

Witness Name: Nicola Sturgeon

Statement No.: 5

Exhibits: NS5

Dated: 16 November 2023

## UK COVID-19 INQUIRY

---

### WITNESS STATEMENT OF NICOLA STURGEON

---

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

**A: Government issued and personal devices**

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

**Between January 2020 and April 2022, I used a personal iPad and a personal mobile phone. The number of my mobile phone was: I&S I upgraded my mobile phone around December 2020, but the number remained the same, and is the number I still use now.**

2. We note from a summary table produced to the Inquiry by the Scottish Government dated 24 October 2023 that you did not have a Government issued mobile telephone. Is that correct? Why was that so?

**I have never opted to use a Government issued mobile telephone (except for temporary periods when overseas in countries where use of devices operated at home was advised against/prohibited). It was my personal preference not to operate multiple devices which would have been necessary had I used a Government issued phone, as I could not have made party/constituency related**

**calls on it. It was never suggested to me at any time that not having a Government issued phone was inappropriate.**

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

**I used both my personal iPad and mobile phone. Texting and WhatsApp messages would have been via mobile phone. My iPad had an app installed on it by the Scottish Government through which I accessed my Scottish Government email. I have asked the Scottish Government to confirm when this app was installed and have been advised that it was in October 2019. However, I continued to operate mainly through a paper ministerial box until April 2020, when I started to use the app on my iPad more regularly to receive papers electronically.**

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

**I still have in my possession the iPad, though it is no longer in use – from November 2022 (this date has been provided to me by the Scottish Government) I used a Scottish Government issued laptop for government business. Around the same time, I transferred to a MacBook for personal/party matters. I also still have in my possession – and still use as my only mobile phone – the iPhone that I upgraded to around December 2020.**

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

**The mobile phone I used prior to upgrading around December 2020 is not in my possession. Having transferred to my new phone, I later gave the old handset to a family member whose own phone had broken.**

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

**This question has been answered above.**

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

**No.**

8. If you lost any Government issued or personal devices between January 2020 and April 2022, did you report the loss? If so, to whom and when?

**Not applicable given my answer to question 7 is No.**

**B: Backing up data**

9. We note from your previous witness statement that you are unable to retrieve any of your messages because of phone changes as your messages were not backed up. Did you back up the data on any of your Government issued and/or personal devices? If so, how did you back up such data?

**The back up arrangements during this period would have depended on my phone settings. This is not something I specifically checked.**

10. If so, can data (such as your messages) from any of your Government issued and/or personal devices from January 2020 to April 2022 still be accessed via the back up system? If not, why not?

**Based on the advice I have been given – detailed below – my understanding is that messages from the period in question that are no longer on my device cannot be accessed from any back up. However, I would again stress that I did not use informal messaging for matters of substance and anything of significance that had been contained in messages will have been communicated through the formal Scottish Government system – by which I mean entered into the Scottish Government corporate record through the eRDM system - and/or reflected in public statements.**

11. If you did not back up your data on your devices (such as the phones referred to in your previous witness statement), why not?

**See answer to question 9.**

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

**I am not aware of receiving any such advice, and do not believe I did so.**

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

**Not applicable given response to question 12.**

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

**My answers to questions 14 to 20 in relation to the individuals I had one to one informal communications with is set out at the end of this section. This is in addition to routine communications with my Private Office to ask for, for example, meetings/calls to be arranged or briefing to be provided. My Private Office would action/record such communication through the formal system. I am also submitting with this statement copies of messages between me and (a) Liz Lloyd (former Chief of Staff) [NS5/01 – INQ000335126] and (b) Humza Yousaf MSP [NS5/02 – INQ000334923]. Although these messages no longer exist in original form on my device, and it may be that the Inquiry has them from other sources, given that I do hold them I am submitting copies with this Statement. I am also submitting a text message exchange with the former dFM of Northern Ireland [NS5/03 – INQ000335470] that is still on my phone, and a number of private social media messages that I retain.**

14. We note from your previous witness statement that you communicated using informal methods (such as WhatsApp and text messaging) with John Swinney, Humza Yousaf, Jeane Freeman and Liz Lloyd. Are there any other Cabinet Secretaries, Ministers, senior civil servants, Special Advisers, other advisers and/or counterparts in the UK Government or the other devolved administrations with whom you had one-to-one informal communications relating to the management of the pandemic in Scotland? If so, please identify them.

