
OPENING STATEMENT
on behalf of
THE SCOTTISH GOVERNMENT

Introduction

- 1.** My name is Geoffrey Mitchell, KC and I appear at these public hearings on behalf of the Scottish Government. I appear along with junior counsel, Jennifer Nicholson-White and Kenneth Young. We are instructed by Caroline Beattie, of the Scottish Government Legal Directorate.
- 2.** We wish to begin our statement by acknowledging the suffering of the thousands of families who have lost a loved one due to Covid-19. This is a loss that we know is felt to this very day. On behalf of the Scottish Government, we would like, once again, to give our condolences and sympathies to all of those who have been bereaved by Covid-19.
- 3.** Our theme in the hearings has been, and will continue to be, one of commitment. Commitment to the Chair, to the Inquiry process and to the people of Scotland. That commitment is to assist and to cooperate with the Inquiry, to listen to the evidence and to identify lessons that might flow from that evidence. The Scottish Government understands that the most meaningful and genuine way to recognise the loss, hurt and suffering of the people of Scotland is to learn from the evidence.
- 4.** As the body that was responsible for steering a path for Scotland through the pandemic, the Scottish Government is naturally well placed to explain the strategic decisions made during that time. It appreciates that legitimate questions arise as to the decisions, and the way in which they were made. Of course, it is relevant to bear in mind the context in which decisions were made. Firstly, Covid-19 posed an unprecedented, systemic threat to global health, to healthcare systems, economic activity, and wider society. As has often been said, within the UK it created an unprecedented situation the like of which is rarely seen during peace time. Secondly, it was the Scottish Government's responsibility to address the threat posed by Covid-19 to the people of Scotland. The complexity of the systemic challenge posed by the rapid spread and evolution of the Covid-19 virus, together with the 'whole of society' aspect of the threat, meant that there was no single, simple and certain way to respond. As we mention later in this statement, the Scottish Government's strategic aim in dealing with the pandemic, including in the development and use of Non Pharmaceutical Interventions ('NPIs'), was to minimise the *overall* harm of the pandemic throughout the whole of Scotland. Thirdly, the Scottish Government acknowledges that certain decisions could have been taken differently. Whether alternative options were, practicably and

realistically, open to it, and whether they would have made a material difference, are separate questions, and will no doubt be explored in evidence. Finally, it need hardly be said that *all* decisions taken by the Scottish Government during the pandemic, irrespective of their popularity, and irrespective of certain consequential and deeply regrettable harmful effects, were taken with the aim of the protection of the people of Scotland as the core guiding principle. That is, to minimise the harm created as a result of Covid-19 and to reduce the loss of life.

5. With those brief introductory remarks, we turn to the six areas on which we wish to make comment. They are as follows:
 - The period January to March 2020
 - Leadership, the underpinning structures and decision making
 - Scottish Government strategies and decisions during the pandemic
 - Communication
 - Working with other governments and local authorities
 - Access to Data

The period January to March 2020

6. By late January/early February the Scottish Government was aware that it was facing an increasingly serious situation. It was discussed regularly at Cabinet meetings in February and March. The Chief Medical Officer ('CMO') for Scotland participated in discussions with the other three UK CMOs to make shared recommendations arising from World Health Organisation ('WHO') advice. On 30th January the four UK CMOs advised raising the national risk assessment level from 'low' to 'moderate' in order to "*escalate planning and preparation in case of a more widespread outbreak*". Testing of suspected cases (within clinical settings, for surveillance purposes and for key workers) began in Scotland on 24th January 2020.
7. On 22nd January Health Protection Scotland was represented at the first Covid-19 meeting of the Scientific Advisory Group for Emergencies ('SAGE'), and the Scottish Government attended subsequent meetings, represented very often by the CMO or Deputy Chief Medical Officer ('DCMO'). On 24th January the Scottish Government attended the first Covid-19 meeting of the Cabinet Office Briefing Room ('COBR'), and attended subsequent meetings, very often represented by the First Minister or Deputy First Minister. The meeting of COBR(M) on 29th January – attended by the Cabinet Secretary for Health & Sport and the CMO - agreed to "*increase planning for a reasonable worst-case scenario, using the National Security Risk Assessment pandemic flu assumptions as a starting point, with the additional information that the elderly and those with existing health conditions will be disproportionately affected*". In February and March, the Scottish Government Resilience Room ('SGoRR') met on nine occasions at

official level (SGoR(O) meetings) and eight times at ministerial level (SGoR(M) meetings) in order to discuss and monitor the progress of the virus. All of the SGoR(M) meetings, bar one, were chaired by the First Minister.

