

Witness Name: Neil Couling

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Dated:

THE UK COVID-19 INQUIRY

**CORPORATE WITNESS STATEMENT OF THE DEPARTMENT FOR WORK AND
PENSIONS**

FIRST WITNESS STATEMENT OF NEIL COULING CB, CBE

Section 1: Introduction

- 1.1. I, Neil Couling, make this statement on behalf of the Department for Work and Pensions ('DWP' or 'the **Department**'). My address and date of birth are known to the Inquiry.
- 1.2. I am providing this statement in response to the Inquiry's draft Rule 9 request dated 7 October 2022 ('the **Rule 9 request**') on behalf of the Department.
- 1.3. I have been the Department's Director General of DWP's Change and Resilience Group ('**DG**') since April 2021 and Senior Responsible Owner ('**SRO**') for Universal Credit since October 2014. As DG, I am accountable to the Permanent Secretary for leadership of DWP's Major Change Portfolio, delivering the overall objectives of the Major Change Portfolio, managing the agreed delegated Major Change Portfolio budget and leading SROs and Programme Directors in line with the corporate structure. Additionally, I have responsibility for resilience across DWP. My DG role includes being SRO for Universal Credit, I am accountable to Parliament for implementing the Government's main welfare reform programme. This includes owning and communicating the vision of the programme, ensuring the implementation of Universal Credit is completed safely and securely and providing clear leadership to the programme team. In April 2020 I was appointed as SRO for the DWP's Covid-19 response.
- 1.4. The Inquiry has asked the Department to respond to a series of requests for information, which principally concern the core political and administrative decision-making by the Government and materials relevant to such decisions, insofar as they are held by DWP. For clarity, the Inquiry has defined core political and administrative decision-making as those decisions which were taken by the Prime Minister / No 10, the Cabinet Committees, including Ministerial Implementation Groups ('**MIGs**') and the Lead Government Departments ('**LGDs**').

- 1.5. Whilst I have a good personal recollection of some of the events or processes described in this witness statement, I have also co-ordinated and liaised with a number of colleagues with the relevant knowledge and experience across the Department. Their contributions have been used to respond to the questions in the Rule 9 request. My statement therefore relies upon those contributions to form the responses in this statement. I am also reliant on document archive searches conducted by colleagues. I do not personally hold any documents relating to the Inquiry's Terms of Reference.
- 1.6. My statement should be read subject to the caveats above. I have done my best to assist the Inquiry on behalf of the Department against these limitations. If further material is made available to me, I would be happy to add to or clarify this statement to take it into account.

Section 2: Chronology

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2.1. The Inquiry has asked for a full chronology of events and key decision-making in which DWP was involved, including key meetings running from 1 January 2020 to 24 February 2022.

2.2. Please refer to Annex A for DWP's draft chronology.

Section 3: Corporate Statement

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- 3.1. The Inquiry has requested a corporate statement on behalf of DWP to provide an overview of the structures of the Department and the role it played in the UK government's response to the Covid-19 pandemic between 1 January 2020 and 24 February 2022. The Inquiry has requested that DWP focus, in particular, on the period from the beginning of January 2020 to 26 March 2020, when the first UK lockdown came into effect.

DWP's role, function, and responsibilities before the pandemic

- 3.2. The Inquiry has asked for a description of DWP's role, function and responsibilities before the pandemic:

3.2.1. within UK Government overall; and

3.2.2. for emergency response measures including managing pandemics.

DWP's role and responsibilities within UK Government overall

- 3.3. DWP is responsible for welfare, pensions and child maintenance policy. As the UK's biggest public service department, it administers the State Pension and a range of working age, disability and ill health benefits to around 20 million customers.
- 3.4. DWP is responsible for:
 - 3.4.1. the development of policy and delivery of services on work, welfare, pensions and child maintenance to millions of customers;
 - 3.4.2. understanding and dealing with the causes of poverty rather than its symptoms;
 - 3.4.3. payment of benefits and pensions;
 - 3.4.4. supporting those out of work to find employment and those in work and on benefits to find higher-paid employment;
 - 3.4.5. encouraging disabled people and those with ill health to work and be independent;
 - 3.4.6. providing a decent income for people of pension age and promoting saving for retirement;
 - 3.4.7. providing value for money and reducing levels of fraud and error;
 - 3.4.8. reducing work-related death and serious injury in workplaces through the Health and Safety Executive; and
 - 3.4.9. the rules for some statutory payments which are made by employers.
- 3.5. DWP provides its services in a number of ways, including:
 - 3.5.1. Jobcentre Plus;

- 3.5.2. the Pension Service;
 - 3.5.3. the Child Maintenance Service and partner organisations; and
 - 3.5.4. Kickstart.
- 3.6. Jobcentre Plus helps people move from benefits into work and helps employers advertise jobs. It also deals with benefits for people who are unemployed or unable to work because of a health condition or disability.
 - 3.7. Pension Service provides pensions, benefits and retirement information for current and future pensioners in the UK and abroad.
 - 3.8. Child maintenance is financial support that helps towards a child's everyday living costs when the parents have separated. For people who cannot make their own family-based arrangements, the Child Support Agency and Child Maintenance Service calculate how much maintenance the paying parent should pay to the receiving parent and collect the maintenance payments, if necessary. DWP's Child Maintenance Options service provides impartial information and support to help both parents make informed choices about child maintenance. It can also help them to set up their own, family-based arrangements.
 - 3.9. Kickstart is a service for 16 – 24 year-old year old participants to gain work-based experience, through paid 6-month roles.
 - 3.10. The main benefits provided by DWP include:
 - 3.10.1. Universal Credit ('**UC**'): benefit for people who are unemployed, too sick to work, or on low incomes in work and need a top-up;
 - 3.10.2. Employment and Support Allowance ('**ESA**'): benefit for those who have a disability or health condition that affects how much they can work;

- 3.10.3. Personal Independence Payment ('**PIP**'): benefit to help with extra living costs if a person has a long-term physical or mental health condition or disability and difficulty doing certain everyday tasks or getting around because of their condition;
- 3.10.4. Industrial Injuries Disablement Benefit ('**IIDB**'): benefit to support those who have become ill or disabled because of an accident or disease either at work on an approved employment training scheme or course;
- 3.10.5. Carers' Allowance ('**CA**'): benefit for those who are providing unpaid care for 35 hours a week or more to someone in receipt of a disability benefit; and
- 3.10.6. State Pension: State Pension is a regular payment most people can claim when they reach State Pension age. A person's State Pension age depends on when they were born.

DWP's role and responsibilities for emergency response measures including managing pandemics

- 3.11. DWP has its own pandemic response plan as part of its overall Business Continuity arrangements, which is designed to enable DWP to continue to deliver its core services in a time of disruption and to ensure that people continue to receive financial support. It is part of a broader network across Government and frequently takes part in exercises designed to test the resilience of critical services. DWP leads the Cross-Government Business Continuity Forum. However, it did not have a role in planning for the public health response to a pandemic.
- 3.12. At the start of 2020, DWP had extensive Business Continuity and pandemic plans in place. In addition to the pandemic plan, the Department has plans for an economic downturn (which was to become relevant as the economic impact of the measures to

tackle Covid-19 manifested in the Spring of 2020). All these plans had been honed over a number of years and were built around Cabinet Office scenario planning and our experience of staff behaviour. The pandemic plan had been put in place at the time of the 2009 Swine Flu pandemic and refined through numerous internal exercises (up to and including at Executive Team level) and our experience at the Cabinet Office led Exercise Cygnus. The plan had been shared across Government via the Cross-Government Business Continuity forum.

- 3.13. DWP's pandemic plan, which was reviewed annually, was built around potential staff absence and set out pre-planned contingencies and changes in operational practice or "easements" at staff absence levels of 10, 25 and 50%. The plan was agreed with the DWP Executive Team ('**DWP ET**') and tested prior to the pandemic. The plan was specific to DWP. It was not replicated in other government departments. Rather it was used to inform other government departments of ways in which they might choose to develop their own pandemic planning. The DWP pandemic plan was a respected example of pandemic planning. The plan was implemented with adaptation and addition to support response to the circumstances of the Covid-19 pandemic. Adaptation of a pre-existing plan is normal procedure in the circumstances of a major disruption to a service.
- 3.14. DWP's Pandemic Plan, "Departmental Pandemic Influenza Response & Recovery Plan" [NC/1 – INQ000103111], became the bedrock of the Department's response and was built upon, as circumstances required.

