

Witness Name: Jeane Freeman

Statement No.: 3

Exhibits: JF3

Dated: 21 November 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF JEANE FREEMAN

In relation to the issues raised by the Rule 9 request dated 30 October 2023 in connection with Module 2A, I, Jeane Freeman, 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 May 2021. 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 was issued with a Scottish Government laptop, tablet and MIFI during the period of my time in office as Cabinet Secretary for Health. I also used a Scottish Parliament issued mobile phone [number [REDACTED] I&S] during the full period of my elected time as an MSP and Scottish Government Minister. I had no personal mobile phone.

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 the tablet, MIFI and mobile phone.

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

I have none of the devices issued in my possession. The laptop, tablet and MIFI were returned to Scottish Government and the mobile phone to Scottish Parliament when I demitted office.

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

They were returned as noted in (3) above and I have no knowledge of their current location.

5. Did you change your Government issued or personal devices between January 2020 and May 2021? If so, please explain what you did with any devices which you no longer used.

No

6. Did you lose any Government issued or personal devices between January 2020 and May 2021? If so, please explain the circumstances.

No

7. If you lost any Government issued or personal devices between January 2020 and May 2021, did you report the loss? If so, to whom and when?

N/A

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?

My tablet was connected to my secure Scottish Government account from which the back up would be on the Scottish Government controlled server. As far as I can recall, my mobile phone had the back up facility switched on.

9. If so, can data (such as your messages) from January 2020 to May 2021 still be accessed via the back up system? If not, why not?

I did not use my laptop or tablet to send messages. Texts and What's App messages were sent through my phone. As explained my Scottish Parliament phone was returned to them when I demitted office and while the What's App and text messages, I have noted at Q13 are retained on what is now my personal phone, I do not have access to those with Gregor Smith or Jason Leitch [as noted], or to the few text messages between me and Nicola Sturgeon.

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

As stated, as far as I can recall, the back up facility on my Scottish Parliament mobile phone was switched on and my tablet was connected to the Scottish Government secure server which retains information for a duration specified in relevant Scottish Government policy.

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?

No

ADVICE PLEASE

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?

I do not recall receiving such advice.

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 text messaging) with Nicola Sturgeon. 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 one-to-one informal communications

relating to the management of the pandemic in Scotland? If so, please identify them.

Nicola Sturgeon	Text
Michael Russell	What's App [WA]
Joe Fitzpatrick	Text and WA
Clare Haughey	Text
John Swinney	WA
Davie Hutchison	Text and WA
Catherine Calderwood	Text and WA
Gregor Smith	WA
John Conaghan	Text
Jason Leitch	WA
Malcolm Wright	Text
Caroline Lamb	Text
Liz Lloyd	WA
Robin Swan	Text and WA
Vaughan Gething	Text and WA
Matt Hancock	Text and WA

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

As noted above in Q 13

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; (ii) a few times a week but not daily; or (iv) less than the above?

Nicola Sturgeon (iv)
Michael Russell (iv)
Joe Fitzpatrick (iv)
Clare Haughey (iv)
John Swinney (iv)

Davie Hutchison (ii)

Catherine Calderwood (iii)

Gregor Smith - I cannot say conclusively since Dr Smith has messages on auto delete but from memory it would vary between (iii) and (iv) depending on the issue.

John Conaghan (iii)

Jason Leitch - I cannot say conclusively since Professor Leitch has messages on auto delete but from memory it would vary between (ii) and (iii) depending on the issue.

Malcolm Wright (iii)

Caroline Lamb (iii)

Liz Lloyd (iv)

Robin Swann (iv)

Vaughan Gething (iv)

Matt Hancock (iv)

Please note the overall frequency is as noted above but, particularly with operational colleagues there could be multiple exchanges on a single day depending on the issue.

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 May 2021?

Nicola Sturgeon	Whole period
Michael Russell	April 2020 - May 2021
Joe Fitzpatrick	March 2020 – December 2020
Clare Haughey	Jan 2020 – October 2020
John Swinney	April 2020 (one message exchange only)
Davie Hutchison	Whole period
Catherine Calderwood	Jan 2020 – April 2020
Gregor Smith	As explained at Q15, I have no record of these messages but would expect them to have covered whole period
John Conaghan	Whole period
Jason Leitch	As explained at Q15, I have no record of

these messages but would expect them to have covered whole period

Malcolm Wright	Jan 2020 – April 2020
Caroline Lamb	Nov 2020 – May 2021
Liz Lloyd	May 2020 – May 2021
Robin Swann	Jan 2020 – Jan 2021
Vaughan Gething	March 2020 – March 2021
Matt Hancock	March 2020 – May 2021

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.

All of the noted informal communications covered variously, progress of the pandemic, progress on pandemic response delivery, information exchange, factual and clinical or scientific information, clarification on clinical and/or scientific advice received or problem/issue resolution – all dependent on with whom I had the exchange. No decisions were made in any of these informal communications which were not then entered into the Scottish Government system, the process necessary to record and instruct action.

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 May 2021? If so, what were those communications? When did those communications take place? What was the outcome of those communications?

