

## **POLICY STATEMENT: TRAUMA INFORMED AND HUMAN RIGHTS BASED APPROACH**

This document sets out the human rights based approach the Scottish COVID-19 Inquiry will adopt while undertaking its work and how it will act in a person-centred and trauma-informed way. A separate statement on equalities is being developed and will be published in due course.

### **Background**

1. The Terms of Reference (ToR)<sup>1</sup> of the Scottish COVID-19 Inquiry recognise the central importance of human rights to the Inquiry's work and of ensuring that every person and organisation taking part is treated fairly and is empowered to meaningfully participate.
2. Paragraph 7(b) explicitly requires that when investigating the 12 defined areas within the ToR, where the Chair deems it appropriate and necessary, the Inquiry must consider the impacts of the strategic elements of the handling of the pandemic in Scotland on the exercise of the European Convention on Human Rights.<sup>2</sup> Paragraph 7(c) also requires the Inquiry to consider any disparities in the strategic elements of handling the pandemic, including unequal impacts on people.
3. To meet these commitments, the Inquiry has committed to adopting a trauma-informed, human rights based approach throughout its operation, decision-making and interaction with the public.
4. In line with paragraph 5 of the ToR, the Inquiry will demonstrate in its final report how adopting a human rights based approach has contributed to the Inquiry's findings in facts and recommendations.

### **What is a 'human rights-based' approach?**

5. Human rights are embedded in domestic and international law. Organisations define what they mean by 'taking a human rights based approach' according to the matters they are dealing with. What their approaches have in common is that they set out practical steps to ensure human rights are placed at the centre of policies and practice.
6. The achievement of a human rights-based approach for the Inquiry goes beyond a series of specific actions. It is embedded as the "philosophy" of the Inquiry, underpinning everything that it does in performing its work in accordance with the Terms of Reference. In working this way, the Inquiry will

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<sup>1</sup> [Terms of Reference | Scottish COVID-19 Inquiry \(covid19inquiry.scot\)](https://www.scot.nhs.uk/covid19inquiry/)

<sup>2</sup> As defined in Section 1 of the Human Rights Act 1998.

ensure those whose rights have been most affected by COVID-19 are placed at the heart of what we do.

7. This approach will be applied both to gathering and scrutinising the evidence to ascertain the extent to which decision-makers had regard to human rights considerations as well as ensuring that the Inquiry complies with its own human rights and equality obligations under the Human Rights Act 1998 and Equalities Act 2010.

### **What is a 'trauma-informed' approach?**

8. A trauma-informed approach describes the way the Inquiry will work with people most affected by COVID-19, recognising the profound impact traumatic experiences may have had on them, and responding in a way which actively aims to avoid re-traumatising and supports resilience.<sup>3</sup>

9. Trauma-informed practice is based around five core principles:

- **safety:** helping people feel physically and emotionally safe.
- **choice:** giving people meaningful choices, and a voice in decisions that affect them.
- **collaboration:** asking people what they need and involving them in considering how their needs can be met.
- **trust:** being clear so that people know what to expect, and doing what you say you will.
- **empowerment:** validating people's feelings and supporting them to take decisions.

10. These five core principles overlap and interact with the components of a human rights based approach and therefore form a central part of the work of the Inquiry. They will be specifically applied in the way the Inquiry gathers evidence and in its interactions with witnesses at every stage of their engagement.

### **How will we do this?**

11. A person-centred, trauma-informed, human rights based approach will underpin the Inquiry's decisions about its structure, process and outcomes from its outset. For example, the Inquiry has taken the decision to begin its public hearings with evidence of the impact of the pandemic on people – giving a voice to those who were most affected and providing the context for future hearings on how decisions were made and implemented, highlighting the consequences of those decisions.

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<sup>3</sup> [Trauma-Informed Practice: A Toolkit for Scotland \(www.gov.scot\)](http://www.gov.scot)

12. While recognising that the way the Inquiry is conducted must be in line with the Inquiries Act 2005 and the Inquiries (Scotland) Rules 2007, we will draw on the 'PANEL' principles as developed by the Scottish Human Rights Commission.<sup>4</sup> These are:

- **Participation:** everyone has the right to participate meaningfully in decisions which affect them.
- **Accountability:** there should be effective monitoring of how people's rights are being affected, as well as remedies when things go wrong.
- **Non-discrimination and equality:** all forms of discrimination must be prohibited, prevented and eliminated and people who face the biggest barriers to realising their rights should be prioritised.
- **Empowerment:** everyone should understand their rights and be fully supported to take part in developing policy and practices which affect their lives.
- **Legality:** Approaches should recognise and fulfil the full range of legally protected human rights.

13. These principles overlap and interact with trauma-informed, equalities and accessibility principles and when considered cumulatively, they will ensure equalities and rights are put at the heart of the Inquiry's approach to its work.

