

## THE UK COVID-19 INQUIRY

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### THIRD WITNESS STATEMENT OF RT HON. MICHAEL GOVE MP

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I, Michael Gove, Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations, will say as follows.

#### **INTRODUCTION**

1. I am the Member of Parliament for Surrey Heath, having first been elected to Parliament in 2005. I am the Secretary of State for Levelling Up, Housing and Communities ('DLUHC'), and the Minister for Intergovernmental Relations ('IGR').
2. I make this statement pursuant to the Inquiry's request for evidence dated 20 September 2023 in relation to Module 2A: Core UK decision-making and political governance – Scotland. I have previously provided the following evidence to the Inquiry:
  - a. First witness statement, signed and dated by me on 9 May 2023<sup>1</sup>, in relation to Module 1 of the Inquiry: Resilience and Preparedness;
  - b. Oral evidence to the Inquiry in relation to Module 1 on 13 July 2023<sup>2</sup>;
  - c. Second witness statement, signed and dated by me on 1 September 2023<sup>3</sup>, in relation to Module 2 of the Inquiry: Core UK decision-making and political governance.

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<sup>1</sup> [MG2/1 - INQ000185354] – Witness statement of Rt Hon. Michael Gove MP.

<sup>2</sup> [MG2/2 - INQ000339568] – <https://covid19.public-inquiry.uk/wp-content/uploads/2023/07/13182335/C-19-Inquiry-13-July-23-Module-1-Day-20.pdf> – From page 92 to end.

<sup>3</sup> [MG2/3 - INQ000259848] – Second witness statement of Rt Hon. Michael Gove MP (Annex A: [MG2/4 - INQ000235263]; Annex B: [MG2/5 - INQ000235264]).

- d. Oral evidence to the Inquiry in relation to Module 2 on 28 November 2023.
3. In preparing this statement I have attempted to avoid repetition of my previous evidence, save where I think it would be helpful. I invite the Inquiry to consider this statement in light of the evidence I have already provided.
  4. For the purposes of this statement, I have principally focused on the period between January 2020 and September 2021 when (as explained in my previous statements) I was Chancellor of the Duchy of Lancaster and (from mid-February 2020) Minister for the Cabinet Office. After September 2021, though I continued to have a role in respect of liaison with the Devolved Administrations ('DAs') in my post as Minister for Intergovernmental Relations, it was not in the context of the country's response to the pandemic, and I had significantly less involvement in any aspect of the pandemic response after September 2021.
  5. I have made this statement with the support of the Government Legal Department, counsel and my private office, some of whom were working with me during the relevant period. The matters referred to in the Inquiry's Rule 9 request are wide-ranging and, whilst I have some independent knowledge and recollection of matters referred to, I have consulted with the relevant officials in order to ensure the contents of this statement are accurate. Given the extent of material generated in relation to the pandemic, I have been dependent on others putting documents before me to assist with the chronology of events as set out herein, but any views expressed in this statement are my own. Those assisting me with the statement have sought to identify the documents and correspondence relevant to the Inquiry's Terms of Reference and the matters I have been asked to address, but the scale of the material generated over the relevant period is vast. Should it assist the Inquiry I would be happy to clarify or expand on any aspect of the evidence set out in this statement and arrange for any further document searches to be conducted.

## **STATEMENT OVERVIEW**

6. The UK Government ('UKG') was committed throughout the response to the pandemic to protecting lives and livelihoods across the UK. In the response to Covid-19 the UKG was taking decisions on reserved matters that applied to all parts of the UK including Scotland – for example, the furlough scheme. DAs were responsible for taking decisions on devolved matters in Scotland, Wales and Northern Ireland. Public health is devolved

and therefore significant decisions on the response were the responsibility of the DAs. DAs are accountable for devolved matters to the devolved legislatures e.g., the Scottish Government to the Scottish Parliament.

7. All dealings with the DAs regarding the pandemic response took place in the same way for each DA. Though I appreciate that Modules 2A, 2B and 2C will focus in turn on each individual DA, all formal and decision-making meetings touching upon devolved matters took place with representatives from all three DAs present. There was, for example, no specific decision-making forum bespoke for Scotland. At all times each DA was afforded the same invitations and opportunities to engage with the UK Government on matters relating to the pandemic. Whilst it is certainly correct that bilateral communications took place between the UKG and individual DAs from time to time, as required or requested, to the best of my understanding and recollection these did not result in decisions being made of which other DAs were unaware.
8. It would be wrong to assume that I was personally at the centre of all dialogue between the DAs and the UKG, or that all communication took place at a formal level. The dialogue which occurred between Ministers and officials in the UKG and their counterparts in the DAs (and vice versa) was very extensive and represented an important channel of communication, information-sharing and coordination<sup>4</sup>. At official level, this occurred alongside and through the devolution teams across the UKG. At a central level, this was aided by the UK Governance Group ('UKGG'), where engagement was led by teams and aided by a Devolution Policy Desk which was established in March 2020 as part of the pandemic response. In addition, there was a significant amount of dialogue between the then-Secretary of State for Health and Social Care, Matt Hancock, and his counterpart Health Ministers within each DA. This was a significant focal point of information-sharing and coordination, to which I was not a party, and was complemented by regular discussions between each nation's CMO and CSA. Similarly, relevant UKG Ministers and their departments were in communication with DA counterparts in relation to issues relevant to their portfolios; by way of example, education and transport. It is not therefore the case that communications between the UKG and DAs were highly bureaucratic, formal, centralised, and funnelled through me and/or my officials.

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<sup>4</sup> And see the evidence of Dame Priti Patel to the Inquiry in Module 2 (9 November 2023) as to the level of engagement between ministerial counterparts in the DAs.

9. My role was, generally, to act as a conduit and as a potential point of escalation where issues could not be resolved or where cross-cutting issues emerged.
10. With those overarching points in mind, I have adopted the following structure to this statement:
  - a. In Part A I provide an overview of the structures and relationships between the UK Government and the Scottish Government in response to the pandemic.
  - b. In Part B I focus on individual topics as relevant to the pandemic and how these specifically affected Scotland, such as funding, testing, non-pharmaceutical interventions ('NPIs'), and communications.
  - c. In Part C I focus on issues relating to borders and travel.
  - d. In Part D I address lockdowns, relaxations of lockdowns and specific coronavirus legislation and guidance and how that affected the Scottish Government.
  - e. In Part E I humbly offer some personal reflections and propose some lessons for the future based on my experiences.
11. At 'Annex B' to this statement is a document which sets out each meeting I had with representatives of the Devolved Administrations during the period January 2020 to September 2021 at which matters relating to the pandemic response were discussed. This is a revised version of a similar document that I provided to the Inquiry as 'Annex B' to my Module 2 statement but modified in order to identify the Chair of each meeting, the representatives of each of the DAs present, and the presence of the Secretary of State for any territorial office (e.g., the Secretary of State for Scotland). Any individual marked with an '\*' on Annex B is an HMT official or an official of a DA Finance Ministry. This is relevant to Parts A and B of this statement in particular. Annex A is a revised version of Annex A from my earlier Module 2 statement. It contains all decision-making meetings which I attended during the pandemic (excluding those covered in Annex B), though I have now identified the presence of the Secretaries of State for each territorial office also in attendance.
12. Finally, within my Module 2 statement I outlined a number of matters and thoughts which for obvious reasons I avoid repeating here but which ought to be considered together with the contents of this statement. They include:

- a. At Section 1 an overview of my roles across the entire period.
- b. More specifically within paragraph 16 of Section 1, an overview of what I considered to be the key decision-making forums of the UK Government throughout the pandemic.
- c. At paragraph 18 of Section 1, my thoughts on the general application of the Devolution Settlements in the UK, how they work, and how they affected the response to the pandemic across the UK.
- d. At Section 2 a narrative of events from January 2020 to September 2021, setting out my own personal knowledge of the emergence of the virus and the UKG's response at various stages, and also providing my thoughts on the rationale behind the decisions that were taken.
- e. From paragraph 168 to paragraph 188 I set out in some detail matters relating to engagement between the UKG and the DAs (including Scotland) throughout this period.

## **PART A: STRUCTURE AND RELATIONSHIPS BETWEEN THE UK GOVERNMENT AND THE SCOTTISH GOVERNMENT**

### ***Scottish Preparedness***

13. I have been asked what I knew about the Scottish Government's preparedness for a pandemic and how well I consider Scotland to have been prepared for a pandemic. My knowledge of the Scottish Government's resilience and preparedness for a pandemic was, inevitably, extremely limited at the time that Covid-19 began to emerge. As explained in my Module 1 statement, I did not take on my position as Minister for the Cabinet Office – and with it my responsibility for resilience matters – until mid-February 2020, i.e., after the start of the pandemic.
14. I am, however, aware that resilience and contingency planning is a devolved matter with each DA putting in place its own resilience and contingency planning apparatus, operating in parallel to the Cabinet Office's Civil Contingencies Secretariat ('CCS'). I had some familiarity with the general operation of each DA's work on civil contingencies from my role on Brexit preparedness. I believe that in Scotland the relevant contingency structure is the Scottish Government Resilience Room ('SGORR'). I refer to the

statement of Roger Hargreaves,<sup>5</sup> provided to the Inquiry for the purposes of Module 1, which summarises how the Cabinet Office worked with the DAs to inform emergency planning, and which (at paragraph 8.52) describes the arrangements with Scotland, Wales and Northern Ireland. I had some familiarity with the general operation of each DA's work on civil contingencies from my role on the XO taskforce and on Brexit preparedness.

***Points of Contact in and with the Scottish Government***

15. During my time as CDL, and during the course of the pandemic in particular, I was asked by the then-PM, Boris Johnson, to be the link point between the UK Government and the DAs. To the best of my recollection, I took up this specific role from around the middle of March 2020, although the role took on more significance from summer 2020 onwards as UKG structures evolved in response to the pandemic.
16. I understand that the former Prime Minister has set out his reasons for that decision in his witness statement prepared for Module 2 of the Inquiry<sup>6</sup>. In this regard, he refers to an advisory note which he received on 13 March 2020 called 'COVID-19: Next phase',<sup>7</sup> which I believe was authored by Helen MacNamara and Mark Sweeney. Within this note, he was advised that an option for involving the DAs was to invite them to a separate meeting chaired either by the Prime Minister or myself. Evidently, he took the view that it was best for that meeting to be largely chaired by myself as CDL. I was not involved in this decision or any discussions leading to it, and I did not receive the advisory note in question. I am therefore unable to say why the Prime Minister asked me to take up that role (though I do note that the Prime Minister's own explanation is at paragraphs 186-190 of his witness statement). From my perspective, it was for him to decide on how to involve the DAs and my remit was to carry out his wishes to the best of my ability. I did not question his decision, and I was happy to take up the role.
17. Notwithstanding the Prime Minister's decision to designate me the primary link role with the DAs, this was not the extent of their, or his, involvement. The DAs remained

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<sup>5</sup> [MG2/76 – INQ000145912] – Corporate witness statement of Roger Hargreaves, Director of the COBR Unit, 1 February 2023.

<sup>6</sup> [MG2/6 - INQ000255836] – Witness statement of The Rt Hon. Boris Johnson, former Prime Minister of the United Kingdom, 31 August 2023.

<sup>7</sup> [MG2/7 - INQ000087166] – Note to Prime Minister from Helen McNamara/Mark Sweeney titled 'Covid-19: Next Phase', 13 March 2020.

participants at COBR meetings as and when that was considered appropriate, and there were other PM-chaired meetings which the DAs attended. As time went on, and the Covid-O and Covid-S response structure was adopted, the DAs continued to be invited to meetings where it was felt that matters on the agenda were relevant to them, and some of these meetings were chaired by the Prime Minister as is indicated on the formal record.

