Witness Name: Caroline Lamb
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UK COVID-19 INQUIRY
MODULE 2A

WITNESS STATEMENT OF DIRECTOR GENERAL HEALTH AND SOCIAL CARE

In relation to the issues raised by the Rule 9 request dated 07 September 2023 containing additional questions in connection with Module 2A, the Director General for Health and Social Care, will say as follows: -

1. This statement is one of a suite provided for Module 2 and 2A of the UK Covid Inquiry and these should be considered collectively.

2. The Scottish Government's DG for Health and Social Care (DGHSC) initial Module 2 and 2A statement (provided on 23 June 2023), provides the following information which should be read in conjunction with the additional information below:
    - Set out in the 'Introduction' and 'Accountability' Sections (pages 1 to 14) is a background to governance and decision making across all DG HSC portfolio interests, and also details of how those arrangements adjusted during the Covid-19 pandemic. The detail provided also sets out the role of clinicians and other partner bodies in the collective decision making process
    - In addition, the 'Data Analysis' and 'Advisory Group' Sections (pages 66 to 92) provide details of data flows into and from Scottish Government, how data is analysed in a four nations context, and which expert advisory groups supported the decision-making process across all relevant pandemic response areas.

3. The content references made above should also be considered against the additional combined statement from the Chief Medical Officer (CMO) for Scotland, the Chief Scientist (Health) (CSH) and the National Clinical Director (NCD) for Scotland (provided on 23 June 2023) - in particular, the section on 'Structures and processes

utilised or developed for the provision of advice by the CMOD and CMO to the Scottish Government' from page 6 onwards.

Pre-pandemic preparedness within care sector

4. In order to support contingency arrangements in social care, especially in relation to the ongoing viability of service providers, a National Contingency Planning Group has been in existence since 2011. This is chaired by the Convention of Scottish Local Authorities (COSLA), with representation from Scottish Government. During the early phase of the pandemic, COSLA convened this group to discuss emerging issues and approach to providing collective support to the social care sector.

5. The Scottish Government has provided pandemic guidance to the health and social care sectors over many years, including information around the mitigation of transmission risks. The guidance in place before the pandemic, which was developed by the UK Government in 2012, was the *Health and Social Care Influenza Pandemic Preparedness and Response* [CL7/0001-INQ000280630]. This was issued to the health and social care sectors in Scotland and provided guidance in relation to:
    - Pandemic preparedness and response in health and social care
    - Roles and responsibilities
    - Detection and assessment phases
    - Treatment and Escalation phases
    - Recovery phases.

6. The guidance recognised the risk of transmission to vulnerable individuals in social care and other settings. It set out the infection prevention and control and other measures which should be taken locally by all parties to reduce the risk of transmission. This included advice and guidance in relation to:
    - Surveillance - especially in settings where there are higher risks to vulnerable populations
    - Segregation, isolation and cohort nursing to limit transmission
    - Local risk assessment for required levels of infection control, particularly in communal living environments such as residential homes
    - Collaboration and mutual support for high-risk settings
    - Use of PPE updated guidance for local organisations during a pandemic.

7. The Scottish Government issued updated guidance for consultation in 2019 but did not publish a final version due to the outbreak of Covid-19. Subsequent SG guidance specific to Covid-19 was subsequently published from March 2020 onwards and is discussed in more detail below. The Scottish Government also held (and continues to hold) stockpiles of PPE for the health and social care sectors in Scotland. Guidance on infection prevention and control for adult social care settings was contained within the *National Infection Prevention and Control Manual (NIPCM)* [CL7/0002-INQ000147393].

Business continuity arrangements in social care

8. Pre-pandemic, local organisations were, and continue to be, primarily responsible for planning for and responding to any major incident, including pandemics. Local Resilience Partnerships had a collective responsibility to plan, prepare and communicate in a multi-agency environment and multi-agency planning, which was key to developing and delivering an integrated response to major incidents, including pandemics.

9. There are also systems in place locally to support business continuity in the health and social care sectors. Business continuity arrangements within social care provision were, and continue to be, managed by local government and care providers as an aspect of contract management. Contingency and business continuity planning requirements are contained in contractual arrangements for social care provision and in relation to the registration of services with the Care Inspectorate. For the purposes of registration with the Care Inspectorate, relevant social care services must maintain contingency plans to safeguard the safety and wellbeing of service users in the event of sudden closure of the service.

10. Standards and expectations in relation to business continuity are also included in COSLA's National Care Home Contract (for older people requiring public funding) as follows:
    - The Provider will develop, implement, maintain and hold responsibility for processes and procedures in relation to business continuity
    - The Provider shall maintain a business continuity plan which takes account of the supports reasonably expected to be available from statutory authorities including but not limited to, the civil and emergency planning provisions within the Local Authority area

- The Provider shall provide a copy to the Council on request
- The Provider shall notify the Council as soon as reasonably practicable of the activation of said plan.

11. A range of public health organisations provided advice to the Scottish Government around infection control in different settings before and during the pandemic. This included:
    - Health Protection Scotland (now Public Health Scotland) – discussed in further detail below
    - Antimicrobial Resistance & Healthcare Associated Infection (ARHAI) which is a clinical service providing national expertise for infection, prevention and control (IPC), antimicrobial resistance (AMR) and healthcare associated infection (HAI) for Scotland. ARHAI sits within NHS National Services Scotland.

12. During January and March 2020 internal clinical groups were formed to consider pandemic-related issues. This included the CMO Medical Advisory Group (MAG) of senior clinical advisers which ran from early March 2020. MAG evolved into the multidisciplinary Professional Advisory Group (PAG) which comprised doctors, nurses and other professions within Scottish Government. There was also a 'clinical cell' of government advisers and NHS clinicians who met regularly to discuss clinical approaches, evidence, guidance and issues. These groups provided effective support to the CMO, DCMOs and the CMOD and other senior clinicians in government.

13. In addition, there was regular network engagements between chief professional advisers across the UK between January and March 2020. For example, the Department of Health and Social Care coordinated regular meetings between the four UK Chief Medical Officers (CMOs), often on a daily basis. Similarly, there were regular meetings between the four Chief Nursing Officers.

