

# OPUS2

Scottish Covid-19 Inquiry

Day 1PH2

September 19, 2024

Opus 2 - Official Court Reporters

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1 Thursday, 19 September 2024  
 2 (9.59 am)  
 3 THE CHAIR: Good morning, everyone. Thank you for coming to  
 4 today's preliminary hearing. The purpose of the hearing  
 5 is to explain how the Scottish COVID-19 Inquiry will  
 6 conduct its public impact hearings for two of its four  
 7 main portfolios. These are Portfolio 4, which covers  
 8 education and certification, and Portfolio 2, which  
 9 covers business and welfare.  
 10 These two impact hearings will run consecutively and  
 11 are scheduled to begin the week of 4 November and to  
 12 finish by 20 December. We will begin these hearings by  
 13 looking at the public impacts on education and  
 14 certification, and then move onto business and welfare.  
 15 I am grateful to all the Inquiry teams for helping  
 16 to prepare for today and for our hearings in six weeks'  
 17 time. We will shortly hear from the Inquiry's Co-lead  
 18 Counsel, Laura-Anne van der Westhuizen KC, who will  
 19 explain in more detail how she intends to present the  
 20 evidence gathered so far in respect of these two  
 21 portfolios.  
 22 I am also grateful to all the individuals and  
 23 organisations who have helped the Inquiry's  
 24 investigations. I realise that for some, this has  
 25 involved recalling and sharing painful experiences. So,

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1 I would like to thank those individuals for their  
 2 courage and honesty.  
 3 Before we turn to Ms van der Westhuizen's  
 4 presentation, I would like to explain how the Inquiry  
 5 goes about gathering evidence and information. Hearing  
 6 oral testimony from witnesses during a public hearing is  
 7 one method, but there are many others. The Inquiry  
 8 continues to gather information from witness statements;  
 9 from those individuals and organisations who are  
 10 formally asked to respond to the Inquiry under our  
 11 Rule 8 and Section 21 notices; from academic and expert  
 12 research; from round table discussions with third sector  
 13 organisations; and from those contributors who have  
 14 responded to, or engaged with, the Inquiry's public  
 15 participation project — Let's Be Heard. The oral  
 16 testimonies we will hear in the autumn are therefore  
 17 only a small part of all the information gathered by  
 18 this Inquiry. It is simply not possible in the time we  
 19 have available to hear from everyone who may wish to  
 20 give an oral statement at a public hearing. But I would  
 21 like to reassure you that all sources of information,  
 22 including written statements, continue to be read and  
 23 analysed.  
 24 On 26 August, I made a direction that I will not  
 25 invite opening statements from core participants with

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1 Leave to Appear for these impact hearings. This  
 2 direction is available on the Inquiry website. Ms van  
 3 der Westhuizen KC intends to make opening statements at  
 4 the start of the respective impact hearings in November.  
 5 I will issue a separate direction in respect of closing  
 6 submissions.  
 7 Core participants have been given the opportunity to  
 8 submit questions in advance. Any representative of core  
 9 participants in the hearing suite today who wishes to  
 10 ask a question, will be asked to come to the stand for  
 11 recording purposes, once we have finished hearing from  
 12 Ms van der Westhuizen KC. These questions must be  
 13 restricted to matters that relate to the impact hearings  
 14 on education and certification is business and welfare.  
 15 If more detailed responses are needed, I will provide  
 16 written response to core participants by 23 September.  
 17 I would also like to remind individuals that public  
 18 inquiries do not decide civil or criminal liability.  
 19 They do not award compensation. The responsibility for  
 20 that lies with courts and tribunals. Instead, inquiries  
 21 investigate the matters entrusted to them by government.  
 22 This Inquiry has been asked to establish the facts, and  
 23 lessons learned, from the devolved strategic response to  
 24 the pandemic in Scotland.  
 25 Finally, please note that all the Inquiry's

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1 hearings, including today's session, are live streamed  
 2 on our YouTube channel, where you can also find  
 3 recordings of our previous hearings. You can also find  
 4 further details of the Inquiry's work on our website.  
 5 I would now like to ask Ms van der Westhuizen KC to  
 6 explain how she intends to present the evidence gathered  
 7 so far for your autumn hearings.  
 8 Thank you all.  
 9 Ms van der Westhuizen.  
 10 Presentation by MS VAN DER WESTHUIZEN  
 11 MS VAN DER WESTHUIZEN: Thank you, my Lord. I appear today  
 12 with my learned friends David Turner, advocate, Mary  
 13 Ellen Stewart, advocate, and Chris Stephen, advocate,  
 14 who will be assisting me in preparing and presenting  
 15 evidence at the upcoming impact hearings. We are also  
 16 joined this morning by a number of legal representatives  
 17 for core participants who have been granted leave to  
 18 appear at either or both the sets of hearings. I don't  
 19 propose to introduce them all individually today, but  
 20 will endeavour to do so at the start of the substantive  
 21 hearings. What I will do however, my Lord, is list the  
 22 core participants who have been granted leave to appear  
 23 at the hearings at the relevant points in my  
 24 presentation.  
 25 As your Lordship has noted, the purpose of today's

