

Scottish Covid Inquiry Frequently Asked Questions (v1.0)

Updated: 09 January 2024



Background

1. What is the Scottish Covid Inquiry about?

This is a statutory public inquiry set up under the Inquiries Act 2005 to establish the facts and learn the lessons of the strategic devolved response to the COVID-19 pandemic in Scotland.

2. What is the Inquiry looking into?

The remit sets out that the Inquiry is to investigate the strategic elements of the handling of the pandemic including its impact on the provision of health and social care, education, business and financial and welfare support. The [Terms of Reference](#) of the Inquiry specify its remit and the issues it will be examining in more detail.

3. Who is conducting the Scottish Covid Inquiry?

Lord Brailsford, who is the Chair of the Inquiry, is responsible for the direction and manner of the Inquiry. He acts in an independent capacity. A Public Inquiry is inquisitorial in nature, not adversarial, so the Chair performs more of an examining role than a judge would in court proceedings.

4. What is a Public Inquiry?

A Public Inquiry is a formal, independent review relating to particular events which have caused or have potential to cause public concern, or where there is public concern that particular events may have occurred. The aim of a Public Inquiry is to help to restore public confidence in systems or services by investigating the facts through consideration of documentary and witness evidence, to determine what happened and help prevent recurrence.

5. What is the outcome of a Public Inquiry?

The outcome of a Public Inquiry is the production by the Chair, with input from the Inquiry Team, of a report which details key findings of fact and makes recommendations for the future. The Chair cannot make any findings of civil or criminal liability, nor can he award any compensation.

6. Is the Scottish Covid Inquiry directed at my actions?

It is the role of the Inquiry Team to gather evidence from varied sources, including witness evidence from individuals with knowledge of the relevant circumstances.

You may be asked to provide a witness statement to assist the Inquiry Team with its investigations (see Q.14 below). However, the findings and recommendations detailed in the Chair's report will be directed towards the Scottish Ministers and not at particular individuals.

Structure and Format of the Scottish Covid Inquiry

7. What is the format of the Scottish Covid Inquiry?

The Scottish COVID-19 Inquiry has adopted a thematic approach to its investigations and hearings, giving priority to evidence from people most impacted by the pandemic in Scotland. The three themes are: health and social care; education and young people; and finance, business and welfare. The evidence gathered at public hearings will inform the Inquiry's ongoing work across its themes, the issues examined at future hearings, and its reports.

8. When are the Inquiry Hearings being held?

A preliminary hearing of the Scottish Covid Inquiry relating to health and social care was held on 28 August 2023. This was a short hearing where Lord Brailsford set out arrangements for the hearings commencing in October 2023. This was preceded by an epidemiology presentation on 26 July 2023 by Dr Ashley Croft.

The first diet of oral hearings concerning the Health and Social Care Impact began on 24 October 2023 and will continue until December 2023. Impact hearings will continue in February 2024. Statements are being made by Core Participants including charities, campaign groups and professional bodies.

9. Where are the Inquiry Hearings held?

The Inquiry hearings are currently being heard at [Scottish Land Court, George House, 126 George Street, Edinburgh, EH2 2HH](#).

The closest public transport stops for George Street include Waverley and Haymarket railway stations, Edinburgh Bus Station, and the Princes Street and West End tram stops. No car parking is available at the venue.

10. Are the hearings public?

Public inquiries are open to the public and the media. However, numbers of attendees are severely restricted at hearings currently. The Inquiry offers dedicated space for core participant group members, members of the public and media, where they will be able to watch a broadcast of proceedings. The premises are at Regus, 83 Princes Street, close to the hearings venue. Seats

must be reserved in advance. Proceedings are being live-streamed on the Inquiry's [YouTube channel](#).

11. Can I catch up with the proceedings at a later date?

The hearings will be still be available to watch on the Inquiry's YouTube channel after each hearing. Opening statements are being published on the Inquiry website shortly before each hearing and transcripts are published on the Inquiry website shortly after each hearing.

12. Will the Health Board or any staff mentioned in any statements or hearings have a chance to respond to any perceptions put forward by families, care home colleagues or others?

There will be an opportunity for the Scottish special and territorial boards to submit a closing statement following current hearings. Statements made so far have been at a very high level and making limited references to specific Health Boards.

