

How can the UK COVID-19 Inquiry bring about meaningful change?

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Key points

- The announcement of a statutory public inquiry into the handling of the COVID-19 pandemic is welcome, as no other type of investigation has greater power or independence. But the Hallett inquiry faces a daunting task that will involve difficult decisions about priorities.
- This long read is designed to help inform what the parameters and structure of the inquiry could be, as well as setting out a sense of what it might realistically cover. The draft terms of reference published by the government propose a wide-ranging inquiry – but it is essential to recognise the trade-offs involved in doing so. Taking too long could risk compromising the inquiry's timeliness and prospects for bringing about meaningful change.
- An effective inquiry is essential to prepare the health system for future shocks. The primary purpose of the Hallett inquiry should be to identify the lessons learned from the pandemic response and create the impetus for changes needed to prevent another human, social and economic disaster on a comparable scale.
- A rapid synthesis of evidence on contextual factors such as the state of health and care services and funding, and existing health inequalities, would help to surface what shaped the response to and impact of COVID-19.
- But there are two critical issues where the inquiry can make the most distinctive and valuable contribution – the adequacy of preparations made prior to COVID-19, and decision making within government during the pandemic.
- Public inquiries are not renowned for moving quickly, but there are options for structuring the inquiry to deliver a robust and timely set of findings, and several ways in which government could support Baroness Hallett to do so.
- Bringing about catharsis is often considered an important objective of public inquiries, but this will require careful and deliberate thought. Meaningfully engaging and involving the people most directly affected by the pandemic will be one of the most challenging aspects of the inquiry.

Introduction

Prime Minister Boris Johnson **announced** a public inquiry into the handling of the COVID-19 pandemic in May 2021. 7 months later, ministers **confirmed** the inquiry will be chaired by Baroness Hallett – a crossbench peer and retired former judge on the Court of Appeal. Although **the inquiry** is due to start work in spring 2022, the **first public hearings** are not expected to begin until 2023.

The decision to hold a statutory public inquiry into the pandemic response is important and welcome – no other type of investigation has greater power or more independence. Once established under the **Inquiries Act 2005**, the Hallett inquiry will be formally independent from government and operate under a strong presumption of transparency. Baroness Hallett will have **powers** to subpoena witnesses, require disclosure of evidence and hear testimony under oath. The law will require the inquiry to report its findings to ministers, who must then publish it.

An effective inquiry is essential for preparing the health system for future shocks. However, even with all the powers of a public inquiry, Baroness Hallett faces an unenviable task. The pandemic has affected the lives of everyone in the UK. The nature, extent and consequences of the actions taken by the state with the aim of protecting lives and livelihoods are without precedent. Unpicking what a **select committee investigation** described as ‘one of the most important public health failures the United Kingdom has ever experienced’ will not be remotely straightforward.

This long read considers what purpose the Hallett inquiry could most usefully serve, where the inquiry should focus its attention and what may be learned from the past **50 years of NHS inquiries** – and public inquiries more generally – in bringing about meaningful change.

What is the public inquiry's purpose?

How the inquiry is established, resourced and chaired should be influenced by what Baroness Hallett is expected to achieve. Previous inquiries have served **different purposes**, some explicit and others implicit (see Box 1). Each of these purposes is relevant to the pandemic response but would entail different and potentially conflicting approaches to deliver.

Within government, the longstanding view is that '**the primary purpose**' of public inquiries is to prevent recurrence by learning from the matters under investigation. As a signatory to the European Convention on Human Rights, government also has a **general obligation** to investigate and review where the actions or omissions of the state may have contributed to lives being lost.

Box 1: Purposes of previous public inquiries

- untangling the truth about contested and contentious events
- bringing about catharsis, reconciliation and closure
- holding individuals and organisations accountable for errors and omissions
- learning from what has happened to avoid comparable future failures
- restoring public confidence after an individual death, a major disaster or public scandal
- serving political needs to create the case for change or show 'something is being done'.

Adapted from: Walshe K, Higgins J. The use and impact of inquiries in the NHS. *BMJ* 2002; 325 (<https://www.bmj.com/content/325/7369/895>).