18. For my part, I felt perfectly able to take up the role that I did in respect of the DAs and I could see the sense in my doing so. Prior to the pandemic, I had worked a lot with the DAs in the country's Brexit planning. That planning had required extensive dialogue with the DAs and I felt that I had established good relationships and effective rapport with the various representatives from the DAs throughout that process. I did not feel that the DAs were being marginalised as a result of the Prime Minister's decision and I felt that the meetings they attended were largely constructive and effective. It should also be noted that at the time of the pandemic, the broader issue and process of Intergovernmental Relations was not established and was still subject to review (that review subsequently reported in January 2022<sup>8</sup>).
19. Overall, I thought that the role which I undertook between UKG and the DAs worked well. As will be clear from the notes from the calls, engagement with the DAs was a significant part of my work during the pandemic and a substantial role. It simply would not have been practicable for the Prime Minister to lead the engagement with the DAs and it made complete sense for me to deputise for him in this respect. As chair of Covid-O I was very close to the detail of the plans and options as they were worked through and was therefore well placed to ensure that issues raised by the DAs were brought to the attention of the right people.
20. I do not recall any specific collective or individual requests by First Ministers of the DAs for private meetings with the Prime Minister or more engagement with him generally from the time that I took up my link role between the DAs and UKG. I would have expected any such requests to have been made directly to No 10 and therefore I would not necessarily have been made aware. I am not able to say whether any such request was ever made to No 10. Whilst the DAs would naturally have wished for extensive engagement with the Prime Minister, I am sure that they were aware that I would (and indeed did) faithfully convey their respective wishes to the Prime Minister when requested and would, in turn, faithfully relay his views, and those of the UKG, to the DAs

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<sup>8</sup> [MG2/8 - INQ000083215] – Review by Cabinet Office regarding intergovernmental relations.

at our meetings. I always regarded my meetings with the DAs as being professional and constructive. At no stage was it expressed to me that the meetings that I held were of little use or were in any way inadequate or insufficient, and I am not aware that those were views held by the First Ministers themselves. There was, on occasion, some disappointment or even irritation that there was no agreement on a particular course of action in some of our meetings, but this is of course a separate issue.

21. I refer to Annexes A and B to this statement to outline the main points of contact that I had within the Scottish Government at the formal meetings which I held. There would have been other communications or discussions which took place with individuals within the Scottish Government outside of these formal meetings, and it is impossible for me to recall all of them. I believe, however, that the key individuals are those identified within Annex A. I discuss in more detail below the role of the Scotland Office. Of course, others also engaged with members of the Scottish Government and their officials beyond my involvement. As explained above, the respective Chief Medical Officers ('CMOs') and Chief Scientific Advisers ('CSAs') of the UK and the DAs were in regular communication with each other, for example.
22. At all times, this dialogue was supported by UKG civil servants. A crucial part of the UKG's role is to ensure we are delivering effective outcomes for people in all parts of the UK. Accordingly, it is essential that civil servants have devolution knowledge and an understanding of intergovernmental working. The UK Government is committed to building the devolution knowledge of civil servants and Ministers. The central Devolution Capability programme, in place since 2015 and now sitting within DLUHC, has invested in training colleagues in devolution knowledge. It is the case that improved devolution understanding is and has been a Government objective, but I am not aware of any specific occasion where any lack of such knowledge amongst civil servants inhibited any aspect of the pandemic response.

***The Office of the Secretary of State for Scotland***

23. The Office of the Secretary of State for Scotland (sometimes referred to as 'OSSS' or the 'Scotland Office') is a UKG ministerial department which supports the Secretary of State for Scotland ('SOSS') in promoting the interests of Scotland within the UK Government and ensuring that the UKG's responsibilities are effectively represented in



Scotland. The Rt Hon. Alister Jack MP is the incumbent Secretary of State for Scotland and has been in post since July 2019.

24. The Scotland Office is one of the UKG's three Territorial departments (often referred to as 'Territorial Offices' ('TOs')) – alongside the Wales and Northern Ireland Offices. The TOs are UK Government departments, with each represented in Cabinet by a territorial Secretary of State, who ensures the smooth running of the devolution settlements and acts as liaison between the UKG and the relevant territory<sup>9</sup>. There is also the Office for Advocate General for Scotland ('OAG') which is the UK Government's Scottish legal team responsible for providing legal advice, drafting and litigation services to the UKG in relation to Scotland.
25. Although the OSSS and Wales Office are small departments, I understand that, during Covid, the TOs, working closely with colleagues in Cabinet Office, aided in understanding the territorial extent and application of measures proposed within their respective territory with specific knowledge on what powers were devolved/transferred, reserved or a combination of both. They helped to shape understanding of how proposals would be put into effect across the UK, e.g., identifying the delivery routes and bodies for the policy.
26. In paragraph 8 above, I have referred to the enormous amount of work done by other Departments and their counterparts in the DAs and the civil service teams – I include the Scotland Office and their counterparts in the Office of the Secretary of State for Wales (OSSW) and the Northern Irish Office (NIO) in this reference.
27. The Secretary of State for Scotland was present for almost all of the meetings which I chaired with the DAs and, I believe, for the majority of the Covid-O and COBR meetings at which the DAs were present. The Secretary of State's attendance in meetings while I was CDL is included in the meetings listed in Annex A and B. I was always of the view that the SOSS was at all times fully apprised of the relevant issues and discharged his duties effectively.

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<sup>9</sup> The Territorial Offices' responsibilities include handling UK legislation as it affects the territory; representing the territory's interests in the cabinet and cabinet committees; responding to parliamentary interests in territorial affairs; transmitting the block grant to the Devolved Administration; supporting collaboration between HM Government and the Devolved Administration; and promoting the interests of the territory.

### ***Mechanisms for Intergovernmental Relations***

28. The DAs were invited to COBR meetings concerning Covid-19. This was an unusual step, because COBR meetings are a form of UKG Cabinet Committee meeting and take place in a secure environment. At some of the COBR meetings consensus was sought on UK-wide measures, such as the first lockdown, whereas on other issues, such as certain aspects of social distancing measures, consensus was not required as the powers to take action were devolved. The DAs were invited to attend many, but not all, COBR meetings. My recollection is that the decision as to whether it was appropriate for the DAs to be invited to a particular COBR meeting was made by a combination of No 10 Private Office officials and my Private Office, following advice from various officials including CCS. At all times, given the speed at which Ministers were being presented with new evidence and asked to take decisions, we were balancing the natural desire of stakeholders to be in the room, the need to take sensitive decisions quickly, and ensuring those decisions were then communicated in a managed and coherent way by UKG. This involved the application of judgement.
29. The Ministerial Implementation Groups ('MIGs') (with the exception of the International MIG) were typically attended by Ministers and officials from the DAs and sometimes by the Secretaries of State and officials of the TOs.
30. The Dashboard data was shared with the DAs daily, so the UKG and all DAs were working from the same core information.
31. From the time the MIGs were replaced with Covid-S and Covid-O, at a ministerial level I led the engagement with the DAs through holding regular calls, at times on a weekly basis, and in any event before significant announcements, with the First Ministers of Scotland and Wales and the First and Deputy First Ministers of Northern Ireland. This again included the territorial Secretary of State where appropriate. I acknowledged receipt of a letter from the First Minister for Wales dated 11 June 2020<sup>10</sup>, during the transition period from MIGs to Covid-O/S, in which he called for a regular rhythm of meetings with the DAs. My meetings with the DAs commenced shortly afterwards with the first meeting being on 23 June 2020 and proceeding regularly thereafter as shown in Annex B.

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<sup>10</sup> [MG2/9 - INQ000216519] – Letter from Mark Drakeford to Michael Gove dated 11 June 2020.

32. The DAs were invited to attend the Covid-O meetings where a UK-wide approach was needed (e.g., when considering border issues), but over the summer and early autumn of 2020 they were mainly not in attendance. This was because the majority of the issues for discussion and determination dealt with at the Covid-O meetings, such as education, transport and support for vulnerable people were devolved, and the advice I received was that the bulk of ministerial engagement should happen through department-led ministerial engagement. For a period in the autumn/winter of 2020/2021 the DAs attended weekly Covid-O meetings. I wrote to the First Ministers on 30 September inviting their administrations to attend weekly Covid-O meetings<sup>11</sup>. I proposed that at the weekly official-level calls, agreement would be sought on agenda items, and that papers should be shared with all attendees as far in advance as possible.
33. There were also regular department-led ministerial meetings with ministers of the DAs in other areas including health, but I would not necessarily be privy to matters discussed at those meetings. I have previously explained the extensive dialogue between Matt Hancock (and thereafter Sajid Javid) and the DA Health Ministers.
34. At official level, coordination between the UK Government and the DAs was supported in the Cabinet Office by the UK Governance Group, which assisted departments and the DAs to ensure the response fully considered the devolution perspective and UK-wide impacts. This included within it a Devolution Policy Desk which monitored and worked across the UK Government and set up regular Cross-UK senior officials forums (at director level) bringing together officials from all four Governments to discuss decisions spanning the Covid-19 response. I refer to Simon Case's corporate witness statement<sup>12</sup> at paragraph 5.28.
35. The UK Scientific Advisory Group for Emergencies ('SAGE') structures allowed the Chief Medical Officers and/or Chief Scientific Advisers of the DAs to coordinate and integrate scientific advice, and the Chief Medical Officers for the UK and from each of the three DAs had regular calls with each other.
36. Finally, summits were organised during the pandemic to encourage further collaborative working between the UKG and DAs. I am informed that the first summit took place in

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<sup>11</sup> [MG2/10 - INQ000217055] – Letter from Rt Hon. Michael Gove MP regarding attendance at the UK Government's Covid-19 Operations Committee, 30 September 2020.

<sup>12</sup> [MG2/11 - INQ000092893] – Witness statement of Cabinet Secretary Simon Case, 24 January 2023.

October 2020<sup>13</sup> to discuss winter preparations, a summit then took place in June 2021<sup>14</sup> to discuss the roadmap in light of the vaccine rollout, and there was a further summit in October 2021 to discuss winter preparations (which I attended in my new role as Minister for Intergovernmental Relations)<sup>15</sup>.

37. The reasons for this ongoing and substantial engagement were, first, that it was right to involve the DAs wherever possible since inevitably decisions taken by UKG would bear upon devolved responsibilities; and second, because it was recognised (by the UKG) that the response to the pandemic was most likely to be effective across all parts of the United Kingdom if it was reasonably united and consistent.
38. In paragraphs 34 and 35 of my Module 1 statement, I explain the initial difficulties we faced in trying to ensure continued involvement of the DAs following the move away from the COBR-led structure. As explained therein, COBR was not set-up for a long-term response, and an alternative was necessary. As set out in paragraph 173 of my Module 2 statement (and above), the degree of DA involvement in meetings convened under the replacement structures was a matter of judgement – clearly we wished to include them in any discussion involving devolved matters pertinent to them, whilst exercising caution to ensure that the boundaries of devolved issues were respected by both the UKG and DAs. These judgements were made on a case-by-case basis, and involved the weighing of competing factors, including the extent to which the DAs had a real interest in the matters being discussed, and the urgency and sensitivity of the issues in question.
39. There was some concern in Government that DA Ministers were not bound by the UKG Ministerial Code (which sets out the expectation that details of Cabinet business are not normally publicly disclosed), and that (as set out in more detail below) DA Ministers did not always consider the discussions to which they were invited to be confidential and thereby compromised the effectiveness of public health messaging. Leaks, or early press announcements, were not just an implementation problem. They also inhibited the

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<sup>13</sup> [MG2/3 - INQ000259848] - Discussed at paragraph 104 of my Module 2 witness statement; [MG2/12 - INQ000199190] - Minutes of Winter Summit meeting dated 12 October 2020.

<sup>14</sup> [MG2/13 - INQ000217122] - Readout for Covid Recovery summit held on 3 June 2021; [MG2/14 - INQ000339566] - CDL briefing; [MG2/15 - INQ000339562] - PM briefing; [MG2/16 - INQ000339563] - Scottish Government summit paper; [MG2/17 - INQ000339564] - Welsh Government summit paper; [MG2/18 - INQ000339565] - Northern Ireland Executive summit paper; [MG2/19 - INQ000339567] - Post summit letter (draft) from PM to FMs and dFM.

