

The coronavirus inquiry

The case for an investigation of government actions during the Covid-19 pandemic



About this report

The coronavirus crisis has been an unprecedented test of government – marked by successes and failures. The latter have given rise to widespread public concern, for which a public inquiry is the appropriate remedy. The prime minister has recognised this, and the question is not whether to have an inquiry, but when and how. This report, the first of a two-part series, makes the case for an inquiry to begin immediately, setting out what its purpose should be and outlines the key issues that the inquiry should cover. Part two will cover the practical matters of how to establish the inquiry itself.

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Summary

The UK government needs to establish a public inquiry into its handling of the coronavirus crisis so that important lessons can be learnt as soon as possible. This is the constructive way to do accountability. The prime minister should establish an inquiry in May to allow time for public discussion about its terms of reference before parliament returns from its summer recess on 6 September. This would allow the inquiry to begin its investigations in the autumn.

The UK has not experienced an isolated crisis; Covid-19 has affected every country in the world. Yet the outcomes of the pandemic have varied significantly between countries. Some have handled the situation well, containing the virus and reducing the many tolls that have come to characterise the crisis: excess deaths, economic costs, livelihoods lost, education disrupted. But others, including the UK, have fared less well. While no two countries are exactly alike (and there are clear contextual differences between the UK and a nation like New Zealand) the challenges faced were common. These different outcomes reflect to a large degree the relative performance of governments – national, regional and local. The varied outcomes all flow from differences in what decisions were taken, how and when, and the evidence that informed them.

The UK government has delivered some key successes in its pandemic response. The vaccination programme is among the most efficient of any country, and the decisive actions it took on economic support, at least early on, received widespread and justified acclaim.^{1,2,3,4,5}

Yet on many key measures the UK has done worse than many of its peers in Europe and across the developed world.⁶ Decisions made by the Johnson government have led to more deaths, more economic harm and more other costs to livelihoods than we might have seen otherwise. This and future UK governments need to learn from what happened and change as a result in preparation for future crises.

There is substantial and justified public concern about how decisions were made during the crisis, and their outcomes. This will not be the last pandemic and the government needs to fix systemic weaknesses in how it reacts to complex situations. There is much to learn and a public inquiry is the right way to do it.

Boris Johnson said in July 2020 and again in January 2021 that the UK would have a coronavirus inquiry, but that it was too early to begin. He missed opportunities last summer to learn lessons from the first wave that would have helped to better manage the second. Instead his government seemed to make the same mistakes time and again. For example, there were similar delays in the announcement of the second lockdown in September as with the first in March, with similarly grave results. 9,10

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^{*} Excess mortality is a measure of deaths relative to the average number of deaths in a comparable period over previous years. Owing to differences in how different countries record deaths and attribute causes (particularly whether or not a death was due to coronavirus), excess deaths is the best simple measure to compare the mortality burden of the pandemic between countries.

Johnson's reasoning, set out before vaccines were in widespread use and while cases and deaths were still high, was – and remains¹¹ – that a public inquiry risks creating a distraction from the urgent work of managing a crisis. This argument no longer holds. The balance has shifted, and the benefits of an inquiry process and its conclusions far outweigh the burden that it might place on government.

The government has also argued that other institutions, such as parliament, the ombudsmen and the National Audit Office (NAO), are providing sufficient scrutiny of government. This argument doesn't hold either. These bodies lack the powers and the remit to fully investigate how decisions were made during the crisis. All do good and important work, but that is no substitute for a comprehensive, considered public inquiry.¹²

The coronavirus crisis has substantially changed the UK and a period of reflection by the government is due.¹³ This must entail a close examination of the government's performance, rooted in a consideration of the pandemic's outcomes and drawing where relevant on international comparisons, along with an analysis of the major decisions made by government: what evidence informed them, how were they taken, who was responsible and how they were implemented. A confident government should have no problem committing to this.

This inquiry needs to be set up to create the conditions for lasting change. An inquiry that merely tells a story will have fulfilled only half its purpose. To be effective it needs to learn lessons, make clear recommendations and work with others, such as parliament and government departments, to see that they are implemented.

In this paper, the first of two parts, we outline why an inquiry is necessary and what its core purpose should be. We describe the key issues it should consider, both to support the case for an inquiry and help frame the discussion about its remit. More technical detail – about how the inquiry itself should operate, who will chair it, what powers it should have, how it should be structured and how it can be organised to deliver effective and lasting change – will be the subject of the next paper.

The coronavirus crisis, if not Covid-19 itself, will have a long tail. Individuals and society will have to come to terms with all that has been lost. Individuals who held public office, who were responsible for decisions, need to be held accountable. The government must learn how it can be more effective in a crisis, and some form of justice for the victims and their families is due. A public inquiry is the way to do this.