Business Continuity Planning

- 3.15. As part of the normal Business Continuity planning, the Business Continuity and Resilience team conduct regular planning for all types of incidents that could impact DWP's ability to deliver its business.

- 3.16. The team worked in developing the overarching DWP Business Continuity Plan that is owned by the DWP ET [NC/2 – INQ000187739]. The Plan is iterative and has been regularly updated since it was developed in 2000. Regular exercises and tests of the Business Continuity Plan are undertaken with the ET, based on different scenarios, ranging from severe weather, power failures and terrorist attacks to a global pandemic.
- 3.17. In support of this there is an Incident Management Framework [NC/3 – INQ000103098] that outlines the different types of responses to particular incident types.
- 3.18. In order to address the specifics of a pandemic, the team had developed and refreshed, the Department's Pandemic Plan [NC/1 – INQ000103111]. This looked at impacts and staff absences, ranging from 10% to 50%. It was developed pre-COVID but was adapted and used during COVID.

Incident Management

- 3.19. As part of the normal incident planning and management DWP adopts a "Gold Command" approach. At the time of an incident, the Gold Commander will assess if the DWP Business Continuity Plan should be invoked. If a decision is made to invoke the plan, the Gold Commander oversees the management of the response with delegated authority to implement and instigate any or all the contingency measures that have been agreed in the plan or take alternative action, still within the scope of the Incident Management Framework [NC/3 – INQ000103098].
- 3.20. The Gold Commander reports to the DWP ET and Ministers, informally through verbal and written updates and depending on the extent of the incident, by daily Situation Reports ('SitReps'). The Gold Commander will escalate certain matters, seeking advice, steers, and decisions for those issues that are not covered in the DWP Plan.

- 3.21. For Covid-19, Nicholas Hamer was the primary Gold Commander, but he was supported by other Gold Commanders (including Matt Briggs and Paul Dent) on a rota basis.
- 3.22. Throughout the early days/weeks of the Covid-19 pandemic this was known as the Response Phase. The extent, nature and impact of the pandemic was unknown at that stage and so required planning within the scope of the DWP Business Continuity Plan.
- 3.23. This is the standard approach the Department takes for all major incidents. It is designed for those incidents that run for a short period of time, where the department can return to Business as Usual ('BAU') within 4 or 5 days, recovery action put in place and a Lessons Learned exercise promptly undertaken.

DWP's role, function and responsibilities between 1 January 2020 and 24 February 2022

- 3.24. The Inquiry has asked for a description of DWP's role, function and responsibilities between 1 January 2020 and 24 February 2022:
- 3.24.1. within UK government overall;
 - 3.24.2. with Devolved Administrations, and regional and local administrations; and
 - 3.24.3. for emergency response measures taken in relation to Covid-19.
- 3.25. DWP's role, function and responsibilities in relation to Devolved Administrations will be discussed later in this statement.

DWP's additional roles and responsibilities within UK Government during the pandemic

- 3.26. In February 2020, Cabinet Office Briefing Rooms ('**COBR**') and the Cabinet Office approached Paul Dent as Head of the Business Continuity specialism for the UK Government, to assess cross-Government pandemic and business continuity plans with a view to readiness for an emerging pandemic.
- 3.27. Paul Dent established and chaired a cross-Government pandemic working group ('**CGPWG**'), led by DWP and drawing on Business Continuity experts from Governmental organisations including HMRC, with DWP maintaining overall responsibility for leading the exercise. Paul Dent also asked the Government Internal Audit Agency ('**GIAA**') to embed themselves into the group to bring additional discipline to the work.
- 3.28. The GIAA is an executive agency of HM Treasury. GIAA provides central government with objective, independent insight and assurance enabling its organisations to achieve better outcomes with public money. GIAA help these organisations develop better governance, risk-management and internal control.
- 3.29. On 28 February 2020, the CGPWG approached 49 organisations who were part of the business continuity Governmental community, and additionally, asked them to involve Arm's Length Bodies ('**ALB**') connected with them. This resulted in some 138 completed questionnaires being returned to the team for assessment.
- 3.30. During March 2020, the Cabinet Office were supported by Deloitte's Reputation Crisis and Resilience Team. Deloitte were separately engaged (possibly by Number 10), with a narrower remit to focus on a subset of 21 Ministerial Departments and their associated ALBs, which they considered to be "high risk" or "high impact" to assess their pandemic response readiness.
- 3.31. There was a rapid realisation that the CGPWG and Deloitte were working on a number of common areas. On 11 March 2020, during a meeting between the CO and CGPWG it was agreed that the two teams would work together. A single Governmental-Deloitte

team was therefore formed, initially co-located within the Cabinet Office. Jointly, the teams reported on Departmental and ALB pandemic readiness to COBR and Cabinet Office.

- 3.32. This activity generated 2 reports. The CGPWG, with the support of GIAA and Deloitte, produced a Civil Contingencies Secretariat report entitled “Civil Contingencies Secretariat Cross Government Business Continuity Arrangements – COVID-19 Pandemic Readiness Assessment – Consulting Assignment” on this work, which was issued to Cabinet Office on 11 June 2020 [NC/4 – INQ000065986].
- 3.33. Following this, the CGPWG produced a report to members of the cross-Government business continuity community on 17 July 2020, entitled “Cross-Government Early Lessons Learnt Report” [NC/5 – INQ000187738]. In the covering email, Government Departments were offered support with their business continuity planning through some “surgery” sessions.

DWP’s role and responsibilities for emergency response measures in relation to Covid-19

- 3.34. It was recognised by the Gold Commander, Nicholas Hamer, that the approach to business continuity and incident management described above was unsustainable and required an approach that would re-evaluate the delivery mechanisms of the organisation and create a “Run Phase”, during which decisions could be made. A “Run Phase” is a phase immediately after an initial response and where the DWP ET has decided that the response needs to take the form of a programme response because the pandemic required longer term handling.
- 3.35. DWP ET decided to set up the Implementation Planning and Delivery Executive (‘IPDE’) to manage the Run Phase. This group initially met on a daily basis, 7 days per week and was chaired by Ian Wright as Programme Director for the Run phase [NC/6 - INQ000103114] [NC/7 - INQ000103115] [NC/8 - INQ000103116]. IPDE had

delegated responsibility from DWP ET to plan and make decisions on the interim delivery model for DWP. I, as SRO, regularly reported to DWP ET on IPDE and sought sign-off by DWP ET where it was felt appropriate. I reported to DWP ET in "Covid 19 Initial Response Lessons Learned" on 18 June 2020 [NC/9 - INQ000187740] on the Department's initial response to the pandemic and on areas where the response needed to adapt to transition from a Gold Command response to a Run Phase response.

- 3.36. The Run Phase lasted for several months.
- 3.37. As the Department came out of the Run Phase and started to return to BAU process and/or adapt or adopt new Covid-19 ways of working, into normal business practices, the IPDE was replaced by the Portfolio Management Executive ('PME') on 1 August 2020, which was chaired by Paul McKeown, Deputy Director for Project and Programme Management [NC/10 - INQ000103120]. This again had some delegated authority and saw me (Neil Couling) as the ongoing SRO, reporting to DWP ET.
- 3.38. The Covid-19 approach was specific to the nature, length and impact of the pandemic and whilst lessons have been learned, the implementation of forums such as IPDE and PME may not be deployed for future shorter duration incidents.

Public Policy - Exclusive Competence

- 3.39. Between 1 January 2020 to 24 February 2022, areas of government policy in which DWP had exclusive responsibility were the same as set out in 3.4 above.

Key Officials and Decision Makers

- 3.40. The Inquiry has asked for details of those considered to be key officials or decision makers within DWP, and their involvement in the response to the Covid-19 pandemic between 1 January 2020 and 24 February 2022.