Several of these purposes are reflected in the draft **terms of reference** for the Hallett inquiry. This would task the inquiry with producing a factual narrative account clearly intended to untangle the truth of how the response unfolded and document the wider consequences of the pandemic. Based on this account, the inquiry would be expected to identify lessons to be learned to 'inform the UK's preparations for future pandemics'. The reference to listening 'to the experiences of bereaved families and others who have suffered hardship or loss' also suggests ministers expect the inquiry to offer catharsis for those who have lost the most during the past 2 years.

The apparent motivation for an inquiry focused on learning for the future, rather than accountability for the past, may be met with an understandable degree of cynicism. However, a public inquiry cannot determine **criminal or civil liability**. And, with no standing mechanism to **hold government to account** for acting on inquiry findings, ministerial commitments to learning lessons may bolster the prospect of the Hallett inquiry leading to meaningful change.

Distilling which lessons to learn

There is also an objective case for distilling the learning from the pandemic response to ensure the UK is better placed to respond to future emergencies:

- **There was every opportunity to prepare for a pandemic.** The first UK **national risk register**, published in 2008, described the likelihood and potential impact of pandemic influenza and emerging infectious disease. Pandemic response plans were **developed** and **tested** under successive governments. While those preparations focused on influenza – as emerging infections were **thought less likely** to affect the UK – a disease like COVID-19 was not unforeseeable.
- **The UK was hit harder than most comparable countries.** Among the G7, only the US recorded more **excess deaths** in the first year of the pandemic. As of 11 March 2022, the UK had recorded more than **162,000 deaths** within 28 days of a positive test, **747,000 hospital admissions** with COVID-19 and **19.5 million confirmed cases** of the virus. The wider disruption of **NHS** and **social care** services created delays and gaps in the diagnosis, care and treatment of millions of people. More will experience **physical** and **mental** ill health resulting from the pandemic, from the **long-term effects** of the virus itself to the wider social and economic consequences. The extent of the **national response** was unprecedented in peacetime, with a fiscal legacy that may affect the **public finances** for decades.
- **Learning from the response will help to avoid or mitigate future catastrophes.** Before 2020, the **1918 influenza pandemic** was the worst in recent history – but the **next pandemic** is unlikely to wait another century. **New global pandemics** are increasingly likely, underlining the need for better national responses and international cooperation to prevent, detect and respond to future threats. There is an urgent need to understand how the UK can prevent another human, social and economic disaster on the scale of that caused by COVID-19.

Learning from national responses to the pandemic is also a common theme of investigative activity in other countries. While the term ‘public inquiry’ is not unique to the UK, neither is it universal. However, there is a high degree of thematic consistency in the scope of the various pandemic-related inquiries, reviews and audits planned, in progress or completed in Europe and North America – identified through a **European Health Observatory** rapid review in June 2021 (Table 1). The most common themes are examining the management of the pandemic response, the impact of COVID-19 and the measures taken to control the virus, and the provision of testing, contact tracing and personal protective equipment (PPE).

Table 1: National inquiries, reviews and audits related to the pandemic response in Europe and North America

	Country	Scope						
		Pandemic preparedness	International coordination	Management of COVID-19 response	Impact of pandemic and response	Provision of testing, PPE and contact tracing	Impact on adults needing long-term care	Wider health, social and economic consequences
Inquiry completed or ongoing	Belgium	X	X	X		X	X	
	Finland	X		X	X			
	France	X	X	X	X	X	X	X
	Ireland	X		X	X	X	X	X
	Italy		X	X		X		
	Latvia			X	X			X
	Norway	X		X	X	X	X	X
	Portugal			X	X			X
	US	X		X	X	X	X	X
Other related studies or monitoring	Canada	X		X	X	X		X
	Croatia			X	X			
	Cyprus			X	X			
	Finland							X
	Israel			X				
	Netherlands	X	X	X	X	X	X	
Pandemic-related audits	Czech Republic					X		
	Slovakia			X		X		

Source: Analysis of a summary of responses from country experts in the [COVID Health Systems Response Monitor](#) collated by the [European Health Observatory](#) in June 2021.

