

Witness Name: Rachel Elizabeth Lloyd

Statement No.: 2

Exhibits: LL2

Dated: 15 November 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF RACHEL ELIZABETH LLOYD

In relation to the issues raised by the Rule 9 request dated 30 October 2023 in connection with Module 2A, I, Liz Lloyd, will say as follows: -

A: Government issued and personal devices

1. Please list all the Government issued and personal devices (such as mobile phones, tablets, laptops and computers) used by you between January 2020 to April 2022. In respect of each device, please provide the mobile telephone number (where possible), the period in which such device was used and whether the device was Government issued or a personal device.

During the period including January 2020 to April 2022, I used a Scottish Government issued laptop.

During the period including January 2020 to April 2022, I used a Scottish Government issued phone – the number was 07867 375 279. I have been advised by the Scottish Government that the phone handset was a J6 from 08 March 2019, and was then updated to a Samsung A32 on 23 August 2021.

During the period including January 2020 to April 2022, I also had a personal phone – the number was I&S. I continue to use this number and would request this number is not made available publicly.

2. Which of your devices did you use (either exclusively or on occasion) to conduct Government business, such as matters relating to the management of the pandemic in Scotland?

I used a Scottish Government laptop to conduct Government business.

I used a Scottish Government mobile phone to conduct Government business.

In a small number of cases individuals used my personal mobile phone to communicate in relation to Government business alongside a wider variety of personal and political issues.

3. Which of these devices do you still have in your possession?
4. If any of these devices are now not in your possession, where are they now?

The following answer applies to Q3 and Q4.

My personal mobile phone number is still used by me. The handset has been updated as set out below.

As set out in my submission dated 11 July, I returned my Scottish Government issued mobile phone to the Scottish Government when I left my position in March 2021 and again on March 28th 2023. Requests for their contents should be made of the Scottish Government.

I returned my Scottish Government laptop to the Scottish Government on March 28th 2023.

The Scottish Government would need to be asked where the devices are at this current time.

5. Did you change your Government issued or personal devices between January 2020 and April 2022? If so, please explain what you did with any devices which you no longer used.

The Scottish Government have advised me that their records show a J6 mobile phone was set up for me on 8 March 2019 and then a Samsung A32 was set up on 23rd August 2021.

The upgrade was done by Private Office and the old handset will have been left with them. I returned the Scottish Government phone in use up to March 2023, which would have been the Samsung device, as set out in my previous submission of 11 July, to the Scottish Government on my departure on the 28 March 2023.

Arrangements for upgrades, the set-up of new phones / transfer of material and what happens

to old phones were handled by the private office.

My personal handset was updated in October 2020 and in April 2023. I have retained both previous handsets.

6. Did you lose any Government issued or personal devices between January 2020 and April 2022? If so, please explain the circumstances.
7. If you lost any Government issued or personal devices between January 2020 and April 2022, did you report the loss? If so, to whom and when?

The following answer relates to Q7 and Q8. I did not lose any devices.

B: Backing up data

8. Did you back up the data on your Government issued and/or personal devices? If so, how did you back up such data?

As set out in paragraph 68 of my submission of 11th July I returned by Scottish Government issued mobile phone to the Scottish Government when I left office. This took place on 28th March 2023.

As a result, I cannot answer in relation to that device however at no point can I recall changing the default settings on my Scottish Government device from those that would have been in place when I received it.

Requests for that device and access to its contents should be made of the Scottish Government.

My outlook email and SCOTS account were not held on the specific laptop but centrally by the Scottish Governments cloud system. As I am no longer employed in the Scottish Government I do not have access to my email or SCOTS account and cannot comment on what has been retained.

I am not particularly aware of ever setting back up policies on my personal phone, although I have at times had to remove material in breach of storage limits. I currently sync some items

such as photos, music and contacts through an apple account to my personal laptop and do not know what the backup position was during the period in question.

9. If so, can data (such as your messages) from January 2020 to April 2022 still be accessed via the back up system? If not, why not?

In relation to my Scottish Government devices as I have stated I do not have access to those devices or to the related Scots account as I am no longer a Scottish Government employee and I therefore do not have the information to answer this question in relation to those devices. The Scottish Government should be able to answer this question.

In relation to my personal device I have not been able to locate earlier whatsapp messages than those provided to the inquiry.

10. If you did not back up your data on your devices, why not?

Please see response to Question 8.

11. Did you ever receive advice, guidance or instruction on whether such devices ought to be backed up? If so, (a) from whom (b) when and (c) what was the advice, guidance or instruction received?

I have no recollection of receiving advice, guidance or instruction on the back up of mobile phone devices either government or personal. In relation to my laptop material was held in the SCOTS and outlook account on the Scottish Government's cloud system and not on the device.

