

SCOTTISH COVID-19 PUBLIC INQUIRY
SCOTTISH COVID BEREAVED OPENING STATEMENT

1. Aamer Anwar & Co., are instructed by the Scottish Covid Bereaved. The Scottish Covid Bereaved originally started out as part of the Facebook group ‘Covid Bereaved Families for Justice’ (CBFFJ), which formed in June 2020.
2. Following a meeting with the former First Minister, Nicola Sturgeon, in March 2021, it became clear to the Scottish bereaved that they required to become an autonomous group within CBFFJ. At that stage they became an autonomous sub-group but arranged all their lobbying and press activities themselves. The group originally instructed English solicitors, but then chose to instruct the Scottish Solicitors Aamer Anwar & Co., to ensure their voices were truly heard not just by the Scottish Government but also by the UK Government, as they campaigned for both Governments to hold public inquiries into the handling of the pandemic.
3. Following a clear difference between the approach of the Scottish bereaved and that of the main CBFFJ group on several major topics, the Scottish bereaved formally severed their connection with CBFFJ in the latter half of 2022 and became a separate and independent group, namely Scottish Covid Bereaved in order that their voices could truly be heard. The SCB are represented by the Inquiries Team at Aamer Anwar & Co. at not just the Scottish Inquiry, but also recognised as core-participants at the UK Covid-19 Inquiry.
4. The Scottish Covid Bereaved are a group of like-minded bereaved individuals with a common goal of not wanting their loved ones’ deaths to have been in vain and for lessons to be learnt, to stop others having to suffer the way they have and to ensure that we are fully prepared for the next inevitable pandemic. The members come from all over Scotland and from all walks of life. Although the group came about because of bereavement, within the group there are members dealing with other wide

consequences of the pandemic ranging from traumatised healthcare workers, teachers who had to buy their own disinfectant to keep classrooms safe and using their own money to feed pupils, to those dealing with ‘long Covid’ and those dealing with the financial consequences of the pandemic. The group contains many individuals with expertise in a wide variety of fields including medicine, governance and science,

5. On the 24 August 2021, the Scottish Government announced that they were going to establish a public Inquiry under the Inquiries Act 2005 into the handling of the COVID-19 pandemic in Scotland. This was followed by the DFM John Swinney on the establishing of the inquiry stating in Parliament, that placed the bereaved very much at the heart of this Inquiry, the Scottish Covid Bereaved expect that that process to continue:-

“We remember all those who have lost their lives and I express my sympathy to those who mourn their loss. I hope this inquiry will help to provide the answers for which these individuals search. The purpose of this inquiry is two-fold. It is to provide scrutiny and answers to the questions that people have about how this pandemic has been handled in Scotland. Equally, it is to learn lessons so that we can be as ready as possible to respond to future pandemics.

It is in that spirit that this public inquiry is being established, and it is how we expect it to continue: to provide answers and to help us make improvements for the future.

In developing the terms of reference for this COVID-19 inquiry, it has been a key priority for the Scottish Government to listen to those who have been affected by the pandemic: to understand what they wish for the inquiry to focus on, while recognising the need to establish the inquiry quickly.

This includes first and foremost those who have endured the ultimate loss: bereaved families of partners, parents, children, sisters, brothers, as well as people who have lost friends and colleagues. Every life lost is one too many, and my condolences go to all those who have suffered losses and hardship....The feedback from people affected by the pandemic has been key in developing the terms of reference that I am sharing with Parliament today. This includes, not least, strong public support for an inquiry with

human rights at its heart. Matters that people have raised, have fed directly into the development of the scope of the inquiry....”

