

COVID-19 Public Inquiry – Submission on draft Terms of Reference

April 2022

NHS Providers' response to the publication of draft terms of reference

NHS Providers is the membership organisation for the NHS hospital, mental health, community and ambulance services that treat patients and service users in the NHS. We help those NHS trusts and foundation trusts to deliver high-quality, patient-focused care by enabling them to learn from each other, acting as their public voice and helping shape the system in which they operate. NHS Providers has all trusts in voluntary membership, collectively accounting for £104bn of annual expenditure and employing more than one million staff.

We welcome the publication of the draft terms of reference (ToR) for the COVID-19 public inquiry. It is important and right that the inquiry scrutinises the impact of the pandemic in the United Kingdom, and the response of the health and care sector. We owe this to the families of those who lost loved ones and the dedicated NHS and social care staff who have worked tirelessly throughout the pandemic providing care in incredibly challenging circumstances, often putting themselves at personal risk and tragically in some cases, losing their lives.

We know there is much that the NHS and the health sector did well during the pandemic, and we should learn from those experiences as well as those areas where there were major challenges, such as infection prevention and control, access to personal protective equipment, testing, and robust epidemiological modelling.

We are also pleased the draft terms indicate that the inquiry will explore the nation's preparedness, initial capacity, and resilience ahead of, and during the pandemic, and the important focus on inequalities.

Our ongoing engagement with our membership throughout the pandemic has given us a unique perspective across the entire trust sector in England and we would like to make a number of recommendations for inclusion in the ToR for consideration.

NHS Providers recommendations

It would be helpful if the ToR were to clearly state the starting date from which the inquiry will concern itself. For example, at the moment it is unclear whether the inquiry will consider the initial weeks when the potential for a global pandemic was realised, or whether its scope might run from when the first COVID-19 cases were seen in the UK, or from some other starting point. Clarity here will assist everyone required to gather and retain relevant records.

The draft ToR see the response of the health and care sector specifically through the lens of the management of the pandemic in hospitals. We would urge the inquiry team to consider revising this to include explicit reference to the contribution of and the impact on mental health, community and ambulance (999 and NHS 111) services as well. Primary care providers were also key in the wider sector response, in particular general practice and community pharmacy. We agree the impact of the pandemic on care homes is critical to examine, but we would similarly add reference to wider social care services, including domiciliary care, which should also fall under the umbrella of the health and care response. All of these services will have important insights to contribute into the response of the health and care sector including vital learning about what worked well and what could be improved which will be essential when planning for future pandemics.

While the draft ToR refer to how decisions were made, communicated and implemented in the context of 'central, devolved and local public health decision-making and its consequences', it would be helpful for the inquiry to consider how central, devolved and local decision-making operated in the response of the health and care sector. Otherwise, there is a risk of confusion or conflation as to where decision making for each aspect of the pandemic response sat. In our view, as well as looking at local organisations and systems, there will be a clear need to consider the roles played by government departments and national bodies, including the Department of Health and Social Care, NHS England and NHS Improvement, and Public Health England and its successor organisations, the UK Health Security Agency and the Office for Health Improvement and Disparities.

It is important that the inquiry looks at the readiness of NHS infrastructure, as well as its pandemic preparedness. In particular, the condition of the NHS estates and facilities before and during the pandemic, including the maintenance backlog and digital capabilities, should be within scope. The

lack of capital investment in the years leading up to the pandemic left some hospitals with outdated estates that struggled to adapt to the new demands presented by COVID-19.

While the ToR will allow the inquiry to consider the experiences of, and the impact on, health and care sector workers, and other workers, it should not be limited to the period during the pandemic. It will also be important for the inquiry to examine and understand the pre-existing capacity and flexibility of the NHS workforce, as this proved pivotal in the NHS' ability to respond and cope with surges in demand. Staff shortages and intense, chronic pressures during the pandemic have contributed to significant levels of staff burnout and low morale. In combination with other factors, such as staff shortages and pay, terms and conditions, the difficulties the NHS faces in recruitment and retention are significant, with implications for reducing care backlogs and maintain high quality care.

While mention of long COVID is helpfully included in the draft ToR, there is currently no accepted definition of the condition. Setting out what will be considered under the banner of long COVID, or acknowledging that it is difficult to define in the context of emerging evidence, would reflect the reality of an impact that is still evolving. There are also many who will not be considered to have long COVID, but whose health has been permanently damaged by COVID and who will need ongoing healthcare – their needs might also be helpfully taken into account by the inquiry.

Children are not mentioned in the draft ToR but we know several died as a result of COVID-19 and evidence is emerging that many are suffering from long COVID or facing broader impacts because particular health and care services were disrupted or delayed. Children and young people in care and those who look after them will also have important insights to share. It is also important to consider the impact on children's mental health; we know that some services have struggled to meet the growing demand for children's mental health care precipitated by the pandemic.

We welcome the fact that the ToR allow the inquiry to produce interim reports to highlight the most urgent matters. We would recommend that this could be used to have an early focus on learning and practical recommendations that can be implemented, particularly where they relate to patient safety, and the ongoing management of the impacts of the pandemic.