12. If you have received such advice, guidance or instruction, did you follow that advice, guidance or instruction? If you did not follow that advice, guidance or instruction, why not?

Please see the answer to Question 11.

C: Usage of one-to-one informal communications relating to the management of the pandemic in Scotland

13. We note from your previous witness statement that you communicated using informal

methods (such as WhatsApp and text messaging) with Nicola Sturgeon in relation to the management of the pandemic in Scotland. Are there any other Cabinet Secretaries, Ministers, senior civil servants, Special Advisers, other advisers and/or counterparts in the UK Government or the other devolved administrations with whom you had such one-to-one informal communications? If so, please identify them.

14. In respect of each of those additional individuals (if any), what methods of informal communications were used?

The following answer is to both Question 13 and Question 14.

The primary means of communication during the Covid pandemic was not informal written communication. Communication took place through private offices, by email, by phone, in meetings and if located in the same place as I often was with the FM, the Cab Sec Health and the senior clinical / medical advisers through in person conversation.

As previously stated I am unable to access my Scottish Government device which would have been used to contact me by some members of the cabinet and particularly by officials, as it was returned to the Scottish Government in March 2023 meaning I cannot verify who I had informal communications with on it.

Following my submission of 11 July 2023 I have identified a small number of other whatsapp messages retained on my personal phone with Ms Forbes, Ms Somerville and Ms Freeman located within broader personal and political communication.

I believe I would also have had text exchanges with Ms Forbes and Ms Hyslop, and communicated occasionally with Mr Yousaf and Mr Matheson although I am not clear on what device that would have taken place.

My primary means of informal communication with John Swinney would be by phone call.

With Cabinet members methods of written informal communication would have been interchangeable, sometimes determined by the location and signal of the individuals concerned.

Informal communication by whatsapp or text with Scottish Government officials in relation to the management of the pandemic would have been limited but would have taken place on my

Scottish Government phone. This would include the CMO / DCMOs / Perm Sec and DG Strategy or DG Health.

Special Adviser communication was primarily by email and teams calls or individual teams' messages as most people were always online with scheduled daily catch ups.

I communicated with Jane Runeckles, Chief of Staff to the Welsh First Minister and have appended messages held on my personal device to this submission. I would expect that if messages have been retained on my SG device that there are earlier communications with Ms Runeckles on that device.

I had very limited communication with a UK Government special adviser by phone call and email early in the pandemic, but this did not continue.

Informal communication also took place in person and through phone calls.

15. In respect of each individual (including those named in your previous witness statement), how regular were your informal communications? For example, did you communicate with that individual using informal communications (i) multiple times daily; (ii) once or twice a day; (iii) a few times a week but not daily; or (iv) less than the above?

As set out in answer to Q 13 and Q14 informal communications were not the primary means of communication with cabinet members or officials.

Most of my communication with Cabinet Secretaries took place through private offices, SG emails or through their policy special advisers not through informal means.

In addition, as well as the First Minister I would see Ms Freeman most days at the morning briefing as well as senior advisers.

I cannot accurately categorise the frequency of contact using the options in Q15 as frequency of communication both formal and informal would vary according to the issues being dealt with at the time and whether I was seeing the individuals concerned in person at that time.

Where I engaged in direct informal contact the frequency could range from taking place rarely, to taking place a few times in one day if the individual concerned was handling an issue of urgent interest or relevance at that time on which I had a need to communicate with them or

them to communicate with me.

A few messages in a day could be followed by nothing for a week or more.

The relevance of a Cabinet Secretary to a particular piece of policy, communications or action and whether it was out of formal working hours when it could be harder to communicate through formal channels would determine the need for and nature of informal communications.

Whilst I would communicate with the First Minister on a frequent basis, if we were in the same location as we were most days, we would be more likely to communicate in person at an appropriate distance than to exchange messages. During the early period of covid much of the communication would have been in person as we both attended St Andrews House for long periods.

Message exchange or calls would happen out of hours, at weekends or if for example she was in a meeting where I was not present in the room, for reasons of physical distancing or competing priorities.

16. In respect of each individual (including those named in your previous witness statement), please state the period of time during which you had informal communications relating to the management of the pandemic in Scotland. For example, did you informally communicate with that individual during the whole period between January 2020 and April 2022?

As above I cannot answer in relation to the content of my SG phone as I do not have access to it.

