processes used during the pandemic.
  - b. Public finances and macroeconomics: the macroeconomic considerations underlying different categories of economic support packages and the value and risks inherent in such interventions. Analysis of the funding mechanisms available to government and the role of monetary policy.

- c. Devolved and local government finance: building on evidence previously given in Modules 2A-C and considering the funding sources available to the devolved administrations, and the mechanisms available to local government to enable it to deliver support in a pandemic.
  - d. Labour market and inequality: Including a summary of the literature on the impact of previous crises on individuals, previous emergency labour market policies, identification of those in the labour market who were most vulnerable and consideration of the equality of impact by occupation, region, gender, age, income level, and where possible ethnicity and disability.
  - e. Benefits: To provide an explanation of the benefits and transfer system and provide context as to the historic levels of spend. To analyse the efficacy of the implementation and delivery of support via the benefit system as part of the economic response to the pandemic.
36. Whilst the appointment of experts to the Inquiry are matters exclusively for the Chair, we are grateful to those Core Participants who have made suggestions about the potential areas of expert evidence or as to the identity of experts they consider to be appropriately qualified to comment on certain issues. Accepting the well made observations of the Scottish and Welsh Governments we accept that in so far as devolved and local government finance is concerned that any instructed experts will need to consider the position in each of the devolved nations, and that the economies of the devolved nations are varied.
37. The identities of instructed experts will be contained in the Module Lead Solicitor's Update Notes. Once experts are instructed, these notes will also provide further details of the topics which the experts will address in their reports thereby enabling Core Participants to comment on those matters should they wish to do so. Core Participants will also have the opportunity to comment on the draft reports of the experts prior to their finalisation.

### **Disclosure**

38. The Inquiry has already identified material potentially relevant to Module 9 that has been provided to other modules. This material will be reviewed for disclosure. Module 9 hopes to start making disclosure of this material by the end of 2024.
39. Disclosure will be specific to Module 9 such that the information and documents

received through the Rule 9 process will be reviewed and, if considered relevant for disclosure, redacted in line with a Redactions Protocol so as to remove sensitive material.

40. Disclosure of relevant, redacted documentation will take place in tranches. All Core Participants in Module 9 will receive all the disclosable documents for that module. The electronic disclosure system which will be used to provide documents to Core Participants will be Relativity.

### **Every Story Matters**

41. Although the focus of Module 9 is not to examine in detail the impact of the pandemic itself on the economy or on individuals, the human experience of those who accessed (or who did not access or were unable to access) the schemes offered by government will help inform us about the success or failure of delivery of support and will inform the recommendations made for the future. We intend to utilise the Inquiry's listening exercise, Every Story Matters, in order to capture that human experience.
42. Themed records produced by Every Story Matters will be submitted into the investigation. These records will be anonymised, disclosed to the Inquiry's Core Participants and used in evidence, so that they can form part of the Inquiry's written record. Every Story Matters will identify trends and themes that illustrate systemic issues and may include illustrative case studies.
43. A proposed set of Key Lines of Enquiry (KLOEs) has been shared with Core Participants and along with the categories of potential audience groups that it is proposed are included in the sampling for qualitative interviews. We are grateful for all written representations received in respect of the KLOEs which will be considered once Your Ladyship has heard all of the submissions from Core Participants and made any necessary decisions about the scope of Module 9.

### **Future Dates for Module 9**

44. I turn now to the next dates for Module 9.

45. A further preliminary hearing will take place at Dorland House in the Autumn / Winter of 2025. The date will be notified to Core Participants in good time and published on the Inquiry's website.

46. Current plans will see the public hearings in Module 9 take place in the Winter of 2025 here at Dorland House. Updates on timetabling will be provided to Core Participants in due course and will also be available on the Inquiry's website.

### **Submissions from Core Participants**

47. My Lady those are the issues on which I seek to address you as Counsel to the Inquiry. I now give way to those five Core Participants who wish to make oral submissions in the course of this hearing beginning with Danny Friedman KC on behalf of the Disabled People's Organisations.

**Richard Wright KC**

**Counsel to the Inquiry**