Wednesday, 31 January 2024

2 (9.59 am)

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3 LADY HALLETT: Mr Dawson.

4 MR DAWSON: Good morning, my Lady. Today's witness is the

Right Honourable Nicola Sturgeon MSP.

MS NICOLA STURGEON (affirmed)

Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2A

8 MR DAWSON: You are Nicola Sturgeon?

- 9 A. I am.
- 10 Q. You very helpfully provided two statements to this
- 11 module of the Inquiry as well as a number of other prior
- 12 statements. The statements you provided to this module
- 13 are under reference INQ000339033. This is a statement
- 14 dated 6 November 2023. Is that your statement?
- 15 A. It is.
- 16 Q. Have you signed the statement?
- 17 A. I have.
- Q. Do the contents of the statement remain true and 18
- 19 accurate as at today's date?
- 20 A.
- 21 Q. You also provided a further statement to us under
- 22 reference INQ000273980. This was a further statement
- 23 dated 16 November 2023. Is that your further statement?
- 24 Α. Yes.

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25 Q. Have you signed that?

informal methods of communication in order to discuss matters connected to the pandemic.

In your statement dated 16 November, that's INQ000273980, at paragraph 48, you say:

"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."

Is it still your position today that you and the Scottish Government were open, transparent and 3

A. Yes. 1

2 Q. Do the contents of that statement remain true and

3 accurate as at today's date?

4 A. Yes, I provided some further information to the Inquiry

5 last week which would usefully be read alongside that

6 statement, but yes.

Q. Thank you. Some additional documentation rather than 7

8 changing the text of the statement, I think?

- 9 A. Indeed.
- 10 Q. Thank you.

11 You were the First Minister of Scotland between

20 November 2014 and 28 March 2023? 12

13 A. I was.

14 Q. You held office as First Minister throughout the period

15 from January 2020 to April 2022?

16 A. I did.

17 Q. That is of course the period of time with which this

18 module is primarily concerned. As First Minister during

19 that period, you were head of the Scottish Government

20 and so had overall responsibility for Scotland's

21 pandemic response, and for engagement with the

22 UK Government and other devolved administrations?

23 A. I did.

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24 Q. Could I ask you some questions, please, about the way in

25 which you and others within the Scottish Government used

1 accountable in your actions, not just in your words, at

all times throughout the pandemic response in Scotland?

3 Yes, that is still my position. Openness and

4 transparency with the Scottish public was very important

5 to me from the outset of the pandemic. I communicated

6 to the public on a daily basis for a lengthy period of

7 time. We will not have got every decision right, and we

8 will have made misjudgments and there will be,

9 undoubtedly, instances put to me today where, on

10 reflection, I will think that we could have been more

11 transparent than we were, but given the nature of the

12 emergency that we were confronted with, building

13 a relationship of trust with the public was important,

14 and in my view then and in my view now that had to be

15 built on a spirit of openness.

16 Q. Openness and transparency are fundamental concepts in

17 the way in which the Scottish Government seeks to

18 represent the people of Scotland; isn't that right?

19 A. Absolutely.

20 Q. One can see, as we've seen it in a number of documents

21 relate -- more general documents but also ones

22 specifically related to the pandemic response,

23 for example the National Performance Framework, one sees

24 those concepts repeated, I think, in that document. Is

25 that correct?

- A. That is correct.
- 2 Q. And indeed in documents which we have looked at which
- 3 set out the approach which the Scottish Government
- 4 wished to take to the way in which it was dealing with
- 5 the challenges of the pandemic, again one sees the
- 6 concepts of openness, transparency, accountability at
- 7 the very core. Is that correct?
- 8 A. Yes.

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- 9 Q. And as far as a role, a very important role that you
- 10 played was concerned, the public communications
- strategy, again these concepts were very much the 11
- 12 bedrock, I think, of the way in which you tried to
- 13 communicate messages, information, decisions to the
- 14 public in Scotland?
- 15 A. That is what I sought to do.
- 16 Q. You say in the passage we've looked at that you did not
- 17 use informal communications to reach decisions. What
- 18 did you mean by that?
- 19 A. Informal communications were not in any sense
- 20 an extensive or a meaningful part of how I conducted
- 21 government business in any way, but certainly not to
- 22 reach decisions, and I would say that in relation not 23 just to Covid but to government generally.
 - The number of individuals with whom I would have any
 - informal communication, through, I'm talking here about
- 1 recorded on the Scottish Government system, if there was 2 anything of that nature.
- 3 Q. We've heard others refer to recording salient
 - information on the corporate record. Is that what
- 5 you're talking about?
- 6 A. Yes, so if there were -- and this would be rare in my
- 7 case because of what I've said, I did not do government
- 8 business through informal messaging, in relation to
- 9 Covid or any other matter. But if there were salient
- 10 points of substance, I would ask myself: is that
- 11 reflected, recorded in the Scottish Government's record?
- 12 Either because I had put it in or it was referring to
- 13 something that was already on the record, if somebody
- 14 was -- as I used as an illustration a moment ago --
- 15 flagging up something that was coming to me through the
- 16 system. You know, another example, in my exchanges with
- 17 Humza Yousaf, he would, for a period when vaccination 18
- was such a focus of all of our efforts, he would send me 19
- on a daily basis the vaccination uptake figures, which 20 would, within a very short space of time, come to me
- 21 formally and be published.
- 22
- So I would check whether there was anything that 23 required to be recorded on the Scottish Government
- 24 system, and I am absolutely firmly of the view that
- 25 there is nothing, and the Inquiry has seen some of these 7

- text messages or WhatsApp --
- 2 Q. Yes.

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- 3 A. -- would be very limited. In the case of WhatsApp, 4 probably no more than a handful of people. I was never
- 5 a member of any WhatsApp groups. And I think the two
- 6 people that I would have had the most extensive
- 7 communication with would have been my former chief of
- 8 staff, Liz Lloyd, and Humza Yousaf. I believe the
- 9 Inquiry has some messages between me and those
- 10 individuals, which I hadn't retained but they had. And
- 11 I think they will give a sense of the nature of that
- 12 communication.
 - The communication of that nature was not used by me for anything other than routine exchanges, logistics, passing on information. The exchanges with the individuals I've referred to will be littered with things like, you know, "There's a note coming to you through the system, I'm giving you a heads-up about
 - I understand the Inquiry may want to explore some elements of that, and I will of course answer questions about specifics, but that is the overall nature of that communication, extremely limited. And I operated on the basis that I would ensure that anything in communications of that description were otherwise

that": that's the -- the nature of the communication.

- 1 messages, in any informal messaging that I would have 2 been party to that could not have been seen and
- 3 understood through the formal systems, and indeed
- 4 through the public communications that I was engaging in
- 5 on a daily basis, where I went through in great
- 6 detail -- some people perhaps thought too much detail
- 7 sometimes -- the issues that we were confronted with and
- 8 dealing with on a daily basis.
- 9 Q. Just to be clear, to reconcile two parts of your
- 10 evidence there, you said you didn't use these informal
- 11 messaging systems, but I think you suggested that there
- 12 would rarely be occasions when you would have to
- 13 transpose things onto the corporate record, which
- 14 suggests that you at least rarely used them.
- 15 Sorry, just to be very clear, I -- I have not said and 16 I'm not saying today that I never used informal means of
- 17 communication. What I am saying is that I did so very
- 18 rarely, and not -- even more rarely to discuss issues of 19 substance or anything that could be described as
- 20 decision-making.

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- I'm sure we'll come on to the formal ways in which the Scottish Government took decisions later on, but there was a high degree of formality around the decision-making of the Scottish Government.
- 25 Q. Thank you.

You mentioned a moment ago that there would be routine exchanges undertaken via these media. Do you accept, based on at least the communications we have seen, that you did undertake discussions around what decisions might be taken through these media?

There would be an element of reflecting on the decisions

A. There would be an element of reflecting on the decisions that we were having to make, but I was doing that openly in daily briefings with the public, so I would not be reflecting in any way where I was, I suppose, engaging in some secret course of discussion that I wouldn't be sharing openly during that. So yes, there would be -- and I think there have been some exchanges discussed at the Inquiry in previous evidence sessions where, you know, I am saying about a particular decision "I'm not sure in my own mind, you know, what the right way to go is", but that would be something that I was trying to formulate in my mind before a formal Cabinet discussion, where Cabinet would take the decision, and, you know, that is the extent of that.

Other exchanges would literally be, I think in the exchanges between myself and Humza Yousaf, things like Mr Yousaf saying to me "I've just taken part in a four nations call, the note of the read-out will be on its way to you, if you want me to give you a call to, you know, brief you on that before you get it, I'll do

may be that I'm shown some today where I do have to accept this, but that I would accept that the interested member of the Scottish public couldn't see the -- not just the decisions that were being arrived at in the Scottish Government but the reasoning and the evidence behind those decisions from the public record.

I -- as I've referenced already, and is well known, so I won't labour the point, almost every day during the pandemic I would openly share with the public the state of the pandemic, the difficult choices that was posing for the government, what we were considering in reaching these decisions, what it meant for what we were asking the public to do. So there was a very open form of communication, and I -- I'm not sure I have seen anything that I would say the Scottish public just wouldn't have had any idea that we were talking about that or considering that.

- 18 Q. It might be a matter for the Scottish public to judge --19 A. Of course.
- Q. -- based on all of the information that was relevant to
 these matters, whether they felt that they had seen all
 of the information that they needed to be able to draw
 conclusions about the appropriateness, timeliness of
 your decisions?
- 25 A. Of course. No, let me be absolutely clear, I accept

that". So that is the nature of the communication that
would routinely -- and I again would say it would be
limited -- that I would routinely have.