What should the inquiry focus on?

A statutory public inquiry works within the **terms of reference** set by ministers. These determine the scope of an inquiry by listing matters to be investigated and questions to be addressed. The government has **recently published** the draft terms of reference for the Hallett inquiry, which is now the subject of a 4-week public consultation. This is not a requirement, but follows the precedents set by the **Grenfell Tower** and **infected blood** inquiries.

Reviews of past inquiries and investigations highlight the need to manage expectations and for investigations to be tightly focused. A review of the **50-year** history of inquiries in the NHS emphasises the difficulties of investigations tasked with meeting impossibly high expectations. The **Institute for Government** has also found wide-ranging public inquiries tend to take longer and, most critically, risk not extracting relevant learning in time to prevent comparable failures. While the findings of the **Chilcot Inquiry** exposed the shortfalls and flaws in the decision to invade Iraq, for example, the 7 years the inquiry took to report is thought to have **reduced the impact** of its recommendations – several of which are yet to be acted on.

The **draft terms of reference** would see the Hallett inquiry tasked with addressing a dauntingly broad remit, rather than seeking to determine where a public inquiry can make a distinctive and timely contribution. That said, the inquiry does have the major advantage of being able to draw on a considerable body of existing knowledge. This includes the evidence, analysis and data about the important factors that created the context for COVID-19 in the UK, all of which had consequences for the approach to handling the virus and influenced the impact of the pandemic (Box 2).

The inquiry can, for example, draw on existing analysis of NHS and social care **workforce shortages**, the fragility of the **adult social care** system, cuts to local **public health** services or the pernicious impact of **health inequalities**. There have already been major efforts to document and categorise policy measures in response to COVID-19, **domestically** and **internationally**. More widely, a substantial volume of work has already been undertaken, through parliamentary inquiries, National Audit Office investigations, academic research, investigative journalism and others.

Box 2: Examples of contextual factors for the Hallett inquiry to consider

- a decade of austerity in public services
- gaps in pandemic planning and the adequacy of stockpiles
- real-terms public health cuts
- constrained NHS capacity (but strong institutional support)
- political neglect of social care
- fragmentation within health and social care
- centralised decision-making structures
- political upheaval
- pre-existing inequalities.

Two critical areas of focus

A rapid synthesis of existing evidence in these areas would give the Hallett inquiry a crucial head start, while coordinating with related ongoing investigations may help alleviate its workload. This would allow the inquiry to focus on less well understood aspects of the pandemic response and flesh out the context for examining what happened, why and how to bring about meaningful change. There are two critical issues where the Hallett inquiry should be able to make a unique and distinctive contribution, which are included in the draft terms of reference but should be prioritised.

Pandemic preparedness

The first is the adequacy of the preparations for a pandemic made prior to COVID-19. The **Civil Contingencies Act 2004** requires various public bodies to plan for different types of emergency. Regular exercises are held to test and improve response plans, but neither the findings of such exercises nor wider assessments of preparedness are routinely published. In 2019, the UK's ability to rapidly respond to, and mitigate the spread of, an epidemic topped an **international ranking** constructed from publicly available data.

However, several **reports of exercises** undertaken prior to 2020 – but only published more recently – raise important questions about the UK's preparedness and emergency response plans. Did the UK simply prepare for the 'wrong' type of pandemic? Were **emergency stockpiles** compromised by austerity? Did the risk of a 'no deal' Brexit **undermine government's capacity** and preparedness for other emergencies? How could pandemic response plans and the implementation of those plans be more effective? This is a relatively discrete topic, common to several of the inquiries established by other countries, on which the Hallett inquiry should be able to shed considerable light.

Government decision making

The second is the **decision-making process** within government during the pandemic. The **response to COVID-19** was clearly **constrained by factors** that may be amenable to long-term action but were essentially fixed in the short term – for example, staff shortages in NHS and social care. Nevertheless, the effectiveness of the response was also influenced by **how well** the government used the considerable information and resources that were available.

