

Witness Name: Nicola Dickie

Statement No.:

Exhibits:

Dated: 24/10/23

UK COVID-19 INQUIRY

WITNESS STATEMENT OF NICOLA DICKIE

I, Nicola Dickie, will say as follows.

I have previously provided a witness statement dated 7 September 2023 in relation to Module 2A of the Inquiry's investigations. By email dated 6 October 2023 the Inquiry requested additional information. This statement addresses the Inquiry's request. For ease of reference I have repeated, in full, the Inquiry's additional questions.

a) Please could COSLA outline whether any issues were raised by LA's regarding the use of [Fixed Penalty Notices] "FPN" in their local areas?

Individual local authorities did not raise issues with COSLA about the use of FPNs within their local areas. We are aware that local authorities maintained good links with Police Scotland divisions throughout the relevant period and that there was ongoing collaboration between local police and environmental health and trading standards teams in relation to the enforcement of Covid legislation.

b) Did COSLA compare and contrast the use of enforcement powers, including the number of FPN's issued, across the LA's? If so, were any discussions had with Police Scotland? If not, why not?

COSLA did not compare and contrast the use of enforcement powers across LAs because there was an agreed approach to enforcement across the country from both Police Scotland and local authority environmental health and trading standards teams. This approach was known as "the 4 E's" (engage, explain, encourage, enforce) approach which is referred to at para 5.9 of my statement dated 7 September 2023 and related submissions.

c) Were any concerns raised by LA's about public engagement with Police Scotland and their use of enforcement powers?

No concerns were raised by LAs about public engagement with Police Scotland and their use of enforcement powers. As can be seen from the submissions from

individual local authorities (SL24) any issues were raised and resolved at a local level.

d) Did COSLA provide any information or advice to the Scottish Government about the use of FPN's in the LA's?

COSLA did not provide any information or advice to the Scottish Government about the use of FPNs in LA areas. LAs had no powers to issue FPNs initially, the legal authority to issue FPNs in Scotland generally rested with the police and various public bodies. Local authorities had limited powers to issue FPNs for specific types of offenses, such as littering, dog fouling, and environmental offenses, but these powers did not extend to public health and pandemic-related matters. When the power was granted to issue FPNs to businesses no process with the Crown Office was put in place to allow the processing, payment and appeal of FPNs relating to the Covid legislation, so this was never used.

COSLA had no involvement with Police Scotland in respect of their use of FPN's and therefore cannot offer any comment thereon.. Local environmental health and trading standards teams did have discussions with Police Scotland on how to signpost businesses who potentially needed Police support to deal with customers who were not following COVID rules despite being asked too.

2. Please outline any work carried out and/or views reached by COSLA relating to the public health and coronavirus legislation, guidance and regulations, including:

- a. their proportionality (in particular the use of criminal sanctions/fixed penalty notices);*
- b. their enforcement, including their proportionality and consistency of their enforcement, including on at-risk and vulnerable groups and/or those with a protected characteristic*
- c. their clarity; and*
- d. their effectiveness, all including the question of what body or bodies were responsible for any inadequacies in these areas.*

As an organisation we did not carry out a review of the legislation. The Environmental Health and Trading Standards Expert Group worked closely with Scottish Government officials and Police Scotland in relation to aspects of the legislation that impacted on businesses.

The 4 E's (engage, explain, encourage, enforce) approach to enforcement ensured that every effort was made to ensure voluntary compliance before any enforcement action was undertaken. In addition, Operational Guidance (SL9) was produced by the Environmental Health and Trading Standards Expert Group which promoted a consistent approach to enforcement of the regulations.

3. Whatsapps/informal messaging - COSLA and many of the LA's responses note that discussions or meetings were not formally minuted. Please could COSLA and each of the LA's confirm whether they were part of any informal

messaging apps, where they discussed decision making around the pandemic?

There was no discussion on decision making on informal messaging apps. All decision making was done through established governance channels, such as Leaders and Group Leaders Meetings.

4. Please could COSLA explain the difference between why some LA's were frequently involved and invited to discussions with the Scottish Government about the implementation of different levels (such as East Ayrshire and Edinburgh), whereas others were not (like North Lancashire)?

Some local authorities were frequently on the cusp of different tiers of restrictions and discussions would be held in relation to the most appropriate way forward. Some local authorities such as North Lanarkshire were never in that position as they had high infection rates throughout the use of the tier system.

5. West Dunbartonshire - please could this LA be asked whether they think the engagement with the Scottish Government could have been more collaborative regarding tier level restrictions. In relation to the restrictions imposed on 1st September 2020 restrictions - the Chief Executive appears to have just been told about the decision to impose the restrictions, which indicates they were not consulted or asked for their locally informed opinion.

Response from West Dunbartonshire Council

West Dunbartonshire Council have confirmed that they were not asked for their opinion prior to being informed of the tier that would apply to their area

6. Angus Council - They state that "At times some messages were confused, particularly when national announcements were made without advance notice meaning that communications could not be prepared to expand and reinforce on new regulations. For example, the introduction of tiers was complex, and at one point Angus was tier 3 and Dundee was tier 2, meaning that people from Angus were prohibited from visiting Dundee other than to attend work etc." - Please could they expand on whether they liaised with the Scottish Government about these differing tiers and made any submissions on whether they should be the same, or different? If so, were their submissions to the Scottish Government agreed to, or ignored?

Angus Council have been consulted in relation to the above question and have provided the following response:

Angus Council advises that as far as they are aware no representations were made to the Scottish Government as the approach adopted was the same as adopted previously by both UK and Scottish Governments

7. Edinburgh City - "There is a need to ensure that all parties understand the difference between legislation and guidance. Local Authorities have no powers to enforce guidance." - What does this LA believe could have been

done differently by the Scottish Government to improve the understanding of the difference between legislation and guidance?

City of Edinburgh Council have been consulted in relation to the above question and have provided the following response:

Regulatory colleagues who previously provided this comment have indicated that Scottish Government Ministers, on a number of occasions, suggested in public communications that there was a legal responsibility to comply with particular guidance. This caused issues when the legislation that underpinned said guidance did not go as far as the public communication would suggest. An example related to the guidance that individuals should only go out no more than once a day, whereas the legislation simply said 'leave your home for essential purposes only', with no numerical limit.

A lack of a legislative definition of "café" resulted in confusion as to the restriction of trade in relation to restaurant premises – with some venues not understanding whether they were restricted from trading by the relevant regulations.

8. Moray - "Changes of levels and having different levels across LA boundaries caused some confusion – as did it being called 'levels' in Scotland and 'tiers' in England. This caused outbreaks of arguments on our social media channels, which we worked hard to contain as there were often contributors giving conflicting information depending on whether they were personally choosing to follow UKG or SG guidance." - What does this LA believe could have been done differently by the Scottish Government to improve the understanding of the difference between levels across LA boundaries?

Moray Council have been consulted in relation to the above question and have provided the following response:

From a public communications perspective: Having clearer visual representations of different levels across Scotland would have benefited local communications – providing simple, static, date stamped assets, such as a map, with the different levels each time they changed would have been a useful way to demonstrate the variations in an accessible way.

From a provision of public services perspective: It is felt that the Scottish Government were clear in stating the boundaries where any temporary differences were in force. It was difficult for the public to understand why areas had different rules and the rationale behind the extra restrictions.

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: 24/10/2023