

Witness Name: Lesley Fraser

Statement No.: 01

Exhibits: LF

Dated: 17 April 2023

**UK COVID-19 INQUIRY
MODULE 1**

WITNESS STATEMENT OF THE DIRECTOR-GENERAL CORPORATE

This statement is one a suite provided for Module 1 of the Covid Inquiry and these should be considered collectively. In relation to the issues raised by the Rule 9 notice dated 4 November 2022 served on the Scottish Government, in connection with Module 1, the Director-General Corporate will say as follows:

1. Director General Corporate is responsible for the corporate services required by Scottish Government, and also provided on a shared service basis to around 35 public bodies in Scotland. Created in its current form in 2021, DG Corporate includes digital and IT/digital services, communications and ministerial support, corporate transformation and workplace, people, financial management, corporate governance, property and procurement advice, legal, propriety and ethics and the Covid Inquiry Response directorate. This statement sets out in the context of these DG Corporate responsibilities an overview of the role of the Scottish Parliament, the Scottish Government, Scottish Ministers and their respective accountabilities; the relationship of the Scottish Government with the UK Civil Service in the context of people; and an overview of the history and structure of DG Corporate.

The Scottish Parliament and the Scottish Government

2. The Module 1 DG Strategy and External Affairs statement dated 19 April 2023 includes a description of the constitutional status of the Scottish Parliament and Scottish Government under devolution and its statutory basis which is not repeated here. The Scottish Government's overall accountability and governance framework is summarised in the

document *Good Governance in the Scottish Government*, a copy of which is provided [LF/0001 - INQ000102900].

3. Scottish Ministers are accountable to the Scottish Parliament for the delivery of their government's programme and the proper use of the Scottish Budget in accordance with the *Scottish Ministerial Code* [LF/0002 - INQ000102901]. Civil Servants in Scotland are in turn accountable to Scottish Ministers and have a duty to serve the government of the day to the best of their ability in accordance with the *Civil Service Management Code* [LF/0003 - INQ000102902]. In addition, the Principal Accountable Officer (the Permanent Secretary) and Portfolio Accountable Officers (Directors General) have personal accountability to the Scottish Parliament for the regularity, propriety and value for money of the programmes that they oversee. These overarching points are covered in more detail below.
4. Information on the roles of ministers, the Permanent Secretary, Director Generals and Directors can be found in the Scottish Government's consolidated accounts. For example, the consolidated accounts for the year ended 31 March 2022 contain this information on pages 4-8. A copy of that document is provided: *The Scottish Government Consolidated Accounts for the year ended 31 March 2022* [LF/0004 - INQ000102903].
5. *The Annual Consolidated Accounts* published by the Scottish Government and previously the Scottish Executive contain a statement (referred to in the accounts as a 'Governance Statement', 'Accountability Report' or 'Statement of Control') that sets out the governance of the organisation for the time period covered by those accounts. These statements are published annually and reflect the evolution of governance arrangements over the time periods noted. They provide a high-level summary of the roles of the Permanent Secretary, Director Generals, and the structure of the Scottish Government's governance and accountability framework, including diagrams and supporting explanation about its various boards and meetings. For example, the arrangements for the period April 2019 to 31 March 2020 are set out in the Accountability Report at *Scottish Government consolidated accounts: annual report 2019 to 2020*, a copy of which is provided [LF/0005 - INQ000102904].
6. The Scottish Government's "Strategic Board" was developed into an Executive Board following a Review of Corporate Governance as detailed in the Scottish Government Consolidated Accounts 2015 to 2016. The change from an Executive Board to the Corporate Board from February 2018 is detailed in the *Scottish Government Consolidated Accounts for the year ended 31 March 2018*. The role and functions of Corporate Board and other forums is set out in the *Scottish Government consolidated accounts: annual report 2019 to 2020*

[LF/0005 - INQ000102904] and the *Scottish Government Consolidated Accounts: year ended 31 March 2021* [LF/0006 - INQ000102905].

7. The *Scottish Government Consolidated Accounts for the year ended 31 March 2008* summarise changes made to governance arrangements at that time, including the move from a department structure mirroring ministerial portfolios to a directorate structure intended to enable a more flexible organisational approach. A copy of this document is provided [LF/0007 - INQ000102906].