Q. Thank you.

then

We heard evidence, as you may be aware, from one of the directors-general within the civil service in Scotland, Ms Lesley Fraser. She was responsible for the compilation of a number of different Scottish Government policies around information and document retention, and she accepted in her evidence that the primary aim of those policies across Scottish Government was to try to make sure that a reasonable amount of information was retained in order to be able to give any interested Scottish citizen the material from which, amongst other things, they could deduce how decisions had been taken.

Do you accept that the messages that you -- that we have seen from others contain information that an interested Scottish citizen would like to see in order to understand how decisions were taken in the pandemic?

- A. I -- forgive me, Mr Dawson, if I perhaps haven't seen
 all of the exchanges.
- 23 Q. Of course.
- **A.** But I am not sure I have seen exchanges that have been discussed at the Inquiry where I would accept, and it

that, and of course it's for the Inquiry to judge whether that is the case. I'm simply sharing my views. But again, and I repeat this, because I do think it is significant and material, the means of communication, the method and the frequency of communication that the Scottish Government was engaging in meant that, on a daily basis, it was almost at an open conversation with the public, which we thought was important to encourage compliance with what the public were being asked to do. So, you know, these are public statements, and the question and answers after it would go through not just the decisions we'd arrived at but we would go through the considerations, the balances we were trying to strike, the -- you know, the pretty invidious nature of some of the choices that we were all being faced with

Q. You referred in the passage from your statement that we went to to the fact that it had emerged publicly through the procedures of this Inquiry that a lot of this informal communication had been done within the
 UK Government by WhatsApp in particular but by other means as well, and you suggested that you felt:

"... 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."

We have fortuitously, by way of example, seen very extensive exchanges between the now First Minister and Professor Leitch discussing their attitude to important moments within the pandemic, important decisions they needed to take, important advice they required, ultimately, to give to you in Cabinet and other fora.

It appears from that, and indeed the other messages which have now come to light, that informal messaging, in particular WhatsApp, was a frequent part of the way in which the Scottish Government conducted its business in Covid.

as First Minister during the course of the pandemic?
 A. The exchanges you refer to I would have had no knowledge of and had no sight of before seeing them in the course of this Inquiry.

Were you unaware of the fact that that was the case

If you're asking me, Mr Dawson, did I not know that anybody in the Scottish Government was using WhatsApp, of course that's not the case. WhatsApp had become, in my view, probably too common a means of communication, but I think the exchanges you're talking about would -- certainly from what I have seen, would not suggest that government decisions were being taken through WhatsApp. WhatsApp was a means of communication that people were using to exchange information on occasion, sometimes to

whether conducted through WhatsApp other otherwise? A. Of course that is the case, and in saying that I'm not trying to suggest that people were not thinking deeply. The form of -- and I think every human being probably can recognise what I'm saying -- the form of communication can influence the phraseology or the way in which things are worded, and informal communication I think lends itself to very short, sharp exchanges that would be very different if you were making a speech or

Can I say very clearly, when I was First Minister
I would not have expected any of my ministers or any of
my officials to have been conducting substantive
government discussions and certainly not taking
government decisions through WhatsApp or other informal
means of messaging.

putting something in a formal paper for decision-making.

Q. Thank you.

On 27 May of 2020, as we covered with Mr Swinney yesterday, in the Scottish Parliament, in response to a question about whether you would order a public inquiry into the Covid-19 outbreak in care homes in Scotland, you replied 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."

share views about things, and using language and -- or, rather, ways of describing things that perhaps wouldn't have been done in different forms of communication.

One of the reasons -- and if I thought this before

Covid and this Inquiry, I certainly think it even more strongly now -- one of the reasons why I don't believe that WhatsApp, for example, should be used for government communication and decision-making is that, you know, when I make a public statement, or when I made public statements as First Minister in this context, I would think very, very carefully about the words I used to try to minimise, as far as is ever possible, the scope for what I was saying to be misinterpreted. When people send messages on WhatsApp, they don't think -- including me, you don't think that deeply about how you're phrasing things, and therefore messages, when they are looked back at later on, can be open to different interpretations, because people haven't really thought about the words they're using or the phraseology that they're using. And I think that certainly would be true of some of the exchanges that the Inquiry has been looking at.

Q. Would you as First Minister not have thought it to be
 important that ministers and senior officials would
 think deeply about the conduct of government business,

So at that stage you knew that there would be a public inquiry in the future into the Scottish

Government's response to the pandemic generally?

A. I always assumed there would be a public inquiry.

Q. In fact, of course, as we know, you effectively had the

7 A. Indeed --

8 Q. -- and you did --

power to order --

9 A. -- and, as it turned out, in Scotland we have more than10 one Inquiry. So yes, I did.

11 Q. Yes.

On 3 August 2021, Lesley Fraser, who I mentioned a moment ago, and another civil servant whom you'll know, Mr Kenneth Thomson, sent a "Do not destroy" email to Scottish Government officials with the subject "Covid-19 independent inquiry record retention", explaining the importance of retaining relevant material to the work of the Inquiry.

Do you recall receiving that email?

- 20 A. I do not. As far as I am aware I did not receive that.
- **Q.** You recall, I would imagine, in a general sense that
- 22 such a notification was sent out?
- A. I would say this: that I don't think I would have
 required to see that to know that matters that were
 relevant to matters of substance, salient, relevant to

relevant to matters of substance, salient, relevant to

the Inquiry should be retained and that I had a duty, as all ministers and officials would have had a duty, to ensure that anything that they were exchanging in informal mentioning, if they were not retaining those messages in line with the policies that were in place, then there would be a clear record of anything on the Scottish Government systems.

Q. You said on 24 August 2021 at a Covid media briefing given by you that the Scottish Government had started the process of setting up the Scottish Covid Inquiry which we mentioned a moment ago. You stated:

"I believe that a full public inquiry has a very important role to play, both in scrutinising the decisions we took -- and indeed continue to take -- in the course of the pandemic, and also in identifying and learning lessons for the future."

Do you agree that in order to scrutinise decisions and learn lessons, a public inquiry would need to see not just the decisions themselves but the discussions that led to the decisions being made or not made, including discussion of information and advice?

A. Yes, I do agree with that, and what I would add to that -- and let me say this is obviously a matter for the Inquiry to judge -- in terms of any informal communications I had, which, as I have already said,

comprehensive summaries of the points made in the discussion around the Cabinet table.

Now, I -- obviously that is not all that the Inquiry has at its disposal, but if it was all that this Inquiry had, that would be a comprehensive and very detailed account of every decision that the Scottish Government took in the course of the pandemic.

- Q. As at May, at least, I think you've indicated already
 you were fully cognisant of the fact there would be
 a public inquiry; yes?
- **A.** Yes.

- **Q.** And in August 2021 you announced that there would be one?
- 14 A. Yes.
- Q. You knew at the time when you made the statement
 announcing the Scottish Covid Inquiry that material
 which you had used to exchange messages, informal
 communications, would assist in the very important aims
 of the Inquiry, scrutinising the decisions that you
 took?
- **A.** Yes.
- Q. And you knew at that point that those messages had beendestroyed?
- A. I had -- I knew, yes, that I had operated in line with
 a policy -- that I had operated in line with, and advice

were limited both in terms of the number of people and the extent of the communication, there would be nothing in those communications that was not available to either the Inquiry or the public through the record of the Scottish Government or, indeed, in the very detailed public statements that were being made every day.

I -- and I want to assure the Inquiry of that, that I take and took very seriously the duty that was on the shoulders of me as First Minister and of the Scottish Government collectively to make sure that this Inquiry and the corresponding Scottish Inquiry would have at its disposal all of the evidence and material that would allow it to assess the decisions and the underpinning reasoning and evidence for those decisions.

Over the course of the pandemic and -- forgive me if I'm getting ahead of your line of questioning. We will no doubt talk about Cabinet papers and minutes. Over the course of the pandemic, I think there would have been in the region of 100 Cabinet meetings. For each of those there would be detailed papers, detailed minutes, that would not just record the decisions that Cabinet reached but that would look at the different options we assessed and discussed that would narrate the evidence and the reasoning behind the decisions we arrived at, and in Cabinet minutes would also have lengthy and

 that I had had from the outset of my time as a minister -- to ensure that conversations with others in government, with any impact or relationship to government business, shouldn't be kept on a phone that could be lost or stolen, but properly recorded. And I was very cognisant of, and had been from the start of the pandemic, so not just at the points in time that you are referring to, from the start of the pandemic, of my duty to ensure that anything of salience, relevance, substance to the decision-making of the government would be properly recorded through the Scottish Government record.

13 Q. Thank you.

You were asked a question by a journalist from Channel 4, where he asked you at that very press conference in August 2021:

"Scottish Government has a patchy record of disclosing evidence when asked to do so. Can you guarantee to the bereaved families that you will disclose emails, WhatsApps, private emails if you've been using them. Whatever. That nothing will be off limits in this inquiry?"

You responded:

"I think if you understand statutory public inquiries you would know that even if I wasn't prepared 20

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to give that assurance, which for the avoidance of doubt I am, then I wouldn't have the ability."

He asked specific questions about informal means of

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communication, including WhatsApps, but you knew by that stage that your WhatsApps had been destroyed? Α. But I also knew that anything of any relevance or substance from any of that material would be properly recorded in the Scottish Government system, and indeed would have been communicated, in all likelihood by me,

The importance, in my view, is making sure that the Inquiry has at its disposal all of the evidence underpinning the decisions as well as the decisions we were arriving at. I operated, from, you know, 2007, based on advice, the policy that messages, business relating to government should not be kept on a phone that could be lost or stolen and insecure in that way, but properly recorded through the system.

through the daily media briefings that I gave.