8. By early March, all of the UK Governments were engaged in intense analysis of early data on Covid and its impacts. This was challenging work. The characteristics of the virus were not fully known; testing capacity was limited; and definitional and demographic differences made it hard to forecast outcomes in one population from experience in others. Yet it was clear that Covid-19 was highly infectious, capable of becoming established in community transmission, and thus able to cause serious harm.
9. On 3rd March 2020 the four governments of the UK published a planned response to the pandemic, set out in the *'Four Nations Coronavirus: Action Plan'*, and comprising four phases: *contain, delay, research and mitigate*. Steps to 'contain' the virus had begun in February, including measures such as ports health measures and contact tracing. On 11th March the World Health Organisation ('WHO') declared Covid-19 to be a pandemic. On 12th March, following scientific advice provided at a meeting of COBR(M), the response in Scotland (and throughout the UK) moved from 'contain' to 'delay', as for the first time community transmission had been confirmed as occurring in Scotland and the UK. This began the introduction, in stages, of a series of NPIs. On that day, 12th March, the four nations announced the publication of guidance advising, amongst other measures, those with Covid-19 symptoms to self-isolate at home for at least seven days, and the First Minister announced Scottish Government guidance that, from 16th March, mass gatherings of 500 people or more should not take place. On 17th March, the First Minister, in a statement to the Scottish Parliament, stated that all four governments in the UK had received scientific advice indicating that Scotland and the rest of the UK was on the cusp of a rapid escalation in the spread of Covid-19, necessitating *"far more stringent steps to suppress as far as we can the spread of the virus; protect and scale up the capacity of the NHS as best we can; and by doing these things, save lives"*. These measures included self-isolation for seven days for those with Covid-19 symptoms; for 14 days for contacts of those with symptoms; and that everyone should minimise social contact as much as possible.
10. On the same date, 17th March, NHS Scotland was placed on an emergency footing, such that the direction of the health service in Scotland was determined by the Cabinet Secretary for Health and Sport. Steps were taken to ensure the health service in Scotland was ready to deal with the modelled high numbers of people requiring hospital treatment, including the cancelling of elective and non-urgent healthcare, redeployment of staff and arrangements to bring back retired qualified health staff. Significant work was done, based on clinical advice, on the type of PPE

needed, and ensuring efficient distribution routes. A large amount of guidance was issued for healthcare staff and people deemed clinically vulnerable and at-risk. From early March targeted, clinical advice was provided to the care home sector, including advice on self-isolation and clinical screening. Advice in late March recognised the risk of asymptomatic transmission, and the consequent precaution of self-isolation. Advice regarding mandatory testing for all new admissions to care homes was issued in mid-April, when the capacity for such testing became available. The Cabinet Secretary for Health and Sport consulted regularly with Scottish Care, the Convention of Scottish Local Authorities ('COSLA'), and Trades Unions.