Ministers

- 3.41. At that time, the relevant ministers were:

- 3.41.1. Secretary of State - Therese Coffey (8 September 2019 - 6 September 2022)
- 3.41.2. Minister for Disabled People – Justin Tomlinson (4 April 2019 - 16 September 2021)
- 3.41.3. Minister for Pensions and Financial Inclusion – Guy Opperman (14 June 2017 and 8 September 2022)
- 3.41.4. Minister for Employment – Mims Davies (26 July 2019 and 6 July 2022)
- 3.41.5. Minister for Welfare Delivery – Will Quince (26 July 2019 to 16 September 2021)
- 3.41.6. Minister for Lords – Baroness Deborah Stedman-Scott (20 July 2019 – present)
- 3.41.7. Minister for Disabled People – Chloe Smith (16 September 2021 - 6 September 2022)
- 3.41.8. Minister for Welfare Delivery – David Rutley (17 September 2021 - 20 September 2022)

Key Individuals

3.42. Key individuals included Nicholas Hamer (Director for Covid-19 Response) and those in the DWP ET. I am a member of the DWP ET and the other current members of the ET are set out below:

- 3.42.1. Permanent Secretary: Peter Schofield;
- 3.42.2. Chief Digital and Information Officer: Simon McKinnon;
- 3.42.3. DG Disability Health and Pensions: Katie Farrington (Jonathan Mills - 2020);
- 3.42.4. DG Finance: Catherine Vaughan (Nick Joicey during the pandemic);
- 3.42.5. Labour Market Policy and Implementation: Kate Davies (Jonathan Mills during the pandemic - initially covering both policy roles);
- 3.42.6. DG People Capability and Place: Debbie Alder;
- 3.42.7. DG Service Excellence: Amanda Reynolds; and
- 3.42.8. DG Work and Health Services: Barbara Bradley (John-Paul Marks during the pandemic).

Testing, surveillance and the movement from 'Contain' to 'Delay'

3.43. The Inquiry has asked for a description of the role played by DWP, and individuals within DWP, in the provision of advice and in key decision-making relating to the government's initial strategies relating to community testing, surveillance, the movement from 'contain' to 'delay' and guidance and advice to health and social care providers.

- 3.44. DWP was the recipient but not the provider of information about the nature of the disease and the measures being taken to contain it. Information from DHSC in particular, helped inform the development of policy and our understanding of the impact on particular groups. Understanding the public health advice was important to how the Statutory Sick Pay ('SSP') regulations in particular, were framed.

Non-pharmaceutical interventions (NPIs)

- 3.45. The Inquiry has asked for a description of the role played by DWP in key decision-making relating to the imposition of non-pharmaceutical interventions ('NPIs') to the extent that DWP was involved between 1 January 2020 to 24 February 2022.
- 3.46. Whilst the Secretary of State took part in a range of Cabinet meetings about the broader Government response, including the use of NPIs, DWP did not have any particular responsibility with respect to NPIs, beyond the measures listed in this statement which were intended to support the implementation of NPIs (but were not in themselves NPIs).
- 3.47. DWP's response to the Covid-19 pandemic had a number of elements. These were particularly relevant to supporting the implementation of NPIs by enhancing compliance and limiting the spread of Covid-19 as follows:
- 3.47.1. supporting compliance with the Government's guidance and limiting the spread of Covid-19 by ensuring that people had financial support when they could not work because they were ill with Covid-19 or because they or a dependent child were self-isolating in line with Government guidance. This required a number of changes to the rules for DWP benefits and other statutory payments;

- 3.47.2. changing benefit rules and our expectations of customers in order to recognise the unusual labour market circumstances. Without these changes some people would have been left without financial support; and
 - 3.47.3. protecting our vulnerable customers by changing the way in which our business was delivered to avoid spread of the disease by following Government guidance on social distancing and rigorous cleaning regimes at job centres. See also “Easements and Contingencies”.
- 3.48. DWP also made three kinds of further changes to support the continued operation of our services and react to the economic disruption caused by Covid-19, as follows:
- 3.48.1. ensuring that the vast number of people who were suddenly out of work (for example, because lockdowns meant their employer closed down) received the financial support to which they were entitled. Responding to the unprecedented scale of this challenge required DWP to innovate in the way DWP services were delivered;
 - 3.48.2. implementing a range of business continuity arrangements to enable DWP to deliver services with reduced staffing and during lockdown; and
 - 3.48.3. putting in place the right support to help individuals get back to work where they had lost their jobs as a result of the economic downturn caused by the pandemic.
- 3.49. DWP deployed NPIs to ensure that the risk to the health of individuals seeking assistance (and DWP’s employees) was reduced and the availability of important financial support remained promptly available. For example:
- 3.49.1. Nearly all face-to-face interactions with Jobcentre Plus staff and assessors were suspended except for those unable to access alternative means of

support. Paper-based, telephone and other remote assessments were carried out instead;

- 3.49.2. Reviews and reassessments for all disability benefits were suspended and benefit awards due to expire were temporarily extended. Remote then face-to-face assessments were gradually reintroduced;
- 3.49.3. The UC application process was streamlined to allow changes to the way customers had new claim interviews and established their identity without meeting face-to-face;
- 3.49.4. There was a suspension of conditions for claiming (conditionality);
- 3.49.5. Meetings to establish work-search requirements and attendance at interviews at Jobcentres were temporarily halted;
- 3.49.6. DWP helped run a shielding support line; and
- 3.49.7. DWP also supported DHSC in setting up the NHS Isolation Note Service to reduce pressure on the health system during the pandemic.

Flexible Workforce and Virtual Service Centre

- 3.50. To adhere to Government guidance on NPIs, protecting both DWP employees and vulnerable persons, DWP implemented a system of flexible working arrangements and established a Virtual Service Centre to ensure the continuity of DWP services.
- 3.51. The various working arrangements that were implemented are set out as follows:
 - 3.51.1. In March 2020, DWP staff were asked to work from home ('WFH') where possible, in line with Government guidance.

- 3.51.2. From 17 March 2020 onwards, computer equipment was made available to allow hundreds of members of staff who were either isolating, shielding or recovering from Covid-19 to be able to WFH.
- 3.51.3. In March-May 2020, DWP redeployed 10,000 staff to front line roles to ensure continuity of services to customers.
- 3.51.4. DWP ET ranked DWP core activities into priority groups to allow available resources to be deployed to best effect during pandemic. Level 1 was the highest priority work and Level 6 was the lowest priority work. DWP ET decided to re-deploy staff from level 6 activity, for example, from debt, and disputes work, into Level 1 and 2 activity, for example processing claims for benefit with a particular focus on UC and ESA.
- 3.51.5. By May 2020, approximately 10,000 computers had been distributed across the DWP network to facilitate home working.
- 3.51.6. The increase in demand for DWP service could not be contained within existing premises and so DWP rapidly expanded the space it had available for the front of house network. Remote working was largely for back of house and corporate staff.
- 3.51.7. DWP needed safely to accommodate another 13,500 new Work Coaches (by March 2021) that the Department recruited to help meet the increased demand and expanded by approximately 200 new physical sites bringing the total number of DWP live sites to over 900 (May 2022).
- 3.51.8. In July 2021 staff were called back to the offices and hybrid working began.

- 3.52. As part of establishing a flexible workforce, and as a consequence of Government messaging around home working where possible, DWP established a Virtual Service Centre ('VSC') on 29 April 2020.
- 3.53. Its primary purpose was to provide extra resource to cope with the significant increase in UC claims, the reduction in available staff and to channel constraints (i.e. customers unable to provide information in a face-to-face setting during the initial Covid-19 Lockdown).
- 3.54. By the end of April 2020, there were circa 1000 staff within the VSC, with a plan to grow at a rate of 300-500 per week to reach capacity of 3000 by the end of June 2020. VSC was resourced with a mix of colleagues from across DWP (primarily the Corporate Centre) who were joined by colleagues from other Government Departments (HMRC, HMPO, UKVI, OFSTED, ONS and DEFRA) during May 2020.
- 3.55. The majority of VSC colleagues worked from home and this was enabled by a rapid laptop rollout, softphone functionality and continual adaptation of UC guidance and processes. Softphone is a generic term that refers to the ability to make and receive voice calls over the internet without the need for a physical handset.
- 3.56. Colleagues within the VSC primarily bolstered UC Case Management, ensuring that both new and existing customers were paid, but also supported fraud and repair activity and provided their own internal Helpdesk and Support functions.
- 3.57. VSC was set up and led by Universal Credit Transformation & Delivery, with Work & Health Operations eventually providing line management for day to day running.
- 3.58. VCS evolved into an operational unit that existed until October 2020, whereupon it reduced to circa 1100. Whilst the majority returned to their core roles, a number of DWP colleagues remained to pick up economic recovery activity (Kickstart) and colleagues from OGDs supported residual New Style (Contributory Benefit) work.

