

NEWSLETTER

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INQUIRY CONTINUES IMPORTANT WORK PENDING APPOINTMENT OF NEW CHAIR

The COVID-19 pandemic is the most severe public health emergency we have faced in living memory.

All of Scotland's more than 5 million people have been affected by the response to the pandemic. And, according to [the most recent figures published by Audit Scotland](#), £15.5 billion of public money was allocated by the Scottish Government to its COVID-19 response in the years 2020/2021 and 2021/2022.

This is the context in which the independent Scottish COVID-19 Inquiry has been tasked with investigating the devolved strategic response to the pandemic. Ultimately, the Inquiry will publish reports which identify the lessons that need to be learned and make recommendations to the Scottish Government. Learning from what happened can help Scotland be better prepared for the future.

The Inquiry is tasked with investigating a period which has not yet finished, because the Inquiry's Terms of Reference, which were finalised in June 2022, require it to investigate the response up until the end of this year.

As public inquiries are independent, they are set up from scratch, which we explained in more detail in [our summer newsletter](#). The Inquiry's initial establishment phase has focused on setting up the systems and infrastructure which will enable the Inquiry to do its work, and recruiting the dedicated team required to support such a major undertaking.

While the Inquiry is being established, the legal team, comprising advocates, solicitors and paralegals, has also been carrying out initial investigatory work. This important work is continuing pending the appointment of a new Chair for the Inquiry following the Hon. Lady Poole’s resignation for personal reasons.

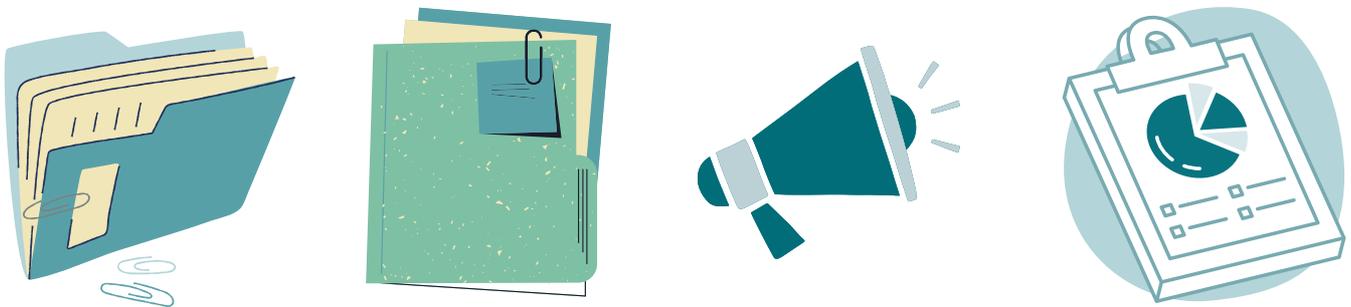
On 3 October 2022, Lady Poole issued the following statement:

“I was honoured to be appointed by the Deputy First Minister to lead such an important independent public inquiry into the handling of a pandemic which has touched everyone in Scotland. However, for personal reasons, I have had to take the very difficult decision to submit my resignation as Chair. I will continue to assist the Scottish COVID-19 Inquiry during my notice period and would like to thank the Inquiry team for their hard work, dedication and commitment.”

It is for the Scottish Ministers to appoint a replacement Chair to the Inquiry. The Deputy First Minister stated on 3 October 2022 that he had spoken with the Lord President about arrangements for appointing a new judicial Chair for the Inquiry, and that he would update the Scottish Parliament in due course. Lady Poole continues to assist the Inquiry during her notice period.

The Inquiry commissioned [introductory scoping research](#) earlier this year on aspects of the devolved strategic response to the pandemic. You can read more about this research in [our summer newsletter](#). In addition, we have published [Inquiry protocols and notices](#) which underpin the gathering of information by the Inquiry.

We started gathering information from the Scottish Government in February 2022, and since then have continued that process in a series of calls for evidence. We have procured a document management system so that the large volume of information we expect to receive during the Inquiry’s investigations can be managed efficiently.



In addition, we have issued [‘do not destroy’ letters](#) to organisations and individuals, and are reviewing [core participant status applications](#) made to the Inquiry.