As stated above in most cases communication by whatsapp or text will have been dependent on the issues being addressed at the time. As set out in document LL2/002-INQ000287766 supplied with my previous submission of July 2023 informal communications with the First Minister on Government management of Covid did not continue beyond March 16th 2021 as I was leaving government and on my return in late August 2021, I did not return to the management of the covid pandemic other than in relation to COP26 in November of that year. I hold communications with Nicola Sturgeon for the period March 2021 to April 2022 covered by the inquiry and am happy to make them available for the inquiry team to satisfy itself of that position if required.

My communication with others on the issue of Covid will have taken place as set out in response to question 15. It is unlikely that any informal communication on my personal phone took place on matters relating to the covid pandemic prior to March 2020 and would have ceased in March 2021 when I left government and ceased working on the management of the pandemic.

17. In respect of your informal communications with each individual (including those named in your previous witness statement), did you and the individual: (i) discuss matters around the progress of the pandemic in Scotland; (ii) comment upon the advice received in relation to the pandemic in Scotland; (iii) comment upon the nature of decisions that the Scottish Government might have to take; (iv) make any decisions about the Scottish Government's response to the pandemic; and/or (v) comment upon the decisions which the Scottish Government had taken? Please state which, if any, of the categorisations (i) - (v) describe the contents of your informal communications with each individual.

My informal communications with the First Minister and the subjects discussed in them have been available to the inquiry from 11 July 2023 showing which of the above were discussed and that decisions were not taken through informal communications.

As I do not have access to my Scottish Government device I cannot definitely categorise any material held on it. I would again advise the inquiry to request access to the device from the Scottish Government.

My recollection of messages with DG Strategy or CMO is they would tend to be to draw my attention to or ask me to raise with the FM specific pieces of formal advice, or to provide a quick read out of meetings they had attended, that would later appear in minutes. The CMO would sometimes message the daily figures particularly if there were processing difficulties as he often received them before they were formally transmitted for use at the briefing or a read out from an IMT that might be raised at the media briefing or that FM had expressed an interest in, again this would also be subsequently sent by email. DG Strategy may have proposed attendees for meetings and logistical arrangements or the co-ordination and timing of different papers. Some communication with CMO/DCMO will include arrangements for who would be attending the media briefing.

Communications with Cabinet Secretaries would have included matters not set out above such as the sharing of information from the media, logistical questions for example relating to media briefings, they may also have sought from me the FM's view for example on decisions they

were making, if they had not received a response yet to a formal submission. However, that formal response would follow.

In relation to the additional material provided with this submission, communications with Ms Somerville appear to be about a media report of UK government funding and policy proposals being developed by her officials on which she was awaiting a formal submission. With Ms Freeman, the messages include her views on some decisions taken, media handling around the CMO and Clinical Director and her views on the way in which some submissions were prepared as well as concerns she had regarding her comms support. With Ms Forbes the whatsapps identified cover the issue of whether UK Government funding was to be made available on an issue based on media reports.

My informal communications with Ms Runeckles were a mix of information sharing about our respective Governments' activities, what our respective governments were being told by the UK Government, coordination of joint First Ministerial calls, commentary on meetings with the UK Government -also contained in notebooks provided to the inquiry - and personal support.

18. In respect of your informal communications with each individual (including those named in your previous witness statement), were there any particular communications which you can recall that were significant to the Scottish Government's response to the pandemic between January 2020 and April 2022? If so, what were those communications? When did those communications take place? What was the outcome of those communications?

I do not recall any informal communications where the content would be of significance to the Scottish Government response to the pandemic that would not be in the official record. I do not recall any decisions on the management of the pandemic being made by means of informal communications. I believe my government device may contain instances, where ministers engaging in UKG calls on travel restrictions have flagged last minute changes to proposals in order to see if I was with the FM, and if she had a view, however this would be recorded formally elsewhere.

19. We note that you have provided messages between you and Nicola Sturgeon between 1 September 2020 and 16 March 2021. Are these messages the complete and unedited set of informal communications between you and Nicola Sturgeon between these dates?

These messages are the complete set of informal communications during this period between myself and Nicola Sturgeon that relate to the management of the covid pandemic. They have

not been edited with the exception of one redaction was set out in LL2/002-INQ000287766 submitted on 11 July 2023 at point 6 where I highlight the reason for that redaction.

In responding to this question it has come to my attention that you did not receive messages dated 31st August. I have appended these messages as LL2/02a-INQ000329367.

20. If not, which informal communications between you and Nicola Sturgeon between 1 September 2020 and 16 March 2021 have not been provided to this Inquiry and/or have been edited before being provided by you to the Inquiry?

All informal communications between 1 September 2020 and 16th March 2021 have been provided and messages from 31st August 2020 have been submitted with this statement.

21. Why have such informal communications not been provided to the Inquiry and/or have been edited before being provided by you to the Inquiry?