The case for an inquiry

"As I have told the House several times, I do not believe that now, in the middle of combating the pandemic as we are, is the right moment to devote huge amounts of official time to an inquiry, but of course we will seek to learn the lessons of the pandemic in the future, and certainly we will have an independent inquiry into what happened." – Boris Johnson, 15 July 2020¹⁵

"Of course we will learn the lessons, but at the height of the pandemic we would have to concentrate a huge amount of official and health sector time to an inquiry, when we need to get on with beating the virus." – Boris Johnson, 27 January 2021¹⁶

The coronavirus pandemic has precipitated a sprawling crisis that has affected the lives of every person in this country and every part of government. The government has handled some aspects of its response well: decisions on economic support and vaccines were made quickly and have proved largely effective. 17,18,19 But there is widespread concern that other aspects of the response were severely lacking. Decisions on the timing of lockdowns; on school reopening plans and exams; on the return of elderly patients from hospitals to care homes; on major public procurement programmes including those for personal protective equipment (PPE); and on test and trace have been cited as examples of decisions that were all made poorly. 20,21

At any other time, any one of these issues would justify a public inquiry in its own right. But their interconnected nature – how the closure of schools affected parents' ability to work, or how decisions about when to close the borders influenced the burden on the NHS, for example – makes them hard to separate. This makes a single, major inquiry preferable. This section outlines the case for such an inquiry.

A public inquiry is the right way to address a tragedy of this scale

Public inquiries are a key component of administrative justice in the UK.²² They are a particular form of remedy that seeks to understand what went wrong during a crisis or event, who was responsible, and what can be done to prevent the recurrence of a given failure.^{23,24} Inquiries have some well-known shortcomings.²⁵ In particular they tend to be slow, often taking years to reach conclusions; they can be overly legalistic and difficult for the public to comprehend. But they are still the most effective tool available to independently investigate failures by government, form a truthful account of what happened and learn lessons to prevent recurrence of what went wrong.²⁶

Inquiries are commonly used to investigate systemic failures of public administration, in particular ones that led directly to the loss of life. Over the past 30 years inquiries have examined issues including: hospital mismanagement, medical malpractice,**

For example: the Ashworth Special Hospital Inquiry (1997–1999), the Inquiry into Hyponatraemia-related Deaths (2004–2018), the Mid Staffordshire NHS Foundation Trust Public Inquiry (2010–2013), the Morecambe Bay Inquiry (2013–2015), and the Muckamore Abbey Hospital Inquiry (2020–present).

^{**} For example: the Shipman Inquiry (2000–2005), the Ayling and Neale Inquiries (2001–2004), the Kerr/Haslam Inquiry (2001–2005) and the Paterson Inquiry (2017–present).

disease outbreaks, deaths in custody, and specific tragedies such as Piper Alpha, the Dunblane massacre, the Hillsborough disaster, the Grenfell Tower fire and the Manchester Arena bombing. In every instance an inquiry was needed to examine issues that were beyond the scope of an inquest (a statutory investigation into deaths where the circumstances are unexplained or the state had a duty of care to the victim).

Inquiries have also been used to examine issues such as ministerial misconduct,**** institutional abuses***** and how ministers made important decisions, such as the decision to go to war.***** The response to the coronavirus pandemic has touched on many analogous issues; there are clear precedents for an inquiry.

By any measure the UK has suffered a tragedy that demands investigation

Managing the coronavirus crisis required a systemic response from every level of government: central government, the devolved administrations, local authorities, the NHS, the police and others. Decisions by all these bodies influenced the crisis response, from national lockdown regulations and PPE procurement to the management of schools, prisons and care homes. Some decisions seem to have followed an established governance process. But others seem to have been made in a more ad-hoc fashion, and – in some cases – this has caused problems.

The figures relating to the pandemic in the UK are stark. There has been significant loss of life, severe economic costs and widespread harms – including to individual livelihoods, children's education and businesses – that raise serious questions about public administration. At the time of writing, the government's official dashboard reports more than 150,000 deaths from coronavirus.******,27 This represents nearly one in 450 people across the population, with a particularly brutal toll on the elderly and disadvantaged groups.^{28,29} The Office for National Statistics (ONS) has described the impact of the two waves of the virus in 2020 as having led to "unprecedented levels of excess mortality".³⁰

^{*} For example: the BSE Inquiry (1997–2000), the Foot and Mouth Inquiry (2001–2002), the Northern Trusts Inquiry (2008–2011) and the Vale of Leven Hospital Inquiry (2009–2014).

For example: the Zahid Mubarek Inquiry (2004–2006), the Billy Wright Inquiry (2005–2010), the Baha Mousa Inquiry (2008–2011), and the Sheku Bayoh Inquiry (2019–present).

Inquests have some investigatory powers but their remit is limited to determining who a deceased person was, and how, when and where they died. They cannot investigate issues where a death has not occurred. Their ability to investigate systemic issues can typically only go so far as the coroner needs to answer the question of how or why a death occurred.

For example: the Hammond Inquiry (2001).

For example: the North Wales child abuse inquiry (1996–2000), the Historical Institutional Abuse Inquiry (2012–2017), the Scottish Child Abuse Inquiry (2014–present) and the Independent Inquiry into Child Sexual Abuse (2015–present).

^{******} For example: the Falkland Islands Review (1982–1983) and the Chilcot Inquiry (2009–2016).

on 21 April 2021: 127,307 deaths within 28 days of a positive test, 150,841 deaths with Covid-19 on the death certificate.