We also intend to begin listening project pilot activities later this year. The listening project will inform the Inquiry’s investigations and reports to the Scottish Government on the lessons that need to be learned to ensure that we are better prepared for any future pandemic. [Our website](#) explains our remit and ongoing work, and is where we publish regular updates.

This is an Inquiry for the people of Scotland and the Inquiry team is resolutely committed to conducting a thorough, robust and independent investigation that gets to the answers you deserve.

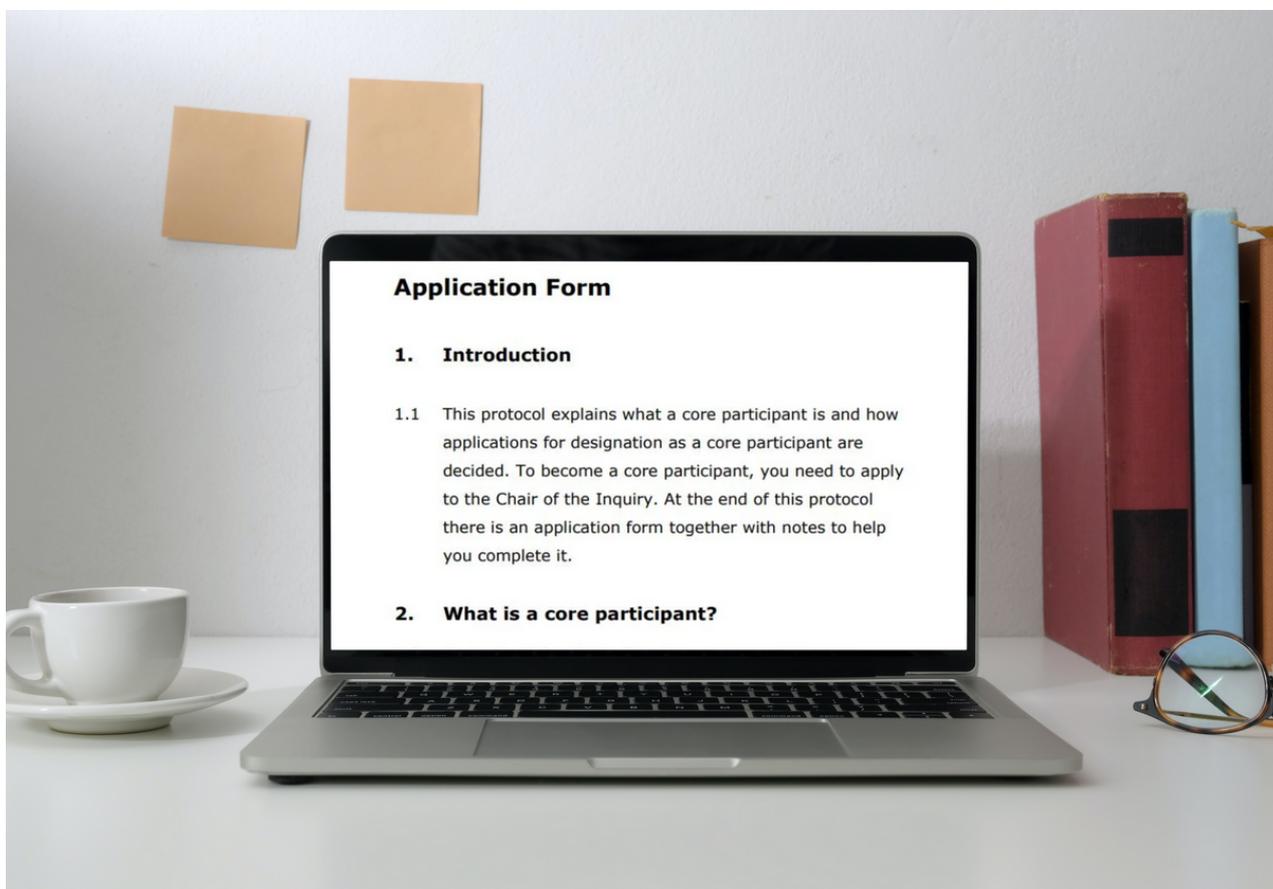
UPDATE ON CORE PARTICIPANT STATUS

We would like to thank all the individuals and organisations who have applied for core participant status, and to take this opportunity to provide an update on the decision-making process following the recent resignation of our Chair for personal reasons.

On 12 August 2022, the Scottish COVID-19 Inquiry opened the core participant application process, with a deadline for applications of 16 September 2022.

