



## COVID - 19 BEREAVED FAMILIES FOR JUSTICE CYMRU

### Submissions/Response to the Terms of Reference Consultation

Following a meeting with Baroness Hallett on 15 March 2022, the Covid-19 Bereaved Families for Justice Cymru respond further to the Draft Terms of Reference Consultation and will specifically seek to address the four questions set out within the consultation document. Covid-19 Bereaved Families for Justice Cymru call for a rights-based approach to the Covid-19 Public Inquiry in compliance with the UK and Welsh Governments' investigative duties under the Human Rights Act 1998 and the European Convention on Human Rights 1950 ('ECHR'). Welsh people deserve and demand proper scrutiny of the handling of the Covid-19 pandemic. It is essential that the people of Wales should not be a footnote in an England centric Public Inquiry. Welsh people must be able to effectively participate and access any Public Inquiry into Welsh matters and that Inquiry must spend time sitting in Wales and proceedings must be accessible in both the English and Welsh languages.

Each of the questions posed in the Consultation document are answered below:

Do the Inquiry's draft Terms of Reference cover all the areas that you think should be addressed by the Inquiry?

Covid-19 Bereaved Families for Justice Cymru feel that the following is omitted from the terms of reference and ought to be included:

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- The Terms of Reference do not refer to the consideration of the impact of the pandemic and compliance with the ECHR. This should be included. We respectfully suggest the following wording:
  - *“the inquiry will, as the chair deems appropriate and necessary, consider the impacts of the handling of the pandemic and make findings of fact relevant to the exercise of and compliance with ECHR rights (as defined in Section 1 of the Human Rights Act 1998)”.*
- The management of the pandemic in care homes bullet point should closely mirror the wording of the management of the pandemic in hospitals bullet point and read:
  - *“the management of the pandemic in care homes and other care settings, including infection prevention and control, the transfer of residents to or from homes, treatment and care of residents including use of DNACPR palliative care, workforce testing, restrictions on visiting, changes to inspections and the impact on staff and staffing levels”.*
- Hospital-acquired Covid is a significant issue in Wales, contributing around 25% of deaths from Covid-19, and should be expressly covered as a specific theme/issue in the Terms of Reference<sup>1</sup>.
- References to the use of *“Do Not attempt cardiopulmonary resuscitation”*, should be expanded/a separate heading should included specifically on this subject, to ensure consideration of the manner in which those decisions were taken, to enable the Inquiry to consider the lack of consultation with the patients and/or their loved ones (including in the face of power of attorney) and the lack of/inaccurate record keeping in respect of the same.
- The communication between hospitals/care homes and families. To consider the poor and sometimes contradictory communication with patients’ families during patient illness including failure to inform family that a patient has Covid-19, has been moved ward or hospital or has died. Poor administrative record keeping in hospital setting resulting in poor communication.

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<sup>1</sup> Public Health Wales does not publish this data but following Freedom of Information Requests by the BBC, the results are reported here: <https://www.bbc.co.uk/news/uk-wales-60928541>



- The Confusion caused by differing messages between devolved governments and UK government. The communication between the relevant administrations and the impact this had upon the management of the pandemic.
- The significant differences between the pandemic management in Wales and England, including mandating of masks which happened 2 months later in Wales & testing asymptomatic health workers which happened 4 months after England.
- Preparedness for the pandemic, including the speed and stringency of lockdowns, lack of contingency planning, PPE stockpiles, poor distribution of PPE and the failure to implement recommendations coming out of the report into Exercise Cygnus from 2016 to 2020.
- Post death procedures. This is to include issues such as the lack of support (emotional/bereavement) from the State, lack of dignity in death, specific funeral arrangements (including religious requirements) and there being no inquests.
- Suitability and capacity of NHS Wales Estate, including use of ambulances as holding spaces.
- Inspections and regulatory oversight of hospitals and care homes during the pandemic.
- Role of the Care Inspectorate Wales.
- Health Boards' responses to complaints or queries utilising the "Putting Things Right" procedure. This has been ineffective.

Which issues or topics do you think the Inquiry should look at first?

The aim of Covid-19 Bereaved Families for Justice Cymru is to ensure that lessons are learned in relation to the handling of the pandemic in Wales as soon as possible. The pandemic is not over and one of the more prominent issues that have had an impact on the members of the Group is hospital acquired Covid. That is, Covid-19 that has been contracted during admission to hospital. Any lessons that can be learned to prevent people contracting Covid-19 and/or any other significant disease in a hospital and care home setting ought to be a priority. The Group feel very strongly that a significant number of deaths might have been avoided had hospitals been fit for purpose. Covid-19 Bereaved Families for Justice Cymru would therefore invite the

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Inquiry to consider the incidence of and factors contributing to hospital acquired Covid, and lessons that can be learned to limit the spread of Covid-19 and/or any other significant disease in a hospital and care home setting as a priority.

Further, the lack of preparedness of the State to deal with a pandemic resulted in a significant number of deaths that could have been avoided had appropriate systems and processes been in place and therefore the Inquiry is respectfully invited to consider preparedness as a further priority.

It is hoped that lessons can be learned urgently in relation to the above two issues that might prevent further avoidable deaths occurring.

Do you think the Inquiry should set a planned end-date for its public hearings, so as to help ensure timely findings and recommendations?

The Covid-19 Bereaved Families for Justice Cymru acknowledge that an end date might focus minds but would urge the Inquiry to make findings and recommendations on an ongoing basis. One suggestion for ensuring timely findings and recommendations might be to set a series of end dates for each theme that is to be explored as part of the Inquiry. However, we would submit that there should be flexibility built in to the timetable so as to enable any issues that might overlap to be considered in their full and true context.

How should the Inquiry be designed and run to ensure that bereaved people or those who have suffered harm or hardship as a result of the pandemic have their voices heard?

We represent the voices of bereaved families in Wales and, as noted above, Welsh people deserve and demand proper scrutiny of the handling of the Covid-19 pandemic. Welsh people must be able to effectively participate and access any Public

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Inquiry into Welsh matters and therefore we would respectfully submit that the Inquiry must spend time sitting in Wales and proceedings must be accessible in both the English and Welsh languages. Further, such is the extent of the harm and hardship that our members have suffered as a result of the pandemic, it will undoubtedly be very difficult for them to provide evidence and have their voices heard. As a group, the Covid-19 Bereaved Families for Justice Cymru would be more than willing to cooperate with the Inquiry team in order to support those who have suffered hardship on harm as a result of the pandemic in getting their voices heard.

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