

Witness Name: Eileen Patching OBE

Statement No. 1

Exhibits: EP/1 to EP/61

Dated: 12 September 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF EILEEN PATCHING OBE

I, Eileen Patching OBE of His Majesty's Revenue and Customs ("**HMRC**") will say as follows.

I. INTRODUCTION

1. I am a Deputy Director in HMRC responsible for VAT Principles and Risk in the Indirect Tax Directorate. I was appointed to this role on 22 April 2013. I was first appointed as a Deputy Director in HMRC in April 2013 to lead the then VAT Advisory, Supply and Written Enquiries teams. Prior to that I held a number of other roles within VAT Policy in HMRC.
2. On 25 June 2020, I was appointed to lead on the policy development and implementation of a scheme, which became the Eat Out to Help Out Scheme ("**EOHO**" or "**the Scheme**"). My responsibilities included determining the eligibility and registration criteria for businesses to take part in the Scheme, the criteria for the sales that would qualify for the Scheme, and the information to be provided when making claims and the claims procedure.
3. I am duly authorised to make this witness statement on behalf of HMRC to set out the department's response to the request no.M2/HMRC/1 dated 17 July 2023 ("**the Request**") from the Chair of the UK Covid-19 Inquiry ("**the Inquiry**") made pursuant to section 21 of the Inquiries Act 2005 in connection with EOHO.

4. In drafting this statement, I have necessarily drawn on the knowledge of other members of HMRC staff. As a result, some of the material covered in this witness statement refers to facts which are not within my own personal knowledge.

II. BACKGROUND

5. HMRC is a non-ministerial department established by the Commissioners for Revenue and Customs Act 2005. As the UK's tax and customs authority, HMRC collects the money that pays for the UK's public services and gives financial support to people. Further background about HMRC's structure as an organisation and its role in the economic response to the Covid-19 pandemic is set out in paragraphs 5 to 23 of the Witness Statement of James Alan Harra dated 23 February 2023 given in Module 1 of the Inquiry.
6. EOHO was part of the Government's Plan for Jobs announced on 8 July 2020 in response to the Covid-19 pandemic [EP/1 - INQ000235047]. The overall objective of the Plan for Jobs was to protect, support and create jobs in the short and long term in response to Covid-19.
7. On 30 June 2020, HM Treasury ("HMT") provided HMRC with a Policy Intent Note [EP/2 – INQ000235018 & INQ000235019], setting out the rationale for the Scheme and its overall structure. According to the Policy Intent Note, EOHO was designed:-
 - "1. To support the economic recovery by stimulating consumption in the hospitality sector, with focus on businesses that sell food for immediate consumption on the premises, including restaurants, cafes, pubs and bars.
 2. To incentivise consumers to return to the hospitality industry and consume sit-down meals out by reassuring people that is [sic] once again safe to consume and altering social behaviours that have become entrenched."
8. On 7 July 2020, Jim Harra, HMRC's Permanent Secretary, wrote to the Chancellor of the Exchequer ("the Chancellor") requesting written ministerial directions to proceed with the Scheme [EP/3 - INQ000235020]. The Chancellor replied on the same day, formally directing HMRC to take the Scheme forward with immediate effect [EP/4 - INQ000235021].
9. Also on 7 July 2020, in exercise of the power conferred by the Coronavirus Act 2020 ss71 and 76, the Chancellor issued The Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Eat Out to Help Out Scheme) Direction (the "EOHO Direction") [EP/5 -

INQ000235022]. As set out in the EOHO Direction, HMRC was responsible for the payment and management of amounts to be paid under the Scheme. HMRC's role was to deliver EOHO, with policy development led by HMT under the auspices of the HMT-HMRC Policy Partnership. The Policy Partnership is explained on Gov.UK **[EP/6 - INQ000235052]**.