The communications with the devolved and UK governments' Health Secretaries had a bearing on for example, resolution of PPE issues including funding, testing capacity distribution and vaccine roll out.

19. 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 May 2021.

Where these are held by me, they will be provided in full to the Inquiry.

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

20. We note from a summary table produced to the Inquiry by the Scottish Government dated 24 October 2023 that you have retained some informal communications, such as text messages and WhatsApp messages, relating to the management of the pandemic in Scotland. 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 May 2021, did you record and/or retain all such communications?

As noted earlier, I have retained the messages from the exchanges noted at Q13, with the exception of those discussed in my answer to Q22 below and will pass these in full and un-redacted to the Inquiry. Similarly, I will also pass on messages from the 4 Nations Health Ministers Group and the messages from the Covid-19 Health WA group, the members of which were me, Joe Fitzpatrick, Clare Haughey, Graeme Dey and Davie Hutchison.

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

I have those communications.

Where pertinent issues arose as a result of any of these informal communications that required action by me, these will be retained in the Scottish government corporate record by my private office.

22. 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.

I do not have any informal communication messages with Nicola sturgeon, Gregor Smith or Jason Leitch. With respect to Gregor Smith and Jason Leitch, I am unable to answer this question because Dr Smith and Professor Leitch have the auto delete function on their What's App and I hold no text message exchanges with him. With respect to Nicola Sturgeon, I have no text messages on my current mobile phone. I am assuming there will have been a few short text exchanges, but these will have been on the mobile phone I used during the period until I demitted office and which I returned to the Scottish Parliament at that time. In this instance, the number of messages will have been very few and not of a substantive nature since we were in each other's company every day during the initial period, thereafter for most days of the week, together in Zoom or Team meetings, in Cabinet meetings and on operational matters and 'deep dives' on specific issues. The nature of such messages would be information based, such as advising on an issue resolved or alerting the former First Minister to a written submission from me to her office. When not in each other's company, we otherwise communicated by phone call.

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

As noted above at Q22

24. If you did not record and/or retain such communications, did you do so pursuant to any Scottish Government issued policy or guidance?

No

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

N/A

26. 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.

N/A

27. 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 May 2021?

I do not recall receiving such advice.

28. 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 do not recall receiving such advice.

29. 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?

I have not sought advice, instruction or guidance.

30. 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 such advice

31. 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 do not recall receiving such advice

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

I do not recall receiving such advice.

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

No

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

I did not instruct anyone else to delete such communications.

35. 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?

N/A

36. 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?

No

37. 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.

N/A

38. If so, when did you manually delete such communications and/or groups or

group chats? Please provide specific or estimated date ranges where possible.

N/A

39. 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?

N/A

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

No

41. 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.

I was unaware of the auto delete function being applied to any such informal communications I had. My explanation re communications with Dr Smith and Professor Leitch arise as a result of now being aware they had applied such a function.

42. 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.

As noted in answer to Q40, I was not aware that this function was being used and therefore am not aware of the timeframe in which it was used.

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

The auto delete function was not applied or used by me on any of my

devices so where it was used by others, I cannot comment on the time frame of its application.

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

N/A

45. 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 not. It never occurred to me to delete or in any way alter any of the record of informal communications I had in this or any other regard. Nor was there any attempt by any other person to suggest such an action to me.

46. 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.

N/A

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

N/A

48. If some or all of your informal communications relating to the management of the pandemic have been deleted from your devices, do you consider the deletion of such communications from your devices to be appropriate, given the public nature of the role which you were performing at that time? Please explain your answer.

N/A

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

49. 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 explained earlier why I am unable to provide any of the informal communications between me and Gregor Smith and Jason Leitch. With respect to any text messages between me and Nicola Sturgeon, I do not have these on my current personal phone and the mobile phone issued to me by the Scottish Parliament and used by me for the duration of my time in office (2016-2021) was returned to the Parliament when I demitted office in May 2021. It is a requirement of the Scottish Parliament that all phone data is deleted before returning the mobile phone. I have searched my iCloud (at Icloud.com) account to see if text messages have been retained there but have been unable to locate any text messages.

50. 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 have searched my iCloud (at Icloud.com) account to see if text messages have been retained there but have been unable to locate any text messages.

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

The only informal communications I do not have are the small number of text messages I believe I may have exchanged with Nicola Sturgeon. I do not recall deleting these and would have no reason to do so. As noted at Q48, these would be held on the mobile phone issued to me by the Scottish Parliament and which I returned to them on demitting office. As also explained, the Scottish Parliament requires all mobile phone data to be deleted prior to return and while I have searched my Icloud.com account for text messages, none are held there.

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

52. 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 May 2021?

No

53. 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 May 2021?

No

54. 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 May 2021.

N/A

55. 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.

N/A

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

N/A

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

N/A

58. 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.

N/A

59. 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 May 2021? If so, how did the Scottish Government communicate with you regarding your compliance with such policy or guidance?

I do not recall any such communication.

60. Have you ever sought advice, guidance or instruction before May 2021 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

61. 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?

I do not recall receiving such advice.

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

N/A

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

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Dated: 21 November 2023