

UK Covid-19 Inquiry: preliminary hearing on module 3, 28 February 2023

The UK Covid-19 Inquiry (the Inquiry) held its first preliminary hearing on **module 3** which will examine the impact of the pandemic on healthcare systems across the UK.

This module includes consideration of the healthcare consequences of how the UK government, devolved administrations and the public responded to the pandemic. It will examine the capacity of healthcare systems to respond to a pandemic and how that evolved during the Covid-19 pandemic. It will consider the primary, secondary and tertiary healthcare sectors and services and people's experience of healthcare during a pandemic. It will also examine healthcare-related inequalities such as in relation to death rates.

We set out below the key issues discussed in the hearing and where core participants (CPs) are pressing for changes to the **provisional outline of scope** (the scope). A full transcript of the hearing can be found [here](#). If you have any questions or comments on this briefing, please contact Finola Kelly (finola.kelly@nhsproviders.org).

Opening remarks

In her opening remarks, the Inquiry chair Baroness Hallett acknowledged continued criticism of the listening exercise, promising to redouble efforts to make it work. The latest Inquiry newsletter, which will be published this week, will set out what has been happening, and the team will be holding a webinar shortly for interested organisations. Our recent [blog](#) on the exercise set out some of our concerns.

Counsel to the Inquiry (Counsel) set the scene by highlighting the 5.3 million people who were on waiting lists at the beginning of the pandemic, and the more than 850 Covid related deaths among healthcare workers during the period under scrutiny.

36 CPs have been approved for this module, and 31 made oral submissions suggesting changes to the scope. Thirteen CPs are pregnancy, parenting and baby charities and organisations. Also represented were bereaved families, a disability charities consortium, and clinically vulnerable families. NHS England is the only organisation which is a CP and representing the health service in England in this module.

Baroness Hallett will now consider all submissions and continue to gather evidence. A second preliminary hearing will be held in the summer.

Pre rule 9 questionnaire

Many trusts voluntarily responded to an Inquiry questionnaire sent to over 500 NHS and non-NHS organisations late last year. Responses have helped the Inquiry identify themes and issues, and other matters that will be considered for inclusion in the rule 9 requests. The survey has also assisted the Inquiry in identifying who should receive rule 9 requests.

Among the issues highlighted in the responses were:

- The authority and capacity of healthcare leaders to make decisions and deal with crisis management.
- The consequences for patients of cancelling or pausing routine and non-urgent care.
- Mutual co-operation between trusts and co-ordination across local organisations, including the accelerated implementation of integrated care systems.
- Measures used to manage the healthcare system capacity, including co-ordination with the private sector.
- Staffing, mental health and well-being of healthcare staff and patients.
- Adoption of new ways of working in the healthcare system such as the shift to technological delivery and online working.
- Impact within healthcare systems of access to and the suitability of PPE and the infection prevention and control measures put in place to manage patient and staff safety.

Counsel to the Inquiry advised that these matters are just some of the issues likely to feature in module 3. Counsel also committed to providing CPs with a list of issues, which will be updated as the module progresses.

CP submissions: recurring themes

CPs revisited many of the requests made at previous preliminary hearings for other modules (and as covered in our [briefings](#)). These include:

- Consultation on, and disclosure of rule 9 requests, or at least consideration of requests on a case-by-case basis.
- Permission for CPs to put questions to witnesses giving oral evidence.
- Disclosure of instructions to expert witnesses.

- Opportunities for CPs to input into identifying expert witnesses.
- Early identification of experts and what the questions and issues they have to address.
- Calls to appoint expert witnesses on health inequalities, particularly on institutional and structural race and disability discrimination.
- Opportunities for the bereaved to give evidence directly to the Inquiry.
- A call for CP submissions to be published (which happens at the discretion of the Chair).
- Possible conflict of interests with regards to the companies delivering the listening exercise who worked with the government during the pandemic.

NHS England believe that a way to address some of these issues is for the Inquiry to produce a road map of the future modules, explaining how cross-cutting issues will be addressed and providing clarity on where the demarcation lines are drawn.

Extending the scope

The relevant period for module 3 is from 1 March 2020 to 28 June 2022, as set out in the [Term of Reference](#) (ToRs). The chair has no legal power to consider anything outside of these dates according to Counsel. Lawyers for the CPs disagree and a number of recommendations were made by CPs to extend the scope of this module. These include:

- Consideration of the pre- and post-pandemic context, with the post-pandemic period being particularly important in relation to the Chair's recommendations powers, the clinically vulnerable, and those suffering from long Covid. This should include capacity of the sector pre pandemic, including funding, staffing and the state of the NHS estate.
- A call to keep people at the centre of the Inquiry's focus – at present it frequently cites the impact on organisations and institutions.
- The Inquiry's draft ToRs did not include any reference to maternity services or babies. That has been corrected but the pregnancy baby and parent organisations are extremely concerned to see that the provisional scope for module 3 makes no reference to antenatal and postnatal care and have called for both to be included (NHS England agrees with this).
- Health and safety failures, and whether these failures exacerbated the impact on ethnic minority staff.
- Supply of PPE if this is excluded from module 1.
- The experience of people at home and people in care settings, including denial of access to non-Covid healthcare, such as treatment for life threatening illnesses. The Inquiry is planning a separate module on the care sector but it is acknowledged that there is some overlap.
- The role of non-paid carers should be examined as they provide the majority of care.

- Inclusion of consideration of the recruitment and retention of healthcare staff, as well as the regulatory and investigatory response to deaths.
- Inclusion of younger voices by adding them to the scope and including them in the listening exercise.
- How palliative care changed throughout the pandemic, and whether there was any difference between how Covid and non-Covid patients were treated.
- The adequacy of mental health services, with CPs saying that the pandemic has caused another pandemic in mental health.
- The need to address the ongoing risks to the clinically vulnerable and extremely clinically vulnerable, with CPs requesting an interim report to address continuing problems in accessing healthcare.
- End of life care should be a distinct line of inquiry, separate to palliative care.
- Inclusion of the role of community pharmacies and the challenges they faced when maintaining services, with many now facing closure due to underfunding.