

**IN THE UK COVID-19 PUBLIC INQUIRY**

**BEFORE BARONESS HEATHER HALLETT**

**IN THE MATTER OF:**

**THE PUBLIC INQUIRY TO EXAMINE THE COVID-19 PANDEMIC IN THE UK**

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**Submissions on behalf of Covid 19 Bereaved Families for Justice (UK) and NI Covid 19 Bereaved Families for Justice for the Module 7 preliminary hearing on 06 February 2024**

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**Introduction**

1. These submissions are provided on behalf of Covid 19 Bereaved Families for Justice UK (CBFFJ UK) and NI Covid 19 Bereaved Families for Justice (NI CBFFJ) in advance of the Inquiry's Module 7 preliminary hearing on 06 February 2024.
2. Module 7 remains one of the most critical modules to the bereaved families who welcome a full, fearless and robust investigation of the issues.
3. We note the Inquiry's update of Module 7's scope following the preliminary hearing of 27 June 2024 and raise the following:
  - (a) The non-inclusion of "support" in Module 7's title to reflect a system of "test trace isolate and support".

A system of "test trace isolate and support" has long been established as a core pillar of the public health's role in responding to infections, with "support" having equal weighting as the other components: "test, trace and isolate". An investigation of a system of "test trace and isolate" only falls short of an examination of the recognised public health system for responding to infections which is test trace isolate and support. Accordingly,

we submit that the omission of “support” from Module 4’s title is significant, not just in wording but in substance and should be amended to encompass the recognised public health system of test trace isolate and support. We are mindful that paragraph 4 of the Inquiry’s Provisional scope indicates that there will be an examination of *financial and practical support to those required to isolate* as one of the factors influencing compliance, which we of course welcome. This is however one aspect of a system of “test trace isolate and support. We rely on our previous submissions on this issue and refer to our written submissions of 13 June 2024.

- (b) The absence of preparedness from the scope and list of matters to be examined in Module 7.

We remain concerned that the period under examination commences in January 2020 which gives no scope for the examination of the UK’s preparedness which we submit is inextricably linked to its response. We refer to paragraph 6 of our written submissions of 13 June 2024 for the first Module 7 preliminary hearing and urge the Inquiry to include preparedness in Module 7’s scope.

- (c) We remain unclear as to whether the Module 7’s scope will include a comparative international analysis between UK’s systems and that of other countries which had more planned and effective systems such those in South Asia and Germany. England, Wales, Scotland and Northern Ireland are island nations, but the pandemic was no respecter of borders. The virus was international, the impact was international. The families view consideration of successful international examples of test trace isolate and support as absolutely crucial to recommendations the Inquiry may make. We refer to and rely on the matters raised in paragraph 10 of our submissions of 13 June 2024 and urge the inquiry to include an international comparative analysis of its examination of the UK’s test trace isolate and support systems in Module 7’s issues.

- (d) The families are concerned that structural and institutional race discrimination, disability discrimination and other forms of discrimination have not been included in Module 7's scope and issues to be examined. Whilst we note para 20 (c) of CTI's note for the preliminary hearing of 27 June 2024, the families remain unclear as to whether and how the issues of structural and institutional race discrimination, disability discrimination and other forms of discrimination will be examined in Module 7. As the Inquiry is aware from our submission in this and other modules, discrimination is a central issue for many of our family members. It is also of central importance to this module's investigation – Covid 19 had a disproportionate impact on people from ethnic minority backgrounds and the disabled. It is now abundantly clear from all other modules heard to date, that the impact of the pandemic upon ethnic minority communities, the disabled, communities that were already marginalised, and suffering from health inequalities was profound and deep rooted. It is also abundantly clear that the impact was foreseeable and there was an abject failure on the part of government, government agencies and the civil service to prepare for and mitigate against the worst effects. We refer to and rely on our submissions at paragraph 9 of our Module 7 preliminary hearing written submissions of 13 June 2024 and urge the Inquiry to amend its scope to reflect this or otherwise confirm that it be examined in Module 7.
- (e) The Inquiry heard evidence in Module 2C about the regional disparities that prevailed in relation to test, trace, isolate and support systems in Northern Ireland in particular. Whatever system there was in operation in Northern Ireland apparently ceased to operate on 12 March 2020, apparently in coordination with the UK Government move to the "delay" phase of the pandemic plan but at a time when Test & Trace in Northern Ireland still had capacity to Test & Trace. Having heard the evidence of Richard Pengelly during Module 2C, the Inquiry is aware of the fact that there was no substantive evaluation of whether there was merit in continuing with test and trace in Northern Ireland. This therefore is an issue that merits specific consideration within Module 7, but the extent to which it will be considered remains unclear. The overall question of why moving from contain to delay

in England meant suspending TTI measures in NI, and the consequences of that decision, remains unanswered.

