

Witness Name: Humza Yousaf

Statement No.: 2

Exhibits: HY2

Dated: 16 November 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF HUMZA YOUSAF

In relation to the issues raised by the Rule 9 request dated 30 October 2023 in connection with Module 2A, I, Humza Yousaf, 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.

I held various government issued laptops during the relevant period, although it is worth noting that the point of continuity is the user account and not the hardware itself. As such, I understand that no information would be retained on any laptops or other devices I handed back when issued with a new model. In the event of a change of government device, any old model was handed to my private office. I understand that procedures are in place to securely dispose of those devices.

At January 2020, government records show I had a government-issued Surface Pro 3 laptop, I&S However, I recall there were various faults with this laptop, and this was replaced. I recall this happened more than once, although I do not recall how many times. The government has confirmed it does not hold a record of the asset numbers of those replacement Surface Pro models.

Government records indicate that my Surface Pro was replaced on 15 July 2021 by an HP EliteBook [redacted] I held this laptop until it was replaced by an HP EliteBook G8 on 21 October 2022, which is the laptop I hold today.

During the period in question, I held one government phone number [redacted] This number was registered in 2018 and is still active. The handset for this number would have been replaced since 2018, but I do not recall how many times. The government has confirmed that it holds no information about the handsets linked to this number, although I understand the policy is for any such handsets to be disposed of securely after being upgraded. I should confirm that I did not and do not use this phone number for informal communications – it is used only to access official government files through my SCOTS account.

Turning to my personal devices, I do not own a personal laptop.

In terms of personal mobile phones, I kept the same phone number for the specified period - [redacted] During that period, I had two devices, neither of which are my current device which I have had since March 2023.

I had a Samsung S9, which was wiped and used to trade in for a Samsung S20 in June 2020. I had that Samsung S20 from June 2020 to March 2023, and this handset has been retained. It is from this device that I have recovered WhatsApp messages that I have handed over to the Inquiry. As I no longer have the Samsung S9, I am unable to recover messages from before June 2020.

2. If you did not use a Government issued mobile telephone to conduct Government business (either exclusively or on occasion), why was that so?

I do have a government issued phone, which I held for the specified period, and used to conduct government business.

3. 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?

Most Government business, that was not conducted face-to-face, was conducted over virtual calls, or emails. I used my government issued laptop for Government virtual calls and emails.

Where discussions of Government business took place over WhatsApp or by phone call, that was done on my personal mobile device and any decisions made were recorded in the appropriate manner – either through a discussion with my private office or through relevant details of messages being transposed to the corporate record.

4. Which of these devices do you still have in your possession?

I have my previous personal mobile phone (Samsung S20) in my possession. I had that handset from June 2020 to March 2023. I have a government issued phone and laptop, which are still in use, but were not the devices I used during the specified period. The laptop I hold was issued in October 2022 and the handset earlier this year.

5. If any of these devices are now not in your possession, where are they now?

The government devices were handed back to my private office. I understand there are procedures in place for such devices to be securely disposed of.

Looking at my personal devices, I do not have the Samsung S9 handset which I held from 2018 to June 2020 as this phone was wiped on trade in for the subsequent handset - a Samsung S20 - which I do still have.

6. 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.

Yes, as set out above. My answer to question 1 in this section details the information the government holds in relation to the government devices issued to me during the specified period. Any government device that was upgraded or exchanged during this period was handed to my private office. I understand there are procedures in place for such devices to be securely disposed of.

7. Did you lose any Government issued or personal devices between January 2020 and April 2022? If so, please explain the circumstances.

No.

8. 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?

Not applicable.

B: Backing up data

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

There was no requirement placed on ministers to back up government-issued devices.

I understand that data held within the SCOTS network is automatically backed up but individual devices are not. I understand that for corporate phones whole device backup is blocked for security reasons.

In relation to my personal devices, as per my answers above, WhatsApp messages were retained on my previous personal handset. I did not back up the handset I held between January 2020 and June 2020.

10. 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 government devices, I understand that where a corporate system is backed up these are generally kept for four weeks. After the four weeks these are then over-written and the data within the backup then becomes irretrievable.

Notwithstanding any policy on the backing up of devices, any relevant information held on government devices should have been extracted and placed in the corporate record on an ongoing basis as part of the government's information management policy.

In terms of my personal devices, I can only retrieve messages from my previous personal handset, which I have retained. I do not have access to the personal device I held between January 2020 and June 2020.

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

Please see my answer to question 9.

12. 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?

There was no requirement placed on ministers to back up government-issued devices, therefore I do not recall receiving any such guidance.

13. 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?

As above.

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

14. We note from your previous witness statement that you communicated using informal methods (such as WhatsApp and text messaging) with Nicola Sturgeon, John Swinney, Kevin Stewart and Maree Todd to discuss information and advice relating to 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.