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1 hearing is to explain how the Inquiry will conduct its  
 2 public hearings for two of its four main investigative  
 3 portfolios and also to explain more generally how the  
 4 relevant impact evidence will be presented.  
 5 The impact hearings relevant to Portfolio 4, which  
 6 covers the Inquiry's terms of reference K relating to  
 7 the delivery of education and certification, are due to  
 8 start in the week 4 November 2024 and those relevant to  
 9 Portfolio 2, which covers the Inquiry's term of  
 10 reference 2L and J relating to business and welfare  
 11 support, are due to start in the week commencing  
 12 2 December 2024.  
 13 Although there will be two separate sets of  
 14 hearings, impact hearings, it was decided to hold one  
 15 preliminary hearing today, given that a broadly similar  
 16 approach has been taken in relation to both.  
 17 In setting out how I propose to present the relevant  
 18 impact evidence, I will, first, set out for context some  
 19 brief general observations relating to the background to  
 20 the Inquiry and its approach to impact evidence.  
 21 Secondly, to address matters relevant to the  
 22 investigation and presentation of impact evidence  
 23 relating to the delivery of education and certification  
 24 and the first set of impact hearings. Thirdly, to  
 25 address matters relevant to the investigation and

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1 presentation of impact evidence relating to business and  
 2 welfare support and the second set of impact hearings.  
 3 And finally, to address a few procedural matters of  
 4 general relevance.  
 5 If I might turn, first, my Lord, to the Inquiry's  
 6 background and general approach, I propose to refer  
 7 briefly to relevant parts of the Inquiry's terms of  
 8 reference, the Inquiry's general approach to impact  
 9 hearings and the role of the Inquiry's public  
 10 participation project, Let's Be Heard. This, as I said,  
 11 my Lord, is to provide context for understanding the  
 12 approach being taken to the presentation of evidence in  
 13 relation to the upcoming impact hearings.  
 14 In relation to the Inquiry's terms of reference, the  
 15 aim of the Inquiry is set out in paragraph 1 of "The  
 16 Terms of Reference" and is to establish the facts of and  
 17 to learn lessons from the strategic response of the  
 18 COVID-19 pandemic in Scotland. Its scope is set out in  
 19 paragraph 2, which is to investigate the strategic  
 20 elements of the handling of the pandemic relating to 12  
 21 areas, three of which are relevant to the upcoming  
 22 impact hearings.  
 23 The Inquiry can only report on devolved matters.  
 24 With the exception of pandemic planning, the  
 25 Inquiry's investigation are required to cover the period

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1 between 1 January 2020 and 31 December 2022. It must,  
 2 however, be recognised that some of the impacts of  
 3 decisions to lockdown and apply other restrictions  
 4 continue to reverberate and to be felt to this day.  
 5 Paragraph 5 of the Inquiry's terms of reference  
 6 require the Inquiry to demonstrate how a human-rights  
 7 based approach has contributed to its findings and  
 8 recommendations and paragraph 7 requires your Lordship,  
 9 where your Lordship deems it appropriate and necessary,  
 10 to consider the impacts of the strategic elements of the  
 11 handling of the pandemic, including unequal impacts on  
 12 people.  
 13 As regards the approach to impact hearings, the  
 14 Inquiry has adopted a thematic approach to its impact  
 15 hearings and is considering evidence about the impacts  
 16 of the strategic response in Scotland under a number of  
 17 themes. The Inquiry has already held impact hearings  
 18 relating to health and social care, during which it  
 19 heard evidence from many individuals as well as  
 20 organisations. The approach of starting the  
 21 investigations and public hearings by focusing on the  
 22 impacts of the COVID-19 pandemic and the strategic  
 23 response is consistent with your Lordship's commitment  
 24 to the Inquiry taking a person-centred human-rights  
 25 based approach. This also allows a better understanding