<sup>15</sup> [MG2/20 - INQ000256908] - Agenda for summit meeting held on 18 October 2021; [MG2/21 - INQ000130916] - Annotated agenda; [MG2/22 - INQ000232613] - Meeting note.

ability of participants at meetings to speak openly and freely. Meetings with the DAs inevitably involved larger cast lists including TO and DA officials and ministers. It became a particular irritation that many meetings relating to travel policy and 'red list' policies leaked. But it was also a sad reality that UKG-only meetings sometimes leaked. Nevertheless, we tried to include DAs in meetings wherever appropriate and sought to select attendees to ensure appropriate discussion, even if that came at the risk of some leaking.

40. To my mind, the solutions were either to exclude the DAs altogether (which would not have been helpful or fair), include the DAs at everything (which would risk effectively bringing them into UKG in a way which was never envisaged as part of the devolution settlements in the UK), or be selective as to which meetings the DAs were invited to, whilst at the same time ensuring that they had a readily available point of contact and forum with UKG through which liaison could occur. As explained, the general solution which was adopted was to invite the DAs to any meeting which touched upon matters relevant to them as they arose. To that end, whilst the MIGs were operational the DAs were routinely invited to all but the International MIG, and thereafter, were selectively and frequently invited to Covid-Os where appropriate.
41. Whether a better system could be devised in the future is a question I have reflected on and attempt to address below, but I take the view that the approach we took was the most effective system possible in the circumstances at the time.
42. For completeness, in early April 2020<sup>16</sup> I received a request from the First Minister for Wales for three-weekly meetings between UKG and the DAs. I expressed the view that I was open to this proposal. I took advice from the three Territorial Secretaries of State and, at a meeting on 22 April 2020,<sup>17</sup> it was decided that regular meetings were appropriate but not on a three-weekly basis.
43. My personal view is that the frequency of contact between me and the DAs was effective and sufficient. Regular engagement with the DAs was (as I explained to them in correspondence) something which I was committed to – see for example a letter to the First Minister for Wales dated 21 May 2020<sup>18</sup> (I am unable to recall now if similar letters went to the Scottish Government and Northern Ireland Executive at this time as well, but

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<sup>16</sup> [MG2/23 - INQ000339560] – Letter from Mark Drakeford to Michael Gove dated 20 April 2020.

<sup>17</sup> [MG2/24 - INQ000091348] – Readout of meeting between CDL and Secretaries of State for DAs.

<sup>18</sup> [MG2/25 - INQ000216507] – Letter from Michael Gove to Mark Drakeford dated 21 May 2020.

it is possible). I have been referred to an extract of the corporate statement of the Director General Strategy and External Affairs on behalf of the Scottish Government, in which it is suggested that the period from June 2020 saw a less intense rhythm of engagement. I do not agree with this assertion. Given the pace at which the information and position changed, and the scale and rate of decision-making, regular engagement by way of reasonably informal calls was, in my view, helpful. As is clear from the summer 2020 period, the majority of UK-wide policy calls had been made and we were entering a period where matters of policy were for each territory to reflect on as they each sought to ease restrictions. The level of DA engagement therefore reflected the circumstances as they then were, and I think this was appropriate. As matters escalated in the Autumn 2020 period, the DAs were then invited to become regular attendees at Covid-O meetings.

### ***Reaching Decisions***

44. I cannot speak as to what the DAs themselves understood as to the rationale behind different decisions. What I can say is that any queries or challenges to any decision or policy of the UKG could have been (and regularly were) properly ventilated in the meetings at which I was present. If there had been any lack of understanding expressed or perceived, it would have been picked up and dealt with.
45. I have been asked what efforts were made to minimise the appearance that decisions were being imposed on Scotland in areas of devolved competence. I think that this was principally done through public communications – normally at media briefings. It was acknowledged that there would be confusion as UKG was making decisions on matters in England that are devolved in Scotland, Wales and Northern Ireland and so may be seen to be imposing decisions on the DAs. Efforts were made to try and ensure that it was made clear when any decision announced by the UK Government related to England only. The relevant DA was responsible for public communications in Scotland, Wales or Northern Ireland. For example, when the First Minister for Wales announced a Wales-only circuit-breaker in September 2020, he made it plain that this was a decision taken by the Welsh Government alone. I agree, however, that there may have been some occasions where the territorial extent of measures could have been made clearer, particularly in the context of urgent announcements and responses. Where this was identified as a UKG issue, it was addressed. For example, in my call with the DAs on

17 July 2020<sup>19</sup> the First Minister for Wales observed that the forthcoming 'Next Chapter' communication from UKG did not make clear that its application was limited to England. As a result the draft was changed to avoid any uncertainty.<sup>20</sup> My recollection is that the BBC was also generally careful to explain the territorial scope of NPIs .

46. I accept of course that the UKG and DAs occasionally diverged, as was their entitlement. This is an intrinsic aspect of devolution, reflecting local democratic accountability and local conditions. It is for this reason that the UK Government never sought to criticise a decision taken by a DA and, rather, treated any divergence with respect.
47. It was always my view that a consistent approach across the UK was generally preferable wherever possible and I attempted to facilitate healthy discussion so that all arguments could be properly ventilated and, ultimately, to encourage coordination. In saying that, the UK Government did not attempt to dictate to the DAs how they should take decisions for which they were responsible and democratically accountable.
48. In the same way that the Scottish Government and the other DAs took decisions in response to the situation as they assessed it in their own territories, so too did the UK Government in respect of England. It would plainly not have been right to have involved the DAs in every decision which the UK Government took in respect of England – prior to those decisions being finalised and work to communicate and implement them being undertaken – because they were not matters which the devolution settlement required the UK Government to consult other DAs on as they affected England and because, often, time was of the essence.
49. In my Module 2 statement, I said that *"In the early stages of the response there were certainly occasions where insufficient notice was given to the devolved administrations of decisions that were likely to be taken. However, over time we got better at anticipating what decisions were going to need to be considered, and what issues warranted careful consideration with the devolved administrations before decisions were finalised or announced."*<sup>21</sup> I maintain that that is a fair assessment.

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<sup>19</sup> [MG2/26 - INQ000216525] is one example from a meeting I held with the DAs on 17 July 2020.

<sup>20</sup> [MG2/27 - INQ000137239] - [https://assets.publishing.service.gov.uk/media/5f1171bee90e075e93297335/6.6783\\_CO\\_Our\\_Plan\\_to\\_Rebuild\\_FINAL\\_170720\\_WEB.pdf](https://assets.publishing.service.gov.uk/media/5f1171bee90e075e93297335/6.6783_CO_Our_Plan_to_Rebuild_FINAL_170720_WEB.pdf) - page 10.

<sup>21</sup> [MG2/3 - INQ000259848] - See paragraph 187 of previous Module 2 statement.

50. I have been referred by the Inquiry to some matters referred to in other evidence submitted to the Inquiry. The references are to short extracts of statements, where I have not had access to the full statements. In the circumstances, I have done my best to provide a response but highlight that I do so without a full understanding of the context in which the specific remarks put to me have been made, and may therefore be based on a misunderstanding. The extracts to which I have been referred are as follows:
- a. Paragraph 67 of the corporate statement of Transport Scotland regarding transport decisions taken by the UK Government which affected Scotland, with a specific example cited concerning testing for hauliers, but on which they were not consulted.
  - b. Paragraph 133 of the corporate statement of the Office of the Secretary of State for Scotland concerning data sharing and Scotland-specific data (something also referred to by the Former First Minister at paragraph 71).
  - c. Paragraph 127 of the corporate statement of the Office of Secretary of State for Scotland concerning late receipt of meeting agendas, invites or papers.
51. Those are very specific and isolated examples of issues on which I am not an expert. However, doing my best to assist the Inquiry:
- a. In respect of testing of hauliers at the border of England and Scotland, I believe this may have been discussed at a meeting I attended, but I am afraid my recollection is insufficient to detail any meaningful response to the question posed. Testing was something generally under the remit of DHSC.
  - b. In respect of data-sharing I had understood that the Scottish Government was always able to use the data which was provided to them to consider properly and effectively their pandemic response. So far as I am aware, the Scottish Government did not ever suggest that the data they had was so ineffective or of such little use that they could not properly consider it. It remained open for the Scottish Government to commission whatever research they required utilising Scottish scientists or institutions, or to approach Scottish scientists within SAGE in respect of any concerns that they had either directly or through the Government Office for Science (the SAGE Secretariat). Additionally, when the JBC was created the intention and purpose was for it to function UK-wide with data sharing agreements with the DAs and was tasked with providing data on the risks associated with the pandemic concurrently to all administrations.



- c. I accept that there were occasions where materials were distributed shortly before meetings<sup>22</sup>. It seems to me that there were probably good reasons for this, including the incredibly fast pace of events, and in some cases the need for security and confidentiality of the material to prevent leaks to the media. And delays to the distribution of papers was also the case for some UKG-only meetings. However, I was of course not personally involved. I do not consider it likely had much impact on the meetings themselves or the ability of the DAs to contribute to the meetings.

### ***Divergences of Approach***

52. Throughout the pandemic it was agreed by the UKG and DAs that it would be preferable for us to work together and maintain open dialogue. I felt that this was in the best interests of the entire population of the United Kingdom. That approach, as a general policy, was a constant throughout the period I was in post.
53. It is, however, inherent in devolution that different parts of the UK will approach problems in different ways. The purpose is, in part, to allow different administrations in different parts of the UK to tailor their decisions to local need in devolved areas. I think it is fair to say, however, that the pandemic brought to the front of the public's mind just how extensive devolution was, and exposed new problems where different parts of the UK took entirely different approaches in devolved areas. This produced problems both of communication and substance.
54. I do not believe these problems are unique to the UK and indeed my conversations during the pandemic with my counterpart in Germany revealed an equivalent difficulty. My readings about the different approaches taken by states within the United States or regions within Italy further confirm this view.
55. There were therefore justifiable reasons for DAs adopting different approaches and decisions to those the UKG took in relation to England during the pandemic. They included: (i) a reflection of the different geographical territories covered by devolved responsibilities; (ii) a reflection of the scientific data pertaining to each nation's demographic; (iii) a reflection of where each administration considered themselves to be

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<sup>22</sup> [MG2/26 - INQ000216525] is one example from a meeting I held with the DAs on 17 July 2020 where DAs had only had sight of UKG's 'Next Chapter' document which was to be published that day, shortly before the meeting.

compared to one another; and, (iv) simply taking a different view as to the appropriateness of particular measures. The fact that there was, in fact, occasional divergence of approach is unsurprising in the context of the UK's devolution arrangements.

56. Whilst the Scottish Government sometimes diverged from the UKG, I did not consider that it ever rejected the notion of a co-ordinated approach as a matter of general principle. There were however occasions where the Scottish Government seemed to me to make choices at variance with the rest of the UK in order to emphasise their "otherness", consistent with their separatist political objectives. That was their prerogative in relation to devolved matters, though it was not helpful to the UKG's efforts to minimise the impact of the pandemic in all parts of the UK.
57. A particularly notable example is Nicola Sturgeon's decision to brief the press immediately following the COBR meeting of 12 March 2020 to which she and the other DAs were invited<sup>23</sup>. At the meeting – which, as the Inquiry has heard, was an extremely important meeting – mass gatherings were discussed. It was agreed that the CMOs should provide further advice as to what steps should be taken in relation to mass gatherings for further consideration by COBR. Despite this, the First Minister immediately briefed the press about the matters discussed in the meeting – prior to UKG public communications – and banned gatherings of more than 500 people in Scotland<sup>24</sup>. She had not communicated that intention during the meeting and it came as a surprise to the UK Government. It was not, in my view, consistent with a coordinated approach, undermined the UKG's communications strategy (which was designed to save lives) and, more generally, reduced trust that the Scottish Government would put the best interests of the UK population above its own political aims.
58. I also recall that around 10 May 2020, Nicola Sturgeon held a press conference in which she criticised the UKG's 'Stay Alert, Control the Virus, Save Lives' communications campaign as "vague" and unclear, and she stated that she herself did not know what the new messaging meant<sup>25</sup>. Whilst it was entirely Scotland's prerogative whether to adopt the UK Government's change in messaging or not, I considered it unhelpful at the time that the First Minister chose to be so publicly vocal. That did not, in my view, assist

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<sup>23</sup> [MG2/28 - INQ000056221] – Minutes of meeting of COBR, 12 March 2020.