6. The Scottish Covid Bereaved feel that sharing their experiences, both good and bad, will be of great help to the Inquiry in assisting it to establish what really happened during the pandemic and in its aftermath. Ultimately, despite the differing life experiences of the members, Scottish Covid Bereaved are clear that what they expect from this Inquiry is answers, accountability, and where sincerely and appropriately made, apologies from those who failed Scotland. The bereaved want the legacy of this Inquiry to be that when the next pandemic comes, as surely it will, the people of Scotland will not have to suffer in the same way that their members suffered.
7. The Scottish Covid Bereaved note the unfortunate history of the Scottish Inquiry, with a previous chair stepping down from her role. Despite both Inquiries being announced in 2021, Baroness Hallett is currently powering ahead with her UK Inquiry. The UK Inquiry has already concluded its module on pandemic planning, which left Scottish Covid Bereaved in no doubt that a decade of austerity had left the NHS mortally wounded, the poor poorer, the sick sicker, and the UK a more unequal place than a decade before. Brexit had put pandemic planning on hold and, despite important lessons being learnt in pandemic planning exercises, the vast majority of the learning was left unimplemented. It is against that background that the Scottish Inquiry opens to explore the provision of health and social care services, including the provision of end-of-life care and the use of Do Not Attempt CPR notices.
8. The Chair Lord Brailsford said on his appointment:- *“The public are rightly looking for answers and no more so than the loved ones of the nearly 16,000 people in Scotland who died during this pandemic. I am immensely aware of the enormous responsibility this places on me and the Inquiry. I promise the families, that along with the Inquiry team, I will work independently to establish the facts and ensure the Inquiry thoroughly examines the decisions taken throughout the pandemic.”* The Scottish Covid Bereaved quite rightly expect the promises made to them are kept.

9. This Inquiry will open with the evidence of those affected by the pandemic to give evidence as to how they, and others, were affected, they will raise their voices for those who tragically can no longer speak for themselves.
10. The Inquiry is also embarking on a listening project. It is vital for the Chair to hear the voices of those directly impacted. Scottish Covid Bereaved. Whilst it is understood that due to pressures of time, oral evidence will be limited but we ask that the most careful consideration is given to the evidence and to the experiences shared as part of the listening project.
11. Scottish Covid Bereaved note the scope of the Scottish Inquiry and the intention, as set out in the memorandum of understanding with the UK Inquiry, to minimise duplication between the Inquiries. It is the experience of Scottish Covid Bereaved that they and other bereaved groups have been front and centre of the UK Inquiry and very much hope that experience and the promises made to the bereaved are replicated at and by the Scottish Inquiry.
12. If Scottish Covid Bereaved and similar groups truly are to be front and centre of both Inquiries, it is vital that the Inquiries consider the timetabling of hearings to ensure where possible hearings do not overlap. Certainty around Inquiry dates and timeframes is key to ensuring that families are kept fully informed and reduces anxiety about the Inquiry process. The Scottish Covid Bereaved have already raised this issue with the UK Inquiry at its procedural hearings. Scottish Covid Bereaved and their representatives require to hear the evidence at both Inquiries and, where it is necessary for hearings to take place at the same times, members of Scottish Covid Bereaved and their representatives will require to catch up using recordings of hearings. Whilst technology allows this, hearing evidence in real time is always preferable.
13. The Scottish Inquiry will expect that key individuals such as Boris Johnson, Rishi Sunak, Dominic Cummings, various Chief Medical Officers and Scientific Advisers and key decision makers are expected to give evidence in this session of Module 2 at the UK Inquiry. Their evidence is of course critical to Scotland in terms of the decisions they made UK wide and will very much feed into the interaction between Scotland and

the UK; There will be crossover of evidence and we very much intend for the relevant issues to be raised at the Scottish Inquiry.

