

Board of Directors

Item 5.7

Subject: Covid-19 Inquiry Update
Date of meeting: Monday 28th November 2022
Presented by: Karan Wheatcroft, Director of Risk and Improvement
Purpose of Report: To Note

BAF Reference	Impact on BAF
BAF 1	Preparedness for the Covid Inquiry including consideration of EP RR and lessons learned.

Level of assurance (please tick one) <i>To be used when the content of the report provides evidence of assurance</i>					
<input checked="" type="checkbox"/>	Acceptable assurance Controls are suitably designed, with evidence of them being consistently applied and effective in practice	<input type="checkbox"/>	Partial assurance Controls are still maturing – evidence shows that further action is required to improve their effectiveness	<input type="checkbox"/>	Low assurance Evidence indicates poor effectiveness of controls

1. Executive Summary

In advance of the commencement of the National Covid-19 Inquiry, a paper on the Trust's approach to preparation for the Inquiry was reviewed and approved by the Board (January 2022). Since this time the Chair has been appointed, the Terms of Reference have been published and the Inquiry has commenced.

This paper confirms progress in respect of the initial Trust action plan (part of which was deferred due to the subsequent waves of the Covid pandemic), along with key points from a recent NHS Providers webinar (3rd October 2022) and survey, and a focus on next steps for LHCH.

Based on the knowledge to date, the proposal is to continue to adopt a pragmatic approach to preparation based on the likelihood of involvement and reliance on the strength of the documentation held (in particular from the Trusts Gold Command structure which has continued to operate throughout the ongoing pandemic).

The next steps are to bring the Trust's Inquiry team back together to discuss the update, assess the current position, and confirm actions and deliverables.

2. Background

Whilst the NHS will be called upon for evidence as part of the Covid-19 Inquiry, it is unlikely that every NHS organisation will be approached to contribute.

The actions taken to date by LHCH include:

- i. Identification of an Inquiry Lead (Director of Risk and Improvement)
- ii. Establishment of an Inquiry Team* (see below)
- iii. Initial communication regarding document preservation
- iv. Mapping of information in terms of folders for Gold and Bronze meetings including the decision logs
- v. Ensuring we are linked into national webinars and updates regarding the Inquiry

The Trust has clear record keeping for Gold and Bronze command meetings demonstrating the diligent approach already taken to retaining these records. The rolling action log is extensive and should provide a good reference point for decisions and actions. Other documents that need to be considered will include notebooks, social media (e.g. whatsapp), phones (e.g. messaging), emails, communication channels (e.g. intranet) etc.

The actions taken are to ensure we preserve documentation and are prepared for any request that may be made. The initial focus was on developing a high level 'map' of the information we hold, where this is held, by whom and how to access it. The full collation and cataloguing of information would take a significant amount of resources at a time when we are recovering and resetting services, as well as responding to new variants. We will continue to track guidance and publications and take stock of our approach.

*The Inquiry Team includes:

- Karan Wheatcroft – Director of Risk and Improvement (Lead)
- Joan Mathews – Deputy Director of Nursing & Quality
- Helen Martin – Head of Risk Management
- Wyn Taylor - Head of Information Governance & Administration / Data Protection Officer
- Matthew Back – Head of Communications
- Laura Doran – Governance Systems Analyst
- Terri Marshall – Risk Management Coordinator

3. Inquiry approach and progress

3.1 The current position of the Inquiry

The Inquiry Chair, Baroness Heather Hallett (a former Court of Appeal judge) was appointed in December 2021, and the final Terms of Reference were published in June 2022. The purpose of an Inquiry is to learn, and alongside this there will no doubt be learning from the Scottish Inquiry which is also ongoing.

The Inquiry will follow a modular approach with the first three modules being (i) resilience and preparedness of UK; (ii) core political and administrative governance and decision making for the UK; and (iii) impact of covid 19 on the healthcare systems, patients and hospitals and other health. Further modules are expected to be announced in 2023.

Module 3 will be a focus for NHS organisations and the opening statement included healthcare governance, hospital and primary care, vaccination programmes and long covid support. Interestingly this doesn't include PPE and it is envisaged this will be the focus of a future separate module.