11. At this point, we would like to pause and to acknowledge, on behalf of the Scottish Government, the severe impact of the pandemic on the social care sector. Deaths that occurred in care homes and that were attributable to Covid-19 accounted for a significant percentage of all Covid-19 deaths in Scotland. Restrictions on visiting caused unintended pain and suffering. Residents, their relatives and care home staff all suffered. The Scottish Government acknowledges this. Evidence on this issue will surely, and understandably, figure in this and future modules.
12. On 18th March, following advice provided by SAGE, the First Minister announced that schools and nurseries were expected to close to pupils from the end of that week. On 20th March, following a meeting of COBR(M), the Scottish Government asked certain businesses to close. This included cafes, pubs, restaurants, nightclubs, theatres, cinemas, gyms and leisure centres.
13. On 23rd March, the decision was made to impose a package of measures that came to be known as a 'lockdown'. Based on the clinical and scientific advice from SAGE and the CMO for Scotland, the judgement was made that additional measures had to be taken to 'suppress' the spread of the virus, in order to avoid significant health harm, and the overwhelming of the NHS. The goal to suppress the prevalence of the virus remained a central part of Scottish Government strategy through the pandemic. The Scottish Government was fully aware that a 'lockdown' was unprecedented. It would have far-reaching consequences. Yet there was no risk or harm-free response. It was judged that the threat to human health was of such significance that the strategy had to be pursued. In blunt terms, it was the "least bad" option.
14. The lockdown was highly effective in reducing community transmission and the level of infection, serious illness and death within the UK. The 'R' number reduced from an estimated 2.5 - 3.0, to 0.5 - 0.7. Of course, it was not without consequential effects on health, including mental health, loneliness and isolation, levels of physical activity, and levels of domestic abuse. With the benefit of hindsight, possessed with current knowledge as to the nature and effects of the virus, the Scottish Government would have wanted to impose a lockdown earlier. As stated, that is with the

benefit of hindsight. That desire apart, practicable barriers would have stood in the way of that decision, such as the need for the UK Government to provide the necessary and consequent financial resources (for example, through schemes such as ‘furlough’).

Leadership, the underpinning structures and decision making

15. Core decisions regarding the handling of the pandemic in Scotland were undertaken by Scottish Ministers. Within the Scottish Government a high degree of formality surrounds decision making. Even during the necessarily intense and rapid framing of its response to the pandemic, the Scottish Government sought to maintain the discipline of formal collective decision making. Then, as now, Ministers sought to be open, transparent and accountable in respect of the decisions made. Decisions were made by Cabinet or by Ministers with appropriate delegated authority, and were subject to the scrutiny of the Scottish Parliament. Some decisions were delegated by Cabinet to the First Minister. Formal records of decisions were kept, and decisions were communicated to the Scottish Parliament in oral and written statements, in the answering of Parliamentary Questions and in the participation of Ministers in meetings of the Parliament and of Committees. Decisions were also conveyed through media briefings on a frequent, often daily, basis.

16. Ministers received comprehensive briefing on the course of the pandemic, drawing on the material from SAGE, the Scientific Pandemic Influenza Group on Modelling (‘SPI-M-O’), the Scottish COVID-19 Advisory Group (‘C19AG’- discussed below) and the Joint Biosecurity Centre (‘JBC’). That advice was presented by both clinical advisors within the Scottish Government, and bodies such as Public Health Scotland (‘PHS’), who provided daily data. The Scottish Government established clear frameworks within which to consider the evidence, for example the ‘Four Harms Framework’ (discussed below). These were rational, evidence-based and published frameworks, that enabled Ministers to consider complex advice and establish clear direction of activity.

17. The C19AG met on 26th March 2020, having been established by the CMO of Scotland, at the request of the First Minister, to *“consider the scientific and technical concepts and processes that are key to understanding the evolving COVID-19 situation and potential impacts in Scotland”*. It was formed in order to provide additional scientific analysis of the impact of Covid-19 in Scotland. It provided a means of applying the intelligence gathered by SAGE, and deploying it in a Scottish context, with a broad range of expertise contributing to this

discussion. One of the strengths of the arrangements of C19AG was the opportunity for the attendance of Ministers at 'Deep Dive' meetings arranged by the C19AG, for the discussion of selected topics. This enabled good dialogue, and identification of key scientific issues that had to be addressed in Ministers' decisions. The C19AG had a number of sub-groups, all of which were chaired by members of the C19AG. Between 26th March 2020 and 28th May 2020, it met 17 times.

18. During the pandemic, careful note was, of course, kept both of the decisions made, and of the reasoning, information and evidence that supported those decisions. Not surprisingly, information governance is well established and understood in Scottish Government. As required by statute, since 2013 the Scottish Government has had in place robust policies, plans and strategies regarding the management of records. These plans are reviewed on an (at least) annual basis. In short, the plans, policies and strategies are designed to ensure that there is a complete record of business that is undertaken by the Scottish Government. The information that constitutes the record of business may take different forms, or may be created in different ways. Regardless, the responsibility remains to ensure that such information becomes part of the Scottish Government's record of business. In practice, this involves the transfer of information into one single location - the Scottish Government's corporate electronic document and records management system. In effect, this is the official record of Scottish Government business.
19. In summary, the Scottish Government's structures and systems that were in place throughout the pandemic were clear, logical and transparent. It is submitted that it resulted in governance and leadership that was both effective and efficient.