**As noted above and in more detail at question 20 below I also had occasional informal exchanges with Dr Catherine Calderwood, Dr Gregor Smith, Professor Jason Leitch, Ken Thomson, Leslie Evans, Professor Devi Sridhar, the First Minister of Wales and the former dFM of Northern Ireland.**

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

**Please see question 20 below.**

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

**Please see question 20 below.**

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

**Please see question 20 below.**

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

**I did not make decisions in relation to pandemic management through informal**

**messaging so do not believe anything would fall into category (iv). While my communications with the others listed below might technically be described as falling, variously, into categories (i), (ii), (iii) and (v) this does not mean that comment was detailed or substantive. The messages between me and (a) Liz Lloyd [NS5/01 – INQ000335126] and (b) Humza Yousaf [NS5/02 – INQ000334923] illustrate this point.**

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

**No.**

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

**John Swinney MSP, former Deputy First Minister**

**The method of any informal messaging between me and Mr Swinney was text messaging. We don't, even now, use WhatsApp to communicate with each other. Although Mr Swinney and I communicated for the entirety of the pandemic, the use of text messaging between us was very occasional – certainly not daily and probably not even weekly. Not just in relation to the pandemic but more generally, we preferred to communicate face to face (including Zoom/team meetings) and by telephone. We would not have substantive discussions via text messages – instead text messages would be used to, for example, initiate calls, ask each other if we had seen certain submissions, the latest statistics etc. Discussions of any substance would have been face to face or by telephone, with one of us then passing any matters that required to be recorded or actioned to our private offices. The vast majority of our communications during the pandemic would, however, have been formal with officials and/or special advisers present. I do not hold messages with John Swinney - anything in them that required to be recorded or actioned was passed into the corporate record via our Private Offices**

and the messages were handled in line with Scottish Government policy.

Liz Lloyd, former Chief of Staff

The method of informal messaging between me and Liz Lloyd was WhatsApp. My communications with her in relation to pandemic management spanned the period from January 2020 until she left government in March 2021. Although she returned to government later in 2021, this was in a different capacity that did not engage her in pandemic management in any significant way.

Ms Lloyd and I communicated by WhatsApp regularly – at times while she was Chief of Staff this would be on a near daily basis. Indeed, there is no-one within the Scottish Government that I would have communicated with through informal messaging more frequently or more freely than I did with her. Notwithstanding that, it is the case that most of our communication was face to face or on the telephone. During the early stage of the pandemic in particular, she was one of a small number of people working for long hours alongside me in St Andrew's House each day – there was less need for WhatsApp or text messaging during this period as we were physically in the same building for large periods of each day.

I will not describe the nature of my WhatsApp messages with Ms Lloyd here as I am submitting with this statement copies of messages that will illustrate this [NS5/01 –

INQ000335126]

Jeane Freeman, former Health Secretary

Any informal communication between me and Ms Freeman was by text message. We did not communicate in relation to pandemic management via WhatsApp. Our communication in relation to Scottish Government pandemic management ceased when she demitted office after the 2021 Scottish Parliament election. Although text messages were exchanged between us these were not frequent nor did they entail substantive discussion. For context, Ms Freeman and I were both based in St Andrew's House from early March 2020 and worked under the same roof almost every day for most of the period in question (until her departure from government). When we needed to speak, we did so face to face, usually in my office or in the SGORR room. We spoke face to face several times a day and participated together in large numbers of formal meetings. She also regularly joined me for the daily media briefings and participated in

the meetings around that. We also spoke when necessary by phone. Any text messages would have tended to be logistical in nature – e.g. one of us flagging an issue that we needed to speak about face to face or by phone, or her giving me a heads up on something that was about to come to me formally from her office.