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1 of the nature and extent of those impacts and where and  
 2 by whom they were most deeply felt, which in turn  
 3 enables the Inquiry to direct its ongoing investigations  
 4 in relation to implementation and decision-making in a  
 5 more focused way.  
 6 With regards to impacts relating to the delivery of  
 7 education and certification and to business and welfare  
 8 support, the Portfolio 4 and 2 teams have engaged  
 9 predominantly, although not exclusively, with  
 10 organisations. This approach will be reflected at the  
 11 upcoming hearings and which will be hearing evidence  
 12 from organisations, rather than from individuals. One  
 13 of the main reasons for adopting this approach, my Lord,  
 14 is because the relevant impacts that we'll be hearing  
 15 about are ones that were felt particularly widely across  
 16 society and affected whole sectors and communities,  
 17 rather than particular groups. Organisations are likely  
 18 to have a greater breadth of information about an  
 19 insight into the extent of those impacts than  
 20 individuals would. Organisations are also able to  
 21 reflect the collective views of their members and the  
 22 experiences of those they serve and to provide a more  
 23 comprehensive overview of the relevant impacts and  
 24 issues.  
 25 That's not to say, my Lord, that the Inquiry is not

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1 interested in hearing about personal experiences of  
 2 those impacts. On the contrary, the Inquiry's public  
 3 participation project, Let's Be Heard, was set up  
 4 specifically to give everyone affected by the strategic  
 5 response to the COVID-19 pandemic in Scotland the chance  
 6 to share their experiences directly with the Inquiry.  
 7 The Let's Be Heard team is part of the Inquiry's team  
 8 and its team members work closely with colleagues and  
 9 the legal team in relation to engagement with  
 10 organisations and individuals. Let's Be Heard has the  
 11 capacity to gather and collect accounts of personal  
 12 experiences on a scale that the Inquiry would simply not  
 13 be able to accommodate through traditional means, such  
 14 as witness statements, requests for evidence under  
 15 Rule 8 of The Inquiries (Scotland) Rules or at hearings.  
 16 By way of illustration, my Lord, during its national  
 17 engagement period, which ran for seven months between  
 18 May and December 2023, Let's Be Heard gathered  
 19 experiences from more than 5,400 people from every local  
 20 authority in Scotland who were able to share their views  
 21 with the Inquiry in a variety of ways. Let's Be Heard  
 22 has also published a preliminary report on the early  
 23 findings and that was done in November 2023. During  
 24 2024, Let's Be Heard is continuing to analyse people's  
 25 experiences. It's also adopting a more targeted

1 approach through its focused engagement period, during  
 2 which it is working with organisations to hear from  
 3 specific groups about particular themes and this is  
 4 being done through a range of activities, such as  
 5 surveys, focus groups and workshops. It will be  
 6 publishing a series of reports based on key findings  
 7 which will support the Inquiry's ongoing investigations  
 8 and will inform its reports and recommendations.  
 9 It is important, my Lord, to emphasise that Let's Be  
 10 Heard continues to be the primary route through which  
 11 individuals can engage directly with the Inquiry about  
 12 their personal experiences.  
 13 My Lord, I'll now turn to address matters relevant  
 14 to the investigation and presentation of impact evidence  
 15 relating to the delivery of education, certification and  
 16 the first set of upcoming impact hearings. These  
 17 matters will include the scope of Portfolio 4, core  
 18 participants with leave to appear at the impact  
 19 hearings, engagement undertaken by the Portfolio 4 team  
 20 and the evidence gathered so far, the approach to be  
 21 taken to the presentation of evidence at the impact  
 22 hearings, engagement undertaken by Let's Be Heard  
 23 relevant specifically to the delivery of education and  
 24 certification, and the proposed review of evidence not  
 25 referred to at the impact hearings.

1 In terms of its scope, the Inquiry's investigative  
 2 Portfolio 4 covers term of reference 2K, which requires  
 3 the Inquiry to investigate the strategic handling of  
 4 pandemic relating specifically to the delivery of  
 5 education and certification. The Inquiry has  
 6 commissioned a number of academic reports which provide  
 7 reviews of literature and research relevant to impacts  
 8 in relation to the delivery of education and  
 9 certification and those are available on the Inquiry's  
 10 website. These reports have informed the scope of  
 11 what's being investigated in relation to the delivery of  
 12 education and certification. There are consequently six  
 13 investigative streams within Portfolio 4 covering early  
 14 learning and childcare; secondly, primary and secondary  
 15 education; third, additional support for learning; four,  
 16 further and higher education; five, apprenticeships; and  
 17 six, youth work. Although the majority of learners  
 18 within these sectors are children and young people,  
 19 adult learners are also included within the scope of  
 20 what's being investigated.  
 21 In terms of core participants, a total of 19  
 22 organisations are currently designated as core  
 23 participants in relation to the term of reference 2K, of  
 24 which 14 have been granted leave to appear at the  
 25 relevant impact hearings. These are City of Edinburgh