Scottish Government strategies and decisions during the pandemic

20. It became clear that the Scottish Government's response to Covid-19 would require a huge number of decisions to be made by Ministers across government, at pace and sometimes at short notice with some decisions being taken by a more focussed group of key decision makers. These decisions and their rationale were communicated with speed and clarity. The Scottish Government took rapid action to integrate and co-ordinate that work, so that Ministers and officials across government would have a framework within which to take decisions, and a high-level aim, or "strategic intent", to which decisions should contribute.
21. In April 2020, building on the '*Coronavirus: Action Plan*' that had been published by the four governments of the UK, the Scottish Government explained the way it would take future decisions on its pandemic response in the '*Framework for Decision Making*'. This document

set out the Scottish Government's principles and approach to dealing with the pandemic, particularly in relation to the use of NPIs. It also set out the Scottish Government's strategic objective in responding to the pandemic - to contain and suppress the virus so as to minimise the overall harm it could do, taking into consideration the available scientific, clinical and public health advice.

22. A key part of the approach was to marshal the many and various harms of the pandemic into four categories, or 'harms'. The concept of 'Four Harms' was that, broadly speaking, the pandemic, and measures in response to it, could cause harm in four areas, namely:

Harm 1: Direct Covid-19 health harms: primarily, the mortality and morbidity associated with contracting the disease;

Harm 2: Broader health harms: primarily, the impact on the effective operation of the NHS and social care services associated with large numbers of patients with Covid-19, and its consequential effects on the treatment of illness;

Harm 3: Social harms: the harms to a wider society, in terms (for example) of education attainment as a result of school closures;

Harm 4: Economic harms: harms to the wider economy, for example, through impact on output, employment and business viability following the closure of businesses and workplaces.

23. The complexity of the systemic challenge posed by the rapid spread and evolution of Covid-19 meant that there was no single or individual correct response. It quickly became apparent that there were few, if any, 'harm free' decisions open to governments, including the Scottish Government. Measures designed to curtail the spread of the virus reduced the direct *health* harm but, on the downside, risked causing isolation and loneliness, economic upheaval and disruption to education. On the other hand, a decision not to impose or lift restrictions might be said to lessen wider harms, but only at the risk of possibly increasing harm to health. The Four Harms were interlinked, and this was well understood by the Scottish Government at the time. For example, an increase in unemployment and poverty would have, over time, both physical and mental health implications. The challenge was for the Scottish Government, and other governments, to assess risks and benefits and take decisions to reduce overall harm as much as possible.

24. The *Framework* also committed the Scottish Government to making decisions in line with seven principles: that decisions should be safe, lawful, evidence-based, fair and ethical, clear, realistic and collective. The last of these was a commitment to work with partners and

stakeholders, including the UK Government and others, while ensuring that the specific needs of Scotland were met.

25. The Scottish Government recognised that the four harms did not impact on everyone in society equally. Accordingly, inequalities were seen as a factor *integral to* the Four Harms. This approach was consistent with the aspirations of the Scottish Government, both before and after the pandemic, to build equality into policy-making across all areas of government. It is also cognisant of its duties under Equalities legislation, and the need for all decision-making to comply with the European Convention on Human Rights. Thus, Equality Impact Assessments were used and published frequently throughout the pandemic. By way of further example:

- a. Ministers were aware of the significant direct health harm that would affect people with underlying health conditions. Developed by the four nations' CMOs, a list of people was created whom the Scottish Government asked to 'shield' and led to the provision of specific support to those individuals. A great deal of work was done in this regard throughout the pandemic.
- b. The Cabinet Secretary for Education and Skills put in place specific monitoring of engagement with children at risk, that required local authorities to report during lockdown to the Scottish Government on the effectiveness of their contact with children who had vulnerabilities.
- c. A dedicated sub-group of C19AG was concerned with issues affecting children and young people.
- d. Child Rights and Well-being Impact assessments were carried out and published.
- e. Ministers and officials engaged throughout the pandemic with the social care sector and groups representing older people.
- f. The Scottish Government worked closely with local authorities, the police and other partners to ensure that the safety and wellbeing needs of women and children experiencing domestic abuse continued to be prioritised.
- g. The Expert Reference Group on Covid-19 and Ethnicity was established and first met in June 2020 in response to the growing evidence of the disproportionate impact of the Covid-19 pandemic on minority ethnic people. The Group was established "*to ensure that [there is] an accurate understanding of the impact of Covid-19 on minority ethnic and migrant communities in Scotland, and that [the] policy responses reflect this*".