All informal communications between 1 September 2020 and 16th March 2021 have been provided and messages from 31st August 2020 have been submitted with this statement.

22. Did you have informal communications with Nicola Sturgeon relating to the management of the pandemic between January 2020 and 1 September 2020 and between 16 March 2021 and April 2022?

I did not have informal written communications with Nicola Sturgeon relating to the management of the pandemic between 16 March 2021 and April 2022. The reasons for this were set out in my statement of July 11th 2023.

As stated in my answer to question 16, I hold informal communications for the period 16th March 2021 to April 2022 and am happy to make them available to the inquiry team if required in order to satisfy the inquiry.

I have not been able to locate informal communications with Nicola Sturgeon regarding the pandemic from the period of late Feb/ early March 2020 when I became involved to September 2020 however I am able to provide the inquiry with notebooks from this period and my emails from this period, in which anything of substance in the communications would have been transmitted to the organisation, should be held by the Scottish Government. During this period we spent a considerable amount of time in the same building and the majority of

communication would have been in person however some informal communication will have taken place. It is my view that the notebooks alongside my emails, if the inquiry accesses them, would provide a fuller account of activity and views than would be in any informal communication from that period.

23. If so, why have those communications not been provided to the Inquiry in your earlier disclosure? Can those communications be provided to the Inquiry? If not, why not?

Please see answer above. I have provided the inquiry with all the communications with the former First Minister relating to the management of the covid pandemic that I have been able to retrieve from my personal phone and hold additional communications between 16th March 2021 and April 2022 if the inquiry wishes to satisfy itself that they do not relate to the government's management of Covid.

24. Please provide all one-to-one informal communications between you and Cabinet Secretaries, Ministers, senior civil servants, Special Advisers, other advisers and/or counterparts in the UK Government or the other devolved administrations relating to the management of the pandemic in Scotland between January 2020 and April 2022.

I am appending the small amount of additional informal communication held on my personal/ phone which I had not previously identified with Ms Freeman [LL2/003- INQ000329368], Ms Somerville [LL2/004- INQ000329369], Ms Forbes [LL2/005- INQ000329370] and communication with Jane Runeckles [LL2/006- INQ000329371], Chief of Staff to FM Wales. I am also appending, as stated above LL2/002a- INQ000329367 containing a small number of communications from the 31st August 2020 which appear not to have been included in the previous submission.

In relation to Ms Freeman, Ms Forbes and Ms Somerville these are parts of wider informal whatsapp communications that do not relate to the Government's management of the Covid Pandemic. If the inquiry wishes to satisfy itself of this I am happy to make the communications available. I believe there were other informal communications with Ms Forbes but that these were by text and I have not been able to retrieve them although they may be on my SG phone which I do not have access to.

As previously stated, my Scottish Government phone was returned to the Scottish Government intact and it is the Scottish Government who should be approached regarding its contents.

D: Usage of groups or group chats relating to the management of the pandemic in Scotland

25. Were you a member of any groups or group chats on messaging platforms (including but not limited to WhatsApp, Telegram, Signal, Slack, Viber, Microsoft Teams and Zoom) between January 2020 and April 2022 in which any members discussed the management of the pandemic?

I was not a member of any groups or group chats on Whatsapp, Telegram, Signal, Slack, Viber or Zoom or other messaging apps.

I do not recall being a member of any groups or group chats on Teams.

I will have used the Teams messaging function either on the side of Teams video calls, or to contact officials via teams to ask questions, clarify information or provide advice. I will also have been contacted by officials seeking my view on issues through the Teams messaging function. As stated earlier I tended to use Teams to message Special Advisers for convenience.

26. If so, please list all of the groups or group chats of which you were a member including the group or chat name (if applicable) and the platform upon which that group or chat was hosted.

27. In respect of each group or group chat, please list all of the other members known to you.

28. In respect of each group or group chat, please state who set up that group or chat and/or was the administrator.

29. In respect of each group or group chat, please state the period of time during which that group or group chat was used by members. For example, was that group or group chat active during the whole period between January 2020 and April 2022?

30. In respect of each group or chat, please state the purpose or nature of that group or group chat. For example, why was it set up? Was that group or group chat used to discuss a specific subject-matter? If so, what was that?

31. In respect of each group or group chat, did group members comment upon matters around the progress of the pandemic in Scotland? Did group members comment upon advice received in relation to the pandemic in Scotland? Did group members comment upon the nature of decisions that the Scottish Government might have to take? Did group members make any decisions about the Scottish Government's response to the pandemic in that group or chat? Did group members comment upon the decisions which the Scottish Government had taken? Please state which, if any, of these categorisations describe the contents of the communications within each group or group chat.