1 Council, College of Paramedics, Convention of Scottish  
 2 Local Authorities or COSLA, Long Covid Kids, PAMIS,  
 3 Public Health Scotland, Royal College of Nursing, the  
 4 Scottish Covid Bereaved, Scottish Hazards, Scottish  
 5 Qualifications Authority, Scottish Trades Union Congress  
 6 or STUC, the Care Inspectorate, Scottish Women's Rights  
 7 Organisation and the Scottish Ministers.  
 8 In relation to engagement and evidence, your  
 9 Lordship has already underlined how the Inquiry goes  
 10 about gathering its evidence and has pointed out that  
 11 the oral testimonies from witnesses during public  
 12 hearings is only one way in which the Inquiry can gather  
 13 evidence. In this regard, in addition to obtaining  
 14 witness statements making Rule 8 requests and  
 15 commissioning academic research, the Portfolio 4 team  
 16 has held a number of round table meetings with  
 17 organisations and individuals. Those round table  
 18 meetings prove to be very useful sources of information.  
 19 Reports of those meetings summarising the key impacts  
 20 and issues discussed have therefore been prepared for  
 21 approval by participants and used by the Inquiry, some  
 22 of which will be referred to at the hearings.  
 23 In terms of impact evidence relating to the delivery  
 24 of education and certification, the Inquiry's  
 25 Portfolio 4 team has received 73 responses to Rule 8

1 requests, has taken 165 statements and has held 26 round  
2 table discussions with various organisations and  
3 individuals, including several with children and young  
4 people.

5 I would pause, my Lord, to point out that the  
6 majority of the organisations and individuals with whom  
7 the portfolio team has engaged are not core  
8 participants, but have nevertheless generally provided  
9 their time to assist the Inquiry with its  
10 investigations.

11 In terms of the hearings themselves, I will be  
12 assisted by Ms Stewart and Mr Stephen. Between us, we  
13 will be leading a variety of witnesses who have been  
14 selected very carefully with a view to ensuring that  
15 evidence is heard on a range of impacts across all  
16 sectors of education covered by the six investigative  
17 streams. A combination of panel sessions of between two  
18 and four and single witness sessions will be held.  
19 Witnesses will be led on the basis of witness  
20 statements, Rule 8 responses and/or round table reports.  
21 We do not intend to ask each witness to speak to  
22 everything in their witness statement or Rule 8  
23 response, but rather to focus on issues of particular  
24 relevance for each witness with a view to, if possible,  
25 avoiding Repetition or certainly unnecessary repetition.

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1 The hearings will aim to highlight key issues and  
2 impacts experienced by children and young people,  
3 parents and carers, adult learners, workers and  
4 organisations involved in the delivery of education and  
5 certification as a consequence of decisions to lockdown  
6 and impose other restrictions across all sectors covered  
7 by the six investigative streams that I have mentioned  
8 earlier and as I have already mentioned, during the  
9 hearings evidence will be led from organisations not  
10 from individuals for the focus of Let's Be Heard. In  
11 this regard, my Lord, I will outline some of the work  
12 that Let's Be Heard has been engaging in that's relevant  
13 to these upcoming hearings or certainly the impacts  
14 being considered at those hearings. So in addition to  
15 all the evidence I mentioned already that's been  
16 obtained by the Inquiry Portfolio 4 team, experiences  
17 relating to the delivery of education and certification  
18 have been shared with the Inquiry through Let's Be  
19 Heard.

20 Let's Be Heard has been engaging actively with  
21 children and young people since May 2023. During its  
22 national engagement period, it launched a bespoke  
23 children and young people's response form and received  
24 382 responses to that. Over the course of its  
25 engagement, it has gathered, or at least has confirmed

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1 sessions to gather, experiences from those attending  
2 mainstream primary and secondary school, youth attending  
3 dedicated additional support need schools, young and  
4 underpaid carers, young people in residential care and  
5 their carers, those who attended hub settings, black and  
6 minority ethnic youth, those in island communities,  
7 young mothers, civically engaged youths, for example,  
8 those engaging through Scottish Youth Parliament, young  
9 people impacted or at risk of homelessness and young  
10 people living or attending schools in areas affected by  
11 multiple deprivation indicators. It has been important  
12 for the inquiry, through Let's Be Heard, to engage with  
13 a range of young people facing different sets of  
14 circumstances in order to understand better the unequal  
15 impacts that were felt across different societal groups  
16 within this young cohort.