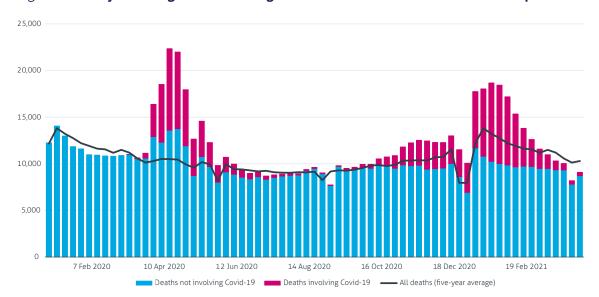


Figure 1 Weekly death registrations in England and Wales, 28 December 2019 to 9 April 2021

Source: Office for National Statistics, Deaths registered weekly in England and Wales, 20 April 2021.

Comparisons with other nations show that different outcomes were possible

While this crisis has been a global phenomenon it is not the case that what happened in the UK could have happened anywhere. In 2020, rates of cumulative excess mortality were lower, for instance, in almost every European country.*,31 The UK did not fall straight into this crisis. The government was in essence given a 'head start' on its response from news of the virus spreading rapidly in places like Italy and Spain, which could have been used to better prepare. But over the course of a few weeks in spring excess mortality rates in the UK tracked, and then overtook, Spain and Italy.

This led to a significant spike in excess deaths, given that overall rates are usually low in warmer months. (This is also why the second wave, while longer and resulting in more total deaths than the first, recorded relatively lower excess mortality rates, coming as it did in late autumn and winter.) By the end of 2020, the UK had recorded its highest number of excess deaths since the Second World War.³²

^{*} Comparability is a major issue. 'Relative cumulative age-standardised mortality rates' is a measure used by the Office for National Statistics, based on all-cause mortality statistics. This avoids issues arising from differences in how countries determine whether a death was due to coronavirus or not. It is weighted by the population size and age structure. The value is relative to the age-standardised mortality rates for the five years prior.

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Figure 2 Cumulative excess mortality in the UK relative to 30 other European nations, 2020

Source: Campbell A and Ward S, 'Comparisons of all-cause mortality between European countries and regions: 2020', 19 March 2021, Office for National Statistics.

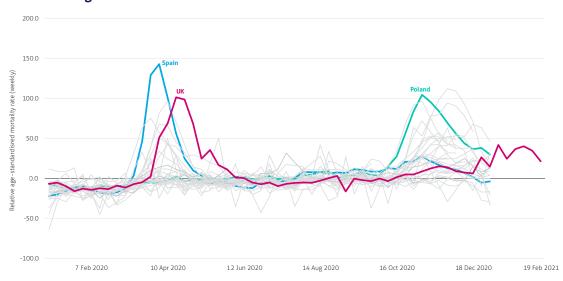


Figure 3 Weekly age-standardised mortality rate in the UK relative to 30 European nations during 2020

Source: Campbell A and Ward S, 'Comparisons of all-cause mortality between European countries and regions: 2020', 19 March 2021, Office for National Statistics.

Overall, this suggests that the UK government's pandemic response was less effective relative to those of other European countries in the first wave than the second. But the second wave was not handled well, and the UK still recorded a significant number of excess deaths that other countries avoided. The situation, as measured by deaths, arguably kept getting worse until mid-February 2021, when the effects of a long-term lockdown, coupled with the growing availability of vaccines, helped bring cases and deaths under control.

The failure to contain the spread of the virus early on (in both waves) necessitated more stringent policy interventions to bring it under control than other countries imposed. Between February 2020 and April 2021 the UK spent more days with some form of 'stay at home' order than 27 other countries in Europe.³³

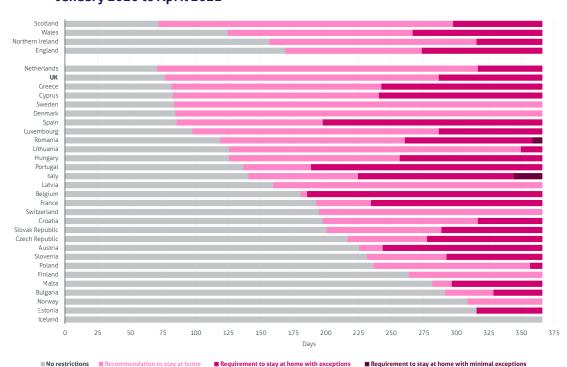


Figure 4 Cumulative days of 'stay at home' orders (or equivalent) for 30 European nations, January 2020 to April 2021

Source: Oxford COVID-19 Government Response Tracker, Blavatnik School of Government, University of Oxford.*

The economic cost of these interventions has been high; the UK has seen its GDP fall more than other countries and its economy is expected to take longer to recover. It is important to note that the way the UK measures its GDP is different to other countries, making direct comparison imperfect, and this may exaggerate differences relative to other nations.³⁴ Yet relative to its own past performance, in 2020 the UK saw the greatest fall in year-to-year GDP since 1948, when consistent records were first kept.^{35,36}

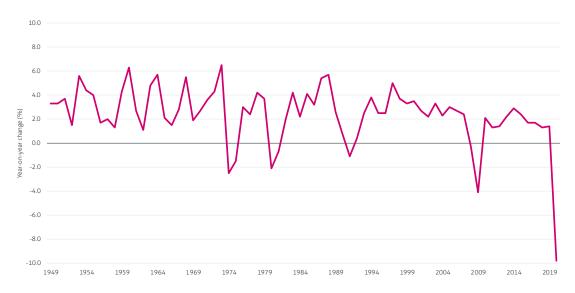


Figure 5 Year-on-year change in UK GDP, 1949–2020

Source: Meyrick R, Gross Domestic Product: Year on Year growth: CVM SA %, 31 March 2021, Office for National Statistics.