For questions 26 to 31 please see the answer to question 25.

32. In respect of each group or group chat, were there any particular communications that you can recall which were significant to the Scottish Government's response to the pandemic between January 2020 and April 2022? If so, what were those communications? When did those communications take place? What was the outcome of those communications?

See answer to question 25.

In relation to my use of the messaging function on teams I recall using it with officials to finalise the wording of draft proposals between Gold meetings and Cabinet, clarifying options being put forward for formal submission to ministers and the translation of ministerial decisions into the iterations of the levels framework for publication. Last minute amendments to FM statements would often be sent to me via teams message and email as well as to Private Office in the interests of ensuring they were picked up quickly and would then be formally fed into the statements. The outcome of those discussions will be in the presentation of options in submissions to ministers to cabinet and the presentation of the framework publicly or the statements given by the First Minister.

I may also have used it to question statistics being presented to the First Minister for the daily briefing – for example to ask if there was a test backlog or a missing health board. This information would be subsequently sent in a formal email to the FM's office.

33. In respect of each group or group chat, please provide all group messages (including those sent by others within the group) relating to the management of the pandemic in Scotland between January 2020 and April 2022.

Please see answer to question 25.

As previously set out I am no longer a Scottish Government employee and therefore have no access to material held by the Scottish Government. The Scottish Government should be approached for my Scottish Government phone, for information on SCOTS or outlook and for information held from Teams.

E: Recording, retention and deletion of informal communications relating to the pandemic

34. If you used one-to-one informal communications and/or groups or group chats to discuss the management of the pandemic between January 2020 and April 2022, did you record and/or retain such communications?

Informal communications relating to the management of the pandemic retained on my personal phone have been shared in my previous submission and appended to this submission.

I am unable to say what is retained on my Scottish Government device as it was returned to government.

Where informal communication contained information that related in a material way to the operation of the government's management of the pandemic the substance of that information will have been entered into emails or documents that should have been retained in the official record. The responsibility for retention of emails related to the management of the pandemic lay with policy officials however I believe my emails were regularly archived and accessible via the SG system.

35. If so, how and by whom were those communications recorded and/or retained?

Where the information in informal communications was relevant to government management of the pandemic, the nature of the communications I had would require actions from me such as obtaining information, commissioning advice or inputting into communications material. This would require the request, action or outcome of an exchange with another individual being entered into the system by me as a request or action in an email.

It may help the inquiry to have an example. Such an email would not say “ exchanged whatsapp/texts with Minister X and they would like Y “ but would be the same as if done in an in person conversation or call and would relay that I had been in contact with or had a conversation with Minister X and they would like, or they are leaning toward, or they are thinking about Y and would like the following. I would often copy the Minister’s Private Office into such a request to officials or ask the Private Office to send out a request on the ministers’ behalf.

Where an informal conversation was assisting a minister in their thought processes – testing ideas or responses to a submission or course of action in a way that would in normal times have been a conversation in person or on the phone the response would enter the system from the minister’s private office when they had completed their thought process.

Responsibility for maintaining the record lies with policy officials. If officials considered an email from me to be relevant to the development of policy or a position then it should have been retained by them on ERDM. Special Advisers do not have access to ERDM files and as part of private office it is not special advisers but officials who are responsible for recording input into policy.

However, I believe my emails were archived on a regular basis by private office.

36. If you recorded and/or retained such communications but you are unable to provide those communications to the Inquiry in response to this request, please explain where such communications can be found now; and how the Inquiry would be able to access such communications.

As explained in my initial submission in July 2023 I left government in March 2023 and am unable to access any material held by government including my phone which I returned to government on my departure. Access to any information held either on my outlook email or SCOTS IT account, on teams or on my Scottish Government phone would be held by the Scottish Government and should be requested, if required, from them. I

37. If you did not record and/or retain such communications, why not?

See answer to Q35.

38. If you did not record and/or retain such communications, did you do so pursuant to any

Scottish Government issued policy or guidance?

See answer to Q.35

As above where information contained in informal communications was material to the management of the pandemic it was entered into the email system and informal communications held by me personally have been made available to the inquiry.

Scottish Government records management guidance is clear It is the responsibility of policy officials to retain relevant material. My email storage was managed by Special Advisers private office in line with practice in place at the time. As I am no longer in the Scottish Government it is for the Scottish Government to advise if the material remains accessible.

39. If so, please identify that policy or guidance and the date upon which it was issued.

The following statement in the Records Management Policy of February 2021 in addition to FOISA reflects my understanding of the policy and practice in place prior and subsequent to February 2021.