I would want to again underline that in my case that communication was extremely limited, and I do not -you know, would not relate to matters of substantive government decision-making.

23 Q. But that wasn't the question you were asked. You were 24 asked the question as to whether you would disclose 25 "emails, WhatsApps, private emails if you've been using

> the benefit of the learning, the things that my government did right and the things that my government did not -- that were not right or, with hindsight, that

I cannot say strongly enough how important that is to me. These decisions were of a magnitude beyond what I had ever experienced, and that is true of decision-makers everywhere, and the impact of them I think about literally every day, and I want this Inquiry and the Scottish Inquiry to scrutinise those decisions so that we can learn and future governments can learn appropriate lessons from them.

Q. In case there's any doubt on the matter, Ms Sturgeon, when I delivered the opening statement in this module, we were keen to try to make it clear that our position with regard to those decisions was that they were extremely difficult decisions, and I think there can be no doubt about that.

As regards your production of documents, however, you did not produce to us any WhatsApp messages or any other informal communications with your first statement dated 6 November 2023, despite the request that you do

24 I, at the time, for the reasons I have set out, I did 25 not hold WhatsApp messages or text messages at that

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them. Whatever". He didn't ask you the question as to whether the material that was contained within the discussions exchanged by those media was recorded on the corporate record, he asked whether the emails, WhatsApps, private emails, whatever, would be disclosed, and you gave an assurance that they would be.

A. And I, you know, as will have been the case in many occasions over the course of not just the Covid pandemic but in my many years in politics answering questions, when you're answering questions you're trying to answer the substance of the question, and when you look back at the literal terms of the answer, it can be put to you in that way. So I accept that and I apologise if that answer was not as clear, but I also want to be very clear and give the Inquiry a personal assurance that I am certain that the Inquiry has at its disposal anything and everything germane to my decision-making during the process and the time period of the pandemic, and the factors underpinning those decisions. That has always been important to me, and it remains important to me.

But more importantly than that, it's essential to the scrutiny of the decisions that -- I will carry the impact of these decisions with me forever and I want to make sure that those who come after me in politics have

point. And I -- as I have said, because I had gone through a process of making sure anything of relevance, which would have been very, very limited, I could assure myself would be available through the public record and the Scottish Government record, when I was asked to double check, when the Inquiry sent another request for a statement, I discovered an isolated text message with one individual, the then Deputy First Minister of Northern Ireland, which I provided to the Inquiry.

And I also found -- and again I apologise to the Inquiry, because I hadn't at the time thought to look in this place, because it would not be a normal means of communication, but I, when I was racking my brains to see where I could find anything that might be relevant, I looked at the DM function of Twitter and found there some messages with Professor Devi Sridhar and also some very limited messages with Professor Jason Leitch, which I then provided to the Inquiry.

I also sought and was provided through the government with messages between me and Liz Lloyd and Humza Yousaf which I was aware the Inquiry would have from them, but nevertheless, because I then held them, passed them to the Inquiry.

There is one exchange in the Twitter DM messages

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we wish we had done differently.

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with Jason Leitch that I think gives an indication of my approach to informal messaging, where -- he is raising something with me, and I think it is the last message in this exchange -- I in terms say to him: if you want to talk about matters like this, come and see me properly, this is not the place to do it. And that was my attitude to that kind of messaging.

- attitude to that kind of messaging.
 Q. So should we take that to be an instruction to
 Professor Leitch that if he wanted to carry out such
 conversations where he was discussing important matters
 related to the pandemic with you, you wanted to be clear
 to him that that was a matter which was not appropriate
 for these media, it should be done more formally,
 in-person discussions was your practice?
- A. Absolutely, and that was -- I made it clear to him that
 that was my practice. I think the exchange was related
 to hospital capacity and ventilation facilities in
 hospitals, at an early, a relatively early stage of the
 pandemic.
- Q. Yes. Of course Professor Leitch, we know, conducted
 extensive discussions related to important decisions in
 the pandemic with others, including the current
 First Minister.
- 24 **A.** I -- as I know you will appreciate, I have only seen exchanges that have been explored at previous evidence

every day for an extended period of time, as were these other individuals.

- Q. I think Ms Freeman did say it was seven days a week you
 were --
- 5 A. For a period, seven days a week, yes.

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- Q. Yes. Were the salient points of those verbaldiscussions committed to the corporate record?
- 8 A. Yeah, so my private office were also -- or not my entire
 9 private office but key individuals in my private office,
 10 and they would have a rota, there would be somebody from
 11 my private office in the building with me, so salient
 12 points would be recorded, as appropriate, and fed
 13 through the system.

I think perhaps if I may, there's two further points to be made there. If I, as First Minister, am having a discussion with anybody that then requires action to be taken, if that's not inputted to the system, action won't be taken. That is how conversations turn into actions that are necessary.

The second point is just to reflect, particularly in the very early stages of the pandemic, and in the early stages of -- well, certainly through March and into April 2020, there was a frenetic pace of decision-making, and we were taking decisions at very short notice. We were -- the situation was changing

sessions, so I cannot talk in any way about the totality 1 2 of those messages. I have not seen, to the best of my 3 knowledge, anything that would suggest he was engaging 4 in decision-making. There are exchanges, conversational 5 exchanges. It's -- you know, many of these exchanges 6 that I have seen, and from other governments as well, 7 I think on WhatsApp, would be the kind of exchange that, 8 had people not been working remotely and been in the 9 same building, as I actually was, with key advisers 10 throughout the pandemic, these are the kind of 11 conversations that would have happened verbally, 12 face-to-face, and end up being translated to WhatsApp 13 because of the nature of people's working environments. Q. Given the fact that you were in St Andrew's House

Q. Given the fact that you were in St Andrew's House
I think quite a lot of the time, as we heard from
Ms Freeman, as she was, there were a large number of
those verbal conversations between you and others, like
Ms Freeman, who were based predominantly there during
the pandemic, isn't that right?

the pandemic, isn't that right?
A. Yes, I mean, the majority of the conversations that
I would be having with certainly Ms Freeman and the
Chief Medical Officer at the time and, you know, other
senior advisers would be face-to-face in
St Andrew's House. I was in St Andrew's House from very
early in the morning till very late at night almost

several times a day and we were all working at pace.
You know, I would have conversations in the morning that
by the afternoon the situation had changed and so the
nature of those conversations would be different. And
I think it's -- you know, three, four years on, it is
difficult sometimes to appreciate just how frenetic the
pace of activity was at that time.

8 Q. The fact that you were working at pace, though, doesn't
9 alter the obligation to make sure that salient points of
10 conversations and messaging are on the corporate record?
11 A. Oh, no, absolutely, but, for example, I remember on
12 March 2020, the day that we entered what became know

23 March 2020, the day that we entered what became known 13 as lockdown, having conversations -- because the advice 14 that was coming at that point was that we required very 15 strict measures to suppress the virus at that stage, the 16 measures that had been introduced previously weren't 17 bringing the R number down sufficiently -- I remember 18 having conversations with Ms Freeman, the Chief Medical 19 Officer at the time, we then of course went into COBR, 20 and those decisions were formalised through the COBR 21 meeting, and they'd be recorded that way.

So I suppose what I'm saying is the ways in which these conversations would become decisions and then be recorded was perhaps different in the environment we were in at that point than would be the case in normal 28

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- 1 times and normal government business.
- 2 Q. Whereas with these verbal conversations it won't be
- 3 possible for us to work out whether the salient points
- 4 of those had been transcribed to the corporate record,
- 5 because although we have the corporate record we don't
- 6 know what the conversations were, in contradistinction
- 7 we do now have some messages so we could compare the
- 8 corporate record to those messages and work out for
- 9 ourselves whether the salient points had been
- 10 transcribed.

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- A. Yeah, I'm absolutely sure that you would be able to take 11 12 messages and go to the corporate record, go to the
- 13 public statements that were made at the time and see all
- 14 of that reflected. It may not be the case that in every
- 15 instance you will see, you know, a conversation
- 16 between -- on this date and the reference on the
- 17 corporate record tying those up absolutely, but I am
- 18 absolutely certain that the salient points that we were
 - discussing then would be reflected on the corporate and
- 20 indeed on the public record.
- 21 These were -- by their very nature, these were
- 22 decisions that could not be kept secret, even if we had
- 23 wanted to, which we didn't, because these were
- 24 designations that were asking the public to do things 25
 - or, more regularly, not to do things that had to be

 - decisions. And that's what I sought to do, sometimes effectively, perhaps sometimes not so effectively, on a daily basis. So there was -- we were not having
 - discussions that weren't then being communicated to the
- 5 public openly.
 - In the nature of not just government but life
 - generally, you know, it is not possible to record -- and I'm not even sure it is desirable to good governance, if
- 9 I may say that -- to record every single word that is
- 10 uttered in a conversation in government. There needs to
- 11 be in government, and I think this is in the interests
- 12 of good governance, the ability for ministers with each
- 13 other or ministers with advisers to -- to have an open,
- 14 you know, thinking-out-loud discussion before getting to
- 15 the point of a proposal, let alone a decision.
 - But salient points about why we were taking decisions and what those decisions were, absolutely --
- 18 to go back to, I think, the question you initially put
- 19 to me, Mr Dawson -- absolutely I firmly am of the view
- 20 that they will all be discernible from the corporate
- 21 government record and indeed, over and above that, the
- 22 public record.
- 23 Q. We subsequently learned from your second statement that 24 you had used means of various informal means of
- 25 communication for some messaging with Mr Yousaf, 31