Cumulative days include days when either regional or national restrictions were in place, whichever was more strict.

It seems clear that the UK has performed as badly or worse than many other European countries on many measures – with the exception of its vaccination programme – during the crisis. And even with the noted difficulties in comparing countries' performance, these outcomes are still bad in absolute terms, and speak to poor performance by government overall.

Investigations by the NAO and others, while valuable, are no substitute for a public inquiry

There is no shortage of investigations into what has happened during the crisis. Between May 2020 and March 2021 the National Audit Office (NAO) published the outcomes of 17 separate investigations – into issues ranging from financial support for charities to the extension of free school meals.³⁷ Similarly, parliament has been actively scrutinising the government's work throughout the crisis. The House of Lords has a dedicated Covid-19 select committee, and the Public Services, Science and Technology, Economic Affairs, and Constitution committees have all run specific inquiries into aspects of the coronavirus crisis.^{38,39,40,41} In the House of Commons at least 20 committees have run or are running 49 separate, targeted inquiries.

The government has argued that these other investigations serve the same end as a public inquiry, but this is wrong. While the work done by the NAO and others is of high quality – and will likely have bearing on how a public inquiry runs – it is no substitute. Work is not joined up, and the various bodies cited are limited variously by powers, remits and resources.

The government has a specific legal duty to investigate certain Covid deaths

Article 2 of the European Convention on Human Rights creates a duty for the government to investigate the systemic actions (or inaction) that resulted in deaths where it had a duty of care.⁴² In the context of coronavirus this includes its employees, such as doctors and nurses, who may have died because of inadequate safeguards, including unavailability of PPE. The government has already faced at least one court challenge on this basis.⁴³ This argument could also extend to other deaths, such as care home residents and workers, and people in custody. This legal duty is separate from the general moral duty to establish an inquiry but no less important.

Only the promised independent inquiry can deliver accountability

The government cannot investigate issues of this scale and seriousness through an internal review process alone. It should do that – and the process of internal reflection should begin as soon as possible. But only a public inquiry will have the independence to ensure public trust and confidence.

Public confidence in the UK government fell over the course of the outbreak. The share of the public thinking that the government has handled the coronavirus outbreak "very well" or "fairly well" was 60% in early May 2020, falling to 43% in July, and 39% in November. Public opinion of the government's handling of the crisis has improved recently, bolstered by a successful vaccine roll-out. But a majority still think that the

^{*} Polls of devolved nations show higher levels of support for and confidence in their governments on coronavirus

government's approach is either "somewhat" or "very" bad and has done so since the end of May last year. 45 Polling also suggests broad public support for an inquiry into coronavirus. 46,47

Boris Johnson has promised an inquiry – albeit in vague terms. He should now honour that promise and establish an inquiry without delay. Other leaders are making similar promises in advance of the upcoming local and devolved elections. In Scotland, the SNP, Greens and Liberal Democrats have all pledged to convene a public inquiry into how the pandemic was handled in Scotland; the Scottish Conservatives have promised a more limited inquiry into the management of care homes during the pandemic. 48,49,50,51 Similarly, Plaid Cymru and Welsh Conservatives have proposed a public inquiry to investigate the Welsh pandemic response and learn lessons. 52,53

Trust is essential here. The public needs to trust that the government will accept a truly independent investigation. Poor transparency and an avoidance of scrutiny were hallmarks of the Johnson government during much of 2020, though it has improved more recently. 54,55,56 A reluctance to call an inquiry now would be a step backwards.

Figure 6 UK public responses to the question "How well or badly do you think the Government are handling the issue of coronavirus?", May 2020 to April 2021

Source: Imperial College London and YouGov, Covid 19 Behaviour Tracker Data Hub, 31 March 2020, https://github,com/YouGov-Data/covid-19-tracker

Lessons must be learned – and the sooner, the better

There have been opportunities to learn lessons throughout the crisis.^{57,58,59,60} But the government has missed many of them.⁶¹ Now, as the UK recovers from its second wave, the prime minister can no longer claim that what the country needs is more delay.⁶² It is time for the government to commit itself to the hard work of learning lessons.⁶³

There is a risk that the UK may experience a third wave. Cases continue to surge in other countries and new variants of the virus are emerging. 64,65,66 And even if the UK manages to avoid a major third wave the effects of the pandemic elsewhere will continue to affect the UK. 67 This is not a cause to postpone the inquiry further; if anything it is the opposite. The experience of suffering two waves within 12 months reinforces the importance of learning lessons for the future. Particularly if, as many expect, coronavirus becomes a major endemic disease like influenza (seasonal flu). 68,69

The purpose of the inquiry

Every public inquiry must answer three questions: what happened, who was responsible, and how can such an eventuality be prevented from happening again. It is not for inquiries to place blame, nor should they try to apply perfect hindsight about what should or could have been done. But they should judge how decisions were made and the actions that followed in light of what was known at the time.

