



# Covid Inquiry Client Newsletter – No.4 September 2021 By Elkan Abrahamson

In this month's newsletter, I make a call for your stories. It is imperative that as people start to learn more about the Inquiry, they also learn about the real pain and loss that you have suffered as a result of the handling of the pandemic.

Also, branches of the Covid-19 Bereaved Families for Justice group have now been set up and are working towards securing devolved Inquiries. In the wake of the Scottish Government announcing a devolved Inquiry, I explain what this means for everyone involved, as well as giving an update on Wales' and Northern Ireland's current position. There is an interesting report from Strathclyde University on a 'Human-Rights Based Approach' for an Inquiry, and I provide the latest draft of the Inquiry Terms of Reference.

## **A call for your stories**

Having worked so closely with so many of you over the past year, we have experienced first-hand just how impactful and heart-breaking your stories of loss and grief are. You have faced grave injustice, which is exactly why we will continue to fight for you until you have the answers that you deserve.

As we get closer to Spring 2022, more and more people across the UK will be learning about the Inquiry and all of the work we've been doing over the past year to get things moving. When that happens, it is important that they hear the stories, your stories, that have touched us all so deeply.

We're planning to compile your stories together into a pack that can be shared with news outlets along with any press releases as things progress. This will play a vital role in making sure that the public sees the real people behind the Inquiry.

If you are comfortable sharing your story and would like to be included in the client stories pack, please get in touch with us at [covidinquiry@broudiejacksoncanter.co.uk](mailto:covidinquiry@broudiejacksoncanter.co.uk)

## Devolved Inquiries

Since the last newsletter, the Covid-19 Bereaved Families for Justice group have set up branches for the devolved regions, which include Scotland, Wales, and Northern Ireland. The clients in these branches are now able to instruct local solicitors.

### What are devolved Inquiries?

Many of you have been wondering what devolved Inquiries are, how they work, what is covered, and how the devolved Inquiries in this instance will fit in with the wider UK Inquiry. I have put together a devolved Inquiries guide using helpful information from the UK Government that should answer your questions. [Click here](#) to view this guide.

The situation in each of the regions is:

### Scotland

The Scottish Government has said that they will hold their own Inquiry and it may start before the UK Inquiry. This is a huge step forward for the families of the over 10,000 people that were lost to Covid in Scotland alone. The Scottish government have said they want it to be judge-led and to be operational by the end of 2021. It will be set up under the Inquiries Act 2005 and will give particular consideration to the four harms of the pandemic in relation to Scotland, which are:

- Direct health impacts of Covid 19 including cases and deaths in care homes,
- Other health impacts,
- Societal impacts, including education,
- Economic impacts.

They expect a person-centred, human rights-based approach to ensure that every person and organisation affected can meaningfully participate, be treated fairly and be empowered to take part in the Inquiry. The Inquiry should be outcome-focused, identifying lessons throughout its work with timely reporting, including recommendations. They are inviting views on the suggested approach by the end of September, and we anticipate the Scottish Branch of the Bereaved Families group will be submitting views.

### Wales

The First Minister, Mark Drakeford, has consistently refused to commit to holding a Wales Inquiry. He is seeking assurances from Westminster that the UK Inquiry would allow a 'specific, separate focus on the decisions that were made here in Wales.' He has also said that they will hold their own Inquiry if they think one is necessary – he hasn't said how or when they will decide this.



The Welsh branch of the Bereaved Families group will continue to apply pressure to the First Minister to hold a devolved Inquiry. We will keep you updated with any progress.

### **Northern Ireland**

Unfortunately, I have not seen any mention of an Inquiry in Northern Ireland, nor a decision that Northern Ireland will be covered in the UK Inquiry.

### **Finding out more**

If you have lost a loved one in any of the 3 devolved territories and wish to find out more information about the devolved Inquiries and your options please do get in touch with me at [elkanabrahamson@broudiejacksoncanter.co.uk](mailto:elkanabrahamson@broudiejacksoncanter.co.uk). I imagine you may have many questions about what comes next in the process of seeking justice, please don't hesitate to reach out with your questions. Alternatively, you may be able to find the answers you seek on our [Covid Inquiry FAQ page](#).