We were pleased to receive applications from a broad range of individuals and organisations, many of whom will have information and experiences which will be vital to our investigations.

However, because under the relevant legislation it is for the Chair to determine the outcome of core participant status applications, the Inquiry will await the appointment of a new Chair to decide which individuals and organisations will be designated as core participants.



Scottish Ministers are in the process of appointing a replacement Chair and we have written to all of those who have applied for designation as a core participant to explain the situation.

The Inquiry will welcome as core participants those who the Chair has decided qualify for core participant status.

Decisions will be made as soon as is practicable. However, regrettably, in the current circumstances it will take longer than originally anticipated to notify applicants of the outcome of their applications. Once the applications received by the Inquiry have been determined, we will publish a list of core participants on our website.

We thank those who have applied for core participant status for their patience and understanding. You can find out more about what a core participant is, and the tests that are applied when determining applications for core participant status by reading the [Core Participant Protocol](#) on our website.

Everyone in Scotland will be able to participate in the Inquiry in a variety of ways, even if they are not a core participant.

Core participants have some additional rights, mainly in relation to hearings. However, the role of a core participant is more than giving an account of personal experiences or producing documents. People can do that without being a core participant.

Also, being a core participant doesn't mean a person's evidence is of any greater value. Core participants will be organisations or persons who are able to facilitate the better management of the inquiry.

People and organisations who are not core participants will have the opportunity to be part of the Inquiry and to:

- ✓ participate in the forthcoming listening project and tell the Inquiry about their experience;
- ✓ keep up to date with the Inquiry's progress through its [website](#);
- ✓ respond to the Inquiry's requests for written evidence and documentation;
- ✓ watch public hearings, which the Inquiry intends to livestream and make available on its website (except for any hearings held in private);
- ✓ read transcripts of hearings and any documents (including expert reports) published on the Inquiry's website;
- ✓ read any witness statements published on the website;
- ✓ where invited by the Inquiry, give evidence as a witness at a public hearing; and
- ✓ read records and documents published by the Inquiry as part of its investigation, and its reports.

HOW WE WILL INFORM OUR REPORTS

The Scottish COVID-19 Inquiry will investigate the devolved response to the pandemic and will publish reports which make recommendations to the Scottish Government so we are better prepared in future.

Independent inquiries are not restricted solely to oral evidence from witnesses at public hearings when gathering information to identify the lessons that need to be learned. There are many other ways in which individuals and organisations can contribute to an inquiry's investigations.

The procedure and conduct of every public inquiry are for the Chair to decide and are tailored to each inquiry's distinct remit. In the Scottish COVID-19 Inquiry, there are three unique features which have to be taken into account when deciding on procedure:

1

The unprecedented scope of our investigation.

The pandemic directly affected the lives of more than 5 million people in Scotland. This means we must manage a huge volume of information and evidence in a structured, efficient and cost-effective way.

2

The period we are tasked with investigating has not yet finished.

We must investigate a period up to 31 December 2022. We do not want to put people in a position where they submit information now, and then have to provide an update after the period we are investigating ends.

3

We must interact with the UK Covid-19 Inquiry to minimise duplication.

We have been liaising regularly with the UK Inquiry and are now working together on a memorandum of understanding, which will formalise how we collaborate in future.

Bearing all that in mind, the Scottish COVID-19 Inquiry will initially focus on gathering information so we can establish the key issues to be investigated, before launching targeted formal public hearings to identify the lessons that need to be learned.

We will gather this information in five different ways:

Our listening project



Our reports would take too long to produce if everyone affected by COVID-19 in Scotland spoke about their experiences at public hearings, but we want to make sure people can share their views with the Inquiry in proportionate ways to help its work. The listening project aims to give you the opportunity to participate in the Inquiry, should you wish to do so. It will allow you to share your experiences with us and tell us what lessons you believe should be learned.

The listening project will also enable us to gather essential information in a manageable way to guide our investigations. We intend to begin listening project pilot activities towards the end of this year and open it up more widely in early 2023. We will publish more detailed information about the project nearer the time.

We will add this research and expert input to the introductory academic scoping research we have already published on our website. This too will help direct our investigations.



