

UHL Approach to Preparing for the UK COVID-19 Public Inquiry

Author: Ben Collins, EPRR Manager Sponsor: Gilbert George, Interim Director of Corporate & Legal Affairs

Trust Board paper T

Purpose of report:

| This paper is for: | Description | Select (X) |
|--------------------|--|------------|
| Decision | To formally receive a report and approve its recommendations OR a particular course of action | |
| Discussion | To discuss, in depth, a report noting its implications without formally approving a recommendation or action | |
| Assurance | To assure the Board that systems and processes are in place, or to advise a gap along with treatment plan | X |
| Noting | For noting without the need for discussion | |

Previous consideration:

| Meeting | Date | Please clarify the purpose of the paper to that meeting using the categories above |
|---------|------|--|
| | | |

Executive Summary

Context

On 11 May 2021 the Prime Minister committed to holding a public inquiry into the Government's handling of the COVID-19 pandemic which will commence in spring 2022. In July 2021, NHS England and NHS Improvement (NHSEI) wrote to NHS Trusts with a number of actions to take in preparation for the inquiry, including the need to identify an Inquiry Lead and safely manage and store records relating to the COVID-19 pandemic.

Questions

1. Is the Board assured by the steps the Trust is taking to prepare for the COVID-19 public inquiry?

Conclusion

1. The Trust has identified a COVID-19 Inquiry Lead and established a COVID-19 Public Inquiry Team who will lead on the preparations for the COVID-19 public inquiry.
2. The COVID-19 Public Inquiry Team has established a project plan to align the Trust's approach to preparing for the public inquiry with that adopted by NHSEI.

Input Sought

We would welcome the views of the Board on the approach being adopted by the Trust in preparing for the COVID-19 public inquiry.

This report relates to the following UHL quality and supporting priorities:

1. Quality priorities

| | |
|------------------------------|----|
| Safe, surgery and procedures | No |
| Safely and timely discharge | No |
| Improved Cancer pathways | No |
| Streamlined emergency care | No |
| Better care pathways | No |
| Ward accreditation | No |

2. Supporting priorities:

| | |
|---------------------------------------|----|
| People strategy implementation | No |
| Estate investment and reconfiguration | No |
| e-Hospital | No |
| More embedded research | No |
| Better corporate services | No |
| Quality strategy development | No |

3. Equality Impact Assessment and Patient and Public Involvement considerations:

- What was the outcome of your Equality Impact Assessment (EIA)? N/A
- Briefly describe the Patient and Public Involvement (PPI) activities undertaken in relation to this report, or confirm that none were required: N/A
- How did the outcome of the EIA influence your Patient and Public Involvement? N/A
- If an EIA was not carried out, what was the rationale for this decision? All work undertaken for COVID-19 is in line with national directives where no EIA has been required

4. Risk and Assurance

| Does this paper reference a risk event? | Select (X) | Risk Description: |
|---|------------|-------------------|
| Strategic: Does this link to a Principal Risk on the BAF? | | |
| Organisational: Does this link to an Operational/Corporate Risk on Datix Register | | |

- Scheduled date for the **next paper** on this topic: March 2022
- Executive Summaries should not exceed **5 sides** My paper does comply

REPORT TO: Trust Board
DATE: 04 November 2021
REPORT BY: Ben Collins, EPRR Manager
EXEC LEAD: Gilbert George, Interim Director of Corporate & Legal Affairs
SUBJECT: UHL Approach to Preparing for the UK COVID-19 Public Inquiry

1. INTRODUCTION

1.1.1 On 11 May 2021 the Prime Minister committed to holding a public inquiry into the Government's handling of the COVID-19 pandemic. This will commence in spring 2022 and incorporate:

- The entire Government response, including 23 ministerial departments, 20 non-ministerial departments and 413 agencies;
- The 3 devolved administrations;
- Over 400 NHS organisations in England (as at 2019) as their own legal entities (there will be no mandate from NHS England and NHS Improvement (NHSEI)).

1.1.2 The inquiry will be held in public and it will be able to compel its own witnesses.

1.1.3 The process for the inquiry will include:

- Appointment of a Chair (independent of Government);
- Setting of Terms of Reference, which will inform evidence requested. Evidence requests may be broken down into topics/areas of significance;
- Evidence to be given 'in public, under oath';
- Unless there is good reason not to, the inquiry is likely to be televised/online.