The importance of decision making was emphasised by an independent panel established by the **World Health Organization** to review international responses to COVID-19. The panel found the most effective national responses were based on early recognition of the threat, timely and authoritative decisions and efficient coordination of urgent action across government and society. By contrast, the hardest hit countries tended to ignore, downplay or deny the threat, devalue the scientific advice, delay crucial decisions, and either fail to act, focus on a narrow set of measures or fail to coordinate wider action effectively.

Many of those critical decision points in the UK's response to COVID-19 are already apparent – allowing the inquiry to narrow its focus on specific decision points or periods of time. Areas the inquiry could focus on include:

- activating **COBR** – the committee convened in national emergencies – to discuss emerging reports of a novel virus
- agreeing the initial '**contain, delay research, mitigate**' strategy
- imposing the first **national lockdown** in March 2020
- **easing restrictions** and creating the **tier system** for local lockdowns
- imposing subsequent lockdowns in **late 2020** and **early 2021**
- staged implementation of the **roadmap** for easing restrictions in 2021
- activating '**Plan B**' following identification of the Omicron variant.

While the outcomes of these and other decisions played out in public, insight into how decisions were actually made is much more limited. For instance, the select committee sessions with former health secretary **Matt Hancock** and particularly former Chief Adviser to the Prime Minister **Dominic Cummings**, hinted there is far more to unpack.

By using its powers to compel disclosure of relevant evidence and cross-examine witnesses under oath, the Hallett inquiry can scrutinise the **how, why and when** of what happened within government to produce a nuanced and authoritative account of how critical decisions were made. This could include the sequence of events leading to decisions, encompassing periods of indecision. Who made decisions and on what basis? What considerations, assumptions and biases shaped those decisions? What alternative options were considered? Who was involved in deliberations and, possibly crucially, who was not? How and when was expert advice, analysis and information presented to decision makers? How were resulting actions coordinated across government and communicated to the public?

This matters because those calling the shots during the next major emergency may be doing so for the first time, without direct experience of the current pandemic. Knowing how events played out, with the benefit of hindsight, may obscure the near-impossible dilemmas of the time – making highly consequential decisions, based on incomplete, fast-changing evidence, under conditions of major uncertainty. Under such circumstances, some errors may have been inevitable. But others were avoidable, such as repeating the mistake of delaying restrictions in autumn 2020 despite clear **advice to act** sooner.

How should the COVID-19 Inquiry work?

Public inquiries are not renowned for moving quickly – the **Institute for Government** found those undertaken between 1990 and 2017 lasted an average of 2.5 years. The Hallett inquiry is not expected to begin hearing evidence in public until 2023. While preparatory work is happening behind the scenes, progress will be limited until the terms of reference is finalised. This will, for example, dictate what evidence the inquiry needs to seek and from whom – 2 years into an all-consuming national emergency, those at the heart of the response will hold substantial written material relevant to the investigation.

There will be much to do before the inquiry can start hearing evidence. While public inquiries occur relatively frequently – with **31 statutory inquiries** completed, in progress or being planned under the Inquiries Act 2005 as of November 2021 – the practical support from government has been limited. There are resources to **support and guide** inquiry chairs, but the official guidance has not always been easily accessible – **Sir Robert Francis**, for example, discovered the guidance only after completing his inquiries into Stafford hospital.

Learning from other approaches

Successive governments have been slow to act on repeated **recommendations** from parliament to create a dedicated inquiries unit, even though inquiry teams may be tasked with everything from finding office space to managing the more complex procedural aspects of the investigation. With minimal support from the centre and no guarantee of prior experience, inquiry teams have often had to rely on advice from **informal networks**.

The different approaches taken by previous statutory inquiries suggests the Inquiries Act 2005 allows Baroness Hallett considerable flexibility to shape her investigation. For example, the hearings of the **Baha Mousa Public Inquiry** were organised into four distinct modules, each of which examined a particular theme within the inquiry's terms of reference. The **Grenfell Tower Inquiry** is also using a modular approach, spread across two phases – phase one examined what happened on the night of the fire, which the chair sought to establish first, with phase two now looking at the wider circumstances of the disaster.

