

Establishment of the Scottish COVID-19 Public Inquiry

Fairer Scotland Duty Summary

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Riaghaltas na h-Alba
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Title of policy, strategy or programme	Establishment of the Scottish COVID-19 Public Inquiry
Summary of aims and expected outcomes of strategy, proposal, programme or policy	<p>On 24 August 2021 the Scottish Government announced that a public inquiry under the Inquiries Act 2005 into the handling of the pandemic would be established by the end of the year.</p> <p>The public inquiry's role is to scrutinise the strategic handling decisions taken and continuing to be taken over the course of the pandemic, and to identify and learn lessons for the future.</p> <p>The purpose of a public inquiry under the 2005 Act is to:</p> <ul style="list-style-type: none"> • investigate events causing public concern • establish the facts in relation to such issues • determine the explanations for decisions taken, and causes of anything which may not have gone as expected • consider if and how different outcomes could have been achieved • establish any lessons to be learned from what has happened • make any recommendations that the inquiry considers appropriate. <p>This impact assessment relates to the decisions associated with establishing a public inquiry under the 2005 Act, in particular the setting of terms of reference. The Act requires Ministers to take these decisions.</p>
Summary of evidence	Evidence to date highlights a number of key impacts of the pandemic on the pattern of socio-economic disadvantage in Scotland. For example, the COVID

	<p>Recovery Strategy Fairer Scotland Impact Assessment¹ noted:</p> <ul style="list-style-type: none"> • People in the most deprived areas are more likely to have died from COVID-19; families in those areas are more likely to have suffered bereavement due to COVID-19. • There have been greater negative impacts on the mental health of low income households than on higher income ones particularly among women. • COVID-19 has had greater impacts on the learning and attainment of children from poorer backgrounds, and low-income families have been more challenged by financial and other demands of home schooling. • There have been greater negative impacts on incomes and employment for low earners and those in unstable employment. • Low-income households have experienced more negative impacts on their financial security, and are more likely to have seen their debts increase, than higher income households. <p>Individuals and organisations were invited to share their views as part of a call for views on draft Aims and Principles of the Scottish public inquiry, including organisations representing people with first hand-connections to the pandemic and those who were marginalised in some form. An engagement strategy was adopted involving, for example, relevant third sector contacts being obtained from Fairer Scotland policy teams within the Scottish Government. These policy team contacts were used to draw stakeholders'</p>
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¹ See [Covid recovery strategy - for a fairer future: fairer Scotland duty assessment - summary - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/covid-recovery-strategy-for-a-fairer-future/fairer-scotland-duty-assessment-summary/pages/12.aspx)

	<p>attention to the call for views. A number of media were used to canvass views, including for example social media and an online Dialogue platform to make it easy for individuals and organisations to post comments.</p> <p>A report of the engagement exercise² on the approach of Scottish Ministers to establishing the public Inquiry has been prepared by Scottish Government analysts and yielded some key insights:</p> <ul style="list-style-type: none"> • There is recognition that the decisions made by Ministers in establishing a public inquiry might have impacts on socio-economic inequalities. • In particular, there is potential impact if the scope of the public inquiry (in its terms of reference) does not grant sufficient scope to examine inequalities of outcome and associated policy gaps. <p>As the report shows, there are specific calls (cited in Section 2 of the engagement report) relevant to socio-economic disadvantaged groups, for example relating to homelessness and other welfare assistance. For example:</p> <p>“There was a request for the Inquiry to evaluate the allocation and delivery of the range of additional funding implemented to support individual families experiencing financial difficulty. This included the Scottish Welfare Fund, discretionary housing payments and self-isolation grants. The Inquiry could investigate whether additional funding reached those it was intended for, what the barriers were, and what lessons can be</p>
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² Scottish COVID-19 Inquiry: Analysis of the public and stakeholders views on the approach to establishing the public inquiry - gov.scot (www.gov.scot)

	<p>learned. There was a request for a review of statutory sick pay provision, and a review of the self-isolation guidelines. In particular, the impact on workers on low incomes and in low-skilled sectors, who it was highlighted were placed in precarious financial and livelihood decisions when self-isolation guidelines were followed. There was also a request to consider barriers to accessing state support, especially among non-British citizens, during the pandemic.”</p> <p>Stakeholders brought attention to operational considerations that could affect the inquiry’s impact, such as the manner of evidence taking and how to facilitate participation in the inquiry itself to enable and ensure the representation of socio-economically disadvantaged groups in its work. However such questions are for the independent chair of the inquiry to determine and are not the subject of this assessment.</p>
<p>Summary of assessment findings</p>	<p>Evidence on existing inequalities, advice and input by policy and the COVID-19 analytical teams, as well as stakeholder engagement responses, has been analysed. This included some responses from people representing socio-economically disadvantaged groups, and advisors on how to tackle socio-economic inequality such as the Poverty and Inequality Commission.</p> <p>This work has informed policy development. The points discussed above have been assessed, analysed and borne in mind in making decisions to establish the inquiry.</p> <p>As a result:</p> <ul style="list-style-type: none"> • A Scottish COVID-19 Public Inquiry will be established under

	<p>the 2005 Act. The creation of this inquiry gives the opportunity to realise positive impacts on outcomes.</p> <ul style="list-style-type: none"> • In particular, the terms of reference specifically reference j) welfare assistance programmes, for example those relating to benefits or the provision of food, provided or supported by public agencies. As noted above, this clearly reflects stakeholder feedback. • But more generally the terms of reference charge the inquiry with considering the impacts of the elements it is investigating, on the exercise of Convention rights (as defined in Section 1 of the Human Rights Act 1998). This approach ensures that the impact of decisions are taken into account, without making any judgement on what those impacts might have been, or which groups were most affected, in advance of the inquiry beginning its work. • A number of the issues listed in the terms of reference (e.g. education, shielding, the decision to lockdown) give the inquiry the opportunity to explore issues raised by stakeholders relevant to socio-economic disadvantage. The inquiry will identify lessons and implications for the future, and provide recommendations. • Ministers cannot task a Scottish public inquiry to investigate reserved matters. They have noted the call for some reserved matters (e.g. sick pay) to be considered and will bear this in mind, in the context of the consultation reply they will provide on UK inquiry terms of reference
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	<p>in due course. This will serve to ensure that Ministers are delivering a holistic response to stakeholder concerns, within their powers.</p> <ul style="list-style-type: none"> • It should be noted that the legislation underpinning public inquiries allows for amendment by Ministers to terms of reference after they have been announced initially. In the case of this inquiry the chair of the inquiry has been asked to reflect on the terms of reference for consideration by Ministers of any necessary changes. • In addressing its terms of reference, the inquiry decides for itself the lawful bases upon which it will assess the strategic handling of the themes set out in the terms. These bases can include Fairer Scotland considerations. • As noted above, the operation of the inquiry under the 2005 Act will be independent of the Ministers and is not the subject of this assessment. The way the inquiry operates is for the Chair alone. However, Ministers have made clear that they expect, and have confidence, that the inquiry will be conducted in a way that is inclusive and fair. This expectation, and confidence, was underlined in a letter from the Deputy First Minister to the inquiry chair when she was appointed in December 2021.
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Sign off

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