- communicated, they were also decisions that had,
- 2 you know, very significant impacts for the private
- 3 sector, for the public sector, for society as a whole,
- 4 they had to be recorded in a way that they could be
- 5 actioned and communicated clearly, quickly and
- 6 effectively.
- 7 Q. That may apply to the decisions themselves, that they
 - couldn't be kept secret because obviously ultimately the
- 9 public found out about them, the restrictions and
- 10 everything, however the discussions relating to the
- 11 decisions and how they had been reached could, it would
 - appear, be kept secret?
- 13 A. Well, again, I would like to give an assurance to
- 14 the Inquiry that, contrary to any -- to there being any
- 15 desire on the part of me or my government to keep things
- 16 secret, I would suggest that the opposite was the case
- 17 during the pandemic. We went to great lengths to
- 18 communicate not just the decisions -- I took a view very
- 19 early on in the pandemic, it's for others to judge
- 20 whether it was right or wrong, that if we were to
- 21 achieve a level of compliance with the restrictions that
- 22 we were placing the country under, then it was important
- 23 that the public didn't just know what we were asking
- 24 them to do but why we were asking they were to do it and
- 25 what the reasoning was that had taken us to those
- 1 Ms Lloyd, Mr Swinney, Ms Freeman, Dr Calderwood,
- 2 Dr Smith, Professor Leitch, Ken Thomson, Leslie Evans,
- 3 Professor Sridhar, the First Minister of Wales,
- 4 Mark Drakeford, and the former deputy First Minister of
- 5 Northern Ireland. Michelle O'Neill: is that correct?
- 6 A. Yes.

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7 Q. You produced no messages with any of these individuals 8

A. Yes. But as I also say in the statement, those messages

- with your first statement; is that correct?
- 10 would have been extremely limited. If I take
- 11 John Swinney, for example, it has never been our
- 12 practice, not just during the pandemic but generally, to
- 13 text -- I don't think I've ever WhatsApped John Swinney,
- 14 and certainly if I have it would be the exception,
- 15 absolutely the exception. But text messages would be
- 16 very occasional, and the nature of the text messages
- 17 that I would have with John Swinney would be "Are you
- 18 free to speak?" or "Can I pop in to see you?" It's just
- 19 never been in the nature of it.
- 21 one of those who was in St Andrew's House with me -- the 22 number of people in the Scottish Government, however

With some of the others, Catherine Calderwood was

- 23 many thousands of people that work in the Scottish
- 24 Government, that I hold a mobile phone number for, is
 - extremely limited. It was not my method of

communication. With Mark Drakeford and Michelle O'Neill, these are, you know, discussions with other government leaders that would have been recorded through the normal systems.

So I again want to be very clear that it was not my practice to not just not take decisions through informal messaging but have substantial or lengthy or detailed discussions about government decisions through these means. It's not my style, it's not my practice, it's never been my practice, not least because I don't think it is a good or effective or helpful way of reaching decisions -- not just taking decisions but it's not a helpful process in reaching decisions either.

- 14 Q. WhatsApp messages between yourself and Mr Yousaf and
 15 Ms Lloyd were produced by you with your second
 16 statement. Where did you get them?
- 17 A. They were provided to me through the Scottish18 Government.
- 19 Q. You obviously didn't have those on your own devices20 because you had deleted them, hadn't you?
- A. I didn't retain them, in line with the procedure I'vealready talked about.
- 23 Q. Are you creating a distinction between --
- 24 A. No -- no --

Q. You had deleted them, had you not?

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- 1 would be providing them to the Inquiry.
- Q. So there was contact between you and her related to themessages?
- 4 A. I -- simply as a courtesy, to let her know, yes.
- 5 Q. Could I have a look, please, at INQ000287766.

We're both being admonished, Ms Sturgeon, for speaking too quickly for the stenographer, so if we can both try to speak a little more slowly, that would be very much appreciated.

These are some extracts from messages between yourself and Ms Lloyd. I'm starting with the one on 27 October 2020, 7.10. So just reading through them, it says:

"I'm having a bit of a crisis [this is you speaking] of decision making in hospitality, not helped by fact I haven't slept. The public health argument says stick with 6pm/no alcohol for level 3. But I suspect industry will go mad -- and I worry we could derail debate (tho I suspect that won't happen -- and we could commit to listening and changing if we felt necessary)."

To which Ms Lloyd replies:

"My instinct is 6pm. That's the same as central belt now but some more places open. They have offered further mitigation -- so we work with them on delivering those extra mitigations and review at that point."

A. I think -- deletion, I think, forgive me, sounds as if it was a sort of, you know, not bothering to check whether any information was being retained. I was very thorough in -- not just in the pandemic but in all my work in government to ensure that things were appropriately recorded. But in line with the advice I'd always been given, since my first day in government probably, was not to retain conversations like that on a phone that could be lost or stolen and therefore not secure.

- 11 Q. But did you delete them?
- 12 A. Yes.
- 13 Q. And as far as the other messages are concerned that you
 14 couldn't produce yourself between you and all these
 15 others, you deleted all of those as well?
- 16 A. In the manner that I've -- and after the process that
 17 I have set out, yes.
- Q. You also produced some direct Twitter messages, that
 you've already mentioned, with Professor Leitch and
 Professor Sridhar. Professor Sridhar also produced
 those messages to us, although slightly later than you,
 at the beginning of December. Did you have any
- 23 discussions with her about the production of those 24 messages?
- **A.** I think I let her know that I had found messages and

She then follows up:

"The only alternative would be 8pm but no alcohol. Restaurants would not like you for that."

To which you say:

"It's the same as non central belt -- places can open but only for food/non alcohol. 8pm would be better I guess but not sure we can make much of a public health argument for 8pm/alcohol at level 2 and 8pm/no alcohol at 3??"

Ms Lloyd replies:

"That's why I would stick with 6pm. But if you want to compromise it would be about giving people regulated places to be in the winter, rather than unregulated homes -- but no alcohol because it changes behaviour. The difference from now would basically be it's colder and it's darker so people will less likely to be outside."

You say:

"Ok we should prob stick with 6 -- it's all so random. But I think we need to be prepared for a bit of a backlash. I've also queried whether we really need the last entry times and, if we do, if we should give on 9.30/10.30. As it stands, there's nothing we can point to to say we've listened to industry."

Ms Lloyd replies:

"Level 2 8pm is listening to them." Then she follows up: "And the whole allowing restaurants and pubs to stay open." You say: "I suppose." And then she says: "there's quite a lot really. I mean they'll still be grumpy. But there is." "There it is", I think it's meant to say.

This is an example of a messaging exchange that would be relevant to someone who would be interested in knowing how decisions in this regard had been arrived at?

A. Yes, but I -- in many respects I think this exchange
 illustrates the answers I've been giving you.

For context, and I'll be corrected if I'm wrong, but I think this is 7.20 on the morning of 27 October 2020. I think I was on my way to a Cabinet meeting, I would be in the car, from Glasgow. These would be decisions that Cabinet was about to arrive at and I am simply talking about the things that I would then go into Cabinet and we would talk about and then would be recorded through the Cabinet minutes, and the decisions that we took. I was probably later that day standing on a public

look at them four -- almost four years later and -- and they're open to different interpretations.

That message exchange that you read out started with me -- you know, perhaps this is the kind of thing I would prefer not to be on the public record, having a crisis of decision-making, you know, it is perhaps not what I wanted people to know, and that I hadn't slept. I, at 27 October 2020, wouldn't have had a day off in -since, you know, much, much earlier that year, before March, and had been working -- I'm not saying that for sympathy, that was my job and my duty -- and there were moments in that where the decisions that we were taking felt almost impossible, that whatever we did we would cause difficulty and harm to somebody somewhere. And so a phrase like "it's all so random", that probably simply reflects how I felt at 7.20 that morning when I hadn't had much sleep, but by the time I got to Cabinet I'm sure that I would have collected my thoughts and that we then had a proper discussion and reached a decision that was properly recorded with a good and robust process around it.

- Q. This is a discussion related to an important decision
 made during the course of the management of the
 pandemic?
- 25 A. That would have then been discussed at Cabinet and

platform talking about some of the decisions that we'd face, the options that we had and why we had arrived at the decision that we have arrived at. There's -- I can't see it right now, there's a reference in there to "I [have] ... queried". That's a reference, that is something I had obviously fed in as a question to the advisers who would have been preparing the Cabinet -- the Cabinet minute -- papers.

So in a sense, I look at this and I don't consider that there is anything in that wouldn't be reflected through the decision-making and the evidence of the decision-making of the government. And undoubtedly hospitality and the impact of hospitality, the different time limits, that was all very, very much to the fore in public discussion at the time, and I am certain that I would have been talking openly about some of these choices and the fine balances of the very difficult decisions that we were having to take.

- Q. Will we find on the corporate record or some other
 public record that your position was "we should prob
 stick with 6 -- it's all so random"?
- A. That's -- the message exchange, Mr Dawson, starts
 with -- and again, I -- I said earlier on, the reason
 I don't think WhatsApp messages should be used to have
 substantial government discussions is because we can

recorded through -- you've seen all the minutes of the
Cabinet, but the minutes of the -- of all Cabinet
meetings, they don't just record the decision we arrive
at, they will record if there's a paper giving different
options, they will record that, and they record
a summary, a précis of the discussion and the points
made in these discussions.