“In line with normal practice across the UK civil service, it is for Scottish Government departmental policy areas, not ministerial private offices, to retain full and accurate corporate records of meetings/conversations which involve ministers. Departmental policy areas would also be responsible for ensuring that any letters, e-mails and briefings involving a minister which relate to Scottish Government business are captured on the corporate record.”

40. If so, please identify any relevant parts of that policy or guidance that formed the basis of your decision not to record and/or retain such communications.

Please see answer 37

41. Did the Scottish Government communicate with you regarding your compliance with any policy or guidance about the recording and/or retention of such communications between January 2020 and April 2022?

42. If so, how and when did the Scottish Government communicate with you about your compliance with such policy or guidance? What communication took place in that regard?

I cannot recall any such communication.

43. Have you ever sought advice, guidance or instruction on whether informal communications (including on both Government issued and personal devices of any kind whatsoever) between you and Cabinet Secretaries, Ministers, senior civil servants, Special Advisers, other advisers and/or counterparts in the UK Government or the other devolved administrations relating to government business ought to be recorded and/or retained? If so, when and from whom? What advice, guidance or instruction did you seek and why?

No.

44. Have you ever received (whether you sought it or not) advice, guidance or instruction on whether informal communications (including on both Government issued and personal devices of any kind whatsoever) between you and Cabinet Secretaries, Ministers, senior civil servants, Special Advisers, other advisers and/or counterparts in the UK Government or the other devolved administrations relating to government business ought to be recorded and/or retained?

I do not recall receiving specific advice. I was aware of the policy position (see question 39) as it was set out in the February 2021 Record Management policy. I was also aware that Special Advisers are not able to access ERDM files and that my emails were regularly archived and accessible through the government's systems.

45. If so, (a) when did you receive such advice, guidance or instruction (b) who gave you such advice, guidance or instruction (c) what was the advice, guidance or instruction received and (d) did you follow that advice, guidance or instruction?

46. If you did not follow that advice, guidance or instruction, why not?

The following answer relates to Q 45 and Q 46. I do not recall receiving specific advice.

47. Have you deleted any communications relating to the management of the pandemic in Scotland from any Government issued or personal devices?

48. If you instructed someone else to delete such communications, whom did you instruct and when?

49. If you have deleted any communications relating to the management of the pandemic in Scotland from any Government issued or personal devices, why were such communications deleted?

50. Did you manually delete any one-to-one communications and/or groups or group chats relating to the management of the pandemic in Scotland from any such devices?

51. If so, please list all of the one-to-one communications and groups or group chats relating to the management of the pandemic in Scotland that you manually deleted from any such devices.

52. If so, when did you manually delete such communications and/or groups or group chats?
Please provide specific or estimated date ranges where possible.

In answer to questions 47 to 52, the primary means of communication was not informal written communications but through Private Offices or in meetings or in person.

In relation to informal communications the majority of my informal communications in relation to Covid should be located on my Scottish Government device, which I have set out previously, I do not have access to.

In relation to my personal device, I do not recall deleting any specific items, and as set out above I have retained a number of items on my personal device including 20 months of communications with the First Minister, 7 of which relate to the management of Covid. There are some early communications which I have not been able to retrieve, and I cannot be certain there are not gaps in communications with individuals other than the First Minister, although this may be that that communication changed to my SG phone or to another means of communication. All relevant information relating to the management of the Covid Pandemic will have been transferred into email and should be within the system.

Over this period devices have been upgraded, there will be occasions when storage limits have been reached, and I have on other occasions had to search and download material for the purposes of parliament and Freedom of Information requests which may have impacted on the material held on the phone. I am however confident that there is no information that would have been informal communications of material significance to the operation of the covid inquiry that I have not entered into the Scottish Government system by means of email.

I have not instructed anyone to delete communications.

53. Did you delete such communications and/or groups or group chats from your devices on a regular basis? If so, how often would you manually delete your communications from your devices? For example, did you delete such communications and/or groups or group chats (i) daily; (ii) weekly; (ii) monthly; or (iv) at another interval?

No.

54. Did you use auto-delete to delete any one-to-one communications and/or groups or group chats from your devices?

Not to the best of my knowledge.

55. Was auto-delete applied to any such communications and/ or groups or group chats by someone else (for example the administrator of the group or group chat)? If so, provide details.

56. If so, please list all of the one-to-one communications and groups or group chats relating to the management of the pandemic in Scotland for which you or someone else used or applied the auto-delete function on any such devices.

57. If so, what was the auto-delete function used or applied? For example, was it set to a particular time period?

58. If so, when did you first start to use the auto-delete function/ when was it first applied.

To the best of my knowledge autodelete was not applied.