1.1.4 The duration of the inquiry is unknown but will likely last for years (Chilcot/Iraq War published after 7 years, Bloody Sunday inquiry published after 12 years).

1.1.5 This paper serves to update the Trust Board on:

- The current requirements for the Trust in preparation for the COVID-19 Inquiry;
- What arrangements UHL currently has in place to support meeting the requirements; and
- What additional arrangements UHL is putting in place to support meeting the above requirements.

2. CURRENT REQUIREMENTS FOR NHS TRUSTS

2.1.1 On 08 July 2021, Katherine Ibbotson, Director of Governance and Legal at NHS England and NHS Improvement (NHSEI) wrote to NHS Trusts with a number of actions to take in preparation for the inquiry. These included:

- Ensuring all COVID-19 records (defined as “anything relevant to a work matter, howsoever held”) are kept and safely stored in line with a “Document Preservation Notice” which was issued alongside the email;
- Identifying an Inquiry Lead;
- Ensuring teams are managing records and that these are saved;
- Ensuring action logs are assured / signed off;
- Ensuring details of any senior staff and key individuals involved in the pandemic who leave the organisation are captured by the Inquiry Team.

2.1.2 On 14 July 2021, the NHSEI Midlands Regional Team hosted a COVID-19 Inquiry Webinar which was attended by members of the EPRR Team. In recognition that NHSEI will not be directing third party organisations on how to manage their own records, the webinar was held as a means of illustrating what approach NHSEI has adopted to their management of records by way of example. NHSEI have since provided Trusts examples of their practice, including:

- A “master events list” containing a key timeline of events and decisions made;
- “Position statements” for each cell which was established as part of its command and control arrangements. This included:
 - Scope of the cell;
 - Role of the cell, including governance and other organisations involved and any major changes to the cell;
 - Relationship with other cells;
 - Timeline of key events and decisions;
 - Top line/key messages, made up on 3 – 4 key achievements and challenges;
 - Key facts and figures (if applicable);
 - Main activity across planning, response and recovery;
 - Lessons identified;
 - Key people involved;
 - Glossary of terms.
- A timeline of documents received;

- How NHSEI have saved all COVID-19 records centrally in one location for easy recall in the future;
- A central staff contact list for everyone who worked on COVID-19, including the date they started/finished work on COVID-19 and their contact details.

3. EXISTING UHL GOVERNANCE ARRANGEMENTS TO SUPPORT THE INQUIRY

3.1.1 At the start of the pandemic, the EPRR Team helped establish robust governance arrangements to support the delivery of good record keeping that will support the Trust in its preparation for the COVID-19 inquiry. This work included:

- Supporting cells which were established as part of the command and control arrangements to ensure they have documented Terms of Reference;
- Keeping and filing all emails received into the covid-19@uhl-tr.nhs.uk mailbox;
- Saving copies of all communications, letters and directives received from external bodies in a single depository and logging these in a master “COVID-19 ICC Log”;
- Saving copies of all information returns submitted by UHL in a single depository and logging these in a master “COVID-19 ICC Log”;
- Saving copies of all versions of COVID-19 procedural documents, including the COVID-19 Response Plan, COVID-19 Escalation Framework, and other Standard Operating Procedures (SOPs);
- Saving copies of all Meeting Notes and Action Logs (where available) by those cells which were established as part of the command and control arrangements for COVID-19.

4. UHL APPROACH FOR PREPARING FOR THE PUBLIC INQUIRY

4.1.1 The EPRR Manager and Interim Director of Corporate & Legal have reviewed the formal requirements issued by Katherine Ibbotson alongside the approach taken internally by NHSEI. These have both been assessed against the Trust’s existing governance arrangements for COVID-19 and the following approach was put forward to, and agreed by, the UHL COVID-19 Strategic Group on 12 August 2021:

1. The Trust will fully comply with the requirements set out by Katherine Ibbotson on 08 July 2021;
2. The Trust will build on its existing governance arrangements for COVID-19 to more closely align with the practices employed by NHSEI;
3. The Trust will work with ICS partners, and encourage a standardised approach be adopted across organisations in preparing for the inquiry;
4. Senior decision makers will be invited to attend a one day training session on “How to Survive the Public Inquiry.” This session will provide up to 12 senior decision makers from the UHL COVID-19 Strategic & Tactical Teams:

- A theory-based session to demystify of the public inquiry in a non-threatening manner.
 - An exercise in a **safe environment** in which a public inquiry courtroom is set up where delegates are cross-examined on documentation which can be produced ahead of the course. After each cross-examination, feedback is given from other delegates, from the witness and from the course facilitator. All feedback is designed to be **constructive** to promote confidence for the real thing.
- 4.1.2 To support the delivery of the above recommendations, an action plan has been developed (see Appendix A) which will be overseen by a new dedicated COVID-19 Inquiry Team, chaired by the named Inquiry Lead, the Interim Director of Corporate and Legal, Gilbert George. To support the Inquiry Team in delivering against the action plan, a new COVID-19 Public Inquiry Officer will be appointed to join the EPRR Team for an initial 18-month period.

