

In the matter of the Inquiries Act 2005

And in the matter of the Inquiry Rules 2006

The Lampard Inquiry

**Submissions of NHS England re:
Inquiry's draft Statement of Approach**

A. Introduction

1. NHS England is very grateful to the Inquiry:
 - a. For advanced sight of its proposed Statement of Approach in draft form (i.e. before any decisions have been made about it);
 - b. To be given the opportunity to make these written and, if necessary, oral submissions about its proposed Statement of Approach.
2. NHS England welcomes this approach of open engagement with all Core Participants in the Inquiry, especially in relation to an issue of such fundamental importance. In particular, we acknowledge how important this work is for families. NHS England is therefore keen to assist the Inquiry in the design and (where necessary) delivery of its investigative strategy.¹
3. In general terms, NHS England agrees that:
 - a. It is not feasible for the Inquiry to seek to investigate *every* death of mental health inpatients² under the care of NHS Trusts in Essex (“the Trust(s)”) between 1st January 2000 and 31st December 2023.

¹ Access to historical records may be challenging, but NHS England will do its utmost promptly to meet any requests.

² As defined in paragraph 3 of the Terms of Reference and in paragraphs (a) to (h) of the Explanatory Note.

- b. Instead, a proportionate approach is required, if the undertaking is to be completed within a reasonable time and in order to facilitate delivery of the Inquiry's report within a reasonable time.
 - c. Accordingly, it is necessary to identify a subset of all of the cases that *could* be investigated.
- 4. NHS England has identified the following issues which it respectfully suggests ought to be brought into account by the Inquiry when settling its investigative strategy. These have been identified, and are advanced, with the intention that the final investigative strategy meets the needs of the Inquiry, and those of Core Participants, and provides a meaningful product for use by the Inquiry.

B. Purpose informs methodology

- 5. In the design of any investigative strategy (and, NHS England would add, especially one that concerns patient safety) it is of foundational importance to set out the *purpose* of the investigation, or of the exercise. This is because the purpose of the exercise informs the methodology that ought to be adopted – i.e. the methodological choices that are to be adopted; because it assists in setting the scope and boundaries of the exercise; because by aligning methodology with the intended outcomes, the validity (measuring what is intended) and reliability (the consistency of results) is enhanced; and because it communicates the goals of the study to key stakeholders.
- 6. The purpose of the exercise could be: (i) to identify the extent to which care provision met, or did not meet, the relevant standards of the day (either generally, or in relation to an identified range of issues of concern); (ii) to identify fault or blame; (iii) to determine the extent to which the provision of care did, or did not, cause or contribute to the death of a patient; (iv) to identify the extent to which providers took into account and acted upon the relevant recommendations made across time by each investigatory body or person; or (v) to assist in the formulation of recommendations for the future.
- 7. By way of example only, if the purpose of the exercise is to assist in the formulation of recommendations for the future, the Inquiry may wish to identify a cohort of more predominantly recent cases (as it is likely that more recent cases will be more reflective of current practices and policies than much earlier cases). If the intention is to identify areas for improvement with a view to formulating recommendations which can then be acted

upon by relevant organisations, then ensuring that there is expertise in applying a systems-based approach would be important to explore the range of factors contributing to each individual's experience.

8. The draft Statement of Approach does not explicitly set out the purpose of the exercise. It does state at paragraph 3 that the Inquiry will look, to the extent possible and appropriate, into the deaths of all those whose families and friends have been granted Core Participant status "...to enable the Chair to make recommendations for change in relation to systemic issues." This tends to suggest that the purpose of the exercise is to enable recommendations to be made for the future, but (i) this is not stated explicitly, (ii) the draft Statement of Approach cross-refers in paragraph 2 to a passage in the Explanatory Note which states that the purpose the investigation is "in order to draw wider conclusions" which is obviously a broader intention than just making recommendations, and (iii) in paragraph 56 of the draft Statement of Approach it is suggested that the exercise "allows for its ToRs to be met (and for recommendations to be made...)."

C. Illustrative cases vs Sample cases

9. The draft Statement of Approach:
 - a. Refers in paragraphs 2, 6, 9 and 10 to the Inquiry identifying a sample of cases.
 - b. Refers in the title and in heading to paragraph 8 of the document, and in paragraphs 8, 12, 13, 16-18, 21-22, 26, 33, 38, 45, 47, 49 and 53 the Inquiry identifying illustrative cases.
10. A sample case is a subset of a larger group of cases selected for statistical or other analysis or evaluation, with the goal of drawing conclusions about the entire population from which it was drawn.
11. An illustrative case is a specific, in-depth example used to explain or clarify a concept, often providing rich context to help understand a broader idea.
12. NHS England respectfully suggests that the Inquiry ought to identify whether it intends to treat the cases selected from a wider cohort as *samples* – i.e. they are to be used to draw wider conclusions about the entire population from which they are drawn.

13. If the above is the intended approach, NHS England respectfully requests that the Inquiry identifies how this approach ensures that there is equality of representation in the sample across individuals with different protected characteristics. Additionally, if a sampling approach is to be taken, then the Inquiry will need to define a methodology for the sampling that is statistically robust (both in relation to the method of the selection and the number of cases selected).
14. Once the Inquiry has set out the purpose of its investigative approach, and its selection strategy, NHS England would appreciate the opportunity to understand the specific methodology that the Inquiry proposes to use to examine the selected case (NHS England has some expertise in relation to this issue, in as much as it advises on investigation methodologies with respect to patient safety learning across the NHS).

D. Inclusion and status of evidence given by family members in July and October 2025

15. Family members gave moving oral evidence to the Inquiry in July and October 2025. That evidence was not just about the lives of their loved ones, but set out very detailed accounts of the care that they received or did not receive (identifying fault in the provision of such care).
16. Counsel to the Inquiry made oral closing submissions at the end of each of these hearings, and on the latter occasion set out the views of Counsel to the Inquiry as to the failures in the provision of care which that evidence showed.
17. The draft Statement of Approach does not set out the use to which that evidence may be put in the proposed investigation, or its status in such an investigation. Counsel to the Inquiry stated on 28th October 2025 (page 138, lines 5-10) that: “The Inquiry will also obtain evidence from the healthcare providers involved where appropriate, so they have an opportunity to comment on the matters stated by families and the concerns they have raised as well as wider systemic issues.” Again, the use and status of that evidence is not addressed in the draft Statement of Approach.
18. As NHS England understands it, there may be a substantial overlap between the cases about which those family members gave evidence about in July and October 2025 and the list of cases set out in paragraphs 22(a) – (e) of the draft Statement of Approach.

19. In these circumstances, it is important for the Inquiry to set out clearly the use to which the evidence it has obtained, and proposes to obtain from healthcare providers, will be put in the proposed exercise (and how it will be incorporated into the proposed summaries, and how findings will be made on the basis of such evidence when set alongside past investigations and legal proceedings).

E. Additional practical points

20. NHS England notes that whilst the Inquiry intends to avoid duplicating previous investigations, it may re-examine matters where previous processes lacked systemic scope or independence (draft Statement of Approach para 16). It would be helpful to understand further how stakeholders will be alerted to a decision to re-open or re-examine a specific case. The Inquiry may also wish to address in the Statement of Approach how it will act if concerns emerge during a particular review that indicate ongoing or immediate risks.

F. Concluding remarks

NHS England is supportive of the Inquiry's approach to considering a selection of cases and hopes that this exercise provides a useful output for the Inquiry to inform its future work. It trusts that the suggestions that it makes above, and its requests for clarification, are useful to the Inquiry.

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1st December 2025