<sup>24</sup> [MG2/29 - INQ000339569] – <https://www.itv.com/news/2020-03-12/scotland-cases-almost-double-ban-mass-gatherings-overseas-school-trips-cancel>.

<sup>25</sup> [MG2/30 - INQ000339570] – <https://www.bbc.co.uk/news/uk-scotland-52605959>.

confidence levels of the public, and was a premature reaction which criticised the change before we had even had a chance to support it through associated communication campaigns such as adverts, posters, media briefings etc.

59. I was concerned about the presentational impact these interactions had on the public, and the impact it may have on public adherence to measures and regulations. I did not labour the point at the time. The announcements had been made and it was better to be seen to work constructively for the future rather than point fingers. All we could realistically do was continue to advocate at future meetings for a coordinated approach wherever possible, and this we did as is recorded in the various minutes.

***Relationships between UK Government and Scottish Government Officials and Decision-Makers***

60. I have been asked to provide my assessment of the status of the relationships between key officials and decision-makers in the UK and Scottish Governments. When giving evidence to the Inquiry in Module 1<sup>26</sup>, I stated *“Quite a lot of the time – the majority of the time, in fact – there was effective co-operation ... However, the Scottish Government and those leading it have – because of their divergent political view that I mentioned – they sometimes have an incentive to accentuate the negative in the relationship, because the overall political aim of the SNP is to present the United Kingdom as a dysfunctional state. But to their credit, Scottish Government ministers and Scottish Government officials on a day-to-day basis operate in a collaborative way.”*
61. Despite our differing political standpoints, I considered myself to have relatively good working relationships with the First Ministers in Scotland and Wales and FM and DFM in Northern Ireland. I have also referred to the excellent relationships which existed between the various CMOs and CSAs. I also considered the relationship between the senior civil servants within the DAs, the TOs, and the UKG to be well-established and conducive to good levels of collaboration and coordination. This was my experience during the pandemic. While Boris Johnson and Nicola Sturgeon were not soulmates, they were generally always able to secure pretty effective coordination of substantive policy, respecting devolved and reserved competencies. Relations at all levels remained professional and focused throughout the period, in my experience and opinion.

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<sup>26</sup> [MG2/2 – INQ000339568] - Official Transcript of evidence from 13 July 2023 pages 141 and 142.

62. The only occasion I recall when personal relationships became an issue followed Nicola Sturgeon's announcement of a travel ban affecting Greater Manchester and Lancashire on 20 June 2021. The Mayor of Greater Manchester, Andy Burnham, gave an angry press conference in response to this announcement, which I understand had not been raised with him (or with the UKG) beforehand. This did cause some turbulence at the time for all concerned, including at a private meeting attended by both individuals and by other ministers.
63. I have been invited to comment on the Prime Minister's visit to Scotland on 23 July 2020 and a tweet made by the First Minister of Scotland that same day which read; *"I welcome the PM to Scotland today. One of the key arguments for independence is the ability of Scotland to take our own decisions, rather than having our future decided by politicians we didn't vote for, taking us down a path we haven't chosen. His presence highlights that."* I cannot recall now the reasons for that particular visit taking place and I was not involved in organising it. It is a matter of public record that during the pandemic Nicola Sturgeon continued to advocate for an independent Scotland, as was her prerogative.

## **PART B: INDIVIDUAL TOPICS WITHIN THE PANDEMIC**

### ***Key Public Health Communications***

64. I have been asked to comment on efforts made to coordinate public health messaging between the UK and Scottish Governments. As I have indicated, a large number of departmental-level meetings took place between HMG and the Scottish Government (and other DAs) involving HMG ministers and officials and their DA counterparts. I have also explained that it was generally recognised by both the UKG and the Scottish Government that a coordinated approach was generally desirable, whilst recognising and respecting the UK's devolution arrangements. That extended to public health messaging<sup>27</sup>. The reasoning behind this was that it was thought consistent key public health messaging would achieve greater levels of compliance and minimise confusion amongst the general public across the UK, thereby reducing the impact of the virus. This was something acknowledged by all of the DAs (and their CMOs and CSAs) so far as I recall.

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<sup>27</sup> I note in this respect that to my knowledge the UKG did not have a "UK-wide" or Scotland public health communications strategy, because public health was a devolved matter.

65. It can be seen from the meetings with the DAs outlined at Annex A that communications – which included public communications – and the desire for consistency were a constant feature on the meeting agendas and action points.
66. The UKG's public communications included:
- a. 15 March 2020: 'Stay Home, Protect the NHS, Save Lives' campaign
  - b. 10 May 2020: 'Stay Alert, Control the Virus, Save Lives' campaign
  - c. 9 September 2020: 'Hands, Face, Space' campaign
  - d. 4 January 2021: a return to 'Stay Home, Protect the NHS, Save Lives' campaign in light of the announcement of the third national lockdown in England.
67. The Scottish Government adopted the first campaign ('Stay Home, Protect the NHS, Save Lives') but rejected the second campaign. I have noted above Nicola Sturgeon's public remarks in relation to this campaign.
68. The Scottish Government instead adopted its own messaging from around 9 July 2020: 'Face coverings, Avoid crowded places, Clean your hands regularly, Two metre distance, Self-isolate and book a test if you have symptoms' (referred to as 'FACTS'). 9 July 2020 had been a review date for social distancing measures as part of the UK Government's roadmap published in May 2020. In preparation for that review, I held a meeting with the DAs on 7 July 2020. My Ministerial brief<sup>28</sup> encouraged me to emphasise that a coordinated approach to messaging and communication was preferable, which I believe I did. The minutes of the meeting<sup>29</sup> do not make reference to any proposed change in public messaging by the Scottish Government, and it therefore appears that it was not raised at the meeting. I am of course unable to say whether it was communicated through other channels, for example between health departments. It was of course clear at this time that the Scottish Government had already decided not to adopt the key public health messaging of the UK Government, as was announced on 10 May 2020.

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<sup>28</sup> [MG2/31 - INQ000199088] – Report of localised outbreaks, July 2020.

<sup>29</sup> [MG2/32 - INQ000199087] – Summary of a call with Devolved Administrations on relaxation of social distancing guidelines, 7 July 2020.

69. I raised the 'FACTS' message in a subsequent meeting with the DAs on 5 October 2020. At the meeting I stated that I thought it would be beneficial for Scotland to adopt the UKG's 'Hands, Face, Space' campaign as I felt it complimented their FACTS message and would assist consistency and coordination. The First Minister of Scotland stated that her view was that the FACTS campaign was more easily understood, but that she did not oppose the introduction of the 'Hands, Face, Space' campaign<sup>30</sup>. I am unsure, however, what discussions she then had regarding this thereafter within her own organisation.
70. The Scottish Government re-adopted the 'Stay Home, Protect the NHS, Save Lives' campaign alongside the UKG in January 2021.
71. Public health messaging from UKG was the responsibility of DHSC and Cabinet Office during the pandemic, and I am unaware as to how each change in messaging occurred or the extent to which it was communicated in advance to the Scottish Government.

### ***Data Sharing***

72. Data was important to decision making for all administrations and data sharing between the four administrations was always recognised to be a key issue<sup>31</sup>. Whilst officials from all four administrations will be better placed to assist with this, it is my understanding that it worked reasonably well and operated on a number of levels. The systems were not perfect and there were occasions where concerns were raised and we looked to address them<sup>32</sup>. More broadly I feel that Covid showed the importance of having consistent UK-wide data in areas that are devolved. Different ways of defining and collecting health data (for example on NHS capacity) meant that it was difficult to draw an overall UK-wide picture on the response. I acknowledged this need relatively early into the pandemic in an email to the Cabinet Secretary dated 2 April 2020<sup>33</sup>, and this

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<sup>30</sup> [MG2/33 - INQ000198969] – Minutes of meeting with Devolved Administrations, 5 October 2020.

<sup>31</sup> See for example: [MG2/34 - INQ000198990] – Note of call with First Ministers of Scotland, Wales and Northern Ireland 15 April 2020; [MG2/35 - INQ000199189] - Winter Summit briefing, 12 October 2020.

<sup>32</sup> For example, on 7 September 2020 the First Minister for Wales highlighted a concern that his officials had not been able to secure from the JBC data that had been briefed to the Prime Minister and SSHSC. I agreed to raise the issue with SSHC and revert. See: [MG2/36 - INQ000199180] - Note of call with First Ministers of Scotland, Wales and Northern Ireland, 7 September 2020.

<sup>33</sup> [MG2/37 - INQ000217031] – Email from Michael Gove to Mark Sedwill on 2 April 2020.

was something which improved somewhat as things moved forward. There are, however, many policy areas where consistent UK-wide data is not available.

73. The JBC was announced in May 2020 by Boris Johnson to bring additional and complementary analytical capacity to build on that already in place at a local and regional level across the UK. Its goal was to bring together data science, assessment, and public health expertise to provide analysis and insight on the status of pandemic in the UK and the drivers and risk factors of transmission. This insight supported decision-makers at a local and national level to take action to break the chains of transmission, and in turn, protect the public. Work to develop a shared analytical picture played an important role in ensuring decisions were not driven by an England-only understanding of policy issues.
74. From the beginning the JBC was intended to work UK-wide with access to UK-wide data that was provided from a range of sources including the DAs. The Political Agreement - 'Participation of the Devolved Administrations in the Joint Biosecurity Centre' was signed in August 2020 but the Agency Agreements (AA) to facilitate data sharing were not completed until November 2020. The JBC worked collaboratively with the DAs as equal partners to help inform public health responses in respective jurisdictions, and the health ministers from all four administrations attended the JBC ministerial board. The DAs were represented on the JBC steering board and the JBC technical board.

### ***DA Funding***

75. UKG funding of DAs is an HMT matter, and my knowledge of and involvement in these arrangements is limited. Where the issue of funding did come up in my meetings with the DAs, which it did on occasion, I would have encouraged the DAs to raise the matter directly with HMT and/or referred the issue to HMT.
76. I understand that these issues are addressed in detail in the various statements provided to the Inquiry by HMT in Module 2<sup>34</sup>. I therefore provide only a brief summary.

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<sup>34</sup> [MG2/38 - INQ000263374] – Witness Statement of Rt Hon. Rishi Sunak, paragraphs 563-569; [MG2/39 - INQ000215049] – Witness Statement provided by Dan York Smith on behalf of His Majesty's Treasury, 22 June 2023.

77. To begin with, the funding mechanisms for the DAs are set out in HMT's Module 2 statements.<sup>35</sup> Funding to the DAs, is delivered by HMT. Specifically, *"[t]he UK Government allocates funding in two ways, either to the UK as a whole, or specifically just for England when the funding is spent on a policy area where the devolved administrations are responsible (including health, education and local government). The Barnett Formula is the way the UK Government ensures that a share of additional funding - allocated only to England - is provided fairly to Scotland, Wales and Northern Ireland"*.<sup>36</sup>
78. Government funding for the DAs' budgets is normally determined alongside UKG departments within spending reviews. The Government provides each DA with a grant, generally referred to as Block Grants. The Barnett Formula calculates the annual change in the Block Grants. Those changes are referred to as 'Barnett Consequentials'. Under the formula Scotland, Wales and Northern Ireland receive a population-based proportion of changes in planned spending on comparable UK Government services in England.
79. Normally, before a Barnett Consequential could be allocated, the anticipated England spending to which it related, had to be calculated first. This I can see would have been a drawback during the pandemic as it meant that the DAs had a delay in being notified of the extent or timing of any future consequential payment. As such, at various points, the DAs requested additional flexibility to manage the lack of Barnett certainty which they argued restricted their ability to respond quickly. These requests were made in a variety of ways. Sometimes they would be in formal correspondence, sometimes they would be mentioned in meetings that I chaired, and sometimes they would be relayed through officials in UKG.
80. HMT decided to provide an unprecedented upfront funding guarantee in July 2020 for the fiscal year 2020-21. This provided; *"[t]he devolved administrations with increased funding certainty, enabling them to decide how and when to provide support, rather than loans or receiving 'Barnett consequentials' in the traditional way. It allow[ed] the*

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<sup>35</sup> [MG2/38 - INQ000263374] – Witness Statement of Rt Hon. Rishi Sunak, paragraphs 563-569; [MG2/39 - INQ000215049] – Witness Statement provided by Dan York Smith on behalf of His Majesty's Treasury, 22 June 2023.

