

SCOTTISH COVID-19 INQUIRY

Opening Statement

for

SCOTTISH VACCINE INJURY GROUP

Core Participant

for

Health & Social Care Impacts Hearings

1. Preliminary

- 1.1. The Scottish Vaccine Injury Group (SVIG) was designated with Core Participant Status in the Scottish Inquiry under Regulation 4 of The Inquiries (Scotland) Rules 2007 by letter dated 7 December 2022 from the then Solicitor to the Inquiry. The Group's recognised legal representative under Rule 7 is Lindsays LLP. The designation is in relation to Term of Reference (d), the design and delivery of a vaccination strategy. The Group were also granted CP status in the UK Inquiry on 18 July 2023 in its Module 4, Vaccines and Therapeutics.
- 1.2. In its application for Leave to Appear in the Health and Social Care hearings the Group noted that the core grievance of its members is their experience of **systemic barriers to diagnosis and treatment**, and **stigmatisation**, which have arisen primarily in their interactions with NHS Scotland.

2. Scottish Vaccine Injury Group

- 2.1. The Scottish Vaccine Injury Group was formed in September 2021 to apply for core participant status in the Scottish Covid19 Public Inquiry and to provide tailored support for Scottish people who had suffered an adverse reaction to the Covid19 vaccine. Initially applications were restricted to those who had suffered an adverse reaction to Covid19 vaccines. It became apparent that there was also unmet need on the part of family members bereaved by the Covid 19 vaccine. Group membership was extended to include them from November 2022.
- 2.2. The founding members of the Scottish Vaccine Injury Group are Ruth O'Rafferty, John Watt, and Alex Mitchell, all vaccine injured. The Group is an unincorporated association, although is in the process of setting up as a charity. As of 29 September 2023, the group had 258 members, ranging between 22 and 76 years old, some of whom

were born overseas but are now resident in Scotland. Of those members, 15 are people who have been bereaved. All concerned received their vaccination in Scotland. Some members have been able to return to work, some have had to come to special arrangements with their employers for reduced hours or to work from home, but many are unable to work. A few of the Group's members are full-time carers who have had to give up their jobs to care for a loved one too sick to participate in group activities. Some are extremely ill, even two years and more post-vaccination. Initially most of the group's members were over 30, but more recently more younger people have been joining.

- 2.3. The Group liaises with other similar groups internationally, as far as Australia, U.S.A., South Africa and several European nations, and is affiliated with the React19 International Coalition (<https://react19.org/>.) The Group maintains a concerted effort to keep abreast of the latest medical research discoveries, treatments and diagnoses related to vaccine injury. The Group maintains its own website <https://scottishvaccineinjurygroup.org/> which provides all persons with vaccine injury related problems in Scotland with information and support. All of this is done on an entirely voluntary basis by group members, all of whom have their own challenging health issues. One of the Group's principal submissions will be that resources for the vaccine injured should be being provided primarily by health and social care services in Scotland, not by a voluntary group operating on a shoestring.

3. Vaccine Injury

- 3.1. Vaccine injury is a reality. The Prime Minister acknowledged the reality of vaccine injury in Parliament on 22nd March 2023¹. There are numerous cases of coroner's findings of death from C-19 vaccination². The German Health Minister has acknowledged significant (1 in 10,000 doses) levels of vaccine injury³. Australia has withdrawn the Astra Zeneca product and in doing so has explicitly connected it to cardiac injury⁴. The UK Vaccine Damage Payment Scheme (VDPS) has recently

¹ <https://www.standard.co.uk/news/politics/prime-minister-conservative-rishi-sunak-david-lynch-government-b1069227.html>

² <https://www.theguardian.com/media/2021/aug/26/bbc-presenter-lisa-shaw-died-of-astrazeneca-covid-vaccine-complications-coroner-finds>

³ <https://europeanconservative.com/articles/news/german-health-minister-admits-disturbing-vaccine-side-effects/>

⁴ <https://www.news.com.au/lifestyle/health/health-problems/astrazeneca-vaccine-discontinued-by-federal-government/news-story/b917f53dfbfa9342e9c3218724c58f8>

increased its staff complement twenty-fold to handle the volume of applications.⁵ At least four members of the Group, one bereaved and three injured, have received VDPS awards. Several other members are either awaiting decisions or refusals. Vaccine injured people have not been well served by the Scottish legal profession or advice agencies and there is significant unmet need relative to VDPS claims.