17 As part of its focused engagement period, Let's Be  
18 Heard launched three surveys on 2 September 2024 that  
19 are directly relevant to the delivery of education and  
20 certification. These were prepared with input from the  
21 Portfolio 4 legal team. The first, my Lord, is the  
22 children and young people survey for eight years and  
23 above. This is designed to better understand what the  
24 pandemic was like for younger people in Scotland between  
25 January 2020 and December 2022. It includes ten

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1 questions, including questions relating specifically to  
2 education. The other two surveys that have been  
3 launched are designed to hear more from education and  
4 early learning professionals involved in delivering and  
5 supporting education and childcare services in Scotland,  
6 again between January 2020 and 31 December 2022.

7 Each of those surveys takes 15 to 20 minutes to  
8 complete. These are, firstly, the early learning and  
9 childcare survey, which is aimed at early learning  
10 practitioners, managers, support staff and childminders,  
11 which is aimed at teachers and school staff who are  
12 directly involved in children and young people's  
13 learning. These three surveys are currently due to  
14 close on Friday, 29 November 2024, so I would encourage  
15 any early learning and school education staff who would  
16 like to share their experiences directly with the  
17 Inquiry and as many children and young people as  
18 possible to take part in those surveys.

19 My Lord, to date, Let's Be Heard has heard directly  
20 from more than 840 children and young people in Scotland  
21 aged from five years to 24 years, the majority of whom  
22 have been aged between 11 to 24 years. Their  
23 experiences have been gathered through a combination of  
24 methods, including response forms received during the  
25 national focused engagement phases of Let's Be Heard, in

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1 person information sharing at stands at colleges and  
 2 university campuses and contact with 14 student unions,  
 3 collaborations with the Scottish Youth Parliament, which  
 4 has allowed directly experience gathering through  
 5 in-person workshops, further workshops and experience  
 6 gathering sessions with children and young people. In  
 7 addition, Let's Be Heard has held workshops and  
 8 experience gathering sessions with more than 60 parents,  
 9 carers and teachers to date and it intends to hear more  
 10 over the course of its focused engagement period. My  
 11 Lord, the Inquiry would not reasonably be able to gather  
 12 information of this scale through witness statements,  
 13 Rule 8 responses and hearings, as I have already  
 14 indicated.

15 In terms of the evidence, my Lord, the hearings, as  
 16 I have already indicated, will provide an overview of  
 17 the relevant impacts. The majority of the impact  
 18 evidence held by the Inquiry, however, cannot be led at  
 19 those hearings. This evidence includes witness  
 20 statements, Rule 8 response and reports of round table  
 21 meetings. That evidence, as your Lordship already  
 22 indicated, is being reviewed by members of the Inquiry  
 23 team who have already started to prepare summaries of  
 24 that evidence. Those summaries it's intended will form  
 25 the basis of a narrative record of impact evidence

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1 relating to the delivery of education and certification  
 2 and will also include evidence that's heard at the  
 3 hearings. Those narrative records, as presently  
 4 advised, will be published in 2025. Core participants  
 5 with leave to appear at the hearings will receive  
 6 extracts of the narrative record before it's published  
 7 and may be asked to provide comments.

8 My Lord, I will now turn to address matters relevant  
 9 to the investigation and presentation of impact evidence  
 10 relating to business and welfare assistance and the  
 11 second set of impact hearings. Again, these matters  
 12 include what I have already touched on in relation to  
 13 Portfolio 4; namely, first, the scope of Portfolio 2;  
 14 core participants with leave to appear at the relevant  
 15 impact hearings; engagement undertaken by the  
 16 Portfolio 2 team and evidence gathered to date; the  
 17 approach to be taken to the presentation of evidence at  
 18 the impact hearings; the engagement undertaken by  
 19 Let's Be Heard relevant to business and welfare support;  
 20 and a review of the evidence not referred to at the  
 21 impact hearings. A lot of what I have already said  
 22 about the approach being taken in relation to education  
 23 and certification at impact hearings is equally  
 24 applicable to the business and welfare impact hearings,  
 25 so I'll try not to repeat too much of that.

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1 In terms of scope, the Inquiry's investigative  
 2 Portfolio 2 covers paragraphs 2J and 2L of the Inquiry's  
 3 terms of reference, which require the Inquiry to  
 4 investigate the devolved strategic elements of the  
 5 handling of the pandemic in relation to, in the case of  
 6 J, welfare assistance programmes, for example, those  
 7 relating to benefits or the provision of food provided  
 8 or supported by public agencies and, in the case of L,  
 9 financial support and guidance given to businesses and  
 10 the self-employed, including in relation to the  
 11 identification of key workers and public agencies.