Accountability Framework: Roles and Responsibilities of Principal Accountable Officer and Accountable Officers

8. Part 2 of the *Public Finance and Accountability (Scotland) Act 2000* (the 2000 Act) sets out the accountability of the Permanent Secretary and portfolio Accountable Officers (Directors General) to the Scottish Parliament. The Permanent Secretary of the Scottish Government is the Principal Accountable Officer for the Scottish Administration in terms of section 14 of the 2000 Act. An explanation of the basis of accountability in Scotland and its key components, including the role of the Principal Accountable Officer and Accountable Officers, is contained in the following document which is provided: *Basis of Accountability in Scotland* [LF/0008 - INQ000102907].
9. Part 2 of the 2000 Act provides the basis for the *Scottish Public Finance Manual* (SPFM). The SPFM is issued by the Scottish Ministers to provide guidance on the proper handling and reporting of public funds. The accountability section of the SPFM is provided [LF/0009 - INQ000102908]. Annex 1 of this section of the SPFM addresses accountability of the Permanent Secretary and Portfolio Accountable Officers (including Directors General) [LF/0010 - INQ000102909].
10. It should be noted that the SPFM operates as an online portal, and to keep this resource as active and relevant as possible, its pages are updated on an ongoing basis. The date of update is provided at the bottom of each page. The SPFM lists Finance Guidance notes issued on behalf of the Scottish Ministers as either stand-alone guidance or in order to announce substantive amendments.
11. Portfolio Accountable Officers delegate authority for budgets and associated strategic and financial management responsibilities to Directors (or equivalents) for further sub-delegation

as they consider appropriate. The approach to delegation is explained in the following document which is provided: *Delegated Authority* [LF/0011 - INQ000102910].

12. The Module 1 DG Scottish Exchequer statement dated 19 April 2023 should be considered in conjunction with this section of the statement, as it provides further detail on how budgets are set, and the processes by which the Scottish Parliament holds Ministers and Accountable Officers to account for the proper use of budgets.

The Accountability of the Scottish Government to the Scottish Parliament

13. An explanation of the core principles that underpin the accountability of the Scottish Government to the Scottish Parliament that were agreed on 1 November 2000 is set out in the following document which is provided: *Scottish Government Accountability to the Scottish Parliament* [LF/0012 - INQ000102907].
14. There is a statutory relationship between Junior Ministers, Ministers (First Minister and Cabinet Secretaries) and Law Officers. Junior Ministers are appointed under section 49 of the Scotland Act 1998, the First Minister is appointed under section 46, Cabinet Secretaries are appointed under section 47, and Scottish Law Officers are appointed under section 48. Junior Ministers support the First Minister and Cabinet Secretaries in the delivery of functions.
15. The process of being appointed a Scottish Minister requires the agreement of the Scottish Parliament and approval of His Majesty the King. The Scottish Parliament is required to vote on all nominations for Ministerial and Law Officer posts. This requirement is set out in chapter four of the Standing Orders of the Scottish Parliament.
16. The Scottish Parliament has a role to hold Scottish Ministers and Accountable Officers to account. It scrutinises the activities and policies of the Scottish Government through debates, parliamentary questions and the work of committees. Parliamentary debates and questions provide an opportunity for members of the Scottish Parliament to question Scottish Ministers. The Scottish Parliament currently has 16 committees each responsible for a specific topic. Each committee will look at the work of the Scottish Government which falls within its remit, they may ask Ministers and Accountable Officers to answer questions in person, as part of their investigations. Once they have completed their investigations, they publish reports with recommendations which the Scottish Government must respond to.

17. The *SPFM accountability section* (provided) [LF/0009 - INQ000102908] addresses the accountability of the Principal Accountable Officer and Accountable Officers to the Scottish Parliament. The Module 1 DG Scottish Exchequer statement dated 19 April 2023 provides more information about how this process of accountability operates in relation to Parliament's scrutiny of the Scottish Budget.