Commissioning research and expert reports

Voluntary calls for evidence



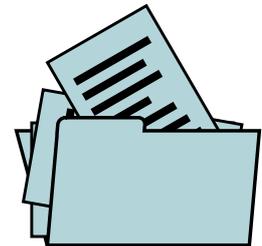
We will call for formal written submissions and documents from the public, government, businesses and other organisations across the country after the period we are investigating comes to an end.

We will provide clear guidance about the information and volume of documents we require so that the Inquiry is not overwhelmed and is able to fulfil its remit in a timely manner. We will add the information we obtain through these calls to the information we have been gathering since February this year.

The Inquiry has statutory powers to compel the production of documents and other information. We will use these powers where information and documents have not been provided voluntarily, so that we investigate robustly.

Using these statutory powers, we will continue to issue notices which require recipients to hand over documents and other information relating to the Inquiry's Terms of Reference.

Mandatory calls for evidence



Public hearings



Once we have gathered sufficient information, we will hold a series of focused, formal public hearings. The work we will have done before these hearings, and the information we will have gathered, will be used to ensure we can capture oral evidence on the lessons to be learned across all 12 areas in our Terms of Reference.

We recognise the need to hold public hearings as soon as we can and will move to this stage of the inquiry as speedily as possible. The Chair will use statutory powers to compel witnesses to attend these oral hearings, if necessary.

The precise order of our oral hearings will be decided upon in due course, taking into account what the UK Covid-19 Inquiry is doing, and the requirement that we make reasonable efforts to avoid duplication.

The information we obtain in all these different ways will provide a firm foundation for the Inquiry's reports. We look forward to working with you to achieve the Inquiry's objectives as effectively and quickly as possible.

COLLABORATING WITH THE UK COVID-19 INQUIRY

If you live in Scotland, you will be affected by the investigations of both the Scottish and UK COVID-19 inquiries. This is because the Scottish and the UK governments have set up separate, parallel independent inquiries into the pandemic, each with different Terms of Reference.

The Scottish COVID-19 Inquiry is tasked in its [Terms of Reference](#) with investigating and reporting on 12 particular areas of the devolved response to the pandemic. By law, the Scottish Inquiry can only determine facts and make recommendations which are “wholly or primarily concerned with a Scottish matter”.

The Scottish Inquiry will only report on the devolved response to the pandemic. The areas it will cover include health, education and aspects of business, financial and welfare support.

The Scottish Inquiry’s Terms of Reference say that it must make reasonable efforts to minimise duplication of investigation, evidence gathering and reporting with any other public inquiry established under the Inquiries Act 2005.

Under its [Terms of Reference](#), the UK Covid-19 Inquiry has a wider remit than the Scottish Inquiry. Its Terms of Reference cover both devolved and reserved matters.

The UK Covid-19 Inquiry’s Terms of Reference also require it to:

“ ... examine, consider and report on preparations and the response to the pandemic in England, Wales, Scotland and Northern Ireland, up to and including the Inquiry’s formal setting-up date, 28 June 2022.

“In carrying out its work, the Inquiry will consider reserved and devolved matters across the United Kingdom, as necessary, but will seek to minimise duplication of investigation, evidence gathering and reporting with any other public inquiry established by the devolved governments.

“To achieve this, the Inquiry will set out publicly how it intends to minimise duplication, and will liaise with any such inquiry before it investigates any matter which is also within that inquiry’s scope.”

While the UK Covid-19 Inquiry is required to investigate up to, and including, 28 June 2022, the Scottish COVID-19 Inquiry is investigating the period from 1 January 2020 to 31 December 2022.

It is a matter for the Chair of each public inquiry to determine how that inquiry will be conducted. The Scottish and UK COVID-19 Inquiries have structured their investigations differently.

The Scottish COVID-19 Inquiry’s Terms of Reference are being investigated simultaneously. This has already enabled early publication of a broad suite of [introductory academic research, which is published on the Inquiry website](#).