Organisations can apply for core participant statement (NHS England will be a core participant), although it is unlikely that individual NHS Trusts will do so.

The 'Listening exercise' is underway and this is very much focussed on hearing from individuals.

3.2 Organisations' approach and preparation

In terms of recent updates, the messages are that:

- Organisations should prepare for open and transparent engagement with the Inquiry Team, be responsive to requests for information and reflect on their own response so they can demonstrate learning.
- There needs to be clear mechanisms for document management. WhatsApp messages should be available where relevant, but there are challenges in terms of personal devices, encryption and access.
- The provision of data to other national bodies, regulators and FOI need to follow appropriate legal requirements. If a document is prepared for the Inquiry it becomes the inquiry document so need to be conscious of this if there are any FOI requests. Also need to be clear in how FOI requests relating to the Inquiry are handled (there are various FOI exemptions to this) and may need inquiry team consideration. The Data Protection Officer needs to advise on this.
- There is likely to be a requirement to collaborate with local inquiry related activities (e.g. ICS, provider collaboratives etc).
- The approach to document collation can be a system response (data analyst/ searches etc), a narrative document (tells a story) or an audit trail (evidencing the decision).
- Organisations need to be clear on decision making and lines of accountability (e.g. Trust / NHSE / DHSC). In many incidents the local evidence will be more about the implementation of a decision by others.
- Witness statements where required will need to be effective in terms of who, why, when, and how they are written, the format and practical hints. Legal support is advised.
- Resourcing of the Inquiry preparation needs to include consideration of time, skills and expertise. The ability to step up the team as required to provide a response.
- Document preservation and in particular 'stop notices' need to continue to be in place.
- Staff may become concerned that they will be directly involved but given scope of the inquiry this is unlikely. Need to provide reassurance to wider staff. More likely to be senior managers in terms of decisions, although frontline staff may want to share their experiences.
- Line manager and legal advice should be provided to anyone involved.
- Sensible to avoid broad comment in the media on issues the inquiry is covering (this does not include investigations or duty of candour to individuals).
- On receipt of a rule 9 request the provider will be required to undertake a rigorous search and provide disclosure (can ask for more specific request if not clear). Disclosures will require specific format, indexing etc which can be time consuming.
- The Inquiry will produce recommendations and Trust should implement these where relevant. There will be interim reports so whilst the overall report will north be for a significant period there will be learning to take on board and to implement actions locally.
- Individual Trusts should continue their own investigations, look back and learning.
- There is also an expectation that FOI and DPIA requests may increase during the Inquiry and this is something we will need to be aware of and prepared for.

4. LHCH preparedness and next steps

The preparation already undertaken by the Trust provides a good foundation.

Building on the early preparation and reflecting on the current position we are proposing to bring the Covid Inquiry Team back together to discuss the update, assess the current position, and confirm actions and deliverables. Next steps are likely to include:

Planned Action	Responsibility/ timeframe	Progress Update
1. Review the update with the Covid Inquiry Team	KWh, Oct 22	Complete
2. Review the membership of the Inquiry Team – need to consider the staff support aspect and HR input.	KWh, Oct 22	Complete – HR & OD Manager added to the Team.
3. Stop notices, document preservation and contact point reminder communications to be scheduled 3 monthly.	MB, Oct 22	Complete
4. DPO to consider implications of FOI requests related to the Inquiry.	WT, Nov 22	
5. Covid Inquiry Team to consider document control mechanisms and robustness of these, including different sources, more recent actions etc.	KWh, Dec 22	
6. Covid Inquiry Team to consider approach to Trust reflection and learning building on the 6 point plan.	KWh, Jan 23	
7. Discussion with HR to ensure staff support awareness, and comms aligned to Inquiry.	BLW, Ongoing	
8. Potential media considerations and actions to be set out and communicated.	MB, Dec 22	
9. Review Module 3 to consider potential implications and focus.	KWh, Dec 22	
10. To continue to track the Inquiry and any recommendations for local implementation.	KWh, Ongoing	
11. Further update to Board of Directors and Operational Board.	KWh, Nov 22	

5. Recommendations

The Board of Directors are asked to note the update including the continued pragmatic approach and proposed next steps.