13. Will I be approached by the Inquiry Team to provide a witness statement?

The Inquiry Team is carrying out investigations which include reviewing relevant documentation and interviewing individuals with knowledge and experience of the Covid pandemic. You may be asked by the Inquiry team to provide a witness statement relating to your professional involvement.

14. Do I have to provide a witness statement if requested to do so?

Yes. Lord Brailsford has powers under the Inquiries Act 2005 to compel a person to give evidence to the Inquiry. If you do not comply with a requirement by the Chair, you may be found to have committed a criminal offence.

15. As a former NHS employee, do I still have to cooperate with the Inquiry?

Yes. Lord Brailsford has powers under the Inquiries Act 2005 to compel any person to give evidence to the Inquiry. If you do not comply with a requirement by the Chair, you may be found to have committed a criminal offence.

16. What happens next?

If the Inquiry Team considers that it might be useful to speak to you in respect of your knowledge of these issues, you will be contacted by a named team member from the Inquiry Team's Hearings and Witness Support Team to arrange a suitable time for an interview appointment. Your named team member will confirm the interview details in writing, provide the name of the person who will conduct the interview, the location (or whether it will be appropriate to take the statement remotely), and will also ensure that you understand what is involved in providing evidence, giving statements and attending hearings.

The Inquiry team will inform you in advance of the issues about which you will be asked, as well as providing you with copies of the documentation you may be asked about.

17. Who can I take with me to the witness interview?

You may have somebody present with you at the witness interview, such as a work colleague, friend, official from your Trade Union or Professional Organisation, or a solicitor from the NHS Central Legal Office's ("CLO") dedicated Scottish Covid Inquiry team (which is acting for the NHS Scotland territorial and special health boards in the Inquiry). It is recommended that whoever accompanies you is not themselves likely to be asked to provide a statement. The recommendation is that a solicitor from CLO attends with you to provide as full legal support as possible.

18. Can I obtain separate legal representation?

NHSGGC will support you as fully as possible throughout your involvement in the Scottish Covid Inquiry. However, if you would prefer to be accompanied by an independent solicitor, the Inquiries Act 2005 allows for the possibility of an award of funding for legal representation for witnesses; applications for funding for legal representation must be approved in advance. You should speak with the Inquiry's witness support team about this.

19. What happens at the witness interview?

There are likely to be two members of the Inquiry team in attendance, who will take your statement, by asking you questions and referring you to documentation for your comment. Giving a witness statement may take some time. The statement takers will allow regular breaks, but you should feel free to ask for breaks whenever you want. If a meeting is likely to last a long time, the interview will be spread over more than one day. Consider making your own notes of the interview; this will help in remembering what was said when you receive the draft statement of your interview.

20. Do I get a chance to see, and make changes to, my statement before it is finalised?

Shortly after your interview, you will receive a draft copy of your witness statement. This must be read thoroughly and any changes, additions or deletions can be made at this stage. You should sign the statement once you are satisfied that it accurately reflects your evidence. You may be asked to provide electronic verification in place of a signature, if the process is taking place remotely. Once the statement is signed, it then becomes your evidence to the Inquiry. If you subsequently wish to say something more, you can make a further statement.

21. Will my witness statement be public and will it attract media interest?

Evidence for hearings is currently published on the Inquiry website several days prior to hearings, so the media will have access to materials before and

during each stage of the Inquiry hearings. This could lead to witnesses being quoted in media reports prior to appearing at the Inquiry.

Appearing as a witness

22. Will I be called as a witness at the Inquiry?

Any member of staff who has been interviewed and provided a statement to the Inquiry Team may then be called as a witness at the Inquiry. However, in many cases, a witness' statement will be sufficient and they will not also be required to give evidence at a hearing.

23. What should I do to prepare before giving evidence to the Inquiry?

If you are called to give evidence, it is important that you prepare for this by:

- Reviewing all personal notes and files, as well as the documentation provided to you by the Inquiry Team in advance of giving your witness statement.
- Familiarising yourself with the hearing surroundings by viewing the information about the venue on the Inquiry website.
- Being prepared for possible media interest in the lead up to the hearing.
- Being aware that you may have to wait at the hearing venue before you are called as a witness.

24. What should I expect when giving evidence to the Inquiry?

When called to give evidence, you must take an oath, or affirm, declaring that you will tell the truth at all times. You are then likely to be questioned on who you are, your qualifications and experience, and your place of work before going on to matters relating to health and social care within the Covid pandemic.