14. In addition, Scottish Government professional advisers and policy officials met regularly with their counterparts across Scotland. The SG met with Chief Officers of Health and Social Care Partnerships on a monthly basis prior to the pandemic. During March 2020 the meetings increased in frequency, culminating in daily meetings to discuss matters relating to the pandemic.

Advice and Data sources

Roles and responsibilities for delivery of adult social care in Scotland

15. Adult social care in Scotland is delivered by a wide range of partners across Scotland, including the public, independent and third sectors. Unlike health, the Scottish Government does not have direct responsibility for the delivery of social care. However, the Scottish Government played a vital role during the pandemic in supporting the care sector to respond to the challenges of Covid-19.

16. Local authorities have statutory responsibility for providing social care support and Scottish Ministers, through local NHS Health Boards, have responsibility for health care. The Scottish Government is also responsible for maintaining the broad strategic framework for adult social care and bringing forward related legislation.

17. Under the Public Bodies (Joint Working) (Scotland) Act 2014 local authorities and health boards work together as Integration Authorities to manage a range of health and social care services collectively. They are required to delegate certain functions (and budgets) to a local integration authority. In most areas the integration authority is an Integration Joint Board (IJB) which includes members from both the local authority and local health board. There are also a number of regulatory bodies with responsibilities within the social care sector, including the Care Inspectorate and the Scottish Social Services Council (SSSC).

18. At the outset of the pandemic, the Community Health and Social Care Directorate, led by their Director, Elinor Mitchell, had lead responsibility for adult social care within the Directorate-General for Health and Social Care. There were two divisions within this directorate with responsibility for adult social care: the Social Care Support Division; and the Health and Social Care Integration Division. Between them, these divisions had responsibility for a broad range of adult social care strategic policies, including:
    - Adult care home policy
    - Adult care at home policy
    - Unpaid carers
    - Older people's policy

- Sponsorship of the Care Inspectorate
- Sponsorship of the Independent Living Fund
- Integration of health and social care
- Delayed discharge policy
- Community hospital policy
- Equipment and adaptations policy
- Intermediate Care and Hospital at Home policy.

19. The Director of the Community Health and Social Care Directorate represented the Directorate across a range of DGHSC senior governance and decision-making bodies, including the Health and Social Care Management Board, which is the main decision-making body of DGHSC. Officials from the Directorate regularly briefed SG health ministers on challenges facing the adult social care sector and liaised closely with colleagues across DGHSC to address issues of concern in relation to the sector both in the run up to and during the pandemic. Both DGHSC officials and ministers also regularly engaged with Chief Officers and care sector representatives on a range of adult social care issues to understand current challenges facing the sector and how SG might assist in resolving them. There was therefore a strong understanding of the care home, and wider social care sector, within DGHSC and of the challenges the sector faced in the run up to and during the pandemic.

Adult social care advisory and assurance bodies

Care Inspectorate

20. The Care Inspectorate (CI) is the national agency responsible for regulating care services in Scotland. This includes registration, inspection, complaints, enforcement and improvement support. Although sponsored by the Scottish Government, the CI operates independently from Scottish Ministers. The CI played an important role in regulating and supporting care services, including inspecting care homes, during the pandemic.

21. During March 2020 the CI took the decision to scale down inspections, recognising that this may put an unnecessary burden on the care sector. This was also intended to minimise the likelihood of CI staff spreading infection of Covid-19 and the risk to

CI's own inspectors. The CI adapted its approach to become more intelligence-led while providing support to care services.

22. In its interim plan, the CI set out how decisions would be made about how to carry out scrutiny, guided by these three principles:
    - Focus strategic scrutiny activities on supporting local authorities and health and care partnerships to ensure people receive safe care. Prioritise activity according to where CI believe risk is highest and where it can make a difference
    - Support local authorities, health and social care partnerships and other key services throughout this challenging time by reducing what CI asks of them wherever it can without compromising people's safety, and by ensuring it is not contributing to the risk of spread of infection
    - Prioritise the health, safety and wellbeing of CI staff and reduce the risks they are exposed to, following PHS guidance.

23. On 8 October 2020, the CI wrote to the sector to outline areas for improvement identified through scrutiny and assurance activity and provided good practice documents to support services. The CI also developed and implemented two winter plans that included lessons learned and used webinars to guide and support the sector.

24. The Coronavirus (Scotland) (No.2) Act 2020 contained additional measures relating to the duties of the CI in respect of care home inspections during the pandemic. These included:
    - That the CI must lay a report before Parliament every two weeks during the emergency period setting out which care home services it had inspected in the two-week period and the findings of those inspections
    - New duties for the CI around reporting of deaths in care homes services from or suspected to be attributable to Covid-19 or not
    - That care home service providers must provide certain information to the CI each day in relation to the numbers of deaths which have occurred in a care home service, whether caused by or suspected to be attributable to Covid-19 or not
    - That the CI must prepare a report at the end of each 7 day period of the information provided by care home service providers and share this with

Scottish Ministers and that Scottish Ministers must subsequently lay reports prepared by the CI before Parliament no later than 7 days after Scottish Ministers had received it.

Healthcare Improvement Scotland

25. Healthcare Improvement Scotland (HIS) is the national healthcare improvement organisation for Scotland. It is a public body which is part of NHS Scotland and supports health and social care organisations to redesign and continuously improve services to ensure that people experience high quality health and social care.

26. The CI and HIS have a statutory duty of cooperation and during the pandemic HIS and the CI worked closely together on joint inspections of care homes on a targeted basis with a focus on the physical and healthcare needs of residents, taking into account priorities and concerns identified by local oversight teams.

27. The presence of HIS inspectors, and the healthcare and Infection Prevention and Control (IPC) expertise they provided, provided additional assurance around care home inspections. HIS contributed to over 200 inspections (including continuation, monitoring and follow up visits), equating to approximately 30% of the total number of inspections carried out by the CI.