- Q. Does that record record that your position was: "As it stands there's nothing we can point to to say we've
 listened to industry"?
- A. I would reg -- so I don't have the Cabinet minute from
 that date in front of me, but I absolutely am certain
 that around this point in particular I will have spoken
 not just in Cabinet meetings but publicly about the need
 to listen to industry, to listen to different groups in
 Scottish society, as we arrived at the decisions.

We were trying to take decisions that none of us wanted to be taking and we were trying to reach those decisions in a way that we thought struck the right balance. I'm sure we'll come on to talk later on about the four harms approach that the Scottish Government took, and in that we were listening as much as we could to different viewpoints; we were not always able to take account of those viewpoints because of the nature of the decisions.

1		So, you know, I am absolutely certain that it would
2		have been not news to anybody that we were struggling
3		with the impact on industry of some of these decisions
4		and that we were at pains to show that we as far as
5		we could, given the nature of the decisions that we were
6		taking, we were listening to reasonable points that were
7		being made.
8	Q.	Do you think that an interested member of Scottish
9		society or indeed this Inquiry should take no interest
10		at all in the process by which this decision is made and
11		this discussion's role in it, including the fact that
12		you say "it's all so random there's nothing we can

at all in the process by which this decision is made and this discussion's role in it, including the fact that you say "it's all so random ... there's nothing we can point to to say we've listed to industry", Ms Lloyd's response, Ms Lloyd's involvement in the discussion, either generally or in relation to this specific issue?

No, I'm not saying the Inquiry should have no interest

A. No, I'm not saying the Inquiry should have no interest in that. On the contrary, I think the Inquiry does have an interest in this, and I think the wider Scottish public would. What I'm saying is I do not accept that it would have been unknown to the public at the time that these were the issues we were grappling with. Every day I was taking the public through the different issues that we were grappling with, the balances we were trying to strike, the trade-offs that we were having to make and the different viewpoints that we were trying,

as best we could, to balance. So, you know, in a sense this is an example of an exchange that -- you know, we look at it now in a WhatsApp but I don't consider that there is anything in that exchange that would not have been known, that was either on the record and -- through the Cabinet minutes or in public statements, that these were exactly the kind of issues we were trying to reach considered and balanced judgements on.

9 Q. Thank you.

Could I take you to another document, please. This is INQ000268017.

This is another exchange -- this is not a group that features you but it's another piece of evidence that we've seen, and I'd be interested in understanding your reflection on some of the content of the exchange. This is -- in your capacity as the former First Minister and First Minister at the time.

This is in a WhatsApp group chat called "Covid outbreak group". These messages were provided to the Inquiry by Dr Jim McMenamin of Public Health Scotland, who did not delete his messages and not -- by the Scottish Government or its officials, and the exchange at 27 August 2020 you will recognise no doubt the individuals involved, Ken Thomson says:

"Just to remind you (seriously), this is

discoverable under FOI. Know where the 'clear chat' button is ..."

To which Nicola Steedman replies:

"Yes -- absolutely..."

Jason Leitch points out:

"DG level input there...."

Mr Thomson saying:

"Plausible deniability are my middle names. Now clear it again."

Jason Leitch says:

11 "Done."

12 Nicola Steedman:

"Me too."

14 And someone called Donna Bell:

"And me."

Were you aware in your capacity as First Minister that these sort of exchanges took place and that a senior member of the civil service considered "plausible deniability" to be his middle name?

A. I -- as you said at the outset of the question, I was not a member of this group, so -- some of these exchanges were explored in evidence sessions last week -- I had never seen these messages before.

Did I know that there would be WhatsApp groups where officials were exchanging information? I'm not sure

that I was particularly conscious of it, but I would have -- had I been asked to stop and consider that, I would have said "Well, I would assume so", given the nature of how people were working. I would absolutely expect all officials in the Scottish Government to retain, in line with Scottish Government policies, information relevant to our decision-making.

I look at that exchange and what I don't see is an exchange about, you know, the decisions we're taking.

I see a light-hearted discussion between officials.

Ken Thomson I know has been before you and has given his interpretation of that, so, you know, he can answer and has answered for himself. I would read that as him reminding people of the need to be professional on WhatsApp even when discussing light-hearted things.

The other thing I would say about all of these individuals on the screen before me is that they are all, in my knowledge and experience -- and with some of them, particularly Ken Thomson, this is extensive experience -- they are public servants of the utmost integrity, and at this point and throughout the pandemic they were public servants who were working in a committed and a dedicated fashion in terms of the hours and they were working -- the pressure under which they were working -- above and beyond probably the call

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Ken Thomson is somebody I've worked with throughout my time in the Scottish Government and he is a civil servant, as I say, of the utmost integrity and the utmost professionalism.

- Q. This group was called "Covid outbreak group", obviously connected to the Covid pandemic; yes?
- 8 A. If that --
- 9 Q. One assumes --
- 10 A. -- is what you're telling me, yes.
- Q. One assumes -- yes, that is the name of it. One
 assumes, therefore, it's to do with -- "Covid outbreak
 break", to do with Covid and therefore relevant to the
 pandemic.

What Mr Thomson does here is that, despite recognising that material in this chat is discoverable under Freedom of Information legislation, is to tell other individuals in the group that they should clear it or delete it. Is that not correct?

- 20 A. That is what is in front of me, yes.
- Q. Could I just go a little bit further down, please,
 just -- I'm just tracing the messages down to 16.17, so
 very shortly after the exchange that we've had.

At 16.17, so this is just a couple of minutes after, further down -- you can see in the background other --

a limit to how far I can go in trying to interpret what he meant by that. In looking at the exchange, my interpretation of it, which may or may not be correct, is that he is reminding the others on the -- in the chat that the kind of things they are talking they probably shouldn't be on a chat like this. You know, somebody says "I was ... nippy teenager in 1986", for example, that's the nature of that.

Again, all I can repeat about Ken Thomson is that he is a civil servant, in my experience, who took the responsibilities around recording and making sure that the government record was complete extremely seriously. He's one of the civil servants in my experience that was not just most experienced in that but that was most assiduous in that side of things. So I can't answer for him, I can speak about my experience of him, and I can give an interpretation based on the context of that, that that was meant to be a light-hearted comment. But that is only my interpretation.

Forgive me, the other thing I would say, I, like many people, given -- and I can reflect back to this time, our discussions in government were very serious, there are times when they were extremely sombre, there were days when they were very, very dark, given the nature of what we were dealing with, and because the

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what happens in between -- there is something which
 Jason Leitch says at 16.17 which is redacted and then
 Ken Thomson says:

"The information you requested is not held centrally."

- 6 Is that a phrase you recognise?
- 7 A. Of course it is, yes.
- Q. Is that a phrase which often appears in Freedom of
 Information requests when documentation is requested
 from the Scottish Government?
- 11 A. Yes.

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- 12 Q. Is it a phrase which indicates, as a result of

 a request, the Scottish Government is not in a position

 to be able to provide the information it might

 otherwise, because it doesn't actually hold the
 information at a central repository?
- 17 A. Yes
- 18 Q. Does it look to you that this is Ken Thomson suggesting
 19 that that response is an excuse often trotted out by the
 20 Scottish Government in response to Freedom of
 21 Information requests?
- A. I absolutely accept that is an interpretation that could
 be put on it. I -- these are not my words --
- 24 Q. Of course.
- 25 **A.** -- this is not an exchange I'm involved in, so there is

1 public as a whole were going through unimaginable trauma

2 at the time, many of them still living with that trauma,

3 reading, now, light-hearted exchanges I think can be

4 very difficult because it gives an impression that

5 people were not taking the situation seriously. That

6 could not be further from the truth. I think what you

7 have there are public servants who were working

8 incredibly hard to take the best decisions, to support

9 ministers to take the best decisions to keep people

safe, who were, you know, perhaps, as is human nature,

11 occasionally engaging in light-hearted comment to

12 probably try to get themselves through the day. That's

my interpretation of what's before me but I appreciate

14 others may arrive at a different one.

15 Q. If it were ultimately to be determined that there wasa culture of plausible deniability, a culture of

deleting messages that would be recoverable under FOI

18 requests, a culture of suggesting, in order to get out

of FOI requests, that documents are not held centrally,

20 these would be abhorrent revelations, would they not?

21 A. Absolutely. And to be very clear, that is not the

culture that I believe existed in the Scottish

23 Government during my time as First Minister, or indeed

24 in my time as Deputy First Minister.

25 Q. And if those things were deemed to be the reality of

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your time, the culture in your time as First Minister, that would be a serious breach of the bond of trust between the government and the Scottish public which we discussed as being very much at the cornerstone of your whole approach --

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A. If -- if that was the case, and let me repeat it's not my view that it was, then yes, what you're putting to me

I would again, and you will take me through, no doubt, lots of documentation later, but that single page, and I'm sure there will be other pages of WhatsApp messages that you could put in front of me, I would counterpose to the -- you know, in the region of 100 Cabinet papers and minutes that properly, seriously recorded the decision-making and the underpinning rationale for the decision-making of the government. The bond of trust between any government and the public at any time is of paramount importance, but this was particularly the case during the extraordinary and unprecedented situation we faced in the pandemic, and it was something I felt to my core every single day of

23 Q. We saw in messages that we looked at in some detail with 24 Professor Sridhar that you had suggested to her that she 25 might contact you via either your SNP email address or

> I had a thirst to understand as much as possible and I simply wanted her -- she was somebody who had been appearing in the media a lot, I was periodically asked about views that she had been expressing in the media, and I wanted to have an understanding, a deeper understanding of what they were. But if I'd been in any way trying to direct her to a private email address, I doubt if I would have put my government email address in there as well.