Easements and contingencies

- 3.59. The design and application of many easements and contingencies across DWP service lines was a critical factor in enabling DWP to manage increased demand during the initial response. Continued expansion of the easement approach identified opportunities for transformation and automation, as well as areas where reverting to the pre-Covid service was beneficial.
- 3.60. DWP identified a range of easements that would help protect customers and staff and place an element of additional trust in its customers.
- 3.61. On 13 March 2020, Trust and Protect easements to PIP, ESA, and UC benefit customers, isolating due to Covid-19, were put in place. These included:
- 3.61.1. On 17 March 2020, DWP suspended face-to-face intervention for assessments for health and disability benefits.
 - 3.61.2. On 19 March 2020, it was determined that people receiving benefits did not need to attend Jobcentre appointments for at least 3 months.
 - 3.61.3. On 24 March 2020, Jobcentres closed for face-to-face appointments unless necessary.
 - 3.61.4. In April 2020, the "Don't Call Us, we'll call you" campaign began. A bolstered front-line team proactively called customers if they needed to check any of the information provided as part of the claim, as well as messaging them on their online journal. Don't Call us, we'll call you" was an easement linked to the huge surge in UC claims at that time.
 - 3.61.5. In April 2021, Jobcentres in England, Scotland and Wales returned to pre-lockdown opening and restarted face-to-face appointments.

- 3.62. Over the course of 2020, around 200 easements were deployed into Disability Services, Retirement Services, UC and other areas of DWP business. They were introduced from 11 March 2020 and ran until 30 November 2022 or were embedded as permanent improvements. By November 2022 15% remained in place as “the new normal”. This has ensured that the improvements and smarter ways of working during the pandemic are not lost, while continuing to transform services to benefit our customers.
- 3.63. One example of this is the Social Fund Funeral Expenses Payment, for which HM Treasury approved a permanent change to: (1) reform the Closest Relative Test with a less intrusive approach in new regulations; and (2) Allow the Decision Maker to accept funeral costs if they were below an agreed ‘red flag’ amount.

Policy Changes in response to Covid-19 Pandemic

Financial support to vulnerable individuals

- 3.64. In relation to paragraph 6 of the Provisional Outline of Scope, the DWP introduced measures and regulations as an immediate response to the pandemic to streamline or enhance the financial support available to vulnerable individuals. Of most obvious relevance were the following (explained in more detail below):
- 3.64.1. Statutory Sick Pay: It was no longer necessary to serve the normal ‘waiting days’ before payment could be made.
- 3.64.2. Employment Support Allowance: Individuals would automatically be assessed as having ‘limited capability for work’ if they were affected by Covid-19, whereas in normal circumstances an assessment would have been required.

- 3.64.3. Job Seekers Allowance: Existing customers could continue to claim if their job search was affected by illness, isolation or caring responsibilities as a result of the virus.
 - 3.64.4. Carers' Allowance: There was continued entitlement if there was a temporary break in caring as a result of isolation or infection.
 - 3.64.5. Coronavirus Job Retention Scheme: People in the scheme were given access to Maternity Allowance and other family related benefits, which would normally only be available to people in work.
 - 3.64.6. Working Tax Credits: Entitlement continued even where the individual was working fewer hours than normally needed to qualify. Key workers were given longer to report changes of circumstances.
 - 3.64.7. End of Custody Temporary Release Scheme: Prisoners on temporary release were given entitlement to UC and other benefits to which they would not normally have access.
 - 3.64.8. UC: awards reduced to nil because of an individual's income could be reinstated without a new claim, or a reclaim could be made for up to six months.
- 3.65. To support those on low incomes through the outbreak, DWP introduced a package of temporary welfare measures. Taken together, these measures provide over £9.3bn of additional support through the welfare system for people affected by the pandemic:
- 3.65.1. There was a £20 per week increase to the Universal Credit standard allowance and Working Tax Credit basic element. This meant that for a single UC customer (25 or over), the standard allowance has increased from £317.82 to £409.89 per month.

- 3.65.2. Affected self-employed customers did not have a Minimum Income Floor (an assumed level of income) applied for a period of time within UC.
 - 3.65.3. In addition to the above, legacy benefits were increased by £600m (1.7%) from April 2020 and there was a further £100m (0.5%) increase from April 2021 as part of the Government's annual up-rating exercise.
 - 3.65.4. DWP increased the Local Housing Allowance rates for UC and Housing Benefit customers so that it covered the cheapest third of local rents.
 - 3.65.5. DWP also increased the additional earnings disregard (the level of other income which can be earned without affecting entitlement to housing benefit) in Housing Benefit to ensure increases in the maximum rate of the basic element of Working Tax Credit did not have an impact on a customer's Housing Benefit award.
- 3.66. DWP also introduced regulations to ease access to financial support during the pandemic:
- 3.66.1. ESA was made accessible from day one of a claim for Covid-related cases;
 - 3.66.2. Statutory Sick Pay was made available for employees from day one of sickness, self-isolation or shielding due to Covid-19;
 - 3.66.3. DWP made it easier to access ESA by launching a portal for new style ESA online claims; and
 - 3.66.4. Access to Work continued to offer substantial practical support to people with disabilities or health conditions, which included people who were CEV.

Universal Credit, Job Seeker's Allowance and Income Support

- 3.67. UC is a flexible system which responded well when very large numbers of people suddenly needed to make a claim in March/April 2020. It was a very effective way to get money to people who were suddenly in need, when they found themselves unable to work as a result of illness or because the lockdown meant many businesses had to close, and in advance of other HMT support schemes which were announced later (Coronavirus Job Retention Scheme and Self-Employment Income Support Scheme).
- 3.68. Although the system overall was flexible enough to respond, DWP decided to make some changes to reflect the circumstances of the pandemic and the national lockdown:
- 3.68.1. As a result of the national lockdown, the economic downturn and rise in unemployment was much more sudden than the UK had experienced in previous recessions. In order to provide greater financial protection to people who suddenly and with little or no warning found themselves out of work, the Government decided to temporarily increase the standard allowance in UC by £20 per week. The UC uplift was in place between 30 March 2020 and 5 October 2021. The Government was always clear that the £20 increase was a temporary measure to support those households most economically affected by the economic shock of Covid-19.
- 3.68.2. In recognition of the fact that many self-employed people would be unable to continue trading because of the national lockdown, DWP suspended the Minimum Income Floor, which assumes a certain level of earnings for self-employed people; and introduced more discretion into the application of the gainfully self-employed test and the "start-up period".
- 3.68.3. To reflect the fact that some prisoners were being temporarily released from prison because of medical vulnerability, DWP removed restrictions which would have prevented them from accessing means-tested benefits.

- 3.69. It was not possible to implement any uplift in the legacy systems outside of the annual cycles of uprating of those benefits. However, it was publicised that legacy claimants could claim UC.
- 3.70. The Government was challenged by way of judicial review, *R. (on the application of T) v Secretary of State for Work and Pensions [2022] EWHC 351 (Admin)* heard in November 2021. The Government defended the case which contained two complaints; one based on unlawful direct discrimination, the other based on indirect discrimination on grounds of disability. With respect to indirect discrimination, the claimants said those receiving legacy benefits are more likely to be disabled than those on UC, therefore, the uplift to UC indirectly discriminated against the disabled.
- 3.71. In February 2022, the applications were dismissed. The High Court determined that the Complainants did not have the “other status” necessary to bring a direct discrimination claim. In relation to the indirect discrimination claim, the High Court determined that the UC uplift was indirectly discriminatory, however, the difference in treatment between UC claimants and those in receipt of legacy benefits was justified. The High Court accepted the Government’s evidence that the increase to the standard allowance was a way to provide additional support to those who did lose jobs or income and became dependent on UC for the first time, during the pandemic and, that this aim was a legitimate objective. The High Court concluded that the Secretary of State acted lawfully in directing her attention to the position of new benefit claimants all of whom would have made claims for UC. Existing claimants also benefitted from the uplift, but this did not go to the legality of her position. In the circumstances of the pandemic the Secretary of State was entitled to draw a line between UC claimants and legacy benefit claimants.
- 3.72. The Claimants’ appeal to the Court of Appeal, is due to be heard in December 2022.