12 In terms of core participants, 15 organisations and  
 13 groups with core participant status in relation to terms  
 14 of reference 2J and L have been granted leave to appear  
 15 at the relevant impact hearings. These are Central  
 16 Scotland Care Homes, City of Edinburgh Council, COSLA,  
 17 Homelessness Network Scotland, Long Covid Kids, PAMIS —  
 18 who I should have said earlier, my Lord, I understand is  
 19 Promoting a More Inclusive Society is the acronym —  
 20 Refugees For Justice, Scottish Care, Scottish COVID  
 21 Bereaved, Scottish Enterprise, Scottish Hazards,  
 22 Scottish Healthcare Workers Coalition, STUC, Scottish  
 23 Women's Rights Organisation and the Scottish Ministers.  
 24 Nine of these core participants have also been granted  
 25 leave to appear at the impact hearings relevant to the

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1 delivery of education and certification, so there is a  
 2 degree of overlap; six have not.

3 In terms of engagement and evidence, the Portfolio 2  
 4 team has similarly obtained witness statements, made  
 5 Rule 8 requests, commissioned academic research and held  
 6 round table meetings, which have largely been with third  
 7 sector organisations. In relation to impact evidence,  
 8 the Portfolio 2 team has received approximately 59  
 9 responses to Rule 8 requests, has taken around 53  
 10 statements and has held 27 round table discussions with  
 11 various organisations and businesses. Again, the  
 12 majority of those with whom the portfolio team has  
 13 engaged are not core participants.

14 In terms of the hearings themselves, in this case I  
 15 will be assisted by Mr Turner and Mr Stephen. Between  
 16 us, we will be leading a variety of witnesses who, as  
 17 with the Portfolio 4 witnesses, have been selected  
 18 carefully in order to try to ensure that evidence is  
 19 heard on a range of impacts. The combination of panel  
 20 sessions and single witness sessions will also be used  
 21 at these hearings, with witnesses being evidence led on  
 22 the basis of witness statements, Rule 8 responses and/or  
 23 round table reports. As with education and  
 24 certification impact hearings, we will not ask witnesses  
 25 to speak to everything in their statements or Rule 8

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1 responses, but will try to focus on issues of particular  
 2 relevance for each witness. The hearings will highlight  
 3 key issues and impacts experienced by individuals and  
 4 organisations related to business and welfare support,  
 5 including impacts on businesses and the self-employed,  
 6 impacts on individuals in the context of welfare  
 7 assistance programmes and impacts on organisations that  
 8 delivered welfare assistance during the pandemic. As  
 9 with the education and certification impact hearings, we  
 10 will be hearing evidence from organisations, rather than  
 11 from individuals.

12 Again, my Lord, in addition to the evidence obtained  
 13 by the Portfolio 2 team, experiences relating to  
 14 business and welfare support were shared with the  
 15 Inquiry through Let's Be Heard during its national  
 16 engagement period. This was done through various  
 17 methods, including people from Scotland completing the  
 18 general online and paper forms outlining their general  
 19 experiences, those forms covered all aspects of the  
 20 Inquiry's terms of reference and asked people to speak  
 21 about what was most important to them so it wasn't  
 22 exclusive to business and welfare. Let's Be Heard has  
 23 attended 12 group discussions hearing from all the  
 24 hundred people on general themes where aspects of  
 25 business and/or welfare were discussed. The Inquiry

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1 also recognises that many people may have already shared  
 2 their experiences through other organisation, so  
 3 existing data and information has been gathered by Let's  
 4 Be Heard through 31 reports from external stakeholders  
 5 describing those experiences in relation specifically to  
 6 welfare.

7 As part of its focused engagement period, Let's Be  
 8 Heard is employing various methods to hear further  
 9 experiences relating to business and welfare support.  
 10 Firstly, in relation to business support, on 6  
 11 June 2024, Let's Be Heard launched a survey for  
 12 businesses in order to understand the impacts of the  
 13 pandemic on individual businesses and their owners. The  
 14 survey was developed again in connection with the  
 15 Portfolio 2 legal team. There have been 240 responses  
 16 to that survey so far. It takes approximately ten  
 17 minutes to complete and that is due to close on  
 18 30 September 2024. So I would encourage any business  
 19 owners who still wish to share their experiences  
 20 directly with the Inquiry to take time to complete that  
 21 survey before it closes.

