HEMPSONS

COVID-19 Public Inquiry: are you prepared?

Introduction

The Government has announced a statutory public inquiry into the response to the COVID-19 pandemic and that it will be a “proper, full, and above all, independent inquiry”. Momentum has started to gather, with the appointment of the Rt Hon Baroness Heather Hallett DBE as Chair of the forthcoming Public Inquiry due to start in the spring of 2022.

Whilst much remains unknown, including details of the scope of the forthcoming public inquiry and the specific terms of reference, it does not follow that this uncertainty should lead to inaction for those who may be involved. Until the terms of reference are set, the nature and extent of the role for individual NHS trusts will not be known, but with a degree of certainty, the Inquiry will explore health-related topics. With this in mind, NHS England issued advice on 8 June 2021 as to how to prepare, given that any organisation could be required to provide evidence and individuals may be mandated to attend to give evidence under oath.

In addition to advice that trusts consider issuing a Stop Notice to all staff to support the preservation of documentation, NHS England identified four key areas of action:

- Ensuring robust and comprehensive records management
- Embedding systemic approaches to log key leavers, carry out exit processes and retain contact details
- Consider wellbeing support for staff who may have to provide evidence
- Appointing a named inquiry lead

Whether or not your organisation has experience of public inquiries, there is no escaping the fact that the task ahead of you may be both daunting and time consuming. By taking a proactive approach, you will be best placed to respond to any disclosure request made by the Inquiry team with the least disruption to your organisation, in what continue to be challenging times. A structured and informed approach to preparation is also essential in the event that your staff are required to produce statements and/or give evidence at the Inquiry.

With extensive experience in supporting NHS trusts and care providers in high profile public inquiries, Hempsons is here to help.

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Our expertise

Hempsons, leading health, social care and charity lawyers, support the full range of NHS organisations, advising on strategic and operational issues.

Our healthcare team is a market leader in the healthcare sector. We work with approximately 120 trusts and foundation trusts nationwide, providing unrivalled strength in depth for our clients to help them meet the challenges they face. Our solicitors have extensive experience of inquiries as well as inquests, investigations, information governance and all of the areas of law required to assist you as you navigate the challenges of the months, and potentially years ahead.

We are perfectly placed to guide your preparation for the COVID-19 Inquiry, through extensive experience gained in supporting health and social care clients in statutory and non-statutory inquiries, including:

- The Manchester Arena Inquiry
- The Infected Blood Inquiry
- The Jimmy Savile Inquiry
- The Francis Inquiry
- The Mubarek Inquiry
- The Shipman Inquiry
- The Bristol Royal Infirmary Inquiry
- Rochdale Historic Abuse Review
- The Neale and Kerr/Haslam Inquiries

Learning and patient safety is at the heart of everything we do. Whatever role your organisation ultimately has in the Inquiry, we will work with you to capture and implement learning from the challenges faced across the NHS during the COVID-19 pandemic.

Supporting you

There are many ways in which we can support your organisation.

Intelligence and guidance

We can provide access to a wealth of information, expertise and guidance through:

- Our up to date COVID-19 information portal where you will find key legal updates and considerations
- Timelines of key national dates, decisions and guidance against which to track the actions of your organisation
- Our established dedicated COVID-19 team who meet regularly to discuss intelligence, developments and how we can best support our colleagues across the health and social care sectors
- Our COVID-19 Inquiry series which launched in the autumn of 2021, which shares our knowledge of the COVID-19 Inquiry, and our wider experience and expertise on public inquiry related subjects
- Regular contact with trust inquiry leads to share intelligence and guidance as the COVID-19 Inquiry takes shape

Full representation

Should your organisation be granted core participant status, we have considerable experience in representing trusts in high profile public inquiries.

Whilst ensuring that your organisation and staff are fully supported, we will seek to work in an innovative way, taking a pragmatic and cost-effective approach.

Document management

Document management will be a mammoth task. Through our expertise we can provide support in terms of:

- Identifying and securing relevant documentation
- Cataloguing and sequencing documentation for easy access and searches
- System and data management
- Information governance
- Evaluation and analysis of documentation
- Disclosure to the Inquiry
- Requests for disclosure external persons, patients/relatives, the press etc

Inquiry preparation

We can assist your organisation and your staff in all the practical steps which form part of preparation for and contribution to an inquiry such as this, by:

- Providing guidance on preparing witness statements, ensuring that all the necessary information is secured
- Providing knowledge sessions and guidance to ensure all staff involved in the Inquiry are informed of the process, the likely timescales, and feel supported and remain engaged
- In preparation for giving evidence, we can arrange for witness familiarisation training, so that staff feel as comfortable and supported during what will inevitably be a stressful and potentially distressing process

Strategic advice

Our extensive experience means your organisation can be confident in the strategic advice that we provide. We can advise the board on its legal duties and strategic considerations. Our healthcare team has extensive experience representing health care providers and professionals in criminal, regulatory and disciplinary matters. We are also an NHS Resolution panel firm for claims.

