# An URGENT Petition for an *Immediate* Public Inquiry

This is a petition to the Prime Minister and The Secretary of State for Health to direct that there be a statutory Public Inquiry into the Government response to the Covid-19 pandemic, to commence with immediate effect but limited at this stage to steps as set out below.

## Introduction/Summary

1. We represent the 'Covid-19 Bereaved Families for Justice UK' a group currently comprising about 450 bereaved people, and we make this request on their behalf.
2. We attach to this Request a list of those who died as a result of the Covid-19 crisis, whose families have instructed us, together with names of the family members. In the interests of expedience this is not a full list of all members.
3. We submit that a statutory Public Inquiry needs to be convened immediately, pursuant to section 1(1) of the Inquiries Act 2005, with the following urgent aims:
    - To review the current situation and consider the scientific and other evidence as relevant to steps which must be taken without delay to minimise the ongoing effects of the virus;
    - To ensure relevant organisations and individuals maintain records of their actions and the reasons for those actions and preserve those records for the Inquiry;
    - To ensure no existing records relating to decisions taken go missing or are destroyed.
4. The Inquiry should in due course look at the general handling of the crisis but this part of the work can take place at a more suitable time.

## Background to the Request

You will be familiar with the background to the Coronavirus (CV) crisis. In brief:

- On **11 January 2020** the CV pandemic began in China with the first known death being reported.
- On **23 January 2020** Wuhan, the province where the CV is considered to have originated its transfer to humans, was closed off.
- On **30 January 2020** the World Health Organisation declared a global health emergency.
- On **14 February 2020** the first European death was announced in France.
- On the evening of **23 March 2020** the United Kingdom lockdown began.
- On **1 June 2020** an easing of the lockdown in England began with the return of some children to some schools, among other things. Some easings have also taken place in Scotland, Wales, and N Ireland.

## The need for an Article 2 compliant investigation

Article 2 of the European Convention on Human Rights imposes on Government signatories an obligation to refrain from taking life and an obligation to take appropriate measures to safeguard life. The latter obligation includes a duty to hold an effective independent public investigation into an individual's death where 'operational' or 'systemic' issues are suspected of contributing to the death. In particular, the duty arises where a Government knows, or

ought to have known, of a risk to life and may have failed to take all reasonable steps to protect those at risk.

Although this is a bare summary of the position, it is crystal clear that the Government is under a legal duty to hold an Inquiry into the CV deaths.

There is clear precedent for an Inquiry to begin immediately, to produce interim findings and recommendations on matters which will not wait (e.g. Inquiry of Lord Justice Taylor following the Hillsborough disaster). It is equally clear that this crisis includes aspects which must be dealt with without delay to minimise future needless loss of life.

## The position of the Government

The Rt. Hon. Dominic Raab MP at PMQ's on 22/4/20 declined a request to commit to a public inquiry:

> *'I have to say that I will not take up the right hon. Gentleman's offer of committing to a public inquiry. There are definitely lessons to be learnt, and when we get through this crisis it will be important that we take stock and come together to understand, with such an unprecedented challenge on an international scale, what can be done to avoid it happening again. Right now, as we come through the peak of the virus, from our key NHS frontline workers to members of the public, people would rightly expect our full focus to be on making sure that we save lives, protect the NHS and steer the whole country through this crisis, rather than engaging in that process and that set of deliberations right now.'*

We trust that the Government will accept that there is at least a duty to hold an effective impartial investigation into the Covid-19 deaths. If this is not accepted by the Government we seek a clear statement to this effect to enable us to advise our clients.

## The Role of Inquests

It might be thought that the coronial system could assist the Government in complying with its duties. However, the Chief Coroner has made it quite clear in his Covid-19 'Guidance Note 37' that in most cases, Covid-19 deaths should not be investigated through inquests and that where there are inquests, the process should not consider Government policies:

> *'Coroners are reminded that an inquest is not the right forum for addressing concerns about high level government or public policy. '(Chief Coroner Guidance No. 37 – Covid-19)*

## The need for an Inquiry

s. 1 of the Inquiries Act 2005 states that a minister may set up an Inquiry under the Act where it appears to him that:

s.1 (a) – ‘Particular events have caused, or are capable of causing, public concern’, or
s.1 (b) – ‘there is public concern that particular events may have occurred’.

It hardly needs saying that the Covid-19 pandemic will satisfy both limbs of this section. This gives ministers a power to set up an Inquiry. However, where Article 2 is applicable and the relevant issues cannot be, or are not dealt with at an Inquest, there is a legal duty to institute a Public Inquiry.