26. However, the Scottish Government recognises that one of the key questions arising from the pandemic is if, how, and to what extent vulnerable and at risk groups could have been better protected.

27. In May 2020 the Scottish Government published '*Covid 19: Scotland's Route Map through and out of the crisis*', which detailed four phases of exiting lockdown. Progression from one phase to another was dependent on certain criteria being met, and these criteria were based on WHO advice. The Scottish Government took a precautionary approach to the relaxation of the restrictions, conscious of the fragile position in relation to the suppression of the virus, which would affect its ability to protect population health. The move from lockdown to Phase 1 began on 29th May. Progress in meeting the WHO criteria over the following weeks allowed a move on 19th June to Phase 2, and on 10th July Scotland moved to Phase 3. This move was accompanied by a mandatory requirement to wear face coverings while in shops, commensurate with the reduction in retail physical distancing from two metres to one metre.
28. A move to Phase 4 (where the virus was no longer a considered a significant threat to public health) proved more problematic. The beginning of September saw a rise in the level of infection. At this time, as at others, a great deal of effort was devoted by the Scottish Government to suppress a resurgent virus. The focus was, insofar as possible, to manage, stabilise and reduce the transmission of the virus, through the careful and targeted use of NPI's. On 1st September restrictions were announced that applied to indoor gathering in the West of Scotland. On 10th September, the First Minister announced that existing restrictions would remain in place for a further three weeks. Additional restrictions were also imposed, including limiting the number of people permitted at social gatherings indoors and outdoors to six people from two households plus their children under 12, and a requirement for customers in indoor hospitality venues to wear face coverings when not eating. On 22nd September the First Minister announced measures for the hospitality sector, namely the introduction of a 10.00 pm closing time, and the further restriction of mixing between households. Advice was provided to students, via Universities Scotland, in an effort to reduce transmission of the virus on campuses. The position in Central Scotland was of particular concern. There had been a significant rise in the number of positive cases within several Health Board areas. Close contact with infected individuals within an enclosed environment remained one of the biggest risks. Accordingly, on 9th October regulations were made that put in place a set of temporary restrictions that, in the main, focused on hospitality, indoor sports and entertainment venues. Distinguishing between the central belt and the rest of Scotland, the restrictions affected the opening hours and services that could be provided.
29. In late October 2020, as the pandemic moved into a new phase requiring an enhanced NPI response, the Scottish Government published '*Covid 19: Strategic Framework*', which set out the Protection Levels Framework, and was put into effect on 2nd November. The Strategic

Framework supported the overarching approach of taking decisions in the context of the Four Harms, but gave the flexibility to put in place different measures in different parts of Scotland, if local and regional data supported that. This Levels Framework was designed differently from those that applied elsewhere in the UK (such as the ‘Tiers system’ in England). It was different, both in terms of the NPIs included within each level; as well as in the number of levels (i.e. five – numbered from ‘0’ to ‘4’). The Levels Framework proved capable of responding to outbreaks and new variants without the need for a further ‘national lockdown’ in Scotland. By defining measures *in advance*, the Levels Framework enabled the Scottish Government to communicate, *in advance*, what it would ask people to do, and why. The Scottish Government made considerable effort in communicating this strategy to the public, in order to secure good understanding of, and compliance with, these measures when they were applied. In line with WHO guidance it included restrictions on non-essential travel to and from areas at Levels 3 and 4. From 20 November Scotland applied restrictions on non-essential travel between Scotland and virus ‘hot-spots’ in other parts of the UK and the wider Common Travel Area, as, in fact, Wales had done from 16 October.