3.1. It is appropriate that the Inquiry should investigate vaccine injury, subject of course to the temporal and jurisdictional constraints imposed by the Terms of Reference and the legislation. The ethos of the Inquiry as set out by the Scottish Government in its statement of 24th August 2021 is that it “would take a person-centred, human rights based approach....Particular consideration would also be given to the four harms of the pandemic:

- direct health impacts of Covid 19...;
- other non-Covid health impacts;
- societal impacts...;
- economic impacts.”

It is submitted that the scope and *sequelae* of vaccine injury would be encompassed by “a person-centred, human rights-based approach” to a “non-Covid health impact.”

4. Jurisdiction and Subject Matter

4.1. As a Core Participant in both Inquiries, the Group is sensitive to the delineation between the subject matters of each. Section 28 of the Inquiries Act 2005 confines a Scottish Inquiry to a “Scottish matter.” That term is defined at section 28.-(5) as a “matter that relates to Scotland and is not a reserved matter (within the meaning of the Scotland Act 1998.” Therefore, a number of matters which the Group will seek to explore at the UK level are clearly excluded from consideration in this Inquiry.

4.2. Thus for example drug safety, regulation, and approval, are reserved matters under Head J4(a) of Part II of Schedule 5 to the Scotland Act 1998, which excludes the subject matter of the Medicines Act 1968 under which medicinal drugs are regulated. In her letter dated 22nd December 2022 to the Group by the former Solicitor to the Inquiry it appeared to be a concern that the Group might not understand that broader issues of drug regulation and safety were beyond the remit of this Inquiry. That concern was

⁵ <https://www.telegraph.co.uk/news/2023/03/24/vaccine-damage-payment-scheme-boosts-staff-numbers-four-80-covid/>

reiterated in the Inquiry's email of 10th October granting the Group's application for Leave to Appear at the hearing on the impacts of Health and Social Care. The Inquiry may be assured that there is no need for any such concern. The Group is fully aware that the primary legislation would have precluded the Scottish Inquiry from incorporating drug safety as a Term of Reference even if it had been minded to do so.

4.3. Head J4 (a) of Schedule 5 to the Scotland Act also excludes from this Inquiry's consideration the matter of the delictual immunity vested in the vaccine manufacturers by Regulations 174 and 345 of The Human Medicines Regulations 2012, SI 2012 No. 1916, as amended with effect from 6th November 2020 by The Human Medicines (Coronavirus and Influenza) (Amendment) Regulations 2020, SI 2020 No. 349. Those Regulations were all made under the Medicines Act 1968. Also excluded is consideration of whether patients were afforded informed consent by the medical profession, since regulation of the medical profession is a reserved matter under Head G2 of the same Schedule. These are all issues which the UK equivalents of the Group have already raised with the UK Inquiry and which this Group will also seek to explore there, but it is acknowledged that they are beyond the scope of this Inquiry.

4.4. Lastly it is acknowledged that the inadequacies of the Vaccine Damage Payment Scheme are mostly beyond the scope of the Scottish Inquiry. The Scheme exists by virtue of the Vaccine Damage Payments Act 1979, which is a UK statute. The C-19 vaccines were included in the Scheme by The Vaccine Damage Payments (Specified Disease) Order 2020, SI 2020 No. 1411. Nevertheless, it will be submitted that the Scottish government ought to have publicised the existence of the Scheme and funded advice agencies to assist with the making of applications under the Scheme. It will be a matter for the Inquiry to indicate to the Group whether that issue falls outside the temporal scope of this Inquiry, having regard to the recommendations in Mr. Turner's Opinion of 5th May.