<sup>36</sup> [MG2/40 - INQ000236870] - <https://www.gov.uk/government/publications/barnett-consequentials-and-the-barnett-guarantee/barnett-consequentials-and-the-barnett-guarantee>.



*Devolved Administrations to spend additional funding without having to wait for it to be spent in England first*<sup>37</sup>.

81. The funding guarantee set out how much additional funding the UK Government would provide to each of the DAs to address the pressures of the pandemic in 2020-21. The UKG initially announced a guarantee of an additional £12.7 billion in funding for the DAs on 24 July 2020, and this guarantee was subsequently uplifted three times so that, by the 24 December 2020 the guarantee was £16.8 billion. As of 8 January 2021, I believe that Scotland had received £8.6 billion.
82. Of course, the UKG is not the sole source of funding for the DAs. Other elements of their budgets are covered by funding from locally financed expenditure for example, the Scottish Variable Rate of Income Tax, decisions on which are for DA ministers. Although the UKG provides most of the DAs' funding, it generally has no role in deciding how funding is allocated between DA responsibilities (e.g. health, education, etc.) nor in assessing or assuring value for money of DA spending. Likewise, during the pandemic, how any additional funding granted by HMT was spent by a DA was a matter for the DAs themselves, if it was not part of a UK-wide funding scheme.
83. With regard to NPIs and funding, HMT determined the level of funding for the DAs and funding issues were discussed directly between HMT, the DAs, and potentially the relevant TO. Accordingly, HMT Officials are best placed to explain the mechanisms that existed for discussion between the UK and Scottish Government over how funding for the Scottish Government's pandemic response would be calculated or allocated.
84. I was not privy to the Scottish Government's core decision-making process and cannot therefore say in what way, if at all, funding impacted on decisions in relation to NPIs. My engagement with the DAs included facilitating discussions between the DAs and HMT on matters of funding or related concerns. I outline below an example which I think encapsulates my role quite clearly:
  - a. On 30 September 2020, I held a call with the First Minister of Scotland<sup>38</sup> in response to her letter to the Prime Minister of 23 September in which she had queried whether the measures introduced on 22 September went far enough,

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<sup>37</sup> [MG2/40 - INQ000236870] - <https://www.gov.uk/government/publications/barnett-consequential-and-the-barnett-guarantee/barnett-consequential-and-the-barnett-guarantee>.

<sup>38</sup> [MG2/41 - INQ000199187] - Ministerial brief for call with First Minister of Scotland on 30 September 2020; [MG2/42 - INQ000217058] – Agenda for call with First Minister of Scotland on 30 September 2020.

and asked what arrangements could be put in place in the event that there was not cross-UK agreement, to ensure the DAs were not constrained in making what they judged to be essential public health decisions because of a lack of financial flexibility<sup>39</sup>. The First Minister stated that she sought an open discussion about the various interventions available and the accompanying options for economic support available to each administration either individually or collectively. The First Minister sought help facilitating a four-administration discussion with HMT on options and it was agreed a paper would be prepared setting out the views of the Scottish Government on fiscal options and the necessary economic support required to facilitate increasing levels of restrictions and interventions across the UK. The First Minister also raised concerns in relation to the funding of measures that were not currently supported by existing resources, and I agreed to facilitate engagement with HMT.<sup>40</sup>

- b. That afternoon I again spoke with the First Ministers of the DAs, regarding the measures presently in place. A 'circuit breaker' was still being mooted and, as discussed with the First Minister of Scotland, there needed to be an open discussion as to measures which could be implemented in the future<sup>41</sup>. One of the key objectives of the meeting was to identify areas where closer working could result in UK-wide alignment. I provided an overview of the proposed tiering system. Whilst the details of the three tiers were still being refined I committed to ensuring they were shared with the DAs. I noted that the UK Government was responsible for most, but not all, economic interventions and that it would be helpful to have a shared understanding of what economic interventions would be beneficial to support certain restrictions. The First Ministers did not raise particular concerns at this meeting about a need for full lockdown, although the First Minister of Scotland noted that circumstances would dictate what restrictions were imposed and whether they were imposed nationally or regionally. The First Ministers made representations about how financial support should be approached.

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<sup>39</sup> [MG2/43 - INQ000217057] – Letter FM Scotland to Boris Johnson, 23 September 2020.

<sup>40</sup> [MG2/44 - INQ000199186] – Minutes of call between CDL and First Minister of Scotland.

<sup>41</sup> [MG2/45 - INQ000217060] – Ministerial Brief for meeting with First Ministers, 05 October 2020; [MG2/33 - INQ000198969] – Minutes of call with First Ministers, 5 October 2020.

- c. My recollection is that I raised this issue with HMT and I fed back at the following meeting with DAs, held on 5 October 2020, that HMT would report on economic interventions thereafter.<sup>42</sup> I also requested an official from HMT to be present at meetings around this time.
85. HMT was responsible for the key economic interventions made during the pandemic, including the furlough scheme, Self-Employment Income Support Scheme (SEISS), VAT cuts for businesses, the Coronavirus Business Interruption Loan Scheme (CBILS), and the Bounce Back Loan Scheme (BBLs), all of which were UK-wide. Accordingly, the DAs engaged with HMT through the Chief Secretary to the Treasury (CST) on these interventions.<sup>43</sup> All of these schemes were within reserved powers, and I was not privy to the data and considerations which underpinned them. HMT officials are best placed to address what engagement they had, if any, with the Scottish Government on these schemes which were being delivered using levers held by UKG. For the same reasons, I did not have any input into announcements which precipitated implementation of these schemes, nor was I privy to discussions regarding them between HMT and the DAs or the degree of prior knowledge which was given by HMT.
86. I have set out the various fora that the DAs attended at paragraph 19 of my Module 2 Statement. First Ministers and their Officials participated in committee meetings at which the foregoing schemes were more widely discussed. For example, on 7 April 2020, DA officials attended the Economic and Business Response Ministerial Implementation Group (EBRMIG)<sup>44</sup> at which HMT outlined the introduction of several of the above schemes. On 2 November 2020, a COBR meeting took place during which the First Minister of Scotland raised the need for clarity on the extent of the furlough scheme, so that the Scottish Government could plan accordingly.<sup>45</sup> In the usual way, actions resulted from the meeting including that HMT would discuss the approach to the job support schemes beyond December with the DAs. I did not have any further involvement in this discussion as it was not a matter within my remit. Had the Scottish Government subsequently raised any concerns with me, I would have responded constructively.

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<sup>42</sup> [MG2/33 - INQ000198969] – Minutes of CDL and FM call of 5 October 2020.

<sup>43</sup> [MG2/38 - INQ000263374] – Witness statement of Rishi Sunak, Prime Minister of United Kingdom, dated 6 September 2023, at [560] – [562].

<sup>44</sup> [MG2/46 - INQ000083325] – Minutes of a meeting of the EBRMIG held on 7 April 2020.

<sup>45</sup> [MG2/47 - INQ000083829] – Minutes of a meeting of COBR held on 2 November 2020.

87. More generally, as outlined above and in my Module 2 Statement, I also held regular meetings with the DAs, during which matters of funding including the above HMT interventions were mentioned. For example, on the 5 August 2020, during a telephone meeting with the DAs, the First Minister of Scotland provided an update on the localised outbreak of Covid-19 in Aberdeenshire and the Scottish Government's proposed mitigations. There was discussion about the detail of the mitigations, testing capacity support and furlough arrangements. I agreed to consult across the UK Government and respond to the First Minister of Scotland's request to explore options for economic support in localised outbreaks<sup>46</sup>. On this occasion, and others, I saw part of my responsibility as representing the views of DA counterparts in discussions with UKG colleagues. That is not to say that I necessarily agreed with them, but I believed that for the sake of good governance their legitimate positions needed to be understood.

### ***Eat Out to Help Out Scheme***

88. The Eat Out to Help Out scheme (EOTHO) was developed and implemented by HMT and HMRC. I was not involved in discussions between the Scottish Government, Boris Johnson or HMT about EOTHO prior to its announcement on 8 July 2020,<sup>47</sup> and implementation on 3 August 2020. I am also unable to comment on what involvement the Scottish Government had in devising or implementing the scheme as a whole and the way that funding for the scheme was to be provided for Scottish businesses. I cannot recall receiving any representations from the DAs on the scheme, nor can I recall having any discussions on their behalf with either UKG or HMT regarding the scheme. That is not surprising, because this was not my policy area.

### ***Testing & Contact Tracing***

89. Testing, which fell under the remit of the Department of Health and Social Care ('DHSC') with advice given by the CMO and CSA, was discussed from the outset of the pandemic response, including in the first COBR meetings. My recollection is that testing always formed part of the overall strategy but became more prominent when asymptomatic

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<sup>46</sup> [MG2/48 - INQ000199177] – Minutes of CDL call with the First Ministers of the devolved administrations, 5 August 2020.

<sup>47</sup> [MG2/49 - INQ000236912] – EOTHO was announced on 8 July 2020.

transmission became evident and UKG moved towards adopting a strategy of suppression. There was a general consensus that it was important to align testing strategy with each of the DAs (both in terms of testing criteria and analysis)<sup>48</sup>.

90. The UKG's testing programme remained within the remit of DHSC and Public Health England ('PHE'). It initially fell within the Health MIG chaired by Matt Hancock. After the move to the Covid-S / Covid-O structure, it came onto the agenda of Covid-O with input from the Covid-19 Taskforce and the JBC. Additionally, it remained an item regularly discussed at the Prime Minister's meetings.
91. On 20 March 2020 I attended a 9.15 meeting<sup>49</sup> with the Prime Minister and others at which the Health Secretary outlined his plans for ramping up testing. It was made clear that testing was something to be incorporated into the 'battleplan' that was, at that time, being drafted and with which I was involved. That battleplan was ultimately approved and published around 25 March 2020<sup>50</sup> and had a specific section on testing. It was very clear, from very early on, that testing was a significant part of the UKG's pandemic response.
92. Testing capacity increased through the spring and summer of 2020, and by the end of October 2020 the UK had reached a capacity of 500,000 tests per day. It was initially intended that testing would be focused on NHS workers, hospitalised patients and care workers<sup>51</sup> with a move to broader community population testing as capacity ramped up into the summer and autumn with an ultimate goal being mass testing capability which did not require laboratory verification of the result. The battleplan was shared with the DAs and their Health Departments.
93. DHSC took the lead on testing capacity procurement across the UK – including sourcing the tests themselves and establishing laboratory testing facilities – in the initial stages. This included establishing a test processing laboratory in Glasgow through which it was intended that all Scotland-based PCR tests would be processed unless demand exceeded capacity.
94. The UKG launched its 'Test & Trace' programme in March 2020 and I believe that Scotland launched their scheme, known as 'Test & Protect', around the same time. Both

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<sup>48</sup> [MG2/37 - INQ000217031] – Email from Michael Gove to Mark Sedwill on 2 April 2020.

<sup>49</sup> [MG2/50 - INQ000056265] – Minutes of Covid-S meeting held on 20 March 2020.

<sup>50</sup> [MG2/51 - INQ000056110] – Paper presented at the Covid-S meeting held on 22 March 2020.