30. As a result of the advent of the highly transmissible ‘Alpha’ variant, the level of infection rose again in early winter. On 22nd December 2020, following a meeting of Cabinet, the First Minister, Nicola Sturgeon announced that there would be a move to ‘level 4’ restrictions from 26th December for the whole of mainland Scotland and some islands. Orkney, Shetland, the Western Isles, and several other islands would move instead to level 3. This decision was based on the emerging scientific advice that the new Alpha variant could be 60 to 70 per cent more transmissible. On 4th January 2021 the Cabinet made the decision (based on the latest advice, data and evidence) that a legal requirement not to leave home, without a reasonable excuse for doing so, would apply in level 4 areas. That stay-at-home requirement remained in place until 2nd April.
31. Between February and August 2021, the “Levels” system was used to implement a phased easing of NPIs as vaccination coverage increased. As the protection provided by the vaccine continued to grow, Ministers defined a “gateway condition” for removing the “Levels” system. The ‘gateway condition’ was that adults aged over 40 were protected by two doses of the vaccine. The ‘condition’ was met in August 2021, and Scotland moved “beyond Level 0” on 9th August. In practical terms, this meant that the legal requirements for physical distancing ended, limits on gatherings were removed, and all venues in Scotland were able to re-open. However, certain protective measures did remain in place. This included the use of face coverings indoors, the collection of contact details to allow for contact tracing, and capacity limits for large events. The Scottish Government introduced a ‘Covid certification scheme’,

that demonstrated an individual's vaccination status. The appearance of a yet more infectious variant of the virus led to some temporary additional restrictions as part of the 'Omicron' response (December 2021 to January 2022).

32. In broad summary, therefore, as both the nature of the Covid-19 crisis changed and the Scottish Government's overall strategy evolved in response, so too did its approach to imposing and easing NPIs, from the initial lockdown of March 2020, through to the lifting of the remaining legal measures on 18th April 2022. The crisis developed and changed at pace, and the Scottish Government required to respond. All steps were guided by the consideration of the Four Harms. Thus, in 2020 and the first half of 2021, the priority was to suppress the prevalence of the virus, even in recognition that such an approach might cause broader harms. With the success of vaccines (particularly in the older age-groups) and the reduction in health risk to individuals (in particular older, vaccinated individuals), the Scottish Government's strategic intent was adjusted (in June 2021) to *'suppress the virus to a level consistent with alleviating its harms while we recover and rebuild for a better future'*. In February 2022 the strategic intent was revised for the last time *'to manage Covid-19 effectively, primarily through adaptations and health measures that strengthen our resilience and recovery, as we rebuild for a better future'*. This recognised that after two years of the pandemic, and in light of developments in vaccines and treatments, a strategy that was overly focused on suppression of the virus would have a disproportionate impact on the other harms.

Communication

31. The Scottish Government recognised at the outset of the pandemic the importance of on-going communication with the public, so as to convey what was being asked of them. 'Audience insight' was used to deliver these messages effectively. A strategy was developed that was underpinned by a reliance on explaining scientific and clinical information, so as to give the public confidence, and shaped by a recognition that the general public in Scotland was highly motivated to act in the collective best interest. The aim was also to provide a form of ongoing support via a regular 'presence', to assist people through a worrying and distressing period. The strategy was designed to reach the population of Scotland as frequently as possible, with accessible information that could be easily understood, and would motivate and prompt life-saving action by adopting protective behaviours. Communication priorities were informed by policy, clinical and ministerial decisions, and were directed by the latest and emerging scientific evidence, behavioural science and 'audience insight' (via weekly polling and quick-turnaround qualitative research).