Scottish Social Services Council

28. The Scottish Social Services Council (SSSC) is a non-departmental public body, sponsored by the Office of the Chief Social Work Adviser, established to ensure social care professionals are regulated against agreed standards. During the pandemic, the SSSC undertook changes to regulatory practice to provide flexibility within the social care workforce and to address workforce capacity challenges.

Public Health Scotland

29. Public Health Scotland (PHS) is an NHS Board sponsored by the Scottish Government and COSLA on behalf of local government. As Scotland's national public health body, PHS leads and supports work across Scotland to prevent disease, prolong healthy life and promote health and wellbeing. During the pandemic PHS - and its predecessor Health Protection Scotland (HPS) working with

Antimicrobial Resistance & Healthcare Associated Infection (ARHAI) Scotland - provided advice and guidance for social care settings, including care homes. This included advice on testing, IPC measures in social care, including PPE, and visiting in care homes, which is discussed in more detail elsewhere in this statement.

Scottish Government adult social care pandemic advisory groups

30. During the pandemic, Scottish Government officials liaised with social care stakeholders through:
    - Attendance at stakeholder network meetings, for example IJB Chief Officer network meetings
    - Individual meetings with representatives of social care provider organisations such as COSLA (for local government) and Scottish Care (for independent and some third sector providers), Coalition of Care and Support Providers Scotland (CCPS) (for third sector)
    - Meetings with the Care Inspectorate and SSSC
    - New pandemic groups established to bring stakeholders together to discuss and prioritise actions to support the sector during the pandemic and to advise on the development of guidance.

31. Two main stakeholder advisory groups were also established:
    - Clinical and Professional Advisory Group for Adult Social Care (CPAG)
    - Care Home Rapid Action Group, which was subsequently replaced by the Pandemic Response Adult Social Care Group (PRASCG).

The Clinical and Professional Advisory Group for Social Care (CPAG)

32. The Clinical and Professional Advisory Group for Social Care (CPAG) was established in April 2020. Its initial remit was to provide clinical and professional advice and guidance for protecting the care home sector during Covid-19 and this was later expanded to include the wider adult social care sector. The Group, which was commissioned by the Chief Medical Officer and Chief Nursing Officer, and chaired by a CMO and CNO representative, brought together clinicians and external stakeholders including care home providers, NHS and local authorities to provide professional and clinical advice to the Scottish Government. The Group also supported the development and implementation of guidance for the adult social care

sector, including clinical and visiting guidance for care homes. Over 80 meetings of CPAG were held during the course of the pandemic, with the last meeting of CPAG held in December 2022.

33. CPAG was a forum for collaborative and focussed guidance and policy development. When officials were developing a policy, consultation could be conducted efficiently with a wide range of stakeholders and appropriate solutions developed. Members also brought issues to the attention of the Group so that appropriate solutions could be discussed and considered. This approach enabled a more significant degree of collaboration than would otherwise have been feasible under the circumstances. The frequency of meetings varied at different phases of the pandemic from twice weekly to monthly.

Care Home Rapid Action Group / Pandemic Response Adult Social Care Group

34. A national Care Home Rapid Action Group (CHRAG) was established in April 2020 comprising the key partners with operational oversight and delivery responsibility for care homes. The group received daily updates and was tasked with activating any local action needed to deal with issues as they emerged, as well as informing and coordinating a wider package of support to the sector.

35. The CHRAG initially focused on care homes but in September 2020 was widened to cover adult social care within a new Pandemic Response Adult Social Care Group (PRASCG). PRASCG provided a multi-stakeholder focal point for the work being undertaken to support the effective delivery of adult social care provision during the pandemic.

36. The objectives of the group were to:
    - Enhance existing collaborative working across adult social care sector leaders
    - Share intelligence and identify key issues for resolution related to the pandemic (supported by relevant data/metrics/evidence as appropriate)
    - Share intelligence and identify key issues that continued to hamper recovery from Covid-19
    - Ensure learning from the pandemic shapes the future as the sector recovers.

37. There were also policy-specific advisory groups that provided advice and support to SG on a range of important issues, including:

- GOLD - Adult Social Care - Provided strategic oversight of national pressures across social care delivery in Scotland and collective national-level response and action through effective oversight, support and where necessary coordination to enable a resilient response to be provided
- Adult Social Care PPE Steering Group - The Steering Group comprised of internal and external stakeholders from the social care sector and monitored the use of the PPE Hubs and levels of supply and demand, in addition to addressing ad hoc issues of concern raised by Steering Group members
- Adult Social Care Testing Board (ASCTB) - An internal Scottish Government Policy Board with clinicians to provide oversight of the implementation and delivery of the expansion of testing in social care in line with Standard Operating Procedure (SOP) requirements
- Open with Care (care home visiting) and Anne's Law Oversight Group (CPAG sub-group) - Continued the collaboration between national and local partners to monitor and support the implementation and further development of Open with Care across Scotland's Care Homes and later included oversight of the development of Anne's Law, including legislation within the National Care Service Bill on care home visiting
- Care Home Assurance Short Life Working Group (CPAG sub-group) -The Group identified and highlighted prevailing challenges around oversight and assurance visits and staff wellbeing, identifying and promoting best practice
- Healthcare Framework for care homes (CPAG sub-group) - which provided recommendations on a strategic framework for strengthening continuity and increasing access to healthcare for people living in care homes.
- Infection Prevention Control (IPC) Sub-Group (CPAG sub-group) -The stakeholders within the group provided clinical and professional advice for the adult social care / care home sector regarding all aspects of IPC
- Vitamin D in care homes (CPAG sub-group) - Group considered and made recommendations regarding whether care home residents should be offered vitamin D supplementation and how this would be implemented.
- Adult Social Care Recruitment Campaign Steering Group - Supported the successful delivery of the adult social care recruitment campaign being delivered by the Scottish Government and their delivery partner, the Scottish Social Services Council (SSSC)

- Working Group for Social Care Provider Sustainability Support - Considered issues relating to financial support for social care providers
- Care Home Data Monitoring Group - Monitored RAG ratings of care homes.
- Carers Leads Network – Considered carer-related issues throughout the pandemic
- Carers Rights and Support Steering Group (formerly Carers Act Implementation Steering Group) - Oversaw work to improve and expand support under the Carers (Scotland) Act 2016 including working in partnership to deliver the agreed implementation plan, enhance carer support, embed good practice and identify and address challenges and opportunities.