5. SUMMARY AND NEXT STEPS

- 5.1.1 The COVID-19 public inquiry will be of significant public interest and any evidence supplied by the Trust will likely be subject to expert scrutiny.
- 5.1.2 It is important that the Trust is in a position to clearly articulate its response to the pandemic and describe how it responded to information and directives it received. Crucially, this needs to be supported by evidence and be signed off at an appropriate level. This approach will ensure the Trust's *organisational memory* is preserved and which will be important as time goes by and organisational changes take place.
- 5.1.3 Moving forward, the COVID-19 Inquiry Team will continue to meet on a regular basis to deliver the attached project plan and further updates will be provided to the Trust Board on a regular basis, and no less frequently than six-monthly.

APPENDIX A: COVID-19 INQUIRY TEAM ACTION PLAN AS OF 26 OCTOBER 2021

| Action Reference | Action | Lead | By When | Progress Update | RAG status* |
|------------------|--|---|------------|---|-------------|
| 001 | Identify an Inquiry Lead | Interim Director of Corporate & Legal, Gilbert George | 01/08/2021 | Complete – The Inquiry Lead will be the Interim Director of Corporate & Legal. | 5 |
| 002 | Appoint a COVID-19 Inquiry Team to support the delivery of this action plan and future needs of the inquiry | Interim Director of Corporate & Legal, Gilbert George | 30/11/2021 | The following Inquiry Team has been appointed: <ul style="list-style-type: none"> • Inquiry Lead (Gilbert George) • EPRR Manager (Ben Collins) • Information Lead (Shaun Leah) • Human Resources Lead (Khaira Kalwant) • IM&T Lead (Taff Webb) • Information Governance Lead (Saiful Choudhury) • Inquiry Officer (Awaiting approval from panel before advertising) • Communications Lead (When Required) (TBC) | 4 |

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| RAG Status Key: | 5 | Complete | 4 | On Track | 3 | Some Delay – expected to be completed as planned | 2 | Significant Delay – unlikely to be completed as planned | 1 | Not yet commenced |
|------------------------|----------|-----------------|----------|-----------------|----------|---|----------|--|----------|--------------------------|

| Action Reference | Action | Lead | By When | Progress Update | RAG status* |
|------------------|--|---|------------|-----------------|-------------|
| 003 | Create a Terms of Reference for the COVID-19 Inquiry Team <ul style="list-style-type: none"> - EPRR Team to draft Terms of Reference. - Inquiry Team members to review drafted Terms of Reference. - Terms of Reference to be signed off by UHL COVID-19 Strategic Group (subject to amendment, dependant on the UK Government's Public Inquiry Terms of Reference). | EPRR Manager, Ben Collins | 30/11/2021 | | 1 |
| 004 | Setup a dedicated MS Teams site for the Inquiry Team to host documents | EPRR Manager, Ben Collins IM&T Lead, Taff Webb | 31/10/2021 | In Progress | 4 |
| 005 | Develop a COVID-19 Staff List <ul style="list-style-type: none"> - EPRR Team to create a template for cell chairs to complete with details of all staff members including their name, role in the pandemic, the date their involvement started/finished, and if they remain a member of the UHL workforce. - Cell chairs to complete the above template and return to the EPRR Team for collation. - EPRR Team to collate returns from each cell and create a single COVID-19 Staff List. - EPRR Team to upload the COVID-19 Staff List to the Inquiry Team Teams page. | EPRR Manager, Ben Collins | 31/12/2021 | | 1 |