25. What are the key tips to remember when giving evidence?

Listen carefully to the questions you are asked and take time to consider your response. Do not feel pressured to give a "yes" or "no" response and be ready to explain your view. If you can't remember the date of an event or don't know the answer to a question, say so – don't try to guess and do not speculate. If a question has multiple parts, break down your answer. If you are unsure of the question, ask for it to be repeated. Be calm, courteous and honest. Remain objective, and do not get personal. Speak clearly and concisely, and be ready to confirm your evidence from notes taken at the time, or by reference to your witness statement. If your role is a central one, be prepared for a possible lengthy session in the witness box which may last several hours.

Do:

- Prepare in advance
- Be fully familiar with the issues under investigation at the session
- Give detailed and relevant answers
- Say if you cannot remember

- Be alert and astute to the atmosphere in the venue
- Direct your answers to the Chair, even though counsel to the Inquiry is asking the questions: the Chair is the decision maker
- Be clear in what you say and speak loudly enough for the Chair and Counsel to the Inquiry to hear you
- Be ready and willing to expand and explain your answers if requested
- Be ready and willing to see the argument in opposing views but be firm and clear about your own evidence
- Be prepared for delays
- Be aware that this is a formal proceeding and dress appropriately
- Try to remain calm
- Try to avoid appearing defensive
- Stick to the facts – don't make assumptions about what other people did or did not do
- Try to avoid jargon, medical or hospital language that others may not understand

Try not to:

- React emotionally
- Be arrogant, impatient, aggressive, rude, argumentative or appear patronising

26. What happens if I am approached by a journalist?

Given the restricted number of attendees at the Inquiry premises, it is unlikely that the media will approach witnesses to the Inquiry. Should you be approached by a journalist, however, there is no obligation for you to make comment. The media may also take photographs of witnesses arriving at or departing from the Inquiry.

The NHSGGC Communications team is on hand to advise and support you if you are in any doubt about what to do if contacted by the press. They can be contacted by telephone, 0141 201 4429, or email, press.office@ggc.scot.nhs.uk 24 hours a day.

Staff support

27. Is there anyone at NHSGGC I can talk to about my participation in the Inquiry?

Yes. NHSGGC is fully committed to providing support to all staff who may be involved in the Scottish Covid Inquiry. NHSGGC Legal Office operates a "Witness Service" that offers support and guidance to all witnesses asked to give evidence at a hearing. The service they can provide which would be helpful to any NHS staff member if required is:

- Practical help
- Information on Inquiry procedures
- Guidance regarding further support
- A listening ear for anxieties/concerns

If you would like support from this service generally, or if you are invited to give a statement / evidence, please contact Rachel McGowan, 07583 121674 or rachel.mcgowan@ggc.scot.nhs.uk

Additionally, the NHS Central Legal Office (“CLO”) is acting for the territorial and special Scottish health boards in the Inquiry.

Of course, you may also seek support and advice from your Trade Union or Professional Organisation.

28. Am I obliged to provide a precognition to the CLO if requested to do so?

A precognition is an informal statement, used for internal purposes only, and not for wider disclosure, and is covered by legal privilege. The CLO might suggest that they take a precognition from you as part of its fact-finding phase. While you are not obliged to provide such a statement to the CLO, we would strongly advise you to do so: this process assists with building your own picture of the events to which you can speak; and if called by the Inquiry to give evidence, you must do so, so having taken the preparatory step of assimilating your recollection of matters in advance of that more formal process is hugely beneficial.

29. Will what I say to a CLO solicitor be in the public domain?

No. Any conversation you may have with a member of the CLO team is confidential and is covered by legal professional privilege, whereby written or oral confidential communications between a lawyer and a client are protected for the purpose of giving or receiving legal advice.

30. Is there anyone on the Inquiry Team I can speak to for support?

Yes. The Inquiry has set up a Hearings and Witness Support Team which is available to anyone who is a witness to the Inquiry; i.e. anyone who is either giving a witness statement, or giving evidence at an Inquiry hearing. They can provide information about what the Inquiry does and how they do it. The witness support team can be contacted either via the NHSGGC Witness Service and/or CLO, or by email to hearingsandwitnesses@covid19inquiry.scot

Staff can also contact the NHSGGC [Occupational Health](#) Service for counselling support. [Mental Health and Wellbeing resources](#) area available from HR Connect.

Provision of documentation

31. If asked to provide certain documentation relating to the issues set out in the Terms of Reference by a solicitor from the CLO, should I do so?