And of course the context of what we were talking about was I think a paper that she was sharing with the wider advisory group. At no point did Professor Sridhar send me anything that was, you know, for my eyes only, that wasn't either publicly available information or information that was being shared with the advisory group she was a member of.

Q. I think we have seen some emails now that were very recently produced to us by the Scottish Government between yourself and Professor Sridhar which do, I think, as the direct message exchanges suggest, indicate that she was forwarding on to you policy papers, which I think your position is that those would otherwise have been made available to you; is that

right? Have I got that right?

Yes, these were -- she was a member -- and the Inquiry 51

your government email address. Was the suggestion that she might use your SNP email address an appropriate thing to have done in the conduct of your government business?

A. In reflection, perhaps I shouldn't have done that, but if I had been trying to direct her to a personal email, SNP or otherwise, to keep something off the government system, then I would suggest I wouldn't also have given her my government email address. I wasn't -- and obviously the Inquiry has looked at that message --I wasn't pushing her in one direction or the other. What I was saying -- this was I think, from memory, in June 2020 or thereabouts, still a very, very tough critical phase of the pandemic. Effectively what I was saying to her is: if there are things you think I should know, don't stand on ceremony, I'd rather know.

And at that point I was, as I think any responsible decision-maker should have been, I was trying to deepen my knowledge, I was trying to learn as much as I could about the virus and how to combat the virus. I was desperate to understand different perspectives, I was desperate to understand as much as I could from the experiences and the responses of other countries.

Now, let me be very clear, the bulk of that was coming to me through Scottish Government advisers, but

1 is aware of this -- she was a member of the Scottish 2 Government COVID-19 Advisory Group, and these were 3 papers she was preparing for the group. What the group 4 did with them or what weight it gave to them, that would 5 be for the group to answer, but these were not things 6 that she was sending -- preparing for me and sending to 7 me alone, they were simply copies of things that were in 8 wider circulation.

9 Q. It would, one assumes, be in accordance with the normal 10 practice of the group that the group would decide 11 whether that needed to be sent to you, rather than 12 Professor Sridhar, isn't that right?

A. Possibly, yes, but at that point, and if this -- if this was the wrong approach to take, Mr Dawson, I apologise. At that point, in dealing with an unprecedented situation and a pandemic, I wanted to understand as much as I could, I wanted my decisions to be as informed as possible. I read -- perhaps one of the reasons why in the early exchange I was saying I hadn't slept much, I read extensively from public sources of articles and research studies online. I was trying to understand as much as possible and as quickly as possible. And I took the view if somebody could help me with that, if somebody could send me something that I would otherwise

see but I might see -- I'm not even sure, with my 52

1		apologies to her, that I would have necessarily read
2		everything she sent me because I might already have seen
3		it or I would perhaps not think it was particularly
4		relevant, but I had a desire to have as much information
5		in order to deepen my understanding of the situation we
6		were facing as I could. And while there are things we
7		may talk about today where I think if I was to go back
8		and have my time again I would take a different
9		decision, I hope I wouldn't take a different decision on
10		that; it was important to me to be as informed and as
11		educated as I possibly could be.
12	^	Vou used a personal phone for the conduct of government

- 12 You used a personal phone for the conduct of government 13 business while First Minister; is that correct?
- 14 A. Yes I did

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15 Q. You never used a government-issued phone; is that right? 16 We've heard evidence from a variety of ministers that 17 they seemed to use phones from a variety of different 18 sources, some Scottish Government, some personal, some 19 Scottish Parliament issued phones.

Is it appropriate in your view, as the former First Minister, that ministers are conducting business on phones that are not government-issued phones?

- 23 A. It was never suggested to me at any time during my 24 period as First Minister that it was not appropriate. The reason I used a personal phone was that I didn't
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1 office staff could no longer work --

- 2 Q. Sorry to interrupt, Ms Sturgeon, just to be clear, we 3 are obviously keen on understanding whether they were 4 used for your business related to the Covid pandemic in 5 the conduct of your role as First Minister.
- 6 A. They were not used by me at all --
- 7 Q. If they were used for some other purpose, we have no 8 interest --
- 9 A. They were the phones that my constituency office 10 landline were diverted to in the homes of my 11 constituency office staff. I have never, to the best of my knowledge, seen, held and certainly not used any of 12 13 these phones.
- 14 MR DAWSON: Thank you for clarifying that.

My Lady, as I'm about to move on to a different topic, if that's an appropriate moment.

17 LADY HALLETT: Certainly.

> I suspect we may be getting messages that the stenographer is struggling. I appreciate it's very difficult to change one's pattern of speech, but maybe if you paused before asking the next question, Mr Dawson, so the stenographer can catch up.

> > 55

23 MR DAWSON: I'll try my very best, my Lady, yes.

24 LADY HALLETT: Thank you. 11.30.

25 (11.12 am)

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1 want to have multiple devices. A government phone

2 I wouldn't have been able to do constituency business or

3 party or personal matters, and, you know, on

4 a constituency one I couldn't do -- you get the picture

5 here. So I wanted to have one device. It was never

6 suggested to me that was inappropriate and I don't

7 believe it was inappropriate. I think any phone,

8 whether it is personal, parliament, government, is

vulnerable to being, you know, left on a train or lost

10 somehow, which goes back to points I made earlier on

11 about the practice and the policy around how information

is retained in government. 12

13 Q. We have been made aware of an article which appeared in 14 the press just yesterday suggesting that your expenses 15 claims indicated that on 19 March you purchased a phone 16 and a number of SIM top-ups and the article also 17 suggests that you purchased a second prepaid phone 18 between 2020 and 2021, because it's based on your 19 expenses claims, I think, and the amounts are there.

20 Why did you -- did you purchase those phones and why 21 did you?

22 A. They were purchased certainly through my expenses on my 23 authority, I didn't personally purchase them. They were 24 also not for use by me. Many MSPs, I believe, did the 25 same when the pandemic started, and my constituency

(A short break)

(11.30 am) 2

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3 LADY HALLETT: Mr Dawson.

4 MR DAWSON: Thank you, my Lady.

> Ms Sturgeon, we're moving on to a topic which you have anticipated I wished to ask you some questions about, which is the decision-making processes within Scottish Government during the course of the pandemic.

We've heard a number of other witnesses give us some

10 evidence about the various structures that were involved 11 in and around decision-making. It is the case, is it 12 not, that the Scottish Cabinet is meant to be the main 13

decision-making forum within the Scottish Government?

14 A. The Scottish Cabinet is the main decision-making forum 15 within the Scottish Government.

16 **Q.** Where important decisions are concentrated in the hands 17 of a few people as opposed to the whole Cabinet, the 18 proper function of the Cabinet would be usurped; isn't

19 that correct?

20 A. If that had been the situation, that would be true, but 21 that is not the situation, and indeed I am absolutely 22 firmly of the view that any reading of the Cabinet 23 papers and the minutes of Cabinet meetings would make

24 very clear that that was not the case. The Cabinet was

25 where our substantive discussions happened and decisions

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1 were taken after full and frank discussion involving all 2 of the members of the Cabinet.

3 Q. Thank you.

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Could I go to INQ000334792, please.

This is an exchange that we've been to before, Ms Sturgeon, and I think you should have seen it already. I wasn't planning on reading it all out, but it is an exchange between the now First Minister, then Cabinet Secretary for Health and Social Care, and Professor Leitch from December 2021 in which he is describing, against a background of a discussion between them, about the possibility that at that time there might require to be further measures taken to stem the Omicron wave which had just hit Scotland.

Is that broad context, in terms of where we were in the pandemic, correct?

17 A. Looking at the date there, then that's --

18 Q. Yes.

19 Α. -- exactly where we were --

20 Q. Thank you. So they had been discussing that and 21 Mr Yousaf said that:

> "I took a hell of a bullet at Cabinet (!) But might be able to strengthen the measures, even if its just slightly. We think we can find £100m within the portfolio ..."

> > 57

I understand it from the evidence that we've heard from Mr Yousaf and indeed Ms Forbes, is that there were discussions around the possibility of having further measures but there were issues pertaining to whether or not there would be funding to support business if there were a further lockdown or further restrictions and that at the Cabinet meeting Mr Yousaf, Cabinet Secretary for Health and Social Care, had suggested, somewhat out of the blue I think Ms Forbes told us, that he -- despite efforts made to try to find funding to assist for that purpose, he had managed to find within his budget £100 million which wasn't previously known about.

Is that correct? Please correct me if I've got that wrong.

A. I think it is broadly correct. If I may, I can go 15 16 into --

17 Q. What I'm really interested is the possibility -- well, 18 is the suggestion that I will make to you: that this is 19 indicative of a culture in which you did not take kindly 20 to people bringing up at Cabinet meetings things that 21 you had not already had brought to your attention and on 22 which you had not already made a decision?

23 A. No, that is absolutely not the case. There was no such 24 culture within the government I led. I think, if I may, 25 in order to answer that question properly --

And then there is a discussion where he again says: 1

"Don't know if itll happen this last minute and FM not remotely happy its at this last stage but let's see if it strengthens a package of measures that are far too weak as things stand."

Professor Leitch says:

"I was listening. I almost intervened to deflect for you. She was ridiculous. Absolutely ridiculous."

And he agrees with the principle, and Mr Yousaf savs:

"Ack that's just the way it is. Her ranting at me isn't the problem, i can take it its whether the quantum at this stage helps us strengthen [the] package. Though feel free to defend me at a later stage.

"Todays numbers lower than expected. Suspect some [people] are not testing given xmas round the corner."