Inquiries involve a meticulous fact-finding process to establish a truthful narrative against which the decisions and actions of individuals can be measured. The inquiry itself needs to do some of the measuring. It will exist both to provide an account and make judgments; it is from these that its recommendations will be formed. But judgment will come from outside of its pages too. Ultimately, decision makers will be held accountable when the public measures their actions in light of the evidence presented by the inquiry.

The coronavirus inquiry will be no different, but keeping it focused on its core purpose will be a challenge. The length of this crisis, and its all-encompassing nature, have given rise to many concerns. There will be pressure from the public and politicians for the scope of the inquiry to be broad, to investigate every issue.

All of this creates a weight of expectation (not to mention a volume of work) that will likely crush an inquiry, prolong its investigations and delay its report, possibly for years. The inquiry must be clear from the start that it will not be able to answer *every* question – indeed, it is unlikely to explicitly answer *most* questions.

One of the early challenges for the chair will be identifying the threshold for their investigations as they reach an agreement on the terms of reference for the inquiry. Anchoring it around big decisions makes sense. But it also needs to examine operational decisions taken at levels below the cabinet and No.10 that also had a major impact on the outcomes of the crisis.

The inquiry needs to focus first on establishing the exact state of knowledge of ministers and officials when significant decisions were made. Only then can it fairly consider the reasonableness of those decisions and make recommendations about how the government needs to change as a result.

This inquiry should be similar to previous ones that have considered decision making at the highest level of government. For example, the Chilcot Inquiry into the Iraq War used terms of reference instructing it to consider "the way decisions were made and actions taken, to establish as accurately and reliably as possible what happened, and to identify the lessons that can be learned".⁷¹ When he opened the inquiry Sir John Chilcot emphasised this, stating: "If we find that mistakes were made, that there were issues which could have been dealt with better, we will say so frankly." The coronavirus inquiry needs to find a similar purpose.

The inquiry should investigate what was known and what was done as a result

This crisis has been defined by two evolving narratives that describe what happened and who is responsible. One is about what was known, and is centred on scientific findings, news reports, policy papers, minutes from meetings, secret intelligence, economic analyses and more – including, importantly, the experience of individuals including NHS and care home staff. International context is instructive, too. While the situation in China at the start of 2020 may have seemed remote, by early March the situation in Italy offered a clear warning of the effects of coronavirus on a western European country that the government should have heeded. The decisions made by other leaders, and the news about what was going on abroad, were key to what was known by UK ministers and officials at the time.

The other narrative is about what was done as a result. These are the specific choices made by individuals and groups within government to take certain actions, or to delay others. How these decisions were made and who was responsible; and the influences that weighed on them. These include public and political sentiments, arguments made in the opinion pages, and direct lobbying of those involved both publicly and privately. It is the quality of these decisions, arguably above any other factor, that is reflected in the outcomes the UK has experienced.

Attached to this is the question about the decisions not taken. The alternatives that were proposed and rejected, or never even considered in the first place. While avoiding speculative reasoning and making value judgments, any coronavirus inquiry needs to dig into the question of the choices presented and not taken, and take views on whether the decisions to do so were the right ones.

The public has a right to know exactly what information the prime minister had seen when he weighed the decision to take the country into a lockdown – both times. The same applies to the chancellor when drawing up schemes that had a direct effect on the public's behaviour, like Eat Out to Help Out. Or what informed the decision to order hospitals to return residents to care homes, and who it was who took that decision. The inquiry needs to establish a shared set of facts so that we can then consider the lessons to be learnt that will change government for the better and ensure that there is meaningful accountability for what happened during the crisis.

The inquiry as a locus for collective grief

It is hard to overstate the scale of loss that this crisis has brought to the UK.⁷³ More than 150,000 people have died, leaving millions of friends and family grieving their loss.^{74,75} People have seen their livelihoods vanish, their businesses ruined and plans forestalled. Children have collectively lost years of education and development; inequities among the UK population have worsened.^{76,77} There has been a nationwide mental health crisis,^{78,79} and a secondary health crisis of undiagnosed and untreated illnesses predicted to follow as the cost of postponing many elective treatments comes due.⁸⁰ It may never be possible to appreciate the full economic cost of what has happened.

For now the ongoing nature of the crisis has forestalled any proper investigation. That is understandable. But when it begins, the coronavirus inquiry will become a focus for much of the country's pain. This attention vests a certain degree of moral authority in the chair. With every inquiry there is an expectation, or at least a hope, that the process of establishing the truth of what happened will provide some catharsis. This was one of the major contributions of the Hillsborough Independent Panel – its exposition was the main vehicle for helping victims and families come to terms with the tragedy.

The inquiry cannot be a tool of retribution. Like every public inquiry it needs to take lengths to avoid creating an atmosphere of blame and its critique of decision makers must be entirely fair and evidence-based. To do otherwise risks compromising its independence and undermining its work. But this inquiry will have to find ways to serve the needs of the victims and their grief just as other inquiries have before.*

^{*} Recent inquiries have made dedicated efforts to commemorate victims. The Grenfell Tower Inquiry opened with three days of commemoration hearings, the Manchester Arena Inquiry had a week's worth. The Infected Blood Inquiry opened its public hearings with a special day of commemoration, and has incorporated other forms of remembrance – such as a collaborative memorial – into its work.