Yes. The CLO is supporting NHSGGC in the information-gathering stage of Inquiry preparations. Part of that exercise comprises a review of documentation and an assessment of its relevance to the Inquiry’s Terms of Reference and to the specific Requests for Information which the Inquiry

Team has made. The provision of any documentation to the CLO does not mean that there will be automatic onward provision of this documentation to the Inquiry Team.

Subject to certain exceptions, should any material be considered to be relevant to these Requests, there is a legal obligation for this to be provided by NHSGGC, or the CLO on its behalf, to the Inquiry Team.

32. What if the material is sensitive, contains personal data or is legally privileged?

There are protocols in place to deal with the provision of sensitive or legally privileged material, including an application by the CLO to the Inquiry Team for an order for redaction (obscuring parts of text) or restriction of the publication of the material.

Police Scotland Investigation

33. I have heard that there is also a Police investigation, is that correct?

There is an ongoing investigation by the Crown Office and Procurator Fiscal Service, supported by Police Scotland, into the Covid-related deaths of care home residents and those who may have contracted Covid in the course of their employment, between May 2020 and December 2022.

34. Will I be interviewed as part of the Police Investigation?

If you have knowledge of matters relevant to the Police investigation, you may be asked to attend for interview to provide a statement.

35. Do I have to attend for interview and provide a statement to the Police if asked?

No. Attending an interview and providing a statement to the Police is voluntary. However, NHSGGC wishes to cooperate fully with the Police investigation and would therefore ask that you consider this when deciding whether to agree to a request for an interview.

36. What should I do if I am contacted by Police Scotland requesting an interview?

Please see Q.27 above.

37. Who can I take with me to a Police interview?

Please see Q.17 above.

38. Can I obtain separate legal representation?

NHSGGC will support you as fully as possible and should you wish NHSGGC will make a solicitor from the CLO available to speak with you beforehand in order to answer any questions you may have, and to attend with you to the

interview. However, if you would prefer to be accompanied by an independent solicitor, please contact your Trade Union or Professional Organisation.

39. Do I need to prepare for a Police interview?

Police Scotland will not necessarily provide details on what they intend to cover at the interview in advance. If so, preparation will not be possible. However you may be advised in advance of e.g. the name of the individual whose death they are investigating. It is recommended that you do not bring any documentation or notes with you to the interview as the Police Officers can take possession of these – see also Q.41 below.

40. What happens at a Police interview?

Similar to Q.20 above, there will be two Police Officers in attendance. One of the Officers will hand write the statement during the interview. Although you will be responding to questions, the statement will be written as a first person narrative. This interview process therefore may take some time. You should feel free to ask for breaks whenever you want.

41. What are the key tips to remember when being interviewed by the Police?

These are similar to Q.25 above.

- Listen carefully to the questions you are asked and take time to consider your response.
- If you do not understand the question or are unsure about what you are being asked, then ask for clarification.
- Do not feel pressured to give a “yes” or “no” response where that would not be correct, but instead provide a full response explaining the position.
- If you don’t remember or don’t know the answer to a question, just say so – don’t try to guess and do not speculate.
- If a question has multiple parts, break down the question and your answer.
- If you feel someone else would be better placed to answer a particular question, feel free to say so, as part of the purpose of the questions is to find out who is best to answer them.
- If you need to see a particular document in order to answer a question, ask for this document and if the Police have it available they will show it to you. If the document is not available, the Police Officer will request a copy from NHSGGC.
- Be calm, courteous and honest. Speak slowly, clearly and concisely, as that will make it easier for the Police Officer who is writing down your responses.

42. If requested, should I provide documents to the Police?

If the Police ask you to provide any copies of documents including clinical notes, technical information or organisational information please advise the Police that all information is available through contacting the Public Inquiries PMO via ggc.covidpipmo@ggc.scot.nhs.uk.

43. Do I get a chance to see, and make changes to, my Police statement before it is finalised?

Yes. At the conclusion of the interview, or at multiple points during the interview if it is a long interview, you will be asked to read through the statement that has been written by the Police Officer to check that it is accurate. You must read the statement carefully and make any corrections, changes, additions or deletions that you wish. Once this has been completed you will be asked to sign every page of the statement as well as sign at the end to confirm that the statement is a true and accurate record.

44. Will my Police statement be made public?

No. Your Police statement is confidential.

Version control

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09 January 2024	V1.0	Document published