5. Systemic barriers to diagnosis

5.1. Notwithstanding the exclusions of subject matter arising out of this Inquiry's restriction to consideration of Scottish matters, roll out of the C-19 vaccine in Scotland was entirely a matter for the Scottish Ministers. The legislative framework was established under section 49 of and Schedule 19 to the Coronavirus Act 2020, under which the Scottish Ministers made The Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021, SSI 2021 No. 277. It was under those Regulations and the

multifarious amendments to them that the Scottish government imposed the various restrictions which might be viewed as introducing an element of compulsion into the programme. The Scottish government had sole control over the advertising and information environment. In particular, it was the Scottish Government that determined the level of Scottish preparedness for vaccine injury.

- 5.2. What the Group's members experienced was indicative that Scotland's health and social care systems were wholly unequipped to recognise or respond to vaccine injury, or to deal with it appropriately or humanely. It didn't even occur to many of Group members that their illnesses might be related to the vaccine. There had been no publicity campaign during the rollout to alert vaccine recipients to the possibility of adverse reaction. Nevertheless, in some cases the reactions were immediate and severe, and it was obvious. In other cases, only as the vaccinee's health deteriorated without any cause or explanation did he or she begin to correlate the vaccine to their ongoing health issues. Some members were advised by their doctors that the vaccination could not be the cause even in cases of immediate reaction. Some still face the same denial nearly three years later. In an informal poll the Group found that 46% of respondents reported that even though their doctor said the vaccine was most likely the cause, they did not write this down on their medical notes. Many doctors managed to avoid this by saying "The patient believes" the cause of their symptoms to be the vaccine.
- 5.3. An especially egregious outworking of the institutional resistance to the very idea of vaccine injury was where surgeries proceeded with the second vaccine after an adverse reaction to the first. One member of the Group was diagnosed with Functional Neurological Disorder after her first Astra Zeneca. Her speech and movement had both been affected. She returned for her second and ended up in a much more serious condition and is severely disabled. Another Group member had a reaction to her first vaccination, so her G.P. contacted the World Health Organisation for advice, and was told, extraordinarily enough, that because of the reaction to the first vaccination the patient would die if she did not accept the second. She still has symptoms like rheumatoid arthritis and is on many medications for this.
- 5.4. Such has been the systemic resistance to recognition of vaccine injury that some of the Group's members have had to source and pay for their own medical treatment. The refusal of the N.H.S. to recognise that vaccination could cause adverse reactions has resulted in undiagnosed conditions, forcing group members to pay for private medical

tests, scans and treatments, leading to various diagnoses. Some have even gone abroad for these. In a well-publicised case one of our founding members paid many thousands of pounds for a heart scan that showed he had myocarditis when his own N.H.S. cardiologist had refused to acknowledge for over a year that this could be a possibility. Two private consultants examined his scan and confirmed he had myocarditis, and he received treatment, which massively improved his quality of life. He still has not entirely recovered but is no longer bedbound. Our group members have experienced close-mindedness from NHS Scotland about alternative therapies.

- 5.5. The Group's submission is that there should have been a media and professional awareness campaign simultaneously with the roll out to raise awareness of vaccine injury. Medical professionals would then have been on the lookout for symptoms and the public could have been alerted to the possibility of injury and the need to seek appropriate treatment. Instead, there was a stigma around vaccine injury.

6. Stigma

- 6.1. The range of potential adverse responses to the vaccine was touched upon by Dr. Croft in section 4.1.6 of his 10 July 2023 Report to this Inquiry. The VDPS has already paid out for 43 different conditions (https://www.whatdotheyknow.com/request/vaccine_damage_payment_scheme_cl_3?nocache=incoming-2430975#incoming-2430975). Studies have linked the vaccine to cardiac issues, Guillain-Barré syndrome, rheumatoid arthritis, Functional Neurological Disorder, postural orthostatic tachycardia syndrome (POTS), mast cell activation syndrome, acquired amegakaryocytic thrombocytopenia, strokes, thyroid issues, chronic obstructive pulmonary disease, lupus, seizures, non-Hodgkin's lymphoma, dysautonomia, blood clotting disorders, VITT, tinnitus, connective tissue disorders, transverse myelitis, depression, a multitude of neurological issues, excessive pain due to neuropathy and brain fog. Reports to the yellow card by December 2022 included anaphylaxis, Bell's palsy, Guillain-Barre syndrome, immune thrombocytopenia, life-threatening blood clots, menstrual disorders, myocarditis, transverse myelitis and many more severe conditions.
- 6.2. There are specific issues around POTS and MCAS which are understood to be very treatable if recognised but which consistently are not identified because of the systemic reluctance to identify vaccine injury.