17 So this is an exchange in which they are discussing 18 a Cabinet meeting, the reference to "she" is you,

19 I think?

20 A. I assume so.

21 Q. Yes. Do you recall this period, just broadly, and we'll 22 get into some of the details --

23 A. I recall the period -- not just broadly, I recall it in 24 detail, I recall the Cabinet meeting --

25 Q. Yes, yes, excellent. I think what the context is, if

Q. Of course.

A. -- I need to set out the circumstances --2

3 Q. Absolutely.

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4 A. -- of that Cabinet meeting.

> I had in advance of that Cabinet meeting asked Ms Forbes, as the Finance Secretary, to undertake an exercise across government to ascertain -- we were finding it difficult with the UK Government in the financial discussions at that point -- to ascertain if there was money we could re-direct, free up, make available from within the Scottish Government budget to give additional support to businesses should we require to impose additional restrictions.

Ms Forbes had done that exercise, she had done it rigorously and robustly, and she had reported at Cabinet that the outcome of this, having gone round all of the portfolios, was that there wasn't really any money of any significant scale to have.

At which point Mr Yousaf -- and let me say Mr Yousaf was doing this for the best of intentions, I'm not questioning his motives -- said, "Well, actually", and I'm paraphrasing here obviously, "I can make £100 million available".

In that moment I felt he was doing a real disservice to the Finance Secretary because she had just reported 60

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I -- you know, as First Minister I, you know, and

seriously, made sure I was briefed and had done all the

preparation and reading, and I expected similar from my

government should work. So that's the context of that.

That was not a regular occurrence at Cabinet. It was

I make no apology for this, I always tried to lead from

the front, I always took a "the buck stops with me"

attitude, I always took Cabinet meetings extremely

Cabinet secretaries, and I think that is how good

a very particular set of circumstances that -- as it

happens, I'm not sure that that exchange doesn't

that she had done a job and it had resulted in no money being available and then he, you know, seemed to take the feet from her in that.

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I supported and believe it's important that there were robust discussions round the Cabinet table, there were robust discussions round the Cabinet table, but I expected all my ministers to operate on a basis of mutual respect and of making sure that they were operating collegiately and in that moment I didn't think that was the case and I was not -- I was not particularly happy about it, I have to concede that.

I think that was probably exacerbated by the fact that, and I can't recall the date -- you perhaps will be able to show it to me -- I think sometime maybe a couple of weeks before that Mr Yousaf had indicated to me on WhatsApp that he might be able to find some money in this order, and my response to him was "speak to Kate", and at that meeting it appeared that he hadn't done so. So that was the context. And I perhaps was also sceptical given -- given the pressures on the National Health Service at that point that it would be sensible to take £100 million from dealing with the acute pressures on the health service to fund business support, that that is a more of a substantive issue. So that is the context of that.

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will, you know, moan about the First Minister or the Prime Minister to each other. Maybe I used to do it in a previous job in the Scottish Government as well. So that is normal. But I expected Cabinet discussions -- and Cabinet discussions were full, robust, detailed -- I expected all Cabinet secretaries to come to those discussions able to argue their point, put their point of view across, and then for us to come to a position at the end of that. That's how Cabinet government works.

It was absolutely not the case -- and, you know, I've referenced Cabinet minutes before, and you have seen all the Cabinet minutes in relation to Covid, but this would be true of Cabinet minutes generally, there is usually, I don't know, two, three pages in a Cabinet minute that in detail summarises the discussion, the points that were raised. It doesn't attribute those points to individuals, that's not how Cabinets are minuted, but it goes into detail about the points raised. So you can look across all of these minutes and see the nature and the detail of the discussion that has been had. And that is how I operated within government, and it's how I would have expected all my Cabinet secretaries to operate.

- 24 Q. You can't see these views in the Cabinet minutes.
- 25 A. Possibly not, but that --

12 slightly overstate it, but I do concede that I expressed 13 some displeasure at the process by which the offer had 14 come to the table. And it was more on behalf of 15 Ms Forbes, because I thought it did a disservice to her 16 and the very professional job that she had done. 17 Q. We've heard Ms Forbes on this very subject, so we know 18 what her position in that regard is. Do these messages 19 show, Ms Sturgeon, that, whilst Cabinet secretaries 20 might complain in private, as in these -- as we've just 21 seen, they would ultimately be expected to fall back in 22 line behind your view on matters? 23 A. No, absolutely not. I suspect in every government 24 everywhere across the world, and I would imagine that 25 the Scottish Government was no different, that ministers

1 Q. I think certainly not. Sorry.

A. You would see -- you would see, for example, the
 discussion about money. You would see the discussion
 about the fact that there had been an exercise to try to
 find additional resources.

Q. Could I ask you to go, please, to INQ000214734, please.
 Bottom of page 6, if we just go to the first page,
 please, can we do that, just to see what it is.

9 These are conclusions, as we've come to understand 10 they're called, minutes of the Cabinet meeting held on 11 22 June 2021. Does that appear correct?

12 A. Yes.

13 Q. If we could go to page 7, please, just again to try to
14 contextualise this, our understanding is that this is
15 around the time either at or shortly before cases
16 started to rise again as a result of the Delta wave
17 hitting Scotland. Would that be broadly your
18 recollection?

19 A. Of that time period, yes.

20 Q. Thank you.

21 I'm looking at the decisions taken under 22 subparagraph (p) and (q).

23 Maybe over the page. Yes, thank you.

24 These are the matters decided by Cabinet. It says:

25 "For the purposes of COVID-19 decision-making during

the summer recess, to delegate to the First Minister decisions that were broadly consistent with the *Strategic Framework* and timetable, noting that the First Minister would be supported as required by the Gold Group structure of key Ministers, including Mr Swinney, Mr Yousaf, Ms Forbes, and any other Ministers with an interest, with input from [name redacted] chief advisers and senior lead officials; and ..."

Under (q), over the page:

"In the event that the First Minister and Gold Group were to reach a decision that differed materially from the *Strategic Framework*, that Cabinet should be advised through correspondence and, if the First Minister requested it, at a meeting of the Cabinet (which she could convene at any time should circumstances require)."

Is the reference there to the "Gold Group" a group which is sometimes called "gold" or "gold command"?

A. It is indeed, and it's an example, and I mean this in the nicest possible way, of the civil service often attaching names, grand names to meetings that are otherwise routine.

Q. Yes. Our understanding, Ms Sturgeon, is that this was
 a group which, please correct me if I've got this wrong,

and actually I think the rest of that paragraph makes that quite clear, that had the gold group wanted to propose a decision, that would have had to have gone though a proper Cabinet process. And just to be clear, Cabinet correspondence, I think in the UK Government as well as the Scottish Government, is -- it's not the preferred way of reaching Cabinet decisions but it is a way in which Cabinet decisions can be reached short of a meeting. I don't think that happened in this case, but ... so that -- that paragraph there makes very clear that the previous paragraph, which is not before me right now --

13 Q. If we can just put up the previous one back up, please,thank you.

A. Again, yeah, it's making -- so this was in the summer of 2021. People are aware of how far into the pandemic that was. I suspect this was an attempt to give ministers some time off over the summer period. Everybody had obviously been working, in some periods, round the clock on this. But it's very clear there, I am not being given, through a delegation, a carte blanche to take decisions I want to take. It is talking there about decisions -- any decisions that are "broadly consistent with the Strategic Framework and timetable". So we had already set out at that point the

but our understanding is that it was a group which tended to meet -- it didn't always have the same people in it, it was almost certainly always you, I think it was always you, but it would tend to meet in the days before a Cabinet meeting, which would, if regularly scheduled, take place on a Tuesday; is that right? So sometimes over the weekend, for example, I think we've seen.

A. Yes, so Cabinets routinely met on a Tuesday, I'm sure

9 A. Yes, so Cabinets routinely met on a Tuesday, I'm sure
 there were periods during Covid when we met on other
 days, but routinely a --

12 Q. Yes.

A. -- Tuesday. The gold group -- you know, which, was a name I didn't ascribe to it, it came to be known as that -- was initially an opportunity for me and for other ministers as appropriate to, you know, interrogate the data, to ask questions of advisers and, before we even got to the point of shaping the proposals that would go to Cabinet for decision, to, you know, start to in our own minds firm up the direction we thought we were going in.

I should be very clear that the gold group, gold command, whatever terminology we want to use, was not a decision-making or a formal governance body. You know, the gold group would not have reached a decision,

milestones that we wanted to reach. And, as sometimes was the case, Cabinet would delegate to me, so Cabinet would say "We want to do this, assuming the data on such and such a date supports it", and when we got that data I would make a judgement: "Well, does the data support it?" And so formally I would have delegated power to make the final decision, but the process of decision-making was through Cabinet. I think that makes that clear.

Q. Might I suggest to you, Ms Sturgeon, that contrary to your interpretation, this in fact gives you an incredibly wide discretion as to what you might wish to do in the management of the pandemic, saying that all you need to do is to make decisions -- and it is making decisions -- which were "broadly consistent with the Strategic Framework and timetable"; that would mean you could do virtually anything?

A. With respect, I would challenge that and say that that is not the case. The strategic framework -- by its nature, strategic frameworks are broad and high-level, but the timetable was very detailed. To depart from that -- I would not have had latitude to depart from that. Departing from that would have required me to go through a decision-making process, and I did not have carte blanche, wide latitude to take decisions and nor

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should I have had. Incidentally, nor would I have wanted to, given the seriousness of what we were dealing with. I'm not sure anybody would have chosen to take solely onto their own shoulders the decisions that were falling to be made, although I always accepted that the final accountability and responsibility, as First Minister, lay with me.