32. The communications channels that were used were numerous. They included paid-for advertising on a variety of media channels, national door-drops, the First Minister's briefings (more than 250 in total), social media posts on Scottish Government platforms, and stakeholder engagement. The Scottish Government worked closely with others to amplify messages and communicate effectively to the whole of Scotland, encompassing all geographies, minority communities and those with accessibility issues. Key public health information on Covid-19 was available in multiple languages (17 in total) and via the NHS Inform website. 4.35 million people in Scotland were exposed to the first vaccination marketing campaign. 78% of campaign 'recognisers' agreed that the Scottish Government Covid-19 vaccine communications made them more aware of the importance of being vaccinated. The gov.scot website was a key source of information for the public. Analytics showed that from 20th March 2020 to 24th June 2022, 'Covid-19 information' on the site was visited more than 116 million times.
33. The combination of: daily media briefings (with clear communications led by the First Minister, Nicola Sturgeon, with regular input from clinicians); well researched messaging for marketing purposes, delivered at high frequency (which was shown to motivate a response among the public); and effective collaboration regarding messaging involving multiple public sector partners, were amongst the strengths of the pandemic communications activity, and explained why levels of public confidence were consistently high. The proportion of adults across Scotland (age 18 and above), who said that they completely or mostly trusted the Scottish Government to provide information on coronavirus, stood at 72% at the end of July 2020 (although it was clear that the longer the pandemic went on, the more difficult it was to secure public compliance with the restrictions).

Working with other governments and local authorities

34. Promoting and protecting the health of the Scottish people is a matter within the competence of the Scottish Parliament. Devolved control of the public health response by the Scottish Government, was crucial to the effective handling of the pandemic in Scotland. At the same time, it was recognised during the response that there were areas in which it was vital to engage and work with the UK, Wales and Northern Ireland governments. Similarly, it was recognised from an early stage that effective working with Scotland's 32 Local Authorities would be vital in responding to the pandemic.
35. It is worth noting that the current devolution arrangements reflect the will of the Scottish electorate, as expressed in the referendum of 1997, enshrined in the Scotland Act 1998, and thereafter affirmed and further developed, by the UK Parliament, through the Scotland Acts of

2012 and 2016. Quite properly, nothing was done to re-allocate the existing roles and responsibilities of the Scottish Government for public health in response to the Covid pandemic. Indeed, the close connection between the Scottish Government's responsibility for public health and those for healthcare, justice, policing, education, local government and most public services was central to the response.

36. What did happen was that liaison between the Scottish and UK governments was intensified. Sitting alongside more formal structures (such as COBR and Covid-O) was an enhanced level of engagement between Scottish Government Cabinet Secretaries, Ministers, and officials, and their counterparts in the UK, Wales, and Northern Ireland governments. Ministers and officials liaised on specific strands of the pandemic response, such as NPIs, testing, PPE, vaccine development, procurement, and deployment and much else. From Spring 2020 the First Minister and the other heads of the devolved governments had calls with the Chancellor of the Duchy of Lancaster. The four health ministers spoke by telephone regularly, as did the four CMOs. This was replicated in the senior civil service. For example, from April 2020, regular calls were chaired by the UK Cabinet Secretary, in which the Permanent Secretary to the Scottish Government participated.
37. Co-operation with the UK Government in respect of the pandemic was, on the whole, reasonably effective. However, this is not to say that the Scottish Government considers that this liaison was conducted such that there is no room for improvement. Information shared with the Scottish Government in advance of several of the above mentioned *fora*, for example COBR, came late in the day, hampering the ability of attendees to assess critically the information being presented, and in some cases the decisions taken by the UK government in reliance thereon. On occasion, it appeared to the Scottish Ministers that the UK Government treated certain *fora* as opportunities to inform the Scottish Government of decisions which had already been taken. This meant that meaningful discussion with the Scottish Government was sometimes absent in respect of UK Government decisions that affected Scotland. Again, following the simultaneous lockdowns in March 2020, the Scottish Government along with its counterparts in Wales and Northern Ireland repeatedly sought engagement from the UK Government on coordinated action on NPI restrictions and requirements, and that engagement was not always forthcoming.
38. There was no Scottish Government response to the Covid-19 pandemic which was guided by anything other than a desire to contain and suppress the virus in order to minimise the overall harm it could do. By working collaboratively with the other governments of the United Kingdom Scotland was able to benefit from the best and most up-to-date expert scientific data and advice. This information helped to guide Scottish Government decisions, which were always made to

meet the specific circumstances in Scotland. Where the Scottish Government reached decisions that were different to those which were deemed appropriate in other parts of the United Kingdom, they did so after consideration of the facts and circumstances facing it. It is respectfully submitted that this reflects devolution working as it was intended. The result was decision making that responded to local circumstances, and that was accountable to a devolved legislature. As an example of what this meant in practice, Scotland's population and geography are distinctive within the UK. Scotland is less densely populated, and includes more island and remote rural communities than other parts of the UK. The 'levels' system implemented by the Scottish Government was designed to limit transmission of the virus while avoiding unnecessary restrictions on social and economic activity in areas of relatively low virus prevalence. This was a particular approach taken by the Scottish Government, taking into account what best suited the needs of Scotland at that time.