Data and modelling

38. Throughout the pandemic a range of medical and scientific expertise, data and modelling were used to inform decisions made in connection with the management of care homes and the social care sector.

39. SG Health and Social Care Analysis (HSCA) Division became a key provider of data, analysis and evidence in the Scottish Government throughout the pandemic, working in close collaboration with SG Central Analysis Division (CAD), Public Health Scotland (PHS) and other analysts across government.

40. The data and analysis were widely and regularly communicated to senior officials and Ministers to aid decision making and used in a wide range of briefings and papers. This included providing daily Covid-19 briefings (seven days per week) from 2020 to 2022 on key Covid-19 statistics to Ministers, senior clinicians and policy leads, with a key focus and emphasis on weekly social care data and evidence. CAD also regularly monitored the international epidemiological picture (case numbers, hospital admission/occupancy and deaths), including for emerging variants and presented this data across SG.

41. Data, analysis and research was also communicated to stakeholders through the relevant advisory groups outlined above and was also released into the public domain. For example, the Scottish Government Social Care Analytical Unit (SCAU) regularly updated a number of groups including Social Care Gold Command and Clinical and Professional Advisory Group for Social Care (CPAG) with the latest data

and trends on the transmission of Covid-19 in adult social care settings and in the wider general population.

42. Working with partner agencies, HSCA worked at pace to develop and lead on work to collect, report and brief on Covid-19 data on a daily and weekly basis to track and inform the response to the pandemic. The mainstay of this tracking was a suite of national level measures, including social care data such as:
    - Data on confirmed cases of Covid-19 amongst care home residents and staff
    - The number of adult care homes with a current suspected case of Covid-19
    - Covid-19 related staff absences in care homes
    - Covid-19 related deaths in care homes
    - Visiting status of care homes
    - Covid-19 vaccinations for care home residents and social care workers.

43. In the early part of the pandemic, in advance of widespread roll out of testing, data on the number of suspected cases in adult care homes were provided by the Care Inspectorate and collated within an SG database. Following this, the number of adult care homes with a current suspected case of Covid-19 was also provided. This definition was revised in July 2020 when data on routine testing of care home residents and staff also became available.

44. In addition, in August 2020, the Scottish Government, in collaboration with care homes, Scottish Care and the Scottish Social Services Council (SSSC), developed the 'safety huddle tool' (SHT) for the care home sector, hosted on the “TURAS” platform. The SHT was designed to collect pertinent data such as IPC measures, occupancy, staffing and outbreak levels, and information on care home visiting to enable situational awareness and risk assessment for care homes. This daily data supported oversight teams to identify care home risks earlier and the need for early intervention and enabled ongoing monitoring of Covid-19 across Health and Social Care Partnership areas.

45. Data from SHT was self-reported by care homes. Not all care homes submitted information on a daily basis and there were care homes where no information was available on a certain day, and this varied considerably, each day and each week, and so impacted on trends in data nationally and by NHS Boards. Similarly, there were limitations to other data sources which analysts assessed, managed, highlighted and supported delivery of data quality improvements.

46. The SG Central Analysis Division also closely monitored and updated colleagues across the Scottish Government on the progression of Covid-19 in other nations, regularly monitoring the international epidemiological picture (case numbers, hospital admission/occupancy and deaths), including for emerging variants. This data was included within a weekly slide pack that was presented internally to interested SG colleagues.

47. From March 2020, material generated from the Central Analysis Division provided Scotland level monitoring data, seven days a week. This covered cases, deaths, situation in care homes, hospitals, supply of goods, workforce, attitudes, other public services, economy and media and communications. In May 2020, work on providing information on the vulnerable population in Scotland was taken forward by Communities Analysis Division, to provide a better understanding of the most at risk, non-shielded groups.

48. In addition, modelling work was conducted to create a daily Scotland Reasonable Worst Case Scenario (RWC) impact assessment which included total number of infections, estimates of hospitalisations, estimates of those needing ICU; numbers of people recovered and fatalities. The model was extended to help understand how the virus was spreading in different parts of Scotland (identifying likely future hotspots), and how the impact would be felt by different levels of community deprivation. The data fed into other mobilisation planning across social care, primary care, and secondary care, as well as wider public service impact. It was shared with technical experts working in other hubs on issues such as the economy, transport and vulnerable communities.

49. Information was also collated from published data, management information from agencies in Scotland, and external sources where useful, including for example, Covid-19 modelling hotspot prediction analysis from Imperial College. Analytical readouts were also provided following meetings of the Data Analysis and Research CPAG sub-group - a group of care homes-focused policy leads, social care clinicians, academic experts and SG analysts. SCAU also supported the SG Clinical Care Homes Professional Advisor at the Scientific Advisory Group for Emergencies (SAGE) Social Care Working Group, updating members each week on the latest Covid-19 position and trends in Scottish Care Homes, and reporting back on emerging trends and research in other parts of the UK and internationally. A range of

clinical, academic and other work reported during the meetings, for example on transmission in closed settings, was used to inform advice back to clinical and policy leads in Scotland.

SG Decision-making

SG Care homes guidance

50. As noted above, the Scottish Government does not have direct statutory responsibility for the provision of adult social care services in Scotland, which rests with local authorities. However, the Scottish Government played a vital role during the pandemic in supporting the care sector to respond to the challenges of Covid-19, including through the provision of national level advice and guidance to the care sector across a range of issues.

51. Pre-pandemic, guidance on infection prevention and control for adult social care settings was contained within the *National Infection Prevention and Control Manual (NIPCM)* [CL7/0002-INQ000147393]. In May 2021, the *Care Home Infection Prevention and Control Manual (CHIPCM)* [CL7/0003-INQ000280631] was published to better reflect language and examples relevant to social care settings.