There is legitimate public concern over many issues including the following:

- The timing of the lockdown and the lack of guidance or restrictions prior to lockdown
- The planning for an epidemic and/or a pandemic
- The resources available in the event of an epidemic and/or a pandemic, and in particular the Government stockpile of vital equipment and PPE, testing capacity, intensive care capacity, hospital beds, and medical and nursing capacity
- The Government response to Exercise Cygnus
- The response of NHS England to Exercise Cygnus (given its responsibilities under the Civil Contingencies Act 2004 and the NHS Act 2006 as amended.)
- The provision of PPE to the NHS and the Care Home sector and other public bodies
- The impact of Covid-19 on BAME communities
- The relationship between the NHS and the Care Home system and the arrangements for transfer of patients between the two sectors.
- The Government guidance on the use of PPE
- The effect of the agency system and the gig economy on transmission of Covid-19 between Care Homes
- The availability of contact tracing and testing throughout and into the future
- The raising of lockdown and future methods of containing further outbreaks

This list is far from exhaustive. It does however illustrate the need for a series of subsidiary Inquiries, all feeding in to the main Inquiry.

## The need for an Immediate Public Inquiry

We hope that the Government accepts that the argument for an Inquiry is unassailable. However, for the reasons which follow, we assert that there is a compelling need to set up the Inquiry **immediately. It should have a limited urgent interim remit as per point 3 in the above introduction.**

1. There is widely held public belief that the Government is making wrong decisions in this crisis and that the Government errors have cost and will continue to cost lives. YouGov surveys estimating the percentage of people who think the Government is handling the issue of coronavirus ‘well’ or ‘very well’ show that the percentage thinking this has reduced from mid-fifties on March 13th to 41% on May 29th. Similarly, a YouGov survey on the percentage of Britons trusting the Government to provide accurate information on the pandemic has fallen from the mid 60’s to the mid-40’s (percent). In isolation we would put little weight on such surveys; however, in the current context, that belief is having an adverse effect on public behaviour – to put it in bald terms the Government has lost public trust. There are many possible reasons

for this – disagreement between experts (and thus the alternative SAGE panel), disagreement amongst SAGE members (not surprising given the number of people contributing to SAGE), the public perception of the handling of the Cummings affair, the varying way the Government has presented data at the regular briefings.
On 5th June a letter from a group of 27 leading medics and scientists calling for an immediate 'rapid, transparent, expert Inquiry' was published in the Guardian saying:

> *'If, as seems probable, there is a second wave this winter, many more will die unless we find quick, practical solutions to some of the structural problems that have made implementing an effective response so difficult*.'
> (Letter to Guardian 5/6/20, Prof. Ruth Gilbert and 26 others)

We make these points not as criticism of the Government but to illustrate the issue of public perception and to argue that establishing an Independent Public Inquiry is vital to restore public confidence and thereby help to ensure the public complies with Government guidelines thereby, one hopes, saving lives.

2. There is criticism of the Government's handling of the crisis from all quarters. The Science and Technology Committee in its letter to you, Prime Minister, on 18th May, argued that the transparency around scientific advice 'has not always been as clear as it should have been' and that testing capacity has been inadequate for most of the pandemic, that 'Capacity drove strategy', and that the Public Health England strategy of a smaller scale approach to testing is suspect and has not been justified by publication of the formal assessment made at the time. Of most concern is their conclusion that 'It is not clear that the lessons of the delays to testing have been learned'

   The head of the UK Statistics Authority, Sir David Norgrove, in a letter to you Mr Hancock on 2nd June states that the published testing statistics fall 'well short of the expectations of the Code of Practice for Statistics.'

3. The Government is going to have to make many decisions in the coming months. The current system for enabling those decisions, based on weak and unreliable data, coupled with the confusion among the public when those decisions are communicated, is fraught with danger. The public lack of compliance has become glaringly obvious in recent times. Sadly, the Government cannot be absolved of responsibility for the widespread disregard of its own guidance.

4. Finally, there is concern that documents will be lost and recollections fade over time. In order for a proper Inquiry to take place at the appropriate time, into past decisions, it will be necessary to urgently appoint a Chair who can ensure that all relevant organisations and their Chief Officers will preserve all documentary evidence and, where appropriate, there should be a record of all relevant communications and decisions. The immediate institution of a Public Inquiry with a remit to produce an urgent interim report and recommendations on matters that are ongoing and affect the future, with a further phase to be held later, considering past actions, strikes a proper balance between the need to act and the need to preserve evidence of those actions.

**The issues raised by some of those requesting a Public Inquiry – all or most of which will arise again if there is a second spike.**

**Bernard Kirton**

Fiona Kirton's father Bernard Kirton was transferred from a hospital (where he had been treated for a non-Covid issue following a fall) to a care home. The home asked the hospital to carry out a Covid-19 test before transfer. The hospital refused, citing Public Health England's policy. It took 2 more weeks to arrange his transfer to another care home, within hours of arrival he displayed symptoms of Covid-19. He was sent back to hospital following another fall and this time he was tested for and found to have Covid-19, of which he later died. The nurses treating him did not have adequate PPE.