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| Action Reference | Action | Lead | By When | Progress Update | RAG status* |
|------------------|--|---|------------|-----------------|-------------|
| 006 | <p>Ensure staff who leave the Trust have their contact details updated on the COVID-19 Staff List</p> <ul style="list-style-type: none"> - Head of People Services to identify a way of ensuring the COVID-19 Staff List is updated when staff leave the Trust and a means of securing their onward contact details if required. | Head of People Services, Khaira Kalwant | 31/12/2021 | | 1 |
| 007 | <p>Issue a Document Preservation Notice (DPN)</p> <ul style="list-style-type: none"> - Interim Director of Corporate & Legal to prepare DPN. - Interim Director of Corporate & Legal to determine if DPN needs to be issued via letter and both returned & signed, or if they can be issued and returned by email. - Further actions to be added once above confirmed. | Interim Director of Corporate & Legal, Gilbert George | 31/03/2022 | | 1 |
| 008 | <p>Issue a communication to all staff to make them aware of the inquiry and an instruction to preserve all documents and records associated with the pandemic</p> | Interim Director of Corporate & Legal, Gilbert George | 30/09/2021 | Complete. | 5 |

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| Action Reference | Action | Lead | By When | Progress Update | RAG status* |
|------------------|---|---|------------|-----------------|-------------|
| 009 | <p>Retain emails of staff who leave the Trust for future potential evidence beyond the normal 1 year retention period.</p> <ul style="list-style-type: none"> - Saiful Choudhury to establish a process so that when staff members on the COVID-19 Staff List leave the Trust, their digital retention is extended beyond the normal 1 year retention period. - EPRR Team to identify a list of shared mailboxes which should not be deleted and shared these with Taff Webb & Saiful Choudhury to ensure a note is added to these accounts to stop future deletion. - Saiful Choudhury to establish an SOP for accessing the mailboxes of staff who have left the Trust to ensure privacy / data protection requirements are followed. | <p>Interim Director of Corporate & Legal, Gilbert George</p> <p>Information Governance Lead, Saiful Choudhury</p> | 31/12/2021 | | 1 |
| 010 | <p>Ensure Chairs of each Operational, Tactical & Strategic Cell have signed off their cell's meeting notes and action logs</p> <ul style="list-style-type: none"> - Inquiry Officer to request updated paperwork (agendas, minutes, papers) up to 31/03/2022. - Inquiry Officer to write to each Cell Chair and ask them to sign off on all action logs supplied up to 31/03/2022 are factually accurate. | Inquiry Officer, To Be Appointed | 30/04/2022 | | 1 |

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| Action Reference | Action | Lead | By When | Progress Update | RAG status* |
|------------------|---|---|------------|---|-------------|
| 011 | Create a UHL Master Events List and integrate this into the COVID-19 ICC Log. | EPRR Manager, Ben Collins | 31/12/2021 | In Progress | 4 |
| 012 | Document and evidence the Trust's response to communications, letters and directives received: <ul style="list-style-type: none"> - EPRR Team to establish a process for gathering evidence. - EPRR Team to establish a process for signing off on position statements and evidence. - EPRR Team and Inquiry Officer to expand the COVID-19 ICC Log to include "Trust Position Statements" against each of the 1,200+ letters and directives the Trust has received alongside evidence to show compliance. Where compliance was not sought or achieved, this should be supported with a rationale and risk assessment wherever possible. All position statements and supporting evidence to be signed off and approved by a relevant cell chair, SRO, or Exec Lead. | EPRR Team Inquiry Officer, To be appointed Relevant Cell Leads, SROs, Exec Leads | 31/03/2022 | | 1 |
| 013 | Share UHL approach to the COVID-19 Inquiry with LLR partners to encourage a standard approach. | Interim Director of Corporate & Legal, Gilbert George | 31/12/2021 | EPRR Team have shared its initial report to the UHL COVID-19 Strategic Group with EPRR colleagues via the Health Economy Tactical Coordination Group. | 1 |

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| Action Reference | Action | Lead | By When | Progress Update | RAG status* |
|------------------|--|--|------------|-------------------|-------------|
| 014 | Provide an update to the Trust Board on the Public Inquiry Preparation - EPRR Team to prepare a Board report to be presented on 04 November 2021. | Interim Director of Corporate & Legal, Gilbert George EPRR Manager, Ben Collins | 04/11/2021 | In Progress | 4 |
| 015 | Review email accounts information storage timeframes Identify a solution to ensure UHL emails are not removed for any staff member of the COVID-19 Staff List (after they have left the organisation). | Information Governance Lead, Saiful Choudhury | 31/12/2021 | Work not started. | 1 |

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|------------------------|----------|-----------------|----------|-----------------|----------|---|----------|--|----------|--------------------------|
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