52. On 12 March 2020, Covid-19 guidance for social care was first published by HPS titled: *COVID-19: Information and Guidance for Social or Community Care & Residential Settings* [CL7/0004-INQ000280632]. On 13 March 2020, SG published clinical guidance from the Chief Medical Officer and Chief Nursing Officer titled: *Clinical Guidance for Nursing Home and Residential Care Residents and COVID-19* [CL7/0005-INQ000147441]. The SG guidance for care homes drew on the HPS guidance but provided more clinical considerations for the care home population and included advice relating to:
    - Measures to prevent and prepare for infection in residents
    - Visiting restrictions
    - Social isolation requirements
    - PPE and handwashing procedures
    - Cleaning of communal areas
    - Transitions from hospitals
    - Anticipatory Care Plans

- Access to GPs
- Staffing levels
- Measures to mitigate the adverse effects of restrictions on residents.

53. This guidance was updated on 26 March 2020 [CL7/0006-INQ000147440] and 15 May 2020 [CL7/0007-INQ000280633] to reflect revised HPS guidance and also wider developments in understanding the nature of the virus and its likely impact on care homes and the wider social care sector, including additional advice on:
    - supporting staff and resident wellbeing
    - ensuring adequate staffing to ensure the safety and wellbeing of residents
    - updates on testing arrangements following recent announcements on care home admissions and enhanced surveillance testing
    - education and training
    - role of Health and Social Care Partnerships, Local Authorities and NHS Boards in ensuring that the care home sector was supported.

54. For the remainder of the pandemic, Covid-19 guidance for social care was published by PHS, with SG publishing standalone detailed guidance for the sector on specific areas, as needed – for example in relation to face masks, care home visiting etc. SG also developed specific guidance around addressing elements of care home life (e.g., at Christmas time) that were not covered in PHS guidance.

55. Engagement between SG and HPS/ PHS in relation to published guidance on Care Homes was formalised in two ways. First, the Clinical and Professional Advisory group for care homes (CPAG) was established in April 2020 comprising stakeholders from a range of sectors including HPS and PHS to provide clinical and professional advice on supporting the care home and adult social sector during the pandemic, including related guidance. Second, the Scottish Government put in place a process for formal review of public health Covid-19 guidance, referred to as the 'Policy Alignment Check' (PAC), in June 2020 for all HPS / PHS guidance, which ensured consistency across the guidance publications.

Covid-19 legislation supporting the Adult Social Care Sector

56. Through both the development of provisions within new legislation, and utilising existing provisions, the Scottish Government provided additional support to protect social care services from the impact of Covid-19, including within care homes.

57. The Coronavirus (Scotland) (No.2) Act 2020 (the 2020 Act), which was passed on 20 May 2020 conferred powers on health boards to direct care home providers where, due to a reason relating to Covid-19, there is a material risk to the health of persons at the specified accommodation. Further powers were included in the 2020 Act to allow Ministers to apply to a court for an Emergency Intervention Order (EIO) to nominate a person to act as a nominated officer to enter and occupy accommodation and direct and control the provision of the care home service at the accommodation. Where due to a reason relating to Covid-19 there was an imminent and serious risk to life or health of persons in the accommodation, Ministers could also exercise these powers prior to making an order to the court. The 2020 Act also included powers for local authorities and health bodies to purchase care homes or care at home service providers where for a reason relating to Covid-19, a provider is in serious financial difficulty, there is threat to the life, health or wellbeing of the persons receiving the services, or the provider recently ceased to provide the services.

58. The 2020 Act also placed a duty upon Ministers to establish and maintain a social care staff support fund, to provide financial assistance to social care workers who could not attend work due to a reason related to Covid-19. The Cabinet Secretary also made use of the direction making powers contained in Section 2 of the NHS (Scotland) Act 1978 on 4 June 2020 to seek assurance commitments on testing in care homes.

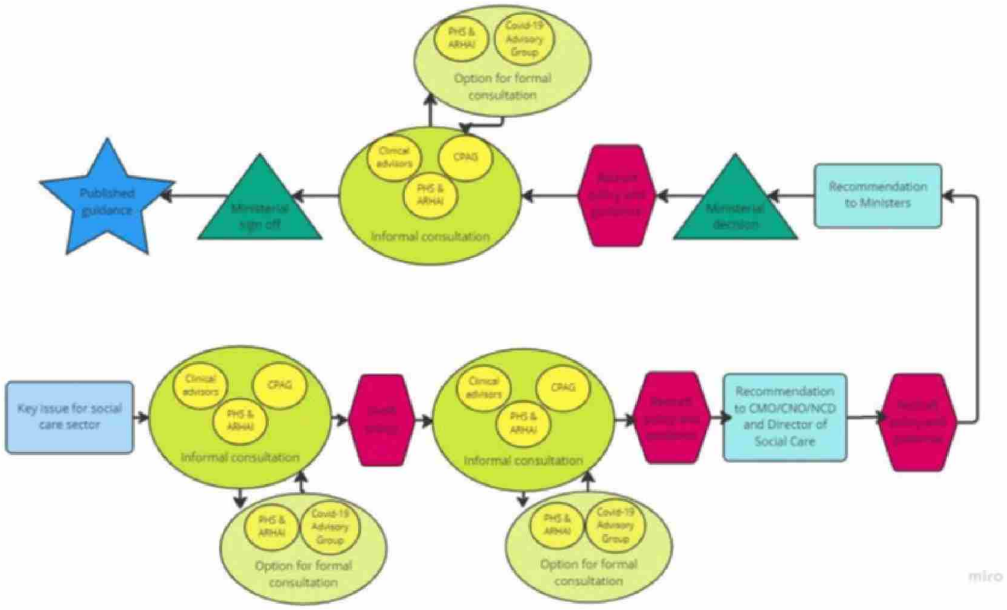
59. The 2020 Act also contained additional measures relating to the duties of the CI in respect of care home inspections during the pandemic.

Process for making decisions around guidance and policy changes

60. There was a collaborative process for making decisions in relation to guidance and policy changes affecting the social care sector. When issues came to the attention of officials, there was consultation with clinical advisors and stakeholders, including:
    - Public health officials

- Care provider representatives
- Chief Social Worker Officers
- Chief Officers
- Nurse Directors
- Trade unions
- Local care home oversight teams
- Through meetings of the CPAG.