I do not hold messages with Jeane Freeman in relation to the Scottish Government's Covid management – if anything required to be recorded or actioned, this was passed into the corporate record via our Private Offices and messages were handled in line with Scottish Government policy.

Humza Yousaf MSP, former Justice Secretary, former Health Secretary and current FM

The method of informal messaging between me and Mr Yousaf was WhatsApp. However, most of our communication would be face to face in formal meetings or by phone. The frequency of our messages would vary. I will not describe the nature of the communication here as I am submitting copies of the messages which will illustrate this [NS5/02 – INQ000334923]. In terms of my Ministers, Mr Yousaf is the only one I used WhatsApp communication with to any extent – this was partly down to his preferred method of communication. For example, no-one else used WhatsApp voice notes with me.

Dr Catherine Calderwood, former CMO for Scotland

I did not hold a mobile phone number for Dr Calderwood until early March 2020. After that, any informal messaging with Dr Calderwood was through text messages, although these would be occasional. My communication with her in relation to Scottish Government pandemic handling obviously ceased when she left office in early April 2020. As with Ms Freeman, Dr Calderwood was working alongside me in St Andrew's House. We saw each other face to face several times a day and would have telephone calls when necessary in addition to that. There was no need for text messages for anything beyond the most basic information. I do not hold messages with Dr Calderwood in relation to the Scottish Government's Covid management – if there was anything that required to be recorded or actioned, this was passed into the corporate record via Private Offices and messages were handled in line with Scottish Government policy.

Dr Gregor Smith, former Deputy CMO and current CMO



I did not hold a mobile phone number for Dr Smith until after he became acting CMO so would not have had any informal message communication with him as DCMO. Any communication with him in that period would have been organised through my private office. After that, any informal message communication would be via WhatsApp, but it was only occasional. These messages would be to provide early notice of information that would then come to me formally e.g. the CMOs changing the alert level (or not), early read outs from 4 nations, JCVI or NIMT meetings (that would then be communicated to me formally). There are some references in the messages between me and Liz Lloyd, and me and Humza Yousaf to messages from him. Any substantive discussions we had were in formal face to face meetings/calls, or in sessions ahead of the daily media briefings at which he was the participating clinician. I do not hold messages with Dr Smith in relation to the Scottish Government's Covid management – if there was anything that required to be recorded or actioned, this was passed into the corporate record via Private Offices and messages would have been handled by me in line with Scottish Government policy. However, I understand that Dr Smith may have had the disappearing message setting activated on his WhatsApp, so it is possible that messages were deleted in that way.

Professor Jason Leitch, National Clinical Director

I did not hold a mobile phone number for Professor Leitch during the initial months of the period in question. My contact with him would have been arranged through my office, with the exception of some private social media (twitter) messages between 13 March and 24 June 2020 that I have found on my phone and am submitting with this statement [NS5/04 – INQ000335471]. Indeed, I think it can be seen from these messages that my preference was to discuss issues of substance face to face. During the rest of the period in question, I would have had occasional text message exchanges with him. We did not use WhatsApp. As he was the Scottish Government's key clinical communicator, these would mainly be about public messaging. Most of my communication with Professor Leitch, however, was in formal meetings and calls, and in the context of preparation for the daily media briefings that he regularly participated in.

Ken Thomson, Scottish Government Director General

Ken Thomson was the most senior Scottish Government official involved in our

strategic management of the pandemic. He was centrally involved in the preparation of Cabinet papers – of which dozens were considered over the course of the pandemic as the basis of our decisions – and would also regularly write formal notes intended to shape and structure our discussions and deliberations. He would occasionally send me a short message via WhatsApp advising me of the scope of papers/notes he was working on. There was nothing in these messages that would not then be included in fuller form in the formal papers and notes, so there was no need to retain the messages.

