



IN THE UK COVID-19 PUBLIC INQUIRY

MODULE 6

**SUBMISSIONS OF SCOTTISH COVID BEREAVED FOR THE
SECOND PRELIMINARY HEARING**

1. Scottish Covid Bereaved are grateful to Counsel to the Inquiry for providing a detailed note setting out the state of preparation Module 6, and the matters which are to be addressed at the second Preliminary Hearing

2. It is appreciated that all Modules in this Inquiry are of importance not only to the Bereaved and other Core Participants but also to the wider public. This Module, which will consider the impact of the pandemic on the publicly and privately adult social care sector in the four nations of the UK, is of particular importance to those of the Bereaved whose loved ones died in care homes. For years now, the Bereaved have been left wondering why their loved ones died. As was set out at the first Preliminary Hearing, the Bereaved are anxious to know why certain decisions were taken by the UK and Scottish Governments, and whether those decisions led to deaths. They wish to know what, if any, consideration was given to assessing patients' needs for further treatment before discharge and whether such treatment could have been provided. Many are waiting on the answer to a question that has been asked since March 2020: why were those suffering from Covid transferred into care homes without being tested?

Rule 9 requests

3. Scottish Covid Bereaved note the details of the Rule 9 requests set out by Counsel to the Inquiry in her note, and are grateful to her for identifying in Annex A those statements which have already been disclosed. The Bereaved welcome the Inquiry's intention to issue a small number of Rule 9 requests to care homes, which will be randomly selected by the Inquiry Legal Team. While the requests are to be sent to care homes located in both urban and rural settings across the UK, Scottish Covid Bereaved hope that the Inquiry Legal Team will be able to recognise Scotland's distinct geographical features, with many living in island communities. These communities, and the care homes in them, will doubtless have experienced issues which did not arise in mainland care homes. It is hoped that the Inquiry Legal Team will be able to identify a care home in an island community that can be issued with a Rule 9 request.

Disclosure to Core Participants

4. It is appreciated that the disclosure process is ongoing, with six tranches of disclosure already made. At this stage, Scottish Covid Bereaved repeat the request previously made to the Inquiry in other Modules: to ensure that the disclosure process takes place as quickly as possible to allow Core Participants to prepare for the Module hearings.
5. Scottish Covid Bereaved note the summary of the findings of the survey of LGA members. The Bereaved are keen to see the results of the COSLA survey, due in spring. It would be surprising if the results of the COSLA survey differed greatly from the LGA one. It is the experience of the Scottish Covid Bereaved that social care was poorly prioritised, with insufficient numbers of staff to provide proper care. Visits by healthcare professionals were restricted and, as outlined above, residents were discharged from hospitals to care homes without having been tested. The Bereaved anticipate seeing their own experiences reflected in the COSLA survey.

List of issues

6. Scottish Covid Bereaved are grateful to Counsel to the Inquiry for providing the provisional list of issues for Module 6. As with other Modules, the list of issues is detailed and covers the majority of the issues which the Bereaved wish to be addressed. Given the importance of this Module to many of the Bereaved, they would be grateful if the Inquiry could advise them in advance of the hearings those issues relative to Scotland which will be considered by this Inquiry and those which are intended to be covered by the Scottish Inquiry.
7. The Bereaved welcome the Inquiry's focus on decision relating to the discharge of people from hospital into adult care, and issues relating to visiting restrictions and guidance. The Bereaved include those who experienced loved ones not receiving the care they deserved, with GPs refusing to attend at care homes and residents therefore not being admitted to hospital. It is hoped that these matters will be explored during the hearings. It is hoped that the Inquiry will also consider the impact of visiting restrictions on the residents themselves, particularly those suffering from dementia. Finally, when considering all of the issues set out in the provisional list, the Bereaved are keen to learn the extent, if any, to which the residents' human rights were taken into account by decision makers and, if so, how such an assessment was carried out.

Public Hearing

8. Scottish Covid Bereaved thank the Inquiry for its request for input into how witnesses can provide evidence of the impact of the pandemic of those in receipt of adult social care. The Bereaved understand the difficulties which the Inquiry will likely face in calling a witness who was resident in a care home during the pandemic.
9. Scottish Covid Bereaved consider that the best way for the Inquiry for the Inquiry to hear impact evidence is to follow the approach adopted in relation to Module 3, where a member of the Scottish Covid Bereaved gave evidence to the issues faced by the group as a generality, with later evidence from a particular member with significant

aspects to their loved one's experiences that allows the Inquiry to hear specific impacts. It is said that a society is defined by the way it treats its most vulnerable, and there is considerable evidence that the most vulnerable, who should have been given the greatest levels of care, did not receive that care when they needed it the most. Accordingly, the Inquiry may wish to consider allowing a greater number of impact witnesses from the Bereaved groups, to allow the Chair to have the opportunity to hear about the plight of the most vulnerable. Scottish Covid Bereaved have always been measured in requesting impact evidence but submit that having two witnesses to speak to their own personal experience, in addition to one more general Core Participant witness, would be appropriate.

10. Scottish Covid Bereaved are aware of the effect of calling a number of additional impact may have on the Inquiry's timetable but submit that that allowing an extra few hours for this purpose may be of significant value. It is noted that the media pick up on and highlight individual stories in a way that they do not for more general issues. Greater public awareness of the issues faced by the most vulnerable in society may ultimately result in greater public support for the recommendations which the Chair will ultimately make. The Scottish Bereaved have noted the Chair's comments that she can make recommendations but it is for politicians to implement them. It is submitted that the broader the public support, the greater the public pressure and the more likely the implementation of recommendations.

Claire Mitchell KC

Kevin McCaffery, Advocate

David Welsh, Advocate

Kevin Henry, Advocate

Counsel for Scottish Covid Bereaved

Aamer Anwar-Principal Solicitor

April Meechan- Senior Consultant

Sarah Murray - Senior Associate

Aamer Anwar & Co., Solicitors for Scottish Covid Bereaved.