10. EOHO ran from 3 August 2020 to 31 August 2020. In brief, from Monday to Wednesday each week in August 2020, the Government subsidised food and non-alcoholic drinks consumed immediately on the premises of registered businesses. A discount of 50% was applied to the overall bill, capped at £10 per person per order. Registered businesses which participated in the Scheme were able to submit their claims to HMRC until 30 September 2020 for reimbursement for the EOHO discounts given to diners. Over the whole period of the Scheme, £849 million was claimed for over 160 million meals **[EP/7 - INQ000235048]**.
11. This statement is produced in response to specific questions raised by the Inquiry in the Request. HMRC's responses to those questions are set out in the paragraphs below.

III. POTENTIAL EXTENSION OF THE SCHEME

12. On 17 July 2020, prior to EOHO starting on 3 August 2020, HMT provided advice to the Chancellor on a number of outstanding policy questions regarding the Scheme **[EP/8 - INQ000235024, EP/9 - INQ000088094]** the advice was dated 16 July 2020. HMRC was involved in the development of the advice. One of the policy issues was about how to respond to local lockdowns to ensure that customers and eligible businesses in these areas were able to benefit from the Scheme. For example, on 4 July 2020, Leicester had been placed into a local lockdown which meant that hospitality businesses were not able to open (by the time the Scheme started on 3 August 2020, hospitality businesses within Leicester were permitted to open).
13. The advice identified two options for mitigating the consequences of local lockdowns: extending the Scheme beyond August 2020 in affected areas or opening the Scheme to takeaways during August 2020 in those areas. It recommended against opening the Scheme to takeaways, which it was considered would not align with the policy objective of supporting eat-in dining establishments and would be a challenge to deliver by EOHO's start date of 3 August 2020. However, it was considered possible to offer a Scheme extension that would allow businesses in affected areas to take advantage of the Scheme for the equivalent number of days they were unable to operate, provided a new legal direction under the Coronavirus Act 2020 was issued.

14. As an extension would present technical and policy issues, the Chancellor's agreement was sought to continue to work on regional extensions plans, while recommending that no pre-emptive announcement be made that restaurants in locked down areas would be able to access the Scheme in September 2020.
15. On 21 July 2020, the Chancellor responded to the advice and agreed to the recommendations outlined above [EP/8 - INQ000235024].
16. On 5 August 2020, the Scottish Government announced that Aberdeen would be placed under a local lockdown, with hospitality businesses being ordered to close from 5pm on that day. As a result, they would not be participating in the Scheme from that point. This event prompted HMRC to provide the Chancellor with a short piece of advice by email on 6 August 2020 [EP/10 - INQ000235026].
17. That advice noted that *"[t]he increase in the number and variety of local lockdowns is leading to questions about whether the Eat Out to Help Out scheme will be extended beyond August. HM Treasury and HM Revenue and Customs have been working on options for extension in case this is something you would want to consider. This work includes a full feasibility assessment from a delivery perspective"*. The advice recommended that *"no decisions on an extension [be] made until late August when the UK impact of the scheme and local lockdowns are better understood"*, with detailed advice and options to be provided in the second half of August 2020.
18. On 17 August 2020, HMRC and HMT officials had a Microsoft Teams meeting to discuss potential extensions to the Scheme. Later that day, HMRC followed up by writing to the Chancellor with an update on potential extensions of the Scheme [EP/10 - INQ000235026], recommending again to defer any decision on extension until there was a more mature understanding of the impact of the Scheme UK-wide. HMRC said it would provide further advice later in the month.
19. However, in order to give the Chancellor maximum choice regarding the future of the Scheme a decision was needed from him on whether to build, on a contingency basis, a postcode-specific functionality within the claims process. This would be necessary to implement geographically specific extensions of the Scheme and would take two to three weeks to build. The development of the functionality was estimated to cost between £240,000 and £360,000.