14. Scottish Covid Bereaved hope that the Scottish Inquiry follows the approach of the UK Inquiry in giving Core Participants a substantive role in the preparation for the Inquiry hearings: Core Participants are given copies of draft reports for comment and draft evidence proposals are circulated with Core Participants who are asked to suggest lines of questioning.
15. We received disclosure from the UK inquiry almost six months in advance of the hearings. We first received disclosure on 20th December 2022 prior to the inquiry commencing on 13th June 2023. Across Module 1 and 2 we were disclosed a total of **35,370** documents - totalling around **385,436** pages - that number has considerably increased and most probably nearer to a million pages.
16. The evidence led thus far at the UK Inquiry raises serious questions as to the UK and Scottish Government's preparedness for a pandemic; the extent to which the machinery of the UK Government during the critical early stages of the pandemic allowed for the involvement of the Scottish Government; whether the available data reflected the four nations of the UK or just England; whether attendance at crucial meetings by Scottish Government ministers, civil servants, and scientists was simply a charade; and whether COBR meetings were actually a 'Potempkin village', where the devolved administrations were operating under the false belief that they were playing a key role in the process, but real key decisions were actually being taken elsewhere. This makes it even more important to understand what decision were being taken in Scotland, by who, and on the basis of what science and data.
17. You will be aware that we raised the issue of WhatsApp messages with the UK inquiry following the leaking of Mat Hancock's data to the Daily Telegraph and subsequently the Scottish Inquiry was party to the UK Inquiry Judicial Review in respect of WhatsApp messages –The release of WhatsApp, social media and diaries has been critical in building a picture of the state of preparation for the pandemic, the impact of those decisions, but also the attitudes and conflicts that existed in liaison with Scotland's devolved administration Whilst there has been success by the UK inquiring

in retrieving substantial quantities of material from the UK Government and senior officials, the Scottish Covid Bereaved expect that process to be replicated by the Scottish Inquiry for those witnesses relevant to Scotland.

18. As the Scottish Inquiry turns its attention to health and social care services, Scottish Covid Bereaved turn their minds to those group members who were unable to be with their loved ones at the end of their lives. The thoughts of loved ones dying alone is something that continues to haunt many members of Scottish Covid Bereaved. As time has gone on, members of Scottish Covid Bereaved have had more and more questions about how and why this was allowed to happen. A number of the members of the group wonder whether the restrictions on visiting their loved ones was as a result of an inadequate PPE supply. Many are aggrieved that it appears that guidance relating to visiting and attendance at end of life was not consistently applied not only across health boards but also within the same areas and even across different wards within the same hospital. Some members have reported that some of the guidance was simply nonsensical. They were told that they could not visit their terminally ill relative in hospital as they were advised that the hospital was not letting anyone in who was not a patient only to later be told by that same hospital that they would require to attend the hospital in person to collect the death certificate.

19. The provision of end-of-life care and the subsequent bereavement has caused significant trauma to members of Scottish Covid Bereaved. Many members feel a sense of anger and guilt about the standard of care that their loved one received before death and there are some that feel their loved one's death could have been prevented. Many feel ongoing guilt and anger that they were unable to advocate for their loved one when they most needed them. Members report having been advised that they were told by hospital staff that they had to choose between being present at their loved one's death or attending their funeral, due to clinicians misunderstanding guidance on isolation rules. The use of DNACPR (Do not attempt cardiopulmonary resuscitation) notices is a matter of grave concern to Scottish Covid Bereaved and it is hoped that the Inquiry can shed light on this.

20. While the group focuses on the bereavements suffered by its members, it is not only end of life care that impacted upon the group. Members have concerns about the clinical

management of loved ones with pre-existing chronic conditions or who were awaiting treatment for long-term conditions that are more prevalent among the elderly. Others have concerns about the treatment received by their loved ones before they progressed to end of life care. Answers are sought to questions in relation to nosocomial infections. There are those with experience of reduced access to formal care services for parents who were not resident in a care home. The treatment of care home residents, the historic underfunding in the provision of social care services and the consequences of this once the pandemic hit.