Employment and Support Allowance, Work Capability Assessments, Personal Independent Payment and Industrial Injuries Disablement Benefit

- 3.73. Entitlement to health and disability benefits, ESA, the additional health-related amount of UC, PIP and IIDB is determined by the customer going through an assessment process. These assessments are delivered by third party providers contracted by DWP.
- 3.74. In response to the Covid-19 pandemic, the Department made a number of changes to assessments for health and disability benefits, to comply with Public Health guidance and safeguard the health of customers and staff, while also ensuring eligible new customers received their benefit, and ensuring continuity of existing awards:
- 3.74.1. All face-to-face assessments and most award review / reassessments were suspended, from March 2020, to protect vulnerable people (and assessment centre staff) from unnecessary risk of exposure to Covid-19. However, DWP continued to complete paper-based assessments where possible. Where a customer reported a change in their condition, DWP continued to refer for a reassessment.
 - 3.74.2. Telephone assessments were introduced incrementally across health and disability benefits from April 2020.
 - 3.74.3. In PIP, where it was not possible to carry out a telephone assessment DWP made decisions based on all the evidence available to ensure any payment was not delayed.
 - 3.74.4. From November 2020, video assessments were trialled on a small scale and on a voluntary basis. From July 2021 the video assessment roll-out began, establishing this as a third full assessment channel.
 - 3.74.5. While face-to-face assessments were suspended, the Department automatically extended all current IIDB awards and PIP awards due for review / reassessment, to ensure that existing awards remained in payment. Under normal circumstances, most disability-related awards are made for a specified period of time and if the eligibility for an award is not

established anew, the award ends and a new claim would need to be made based on entitlement as at the time of the claim. By suspending face-to-face assessments and automatically extending existing awards, awards ending for lack of reassessment was avoided and payments continued. There are tens of thousands of such cases each month.

- 3.74.6. In July 2020, DWP re-started reviews and reassessments in PIP, beginning with those that had been suspended from March 2020.
- 3.74.7. Face-to-face assessments for IIDB customers resumed from April 2021, and in Work Capability Assessments ('**WCA**') and PIP from May 2021. Initially this was only for those who DWP were unable to fully assess by other channels.
- 3.74.8. Face-to-face assessments continue to take place alongside existing paper-based assessments, telephone, and a small number of video assessments (for WCAs and PIP).

ESA

- 3.75. As part of the Government's strategy to support people affected by the Covid-19 public health emergency DWP made changes to ESA, including:
 - 3.75.1. Removing the unpaid 'waiting days' at the start of an ESA claim. As a result, all ESA customers who satisfied the normal conditions of entitlement and were suffering from Covid-19, were required to self-isolate in line with government guidance or were caring for a child (or qualifying young person) who fell into either of those categories, were paid from day one of their claim.
 - 3.75.2. Treating those infected with Covid-19, or those required to self-isolate in line with Government guidelines, as having Limited Capability for Work in ESA without the requirement for a fit note.

- 3.75.3. Ensuring these measures also applied to clinically vulnerable people who were unable to work from home and were advised to shield because they were at high risk of severe illness.
- 3.76. These measures were introduced on 13 March 2020 and were extended three times, before expiring in March 2022.
- 3.77. On Monday 20 April 2020, at the height of the Covid-19 public health emergency, DWP launched the New Style ESA online portal which allows applications to be completed online. This allowed the majority of people who needed to claim New Style ESA to do so online as well as by phone.

Kickstart

- 3.78. Kickstart was part of the Government's overall Plan for Jobs, announced in July 2020. DWP launched Kickstart on 2 September 2020 in response to a significant forecast rise in youth unemployment as a result of the COVID-19 pandemic. Kickstart aimed to create hundreds of thousands of high-quality six-month work placements aimed at those aged 16–24 who are on Universal Credit and are deemed to be at risk of long-term unemployment.
- 3.79. Kickstart funded employers to create jobs (at a minimum of 25 hours per week) for young people. It was DWP's flagship employment support programme for young people and its most expensive intervention, on a per-person basis, across the full range of employment support schemes offered. On 5 October 2021, the Chancellor of the Exchequer announced that Kickstart would be extended so that new job placements could start up to the end of March 2022, with the scheme finally closing in September 2022. The scheme is no longer active.

Statutory Sick Pay

- 3.80. From early March 2020, DWP introduced several policy and legislative changes to the SSP system to ensure that eligible employees had access to financial support through SSP when they could not work because they were ill with Covid-19; or because they were self-isolating in line with public health guidance. This was to support them in complying with the public health guidance to reduce the spread of Covid-19 and to protect the health of individuals. DWP worked closely with DHSC/PHE and the Devolved Administrations throughout the pandemic to understand and influence the evolving public health guidance and to ensure that DWP considered and, as appropriate, changed, SSP policy and regulations in response. DWP also amended policy and regulations to keep in step with the introduction of the NHS Test and Trace service. The SSP policy response also involved working closely with HMT, DHSC, MHCLG (DLUHC) and Cabinet Office to develop SSP policy and regulations to help ensure those individuals who were advised to “shield” had access to financial support through SSP if they were unable to work as a result.
- 3.81. The SSP policy response also included working closely with HMT, HMRC, DHSC, the Cabinet Office Covid-19 Taskforce and the Northern Ireland Department for Communities to make changes to Primary legislation through the vehicle of the Coronavirus Act 2020. DWP introduced SSP provisions in the Act to suspend temporarily Waiting Days for coronavirus related sickness absences (thus making SSP payable from day one), to enable the introduction of a Statutory Sick Pay Rebate (SSPR) Scheme and to enable us to make regulations which kept in step with the latest Government guidance. Regulations were made using these powers and existing SSP powers in the Social Security Contributions and Benefits Act 1992.
- 3.82. In advance of, and following, the Chancellor's Budget announcement on 11 March 2020, the SSP policy team also worked in collaboration with HMT and HMRC to develop the policy and to inform the design of the SSPR which enabled small and medium sized employers to re-claim the cost of up to 2 weeks SSP in respect of any of their employees who was either off sick or having to self-isolate or shield owing to Covid-19. The SSPR was designed and delivered by HMRC and DWP met the cost

of delivery as agreed with HMT and underpinned by a Memorandum of Understanding with HMRC.

Housing

- 3.83. As part of the Government's response to the unusual impact of the pandemic on labour markets, DWP was asked by HMT on 17 March 2020, to put forward proposals that would increase the level of support for renters in a way that could be made operational quickly and easily.
- 3.84. DWP officials recommended that the increase to Local Housing Allowance ('LHA') would be the most suitable and deliverable option. DWP officials met with Local Authorities, Universal Credit Programme and rent offices (who set the rates) to ensure the tight timescales were deliverable.
- 3.85. A submission went to DWP Secretary of State on 20 March 2020 with a number of potential options, with the main ones being:
- 3.85.1. increasing LHA rates to the 30th percentile of local market rents. (LHA determines the maximum amount of support available for renters in the private rent sector. LHA rates had been frozen from April 2016 to March 2020 and were due to increase by CPI (1.7%) in April 2020); or
 - 3.85.2. increasing funding for and broadening the scope of Discretionary Housing Payments ('DHP').
- 3.86. On 20 March 2020, it was announced by the Chancellor in the daily Covid briefing that LHA rates would be increased to the 30th percentile of local market rents from April 2020.
- 3.87. An urgent follow up submission was sent to Secretary of State on 20 March 2020 to ask for agreement to also amend the national maximum caps which impact LHA rates in central and inner London and so could have prevented some households in London

from receiving an increase. The Secretary of State's agreement to increase the national caps was received on 23 March 2022 which enabled us to proceed with the drafting of the Regulations to apply the increase. The changes were brought into effect from April 2020 by the Social Security (Coronavirus) (Further measures) 2020 (2020/371) which were laid on 27 March 2020.