Leslie Evans, former SG Permanent Secretary

I would have had occasional text message exchanges with Ms Evans (we did not use WhatsApp) but most of our contact was face to face (or on Zoom/Teams) at Cabinet, SGORR, COBR and some other key meetings, and by telephone. I had relatively little engagement with her outside these formal settings in relation to the day to day the management of the pandemic. Anything in the limited text messages that required to be recorded or actioned was passed into the corporate record and the messages handled in line with Scottish Government policy.

Professor Devi Sridhar, Member of SG Covid Advisory Group

I am attaching with this Statement some private social media (twitter) exchanges with Professor Sridhar which I have located on my phone, spanning the period 16 May to 17 December 2020 [NS5/05 – INQ000335472]. She also sent me papers on a few occasions by email. On each occasion I forwarded these to my private office – accordingly, they will be available to the Inquiry from the Scottish Government record. However, I can make the emails to me from Professor Sridhar and from me to my Private Office available to the Inquiry should it wish me to. Professor Sridhar and I discussed these papers and related issues by phone on a number of occasions. I often referenced discussions with Professor Sridhar during my daily media briefings – indeed I was often asked about her views – and so my contact with her and her influence on my thinking was well known.

I also had very sporadic text exchanges with the FM of Wales and the former dFM of Northern Ireland. I am attaching to this statement an exchange with the latter that I have located on my phone [NS5/03 – INQ000335470]

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

**pandemic**

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

**I recorded information in line with established practice and Scottish Government policy. It is important to stress that I did not use informal communications as a decision-making tool in government – either to make decisions or to have extensive discussions to inform decisions and did not do so in relation to pandemic management. My practice, based on Scottish Government policy was as follows:**

- **To ensure that any significant points from messages (which would include anything that required action, decision or recording for any other reason) already had been or were then communicated into the corporate record via my Private Office, or by any minister/official/special adviser I was communicating with.**
- **Having done so, in the interests of security and data protection, avoid information relating to government business being retained on my phone.**

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

**As above, either I would communicate any relevant information into the system or satisfy myself that this had already been done or would be done by the minister/official/special adviser I was communicating with.**

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

**As set out above, all relevant points arising from messages would be communicated into the system and form part of the Scottish Government record. It is also possible that those within the Scottish Government I was communicating with have retained the information.**

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

**As set out above.**

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

**Yes, my practice was informed by Scottish Government policy.**

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

**Scottish Government policy is currently encapsulated in the Records Management Policy (February 2021) [NS5/06 - INQ000249247] and the Mobile Messaging App policy (initial version Nov 2021 [NS5/07 - INQ000309544]; current version June 2022 [NS5/08 - INQ000131069]). However, these documents are an encapsulation of pre-existing policy in place since before the pandemic.**

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

**I would draw attention in particular to the Policy Principles section of the Records Management Policy and section 4 of the Mobile Messaging App policy.**

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

**No, I am not aware of receiving any such communication during this period.**

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

**Not applicable given answer to question 28.**

30. Have you ever sought advice, guidance or instruction on whether informal communications (including on both Government issued and personal devices of any

kind whatsoever) between you and Cabinet Secretaries, Ministers, senior civil servants, Special Advisers, other advisers and/or counterparts in the UK Government or the other devolved administrations relating to government business ought to be recorded and/or retained? If so, when and from whom? What advice, guidance or instruction did you seek and why?

**No.**

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

**I do not recall receiving any such advice, guidance or instruction – and, for the avoidance of doubt, do not believe that I did so.**

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

**Not applicable given answer to question 31.**

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

**Not applicable given answer to question 31.**

34. We note from your previous witness statement that you have manually deleted your messages from your phone(s) relating to the pandemic. We also note from your previous witness statement that you did not have the auto-delete function activated on your devices. Please confirm the Government issued or personal device(s) from which you have deleted your communications relating to the management of the pandemic in Scotland.