**Issues raised – lack of proper PPE at the hospital and the home, transfer from hospital to Care Homes without testing**

**Edith Birch**

Gail Birch's mother Edith Birch was admitted to hospital on 17th March. There was no PPE used in the hospital until, on 6th March she was tested for Covid-19. On 8th March the test came back positive. The family were advised that she contracted it 5-11 days previously, i.e. when she was in hospital. The consultant told the family that the virus had 'ripped through the ward'. Edith died of Covid-19 on 13th April.

**Issues raised – lack of PPE in the hospital, failure to prevent Covid-19 spreading through the hospital**

**William Leslie**

Ella Lewis's father William (Bill) Leslie was in a care home with dementia but was physically fit. He fell ill on 1st April, paramedics were called out but decided to leave him at the home. They were called out again later that evening as BL was delirious; they then admitted him to hospital where, after a few hours in A&E, he was discharged with a diagnosis of Covid-19 and pneumonia. He was returned to the care home. He spent 8 days in the care home before being readmitted to hospital where on April 19th he died

**Issues raised – delay in implementing lockdown, transmission of Covid-19 from hospital to care home and vice versa**

**Philip Charles Carlin**

Hannah Bland's father Philip Charles Carlin began displaying symptoms of Covid-19 on 12th March and went home to self-isolate. On 14th March he emailed 111 as symptoms continued – he was advised to isolate, on 15th March he spoke to 111 and was told he couldn't be tested and contact tracing was not available. He was told (for the first time) to isolate from his wife; between 15th and 17th March the family tried several times to get tests (one of his children who had been in contact with him prior to his self-isolating was coming into contact with many people). On 17th March, following numerous attempts to get help for him, he was taken to hospital where on 23rd March he later died

**Issues Raised – Delay in lockdown, failure to have a testing system in place; delay in hospital admission, insufficient information provided to or by 111**

**Derek Welburn**

Sophie Nevison's Grandfather, Derek Welburn, self-isolated from 10th March (well before the lockdown) when he lost his sense of smell and was vomiting frequently. On 22nd March he collapsed and went to A&E who sent him home saying they couldn't find anything wrong with him. On 25th March he was readmitted to hospital; on 26th March he tested positive for Covid-19. He was told the hospital didn't have enough equipment to treat him and they could only 'make him comfortable'. On 27th March some equipment became available and he was given CPAP. He died on 30th March.

**Issues raised – lack of equipment, exposure to Covid-19 in hospital**

**Stuart Goodman**

Jo Goodman's father, Stuart Goodman, was asked to attend hospital in person on 18th March to receive a diagnosis which turned out to be positive for cancer. He was not offered a telephone or AV appointment. No warning at that time was being given to those with his conditions.

Despite the fact that he was self-isolating he reluctantly went anyway. The waiting room was crowded with no social distancing, no-one including staff had masks, there was no PPE to be seen. On 24th March, the first full day of lockdown, he went to hospital to start his chemotherapy. There was no Covid-19 testing. Later that day he developed a fever, on 29th March he lost lucidity and was admitted to hospital. On 30th March he tested positive for Covid-19 and on 2nd April he died. On 9th April a shielding letter arrived at his house.

**Issues raised – delay in lockdown, failure to provide PPE to hospitals, failure to have any regime protecting staff or patients in hospital**

**Mr A**

Mrs A's husband was employed by a cleaning company at St George's Hospital NHS Foundation Trust as a domestic worker, which is where he also sadly died on 30th April 2020 after he had contracted Covid-19. He is not the only domestic worker employed by the hospital to have died due to Covid-19. Cleaners had raised their concerns about lack of protective equipment and discussed strike action as they were putting their health at risk each time they did a shift. St George's Hospital was one of the worst hit hospitals by the pandemic in the first weeks of the crisis.

**Issues raised – lack of protective equipment provided to NHS and staff; inadequate safety guidance**

**Gressman A. R. K. Chandrapala**

Lashanthie Chandrapula's father, Gressman A. R. K. Chandrapala, was a London Bus Driver who was working up until 24th April 2020 driving buses as a keyworker. Up until 19th April 2020, there were still passengers able to access buses using the front doorway and no measures had been put in place to protect the drivers from the risk of infection. On 24th April 2020, Mr Chandrapula began to feel unwell and stayed off work after receiving a self-isolation note from NHS 111 on 25th April 2020. On 30th April 2020, he was admitted to hospital which was the last time his family saw him. He sadly died on 3rd May 2020 aged 64 years old.

**Issues raised – Failure to protect keyworkers**

**Ian Fowler**

Matt Fowler's Father Ian Fowler was in his mid-50s. He showed Covid-19 symptoms on March 19th. He rang 111 on 22nd and 23rd March – on 23rd, the day the lockdown began, he was admitted to hospital where he died of Covid-19, aged 56, on April 13th.

**Issues raised – Delay in announcing lockdown**

**Elsie Sazuze**

Ken Sazuze's wife Elsie was a care home worker. She probably contracted the virus during the week of 16th March, prior to lockdown. She died on a ventilator on 8th April.

**Issues raised – lack of PPE in care homes, delay in lockdown, failure to protect keyworkers.**

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