Relationship with the UK Civil Service

18. The *Constitutional Reform and Governance Act 2010* (the 2010 Act) put on a statutory footing various long-standing conventions, protocols etc. including the Civil Service Code and the Civil Service Management Code. Civil servants working for the Scottish and Welsh Governments, and their agencies, have their own versions of the Civil Service code. Scottish Civil servants working in Non-Ministerial Offices are subject to the UK Civil Service code – *The Civil Service Code*. Section 3(1) of the 2010 Act provides that the Minister for the Civil Service has the power to manage the civil service (excluding the diplomatic service). The Prime Minister acts as the Minister with responsibility of the civil service in terms of the 2010 Act (Minister for the Civil Service). In accordance with section 1(2) of the *Civil Service (Management Functions) Act 1992*, by letter dated 11 November 2010 (the 2010 delegation letter), the Minister for the Civil Service has delegated to the First Minister certain limited functions in relation to entry qualifications, number and grading of posts, and certain terms and conditions of employment of staff below Senior Civil Service level. It does not delegate any authority to determine wider policies and procedures that apply to civil servants. The First Minister has been given exactly the same delegation as other ministers and office holders in charge of departments and the Welsh First Minister. This is not a unique part of the Scottish devolution settlement; it is an administrative step by the minister for the civil service delegate certain very limited management functions to ministers in charge of departments. All else is reserved to the Minister for the Civil Service which, for practical purposes, is the Cabinet Office. A copy of the *2010 delegation letter* is provided [LF/0013 - INQ000102911].

19. Scottish Government civil servants remain Crown servants and part of the UK civil service. This is set out in appointment letters as follows:

“Your employer is the Scottish Ministers, as agent of, and acting on behalf of, the Crown. As a Crown employee you are part of the UK Civil Service. Scottish Ministers

have delegated authority to exercise the statutory functions of an employer for staff in the Scottish Government.”

20. The Scottish Government, as the employing entity of staff working for Scottish Ministers in the Scottish Government Main (SG Main) and Marine (SG Marine) bargaining units, exercises the functions of an employer in respect of the staff working in those parts of the Scottish Administration. Bargaining units are groupings of staff below the level of Senior Civil Servants for the purposes of pay and terms and conditions of employment negotiations with the Scottish Government’s recognised trade unions. All staff must be employed within the SG Main or SG Marine bargaining units to receive a pay award. Pay and terms and conditions for staff in the Senior Civil Service are reserved to the Cabinet Office.

21. SG Main is comprised of core directorates which sit in director general families, agencies and non-ministerial offices as detailed in the table below:

Scottish Government Director General families	Agencies	Non-ministerial offices (NMOs)
Communities	Accountant in Bankruptcy	Community Justice Scotland
Corporate	Disclosure Scotland	Food Standards Scotland
Economy	Education Scotland	National Records of Scotland
Education and Justice	Scottish Public Pensions Agency	Office of the Scottish Charity Regulator
Health and Social Care	Social Security Scotland	Revenue Scotland
Net Zero	Student Awards Agency for Scotland	Scottish Fiscal Commission
Scottish Exchequer	Transport Scotland	Scottish Housing Regulator
Strategy and External Affairs		

22. The table above only shows those bodies who are part of SG Main. In addition to the agencies listed in column 2 there are a further three agencies who are part of the legal entity of Scottish Ministers: Scottish Forestry, Forestry and Land Scotland and Scottish Prison Service. In Scotland there are over 100 public bodies working for the people of Scotland.

23. SG Marine is comprised of:

- Officers and crew of three Marine Protection Vessels
- Officers and crew of two Marine Research Vessels
- Marine, engineer and safety superintendents; and
- Officers or ratings staff undertaking temporary shore-based assignments.

24. In practice, the Permanent Secretary to the Scottish Government is responsible for the day-to-day exercise of the employer function, authority having been delegated in terms of the scheme of delegation set out in the 2010 Delegation letter from the First Minister to the Permanent Secretary. This role is twofold; both in terms of exercising the employer function, but also in respect of exercising the day-to-day running of the Civil Service (and the appointed civil servants in the Scottish Government).

25. The employer of civil servants is the Scottish Ministers, as agent of, and acting on behalf of, the Crown. As such, civil servants are regarded as “Crown employees” rather than “employees”. Civil servants are not caught by the definition of “employee” in employment legislation but are subject to a separate legislative definition under “Crown Employment”. Regardless, civil servants are for all intents and purposes treated the same as employees and afforded the same rights and protections conferred through employment legislation to employees.