59. Have you ever discussed the deletion of communications relating to the management of the pandemic in Scotland from your devices with anyone else other than for the purpose of responding to this Inquiry or the Scottish Inquiry's requests?

No.

60. If so, with whom did you discuss the deletion of such communications? Please list the names of all individuals with whom you have had such discussions.

61. If so, (a) when was this discussed and (b) what was the outcome of those discussions?

Please see question 59.

62. On 3 August 2021, Ken Thomson and Lesley Fraser (DG Corporate) sent an email to Scottish Government officials with the subject "Covid-19 Independent Inquiry - Record Retention". In that email, Mr Thomson and Ms Fraser advised recipients that:

"...it is a matter of judgement about what material will be relevant to the work of any inquiry. If in doubt, you should assume that material may be relevant and ensure that it is retained and is accessible in eRDM. This includes ensuring that no material of potential relevance to either inquiry is destroyed. You should also obtain similar assurances from any relevant arm's length bodies. We know that well-established records management processes are in place across the Scottish Government and that all of you are aware of the need to keep a full and clear record of our part in responding to Covid-19 and our other work in eRDM. This includes the decisions we take, the process by which those decisions were reached, the reasons for those decisions and the evidence and data used to support them, and applies whatever the format in which that information is held and on whatever device or system. Please do continue to follow these important processes both with COVID-19 information and with all other Scottish Government information."

A similar message was sent again by Ms Fraser to Scottish Government officials by email on 7 March 2022. Did you receive either or both of these emails instructing against the deletion of material relating to the management of the pandemic in Scotland?

I was not employed by the Scottish Government on 3rd August 2021 and therefore did not receive the email if it was sent to my Scottish Government email address. I did not receive the message of 3rd August 2021 at any other address outside of Government. The Scottish Government would need to provide information as to whether I was included in the copy list.

I have no recollection of the email on 7th March 2022 and in seeking to respond to this question I have been advised by the Covid Inquiry Unit within the Scottish Government that I was not on the copy list.

63. If you did not receive either or both of these emails, did anyone within the Scottish Government bring the contents of these emails or the instruction to your attention? If so,

who brought this to your attention and when?

This was not brought to my attention.

64. If you did become aware of the contents of these emails or the instruction not to delete materials relating to the management of the pandemic in Scotland, what actions did you take? In particular, did you stop manually or auto-deleting informal communications relating to the management of the pandemic from your devices?

I was not aware of the email however I also did not, to the best of my knowledge, operate an auto-delete and have provided the inquiry with whatsapp messages I hold with the most senior figure in the government amongst others and my notebooks prior to these dates and informed the inquiry of the need to approach the Scottish Government for access to my Scottish Government device and accounts.

65. If so, when did you take that action?

66. If you did not take any action, why not?

67. Do you consider the deletion of your communications relating to the management of the pandemic in Scotland from your devices to be appropriate, given the public nature of the role which you were performing at that time? Please explain your answer.

For questions 65 to 67 please see answer to Question 64.

In addition information contained in informal communications relevant to the management of the covid pandemic will have been entered into the Scottish Government system and I believe my emails were archived on a regular basis.

Despite receiving no do not destroy instructions and no advice from the Scottish Government on retaining informal communications I have provided the inquiry with communications I had retained on my personal device, including providing communications with the First Minister in my original submission in July 2023 and explaining why those communications cease in relation to the management of the pandemic from March 2021. I have provided additional communications with other Cabinet Secretaries and the Chief of Staff to the First Minister of Wales which I retained on my personal device as part of this second submission.

I advised the inquiry on 11 July 2023 that I returned my Scottish Government device to the Scottish Government on departure from government, as requested by the Government. It has been, and remains, my expectation that the inquiry would request access to the phone and material on it from the Scottish Government.

F: Retrieval of communications relating to the management of the pandemic in Scotland

68. What steps have you taken to retrieve any communications relating to the management of the pandemic in Scotland from your devices in response to this Inquiry's requests?

I have searched my personal device on whatsapp or text, initially for the First Minister and subsequently for other Cabinet Secretaries and senior officials.

I have checked old personal handsets to the best of my ability for any material held on the phone.

I have explored advice online about accessing and retrieving data.

I have advised the inquiry and the Scottish Government that the Scottish Government holds my former Scottish Government phone and that I am unable to access it.

I have checked with the Scottish Government if a request to access it has been made by the inquiry and been advised that such a request has not been received.

I have advised the inquiry that I do not have access to my Scottish Government email, teams or IT accounts as I am no longer a government employee.

69. Where such communications are no longer retained or have been deleted, have you sought technical assistance to assess whether these communications can be retrieved? If so, please specify (a) from whom (b) when and (c) the outcome of that request for technical assistance?