- 6.3. The Group's members have often been told that their post-vaccination physical symptoms were in fact psychosomatic. Two of the Group's members went to see psychiatrists because they accepted advice that their problems were psychosomatic, only for the psychiatrist to say they did not have anxiety but physical problems that needed further investigation. These attitudes are linked to the stigmatisation of vaccine injury. For example, one M.S.P. attained some notoriety by tweeting about vaccine injury in derogatory ways. Even those who have clear diagnoses of vaccine injury are afraid to speak of it. That stigma persists. The Opening Statement of Anna Morris KC to the UK Inquiry on behalf of the vaccine injured was taken down by YouTube. Social media sites still censor groups set up for the vaccine injured.
- 6.4. Against this stigmatising backdrop it is unsurprising that physical symptoms are often compounded by mental health issues. That is especially unsurprising when one has become chronically ill overnight with all the resulting challenges to mobility, living arrangements, relationships and career. So far as the Group is aware, neither NHS Scotland nor any of the mental health charities has had specific training to support individuals who are vaccine-injured. It has been left to the Group to provide an informal counselling and support for members dealing with depression and even suicidal ideation. This is extremely challenging. SVIG submits that the provision of such a necessary service should not be left to them. The issue around suicide risk is one which the Group considers so important that it would wish to put forward a witness specifically to speak to it.

7. Proposed Evidence

- 7.1. The Group's broad proposal would be to put forward one witness statement relative to health and social care impacts in each of the following categories:
- (i) A member with a clear diagnosis of vaccine injury, and / or a VDPS award (simply as evidence of diagnosis);
 - (ii) A member with similar symptoms to (i) but unable to obtain diagnosis;
 - (iii) A person of skill to illuminate the barriers to diagnosis;
 - (iv) A bereaved family member of a person whose death has been clearly attributed to vaccine injury;
 - (v) A witness to the prevalence of suicidal ideation among persons suffering from or bereaved by vaccine injury, and to the support needs of such persons.

- 7.2. It is stressed however that the Group is keen to have feedback from the Inquiry as to whether the proposed approach will be welcome, or whether any different approach would be preferred. The Group has a provisional idea of candidates for each of those five categories of witness but has not yet prepared any. That is mainly because of the uncertainties as to funding which the Group would be grateful to have resolved. It is envisaged that even were such uncertainties resolved immediately it would take from now until the New Year to frame the Statements proposed. But there has also been uncertainty as to the approach that the Inquiry might take to the Group's proposed approach. It would be extremely helpful if there were clearer channels of communication between the Inquiry and the Group's recognised legal representative.
- 7.3. The Group has had informal contact with medically skilled persons who are known to have provided evidence on vaccine injury related matters on a *pro bono* basis in a number of litigations in the UK and beyond. The possibility of doing likewise for this Inquiry has not yet been broached. There might however be a broader range of expertise available if it were possible to fund a report. Counsel has been unable to identify any authority applying the strictures of Sheriff Principal (as he then was) Turnbull in *Armstrong v ERS Syndicate Management Ltd.* 2018 SAC (Civ) 28 regarding the impropriety of skilled witnesses instructed on a contingency fee basis in an adversarial litigation, to an expert acting on a genuinely *pro bono* basis in a Public Inquiry.
- 7.4. One last issue which the Group would like to flag up with the Inquiry at this stage and which admittedly does not touch directly on health and social care is that so far as is known there do not appear to have been any Fatal Accident Inquiries in Scotland following a vaccine related death. That contrasts quite starkly with the position elsewhere in the UK. It may be that this issue might arise in the context of a witness statement of a bereaved person. Some guidance from the Inquiry in this regard might be appropriate.

8. Conclusion

8. The Group is anxious to work in partnership with the Inquiry to develop and present its evidence relative to the health and social care impacts on its members.

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