20. On 18 August 2020, the Chancellor responded and confirmed his decision for HMRC to build the functionality for possible geographically specific Scheme extensions, should this be required in the future [EP/10 - INQ000235026].
21. On 19 August 2020 an HMRC Microsoft Teams meeting was held of the EOHO Programme Board Lite. At that meeting Mark McGuire gave an update to the EOHO Programme Board stating that *"areas in the North West of England may be facing more localised lockdowns, with Public Health England ["PHE"] indicating that queueing in lines for EOHO had led to an increase in cases"*. He noted however that this information was *"anecdotal and is not hard evidence"* [EP/59 – INQ000260640].
22. Mark McGuire was reporting information provided by his colleague John McLennan. Mr McLennan was HMRC's representative on a cross-Whitehall Covid-19 Group meeting chaired by the Joint Biosecurity Centre on 18 August 2020 which had mentioned that *"the eat out policy could be a factor in spread [of Covid]"*. A copy of the formal notes of this meeting are at EP/61 – INQ000260642.
23. The notes of the meeting of 19 August 2020 also indicate that there was some discussion by HMRC of the potential risk of infections rising going forward and an associated *"risk about reputational backdrop"*. It should be emphasised that no *"hard evidence"* was produced to the EOHO Programme Board indicating any increase of infections rates being caused by EOHO [EP/59 – INQ000260640].
24. Shortly after the EOHO Programme Board Lite meeting on 19 August 2020, I and others working on the Scheme was sent a copy of a local restrictions update report dated 18 August 2020, which noted that there were *"some concern from [the Joint Biosecurity Centre] and PHE colleagues that Eat Out to Help Out and takeaways in Oldham may be an infection contributor"* [EP/60 – INQ000260641].
25. On 21 August 2020, the Chancellor commissioned urgent advice from HMRC on extending the Scheme in Aberdeen. The information requested was wide ranging, including details on the understanding of the latest Covid-19 rates, when Aberdeen went into lockdown and how many businesses had signed up for the Scheme and had not been able to use it [EP/10 - INQ000235026]. The advice was provided later that day [EP/11 - INQ000235027], while envisaging that broader advice on possible extensions to the Scheme generally would be provided the following week.
26. HMRC and HMT officials continued discussions by email on 21 August 2020 on the

development of the advice on potential extensions of the Scheme [EP/12 - INQ000235025]. This conversation considered the issues associated with regional and national lockdowns and the general economic health of the hospitality sector as known at the time. The HMT contribution noted that the case for extending the Scheme, be it nationally or locally, was weak. In particular, geographically specific extensions in response to local lockdowns would appear to be at odds with wider government objectives, as people might be encouraged to go out in areas with high infection rates and/or subject to specific restrictions. The discussion also touched on the role of the Scheme to restore consumer confidence rather than subsidise eating out indefinitely and certainly not for the duration of the pandemic.

27. HMRC's EOHO Policy Team ("**the Team**") had two informal meetings held over Microsoft Teams on 20 August at 10:00 and 21 August at 09:00 to discuss the advice on regional and national extensions. No formal notes were taken of the meetings, but the discussions formed the basis for the first draft of the advice that was the document **EP/13 - INQ000088100**. This advice was maintained in draft form and updated over the course of the following days. During these discussions, the Team observed that there had been concerns reported in the media that opening up the hospitality sector could have contributed to the rising rates of Covid-19 infection that had led to local lockdowns. HMRC does not have a written record of which particular media reports the Team observed. The Team agreed that the advice should include reference to these general comments so the Chancellor would be fully apprised.
28. On 26 August 2020, HMRC submitted advice to the Chancellor recommending not to have any extensions of the Scheme where businesses had been able to stay open and not to extend the Scheme into September on a national basis [EP/13 - INQ000088100]. These recommendations were based on an assessment that the Scheme had been successful in its two policy objectives of restoring consumer confidence and providing support to the hospitality sector.
29. At paragraph 5 of the advice, HMRC observed that "*there have been some concerns that opening up the hospitality sector has contributed to the rising rates of infection that have led to local lockdowns*". HMRC had not raised such concerns with HMT previously. The "concerns" were a reference to those raised in the media reports observed by HMRC's EOHO Policy Team as set out in paragraph 27 above; they were not based on any particular lockdown or any specific piece of evidence.
30. In preparing this statement, I and the Team responsible for drafting the 26 August 2020 submission to the Chancellor have been shown copies of the documents referred to

paragraphs 21 to 24 above. My recollection and that of the Team is that the “concerns” referred to in paragraph 5 of 26 August 2020 advice were based on the general media reports.