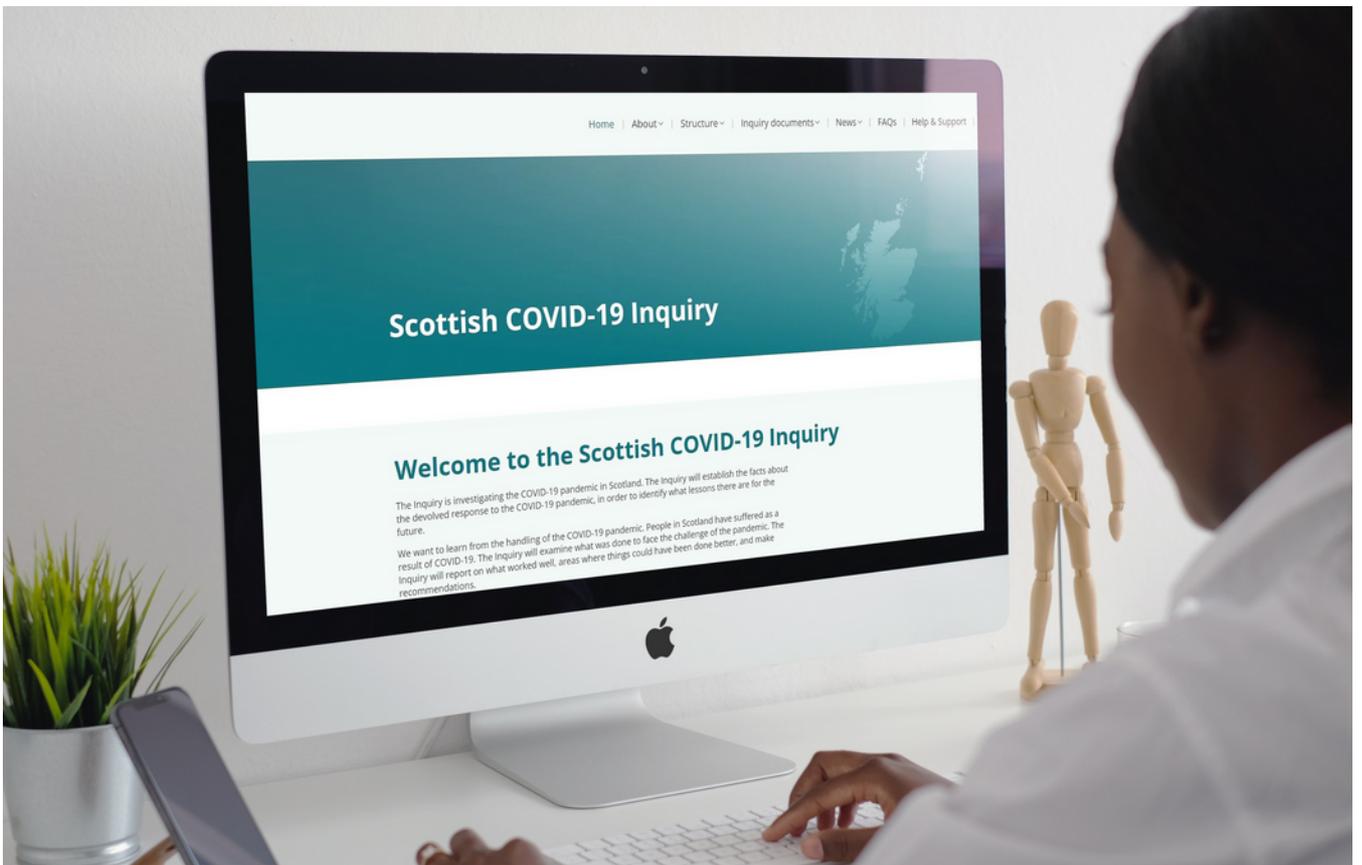
The UK Covid-19 Inquiry is splitting its investigations into sections, or [modules](#), which have different subject topics and will be conducted in sequence.

The UK Covid-19 Inquiry’s first and second modules have already been launched and will investigate decisions made by Westminster and the devolved governments in Scotland, Wales and Northern Ireland.

The Scottish COVID-19 Inquiry will also investigate the Scottish Government’s preparations and response to the pandemic as part of its investigations.

Both Inquiries are obliged to take steps to minimise any duplication of evidence gathering, investigation and reporting, and are liaising in this regard. The Inquiries are working together on a memorandum of understanding which will formalise how we collaborate to do this. This will be published in due course.

Once this work is done, we will provide updates on our website to ensure people in Scotland are clear about which inquiry is investigating their particular issue or issues.



WHAT YOU CAN FIND ON OUR WEBSITE:

- Latest Inquiry news and updates
- Our protocols and notices
- FAQs
- How to contact us
- Help and support
- The background to the Inquiry