61. This collaborative process, illustrated in more detail below, helped ensure that published guidance was tailored to the needs of the sector.



Adult Social Care Winter Preparedness Plans

62. In November 2020, the Scottish Government published the first *Adult Social Care Winter Preparedness Plan 2020-21* [CL7/0008-INQ000147362] to provide further guidance and support to the sector on managing winter pressures, in addition to the challenges of managing Covid-19.

63. The Plan was drafted following consultation with a wide range of organisations across the social care sector, including those represented on the Pandemic Response Adult Social Care Group: Local Government, the NHS, Health and Social Care Partnerships, Regulators, the Third Sector, Trade Unions and professional bodies. It set out the range of measures introduced to support the sector from the

outset of the pandemic and the further enhancements that would take effect in preparation for winter pressures, including in relation to:

- Infection Prevention and Control
- Testing and vaccinations
- Admissions from hospitals
- Mental health and wellbeing
- Workplace safety and support (including PPE)
- Oversight arrangements
- Use of safety huddle tool.

64. A range of new measures were also introduced by the Plan, including in relation to:
    - Staff movement
    - Fair work
    - Increased testing
    - Outbreak management.

65. The Plan was supported by additional funding of up to £112 million, which was allocated broadly as follows:
    - £50 million to support the additional costs of restricting staff movement across care settings
    - £50 million for the Social Care Staff Support Fund and winter sustainability funding through to the end of March 2021
    - £7 million for Health Boards to invest in Nurse Director teams to support increased infection protection and control measures in care settings
    - Up to £5 million for additional oversight and administration costs associated with responding to the pandemic and outbreak management.

66. The *Adult Social Care Winter Preparedness Plan for 2021-22* [CL7/0009-INQ000280634] similarly provided updated guidance to the sector on the issues identified above, but with an increased focus on:
    - Supporting the needs and wellbeing of the social care workforce and unpaid carers
    - Maintaining high quality integrated health and social care services throughout the autumn/winter period
    - Protecting those who use social care support from the direct impact of Covid-19 and wider winter viruses

- Working in partnership across health and social care to deliver the Plan.

Discharge from Hospitals to Care Homes

Transfers from hospitals

67. In the early stages of the pandemic, a clearer understanding of the Covid-19 virus and associated population health risks started to form. The European health systems, particularly in Italy, was already feeling the impact of large numbers of Covid-19 cases as healthcare systems started to become overwhelmed.

68. The international advice at the time indicated that in-hospital capacity was clearly going to be crucial in any country's response, and therefore moving fit for discharge patients out of areas destined to inevitably receive Covid-19 patients was crucial for patient safety and for capacity.

69. It is accepted across the health and social care sector that delays to the transfer of people assessed clinically as fit for discharge into the community, including transfer to care homes, are not in the best interests of people and may also have an effect on a hospital's capacity to treat other patients. Reducing the rates of delayed transfers from hospitals to the community for patients assessed as clinically fit for discharge has therefore been a priority across health and social care over many years, including the period in the run up to and during the pandemic.

70. In the early stages of the pandemic, it was recognised that people who had already been assessed as ready for discharge should, for their own wellbeing and to maximise hospital capacity for people who were likely to require inpatient care because of Covid-19 infection, be discharged safely and quickly. On 6 March 2020, the then DG Health and Social Care, Malcolm Wright, wrote to stakeholders across the health and social care sector to set new targets for transferring patients ready for discharge from hospitals into the community, including care homes.

71. Our social care partners – in local government and in the third and independent sectors represented primarily by organisations like the Coalition of Care Providers in Scotland (CCPS) and Scottish Care – agreed that it was important that people who were ready for discharge should not be delayed in hospital, and that hospital capacity should be maximised to support people who were seriously unwell with Covid-19.

However, it became clear through our wider engagement with the sector that SG would need to provide additional support across a range of issues to support the sector in its management of the effects of Covid-19.

72. From 12 March 2020, the Scottish Government held teleconferences with IJB Chief Officers across Scotland to discuss issues relating to the impact of Covid-19 on the sector, including issues relating to hospital discharge and care home admissions.

73. On 13 March 2020, the Scottish Government provided detailed *Clinical Guidance for Nursing Home and Residential Care Residents and COVID-19* [CL7/0005-INQ000147441] directly to IJB Chief Officers, Local Authority Chief Executives, IJB Chief Social Work Officers, Scottish Care, Coalition of Care and Support Providers in Scotland, CI and SSSC. This reflected Infection Prevention and Control advice published by HPS the previous day.

74. The SG Clinical Guidance was aimed at providing both advice and reassurance to the sector and was subsequently updated to reflect both updated HPS advice on Infection Prevention and Control and also wider developments in understanding the nature of the virus and its likely impact on care homes and the wider social care sector.

75. Each individual decision about whether, and when, a patient was ready for discharge was a clinical one, made by the clinician in charge of that patient's treatment.

76. Where someone was most appropriately cared for after discharge is based on a multi-disciplinary assessment involving the individual and their family carers. In cases where a patient lacks capacity, an appointed guardian or carer with power of attorney, will be involved. If somebody is discharged to a care home, it is because that has been assessed as the best place to meet their needs.

77. The guidance issued on 13 March stated that prior to people being admitted to a care home whether from hospital or the community, clinical screening should be undertaken of patients to ensure that people at risk are not transferred inappropriately. In addition, it stated that all residents should be isolated in their rooms as much as possible with a reduction in communal activity. Within updated guidance issued on 26 March, which reflected updated HPS guidance, it recommended assessing for COVID symptoms alongside a risk assessment to

ensure sufficient resources including appropriate isolation facilities were available within the care home to support social distancing and isolation. Furthermore it recommended all admissions to be isolated for seven days and if known to have contact with Covid-19 patients for 14 days. Both clinical decisions around discharge and risk assessments were undertaken locally by health and social care professionals and paid particular attention to the needs and rights of the patients. There was no involvement of Scottish Ministers in individual decisions in relation to the discharge of people from hospital.