In the US, the **9/11 Commission** worked on multiple topics in parallel by dividing its investigators into separate teams, each tasked with assembling the evidence on a specific aspect of the investigation. A similar model, properly resourced, might allow the Hallett inquiry to move more quickly than a single team focusing on each issue in turn. The scale, complexity and impact of the pandemic response would certainly justify Baroness Hallett recruiting a substantial inquiry team, assuming government is willing to agree the necessary budget.

Expert evidence

As well as a rapid evidence synthesis to put the pandemic response in context (see above), the Hallett inquiry could consider creating an expert panel or using expert witnesses to set the scene, explain key concepts or supply testimony on technical issues. To support and expedite the process of developing policy recommendations, the Hallett inquiry could look at how the **Kennedy** and **Francis** inquiries used a series of seminars to involve people with relevant experience and expertise. With the scope for definitive findings to be substantially delayed by ‘**Maxwellisation**’ (the process to allow those to be criticised to respond before publication), it is welcome that the draft terms of reference allow the Hallett inquiry to produce interim reports to highlight the most urgent matters.

A related approach used by the 9/11 Commission was the production of ‘**staff monographs**’, setting out factual summaries of the evidence investigators uncovered prior to the relevant stages of oral evidence. The inquiry will also need to give early thought to how government and other bodies might be held to account for implementing recommendations following publication of its final report.

Engaging the public

Finally, the Hallett inquiry will need to consider how to engage the public in the proceedings. First and foremost, this means working closely with **people who lost loved ones** during the pandemic to ensure their voices are at the heart of the inquiry and to agree suitable arrangements for engaging and supporting them throughout. While catharsis may be one of the purposes of public inquiries, it is not an **inevitable product** of the process and demands sensitive and deliberate thought.

Second, there is the need to promote wider public involvement with the inquiry. No one in the UK has been untouched by COVID-19, but the pandemic has affected people’s lives in different ways. Developing meaningful and constructive ways to engage the public, beyond the obvious step of holding proceedings in public, will be one of the most difficult aspects of the inquiry. The inquiry will also need to consider the welfare of the witnesses called to give evidence. While politicians, advisors and senior public servants may be used to the spotlight, this will not be case for many of those redeployed into immensely difficult roles during the pandemic response. The inquiry should work closely with the organisations participating in proceedings to ensure all witnesses receive appropriate support.

Conclusion

The impact of COVID-19 has already been devastating – but the next pandemic could be even worse. Failing to understand the lessons from the response to this pandemic would leave the UK more vulnerable to the threats posed by future pandemics and other major health emergencies.

A public inquiry is the right vehicle to identify those lessons and to create the impetus for implementing the necessary changes. Nevertheless, expectations for Baroness Hallett's inquiry need to be grounded in the reality that previous inquiries and investigations have often been comprehensive or timely, but rarely both. Finalising the inquiry's terms of reference is essentially about priorities – of all the outstanding questions about the pandemic response, which are the most urgent and amenable to the powers and methods of a public inquiry?

The two areas where the Hallett inquiry could make a distinctive and valuable contribution are the adequacy of the preparations made prior to the pandemic, and the decision-making process within government during the pandemic. Given the extent of the suffering brought about, ministers have framed the draft terms of reference to give the inquiry the broadest possible remit. While there may be understandable and entirely legitimate pressure for a wide-ranging investigation, the phrasing of the inquiry could clearly prioritise these two critical issues. This would be the most effective way to realise the government's stated aim for the inquiry to result in strengthening the UK's preparations for and response to future pandemics.

This long read has set out some ideas for the Hallett inquiry that break with the usual model of providing support to inquiries. Assuming the government is truly committed to an effective inquiry, it would do well to consider these and other options for supporting Baroness Hallett to deliver a timely and practical set of findings. Public inquiries are rarely cheap and some of these options – such as a bigger inquiry team – will increase costs. But given what the pandemic has already cost – in every possible sense – the value of an inquiry that leads to meaningful change and improvement is hard to underestimate.

Supporting information

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