21. We have already heard and seen in evidence during Module 2 of the UK Covid-19 Inquiry, the insulting terms with which the then Prime Minister Boris Johnson described 'Long Covid' with the words: "*Bollocks. This is Gulf War syndrome stuff.* and several months later in a WhatsApp message - "*Do we really believe me Long Covid? Why can't we hedge it more? I bet it is complete Gulf War syndrome stuff.*" It is essential to uncover what impact the UK Government had on how such issues were handled in Scotland, but also whether such dismissive attitudes were replicated at Scottish Government level or by the health professionals.
22. The Scottish Covid Bereaved welcome the long-awaited start of the Chair's Scottish Inquiry. We ask that all the witnesses who appear at the Inquiry speak with absolute candour and are brutally honest, as without that honesty we will never learn the vital lessons to ensure that when the next inevitable pandemic comes, we are able to save thousands of lives and avoid the unnecessary suffering endured by so many in the Covid-19 pandemic.
23. We have already experienced the benefit of having world leading experts appearing at the UK Inquiry, therefore it is essential that when Experts are called by the Scottish Inquiry they are of a similar calibre of experience and excellence.
24. The UK Inquiry has heard evidence that the UK was not prepared: that the capacity of the UK to cope with Covid was diminished by years of underfunding, cuts, and the impact of Brexit. According to the National Records of Scotland, as of the 9th October 2023, there were 17,991 deaths in Scotland where Covid-19 was mentioned on the death certificate. Each of those deaths not only represents an individual tragedy, but has

affected the friends and family, the loved ones, of each of those who died. No person or institution, no matter how powerful, whether it be in England, Scotland, Wales or Northern Ireland, Westminster or Holyrood, can obstruct the search for truth.

25. For the Scottish Covid Bereaved, the evidence at the UK Inquiry of multiple politicians and senior civil servant has exposed a culture of impunity, denial, arrogance and blaming everyone else but themselves.
26. Ministers both in England and Wales claimed to have thrown a “protective ring” around vulnerable residents, but the policy not to isolate people discharged from hospitals to care homes in the first weeks of the pandemic of 2020, without testing was deemed “irrational”, but Scotland did exactly the same. By the end of March 2021 there had been 3774 deaths in Scottish care homes It matters not one bit to the bereaved if care home deaths happened in London, Manchester or Glasgow- the policy of discharge of untested patients was ultimately a ‘death sentence’ for the elderly.
27. The Scottish Covid Bereaved expects answers on the provision of PPE in Scotland. The Scottish Covid Bereaved expect to hear again from Jeanne Freeman Scotland’s former Health Minister whether we failed our front-line workers who were crying out for PPE. Many front-line workers gave their lives trying to save ours, whilst our leaders were asking us to clap those workers on our doorsteps every week.
28. The Scottish Covid Bereaved wish to know whether the Scottish Government followed the science or whether they marched a few steps behind Boris Johnson into the deadly bedlam, that he stands accused of in his handling the pandemic.
29. The vulnerable and those impacted by inequality and austerity formed little or no consideration in the minds of those who were responsible for planning for a pandemic, as a result thousands died. The Scottish Covid Bereaved want to know what lessons should be learned for any future pandemic to protect not just the rich and privileged, but also the vulnerable, poor, minorities and marginalised.

30. The Scottish Covid Bereaved campaigned for this Scottish inquiry to be set up and to run parallel to that of the UK Inquiry- The very least they are entitled to expect is a robust and fearless inquiry, no different to the UK Inquiry.
31. The Scottish Covid Bereaved welcome that their voices are being heard at both Public Inquiries. The bereaved must have trust in the process, which means the Scottish Inquiry must earn that trust and to recognise the central role of the Scottish Covid Bereaved, active participation of their representatives to play a meaningful role- unless that happens it will be impossible for the bereaved to properly grieve. Until they find out the truth behind their loss, there is little hope of healing. Without trust, that would inevitably impact on the Scottish Covid Bereaved's perception of whether justice had been served.
32. The Scottish Covid Bereaved expect a public inquiry that listens to their voices and those of other core-participants who have lost so much, in doing so it will provide the foundations for an inquiry that delivers real change and accountability. That must be the legacy of the Scottish Inquiry.

Dr Claire Mitchell KC

Kevin McCaffery- Advocate

Kevin Henry- Advocate

Aamer Anwar- Lead Solicitor for the Scottish Covid Bereaved

April Meechan- Head of Public Inquiries Team- Aamer Anwar & Co.

Sarah Murray- Senior Associate

Aamer Anwar & Company, Solicitors & Notaries

21 Blythswood Square, Glasgow

G2 4BL, Scotland

www.aameranwar.co.uk