31. While there were additional restrictions imposed in various areas during August 2020 (e.g. Greater Manchester, East Lancashire, West Yorkshire and Leicester), hospitality businesses could remain open and operate the Scheme in those areas (Aberdeen was the only area where hospitality businesses were mandated to close). On that basis HMRC did not consider there was a case to extend the Scheme in areas subject to regional restrictions but where restaurants, cafes and pubs were able to remain open.
32. HMRC also recommended against a national extension of EOHO, as reporting in the media suggested that the Scheme had been successful at restoring consumer confidence and providing support to the hospitality sector. Furthermore, the sector would continue to benefit from additional support in the form of a temporary VAT Reduced Rate; this was a measure announced by the Chancellor on 8 July 2020 which reduced the VAT rate applied to hospitality and certain other sectors severely affected by forced closures and social distancing measures from 20% to 5% (for supplies made 15 July 2020 to 30 September 2021) and to 12.5% (for supplies made from 1 October 2021 to 31 March 2022).
33. The Chancellor responded on 27 August 2020, agreeing with the recommendation not to extend the Scheme, while maintaining the infrastructure so the Scheme could be repeated if needed in the future [EP/14 - INQ000235028].
34. No formal response was received from the Chancellor in respect of the advice dated 21 August 2020 on extending EOHO for Aberdeen only. However, on 4 September 2020, Mr Paul Marsh, Head of Tax Transparency in HMT advised Mr Neil Hedger of HMRC’s EOHO Policy Team by email that the Chancellor had indicated at a meeting on another matter that he was not minded to extend EOHO for Aberdeen [EP/15 - INQ000235029]. In the end no request for an extension was requested or implemented.

IV. ANALYSIS OF CORRELATION BETWEEN THE SCHEME AND COVID-19 INFECTIONS

35. On 15 September 2020, HM Government announced it would be publishing official statistics on EOHO. HMRC’s Knowledge, Analysis and Intelligence directorate (“**KAI**”) was responsible for the production of those statistics. As a directorate in HMRC, KAI provides analysis, research and statistics to inform policy and operational development. It also produces official

and national statistics and undertakes and manages social research on policies which HMRC maintains and/or delivers.

36. On 20 October 2020, HMT and KAI advised the Chancellor on the timing of the publication [EP/16 - INQ000235031]. The three options were:-

- (1) Option 1: To publish the whole statistics package at the beginning of November 2020
- (2) Option 2: To publish national level data in November 2020 and local data at a later date
- (3) Option 3: To publish all the statistics at a later date.

37. On 23 October 2020, the Chancellor decided to adopt Option 2, i.e. for national EOHO data to be published in early November 2020 and sub-national data at a later date [EP/17 - INQ000235032]. National data on EOHO was published on 25 November 2020 [EP/18 - INQ000235053, EP/19 - INQ000235035, EP/7 - INQ000235048].

38. On 20 November 2020, HMT requested sub-national data on EOHO, to assist with their “*work looking at the Warwick Paper and the links between Eat Out to Help Out and increases in clusters of Covid-19*” [EP/20 - INQ000235034].

39. “The Warwick Paper” is a reference to the paper ‘*Subsidising the spread of COVID19: Evidence from the UK’s Eat-Out-to-Help-Out scheme*’ by Professor Thiemo Fetzer of the University of Warwick dated 29 October 2020 [EP/21 - INQ000235030], in which Professor Fetzer considered links between EOHO and Covid-19 infections.

40. On 23 November 2020, KAI explained that they could not provide such data, as doing so would break the rules surrounding access to official statistics before they are made available to the public [EP/20 - INQ000235034]. The Office for Statistics Regulation maintains a Code of Practice for Statistics; paragraph T3.4 of the Code states that “[t]he circulation of statistics in their final form ahead of their publication should be restricted to eligible recipients, in line with the rules and principles on pre-release access set out in legislation for the UK and devolved administrations.” In turn, paragraphs 4 and 5 of Part 1 to the Schedule of The Pre-release Access to Official Statistics Order 2008 (SI 2008/2998) provides that, in general, pre-release access cannot be granted more than 24 hours prior to the time set for the publication of an official statistic.