26. As Crown employees, civil servants in the Scottish Administration are part of the UK Civil Service.

27. Scottish Ministers have delegated authority to exercise the statutory functions of an employer for staff in the Scottish Government. In doing so, the Scottish Ministers set out terms and conditions of appointment. Such terms of appointment (and underlying policies) meet the requirements set out in employment legislation, the requirements for Civil Service appointment as set out in the 2010 Act (which put the status of the UK Civil Service on a statutory footing) and the associated Civil Service guidance, including the Civil Service Management Code and Civil Service Code. As such the relationship between the Permanent Secretary and their staff has to account for Civil Service code requirements and comply with employment law.

28. In addition to the paragraphs above the Permanent Secretary is the most senior civil servant in Scotland and head of the civil service. The role is the principal policy adviser to the First Minister and Secretary to the Scottish Cabinet. The Permanent Secretary leads more than 8,000 civil servants who serve Scottish Ministers and support the development, implementation and communication of Scottish Government policies. The Permanent Secretary is appointed by the First Minister of Scotland and the Cabinet Secretary of the UK Government.

29. As set out in more detail in the Module 1 DG Strategy and External Affairs statement dated 19 April 2023, this includes working with the UK Government and other devolved administrations on relevant joint initiatives including sharing information and learning. The Scottish Government is part of the wider UK Civil Service. For example, the Scottish Government Permanent Secretary is part of the wider UK Civil Service Permanent Secretary network. In terms of staff development, for example, the Scottish Government aligns with the wider Civil Service approach to Capability and Professions including aligning with the Government Skills and Curriculum capability model. In that context, the Scottish Government accesses some learning offers provided by the UK Government as well as offering bespoke learning tailored to the Scottish context.

Overview of the organisational structure of DG Organisational Development and Operations (now DG Corporate)

30. The Module 1 DG Scottish Exchequer statement dated 19 April 2023 sets out details of Ministers with responsibilities relating to finance in Scotland.

31. *A list of personnel at Directorate level with responsibilities relating to finance and the economy in Scotland between 2012-2020* is set out in the following document which is provided. This document covers DG Economy, DG Scottish Exchequer and DG Organisational Development and Operations (DG ODO) (which became DG Corporate in March 2021) [LF/0014 – INQ000102892].

32. DG ODO was formed in 2017. Sarah Davidson was Director General from this point until July 2019. Lesley Fraser took on the role of Director General on 1 July 2019. DG ODO became DG Corporate in March 2021.

33. The DG structure evolved over this period, including the change from DG ODO into DG Corporate. The directorates and directors for this period are:

- People Directorate: Barbara Alison March 2012 to November 2013, Sarah Davidson November 2013 to May 2014, Barbara Alison May 2014 to June 2016, Nicky Richards July 2016-present
- Scottish Procurement and Property Directorate: Alistair Merrill March 2012 to February 2015, Ian Howie (Interim) February 2015 – March 2015, Ainslie McLaughlin March 2015- June 2020, and Nick Ford July 2020-present
- Digital Directorate: Michael Neilson September 2012 to January 2017, Colin Cook January 2017- June 2021, Geoff Huggins June 2021 to present
- Financial Management Directorate: Gordon Wales October 2014 – July 2020, Kerry Twyman interim July 2020 – November 2020, Jackie McAllister November 2020-present
- Communications, Ministerial Support and Facilities Directorate: Barbara Allison June 2016-December 2020, Julie Humphries interim December 2020 - April 2021
- Communications and Ministerial Support: Andy Bruce April 2021 – present
- Corporate Transformation and Workplace Directorate- Ainslie McLaughlin interim July 2020 to February 2021, Brian Reid March 2021 – present day
- Propriety and Ethics (previous Organisational Continuity) – Kenneth Hogg March 2019 – August 2020, Neil Rennick August 2020 to March 2021, Elinor Mitchell July - November 2021, Ian Mitchell November 2021 – present
- Legal Services – Murray Sinclair March 2012 - October 2018, Paul Cackette November 2018 - March 2019, Ruairaidh Macniven April 2019 - present day
- Covid Inquiries Directorate – Ian Donaldson (interim) February 2022 - January 2023, Claire Tynte-Irvine (interim) January 2023 – present day
- Social Security – July 2016- present Stephen Kerr (Social Security transferred to DG Communities at the start of 2021).

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed: _____

Personal Data

Dated: _____17/04/2023_____