Carer's Allowance

- 3.88. Carer's Allowance is a benefit for those who are providing unpaid care to someone in receipt of a disability benefit for 35 hours a week or more.
- 3.89. DWP Ministers took through legislation (the "Breaks in Care" rules) to enable carers to retain their entitlement to Carer's Allowance if they had a temporary break in caring as a result of isolation due to, or infection or contamination with, Covid-19 of either the person cared for or the carer. This decision reflected the Government's appreciation of the vital support that unpaid carers provide to vulnerable severely disabled people. It recognised the exceptional impact of Covid-19 on the relationship between the carer and the vulnerable severely disabled person for whom they provide care. For that reason, the legislation was extended twice as a result of the length of the pandemic. The legislation reverted to the pre-pandemic position from 1 September 2021. Because Carer's Allowance is devolved to the Scottish Parliament but is temporarily being delivered by DWP on behalf of the Scottish Ministers under an Agency Agreement, the Scottish Government took parallel legislation through the Scottish Parliament to ensure the same arrangements applied as in England and Wales.
- 3.90. DWP Ministers also agreed to amend guidance as to what counts as "care" for the purposes of Carer's Allowance. Although there is no definition in legislation, guidance states that that care is expected to be provided mainly in the physical presence of the disabled person. In accordance with Government rules around the mixing of households during the pandemic, a decision was made to amend the guidance to allow "emotional support" to count towards the 35 hours of care required for a carer

to retain their entitlement to Carer's Allowance when the pattern of care had to change – for example, the carer ordering the disabled persons shopping on-line, rather than physically taking them shopping. The guidance was changed back to its pre-pandemic form from 1 September 2021. Carer's Allowance is devolved to the Scottish Parliament but is temporarily being delivered by DWP on behalf of the Scottish Ministers under an Agency Agreement, the same guidance applied as in England and Wales.

- 3.91. DWP also shared data with NHS England to help ensure carers received priority vaccinations.

Pension Credit

- 3.92. Pension Credit is the means-tested safety-net benefit for people over State Pension age. Many of those in receipt of it, or likely to claim it, are clinically vulnerable, and many were required to shield. DWP Ministers therefore introduced urgent legislation to bring forward pre-existing plans for an on-line application service, to avoid the need for people to leave home to post a claim form or to call Retirement Services which were operating a significantly reduced telephone claims service.
- 3.93. Operational easements were also put in place to allow staff not only to process Pension Credit claims without the need for additional verification but also to request extra evidence from customers. The key easements covered income, capital and household composition, and meant that in most cases the information provided by customers was accepted at face value.

State Pensions up-rating

- 3.94. The DWP Secretary of State is required by section 150A of the Social Security Administration Act 1992 (the '1992 Act') to review certain benefits in each tax year to determine whether they have retained their value in relation to the general level of earnings. Where there has been an increase in the general level of earnings, the Secretary of State is required to bring to Parliament a draft up-rating order increasing

those benefits by at least as much as the increase in earnings. If there has been no increase in earnings, those benefit levels remain unchanged. If there has been no increase in earnings, the benefit levels can remain unchanged. During the pandemic, earnings growth was distorted. Average earnings declined by 1% in 2020/21, then increased by 8.3% in 2021/22.

- 3.95. In the autumn of 2020, Parliament passed the Social Security (Up-rating of Benefits) Act 2020 (the “2020 Act”). The legislation was sought because earnings growth in the relevant period was negative (-1%) and there was no power to bring forward an up-rating order to increase the State Pension. The 2020 Act gave the Secretary of State the discretion to increase the benefits governed by section 150A “by such percentage as the Secretary of State thinks fit” when there has been no increase in earnings in the relevant period.
- 3.96. In autumn 2021 Parliament passed the Social Security (Up-rating of Benefits) Act 2021 (the “2021 Act”). The 2021 Act was needed because earnings growth in the relevant period spiked (at 8.3%). The 2021 Act provided the Secretary of State with the power to suspend the link between earnings growth and up-rating of benefits.
- 3.97. The 2021 Act gave the Secretary of State a duty to review the State Pension in comparison to prices, not earnings. The 2021 Act also gave the Secretary of State a duty to up-rate State Pension by prices (not earnings) and a duty to up-rate by a “double lock” i.e. by price increases as measured by the Consumer Price Index, (“CPI”) or 2.5%, whichever was the higher. The CPI was 3.1%. Earnings were increasing at 2.5%. The State Pension was uprated by 3.1% in line with the CPI.
- 3.98. The 2020 and 2021 Act powers were sought to strike a fairer balance between protecting incomes from State Pension incomes in 2020/21 and protecting younger taxpayers in 2021/22. Otherwise an anomalous growth in earnings from a highly unorthodox base, would have led to a very large increase in State Pensions on top of the 2.5% up-rating made in 2020/21.

- 3.99. Both of these up-rating provisions required Legislative Consent Motions in the Scottish Parliament because one of the earnings-linked benefits (survivors' benefits in Industrial Death Benefit) is devolved but is temporarily being delivered by DWP on behalf of the Scottish Ministers under an Agency Agreement.

Attendance Allowance

- 3.100. Attendance Allowance is a disability benefit for those who have 12-hour or 24-hour care needs which arose after they reached State Pension age. It is based on a form-based care needs assessment. Most of those in receipt of this benefit are clinically vulnerable and were required to shield. DWP Ministers agreed to introduce non-legislative easements to ensure that relevant individuals continued to receive payments by extending awards and suspending renewal assessments. Attendance Allowance is devolved to the Scottish Parliament but is temporarily being delivered by DWP on behalf of the Scottish Ministers under an Agency Agreement. The same easements therefore applied as in England and Wales.

Shared Competence and Relationship with Devolved Administrations

- 3.101. The Inquiry has asked about shared competence and the relationship with Devolved Administrations, as well as to the extent to which DWP liaised with, or provided information to the DAs in Scotland, Wales and Northern Ireland about key decisions on management of the pandemic.
- 3.102. Most of DWP's policies operate across the UK. Policy and delivery responsibility is transferred for all DWP policies in Northern Ireland, though by the parity principle the Northern Ireland assembly usually mirrors arrangements in GB. Annex B sets out in detailed information regarding the Devolved Settlements. Where DWP made

regulations or other changes relating to devolved policy areas, discussions will have taken place with Devolved Administrations. Since health is a devolved matter, and the SSP regulations were designed to reflect public health advice, this required discussions with the administrations in Scotland and Wales.

DWP and the Northern Ireland Executive

- 3.103. In Northern Ireland, social security is a transferred matter. However, in April 2020, DWP was already legislating for certain social security changes in Northern Ireland as part of an earlier agreement between the First Minister, Deputy First Minister and Secretary of State linked to welfare reform, and subsequently to the suspension of the Assembly between 2017 and January 2020. This arrangement continued until September 2020, when the relevant powers were returned to the Northern Ireland Assembly.
- 3.104. During this time, DWP was responsible for taking regulations through the UK Parliament to ensure parity between the DWP and Northern Ireland social security systems. In addition, during the pandemic, the UK Government legislated to introduce all DWP measures within the Coronavirus Act 2020 in Northern Ireland, since that Act did not confer legislative competence to make those changes on the Northern Ireland Assembly.
- 3.105. This means that all Covid-related legislative easements made by DWP before September 2020, and any after that which were based on the Coronavirus Act 2020, were given effect in Northern Ireland through regulations taken through the UK Parliament by DWP Ministers. In most cases, only the equality assessments differed as between the relevant Great Britain and Northern Ireland regulations, the substantive changes were identical.
- 3.106. The legislative position was more complex in relation to State Pension up-rating, but in essence, the legislative action taken by DWP Ministers was sufficient to enable State

Pensions in Northern Ireland to be up-rated in the same way as State Pensions in Great Britain during the two years of the pandemic.

DWP and the Scottish Government

- 3.107. The Scotland Act 2016 provided, amongst other things, that ten DWP benefits would be replaced in Scotland by Scottish Government provision. Subsequent decisions by UK and Scottish Ministers meant that most of these benefits would be devolved before being replaced. By the end of April 2020, executive competence for these benefits – Attendance Allowance, Carer's Allowance, Disability Living Allowance, Industrial Injuries Disablement Benefit, Personal Independence Payments and Severe Disablement Allowance – had passed to the Scottish Government as planned. However, during the pandemic DWP continued to deliver these benefits on behalf of the Scottish Ministers under temporary Agency Agreements while the Scottish Government built its capacity to replace them with new Scottish Government benefits.
- 3.108. During 2020, the Scottish Government decided to delay the introduction of its replacements for Disability Living Allowance and Personal Independence Payments due to the pandemic. This meant that DWP continued to take new claims to those benefits in Scotland under the relevant Agency Agreements for longer than had been anticipated. Any Covid-related changes that were made in the relevant benefits in England and Wales were either mirrored in Scottish Government legislation or automatically reflected in GB-wide guidance under the terms of the Agency Agreements.