I was not aware that technical assistance was available either from the Scottish Government or the inquiry.

No such offer of assistance has been made.

I have explored advice online about accessing and retrieving data.

If the inquiry or government has technical support available to explore whether further information is accessible, I would be happy to engage in that process.

70. If the communications could not be retrieved, what is the reason why the communications could not be retrieved?

I have provided the inquiry with the communications I have retrieved from my personal phone. As set out above and in my submission of 11th July I cannot answer in relation to the communications from my government phone. As above where information was relevant to the management of the covid pandemic it will have been entered into the system and should therefore be available primarily through emails which, as I am no longer a Scottish Government employee, I do not have access to.

As a result I cannot say definitely whether there is material that cannot be retrieved.

If the inquiry or government has technical support available to explore whether further information exists, is accessible and can be retrieved, I would be happy to engage in that process.

G: Contemporaneous diaries, notebooks and notes (including of telephone calls)

71. Did you keep any contemporaneous diaries, notebooks or notes (whether in hard copy or electronic format) relating to the management of the pandemic in Scotland between January 2020 and April 2022?

I did not keep a diary.

I kept notes in notebooks largely of to do lists, details of questions and answers at the briefing and notes of meetings.

Formal notes of cabinet, SGoRR, gold and cobra calls were kept by officials not special advisers and provide the official record.

In addition, and particularly later in the pandemic I would take informal notes on a laptop that would become commissioning emails to policy officials, communications, other special

advisers, or speech writers.

72. Did anyone else keep any contemporaneous diaries, notebooks or notes (whether in hard copy or electronic format) on your behalf relating to the management of the pandemic in Scotland between January 2020 and April 2022?

No one kept notes on my behalf.

Officials formally recorded Cabinet, SGoRR, Cobra, and gold meetings and FMPO and Covid Briefing Unit would action issues or requests for information discussed in the morning briefing meeting and the media debrief where I was present. These notes were not taken on my behalf but will mean I did not take notes frequently during these specific meetings.

73. If the answer is yes to either of the questions above, please provide all contemporaneous diaries, notebooks and notes which you made or which others made on your behalf relating to the management of the pandemic in Scotland between January 2020 and April 2022.

The Scottish Government has informed me that inquiry counsel is reviewing notebooks at the Scottish Government's offices and prior to entering this submission I have deposited notebooks from March 2020 to December 2020 with the Scottish Government for this purpose. These are the only notebooks I personally hold in relation to Covid. I did not destroy any Covid notebooks from this period, so it is possible notebooks between December 2020 and March 2021 remained in the Scottish Government Special Advisers office when I left in March 2021. As previously stated, following my return to Scottish Government in late August 2021 I did not work on the management of the pandemic.

74. If you are unable to provide such diaries, notebooks and notes in response to this request, please explain where such diaries, notebooks and notes can be found now; and how the Inquiry would be able to access such diaries, notebooks and notes.

See answer to question 73..

75. If you no longer retain such diaries, notebooks and notes, why not?

See above.

76. If such diaries, notebooks or notes have been destroyed, when and how were they destroyed, by whom/on whose instructions?

I have not destroyed any such diaries, notebooks or notes.

77. If so, were they destroyed pursuant to any Scottish Government issued policy or guidance? If so (a) please identify that policy or guidance and the date upon which it was issued and (b) please identify any relevant parts of that policy or guidance that formed the basis of the decision to destroy such diaries, notebooks or notes.

See answer to question 78.

78. Did the Scottish Government communicate with you regarding your compliance with any policy or guidance about the recording and retention or, alternatively, destruction of contemporaneous diaries, notebooks and notes between January 2020 and April 2022? If so, how did the Scottish Government communicate with you regarding your compliance with such policy or guidance?

Not that I recall.

79. Have you ever sought advice, guidance or instruction before April 2022 on whether your contemporaneous diaries, notebooks and notes relating to the management of the pandemic in Scotland ought to be recorded and/or retained or, alternatively, destroyed? If so, when and from whom?

No

80. Have you ever received advice, guidance or instruction on whether your contemporaneous diaries, notebooks and notes relating to the management of the pandemic in Scotland ought to be recorded and/ or retained or, alternatively, destroyed? If so, please specify (a) when you received such advice, guidance or instruction (b) who gave you such advice, guidance or instruction (c) what the advice, guidance or instruction was which was received?

Not that I recall.

81. If so, did you follow any such advice, guidance or instruction? If you did not, please specify

why not?

See answer to Question 80.

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 statement of truth without an honest belief of its truth.

Signed:

Personal Data

Dated: 15th November 2023