The scope of the inquiry

The coronavirus crisis has involved many issues that, at any other time, would justify an entire public inquiry in their own right. Here, a joined-up, overarching inquiry is the correct approach – though investigating each constituent issue fully would be a monumental endeavour and potentially impossible to do in any practical timeframe. To avoid either returning a too-brief, inadequate review and one the results of which are not learnt for years, the inquiry will require a well-defined scope. It should not attempt to reconstruct events beyond this and it should focus on the process used to inform and make decisions and whether it was effective.

The inquiry must find the right lens through which to judge government performance during the crisis

To understand how and why decisions were made the inquiry will need to contextualise the outcomes that followed them. It will need to consider the relative value of different measures of success – or failure – to develop and articulate a case for how the country should interpret what happened. The government's performance will be judged by the outcomes (deaths, certainly, but other factors also) the UK experienced. But to do this there needs to be some agreement about how to measure the relative costs and benefits of both decisions and outcomes, and an understanding of how these costs and benefits were weighed within government.

The death total is of course the starkest measure of the government's performance, and one that needs to be treated with the most care. But there is no way to understand key moments, such as the prime minister's hesitance to impose the first and second lockdowns, without understanding how different outcomes were weighed in the minds of ministers and officials. Were lives worth more than jobs? The economy more than children's education? The old more than the young?

Economic data provides a quantitative comparison point. The costs to the economy are clear: there was a historically large decline in GDP and historically large rise in unemployment. Economic measures are a metric that is familiar and well-understood within government. They have been (and likely will remain) the basis ministers and officials use to think about how government operates. Value for money is one of the key yardsticks that the governments uses to measure its own policies. The inquiry will need to consider the extent to which economic thinking shaped the way decisions were made and implemented, and the outcomes that resulted.

But there are many other more qualitative measures of the government's work. These are harder to assess but no less important. There is no way to directly measure the impacts of gaps in policies, their rapid churn and the confusion this caused.⁸¹ It is hard to assign a value to behaviours that – from the outside – often seem erratic or inconsistent.⁸² It will fall to the inquiry to parse these details: it will have to find the right way to evaluate whether these signs describe an agile government constantly adapting, or an unfocused, defensive administration overwhelmed by choices and demands, constantly shifting to fight fires.

The inquiry must strike a balance between breadth and timeliness

An inquiry that overreaches can lose the confidence of both ministers and the public, while one that is too broad will never deliver answers in a reasonable amount of time. Defining what is out of scope will be just as important as defining what is in: a focus on decision making will enable the inquiry to present the public with a set of facts about the most central and critical aspects of how the crisis was managed.

Preventing 'scope creep' is also essential for an inquiry to deliver on time. Previous inquiries have overrun for many reasons and some delays are unavoidable. But one that can be avoided is having terms of reference that are either so broad, or so loosely drafted, that they invite over-interpretation – as was famously the case with the Bloody Sunday Inquiry, which took 12 years to report.⁸³

The decision as to what to include and what to leave out is an important national conversation that the prime minister needs to initiate by establishing the inquiry. Setting out the choices involved in defining the scope of the inquiry is an important part of this and will not be quick or easy – one more reason to begin now.

There are two broad ways in which the inquiry could structure its investigations. One would be to look at all decisions sequentially, starting with what was known in advance of the crisis, and then looking at how information flowed and influenced decisions in real time. This is similar to how the Grenfell inquiry has approached its investigation – albeit over a much shorter timeframe.

The other is to structure the inquiry around discrete issue areas. This would make it easier to draw a tighter scope, as specific issues can be included or excluded by the terms of reference. However, it is potentially more difficult to organise, and so arguably less suited to the all-encompassing nature of the coronavirus crisis, as many of these issues are not independent of one another and cannot be easily disaggregated into neat, separate investigations.

The inquiry's approach to UK-wide and devolved issues

The inquiry's potential scope includes many areas that fall under devolved competence. In particular: matters relating to health and care; the scale, scope, timing and enforcement of lockdowns; and decisions about schools.

However, establishing a single inquiry that could investigate all four governments equally would be difficult – legally, logistically and politically. Instead, the UK government should take a lead and establish an inquiry that examines its own actions and the outcomes that followed. This should consider:

- Everything that happened in England, and all decisions taken at a UK-wide level
- All the decisions that were made jointly between the four administrations, such as the first lockdown, and issues delegated back to Whitehall, such as vaccine procurement
- The process of collective decision making, its decline, and how this relates to the outcomes of the crisis.

Similar inquiries are expected to be announced in Scotland and Wales following the devolved elections on 6 May. Ideally these should be structured similarly to the UK-wide inquiry, albeit with narrower scopes that encompass the extent of decision making only by devolved administrations. While waiting till after the election rush is sensible for those governments, there is no reason for the UK government to postpone its inquiry any further.

There are important questions here about the relative benefits of close co-ordination and individual approaches to decision making during a crisis. The response to coronavirus across the UK has involved a mixture of decisions: some taken at the central government level, some at the devolved or local level, and some taken jointly. The way decisions were implemented often blended competencies and responsibilities. The inquiry needs to reflect this; it is conceivable that the way decisions were taken at different levels affected overall outcomes at the national level, and differences in outcomes between the four nations.