Temporary absence abroad

- 3.109. An easement was agreed with HMT which allowed DWP to continue to make benefit payments to people temporarily absent abroad, including payments of Pension Credit, on an extra statutory basis, that is, in exercise of a discretion by the Secretary of State and is distinguished from payment on the basis of a statutory entitlement. This was on

the understanding that some customers were stranded abroad either because of Covid-19 restrictions/quarantine rules in those countries or because there were no practical means of returning to the UK.

Covid-related legislative easements made by DWP in relation to DAs

The Scottish Government

- 3.110. The Scotland Act 2016 amended the Scotland Act 1998 and lifted the reservation on disability-related benefits. In practical terms, this meant the Scottish Parliament had the power to pass primary legislation related to disability welfare provision for eligible people in Scotland and Scottish ministers acquired administrative competence in this area to make secondary legislation. Subsequent decisions by UK and Scottish Ministers meant that ten disability related benefits were devolved before being replaced.
- 3.111. By the end of April 2020, executive competence for disability related benefits (see list below) had passed to the Scottish Government as planned. During the pandemic, DWP continued to deliver these benefits on behalf of the Scottish Ministers under temporary Agency Agreements while the Scottish Government built its capacity to replace them with new, Scottish benefits. The Agency Agreements operated on a “business as usual” basis, to deliver the relevant benefits as they were being delivered in England and Wales.
- 3.112. During 2020, the Scottish Government decided to delay the introduction of its replacements for Disability Living Allowance ('DLA') and PIP as a result of the pandemic. This meant that DWP continued administer new claims for DLA and PIP made in Scotland under the relevant Agency Agreements for longer than had been anticipated. The Agency agreements were originally meant to be a short-term bridging measure whilst the Scottish Government made its own disability benefits legislation and set up its own welfare administration structure. To avoid the legal, financial and logistical issues of running 2 regimes, the Settlement Agreements provided for a

Business As Usual ('BAU') approach, so the same legislation and service in Scotland as in England and Wales, including the processing of new claims. It was assumed that Scotland would set up its own system and new claims would be taken and the existing "stock" of claims would be transferred into the system gradually. During the pandemic and as time went on, there were more new claims than the Settlement Agreements envisaged. Any Covid-related changes that were made in the relevant benefits in England and Wales were either mirrored in Scottish Government legislation or automatically reflected in GB-wide guidance. DWP continued to provide a BAU service during the pandemic, under the terms of the Agency Agreements.

3.113. The full list of benefits being delivered on behalf of Scottish Ministers under agency arrangements is as follows:

- 3.113.1. Attendance Allowance;
- 3.113.2. Disability Living Allowance (claims maintenance only across all age groups – the Scottish Government introduced its replacement Child Disability Payment for new claims nationally from November 2021 and claims for this cohort are in the process of being transferred to the Scottish government);
- 3.113.3. Personal Independence Payment (claims maintenance only as the Scottish government has introduced its replacement Adult Disability Payment for new claims nationally from August 2022 and existing cases will be transferred over time);
- 3.113.4. Carer's Allowance;
- 3.113.5. Industrial Injuries Disablement Benefit; and.
- 3.113.6. Severe Disablement Allowance.

- 3.114. Further information in relation to the Carer's Allowance, Attendance Allowance and Pensions up-rating in Scotland is set out below.

Carer's Allowance - Scotland

- 3.115. DWP Ministers made secondary legislation (the "Breaks in Care" rules) to enable carers to retain their entitlement to Carer's Allowance if they had a temporary break in caring as a result of isolation due to either the carer or the person cared for being infected with Covid-19. This decision reflected the UK Government's appreciation of the vital support that unpaid carers provide to vulnerable severely disabled people. It recognised the exceptional impact of Covid-19 on the relationship between the carer and the vulnerable severely disabled person they provide care for and for that reason, the legislation was extended twice due to the length of the pandemic. The legislation reverted to the pre-pandemic position from 1 September 2021.
- 3.116. Due to Government rules around mixing of households during the pandemic, a decision was made to amend the guidance to allow "emotional support" to count towards the 35 hours of care required for a carer to retain their entitlement to Carer's Allowance when the pattern of care had to change – for example, the carer ordering the disabled persons shopping on-line, rather than physically taking them shopping. The guidance was changed back to its pre-pandemic form from 1 September 2021.
- 3.117. During the pandemic, as DWP continued to deliver Carer's Allowance under an Agency Agreement, the same guidance applied in Scotland and in England and Wales.

Attendance Allowance - Scotland

- 3.118. Attendance Allowance is based on a form-based care which needs assessment. Most of those in receipt of the benefit are clinically vulnerable and were required to shield. DWP Ministers agreed to introduce non-legislative easements to ensure that people continued to receive payments by extending awards and suspending renewal

assessments. Because Attendance Allowance is devolved to the Scottish Parliament but is temporarily being delivered by DWP on behalf of the Scottish Ministers under an Agency Agreement, the same easements applied in Scotland as in England and Wales.

Pensions up-rating - Scotland

- 3.119. As set out above, Legislative Consent Motions in the Scottish Parliament were required for up-rating provisions in 2020/2021 and 2021/2022 because one of the earnings-linked benefits (survivors' benefits in Industrial Death Benefit) is devolved but is temporarily being delivered by DWP on behalf of the Scottish Ministers under an Agency Agreement.

DWP and the Welsh Assembly

- 3.120. As Wales is a reserved administration, all Covid-related legislative easements made by DWP applied equally to Wales as they did to England.

Data Modelling

- 3.121. The Inquiry has asked DWP to provide details, to the extent it is relevant, about the production and dissemination of data modelling of aspects of the Covid-19 virus in which DWP had an interest. The Inquiry has asked DWP to explain how such data was provided to other central government departments, the Prime Minister's Office and, as far as relevant, the Devolved Administrations, regional and local administrations.

- 3.122. DWP deployed data modelling to plan for the impact of the pandemic – and related impacts such as increased unemployment – on our business. This helped us consider the best use of our staff resources and the need for focused easements and

contingencies. However, no data modelling was carried out on the spread or impact of Covid-19.

Advice and Briefings prepared by DWP - behavioural management, the use of public communications and the maintenance of public confidence in the response to the Covid-19 virus

- 3.123. The Inquiry has asked to what extent, if any, DWP was involved in the provision of advice and briefings on the use of behavioural management, the use of public communications and the maintenance of public confidence in the response to the Covid-19 virus. DWP has not been involved in the provision of advice and briefings on the use of behavioural management, the use of public communications and the maintenance of public confidence in the response to the Covid-19 virus.

Advice and Briefings prepared by DWP - public health and coronavirus legislation and regulations that were proposed and enacted

- 3.124. The Inquiry has requested details, to the extent it is relevant, about advice and briefings prepared by DWP on the public health and coronavirus legislation and regulations that were proposed and enacted. We understand the Inquiry are particularly concerned to understand briefings and advice that were shared with or discussed with the Prime Minister, the Office of the Prime Minister, Cabinet and Cabinet Committees.
- 3.125. The Department does not yet have an eDisclosure system with full functionality. The Department's response to this question is based on a limited manual search of a limited number of potentially relevant paper documents. The Department is not currently aware of briefings and or advice shared or discussed with the Prime Minister, the Office of the Prime Minister, Cabinet and Cabinet Committees.

Achievements and Challenges

- 3.126. The Inquiry has asked DWP to identify and describe anything that worked well and difficulties or challenges encountered by DWP and its officials in supporting core political and administrative decision-making with the Prime Minister/No. 10, Cabinet, 4 Cabinet Committees, MIGs and the LGD. The inquiry has asked DWP to identify what steps, if any, were taken to address those difficulties or challenges.
- 3.127. As explained below, DWP has engaged in a comprehensive analysis (both ongoing and retrospective) of what worked well and what could have been done better in terms of the measures taken by the Department to maintain and enhance the service it offered throughout the pandemic. The attached CGPWG report [NC/4 – INQ000065986] describes the analysis undertaken. Broader cross-government lessons learnt were subsequently set out in CGPWG's lessons learnt report [NC/5 – INQ000187738] and DWP's own lessons learnt were articulated through internal reporting [NC/9 – INQ000187740].