**To be clear, I do not believe I deleted anything that would give the Inquiry insight into my management of the pandemic that it doesn't have from the Scottish**

**Government record and/or my public statements. For the reasons set out above, I did not retain messages on my phone once any relevant points had been actioned/recorded through the system.**

35. Have you ever instructed someone else to delete your communications relating to the pandemic in Scotland from any of your Government issued or personal devices? If so, whom did you instruct and when?

**No, I have not.**

36. Why did you manually delete communications relating to the management of the pandemic in Scotland from any Government issued or personal devices?

**As set out above.**

37. When did you manually delete such communications? Please provide specific or estimated date ranges where possible.

**I managed messages in the way set out above throughout the period in question.**

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

**I would do so periodically – the precise frequency would vary. As I set out in Module 2A statement, it is also possible that messages were lost when I upgraded my phone, although I cannot be sure about this.**

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

**Other than for the purpose of responding to this Inquiry, no I have not. For the avoidance of doubt, I have not deleted any messages for the purpose of preventing them being available to the Inquiry (or the Scottish Inquiry).**

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

**Not applicable given answer to question 39.**

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

**Not applicable given answer to question 39.**

42. On 27 May 2020, in response to a question about whether you would order a public inquiry into the Covid-19 outbreak in care homes, your response in the Scottish Parliament was as follows: *"Of course there will be a public inquiry into this whole crisis and every aspect of this crisis, and that will undoubtedly include what happened in care homes"*. What actions did you take to retain your informal communications relating to the management of the pandemic from your devices after this date on which you recognised the likelihood of a public inquiry into the Scottish Government's response to the pandemic? In particular, did you stop manually deleting informal communications relating to the management of the pandemic from your devices after this date? Please explain the course(s) of action you took or did not take in this regard.

**For the reasons set out above – principally that I did not make significant use of informal messaging and did not use it as a decision-making tool – I do not believe I have deleted anything that would give the Inquiry an insight into my management of the pandemic that it doesn't otherwise have access to from the official record or public statements. I managed messages in a way consistent with government policy.**

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

*"...it is a matter of judgement about what material will be relevant to the work of any inquiry. If in doubt, you should assume that material may be relevant and ensure that it is retained and is accessible in eRDM. This includes ensuring that no material of potential relevance to either inquiry is destroyed. You should also obtain similar assurances from any relevant arm's length bodies. We know that well-established records*

*management processes are in place across the Scottish Government and that all of you are aware of the need to keep a full and clear record of our part in responding to Covid-19 and our other work in eRDM. This includes the decisions we take, the process by which those decisions were reached, the reasons for those decisions and the evidence and data used to support them, and applies whatever the format in which that information is held and on whatever device or system. Please do continue to follow these important processes both with COVID-19 information and with all other Scottish Government information."*

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

**No, I did not receive these emails. It is my understanding – having checked with the Scottish Government in the course of preparing this statement – that they were not issued to, or drawn to the attention of, Ministers.**

44. If you did not receive either or both of these emails, did anyone within the Scottish Government bring the contents of these emails or the instruction to your attention? If so, who brought this to your attention and when?

**Not applicable given my answer to question 43 is no.**

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

**Not applicable given my answer to question 43.**

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

**Not applicable given my answer to question 43.**

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



**Not applicable given my answer to question 43.**

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

**Throughout the pandemic, I sought to be open, transparent and accountable in respect of all decisions being taken. While acknowledging some of the issues presented by the sheer pace and magnitude of what we were facing in early 2020, I set out in my Module 2A statement the high degree of formality around Scottish Government decision making – decisions were informed, shaped and taken mainly through ‘deep dive’ sessions, ‘Gold’ discussions and Cabinet meetings. I feel that the nature of the communication that has emerged from the UK government has created an impression that we were all communicating in such a way. That was not the case – certainly not as far as communications I was party to are concerned. The culture within the Scottish Government during the period in question was serious, formal, purposeful and collegiate.**

