



Independent Covid Review
ISLE OF MAN

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Dear Ms Poole-Wilson

Independent Covid Review – Isle of Man

I write to you as the sponsoring minister for the Isle of Man Independent Covid Review which I chair, to give you an update, and to make proposals regarding the Terms of Reference. This letter, which amounts to formal communication between the Review and Government, can be shared within Government, the Public Accounts Committee, and Tynwald. It is intended that this letter, and response to it, will be published on the Review's website, once that is commissioned.

I will conduct the Review in a fair, robust and proportionate manner. I act entirely independently, as has been recognised by all politicians, ministers and civil servants who I have spoken with during the initial familiarisation stage. The focus of the Review, in line with the terms of reference, is to scrutinise the steps taken by the Isle of Man Government during the pandemic, to identify lessons learned, and to make recommendations. In order to do this, it is plainly necessary to examine the process of decision-making, and the effect of the government's decisions and communications on a wide range of stakeholders.

The conduct of the Review is entirely for me as Chair, but I consider it appropriate and helpful if I give you, as sponsoring minister, updates as to the progress of the Review. This is the first of those updates.

Progress of the review to date

The set-up of a review of this size takes a considerable time, but is well underway. I have selected and appointed the Review's counsel, operations director, expert advisor re. public health and expert advisor re. governance. I have also selected and appointed solicitors to the review. All of these appointments have been made independently of the Isle of Man Government, as is proper, but they have been ratified via the Chief Secretary. I may need a larger team in order to fulfil the terms of reference within the required timeframe, but I will make that decision once the scale of relevant documentation is better understood.

The review structure is being set up, including a website, document management system for government documentation, a document management and review system for other documentation, a portal for submissions and project-management software. There is some complexity around this process; as an example the document management systems need to have the capability of having 'reading rooms' so that ex-civil servants can access specified documentation to prepare themselves for interview. The review team has been familiarising itself with the Isle of Man system of governance. The review methodology is being refined. Legal requirements relating to data protection and confidentiality are being addressed. We are working towards beginning evidence-gathering in November 2022.

The review's findings will be based on evidence. However, the review process will not mirror a statutory inquiry's quasi-court procedure of eliciting evidence in a public forum. Such a process would take years. It is, in my view, possible to conduct this review within the timeframe set in the terms of reference, to report by December 2023, through using a flexible approach and using a wide range of qualitative research methods. Those research methods are likely to include:

Surveys

Focus groups with a number of stakeholders

Semi-structured conversations on a non-attributable basis with a variety of stakeholders

Structured formal interviews with decision-makers, advisors, senior civil servants.

Case studies

Desk-based research

Inviting written submissions from the public, businesses and groups; Seeking witness statements from identified figures

Analysing documentation held by government

Analysing documentation held by individual and group stakeholders.

The review will be divided into topics, such as education, financial support, and the vaccine programme. For each of the topics within the review I will use the research methods which appear most likely to generate full, frank and reliable evidence, within the timeframe.

TERMS OF REFERENCE

The terms of reference are included in a public document, which comprises a 'background' section, a 'terms of reference' section and a 'reporting' section.

The 'background' section is understood to be a summary of discussions within the Public Accounts Committee and Tynwald. At paragraph 4 there is reference to '*an independent review to be undertaken in public*'. That is not understood to be part of the directive Terms of Reference. For the avoidance of doubt, I do not intend to conduct this review in public. There will be public engagement, and there may be some public evidence sessions, but the methods of evidence-gathering will largely be out of the public gaze. Undertaking an independent review in public would require hearing all evidence in a quasi-court room, with attendant cost, and time. That approach would not take advantage of the flexibility of the review process. It would not be possible to conduct a court-based public review within the time set, as recognised in the Tynwald debate. I recommend that the wording '*to be undertaken in public*' is removed.

The 'terms of reference' section is understood to be directive. It is noted that the scope of the review is specifically not restricted, and that is welcome. In a flexible and responsive review there will necessarily be areas which the review determines should be analysed which are not foreshadowed in the scope.

There are, however, two areas of the scope which restrict the review, and where reconsideration is recommended.

Firstly, the end of the period within scope is currently September 2021, the end of term of the previous administration. It is recommended that the end date should be 1 April 2022, the date of the lifting of all coronavirus restrictions on the island. There were a number of decisions between the end of September 2021 and 1 April 2022 including roll out of booster vaccinations in October 2021 and measures adopted to limit the spread of Omicron in November 21. In order for the review to scrutinise the overall response of the Isle of Man Government to the pandemic it would be logical to include steps taken up to April 2022. It will also assist the review, when making recommendations to enhance preparedness, to consider the handling of the response to the pandemic by the current administration as well as the 2016-2021 administration.

Secondly, the reporting section includes: *'the final report will be a public document to include the evidence gathered on which any conclusions and recommendations are based'*. I propose that should read *'the final report will be a public document which will summarise the evidence gathered on which any conclusions and recommendations are based. Evidence, extracts from evidence, and summaries of evidence will be published at the Chair's discretion subject to considerations of confidentiality, relevance, cost and practicality'*.

I anticipate that the report will summarise parts of relevant evidence, will annex extracts from central documentation, will summarise themes from focus groups, and will publish some transcripts of interviews with central witnesses. My reasons for the proposed amendment are as follows. It is likely that the review will consider many thousands of documents, and speak to hundreds of people. There will be a wide variety of documentation including emails, minutes, research papers, internal reports, witness statements, submissions etc. It would be neither practical nor useful to publish all documents. It would not be an effective use of resources to transcribe hours of discussion at focus groups and workshops. It may discourage full and frank discussion if all conversations were transcribed and published. The process of redacting confidential and personal data from thousands of documents would significantly add to the administrative burden on the Review and delay publication while increasing costs. Further, the Review may examine highly confidential government documentation, the publication of which is restricted by law. It is therefore not within my powers as Chair to undertake to publish all documentation which I will have access to.

It may assist to set out some examples of the anticipated methodology to illustrate how the aims of the Review would not be furthered by a requirement to publish all evidence gathered.

The review may examine a business as a case study to understand the effects of government decisions on that business sector. That information may assist the review to reach conclusions, and would be summarised, but it would not be intended to publish that the business's documentation, accounts, comments by directors etc.

The review may speak on a non-attributable basis to parents of vulnerable children to understand the effects of government decisions about school hubs. Again, that information is likely to assist in evaluation of decisions, and themes would be summarised but it would not be intended to publish a

verbatim record of those meetings.

The review may hold workshops with groups of headteachers to understand about the provision of remote learning, and examine documents provided by schools showing examples of remote learning content or timetables. Again, although evidence from such meetings is likely to form part of the picture on which conclusions are based, it would not be intended to publish a transcript of the workshop.

In conclusion, my recommendations are as follows:

- (1) the wording '*to be undertaken in public*' is removed;
- (2) the scope is extended to end on 1 April 2022;
- (3) the phrasing: '*the final report will be a public document to include the evidence gathered on which any conclusions and recommendations are based*' is amended to read '*the final report will be a public document which will summarise the evidence gathered on which any conclusions and recommendations are based. Evidence, extracts from evidence, and summaries of evidence will be published at the Chair's discretion subject to considerations including confidentiality, relevance, cost and practicality*'.

I look forward to hearing from you.

Best wishes,



Kate Brunner KC
Chair to the Review