39. As well as working with the UK Government, there was good and effective communication and partnership between the Scottish Government and local authorities. Representatives of COSLA were invited to take part in SGoRR discussions and there were many other discussions with local authorities and Ministers. This dialogue was important to ensure participation by local government in the decision making of the Scottish Government. The data behind the allocation of local authorities to different levels of restrictions was openly and transparently available to local authority leaders.

40. The Scottish Government gave active consideration to the implications of NPIs on vulnerable groups in local areas, in conjunction with local authorities. This led to the formulation of a strategy that delivered extensive practical support for vulnerable people in relation to the delivery of services, the supply of food and the provision of support. There was a particular acknowledgement in those plans for giving access to education, and wellbeing services for children who may be at risk. Bespoke monitoring was put in place to ensure child wellbeing obligations were being fulfilled during this period. The only way in which effective services of this type could be provided was with the engaged participation of local authorities, which was forthcoming, and for which the Scottish Government was deeply grateful. The Scottish Government made available financial support to assist local authorities in this work.

Access to Data

41. Covid-19 was a new disease. Thus, Covid-19 data collections did not exist pre-pandemic. At the outset of the pandemic, analysts supported the Scottish Government Resilience Room (SGoRR) and worked at pace to establish timely data feeds, a core set of Covid-19 daily data and core

modelling to monitor and forecast the spread of the virus. By March 2020, arrangements were in place to provide daily Covid-19 updates across a number of key measures such as cases and hospitalisations to support decision making. The Scottish Government established the Covid-19 Modelling and Analysis Hub, which was able to share externally produced modelling evidence and research, as well as produce a range of its own data, modelling, evidence and research. This went into coordinating advice to ministers in respect of the Four Harms. This included a focus on identifying those groups within the population which were likely to be vulnerable or at greater risk from Covid-19.

42. As a result of previously planned health reforms, Public Health Scotland ('PHS') came into being on 1st April 2020. This was the culmination of a series of reviews, co-led by the Scottish Government and COSLA. This brings "under one roof" responsibility for matters including the collection of health-related data. Its existence greatly assisted the Scottish Government in its pandemic response, with PHS leading on the Covid-19 daily dashboard which was released from July 2020 and used extensively across government and by members of the public.
43. SPI-M-O (Scientific Pandemic Influenza Group on Modelling) modellers, which included the Scottish Government, were also able to use UK-wide data, research and evidence in its modelling. This came from sources including the wide range of academic groups working with SAGE, its subgroups and the New and Emerging Respiratory Virus Threats Advisory Group (NERVTAG), and its availability is consistent with long-standing arrangements for inter-governmental liaison and joint working across the UK. Generally speaking, these arrangements worked well. The scientific community across the UK worked together collaboratively to share data, research, modelling and expertise across the four nations.
44. Although there were initial difficulties with identifying and gathering information, Scottish data played an essential role in the pandemic. They were ultimately used to define vulnerable patient sub-groups that were at greater risk of adverse COVID outcomes. This particular work was undertaken in partnership with the QCOVID research group, and was supported by Health Data Research UK. Further, the 'EAVE II' study (Early Pandemic Evaluation and Enhanced Surveillance of COVID-19) was a unique resource, created through a collaborative partnership between PHS, Scottish Universities and Public Health physicians, and that received Scottish Government funding. Using data from 5.4 million people registered with a GP in Scotland, the study successfully tracked the pandemic in near real time, as well as the effectiveness of the vaccines across Scotland. The research of EAVE II produced findings that had a global impact on the response to the pandemic.

45. The Scottish Government is, of course, committed to learning and adapting as a result of the Inquiry's findings. The Scottish Government is grateful to the Chair for the opportunity to make this opening statement. My team and I hope that we can be of assistance to the Inquiry in the days to come.

8 January 2024

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