41. On 2 December 2020, there was a Microsoft Teams meeting between officials of HMT (including Mr Alex Hawkes, Head of Tax Communications, and Mr Marsh) and those of HMRC

(including Ms Kate Sweeney, then a Grade 6 who in January 2021 became the Deputy Director of the Benefits & Cross Government Analysis team in KAI, and HMRC Communications officials) to discuss the publishing of EOHO's sub-national data. To the best of Ms Sweeney's recollection, during the meeting, the Chancellor's concerns about potential negative media response linking the Scheme with Covid-19 cases was discussed, and KAI offered to conduct analysis into whether there was such a link, as HMT did not have access to the relevant data for the reasons set out in paragraph 40 above. HMRC does not have a written record of this meeting.

42. Shortly after the meeting, KAI started working on a high-level aggregate analysis of the relationship of EOHO take-up and the number of Covid-19 cases [EP/22 - INQ000235036]. In doing so, KAI used EOHO data maintained by HMRC which has since been published as official statistics (see paragraph 52 below). KAI also used publicly available data, including Covid-19 data (taken from the Covid-19 Dashboard maintained by Public Health England) and population data of local authorities (taken from estimates done by the Office for National Statistics for mid-2019, the latest available at the time).
43. On 3 December 2020, there was a further Microsoft Teams meeting between HMT and KAI officials (including Mr Hawkes and Mr Marsh of HMT, and Ms Sweeney of KAI), during which KAI confirmed it was starting its analysis work.
44. On 9 December 2020, KAI completed a first draft of the report entitled "Analysis of correlation between EOHO and COVID" (the "**Analysis Report**"). The Analysis Report was subsequently finalised on 14 December 2020. A copy of the Analysis Report is exhibited as **Exhibit EP/23 - INQ000235041**.
45. The Analysis Report investigated the relationship between the number of EOHO meals taken in a local authority divided by its population ("**meals per head**") and the number of new Covid-19 cases per 100,000 people in that local authority in the weeks starting 6 April 2020, 31 August 2020 and 28 September 2020. The Analysis Report also looked at the relationship between meals per head and the percentage change in the number of new Covid-19 cases in the weeks starting 6 April 2020, 31 August 2020 and 28 September 2020 compared with their respective weeks preceding. Copies of the data relied upon and programming code used are exhibited as **Exhibits EP/24 - INQ000235037, EP/25 - INQ000235033, EP/26 - INQ000235050, EP/27 - INQ000235043, and EP/28 - INQ000235049**. Copies of various graphs generated from the programming code used for the Analysis Report and/or Further Briefing Notes (see paragraph 56) are exhibited as **Exhibits EP/29 - INQ000235051, EP/30 -**

INQ000235069, EP/31 - INQ000235061, EP/32 - INQ000235054, EP/33 - INQ000235066, EP/34 - INQ000235055, EP/35 - INQ000235065, EP/36 - INQ000235060, EP/37 - INQ000235058, EP/38 - INQ000235057, EP/39 - INQ000235062, EP/40 - INQ000235073, EP/41 - INQ000235063, EP/42 - INQ000235064, EP/43 - INQ000235075, EP/44 - INQ000235059, EP/45 - INQ000235067, EP/46 - INQ000235070, EP/47 - INQ000235068, EP/48 - INQ000235072, EP/49 - INQ000235056, EP/50 - INQ000235074, and EP/51 - INQ000235071.