### **Expert Witnesses**

4. We welcome the Inquiry's instructions of experts and the receipt of the draft reports on *An analysis of adherence to behaviours associated with the Test and Trace and Isolate System* by lead author Professor Arden and *An analysis of the effectiveness of Covid-19 financial support and the impact on adherence with the TTI system* by Richard Machin.
5. We note the concerns raised by CBFJ Cymru of a potential conflict of interest in relation to Mr Pickford who assisted Professor Machin with his research for the preparation of his report (paragraph 28 CTI's note) and Mr Pickford's response (paragraphs 30 – 31 CTI's note). We also note the Inquiry's response at paragraph 32 of CTI's note.
6. Whilst CBFFJ UK and NICBFFJ maintain a neutral position on the determination of the issue of conflict, we will state that there is nothing raised to us which undermines Professor Machin's report and findings.
7. We repeat our request for the instruction of an expert to investigate and report on the role of structural and institutional race discrimination, disability discrimination and other forms of discrimination on the UKs test trace and support system across all four nations. This is of particular importance to our families given the disproportionate rate of transmission and impact of covid-19 on people from ethnic minority backgrounds and the disabled.
8. We also repeat our request for the Inquiry to instruct an expert on comparative international test trace isolate and support systems. There are a number of eminent experts in comparative public health who can undertake a focussed report on the experiences of such countries as South Korea, Japan and Germany, in order to inform recommendations.

### **Disclosure**

9. We note the update at paragraphs 16 – 19 of CTI’s note and are mindful of the significant work being undertaken by the Inquiry’s team in this and other modules.
  
10. We are also conscious that the Inquiry’s Module 7 team is working at pace to disclose documents including witness statements and exhibits to core participants. Nonetheless, we note that to date there is limited disclosure of witness statements and exhibits. We are concerned that we may have very limited time within which to meaningfully review the statements and exhibits and contribute to the proposed witness list. We are also concerned that late disclosure of statements and exhibits, which we have seen during other modules, at times during the R10 procedure could limit our client’s effective participation. As in other modules, we submit that the Inquiry should set a date two months prior to the hearings by which it expects the bulk of the disclosure to have been made. This will be helpful in concentrating the minds of document and statement producers who have still to comply, and sets a clear target date for the Inquiry team, whilst allowing CPs to effectively participate.

### **Timetable and Future Hearings.**

11. We look forward the circulation of the provisional list of issues and witness list in February 2025 as indicated at paragraph 37 CTI’s note.
  
12. The families remain concerned that Module 7’s evidence will be heard over 12 days which is a very limited time within which to properly investigate the systems which operated across England, Wales, Scotland and Northern Ireland and urge a review of the timetable in this regard.

### **Conclusion**

13. In conclusion, we reiterate the need for the Inquiry to continue to place the experiences of the bereaved at its core. Looking at the scope of Module 7 and

the areas under consideration, the ability to effectively test, trace, isolate and support was crucial, in order to combat the spread of the virus. Did we succeed? Was there sufficient consideration of and planning for regional variances in the spread of Covid and therefore the need for a targeted response across the devolved administrations? The picture is a mixed one and fundamental questions therefore need to be addressed. The failures and shortcomings must be clearly identified, dissected, properly understood and rectified with due expedition. As we are constantly reminded in this Inquiry, it is not a case of will there be another pandemic, but rather when there is another pandemic, what will we do. We cannot afford to repeat the same mistakes. It is literally a matter of life and death, and there can be no higher level of urgency and motivation to make it right.

Pete Weatherby KC  
Allison Munroe KC  
Thalia Maragh  
Christian Weaver  
Counsel for CBFFJ UK

Brenda Campbell KC  
Peter Wilcock KC  
Blaine Nugent  
Counsel for NI CBFFJ

Elkan Abrahamson  
Nicola Brook  
Emily Driver  
Broudie Jackson Canter Solicitors  
Solicitors for CBFFJ UK

Conal McGarrity  
Enda McGarrity  
PA Duffy Solicitors  
Solicitors for NI CBFFJ