78. On 21 April 2020, as part of her statement to parliament, the Health Secretary announced that all admissions to care homes from hospital should have a negative test for Covid-19 prior to admission to the home, regardless of symptoms unless it is in the clinical interests of the patient to be moved, and then only after a full risk assessment. Where a patient tested positive for Covid-19, two negative tests were required. This policy was reflected in both Scottish Government and HPS guidance for care homes.

79. As the national response to the pandemic changed in response to emerging findings and scientific advice, it became clear that the safeguarding measures introduced to protect care homes residents, including recently transferred patients, were not as effective as anticipated, and rates of infection and fatalities continued to rise. In the early stages of the pandemic, test and protect measures were not established across the UK, and science at that stage also advised that only symptomatic patients could transmit the virus, all of which contributed to the increased infections.

80. In response to the increased infections, SG Clinical Guidance was updated to recommend tighter measures and limits on the numbers and types of direct contact between patients, visitors and staff.

Assessing the impact from decisions

81. On 29 July 2020, the report *Lessons Learned from Reducing Delayed Discharges and Hospitals Admissions* [CL7/0010-INQ000280635] was published. The report was jointly commissioned by the then Cabinet Secretary for Health and Sport, Jeane Freeman, and COSLA and sets out the views of managers and practitioners involved in hospital discharge, unscheduled care and social care provision during the early stages of the pandemic.

82. On 28 October 2020, Public Health Scotland published its report: *Discharges from NHS Scotland Hospitals to Care Homes between 1 March and 31 May 2020 (revised publication 21 April 2021)* [CL7/0011-INQ000280637]. The report looked specifically at whether there was a link between hospital discharges and Covid-19 outbreaks and concluded: "In conclusion…we do not find any statistically significant association between hospital discharge and the occurrence of a care home outbreak, but cannot rule out a small effect. Care home size is much more strongly associated with the risk of an outbreak than all other care home characteristics, including hospital discharge."

83. The impact of the decision to transfer people assessed clinically as fit for discharge into the community, including transfer to care homes, is also currently subject to an independent investigation by the Crown Office and Procurator Fiscal Service in Scotland.

84. In Scotland, the Lord Advocate is responsible for the investigation of all sudden, unexpected and unexplained deaths. All sudden, unexpected and unexplained deaths should be reported to the Procurator Fiscal.

85. On 13 May 2020, Lord Wolffe made a statement to the Scottish Parliament to advise that he had decided that two categories of Covid-19 (or presumed Covid-19) deaths should be reported to COPFS, namely:
    - Where the deceased might have contracted the virus in the course of their employment or occupation. This might include the deaths of care home workers, front-line National Health Service staff, public transport employees and emergency service personnel
    - Where the deceased was resident in a care home when the virus was contracted.

86. The investigations (whether criminal or a non-criminal death investigations) will look to establish the circumstances of the death with a view to ascertaining whether or not any lessons can be learned for the future and consider whether a Fatal Accident Inquiry (FAI) should be instructed.

Lessons learned and recovery

Lesson learned during the pandemic

87. As noted above, there was substantial consultation and discussion with a range of adult social care stakeholders throughout the pandemic and lessons learned were considered and shared through:
    - Feedback from individual stakeholders on polices and approaches
    - Collective feedback from stakeholders through established formal groups, for example PRASCG and CPAG
    - Commissioned 'lessons learned / reviews' commissioned by Scottish Government or other organisations.

88. We are currently undertaking a full audit of lessons learned activities and reports and will provide this to the Inquiry in due course. The main lessons learned reports identified so far are set out below.

89. On 29 July 2020, the report *Lessons Learned from Reducing Delayed Discharges and Hospitals Admissions* [CL7/0010-INQ000280635] was published. The report was jointly commissioned by the then Cabinet Secretary for Health and Sport, Jeane Freeman, and COSLA. It looked to establish what had worked well, what hadn't and what could have, and could be, done differently. It set out the views of managers and practitioners involved in hospital discharge, unscheduled care and social care provision during the early stages of the pandemic. Following the lessons learned work, a Short Life Working Group was established in February 2021, led and sponsored by the Scottish Government (SG). The over-arching group was chaired by the Chief Operating Officer and Chief Officer, NHS Dumfries and Galloway. This group engaged expert clinical and operational leaders across the system to develop a discussion paper by exploring and defining best practice. The outcome of this work was a set of high-level recommendations for Health and Social Care Systems Leaders: [CL7/0012-INQ000280636].

90. The work of this group ultimately resulted in the development of the National Improvement Programme: Discharge without delay, which aims to improve patient flow and discharge planning from hospital, with a key focus on implementation of a Planned Date of Discharge.

91. On 12 October 2020 the Cabinet Secretary for Health and Sport, commissioned an independent review into the circumstances surrounding the occurrence and transmission of Covid-19 infection within four care homes in Scotland: *Coronavirus (COVID-19) - Care Home Outbreaks: Root Cause Analysis (RCA)*. The report [CL7/0013-INQ000280638] was published in November 2020 and set out a range of findings, recommendations, insights and learning during the early phase of the pandemic when understanding of Covid-19 was evolving rapidly. Some of the recommendations were considered collectively with stakeholders through the Scottish Government's Infection Prevention and Control (IPC) Subgroup of CPAG which was established during the pandemic to ensure that good IPC practices were embedded in social care settings throughout the pandemic. An *RCA progress report* [CL7/0014-INQ000280639] was published in June 2023. This examined progress of the recommendation, since the publication of the RCA to the end of September 2022, and outlined what further progress which should be taken.

92. On 6 August 2021, SG published *Coronavirus (COVID-19) initial health and social care response: lessons identified re March to September 2020* [CL7/0015-INQ000147474]. This report provided an illustrative examination of the response in health and social care during March to September 2020. The report highlighted examples of good practice and also cross cutting themes for further improvement. These were discussed and considered in a range of networks involving health and social care stakeholders.