**During the pandemic, I did not make extensive use of informal messaging and certainly did not use it to reach decisions. I was not part of any WhatsApp groups (or groups on other messaging platforms). As I have set out, the number of people I used informal messaging to communicate with bilaterally was relatively small and in many of these cases such communication was infrequent. To illustrate the nature of such communication, it would include, for example - being given a ‘heads up’ on daily statistics/submissions/read-outs from meetings/views of other Ministers that were about to come to me formally; in turn, me giving a brief heads up of what I had/would feed in formally in response; asking questions or requesting information that would then be answered/provided formally through the system; sharing publicly available articles, comments, social media posts etc. There is also likely to have been exchanges about welfare – others asking how I was, me asking how they were – which reflected the pressure we were working under.**

**In terms of retention of information, I operated in accordance with Scottish Government policy. I do not believe that there was anything in my informal communications about my views, thinking or decision making in relation to the**

**pandemic that is not clear from the formal Scottish Government record and from my public statements; nor was there anything that was at odds with what is reflected in the formal record or public statements. In particular, there was nothing that I was communicating informally that I would have had any motivation to conceal, or that would give the Inquiry insight into my management of the pandemic that it does not have access to through the formal record or public statements. I believe this is borne out by the copies of messages from the relevant period between me and (a) Liz Lloyd (my former Chief of Staff) and (b) Humza Yousaf MSP.**

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

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

**I have checked my phone thoroughly – in the process of doing so, I have located the social media messages and the text message exchange that I am submitting with this statement. I have also obtained copies of messages that I exchanged with Liz Lloyd and Humza Yousaf and am submitting these (albeit I appreciate that the Inquiry may have them from other sources). I have also taken advice on whether any messages not retained on my phone can now be retrieved.**

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

**When I received this Rule 9 request, I sought technical advice from Scottish government IT services. I received this advice from the Deputy Chief Technical Architect, Head of Mobile Services and Head of Unified Communications, all officials within the Scottish Government on 2 November 2023.**

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

**The advice received was that messages – text or WhatsApp – removed from a device can only be retrieved for a period of 30 days. After that they cannot be retrieved even if data has been backed up.**

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

52. We note from your previous witness statement that you do not have notebooks or diaries relating to the pandemic. Did you ever keep any contemporaneous diaries, notebooks or notes (whether in hard copy or electronic format) relating to the management of the pandemic in Scotland between January 2020 and April 2022?

**It has never been my practice to keep contemporaneous diaries, notebooks or notes, and I did not do so in relation to the management of the pandemic. Any handwritten notes or comments I made in the margins of submissions and briefing papers would be transcribed by my Private Office and entered into the system. If I wanted to retain any information from meetings – in addition to the large volume of data, information, and analysis that came to me every day in formal submissions and briefings – I would ask for a briefing note to be prepared.**

**However, a comprehensive, day by day distillation and record of my thinking and the Scottish Government's decision-making over the course of the pandemic – how the pandemic developed, the issues we were grappling with, the balances we were seeking to strike and the factors we were considering in doing so, as well as a frank ongoing assessment of the challenges and uncertainties we were facing, and the basis of the decisions arrived at – is available in the written statements delivered at the c.250 media briefings I undertook and in the question and answer sessions that followed.**

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

**Not that I am aware of – and certainly not at my request. My Private Office/officials would obviously – where appropriate – take notes of meetings and calls which would be added to the corporate record as appropriate.**

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

**Not applicable given answers to questions 52 and 53.**

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

**Not applicable given answers to questions 52 and 53.**

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

**Not applicable given answers to questions 52 and 53.**

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

**Not applicable given answers to questions 52 and 53.**

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

**Not applicable given answers to questions 52 and 53.**

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

**I do not recall receiving such advice and do not believe that I did receive any.**

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

**No – and as set out earlier, I did not keep such diaries, notebooks or notes.**

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

**No – but I did not keep any.**

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

**Not applicable, given earlier answers.**

#### **Statement of truth**

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

**Signed:**

**Personal Data**

**Dated:** 16 November 2023