22 That survey work, my Lord, has also been  
 23 complemented by a number of group discussions for  
 24 business owners run by the Let's Be Heard team. In  
 25 relation to welfare support, the Let's Be Heard is

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1 arranging group discussions with specific audiences to  
 2 understand more about access to benefits, food, fuel  
 3 poverty, housing, homelessness and business. 24 group  
 4 discussions arranged through 20 organisations have  
 5 already been confirmed or are in discussion.

6 Turning then, my Lord, to the review of evidence, as  
 7 with the evidence relating to impacts relating to the  
 8 delivery of education and certification, the majority of  
 9 the impact evidence held by the Inquiry relating to  
 10 business and welfare assistance, which includes witness  
 11 statements, Rule 8 responses and reports of round table  
 12 meetings, cannot be led at the impact hearing as there  
 13 simply isn't time. That evidence, however, is being  
 14 reviewed by the members of the Inquiry team who have  
 15 started again to prepare summaries of that evidence. It  
 16 is intended that those summaries will form the basis of  
 17 narrative records of impact evidence relating to  
 18 business assistance and, separately, welfare assistance  
 19 and also include evidence heard at the hearings. The  
 20 narrative records, again, are intended to be published  
 21 in 2025 as presently advised. Core participants with  
 22 leave to appear at the relevant hearings will receive  
 23 extracts of the relevant narrative records before they  
 24 are published and may be invited to provide comments.  
 25 Before concluding, my Lord, I will address briefly

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1 four general matters relating to procedure. These  
 2 relate, firstly, to disclosure; secondly timetabling;  
 3 thirdly, Rule 9 procedure and, fourthly, restrictions on  
 4 the disclosure of information. In terms of disclosure,  
 5 the Inquiry intends to disclose witness statements and  
 6 other documents to be referred to at the hearings to  
 7 core participants with leave to appear one month in  
 8 advance of a witness's evidence. That disclosure will  
 9 begin on 7 October 2024.

10 In terms of timetabling, the Inquiry will provide a  
 11 witness list along with documents that are disclosed to  
 12 core participants. Hearings will generally start at  
 13 10.00 am and finish by 4.00 pm, but we might  
 14 occasionally need to start a little earlier and finish  
 15 later. The Inquiry will be sitting between four and  
 16 five days a week in order to accommodate witness  
 17 availability and also to ensure that we get through the  
 18 relevant evidence in the time available. I don't have  
 19 an indication of when they will be published, but in due  
 20 course, and certainly ahead of the hearings, witness  
 21 timetables will be published on the Inquiry's website.

22 In terms of the Rule 9 procedure and the questioning  
 23 of witnesses, your Lordship has issued guidance that is  
 24 available on the Inquiry website that sets out the  
 25 procedure for this. It requires informal approaches to

24

1 counsel to be made through the inquiry mailbox no later  
2 than one week before a witness is due to give evidence  
3 with suggestions of relevant questions or topics. It  
4 also provides a more formal procedure for applications  
5 to be made to your Lordship no later than two working  
6 days before the relevant witness is due to give  
7 evidence, in the event that counsel is not minded to ask  
8 the questions suggested. Finally, it provides that your  
9 Lordship will consider applications to question a  
10 witness at the conclusion of their evidence, but that  
11 will be restricted to information that has arisen during  
12 the course of their evidence that is material, relevant  
13 and new.

14 My Lord, given that we are dealing specifically with  
15 impact evidence, I don't anticipate or hope that there  
16 won't be too many additional questions to be put and I  
17 would just encourage legal representatives to bear in  
18 mind the approach that we're taking, which is to keep  
19 the hearings focused and to focus on specific aspects of  
20 the witness's testimony or the evidence and not cover  
21 all aspects that are covered in their Rule 8 responses  
22 and witness statements which will nevertheless be taken  
23 into account by the Inquiry.

24 In relation to restrictions on the disclosure of  
25 information, your Lordship issued Restrictions Order 1

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1 covering the publication or disclosure of evidence and  
2 documents pertaining to the health and social care in  
3 the Inquiry's investigation of matters covered by terms  
4 of reference 2G, H, I, C, D, E and F, as well as a  
5 number of individual restriction orders relating to  
6 relevant witnesses at those hearings. There are  
7 currently no restriction orders pertaining specifically  
8 to the Inquiry's investigation of matters covered by the  
9 three terms of reference that are the subject of the  
10 upcoming hearings or in relation to any of the witnesses  
11 that are intended to be called. However, my Lord, there  
12 is a general restriction order in place that covers  
13 witness statements, documents and all other evidence,  
14 information and material that is either provided to or  
15 generated by the Inquiry and shared with core  
16 participants and other recipients which operates to  
17 restrict their disclosure or publication prior to  
18 publication thereof by the Inquiry itself. So I would  
19 simply remind, again, the core participants and their  
20 legal representatives of that general restriction order.  
21 A copy of that is available on the Inquiry website.