93. In 2020 the Scottish Government commissioned the *Independent Review of Adult Social Care in Scotland* [CL7/0016-INQ000280640]. Chaired by Derek Feeley, a former Chief Executive of NHS Scotland, and supported by an Advisory Panel of Scottish and international experts, the review took place from September 2020 to January 2021, with a broad remit to recommend improvements to adult social care in Scotland, primarily in terms of the outcomes achieved by and with people who use services. The report made 53 recommendations to improve adult social care in Scotland. This included the recommendation to establish a National Care Service to drive consistent, high quality social care support in partnership with people who have a right to receive that support, unpaid carers and the workforce. On 21 June 2022, the *National Care Service Bill* [CL7/0017-INQ000280641] was introduced to the Scottish Parliament.

94. Other organisations also undertook lessons learned which informed the pandemic response in Scotland. Some examples are outlined below.

95. The Care Inspectorate published several lessons learned reports. For example *The Care Inspectorate's Role Purpose and Learning During the Pandemic 12 August 2020* [CL7/0018-INQ000280642].

96. The Office for Statistics Regulation (OSR) has reported on lessons learned for statistics production during the pandemic:
    - October 2021 - *Improving health and social care statistics: lessons learned from the COVID-19 pandemic* [CL7/0019-INQ000280643]
    - October 2022 - *Lessons learned for health and social care statistics from the COVID-19 pandemic: 2022 update* [CL7/0020-INQ000280644].

Recovery

97. The Scottish Government put in place a range of plans to support recovery within the social care sector as outlined below. Recovery plans focused on both short and longer term actions, which ranged from support for immediate pandemic related needs as well as resilience and sustainability through to service remobilisation and redesign within the sector.

Enhanced clinical and care oversight of care homes

98. Enhanced professional clinical and care oversight of care homes was put in place early in the pandemic on the direction of Scottish Government. This aimed to significantly strengthen oversight of Scotland's care homes with clinical and care professionals at NHS boards and local authorities having a lead role in the oversight for care homes in their area. Local multi-disciplinary oversight teams comprising clinical leads, Directors of Public Health (DPH), Nurse Directors, Chief Social Work Officers and Chief Officers provided a range of support to care homes including clinical and IPC advice, provide support on staffing (mutual aid), PPE provision, and improvement. These arrangements evolved during the pandemic and were widened to include adult social care services. Following a review of the arrangements, the Scottish Government published new arrangements for NHS Boards and local authorities (December 2022) [CL7/0021-INQ000280645] to enable continued

enhanced clinical and care support for the care home sector as it emerged from the pandemic in the face of considerable significant pressures and challenges.

Financial support for recovery and remobilisation

99. Funding for the social care sector was another key element of supporting immediate recovery and sustainability. Over the course of the pandemic Scottish Government increased its annual recurring funding for social care and integration by £173 million. This new funding supported a range of improvements including delivery of the Real Living Wage for social care workers in the private and voluntary sectors, uprating of Free Personal and Nursing Care and implementation of the Carers (Scotland) Act 2016. This funding was not one-off funding to address pandemic pressures, but a sustained annual increase in investment in social care and integration.

100. In addition to this, Scottish Government provided non-recurring funding to address the additional costs of responding to Covid-19 to support remobilisation of services and support and ensure safety remained the top priority at all times. This included:
    - A total of £561 million allocated to Integration Authorities for 2020/21, including funding for sustainability payments, in addition to wider social care support, for example for reducing delayed discharges, for loss of income and for other staff costs
    - Allocations of £1.8bn were made in 2021/22 to NHS Boards and Integration Authorities to meet costs of the pandemic and remobilisation.

Recovery

101. Further to earlier references to preparedness plans in paragraphs 62-66, on 25 August 2021, the *NHS Recovery Plan* was published [CL7/0022-INQ000147430]. As in the earlier NHS plan, while this recovery plan was focused on the NHS, there were a range of actions relevant to social care sector recovery. For example, funding for enhanced staff wellbeing support in both health and social care services with particular emphasis on social and primary care; working with health and social care organisations to implement improvements to care pathways; and making further progress against commitments set out in the Integrated Health and Social Care Workforce Plan.

102. In March 2021 the Scottish Government and COSLA published a joint *Statement of Intent* [CL7/0023-INQ000280646] outlining how they will work together to deliver the key foundation pillars set out in the Independent Review of Adult Social Care (IRASC). The statement included commitments to work together to support sustainable workforce through payment of the Real Living Wage, minimum standards for employment terms and conditions for the sector as well as ethical commissioning to support fair work. Commitments were also made around reviewing charging for non-residential services, eligibility criteria, and support for unpaid carers. These commitments were seen as critical to supporting recovery and sustainability within the sector in the short, medium and longer term.

103. A second joint Statement of Intent was published by the Scottish Government and COSLA in December 2022: *Adult social care 2022 to 2023: joint statement of intent and next steps* [CL7/0024-INQ000222896]. This set out joint commitments by the Scottish Government and COSLA to bring about improvements to the social care system over 12 to 18 months. It also reported on the progress of commitments made in the previous statement of intent. The statement highlighted the aims of addressing the twin impacts of the pandemic and the cost crisis. Commitments to support recovery and sustainability included:
    - Programmes to support multi-agency discharge planning
    - Embedding human rights in the provision of social care support and ensuring that people have a voice in how social care is delivered
    - Support for preventative approaches, including through the development of the Getting It Right For Everyone (GIRFE) practice model
    - Establishing a Social Care Workforce Programme including Fair Work agenda to support sustainable workforce
    - Publishing a Carers Strategy
    - Developing a National Improvement Programme for Social Care and Community Health
    - Publishing revised Self-Directed Support (SDS) guidance with an improvement programme.

Local recovery plans

104. To further support local recovery and remobilisation, in April 2020 the Scottish Government requested that Health and Social Care Partnerships develop and submit community health and social care mobilisation plans for their local area. These would set out the actions and associated additional funding and workforce requirements in order to sustain existing levels of provision with engagement and involvement with voluntary and independent sectors and the council, and also other parts of the health system. The plans were also to outline work required to make provision, for increased demand in the community.

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.

Personal Data

Signed:

Dated: 13/11/2023