In the early phase of the crisis, most decisions were taken jointly between the UK government and the devolved administrations. This was a 'four-nations approach' that used both existing frameworks such as COBRA* and new ones such as the ministerial implementation groups (MIGs).84

However, from May 2020 collective decision making began to fray and the approaches taken by the four governments began to diverge. 85,86 In mid-September, as cases started surging across the UK again, the Scottish first minister, Nicola Sturgeon, told the press: "I can't remember the last time Boris spoke to me." The same month the London mayor, Sadiq Khan, said that he had not spoken with the prime minister in four months. At this point there were limited institutional frameworks to sustain and promote joint decision making. While there was some good ongoing collaboration in areas like science advice, ministers in each government were mostly taking decisions independently.

The devolved administrations agreed to have the UK government act on their behalf in some areas of devolved competence. Procurement of PPE and vaccines are two prominent examples of this, and the UK government has also provided many operational aspects of community testing: around 65% of coronavirus testing carried out in Scotland up to January 2021 was funded and delivered by the UK government.⁹⁰

While broader international comparisons are tricky to make, comparisons between the four nations of the UK are more feasible and should be within the scope of the inquiry. The inquiry should be fully prepared to investigate whether, and to what extent, the divergence in approaches between the four nations helped or hindered the crisis response. The lessons to be learnt here have the potential to go beyond how the government responds to crisis and could inform the future arrangement of the union.

^{*} COBRA (or COBR) is shorthand for Cabinet Office Briefing Room A, the meeting place for the Civil Contingencies Committee, convened to handle matters of national emergency or major disruption.

Aspects of the government response within scope for investigation *Preparedness*

How prepared the UK was for a pandemic such as coronavirus will be a significant issue. There have been plans for major emergencies and crises for decades, including the passage of the Civil Contingencies Act 2004, the publication of the UK's Influenza Pandemic Preparedness Strategy in 2011, and Exercise Cygnus in 2016.⁹¹ The inquiry should consider how useful these were, both in terms of how far the information they provided influenced decisions or was ignored, and what practical benefits (if any) did the processes and structures that were already in place in anticipation of this type of crisis provide.

Covid-19 was not an unforeseeable risk.⁹² The 2015 Strategic Defence and Security Review listed pandemic infleunza, other respiratory diseases and emerging infectious diseases as a top threat to the UK.⁹³ Other countries, particularly those in south-east Asia, had identified lessons from their experiences with Sars and Mers.^{94,95}

Public inquiries and inquests have frequently identified costly failures that occurred because lessons were not learnt.⁹⁶ We have seen this most recently with the Grenfell inquiry, which highlighted how London Fire Brigade's response repeated mistakes that had been made in its response to the 2009 Lakanal House fire.⁹⁷

It is plausible that the government made similar preventable mistakes during its response to coronavirus. The inquiry should investigate this and indeed may need to so that it can understand how some decisions were taken, especially early in the crisis.

Procurement

Buying essential equipment and services has been a key aspect of the government's response to coronavirus. The crisis created novel demands for some things, such as vaccines, and has dramatically reshaped demand for others, such as PPE. The government has intervened heavily, using its powers to procure a wide range of goods and services, and suspending its normal requirements for competitive tenders. Only 1% of coronavirus-related contracts have come through competitive awards. 98

There have been widespread and vocal concerns about the use of public money, even extending to charges of cronyism due to the lack of transparency around contracts, some of which were awarded to personal contacts of prominent ministers. ^{99,100} As recently as April 2021 the prime minister himself has faced calls to publish private text messages in which he promised to "fix" tax issues for Singapore-based company Dyson. ¹⁰¹ Details have often been published late (if at all) and the public record of how decisions were made and suppliers referred to the 'VIP lane' is largely incomplete. ¹⁰² There has also been strong criticism of the UK government's use of consultants during the crisis, and the amount of money spent on them. ^{103,104} This has been a long-standing issue for government. ¹⁰⁵

Lockdowns

National 'stay at home' measures were a novel, costly, increasingly contentious but evidently effective response to the pandemic. 106,107,108 The UK, like many countries, resorted to lockdowns to control the spread of coronavirus. 109 From late March 2020 all four nations observed lockdowns. Over the course of the crisis the timing and extent of lockdowns in different nations has increasingly diverged. There have been subsequent national lockdowns, 'circuit breakers' and targeted 'local lockdowns'. The decision to implement a lockdown is a major one, and the powers to do so novel – granted by various new statutes passed in response to the crisis. 110 Similarly the decision of when and how to exit a lockdown is consequential. 111,112 The way that the UK government, and the prime minister in particular, have made decisions about when and where to lock down remains an issue of interest. 113,114,115

There are pertinent questions here that an inquiry can answer. Given that after the fact it is difficult to fully evaluate the costs and benefits of lockdowns, judging the government's approach in the moment is hard. There was a lot of public pressure on decision makers both for and against lockdowns. But the weight that decision makers – particularly the prime minister – gave to different arguments is unclear. An inquiry is the only institutional mechanism that can seek to understand how much scientific, economic and political arguments (such as direct lobbying of the prime minister by members of his own party and others) influenced the timing and extent of these major decisions.