In addition to these individuals, I also communicated using informal methods – principally WhatsApp - with:

Scottish Government ministers

Jeane Freeman
Kate Forbes
Angus Robertson
Fiona Hyslop
Fergus Ewing
Ash Denham

Other UK ministers

Nadhim Zahawi
Sajid Javid
Matt Hancock

Grant Shapps
Vaughan Gething
Robin Swann
Eluned Morgan

Scottish politicians

Jackie Baillie
Alex Cole-Hamilton
Annie Wells

Scottish Government officials

Caroline Lamb
John Burns
Jason Leitch
Gregor Smith
Nicola Steedman
Alex McMahon
Alison Strath
David Hutchison

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

The main informal communications channel I used was WhatsApp. On one occasion I used Twitter to carry out a brief private conversation with Jason Leitch while I was Justice Secretary, before I had his phone number. This exchange is included in my submission. I did speak to ministerial colleagues informally on the telephone. Any salient points on government business from those calls would have been transposed into the corporate record via my private office.

16. 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?

The frequency of my communication with the individuals named above fluctuated dependent upon which position I held, and which stage the pandemic was at. For example, I did not

communicate regularly with health officials or other health ministers during my time as Justice Secretary – apart from one exchange with Jason Leitch – referred to above. The most frequent communication with the above-named individuals and groups was during my time as Health Secretary (May 2021 to March 2023). During that time, I messaged the National Clinical Director frequently, if not daily then certainly multiple times a week. I also communicated with Nicola Sturgeon when I was Cabinet Secretary for Health, multiple times a week. With other individuals named, the messaging was more sporadic and would fluctuate depending on the specific circumstances. For example, messages with vaccination officials in the Scottish Government were more frequent as we geared up towards a vaccination programme, and during the early stages of such a programme.

The WhatsApp exchanges themselves will demonstrate in detail the frequency of these contacts.

17. 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?

The messages I have submitted provide details of the period of interaction with the above-named people between June 2020 and April 2022.

Overall, the period over which I would communicate with the above-named people was determined by the positions I held during the pandemic. In terms of the period prior to June 2020, I did not interact with health officials or other health ministers (apart from one exchange with Jason Leitch) but I did interact with Nicola Sturgeon and John Swinney.

18. 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.

The nature of my communications over WhatsApp with each individual and group above is detailed within the messages themselves. In the event that decisions were taken via this channel, I ensured that the relevant points were transferred to the corporate record via my private office.

19. 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?

My informal communications were mainly discussions between me and the former First Minister, and between me and the National Clinical Director, during my time as Cabinet Secretary for Health. Discussions also took place with other Cabinet Secretaries, however, on a more infrequent basis. I have provided unredacted copies of the messages to the Inquiry to examine the precise nature of these discussions. Where any government decisions were taken, I would ensure that those points were transposed into the corporate record as per the government's records management policy.

20. 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 have provided all WhatsApp messages that I could recover, namely those exchanges made between June 2020 and April 2022. I have also included a Twitter exchange with the National Clinical Director. It is worth noting that I would consider my significant involvement in the management of the pandemic to be during my time as Cabinet Secretary for Health and Social Care (May 2021 to March 2023).

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

21. If you used one-to-one informal communications and/or groups or group chats (such as the "Health 4 Nations" WhatsApp group which is referred to in your previous witness

statement) to discuss the management of the pandemic between January 2020 and April 2022, did you record and/or retain such communications?

Please note that – as set out at paragraph 42 of my witness statement dated 2 November 2023 – I have no record of being in the above-named WhatsApp group. As per my statement, I was in two differently named WhatsApp groups with health ministers from across the UK. Other WhatsApp groups of which I was a member between June 2020 and April 2022, relevant to the above question are detailed below:

Health Ministers Forum
Health Ministers UK
HSC PO (private office group)
Vaccination Stats
Health Recovery Debate
Edington Hospital Debate

I have been able to recover the messages from these groups and they are included in my submission.

These WhatsApp groups were used for information sharing. Some of that information was logistical, for example sending links to virtual calls we were attending. Decisions were not routinely made over WhatsApp groups, if any decisions were made, they would have been recorded appropriately, usually via my private office.

I do not have a record of WhatsApp groups of which I was a member between January 2020 and June 2020.

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

These messages were retained on a previous personal handset.

23. 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.

Not applicable

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

I do not hold communications held on the personal handset I used between January 2020 and June 2020 because this was wiped on trade in for the new handset. I have provided the informal communications I hold from June 2020 to April 2022. I am not aware of having not recorded or retained any such communications other than those preceding June 2020.

25. We note from your previous witness statement that it was your understanding and practice based on the Scottish Government's *Mobile Messaging Apps Usage and Policy* to delete your messages after a month for cyber security reasons. 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.