46. The Analysis Report found little evidence to support the claim that EOHO directly led to an increase in Covid-19 cases on a UK-wide level. There were local authorities with very high EOHO take-up and relatively low levels of new Covid-19 cases in September and October 2020, as well as local authorities with high levels of new Covid-19 cases in September and October 2020 and low take-up of the Scheme. In general, the correlations between EOHO take-up and new Covid-19 cases in September and October 2020 were either weak or not statistically significant.
47. The only statistically significant correlations were found in Wales; the correlations were negative, i.e. local authorities in Wales with increased take-up of EOHO had a **lower** number of cases and a more slowly increasing outbreak. However, the Analysis Report states that caution should be taken in interpreting the correlations, as they might be due to unseen factors not considered in it.
48. HMRC did not (and HMT did not commission HMRC to) conduct a peer review into the Warwick Paper. However, as Ms Sweeney observed on 23 November 2020, Professor Fetzner appeared to have used the number of businesses registered under the Scheme in a particular geographical area as the measure of EOHO take-up in that area [EP/20 - INQ000235034]. In contrast, as set out in paragraph 45 above, the Analysis Report used meals per head as the measure, which is based on data made available to the public three months after the Warwick Paper was published in late October 2020 (see paragraph 52 below).
49. On 14 December 2020, HMT recommended to the Chancellor that EOHO's sub-national data be published in January 2021 [EP/52 - INQ000235042]. KAI contributed to this submission, including the observation that the Analysis Report "*has found no noticeable correlation between usage of the scheme and growth in local Covid cases*" [EP/53 - INQ000235038].
50. On 15 December 2020, the Chancellor decided to publish EOHO's sub-national data in January 2021, provided that HMT officials and Mr Michael Webb (the Chancellor's Special

Adviser) went through the data again to check whether there were any “*noticeable correlation between usage of the Scheme and growth in local Covid cases*” [EP/52 - INQ000235042]. Later that day, KAI sent the Analysis Report to Mr Webb and other HMT officials [EP/54 - INQ000235039, EP/55 - INQ000235040].

51. On 17 December 2020, there was a Microsoft Teams meeting in which KAI (including Ms Sweeney) presented the Analysis Report to, and responded to questions from, Mr Webb and other HMT officials (including Mr Hawkes and Mr Marsh). To the best of Ms Sweeney’s recollection, it was agreed during the meeting that EOHO’s sub-national data could be published in January 2021. During the meeting, HMT asked for a briefing document also to be prepared for use in addressing any questions from the media as to whether EOHO had contributed to the spread of Covid-19 once the statistics were published. HMRC does not have a written record of this meeting.
52. On 18 December 2020, the Chancellor decided that sub-national EOHO statistics should be published on 28 January 2021 [EP/52 - INQ000235042].
53. Between mid/late December and late January 2021, KAI conducted further analysis to prepare the briefing document requested by HMT (the “**Further Briefing Notes**”). On 27 January 2021, a day before EOHO’s sub-national data were published on 28 January 2021, KAI provided the Further Briefing Notes to HMT [EP/56 - INQ000235045].
54. While the Analysis Report had looked at three specific weeks (those starting 6 April 2020, 31 August 2020 and 28 September 2020), the Further Briefing Notes analysis considered 13 weeks, from 3 August 2020 to 1 November 2020. In other words it considered the relationship between:-
 - (1) EOHO meals per head in a local authority and the number of new Covid-19 cases per 100,000 people in that local authority in each of the 13 weeks between 3 August 2020 and 1 November 2020, and
 - (2) EOHO meals per head in a local authority and the percentage change in the number of new Covid-19 cases in each of the 13 weeks between 3 August 2020 and 1 November 2020 compared with their respective weeks preceding.
55. The Further Briefing Notes reached a similar conclusion to that in the Analysis Report. There was a lack of compelling evidence for a UK-wide correlation between EOHO and Covid-19,

with many areas with low take-up of EOHO but with many cases of Covid-19 or with high take-up of EOHO but with fewer cases of Covid-19. The correlation between EOHO uptake and new Covid-19 cases was only significant in Wales and Yorkshire & The Humber, and the correlations in both were negative.

56. The raw data relied upon for the Further Briefing Notes were sourced in the same manner as those for the Analysis Report, as set out in paragraph 42 above. Copies of the data relied upon and programming code used are exhibited as **Exhibits EP/24 - INQ000235037, EP/25 - INQ000235033, EP/26 - INQ000235050, and EP/57 - INQ000235044.**
57. On 17 February 2021, KAI received a request from the Scotland Office for sight of the Analysis Report and took advice from HMT on whether it could be provided **[EP/58 - INQ000235046]**. On 23 February 2021, HMT advised that the Analysis Report could be provided to the Scotland Office **[EP/58 - INQ000235046]**.

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: 12 September 2023