

UK Covid-19 Inquiry – Terms of Reference Consultation

Response from the Commissioner for Older People for
Northern Ireland

April 2022

08 April 2022

UK Covid-19 Public Inquiry

Via email to: contact@covid19.public-inquiry.uk

Dear Sir/Madam,

Re: UK Covid-19 Inquiry – Terms of Reference Consultation

I am writing on behalf of the Commissioner for Older People for Northern Ireland (COPNI). The Commissioner for Older People is an independent voice and champion for older people whose legal powers and duties are defined by the Commissioner for Older People (Northern Ireland) Act 2011. This is a statutory role, at arms-length of government, which takes an active role in safeguarding and promoting the interests of older people in Northern Ireland.

COPNI welcomes the opportunity to engage with this consultation on the UK Covid-19 Inquiry Terms of Reference.

Please find attached COPNI's response to the consultation exercise.

Yours sincerely,

Clare Mullen
Head of Policy
Commissioner for Older People for Northern Ireland

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Do the Inquiry’s draft Terms of Reference cover all the areas that you think should be covered by the Inquiry?

No

Please explain why you think the draft Terms of Reference do not cover all the areas that the Inquiry should address.

Whilst the Terms of Reference are generally comprehensive of the areas that should be covered by the Inquiry, the Commissioner would like to see a stronger focus on human rights as a foundation for the Inquiry, particularly in reference to the experiences of older people.

The Commissioner for Older People for Northern Ireland (COPNI) welcomes the focus in the terms of reference upon ‘the management of the pandemic in care homes and other care settings, including infection prevention and control, the transfer of residents to or from homes, treatment and care of residents, restrictions on visiting, and changes to inspections’.

However, COPNI is concerned that the experiences of older people within hospital settings should also be given specific consideration. While recognising that older people as a group were most susceptible to Covid 19 at least in part due to physiology, the Commissioner maintains that other factors in the high mortality levels among this group must be analysed. The terms of reference include the use of DNACPR (Do not attempt cardiopulmonary resuscitation) but must examine credible reports by older people and their families, of age discrimination in accessing medical treatment. A thorough analysis must be undertaken of practice and protocols employed to treat older patients and in particular, the practice of using ‘age’ to determine suitability for treatments.

The Commissioner welcomes the Inquiry’s consideration of disparities experienced by sections of society protected under Section 75 of the Northern Ireland Act 1998, in terms of: a) the impact of the pandemic, and b) the state’s response to it. The terms of reference must address the disproportionate impact that the pandemic has had on older people, including the heightened risk of the virus endured by older people, the destructive impact that social restrictions have had on older people’s physical and mental health, and scrutiny of whether older people’s rights were adequately considered during decision-making in the response to the pandemic.

Which issues or topics do you think the Inquiry should look at first?

The most important element of the Inquiry will be for lessons to be learned and improvements implemented as quickly as possible.

The urgency is most acute for older people living in care homes and those in hospital, as some restrictions are still being imposed, including on visits. The Inquiry can serve the public good most effectively by attending to sections of society most impacted by the pandemic and publicising the lessons learned as swiftly as possible. By so doing, it remains possible that the Inquiry— if it is swift and effective— will not only guide *future* health and social provision but it may aid in the recovery process from the *current* health and social crisis.

Do you think the Inquiry should set a planned end-date for its public hearings, so as to help ensure timely findings and recommendations?

Yes

How should the Inquiry be designed and run to ensure that bereaved people or those who have suffered serious harm or hardship as a result of the pandemic have their voices heard?

The terms of reference must address the disproportionate impact that the pandemic has had on older people, including the heightened risk of the virus endured, the destructive impact that social restrictions have had on older people's physical and mental health, and scrutiny of whether older people's rights were adequately considered during decision-making in the response to the pandemic.

Hearing the voices of those families most affected by the pandemic, particularly those who have lost loved ones, is a crucial element of the Inquiry process. It is also vitally important that evidence is gathered from NI's local people and communities, including local support organisations and

bereavement networks to ensure that the views and experiences of people in NI are listened to and heard. Sufficient staff resources should be in place to enable this to happen.

There must also be NI representation on the Inquiry Panel to ensure that the distinctiveness of NI is properly understood and built into plans for taking forward evidence gathering from individuals and organisations.

The Inquiry's proceedings should be conducted in public, as far as is possible, to ensure openness and transparency in the process and to give legitimacy to the Inquiry in the eyes of the public. These sessions should be held in NI when evidence is being taken on the response to the pandemic by the NI Government and other public bodies.

Learning and good practice from other Government led Public Inquiries should also inform the approach to the Inquiry to ensure procedures are appropriately robust and appropriate to ensure that all regions of the UK are actively involved and engaged.

In November 2021, the Commissioner for Older People for Northern Ireland called for a public inquiry into Northern Ireland's handling of care home residents throughout the COVID-19 pandemic. This call was made based on deep concern with the circumstances pertaining to residential care facilities in Northern Ireland. COPNI maintains that it is vital that the distinctive health and social care systems (for example the roles of Departments of Health, trusts, regulators and councils) that exist across the United Kingdom must be fully accounted for within the Inquiry if relevant lessons are to be learned in individual jurisdictions. As the responsibilities, duties and roles of different stakeholders charged with managing the pandemic varied across jurisdictions, it is vital that such differences are taken seriously. Without a 'four regions' approach, the lessons to be learned will more likely be vague and general as opposed to specific and practical.

The Inquiry must therefore have permanent representation from all jurisdictions for it to be relevant for all jurisdictions.