22 My Lord, those are my opening submissions and unless  
23 I can assist your Lordship further, I will conclude  
24 there.

25 THE CHAIR: Thank you very much indeed, Ms van der

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1 Westhuizen.

2 Now, a number of core participants have submitted  
3 questions in advance of this preliminary hearing and  
4 it's my intention to provide answers to those questions  
5 today. I have received two questions about disclosure  
6 of the list of witnesses and the witness timetable.  
7 Mr Michael Clancy, on behalf of the Law Society of  
8 Scotland, asked the following question or questions:  
9 Which witnesses will be giving evidence, as that will  
10 determine what if any questions we would like to put  
11 forward, and can you please send a list of prospective  
12 witnesses?

13 A similar question was received from Rowan Brown on  
14 behalf of the College of Paramedics. That question was:  
15 is the Inquiry able to indicate when core participants  
16 will receive a schedule or timetable for the hearings  
17 due to start in November?

18 Now, the answers to those questions are, in respect  
19 of both Portfolios 4 and 2, we cannot provide a witness  
20 list as we have witnesses who are yet to confirm to us  
21 they will attend. A witness list will be provided  
22 alongside disclosure to those core participants with  
23 leave to appear and we intend to issue disclosure one  
24 month in advance of a witness evidence for the  
25 respective portfolios.

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1 I have received two questions about disclosure of  
2 witness statements in respect of the Portfolio 4  
3 hearing. Nicola McLaren from the Central Legal Office  
4 on behalf of NHS Scotland asked: when will we be  
5 provided with the witness statements for the upcoming  
6 Portfolio 4 hearings?

7 A similar question was received from Caoimhe Hunter  
8 of Brody's, on behalf of the Scottish Qualifications  
9 Authority and Scottish Care, and the question was: We  
10 note the supplementary Rule 9 guidance for the education  
11 and certification and the business and welfare impact  
12 hearings that was issued by the Inquiry on  
13 17 September 2024. We should be grateful if the Inquiry  
14 would confirm when it expects material to be disclosed  
15 to core participants in advance of any impact hearing,  
16 given that core participants are to approach counsel to  
17 the Inquiry with any relevant questions or topics they  
18 wish to have put to a witness no later than one week in  
19 advance of that witness giving evidence.

20 And the answer to that question is: We intend to  
21 disclose witness statements one month in advance of a  
22 witness's evidence, with disclosure commencing on  
23 7 October 2024.

24 I have received a question about the provisional  
25 outline of evidence and closing statements from

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1 Sarah Mitchell of the Scottish Government legal division  
2 on behalf of the Scottish Government. That question  
3 being: when can we expect to receive the provisional  
4 outline of evidence documents for P2 and P4?

5 The answer to that question is that extracts of the  
6 narratives of evidence will be provided to core  
7 participants with leave to appear at a date after the  
8 conclusion of the impact hearings. Those core  
9 participants may be asked to comment. Detailed guidance  
10 in respect of the specific matters the Inquiry wish  
11 comment on will be provided when the narratives are  
12 issued.

13 The same author provided a further question: Will  
14 closing statements be permitted and, if so, will they be  
15 delivered on the final day of the impact hearings or  
16 will a dedicated hearing be fixed at a later date? The  
17 answer to that question is: I will issue a direction on  
18 closing submissions in due course.

19 Finally, I received a question from  
20 Anderson Strathern on behalf of the Royal College of  
21 Nursing. As this is a question about a specific  
22 witness, the Inquiry legal team will respond to that  
23 question directly via individual email correspondence.

24 Now, those are the questions that I have received to  
25 date. I will ask at this stage if there are any further

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1 questions from participants in the gathering in the  
2 hearing today. If there are, I will ask those person or  
3 that person to come forward, disclose their identity,  
4 and give the question. I will of course attempt to  
5 answer it, but, in all probability, I will answer that  
6 or have that answered by mail by the end of Monday next  
7 week.

8 Are there any other questions from any participant  
9 in the hall today? It would appear there are none.

10 So in the absence of any further questions, that  
11 brings an end to this preliminary hearing. Can I thank  
12 you all for your attendance today. I hope it has proved  
13 helpful and I look forward to seeing you all starting  
14 off on the --- I think it was --- I forgot the date. Is  
15 it 4 November of this year, about six weeks' time.  
16 Thank you all very much. Very good. That ends the  
17 proceedings.

18 (The hearing was adjourned)

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