There are similar questions around how the government made specific decisions over the summer and autumn of 2020 regarding targeted, local lockdowns – done in the hope of avoiding a second national lockdown. The 'tier system' was an iteration of a churning policy process, and one that was doomed to struggle without an effective testing and contact-tracing regime. The application of the tiers, and the associated levels of economic support, were widely perceived to be somewhat arbitrary and unfair. 120,121

Once instituted, the exact specifications of lockdowns were in a steady state of flux, with rules changing on average once every four and a half days. Whether this speaks to the responsiveness of government in a complex situation, or its indecision and inability to design effective policies, or possibly a bit of both, is another type of question that an inquiry would hopefully address.

Hospitals and care homes

Both were a focal point during the crisis, which created an unprecedented burden for the NHS, and the wider health and care sector. Decisions relating to health care have been among the most critical and consequential during this crisis. These include: discharging patients from hospitals to care homes without knowing who among them had coronavirus; shifting many services to remote delivery via telephone or online; and cancelling all elective surgeries. There have been concerns about the lack of testing capacity for health care workers — and, relatedly, the disproportionately high death rates among NHS staff from minority-ethnic backgrounds both in the acute phase of the crisis and longer term.

Schools

The provision of education to children was another major challenge during the crisis. The UK government took the decision early on to close schools for most pupils. Similar decisions were made by the devolved administrations. Most students have spent some or all of the past year receiving remote tuition (in theory). The government set up programmes to procure and distribute equipment to help disadvantaged children continue their education. It also opted to cancel exams. The government has faced criticism for its approach and the time it took to provide support to children forced out of schools and to their families. Affected children have lost years' worth of education, and the decision to limit school access has had knock-on effects across the economy. 129 also widening attainment gaps and inequalities.

Economic support

Government assistance to the economy was broadly seen as a success during the crisis. The government acted swiftly to provide financial help to people and businesses early on in the crisis. These decisions were necessary to provide the assistance that individuals and businesses needed to survive as whole industries went into hibernation overnight. They were also seen as key to sustaining the economy more generally.

However, the extent to which economic information and decision making influenced other choices made by ministers and officials is not known. There are also important questions around the true costs and benefits of the government's headline Eat Out to Help Out programme.¹³² There is conflicting evidence about whether the (expensive) scheme drove a rise in cases, and whether it provided any long-term economic benefits.^{133,134}

Government communications

Devising and delivering messages, both internally and externally, was a key component of the response and evolved over the course of the crisis. The government has exerted a substantial amount of influence over public understanding of coronavirus, though repeatedly struggled with mixed messaging. Government advice regarding the threat posed by the virus, the steps that individuals could take to manage it, and the expectations and restrictions that were being imposed on society have been the central part of the discourse for over a year now. The shifting nature of some messaging – such as on the relative importance of hand washing and masks – reflects the evolving nature of information and decision making inside government and could be a subject of investigation.

Other areas

There are many other issues and areas an inquiry might address. These include decisions about how to designate and support key workers, the management of prisons and other state institutions, the processes used within government to share and prioritise information, decisions about when and how to restrict international travel, and the countries to which these restrictions applied.

The way the government has developed, drafted and passed coronavirus legislation has deviated far from historical norms and raised widespread concerns. This process has resulted in an unprecedented amount of power transferred to the executive. The House of Lords Delegated Powers and Regulatory Reform Committee noted how "the main coronavirus regulations have restricted civil liberty in a way that no other legislation has done in peacetime. They were made in considerable haste and during a parliamentary recess, and yet were still subject to the 'made affirmative' procedure." 135

All these issues should be under consideration with respect to the ultimate scope of the inquiry.

What to leave out

There are some things that the inquiry cannot or should not cover. For various reasons – political, legal and practical – it is not the place for this UK government inquiry to examine the decisions made by the devolved administrations. While this inquiry will probe deep into devolved matters it should go no further than the areas that UK government ministers and officials acted in. Similarly, the inquiry cannot look too hard at matters beyond the UK's borders. It will need to consider the international context to understand what was known in government about the actions that other governments were taking (as covered at the start of this paper) and the risks they faced. But it should remain context not comparison; covering events in other countries will do little to help account for what happened here.

The government also chose to continue with the end of the Brexit transition period on the pre-pandemic timeline, the UK formally leaving the EU on 31 December, in the middle of the second wave. The inquiry could consider the extent to which this created a distraction within Whitehall or otherwise hampered the coronavirus response. But it would do well to go no further than this. Trying to assess whether Brexit itself made the pandemic worse would be an unhelpful avenue of investigation for the inquiry.

Conclusion

Mounting a response to coronavirus has been an enormous challenge for the UK government. More than 150,000 people have died during the pandemic. The economy is in recession, unemployment and national debt have soared. Few lives have been left untouched – and there are myriad costs to the livelihoods of adults, and educational costs to children, across the UK. While other countries have similarly struggled, there is a genuine concern that the UK has come out far worse than it might otherwise have. The public, politicians and the media rightly want to know why.

To answer this the government should, as we have argued throughout this paper, establish a public inquiry now; it should open on parliament's return from recess on 6 September. Setting up the inquiry will take time and the sooner it can complete its preparatory work and begin its investigations in earnest the better. An inquiry has been promised by the prime minister. He needs to deliver.

CONCLUSION 24

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