

UK Covid-19 Inquiry: preliminary hearing on module 1, 25 April 2023

The UK Covid-19 Inquiry (the Inquiry) held a third preliminary hearing to further examine the scope and procedures for the public hearings for **module 1**. This module will investigate government planning and preparedness. Many of the core participants (CPs) raised concerns about late disclosure of documents which is hampering their ability to prepare for the public hearings starting on 13 June. During the session the Chair, Baroness Hallett, indicated that she would need a lot of persuading to change this date. The Chair will now consider all submissions and continue to gather evidence.

In this briefing we set out the key issues discussed and highlight where CPs are pushing for change. A full transcript of the hearing can be found [here](#). If you have any comments or questions about this briefing please contact Finola Kelly, senior legislation and inquiry manager finola.kelly@nhsproviders.org.

Update on Rule 9 requests, witness statements and disclosure

Counsel to the Inquiry (Counsel) provided an update on Rule 9 requests. The Inquiry has issued 212 formal requests for evidence under **rule 9 of the Inquiry Rules**. They are waiting on responses from 38 and are considering 13 witness statements. Nine respondents have either not replied or not engaged significantly. Counsel noted that some recipients were providing too much information. He stressed that he did not believe this to be malicious but rather a failure to understand the obligation on them. Six have refused to respond.

The Chair's power to compel the provision of documents is set out in Section 21 of the **Inquiries Act 2005**. Should a Rule 9 request not be complied with, an Inquiry will consider the importance of the evidence requested and may decide to issue a notice under Section 21. A Section 21 notice (subject to limited legal exemptions) may require a person to attend at a time and place stated in the notice to give evidence or produce evidence in written format. Where such a notice is not complied with, the Chair can exercise her powers under Section 36 of the Act to obtain an Order from the High Court to compel attendance at court for the purpose of complying with the notice (giving the evidence requested). It should also be noted that Section 35 of the Act provides that it is a criminal offence where, having received a Section 21 notice, an individual intentionally suppresses or conceals a

relevant document, or prevent it from being given to the Inquiry, and at risk of a fine, imprisonment or both. It follows that failure to comply with a Rule 9 request puts individuals and organisations at risk of receiving a Section 21 notice with the consequential and significant powers available to the Chair.

CPs said they were concerned about the Inquiry's progress in the run up to 13 June, that very few witness statements had been received, and that Rule 9 requests were still being issued. With the risk that disclosure will continue right up to the first day of public hearings, CPs are concerned that they won't be able to participate effectively. The Chair noted their concerns, saying that the Inquiry team is doing everything it can to ensure that CPs receive everything they need in a timely fashion.

The Trade Unions Congress (TUC) asked for a list of bodies that the Inquiry will examine to ensure there are no gaps.

The Inquiry has sent a Rule 9 request to the Health Safety Executive (HSE) at the TUC's prompting, but the Inquiry is yet to rule that the HSE is within the scope of this module.

Listening exercise (Every story matters)

The listening exercise, 'Every story matters', has provoked notable anxiety and emotion, and CPs are not satisfied with the information provided. A public information campaign will go live in June and an [ethics advisory group](#) for Every Story Matters has been established. A number of 'human impact' films will be aired at the start of every hearing. Confidence in the listening exercise appears to be low and the planned films are not seen as an adequate way of representing the experience of the bereaved – instead, CPs for this module broadly remain of the view that the Inquiry should consider hearing directly from a proportionate number of the bereaved.

Next steps

The Chair is committed to starting hearings for module 1 on 13 June. They are due to conclude on 20 July.