<sup>51</sup> [MG2/52 - INQ000083704] – Minutes of Health MIG of [9] April 2020 at which I was present.

schemes were run by the respective Departments for Health for the UK and Scottish Governments and operated so as to achieve the same aim: to identify those who may have been in close contact with the virus and to ensure that those individuals self-isolated in accordance with applicable legislation and guidance<sup>52</sup>.

95. Testing and contact tracing remained an active agenda item throughout the pandemic, including at meetings attended by the DAs. This included factoring testing capacity and requirements into future pandemic planning. For example, at the 12 October 2020 summit with the DAs, testing needs for the forthcoming winter were discussed. Baroness Dido Harding (head of NHS Test & Trace) was present at this summit. She outlined to the DAs current testing capacity in England and potential further areas of collaboration with the DAs that could procure increased testing coverage in their territories<sup>53</sup>.
96. The 'Moonshot' programme of mass testing procurement was an important objective for the UKG from the middle of March 2020 as was identified in the initial battleplan. Pilot schemes for mass testing began in England in Autumn 2020 and I recall that Scottish officials were seconded to work on this programme. An update was given to the DAs regarding Moonshot at a meeting on 11 November 2020<sup>54</sup>. At that meeting I invited officials from PHE to provide updates on lateral flow tests and the recent trial which had taken place in Liverpool, and this update was well received by the DAs.
97. The Inquiry has asked me for my observations on public comments made on 14 September 2020 by the First Minister of Scotland about testing backlogs and related discussions. Her comments referred to the delays in communicating PCR test results by the laboratories. I recall that the First Ministers of Scotland and Wales wrote to Matt Hancock regarding this issue and I believe he provided a written response. On 19 September 2020 I held a meeting with the DAs<sup>55</sup> at which this issue was also discussed. I explained that a backlog had occurred and that it was being worked through as fast as possible and attempts were being made to increase capacity through other laboratories. The backlog was not unique to tests in the DAs – it was also affecting turnaround times in England. I understand that the backlog reduced significantly over the following few

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<sup>52</sup> [MG2/53 - INQ000339561] – HMIG Update on TTCE dated 26 May 2020 confirming that testing remained aligned across all four nations (page 9).

<sup>53</sup> [MG2/12 - INQ000199190] – Minutes of Summit with DAs on 12 October 2020.

<sup>54</sup> [MG2/54 - INQ000198981] – Minutes of meeting, 11 November 2020.

<sup>55</sup> [MG2/55 - INQ000199182] – Ministerial Brief for meeting on 19 September 2020.

days and that by the end of October 2020 testing capacity had doubled from where it was in the middle of September 2020.

98. I understand that test and trace data was shared via the established daily dashboard which became operational in March 2020, and that information was also shared between health departments and the CMOs and through the JBC. By Autumn 2020 I had requested that the JBC devise a UK-wide dashboard of data for my meetings with the DAs. I was made aware that there had been initial challenges in doing this since the JBC had not received all requisite data from the DAs to make it effective. I raised this at a meeting with DAs on 19 September 2020 with a view to ensuring that that UK-wide dashboard became available in time for the 12 October 2020 winter summit. I believe this objective was achieved.

#### ***Care homes and the clinically extremely vulnerable***

99. The adult social care sector and care for the clinically extremely vulnerable are both devolved matters which, in England, are the responsibility of DHSC (in coordination with DLUHC). Measures in relation to screening in Scotland were therefore for the Scottish Government. Coordination as between the UKG and DAs in relation to these matters was generally for the respective health departments and medical and scientific officers.
100. So far as my own involvement is concerned, care homes came onto the Covid-O agenda on one occasion on 12 June 2020<sup>56</sup>.
101. As explained below, I also had some involvement in relation to the spring 2020 PPE shortage, which particularly affected adult social care settings.

#### ***PPE***

102. PPE was always recognised as a crucial part of protecting the NHS and its workforce, a key goal of the UK Government's pandemic response throughout, and later on became a wider part of the Government's strategy as face coverings were made compulsory.
103. During the spring 2020 PPE shortage, substantial efforts were made to improve supply chain resilience and to source additional supply of PPE by NHS England and the DHSC.

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<sup>56</sup> [MG2/56 - INQ000088789] – Minutes of COVID-O held on 12 June 2020.

104. The Prime Minister chaired a Cabinet meeting on 31 March 2020 at which the issue of PPE supply in care settings was discussed<sup>57</sup>.
105. On 2 April 2020 I attended a HMIG at which PPE was discussed<sup>58</sup>. It was acknowledged in that meeting that PPE was a UK-wide issue, and that there was a legitimate concern that NHS England's buying power could 'crowd out' the DAs in their efforts to procure PPE. It was therefore decided that NHS England should take the lead on PPE procurement and distribution across the UK. The DAs were subsequently included in the military planning concerned with ensuring PPE demand was met across the UK.
106. PPE was on the Heath MIG agenda on 9 April 2020 (though it had been discussed at other HMIG meetings prior to this). I attended this meeting together with DA representatives. In that meeting it was noted that by that stage PPE procurement had moved to a UK-wide level through effective liaison with DA counterparts with procurement being led by the DHSC<sup>59</sup>. Part of that process was streamlined by having a single point of ordering for PPE which could be accessed by any local authority within the UK, with each territory having bespoke distribution networks for PPE once it arrived.
107. On 17 April 2020 Lord Deighton was appointed by Matt Hancock to lead the UK-wide resourcing of PPE for health and social care settings. DA representatives were in contact with Lord Deighton's team from the time of his appointment. His role was to establish and ensure resilient supply chains for PPE across the UK. This remained part of the UKG's strategy throughout the pandemic and was included in the initial battleplan of 10 May 2020. This was a successful programme which ultimately benefited all parts of the UK.
108. As we moved into the summer of 2020 supply chain resilience for PPE had significantly improved and there appeared to be sufficient supply to meet demand across the UK.

### ***Face Coverings***

109. Initially there was some divergence between the UK and Scottish Governments regarding face coverings.

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<sup>57</sup> [MG2/57 - INQ000088891] – Minute of Cabinet meeting held on 31 March 2020.

<sup>58</sup> [MG2/58 - INQ000083701] – Minute of HMIG meeting held on 2 April 2020.

<sup>59</sup> [MG2/52 - INQ000083704] – Minutes of HMIG meeting held on 9 April 2020.



110. The Scottish Government recommended the use of face coverings in public places from 28 April 2020 and it subsequently became compulsory from 22 June 2020 in certain places and then compulsory in all shops from 10 July 2020.
111. In the UK, the issue of face coverings had been discussed relatively early on in the pandemic and the DHSC commissioned scientific advice on that issue. My recollection is that the advice was that there was no scientific evidence supporting their use. The issue was not a straightforward one. There were questions about whether it reduced transmission at all, and if so, in what sort of environment, and as to the necessary standard of mask. There was also a question mark over how such face masks could be procured and the extent to which this may compromise the supply of face masks for frontline health and social care workers. All of this had to be weighed in the balance before making any positive recommendations. The UKG did not, in general, discourage anyone from wearing a face covering if they wished.
112. As time went by, and the country went into lockdown, there was so little public mixing that the issue of face coverings did not come up. The debate surrounding them then re-surfaced once lockdown restrictions began to be eased from 1 June 2020 onwards and it was clear that, in particular, there was going to be an increased use of public transport and a corresponding increase in risk of transmission from that.
113. On 2 June 2020 I attended a Cabinet Meeting at which face coverings were discussed. At that meeting, the CSA informed us that the latest scientific advice was that face coverings (even non-clinical face coverings) could be effective in reducing transmission in confined or poorly ventilated spaces. It was decided that face masks would become mandatory in England on public transport<sup>60</sup>, largely due to the impracticalities of imposing the 2-metre rule on public transport.
114. As we continued to open up parts of the country into the summer of 2020, there was widespread public messaging on their use in indoor environments. Principally, this all stemmed from the change in scientific advice.
115. I do not recall ever discussing coordination in relation to face coverings with the Scottish Government or other DAs in the meetings that I chaired. As this was a public health issue, I would anticipate any discussions to have been between health departments and

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<sup>60</sup> [MG2/59 - INQ000088938] – Minutes of Cabinet meeting held on 2 June 2020.

medical and scientific officers. I would have expected the Scottish Government to have had access to the same advice that Cabinet did on 2 June 2020.

116. I do not know why the Scottish Government decided to recommend the use of face coverings from 28 April 2020. The divergence was not in any event material – England remained in lockdown at the time – and I do not think it caused confusion or damaged public confidence.

### **Schools**

117. Schools were closed by the UKG and Scottish Government on 20 March 2020, shortly before the announcement on 23 March 2020 of the first national lockdown. There was some divergence in the timing of re-opening schools, essentially attributable to the different academic calendars. The UKG began a phased re-opening of schools in England from 1 June 2020, whereas in Scotland this did not occur until the start of the next academic year on 11 August 2020. I do not recall being involved in any discussions concerning coordination of the re-opening of schools. The issue of school re-openings was one which had been covered by both roadmaps produced by the two Governments and I do not believe there was any material difference between the two. Both Governments prioritised measures which allowed for the safe re-opening of schools as soon as possible.
118. Schools in England and Scotland were closed again on 4 January 2021, following the significant rise in cases which occurred over the Christmas 2020 and New Year 2021 period and the new variant which had been identified.
119. I do not believe that there was any aspect of confusion or impact on public confidence as a result of the approaches adopted by the two countries in respect of schools and school closures.

### **Vaccine Strategy**

120. The development and mass roll-out of a vaccine to the UK population was always regarded as a UK-wide programme and it was made clear throughout, including to the DAs, that the UKG would be procuring vaccines for all of the UK.

121. The Department for Business, Energy and Industrial Strategy (as it was (“BEIS”)) set up an internal vaccines taskforce in early April 2020 with Ministerial oversight from the Secretary of State for BEIS and the Secretary of State for Health and Social Care. In May 2020, Dame Kate Bingham was appointed to lead that taskforce. In Scotland, I recall that in or around June 2020 a similar taskforce called the Scottish Government Vaccines Division was established. I understand that these two taskforces worked in a coordinated manner and that both worked closely with the Joint Committee on Vaccination and Immunisation (‘JCVI’).
122. Funding for vaccine-related research, procurement and distribution came via HMT and so far as I am aware was not something to which the Scottish Government contributed. I understood that it had long been recognised that the UK’s bargaining power should be leveraged when procuring vaccines and, for good and obvious reasons, procurement of the Covid vaccines followed this model.
123. The vaccine rollout was on the agenda of meetings with the DAs on 13 January 2021 and 3 March 2021. At the meeting on 13 January 2021, I asked officials from DHSC, NHS England, and the vaccines taskforce in the Cabinet Office to be present to brief the First Ministers. At the meeting on 3 March 2021 I again ensured that NHS England and DHSC officials and Nadhim Zahawi (then Minister for Vaccine Deployment) were present to brief the First Ministers personally. I cannot recall ever being made aware of an issue regarding delivery or distribution of the vaccine in any of the DAs. I do recall the First Minister of Scotland stating in a meeting chaired by me that she had no concerns regarding distribution of the vaccine<sup>61</sup>.
124. I believe that alongside the dialogue I had with First Ministers there continued to be healthy dialogue between CMOs and the vaccine taskforces within each government, and that public health messaging regarding the vaccines was consistent across the UK. In addition, parallel communication campaigns were run by the respective Governments that complimented each other, to try and maximise take-up of the vaccine. In England, we adopted the ‘Every vaccine gives us hope’ campaign, and in Scotland they adopted the ‘Roll your sleeves up’ campaign. Both appeared to me to be effective and take-up rates were generally very good across the UK.

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<sup>61</sup> [MG2/60 - INQ000199072] – Minutes of meeting with DAs on 17 March 2021.

