

INFECTED BLOOD INQUIRY: CONSULTATION ON THE TERMS OF REFERENCE

Chair of the Infected Blood Inquiry seeks views on the Terms of Reference of the Inquiry

Mr Justice Langstaff, the Chair of the Inquiry, would like to consult widely on the Terms of Reference he should recommend to the Minister for the Cabinet Office, David Lidington.

The information below explains why the Terms of Reference are important in deciding what the Inquiry can consider, sets out some of the questions to which the Inquiry aims to find answers, and invites views.

The Importance of Terms of Reference

Terms of Reference determine the scope of a Public Inquiry: it has no power to step outside those terms.

The Terms of Reference have not yet been determined. The Chair therefore is seeking views on what the Terms of Reference for the Inquiry should cover. He wants to hear from people who have been directly affected, or who are otherwise likely to be involved in the work of the Inquiry, but is not restricting this consultation to them.

He hopes to be able to draw a proper balance between the desirability of speed and the need for thoroughness, with Terms of Reference that most closely enable the particular concerns of the people who have been affected to be explored and, where possible, answered.

There are dangers in drawing the Terms of Reference too narrowly – for that means that the Inquiry will have no power to examine matters which fall outside that narrow remit – but also in framing them too widely, for it is the duty of the Inquiry to examine all those matters into which it is tasked to inquire, and that takes time.

The Terms of Reference can, in consultation with the Chair, be varied by the Minister during the course of the Inquiry, if it appears necessary to do so: however, this should not be thought a reason either to frame the Terms too narrowly or express them too broadly in the first place.

The Inquiry will seek to establish what happened, why it happened and the impact on the people affected. The following areas have been identified as a guide only and the Inquiry welcomes all your views.

The period of time to be considered by the Inquiry

The more widely Terms of Reference are set the longer an Inquiry is bound to take, and there is an accompanying danger that the advantages of focus on the matters of particular concern may be diluted.

There may be a particular concern in this Inquiry that it should be as quick as thoroughness will permit, for otherwise some of the people affected may not survive to hear the answers they may need to hear.

In the light of this, careful consideration may have to be given to the periods of time the Inquiry is charged to consider.

Question 1: On what time period or periods should the Inquiry focus?

Blood and Blood Products

The following summary may assist you when you are thinking about the areas and issues you wish to see covered.

The Inquiry's provisional view is that it will aim to find out:

- why patients were given infected blood and blood products when treated by the NHS;
- the extent to which this continued after the NHS and/or Government was or should have been alerted to the risks, and why it continued to happen;
- why it was that blood products had to be purchased abroad rather than sourced locally; and
- whether there was a deliberate attempt to conceal details of what had happened, both at the time it occurred, or later.

This means examining the commissioning of blood supplies, the roles of suppliers, the response at the time to complaints that individuals appeared to have been affected adversely, the selection of donors, screening and testing procedures, and whether any decision made by the Department of Health was influenced by commercial organisations or by commercial interests.

Question 2: Do you agree with the provisional view of what should be covered?

Please provide any additional views and information on what you think the Inquiry should consider.

Question 3: Is there any type of evidence, such as documents, communications or expert reports that you think is essential for the Inquiry to obtain?

The care and support provided after infection

The Inquiry would like to hear views as to whether (and if so to what extent) it should consider the adequacy of the care provided and the response of governments within the United Kingdom to securing:

- general assistance, financial or other provision for the people affected;
- the nature of that provision, and;
- the extent of any differences between the responses of the UK Government and/or Welsh, Scottish and Northern Ireland administrations and any similar provisions made by foreign governments if and to the extent that a similar problem arose within their jurisdictions.

Question 4: Should the Terms of Reference include consideration of the care provided, and the response of governments across the United Kingdom, and overseas?

If so, are there any particular areas the Inquiry should focus on?

Identifying responsibility and making recommendations

The Inquiry will also seek to identify individual responsibilities and to make recommendations (if appropriate in the light of its factual findings) to help prevent such a tragedy from ever happening again, and to ensure that the appropriate lessons are learnt.

This will mean looking at the role of relevant public authorities and contractors and the broader implications for the adequacy and enforcement of relevant practices.

If this is to be achieved, the making of recommendations of this sort must fall within its Terms of Reference.

Question 5: Do you agree that the Inquiry should seek these individual responsibilities and make recommendations?

Is there anything else you would like to add?

Please provide any additional views and information you would like the Inquiry to consider.

Thank you for providing your views.

INFECTED BLOOD INQUIRY TEAM

2 March 2018