## **Our Structure**

### *Investigation*

14. When the Inquiry is investigating the 12 areas in our Terms of Reference, we will consider whether the strategic handling of the pandemic had an adverse effect on the exercise of human rights where appropriate. As these measures varied over time, the Inquiry will consider developments of legislation and policies individually and cumulatively and the extent to which regard was given to human rights.

15. To do this, the Inquiry will adopt a three-stage approach:

- **Stage 1** – Determine at the outset which internationally recognised rights and equality issues might be relevant to each of the 12 areas under investigation;
- **Stage 2** - Actively take into consideration any human rights and equality issues identified, and applicable human rights standards, when investigating the 12 areas under investigation; and
- **Stage 3** - Apply any findings from this approach when deciding on lessons learned and recommendations to make.

16. The Inquiry will have regard to internationally recognised rights as the standard against which strategic decision making during the pandemic and its impacts

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<sup>4</sup> [Human Rights Based Approach | Scottish Human Rights Commission](#)

will be measured, within the limits of where these interact with areas of devolved competence and the Inquiry's Terms of Reference. This means going beyond considering any adverse effect on existing human rights and equality protections currently enshrined in Scots Law, for example the European Convention on Human Rights as part of the Human Rights Act 1998, but also having regard to internationally recognised standards as set out in UN Human Rights Treaties including:

- the International Covenant on Civil and Political Rights (ICCPR)
- the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- The Convention on the Rights of the Child (CRC)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- the Convention on the Rights of Persons with Disabilities (CRPD)

17. The Inquiry has no power to determine any person's civil or criminal liability and will not make findings on whether individual human rights were breached. However, when considering what lessons may be learned, where it is relevant, we will consider systemic adverse impacts on human rights.

18. We will gather evidence from individuals and organisations representing those with protected characteristics and other disadvantaged groups (such as those from different socio-economic backgrounds or those in different localities) where it is relevant to each of the 12 areas included in the Terms of Reference, including consideration of disproportionate and intersectional impacts.

## **Our Processes**

19. At the heart of both human rights based and trauma-informed approaches is the importance of taking positive actions to ensure there are opportunities for people whose human rights were most affected by the pandemic to have proper and meaningful participation in the Inquiry. This will include being open to receiving evidence in a wide range of formats.

### *Access to Public Hearings*

20. The venues that have been chosen for the Inquiry have been selected so they will be accessible for those participating or observing proceedings. In keeping with the transparent way in which we will work, public hearings will also be live streamed on the Inquiry's [YouTube channel](#).

21. During the Inquiry's investigation, core participants will have an opportunity to propose lines of questioning of witnesses via Inquiry Counsel if they wish to do so.
22. To ensure witnesses giving oral evidence to the Inquiry are able to participate effectively in proceedings, the Inquiry will pay for expenses in relation to travel, accommodation and accessibility.

#### *Witness Support*

23. We recognise there may be a psychological and emotional impact associated with reliving traumatic experiences. In line with a trauma-informed approach, emotional support will be available to those who attend our hearings as witnesses and give evidence in the form of statements.
24. Training in trauma-informed approaches and supporting people who have suffered a loss will be provided to all Inquiry staff who engage with the public.
25. Separate spaces will be available for anyone who is upset during the hearings or needs to take a break from proceedings and emotional support will be present on site.

#### *Let's Be Heard*

26. The Inquiry is gathering, and analysing, the experiences of people across Scotland through our listening project [Let's Be Heard](#). It is the principal channel for people to share their experiences and it aims to give a voice to as many people across Scotland as possible. Let's Be Heard allows people to tell the Inquiry about their experiences of the pandemic, how these experiences affected them and any lessons they believe ought to be learned. Hearing from the lived experience of others is a key part of the Inquiry's evidence base. These experiences will help guide the Inquiry's investigations and inform its reports and recommendations. This will include identifying any disproportionate or unequal impacts on particular groups or communities.
27. Let's Be Heard is facilitating meaningful participation in several ways including:
  - adopting a trauma-informed approach to gathering their experiences, offering choice wherever possible;
  - ensuring that public participation in Let's Be Heard plays a meaningful role guiding the Inquiry's investigations, reporting and recommendations;
  - offering different versions of materials, including easy read, British Sign Language (BSL) and translations into other languages;
  - encouraging groups that have good relationships with communities to hold discussions, and providing reasonable expenses for these groups; and
  - considering submissions from all people equally and accepting them in different formats (including anonymously) such as audio files.

## **Our Outcomes**

28. When reporting, we will demonstrate how a human rights based approach has contributed to the Inquiry's findings in fact and recommendations. This will be set out in the Inquiry's final report at the conclusion of its work.
29. This report will identify (a) lessons learned and (b) where it finds unequal impacts of COVID-19 (including any intersectional impacts) among different groups or populations, such as those with protected characteristics, different socio-economic backgrounds or those in different localities.
30. We will publish interim reports and recommendations as and when the Chair considers appropriate to ensure both rights holders and those responsible for upholding rights are kept informed of the Inquiry's progress.