Key Materials

- 3.128. The Inquiry has asked DWP to identify and describe any key materials it holds relating to its involvement in the response to the Covid-19 pandemic between 1 January 2020 and 24 February 2022.
- 3.129. The Department has agreed with the Inquiry that it will provide key documents by way of exhibits/annexures to its witness statement. In keeping with a proportionate approach to disclosure, the Department will not provide generalised disclosure in Module 2. The Department remains committed to assisting the Inquiry as far as it is able to do so.

Future risks, reviews, reports and lessons learned exercises

- 3.130. The Inquiry wishes to examine the lessons which DWP has learned from the UK's response to the Covid-19 pandemic, in so far as is relevant to any of the issues raised in the Provisional Outline of Scope for Module 2. It is understood that DWP and each department has embarked upon the process of recording its conclusions and lessons learned, along with scenario planning.
- 3.131. On 18 June 2020, the Business Continuity, Resilience and Emergency Response Team ('**BCRERT**') submitted a 'lessons learnt' report to the IPDE on lessons from the initial Respond Phase, "COVID-19 Initial Response - Lessons Learnt" [NC/9 – INQ000187740].
- 3.132. The BCRERT undertakes 'Lessons Learnt' activities as a matter of course following disruptions and exercises. The intention is to highlight successes and failures in the response to incidents and drive improved organisational resilience.
- 3.133. The report followed a Lessons Learnt engagement exercise undertaken across the Department, with input from the Government Internal Audit Agency. It was felt that DWP had demonstrated a high degree of flexibility to adapt its response and adjust resources to meet a rapid surge in demand. The DWP's priorities were (i) maximising employment across the country and aiding economic recovery following COVID-19, (ii) improving opportunities for all through work, including groups that are currently under-represented in the workforce, (iii) to address poverty through enabling progression into the workforce and increasing financial resilience (iv) to deliver a reliable, high-quality welfare and pensions system in which customers have confidence.
- 3.134. The Covid-19 response provided the first real test of DWP's Gold/Silver/Bronze approach. Whilst improvements have been identified, it was generally felt the structure

provided an effective command and control mechanism under the circumstances. A revised framework, based on lessons learnt, will strengthen future response.

- 3.135. Telephony reduction and increased digital shift (instead of face-to-face engagements) represented a change from preferred channels of contact, namely telephone and face to face contact, on which the DWP operating model was predicated. The changes to the operating model were followed by a significant consequential reduction in the number of follow up phone calls to and at the same time, an increase in contact via online journals and other digital channels. More work is required to understand customer impacts of this shift.
- 3.136. The redeployment of nearly 11,000 staff from corporate or lower priority roles to critical services was successful, and easements applied to service lines allowed for an unprecedented surge in claims to be managed. However, the prioritising of limited services has created a growing backlog of aged work and some of the known risks, such as increase in fraud, have been realised. Continued analysis is required to understand the longer-term effects, whether positive or negative, of measures taken.
- 3.137. Despite early difficulties with capacity, related to remote access, the wide rollout of IT equipment has enabled greater home working capabilities. This is likely to remain essential to support responses to future pandemics, particularly should the customer count continue to grow. The successful use of communication channels and initiatives, such as regular and frequent Senior Civil Servants' update calls and use of the DWP intranet, must continue to be developed and used.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Personal Data

Signed

Dated.....

Annex A: Chronology

[Submitted as a separate document]

Annex B: Information about the Devolution Settlements

Devolution is about the transfer of power by a central government to a local or regional government. There are distinct legislatures in Scotland, Wales and Northern Ireland, which have powers over a range of policy areas that were previously the preserve of the UK Government.

Each of the devolved legislatures of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly has its own devolution settlement, which is established and expanded through Acts of the UK Parliament, which set out the legislative competence of the devolved bodies.¹

In some situations, it may be appropriate to confer powers to make secondary legislation on Devolved Administrations but allow them to be exercised concurrently or only jointly. Conferring a power to be exercised jointly means there is a single exercise of the power, which cannot be exercised without the UK Government's agreement.

Concurrent powers allow the Devolved Administrations to exercise the power unilaterally. The Devolved Administration could exercise the power in a way that is different to the way in which the UK Government might exercise the same power and the UK Government may legislate in that area in a way that is different to the Devolved Administration.

Devolved and Reserved Matters

Generally, health, social services and housing are devolved to the legislatures in Northern Ireland, Scotland and Wales. Each devolution settlement is specific to each of the devolved legislatures. Other than disability benefits in Scotland, social welfare and state pension provision are matters reserved to the UK Parliament.

¹¹ Civil Service Devolution and You training. Introduction to Devolution extract

Northern Ireland

Between 1921 and 1972 Northern Ireland was self-governing with its own Parliament. In 1972 Direct Rule was introduced. In 1998, the Belfast (Good Friday) Agreement provided for a Northern Ireland Assembly and a power sharing Executive.

The Northern Ireland Executive has its own Civil Service which is separate to that of the other governments of the UK.

The Northern Ireland Assembly

The Northern Ireland Assembly sits at Stormont and consists of 90 members of the Legislative Assembly ("MLAs"). 5 MLAs are elected from each of the 18 constituencies using the single transferrable vote system. The Northern Ireland Assembly has been suspended for some time. There is disagreement about the formation of a power sharing Executive.

The Northern Ireland Executive

The Northern Ireland Executive is a mandatory coalition of parties which is chaired jointly by the First Minister and the Deputy First Minister. The composition of the Executive will reflect the relative strength of each party in the Assembly.

Northern Ireland Assembly – Legislative Competence

The Northern Ireland Assembly can, in principle, legislate in respect of "reserved matters" subject to various consents, it cannot legislate on "excepted" matters. The devolved settlement includes powers over justice and social security for example.

Scotland

The 1707 Acts of Union made provision for the protection and retention of distinct legal and social institutions in Scotland, namely Scots law and the Church of Scotland. Administrative devolution has existed in Scotland since the 1800s leading to differences in, for example, education, agriculture and health.

The Scottish Parliament

The Scottish Parliament is at Holyrood, it has a single chamber of 129 Members of the Scottish Parliament (MSPs). They are elected on four yearly terms through mixed member proportional representation.

Scottish Government

The Scottish Government is led by a First Minister who may, with the approval of the Scottish Parliament appoint Cabinet Secretaries (Senior Ministers) and Junior Ministers (Ministers) and Law Officers to lead on devolved portfolios.

Civil Servants working for the Scottish Government and its agencies are members of the UK Civil Service, they are headed by a single Permanent Secretary and are bound to serve Scottish Ministers.

Scottish Parliament – Legislative Competence

The Scotland Act 1998 (as amended by the Scotland Act 2016) conferred reserved powers model on the Scottish Parliament. Welfare generally remains a reserved matter. However, exception to the reservation was made to devolve competence over disability related welfare to Scotland under provisions in the Scotland Act 2016.

Wales

The Government of Wales Act ('**GOWA**') 1998 contained provision for the establishment of the devolved National Assembly for Wales. The GOWA 2006 made provision for the Assembly to pass primary legislation.

The Wales Act 2017 changed the model of Welsh devolution from conferred (only specific areas are within the competence of the Welsh Assembly) to the reserved model (where only those areas that are specifically excepted from devolution or, reserved to the United Kingdom Parliament are out with the competence of the National Assembly for Wales).

In recognition of its wider powers the National Assembly for Wales became the Senedd, the Welsh Parliament in 2020.

The National Assembly for Wales

The National Assembly is made up of a single chamber with 60 Assembly Members ('**AM**'). The AMs are elected on 5-year terms through mixed member proportional representation.

The Welsh Government

The GOWAs provide for Welsh Government to consist of a First Minister, up to 12 other Ministers and a Counsel General. The civil service is part of the civil service for England and Scotland. In Wales, the civil service is led by a Permanent Secretary.