## **PART E: BORDERS AND TRAVEL**

### ***Internal UK Borders***

125. I have been invited to comment on whether closure of the 'internal border' between Scotland and England was something I ever considered feasible, or whether it was ever discussed or considered by either Government during the pandemic. Speaking for myself, I considered then and consider now that complete closure of an internal border would have been unworkable and unmanageable. Every day significant supply chains (including food and medical supply chains) depended on an open internal border. This was also true for the internal border between England and Wales. It would have been deeply damaging to rupture those supply chains. Likewise, the Armed Forces remained deployed throughout the UK, and these were mobilised at various stages across the UK throughout the pandemic in order to assist with the UK's response. All of that depended on the internal borders remaining open.
126. To the best of my knowledge and recollection, complete closure of the internal borders was never raised or realistically contemplated by either the UKG or the DAs with the exception perhaps of Northern Ireland which obviously has different geographical considerations. Certainly, in respect of Scotland I cannot recall there ever being any proposition or argument raised for a complete closure of the internal border with England. I have reviewed the minutes of the various meetings that I chaired, and the issue does not appear to have been raised or discussed and I do not believe that such a discussion ever arose in any other meetings I attended. Of course, cross-border traffic was at a massively reduced level in any event.

### ***International Borders***

127. International border policy is reserved to the UKG and falls within the Home Secretary's portfolio. Despite this, the DAs (including the Scottish Government) were not excluded from the decision-making process.
128. I cannot recall the Scottish Government advocating for full closure of international borders in the early stages of the pandemic. SAGE's advice, presented to COBR and shared with the DAs, was that closing the international border would have a negligible impact. As a participant in COBR, they could have voiced any disquiet about this advice and HMG's decision flowing from it.

129. In May 2020 a package of biosecurity measures based on SAGE advice was recommended by the Cabinet Office<sup>62</sup>. This was presented ahead of a COBR meeting on 10 May 2020 at which all DAs were present. Further considerations of border measures were allocated to the GPS MIG. The measures in question were adopted by all those at COBR, including the DAs, and I understand they took effect from 8 June 2020<sup>63</sup>.
130. From 6 July 2020<sup>64</sup>, the 'travel corridors' system was implemented, involving border measures corresponding to the risk assessed to be posed by arrivals on a country-by-country basis (based on JBC advice). This was discussed occasionally at Covid-Os. The system worked reasonably well and was adopted by the DAs consistently with some exceptions (for example, at one point Scotland decided to class arrivals from Spain and Serbia as higher risk than the UKG did).
131. In September 2020 there was a rise in domestic infections which caused concern. This caused there to be reconsideration of border measures and the matter came back on to the Covid-O agenda on 1 October 2020. The DAs were present either through their First Ministers or respective Health Department officials, as were officials from the JBC. The DAs agreed that a coordinated and consistent approach to travel corridors, and individual country status according to JBC recommendations, should be adopted<sup>65</sup>. This remained the position for the remainder of 2020.
132. In October 2020 a Global Travel Taskforce was established within the Department for Transport as part of the pandemic response. The composition of this taskforce included DA officials. The taskforce integrated with work by the DHSC, the JBC and the COVID-19 Taskforce in the Cabinet Office.
133. The UKG and the DAs were concerned about the risk of importing a new variant of the virus into the country. For example, a variant of concern was identified to be present in South Africa in December 2020 and, as a consequence, the UKG and the DAs imposed a UK-wide travel ban on all arrivals from South Africa from 24 December 2020.

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<sup>62</sup> [MG2/61 - INQ000083782] – Paper entitled 'Approach to Social Distancing Measures' presented at a meeting of the COBR held on 10 May 2020.

<sup>63</sup> [MG2/62 - INQ000237367] - The Health Protection (Coronavirus, International Travel) (England) Regs 2020. Corresponding Wales/Scotland/NI regs also come into force 8 June 2020.

<sup>64</sup> [MG2/63 - INQ000339574] – <https://questions-statements.parliament.uk/written-statements/detail/2020-07-06/HCWS338>.

<sup>65</sup> [MG2/64 - INQ000090184] – Minutes of COVID-O held on 1 October 2020.

134. On 15 January 2021 I attended a Covid-O meeting specifically on international travel which was chaired by the Prime Minister<sup>66</sup>. The DAs were not invited to this meeting. Prior to the meeting the Covid-19 Taskforce had circulated a report considering the current international travel measures and whether more needed to be done<sup>67</sup>. To combat the continued risk from new variants, and being mindful of the significant rise in cases already in the UK at this time, the UKG proposed additional measures:
- a. A pre-departure negative test rule for each arrival into the UK irrespective of their country of departure and its risk status.
  - b. Maintenance of current quarantine and identification arrival measures which were already in place but extending them to apply to all arrivals, irrespective of their departure point.
  - c. A potential future policy that travel corridors were to be suspended altogether from 18 January 2021 to at least 15 February 2021 and their re-introduction to be subject to review.
  - d. A limited number of exemptions would be allowed and subject to strict criteria.
135. Following this meeting, I chaired a meeting with the DAs (at which Simon Ridley (then head of the Covid-19 Taskforce in the Cabinet Office) and Grant Shapps (then Secretary of State for Transport) were also present). I passed on the views of the earlier Covid-O meeting<sup>68</sup> and I urged the DAs to adopt similar measures (insofar as these engaged devolved matters) so as to maximise the effectiveness of the response across the UK. It was agreed by all DAs that they would adopt and endorse the policy.
136. On 26 January 2021 I attended a further Covid-O on international travel which was again chaired by the Prime Minister. The purpose was to consider more stringent international travel measures to ensure that the risk of new variants entering the UK was minimised. The DAs were again not invited to this meeting. It was decided that: (i) there should also be a complete ban on outward UK travel; (ii) that the exemption list for arriving travellers should be tightened and controlled by me; and (iii) that there should be further isolation

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<sup>66</sup> [MG2/65 - INQ000091666] – Minutes of Covid-O held on 15 January 2021.

<sup>67</sup> [MG2/66 - INQ000091660] – Covid-19 Taskforce report on international travel, 15 January 2021.

<sup>68</sup> [MG2/67 - INQ000199024] – Minutes of meeting with DAs on 15 January 2021.

and quarantine requirements for any legitimate arrivals to the UK<sup>69</sup>. Again, following this meeting I updated the DAs, who were in agreement with the decision<sup>70</sup>.

137. I accept that these later two meetings were occasions where a decision had already been made by the time the DAs meeting occurred and that they were therefore not involved in that decision-making process. In hindsight, that could have been handled differently and I accept that this is a point on which to reflect, although on both occasions the decisions were endorsed by the DAs.
138. On 17 March 2021 I again chaired a meeting with the DAs where international travel was discussed. I invited a Director from the Covid-19 Taskforce to brief the DAs. At this point the arrangements from the end of January 2021 remained in place and it was anticipated that they would continue until at least 18 May 2021. I recall that concerns had been raised by the Welsh and Northern Ireland DAs in respect of information-sharing from Ireland and the risk of arrivals via Ireland to Northern Ireland, and then into mainland UK, without them having undergone the arrivals procedures as a result of the Common Travel Area ('CTA'). I had been in contact with the Irish Minister for Foreign Affairs regarding this issue. Alongside this, work by the JBC was underway to establish a more effective red list of countries from which there was a variant of concern with a view of using this as a measure through which international travel could be reopened. As is noted in the minutes, the First Minister of Scotland stated that she did not have faith in this system<sup>71</sup>.
139. On 28 April 2021 I again convened a meeting with the DAs and discussed international travel. At this time, the UKG was considering a change in policy focus from the risks posed by countries to risks posed by individuals. I had recently discussed with the Israeli Government their approach, and in particular their innovation of individual certification for travellers. I discussed this approach with the DAs at this meeting, together with a proposed Red, Amber, Green ('RAG'), travel list system to reflect risk countries<sup>72</sup>. All present at the meeting remained cautious about the risk of opening up international travel and agreed that further work was required. The policy proposal was then further

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<sup>69</sup> [MG2/68 - INQ000091682] – Minutes of COVID-O meeting held on 26 January 2021.

<sup>70</sup> [MG2/69 - INQ000199042] – Communique following minutes of meeting with DAs on 27 January 2021.

<sup>71</sup> [MG2/60 - INQ000199072] – Minutes of meeting with DAs held on 17 March 2021.

<sup>72</sup> [MG2/70 - INQ000199099] – Minutes of meeting with DAs held on 28 April 2021.

talked through at a further meeting with the DAs the following week<sup>73</sup> and ahead of the UK Government review, which was due to be published on 10 May 2021.

140. A crucial meeting with the DAs occurred on 12 May 2021. This followed a lot of dialogue between officials surrounding certification status for individuals and how this could be rolled out UK-wide to enable a UK-wide policy for resuming international travel. A firmer RAG formula to allow for allocation of countries based on risk status was also worked upon by the JBC in the interim. I invited officials from the Covid-19 Taskforce to this meeting as well as officials from NHSX who would 'lead' on the technology underpinning certification. It was agreed that international travel could resume with vaccine passports and certification being a key feature and their continuing to be PCR testing for arrivals from the countries even if they were on the green list. Control of the RAG list remained with the JBC though any DA reserved the power to add or disagree with the JBC's coding of a country if they deemed it appropriate.
141. International travel resumed under this policy on 17 May 2021 across the UK. As time went by, despite some other variants causing some issues (notably the Delta variant from India) with regards to the RAG rating of certain countries, the policy worked well across the UK and continued to allow for international travel. International travel restrictions only really eased from this point with fully vaccinated arrivals from the EU and US being exempted from quarantine requirements from mid-July 2021 irrespective of their countries RAG assessment. The green list of countries also continued to expand as vaccine rollout across the globe occurred. This trend continued into the Autumn of 2021 and this was, by and large, taken in lockstep with the DAs.
142. The arrival of the Omicron variant towards the end of November 2021 and throughout December 2021 created new problems. I chaired a COBR meeting on 15 November 2021, which the DAs all attended. It was agreed at the meeting that an increase in measures to combat the variant was required and this would be the subject of further work<sup>74</sup>. Ultimately this was scaled up in the international travel context to require quarantine and negative PCR tests for arrivals from 27 November 2021, and I believe this was adopted across the UK. Restrictions came to be eased steadily in January and February 2021, again on a UK-wide basis, until around 14 March 2022 when it was

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<sup>73</sup> [MG2/71 - INQ000199104] – Minutes of meeting with DAs held on 5 May 2021.

<sup>74</sup> [MG2/72 - INQ000083855] – Minutes of COBR meeting held on 15 November 2021.



announced that all international travel restrictions would end for all UK arrivals from 18 March 2022.

143. I am asked to provide my thoughts on the Scottish Government's approach to travel and border responses to the pandemic over the relevant period and whether that approach remained consistent with the UKG's approach. In my view, the DAs and the UKG were all cautious and apprehensive about international travel throughout the relevant period. The UKG was best placed to identify and evaluate the measures which could be adopted to ease this international re-opening and the Scottish Government, like the other DAs, duly considered the proposals put forward. Having evaluated those proposals, and properly assessed the concerns on either side of the arguments, they endorsed them and we maintained a joined-up approach to border measures as a consequence. In the early months of the pandemic, all DAs were in agreement to act in accordance with the scientific advice that closing borders would have no material, or negligible, effect. As time went by different considerations affected international travel policy at different times and complex judgement calls had to be made. I felt at the time, and still feel looking back now, that we met those challenges with effective communication and dialogue, which led to effective coordination of policy at every juncture. This was a repeating theme throughout the relevant period, and it goes to the credit of those involved that we were able to achieve what we did in respect of international and internal travel.

#### **PART D: LOCKDOWNS, RELAXATION OF LOCKDOWNS AND CORONAVIRUS LEGISLATION AND REGULATION**

144. For much of the detail in this section I am dependent on emails and documents that have been identified by the lawyers assisting me with this statement. Given the way Ministerial offices are run, most correspondence went through my Private Office mailbox rather than to me directly. A huge number of emails were (and are) sent to my Private Office mailbox every day, covering an enormous range of policy issues. I did not have access to the Private Office mailbox and so was reliant on my staff identifying which documents I needed to read, what they could update me on orally, and of what I did not need to be aware. This has been the approach I have taken in all my ministerial roles and I believe is the approach of most other ministers.