### **Ensuring a 'Human-Rights Based Approach'**

It is fundamental that the UK Inquiry and any devolved Inquiries follow a human-rights based approach. Alan Wightman of the Scottish branch of the Bereaved Families group has commissioned a report from Strathclyde University which perfectly outlines what this approach would look like in action, and why it is so important. To read this report, please [click here](#).

## Terms of Reference

I am continuing to work with the Covid-19 Bereaved Families for Justice group to develop Terms of Reference for the UK Inquiry that prioritises the needs of the bereaved families and asks all of the important questions. We have outlined in detail what we expect the scope of the UK Inquiry to cover, including:

- Preparedness: Covering the UK Government's preparedness prior to the first case in the UK
- Response: Covering the UK Government's response to the outbreak of Covid-19 in the UK.

To read the latest draft of the Terms of Reference in full, please [click here](#).

## Newsletter archive

To catch up on previous Covid Inquiry Newsletters, please see the archive below. In August we hosted our first ever Live Newsletter where we invited members of the Covid-19 Bereaved Families for Justice group to join us live and ask their questions directly to the team. All of the questions that were asked during the webinar have now been answered and uploaded to our Covid Inquiry FAQ page. The FAQ page will continue to be updated as we answer more of your questions.

- [Newsletter No.1 \(June 2021\)](#).
- [Newsletter No.2 \(July 2021\)](#).
- [Newsletter No.3 \(August 2021\)](#).

This client newsletter has been published openly as there is nothing confidential to communicate at this stage.

Once the Inquiry process officially starts or there is a need for confidentiality, these client group communications will become private.

If you have lost a loved one to Covid-19, you have a right to be part of the public inquiry process. There is strength in numbers, so that as a group we can apply pressure to government and the inquiry. We represent our Covid Inquiry clients pro bono, this means at no cost or financial commitment to you. [Find out more](#)

As will be seen each territory has its own devolved powers, and those reserved powers vary for each territory. In this context it is interesting to see the Scottish focus in the Inquiry on care homes, education and the economy, all to some extent within the scope of devolved powers (for the economy, economic development is a devolved power). There may well be other devolved issues which could usefully be covered in the Scottish Inquiry, like housing and transport, for example. The next issue is the legal power to set up a devolved Inquiry.

Section 27 of the Act deals with the limits on a UK Inquiry:

[Inquiries Act 2005 \(legislation.gov.uk\)](https://legislation.gov.uk).

A UK Inquiry can include matters within its Terms of Reference which are under the devolved powers of the 3 territories, but only if the Minister has first consulted the relevant departments. Note that the (UK) Minister only needs to consult, permission is not needed.

Sections 32-34 allow for the establishment of joint Inquiries which can include more than one administration. The explanatory note says:



**“It is envisaged that UK Ministers will not usually set up Inquiries into devolved matters without the agreement of the relevant devolved administration and that Ministers will consider whether a joint Inquiry between the two administrations would be appropriate instead.”**

If a Joint Inquiry were set up the relevant administrations would share responsibility for setting the Terms of Reference, appointing the Chair etc.

The explanatory notes also say that “Even if the Terms of Reference mention only reserved areas .... the panel might consider it necessary to take evidence on certain devolved matters in order to fulfil them.” In other words, a UK Inquiry might, even if it only dealt with UK matters, hear evidence on (say) Scottish devolved issues.

## **Ensuring a ‘Human-Rights Based Approach’**

Alan Wightman of the Scottish families’ group has commissioned a report from Strathclyde University which is very helpful. This report outlines what a human-rights based approach looks like for the Scottish Inquiry and why this should be the only option.

Many of the conclusions in the report reflect the comments we submitted to the Cabinet Office some time ago – we are still waiting for a response. The points raised in this report are common to any Inquiry. You can read the report [here](#).

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