Not applicable, in light of my answer to question 24 above. For information, however, the relevant part of the policy regarding retention is below:

4.3 At least monthly, after having followed the guidance in the above paragraphs, you must delete business conversations in the mobile messaging app – i.e. no business conversations should be retained in the app for more than one month.

26. We understand that the Scottish Government's *Mobile Messaging Apps Usage and Policy* was introduced in November 2021. If you did not record and/or retain informal communications relating to the management of the pandemic in Scotland prior to November 2021, did you do so pursuant to any other Scottish Government issued policy or guidance?

Please see response to question 24.

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

Not applicable – see answer to question 24.

28. 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.

Not applicable – see answer to question 24.

29. 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?

I do not recall any specific communication with me, but information about such policy and guidance would have been cascaded through the Scottish Government, and ultimately, my private office and relevant officials would have responsibility for ensuring the corporate record was maintained.

30. 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?

See answer to question 29.

31. 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?

In May or June 2021, in light of an FOI received seeking any relevant information I might hold about a topic in whatever file format, I recall asking for guidance in relation to what messages would be deemed to be government business. I was given advice about our records management policy.

32. 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?

Yes. See answer to question 31.

33. 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?

I cannot recall exactly when that guidance was provided to my or by whom, but it would have been relayed to me via my private office, and I followed it.

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

Not applicable.

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

Any e-mails I sent from my government laptop to my private office responding to formal submissions on the management of the pandemic were managed by my private office. The instructions and feedback contained within those e-mails would be transposed into the corporate record by my private secretary, as per the Scottish Government's records management policy.

In relation to my informal communications, such as WhatsApp messages please see answers 1 to 10.

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

I did not instruct anyone to delete messages.

37. 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?

Any e-mails I sent from my government laptop to my private office responding to formal submissions on the management of the pandemic were managed by my private office in line with the Scottish Government records management policy. Instructions and feedback

contained within those e-mails would be transposed into the corporate record by my private secretary.

I did not retain my mobile handset that I used during the period Jan 2020 to June 2020, therefore I am unable to recover these messages. We did not have a specific mobile messaging policy at that point, although the records management policy would have meant, in the exceptional cases where decisions may have been taken on WhatsApp, those would have been recorded in the corporate record.

38. 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?

I did not permanently delete any individual WhatsApp messages or groups, but the handset I held between January 2020 and June 2020 was completely wiped on trade-in.

39. 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.

As set out above at question 38, I did not permanently delete any individual WhatsApp messages. I do not hold a record of any individual WhatsApp message threads or groups held on the handset that was wiped.

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

I did not permanently delete any individual WhatsApp messages or groups, but the handset I held from January 2020 was completely wiped on trade-in in June 2020.

41. 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.

42. Did you use auto-delete to delete any one-to-one communications and/or groups or

group chats from your devices?

No.

43. 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.

Not that I am aware of.

44. 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.

Not applicable.

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

Not applicable.

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

Not applicable.

47. 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. I have never had any discussions about deleting informal communications, nor have I carried out any deletions to prevent them being provided to either inquiry. I am co-operating fully with the inquiries' requests and handing over all informal communications I hold.

48. 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.

Not applicable.

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

Not applicable.

50. 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?

No.

51. 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?

Not that I am aware of.

52. 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?

Not applicable

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

Not applicable

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

Not applicable

55. 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.

Yes, because the Scottish Government has an appropriate records management policy to ensure that key information was retained in the corporate record.

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

56. 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 retained a previously used phone handset and have been able to recover messages from June 2020 to April 2022. The messages had been deleted by the app on transfer to my new handset, but remained recoverable on my previous device. I also located an exchange in my Twitter private message folder.

I have been advised on the efforts made by the Scottish Government corporately to ensure the Inquiry is furnished with full answers to its questions and have sought specific assurances from the Permanent Secretary that records recovery processed meet the inquiry's needs.

57. 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?

In relation to my personal devices, I have not sought any assistance because the handset I had from Jan 2020 – June 2020 is not in my possession, as per my previous answers.

In relation to government-held communications, see answer to question 56.

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

In relation to my personal devices, I no longer hold the handset upon which any messages could have been found.

In relation to communications via government systems, see my answer to question 56.

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

59. 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?

No.

60. 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?

Not that I am aware of.

Scottish Government officials will have taken minutes during meetings and recorded any decisions. Minutes and a note of any decisions and actions from meetings would have been recorded in the appropriate manner and stored in the corporate record.

61. 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.

Not applicable.

62. 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.

Not applicable.

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

Not applicable.

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

Not applicable.

65. 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.

Not applicable.

66. 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?

No.

67. 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, because I did not keep any diaries, notebooks and notes.

68. 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?

No, because I did not keep any diaries, notebooks and notes.

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

Not applicable

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: 16 November 2023