We can therefore provide strategic advice on any matters arising from the Inquiry, including:

- Duty of candour
- Communications
- Representations to the Inquiry on the terms of reference
- Core participant status in the Inquiry
- Information sharing and effective management of the potential conflicts with stakeholders
- Concurrent liabilities
- Quality and reputational assurances
- Patient safety, risk management and learning

Data rooms

We can provide bespoke solutions for data storage:

- Subject to an analysis of data volume, we can provide secure SharePoint data Rooms tailored to your organisations needs for sharing documents or tracking changes, allowing your organisation to access up to date information on our work (a weekly email alert system lets them know what new information has been loaded)
- We could also make a data room available to store electronic versions of all of the documents that you need to retain with regard to the Inquiry
- In the event that data requirements exceed our data room capabilities, we can provide advice and assistance on procuring alternatives

Training

Our COVID-19 team have delivered a series of seven seminars relevant to the forthcoming Inquiry. The recordings can be made available, or they can be remodelled and delivered in a way bespoke to the needs of your organisation. These seminars cover:

- COVID-19 Inquiry: Start preparing now
- Public inquiries: An introduction
- Documentation: Identifying, collating and managing data
- Public inquiries: Planning and practical considerations for trust management teams
- Public inquiries and liabilities
- Whistleblowing, considerations arising from a public inquiry
- Duty of Candour

We can provide tailored training on a range of practical matters to support whatever may be asked of your organisation in the Inquiry, such as:

- Inquiry preparation and planning
- Stop Notices
- Information management
- Information governance “key leavers” and exit interviews
- Staff wellbeing and support
- Learning from adverse incidents

Learning

In whatever way we are able to support your organisation, our commitment to capturing, sharing and embedding learning will be at the core. Our commitment to learning will be a value-add, if you are in agreement to the sharing of learning at local, regional and national level.

Support options

There is no ‘one size fits all’. The support that we can offer can be tailored to be bespoke to the operational needs and experience of your organisation. To assist you in assessing your needs, there are three levels of support that we propose. However, these are for illustrative purposes and we are happy to work with you to evaluate the specific needs of your organisation.

Inquiry preparation and representation will be offered once the scope of the Inquiry and the terms of reference are known.

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Level 1

1. Intelligence and guidance
2. Training
3. Learning

2

Level 2

1. Intelligence and guidance
2. Training
3. Data rooms
4. Document management
5. Learning

3

Level 3

1. Intelligence and guidance
2. Training
3. Data rooms
4. Document management
5. Strategic advice
6. Learning

Contact us

We can tailor any of our support packages to meet the needs of your organisation.

If you would like further information, or a bespoke support package proposal, please get in touch with a member of our COVID-19 Inquiry team:

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HEMPSONS

Hempsons gives you certainty in an ever changing legal landscape.

Our expertise means we are leading on many key issues facing the health and social care sector.

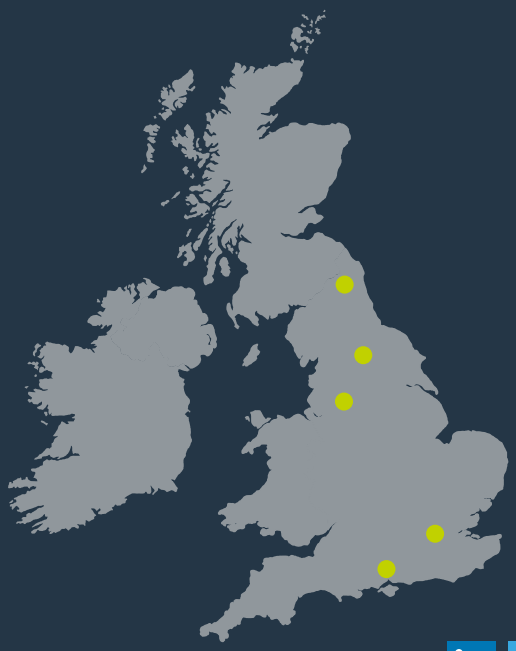
- Acquisitions and mergers
- Clinical negligence
- Collaborative partnerships
- Construction
- Contracting
- Crime
- Data protection
- Digital health
- Dispute resolution
- Employment
- Governance
- Health & safety
- Healthcare
- Integrated care systems
- IP, media and technology
- Joint ventures
- Mental health
- Outsourcing
- Patient safety
- Primary care
- Prison healthcare
- Procurement
- Public inquiries
- Real estate
- Social care
- Strategic estates partnerships
- System working

About Hempsons

Hempsons is a leading health, social care and charities law firm. Our highly experienced lawyers provide a number of cost-effective solutions for a range of public, private and third sector health and social care organisations, from employment law through to clinical negligence.

We aim to achieve our clients' objectives and provide support down to the last detail whether the issue is big or small, challenging or simple. We work with over 200 NHS organisations including NHS trusts, foundation trusts and commissioning bodies, with services delivered by a team of over 130 specialist healthcare lawyers. A significant number of our employees hold dual qualifications, combining medical, dental or nursing qualifications with their legal credentials.

You can find details of our lawyers and their specialisms on our website.



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