### **1<sup>st</sup> National Lockdown**

145. In my Module 2 statement I have outlined the evolution of my knowledge of the virus and my response to it, up until the time of the first national lockdown being announced by the UK Government on 23 March 2020 – see paragraphs 22 to 46 of that statement in particular. In that section I refer to a vast number of meetings which took place at UKG level and UK-wide level at which the DAs were present as participants.
146. In the initial period up to the first national lockdown, though the issue of public health was a devolved matter, the position of all the DAs was largely to follow the lead of the UKG. This was for a combination of reasons. Firstly, this was an unknown phenomenon which was emerging and therefore it made sense initially for the UK Government to lead on it. Secondly, the UKG had direct access to SAGE and the advice that it generated was obviously of vital importance in assisting our understanding of the virus and predicting its impact on the UK. Thirdly, given that the impact of the virus was likely to be UK-wide, it was acknowledged that there may have to be use of UK-wide legislation to combat it. Fourthly, it was generally appreciated that given the circumstances and the scale of the challenge presented, a cross-UK approach was likely to be best, at least initially.
147. In the initial stages, the Scottish Government sent their Health Secretary to COBR – presumably because at that time, the DHSC was leading the response on the UK Government's behalf. Matters, however, turned a corner as we approached the middle of March 2020. By this time the First Ministers of the DAs were all attending COBR with it now having been appreciated that a cross-government response was required. Information sharing, communication and coordination between the UKG and Scottish Government took place at this time through the COBR and MIG meetings (and materials provided for those meetings), together with other informal forms of dialogue. At the point that it was decided that a lockdown was necessary, in reality the data spoke for itself and it was plain that we had few options available. As I recall no one dissented from the view that we needed to lockdown – either from the Scottish Government or elsewhere<sup>75</sup>. It was agreed that the Prime Minister would provide a filmed address to the nation announcing the lockdown.

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<sup>75</sup> [MG2/73 - INQ000056213] – Minutes of COBR meeting held on 23 March 2020.

### ***Extension of lockdown and Roadmaps***

148. I have been referred to the Scottish Government's subsequent extensions of the first lockdown in April and May 2020 in particular. I am asked why the announcement by the First Minister on 16 April 2020 extending lockdown for the first time was expressed as being on a whole-UK basis, whereas subsequent extensions were not. I cannot speak for Nicola Sturgeon. At the time of the first extension, the DAs and the UKG were in agreement that lockdown needed to continue<sup>76</sup>. However, as explained above health was a devolved issue and it was some divergence was to be expected: the situations faced in each territory inevitably changed at different speeds and in different directions, and the DAs made their own decisions as to the continuing need for lockdowns in their territories. These reviews were matters which were discussed in my meetings with the DAs throughout this period.

### ***Relaxing restrictions***

149. I have explained the various meetings which took place and how information was shared and discussed with the DAs. I have also expressed the view that, in general, there was a relatively good coordination of the timings of relaxations, though inevitably there was also some divergence.
150. Each Government published its own roadmap out of lockdown. That was done on an individual basis to reflect the devolution settlements, and also to reflect the fact that different considerations bore upon the various administrations in different ways and at different times. For these reasons it would not have been feasible to have drafted a UK-wide roadmap, and it would inevitably have been impossible to implement simultaneously in each nation. The respective roadmaps and the position of each nation in respect of them (by which I refer to the applicable phase they were each in at a given time), was information which was regularly shared and reviewed. From the meetings which I held, it was clear that all four Governments knew where each other stood.
151. Although the approach of each of the four administrations to easing restrictions was broadly similar and the objectives broadly consistent, there were differences as to when measures were eased or introduced, and the public messaging involved. I refer the Inquiry to a table prepared on 22 July 2020 which shows the UK-wide position on key

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<sup>76</sup> [MG2/74 - INQ000083830] – Minutes of COBR meeting held on 9 April 2020.

social distancing measures which provides a helpful summary of how and when each administration was dealing with the key measures<sup>77</sup>.

### ***Variants and Responses to variants***

152. I have been referred to a number of policy decisions made by the Scottish Government in response to variants of the virus and as part of their overall pandemic response. These occurred at various points in time. I am asked what communication there was in relation to these policies and the extent to which differences emerged. I have discussed these issues elsewhere in this statement and in my Module 2 statement.
153. In general terms, there was a good level of understanding about the situation each territory faced at any given time. The available data, and the ways in which information was shared, improved as time progressed through the summer of 2020. Regular meetings were established with the DAs from September 2020 onwards, and each DA had the benefit of the same scientific advice seen by the UK Government. The UK Government did not seek to impose measures on the DAs and respected their right to make decisions in accordance with devolved powers.
154. In respect of the detection of new variants, this was something which was principally done through NERVTAG, and they would communicate knowledge of variants to each of the administrations' respective Departments of Health. This usually led to meetings on the variants between the four CMOs and CSAs. Following this, and once respective Governments were brought up to speed, the variant in question would then normally be added as a topic of discussion at the next meeting which I had with the DAs.

### ***Coronavirus legislation and guidance***

155. The Coronavirus Act 2020 received Royal Assent on 25 March 2020, having been fast-tracked through Parliament in four sitting days. It contained emergency powers to enable public bodies to respond to the pandemic. The bill itself was managed by DHSC who ensured that the Legislative Consent Motion process was utilised for the devolved elements of the bill, with expedited timelines in cooperation with the DAs for a smooth

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<sup>77</sup> [MG2/75 - INQ000199170] - Annex to briefing for CDL for meeting with DAs on 24 July 2020.

passing of the Act through the House. This Act provided further powers to the Scottish Government to make 'lockdown' regulations in response to the pandemic.

156. I was not involved in the process of formulating the Coronavirus Bill 2020 or subsequent regulations, and I am therefore unable to confirm the extent to which that involved Scotland (or any other DA).
157. The 2020 Act was designed to ensure that there was some legislative flexibility for each DA to respond to the pandemic as they considered appropriate. This allowed for a coordinated approach whilst at the same time recognising that there may be justifiable scope for divergence.

## **PART E: REFLECTIONS, KEY CHALLENGES AND LESSONS LEARNED**

### ***Acknowledging divergence***

158. There were, as the minutes and public record reflect, occasions when the UK Government and the Devolved Administrations followed different courses. In the main, I do not consider that this was borne out of any fundamental disagreement about the major steps to be taken. They, in part, reflect differences in infection rate and different considerations including for example the capacity of the NHS in each of the four nations or school term dates. It was therefore reasonable for the different Governments to take decisions, within their competence under the devolution settlement, that they considered necessary to respond to the situation in their respective territories. It was for this reason that the Coronavirus Act 2020 provided for legislative flexibility for each DA to utilise as they each required, as I have explained above.
159. Thus, when the Welsh Government assessed a circuit breaker was necessary in Wales a week earlier than the UK Government came to that conclusion for England, the UK Government did not disagree with the Welsh Government's decision or seek to encourage a different course. On some issues there were different considerations born of different structures that existed for devolved areas (for example Higher Education). And in some cases, different measures would no doubt simply reflect the fact that plans were being worked through by different people who formed different judgements about how to deal with a common issue, and a lack of time or indeed structures to agree a perfectly coordinated response. The discussions about the joint public statement in the

call minutes are a good illustration of some of the challenges we faced in trying to deliver consistent messaging, but also of the efforts made by all to find a measure of consensus.

160. I recall that on some issues we felt greater alignment could be achieved and looked to agree that where possible. I have cited examples of this in my statement (and in my previous statements to the Inquiry), particularly in the context of public health communications and messaging campaigns, and international travel policy. I think it is fair to say that, as the rhythm of engagement between the UK Government and the devolved administrations settled, there was an improvement in the communication by the UK Government to the devolved administrations. In the transition between stages of the response there were certainly occasions where insufficient notice was given to the devolved administrations of decisions that were likely to be taken. Over time we got better at anticipating what decisions would need to be considered, and what issues warranted careful consideration with the DAs before decisions were finalised or announced.

***Improving the system for the next pandemic***

161. As I have said in my Module 1 statement, I do not think there is a perfect system for cross-UK decision making in an emergency situation or crisis of this scale, and I believe countries even with federal governments experienced similar difficulties. During the pandemic I liaised with my counterpart in the German Government, Helge Braun who was Head of Chancery. Germany is a federal system (unlike the UK) and I wanted to understand the structures it had put in place to bring the Länder into the federal Government's discussions and decision-making considerations. Germany sought a cooperative and coordinated approach across its sixteen constituent states following initial discussions at Federal State level, but with ultimate legislative competence retained by each Land. I also read media reports, however, of different states adopting different approaches to social distancing at some points of the pandemic, and of very long meetings between the Federal Government and states trying to reach agreement. As can be seen, the UKG and the DAs adopted something of a hybrid solution to reflect the devolution settlements. There are faults with any system, but the UK approach must be one which reflects and respects the devolution settlements as they currently exist, and this does limit options.

162. My fundamental reflection is that the UK Government – through its responsibility to all of its citizens across the UK – must have the ability to act UK-wide in all policy areas and so the backstop powers of the UK Government should be strengthened. That is not to denigrate the importance of consultation, which must be built in, but encourages greater streamlining of decisions and measures that would have improved the UK-wide response to the pandemic. This is true also for local Government including Mayors within England, who are becoming increasingly significant figures. Although they do not have equivalent powers to the DAs, the mayors of London, Greater Manchester and the West Midlands (for example) can legitimately claim to represent very large populations and to command important levers of the state.
163. In her statement to Module 2, the former First Minister said that *“in my experience, no structure will be effective unless it is underpinned by parity of esteem and mutual respect between the 4 nations – it is this which is too often lacking in the UK government’s interactions with the devolved governments.”* The First Minister goes on to advocate for COBR being the principal forum to meet a future pandemic and advocates for the DAs to be *“full participants and decision-making partners.”* The First Minister’s point is made from a particular political standpoint. My own experience was that all governments treated each other with respect throughout the pandemic. There are, however, difficulties in her proposal for parity in any decision-making structure with UKG:
- a. Firstly, parity can only be achieved so far as the devolution settlement allows and, plainly, parity on reserved matters is incompatible with the settlements as they stand and, as I believe, they should stay.
  - b. Secondly, parity would have to cut both ways – in that regard in as much as the DAs are given parity within UKG decision-making forums, that should be reciprocated by the DAs giving the UKG presence and participation at their decision-making forums. In my experience this almost never happened.
164. Since the pandemic began there has been Lord Dunlop’s review of Union Capability, which was published in March 2021. I have spoken publicly about that review and have endorsed the recommendations set out. Implementation in respect of these has begun and I am of the view that, once completed, these reforms will better enable a coordinated UKG and DA response to any future pandemic.

165. Whatever the direction to be taken as to DA involvement, it would be beneficial if a Memorandum of Understanding or protocol could be devised and written (preferably in an agreed form between UKG and each DA) to establish:

- a. The way in which DA involvement in decision-making processes should be undertaken as part of a pandemic response taking account of existing structures established through the Intergovernmental Relations review.
- b. Agreement on the data and intelligence streams which would be required in a pandemic response at a UK, national and subnational level and how this would be collected and shared with UKG and DAs.
- c. The bodies of scientific advice required to meet any pandemic and a means of access for each DA to that advice directly – both in respect of how it is shared and how that advice can be procured to begin with.
- d. Agreement on the basis of cross-UK procurement to avoid intra-UK competition for example PPE.
- e. The crucial cross-UK infrastructure which will be required; especially in respect of supply chains, testing, vaccination rollout.
- f. Financial clarity for each DA.
- g. Guiding requirement principles of public health communications within each territory so as to minimise confusion and ensure effective clarity in the dissemination of public health guidance.

166. Of course, that list is not necessarily exhaustive, but I feel it encapsulates the key challenges that we faced during the pandemic which arose then for the first time, but which need not be repeated in any subsequent pandemic if we take proper stock of what we have learned this time round. If that can be achieved, with an overall shared objective of genuine coordination and cooperation across all four nations, I believe we can be better in our response to a future pandemic.



**Statement of Truth**

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

**Personal Data**

Signed: \_\_\_\_\_

Dated: 14/12/2023