So I respectfully don't think the characterisation of that is accurate at all. And I think if you were to look at Cabinet -- forgive me, there was a Cabinet minute discussed with Mr Swinney yesterday, I think from 19 December 2020, where conclusions were put to him, similar to that: you know, decisions are delegated to the First Minister. Looking at only those conclusions would have given the impression that is being given now. But when you look at the minute in its entirety, the previous two pages of that narrate the Cabinet discussion, make very clear that Cabinet agreed with the decisions that were being proposed, and that there had been a full and comprehensive discussion.

So yes, when you take -- when we look at paragraphs like that in isolation, I accept that that gives a certain impression that is -- that I would say is not accurate, but also would not be the impression given if these minutes are read in their entirety.

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- 1 Q. We can judge that ourselves, as you said earlier --
- 2 A. Absolutely.

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- 3 Q. -- from the Cabinet conclusions --
- 4 A. Absolutely, yes.
 - Q. The gold or gold command meetings, accepting that you don't like the term, that seems to be what we were at least colloquially referred to as. They are somewhat mysterious to us in the sense that they weren't minuted, were they?
- A. There were not minutes taken of them in the way that you 10 11 have Cabinet minutes, that is certainly the case, 12 because they were not decision-making meetings in the 13 way Cabinet meetings were. However -- and I believe --14 forgive me if I'm misinformed here, I believe the 15 Inquiry has papers that went with and around those 16 meetings, slide packs that would inform the discussion, 17 agendas of the issues we were going to discuss, and 18 where there had been actions out of these meetings, 19 usually to do further work to inform decisions, then 20 notes of action points, and I've certainly -- the 21 committee -- the Inquiry, apologies, had asked me to 22 review some of that, so I've reviewed that paperwork and 23 I know that that is there. But in many of these 24 meetings, the purpose of them was -- you know, Cabinet 25 had choices and options, but no Cabinet on any issue

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Q. You mentioned in your explanation, your helpful explanation, that the process would be that there would be a discussion to ascertain whether Cabinet agreed with the decisions that were proposed. Does that not lead to the conclusion that decisions had already been reached and that Cabinet was, in effect, a decision-ratifying rather than a decision-making body?

8 A. No, that's not the case, because in many of these 9 instances there was not one proposal put forward, 10 Cabinet would have a range of different options. One 11 Cabinet -- we may come on to talk to later on -- at 12 a later stage to this, as we go into the latter part, 13 into Christmas of 2021, when Omicron has been 14 identified, that Cabinet has, and I'm using this just as 15 an example, but there will be many others, it has three 16 options: you know, effectively stick with the measures 17 we have in place just now, enhance them in some way or 18 have a circuit-breaker. Cabinet has a full discussion 19 and then it reaches a decision. So it was not always 20 the case that Cabinet simply had a proposal put to it 21 that it could take or leave, Cabinet would have a range 22 of options. The exchange that we talked about before 23 the break between Liz Lloyd and I is reflective of that, 24 there were options that Cabinet would have been chewing 25 over and coming to a balanced view of.

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- anywhere, you know, sits with a blank sheet of paper.So there is a process of shaping the options that will
- 3 then become the decisions that Cabinet takes, and these
- 4 meetings were often to try to shape those options. So
- 5 in a sense the output of those meetings, and I use this
- 6 term loosely, the minutes of those meetings are the
- Cabinet papers that then go to Cabinet for decision,
 because that is what comes from these meetings into the
- O China and the what control from those most light into the
- 9 Cabinet papers that then inform and shape the decisions
- 10 Cabinet reaches.
- We've certainly had access to certain action points.
 They don't relate to every gold meeting. We've
 struggled rather to work out even when the gold meetings
 took place. We have to look at other documents to tell

took place. We have to look at other documents to tell us when they might have happened.

us when they might have happened.
 We have seen action points, not in relation to all
 of the meetings that appear to have happened. The

of the meetings that appear to have happened. The
action points appear very much to be, effectively, the
conclusion of the meeting, rather than any discussion as
to how those conclusions were reached. Therefore, is it
fair to say that the documentation to which you've
referred does not tell us the salient points that were
discussed in the conduct of government business at those

24 meetings?

25 $\,$ A. So I think -- yes, I think that would be fair. And

there is undoubtedly a learning point for government here, and it's not any longer for me but I'm sure the Scottish Government will be reflecting on this, I think around, you know, the impression that can be created when you give, you know, grand names to fairly routine things, and I've already made that point, but, more substantively, to make sure that there is a clearer record of these discursive -- non-decision-making meetings, that are discursive and there for the purpose of shaping the decisions that have to be taken by Cabinet.

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So yes, I would accept that can -- you know, to somebody outside the process, it would be helpful if that was clearer. I can look at Cabinet papers, not minutes but Cabinet papers, putting the proposals for decision or the options for decision to Cabinet, and I know that, you know, that effectively reflects the discussion that we would have had in these meetings, because that was how we shaped the options and decisions that were coming to Cabinet.

- 21 Q. Is there a theme developing in the areas we've already 22 looked at, Ms Sturgeon, that the Scottish Government 23 does not like light to be shined on the way in which 24 discussions leading to decisions have taken place?
- 25 Α. No, I would very, very strongly refute that. And,

- 1 A. -- would have been the case when he was Health 2 Secretary, yes.
- 3 Q. And often attended by Ms Lloyd?
- 4 A. There would have been a special adviser in them and 5 officials there and somebody from my private office.
- 6 Q. If their position at this Inquiry were that the gold 7 meetings were a decision-making body, would they be 8 wrong about that?
- 9 A. Yes, the gold meetings were not, Cabinet was the
- 10 decision-making body. 11 Q. How was the list of attendees decided? I think you said
- 12 that Mr Yousaf would attend and (unclear) perhaps, 13 wasn't there?
- 14 A. It would depend on the nature of the decision that we 15 were about, as Cabinet, to consider. So that would vary 16 depending on the state -- you know, the stage of the 17 pandemic and the state of things that we were dealing 18 with at the time. So sometimes that would be very 19 health-focused. Particularly later, as we go into 2021, 20 when finance to support our public health decisions was 21 becoming more of an issue, that would include finance. 22 You know, I was, again at the committee's request, 23 reviewing -- the Inquiry, my apologies -- reviewing some
- 24 of these papers over the course of yesterday. So, 25 for example, at late 2020, there were meetings that

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1 you know, this is a point I've made a number of times 2 already this morning, and forgive me for repeating it, 3 but I do think it is extremely important. You know, 4 I have, in preparation for coming here today and some of these the committee's drawn my attention to, I have 5 6 looked at all of the Cabinet papers and minutes over 7 that whole period. It runs to, you know, thousands of 8 pages. And that paperwork doesn't simply record the 9 decision that was reached, it records the options that 10 Cabinet considered, the pros and cons of each of these 11 options, the reasoning and the evidence that underpinned 12 both the presentation of the options and the decision 13 that was reached. And then the Cabinet minutes, often 14 over several pages, records a very detailed summary of 15 the discussion around the Cabinet table. And I do 16 believe that not only gives a comprehensive record of 17 the decisions that the Scottish Cabinet reached in 18 relation to Covid, but also the thought processes, the 19 reasoning, the rationale, and the factors that were 20 considered in the process of reaching these decisions.

- 21 **Q.** The gold meetings, as we're calling them, were often 22 attended by Mr Yousaf; is that right?
- 23 A. I don't have the attendance list in front of me, but 24 ves --
- 25 Q. Broadly --

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1 Ms Forbes, as I think she said yesterday, wasn't at, but 2 her office was copied into the notice of the meeting and 3 the papers. The Economy Secretary, Fiona Hyslop at the 4 time, was at these meetings. Later in 2021 when finance 5 was much more of an issue, Ms Forbes would be in 6 attendance and perhaps another minister might not be. 7 These were discursive opportunities for us to throw 8 around issue -- well, firstly, to look at the state of 9 the pandemic, the data, what we were dealing with, the 10 choices and the decisions that we were having to take, 11 what the implications of those decisions were, what 12 factors we had to take account of, in order that all of 13 the proper work could be done to then shape and inform 14 the decisions that Cabinet would take.

- 15 To be clear about Ms Forbes' evidence, her position was 16 that she did not attend any meetings in 2020, in fact 17 she didn't even know of the existence of the gold group 18 in 2020.
 - I obviously cannot say what information was shared with A. her at that time about these meetings with the private office, but having reviewed some of these papers last night, and I will, you know, apologise and be corrected if I read this wrongly, her office was copied into the papers and the notification of meetings at the end of 2020.

- But she didn't attend in 2020? O. 1 2 A. She wasn't in attendance in 2020, I don't think it would 3 be true to say that her office didn't know about these 4 meetings. Had she felt -- had she known, and obviously 5 from her evidence yesterday she didn't know, but had she 6 and had wanted to attend, there would have been nothing 7 to stop her attending. But in those meetings at the end 8 of 2020 I believe that the Economy Secretary was 9 present, because at that point, as we've reflected 10 earlier on, issues around hospitality, the impact and 11 the burden on businesses was one of the issues that we 12 were frequently discussing and reflecting on.
- were frequently discussing and reflecting on.
 These meetings presented discursive opportunities, as you've described them, at which Ms Forbes, the
 Cabinet Secretary for Finance, did not participate; is that correct?
- 17 A. She did not participate in all of the meetings, no, but18 then --
- 19 Q. She didn't participate in any of the meetings in --
- A. I -- I think there were probably only -- I think there
 were only few meetings in the latter part of 2020,
 I don't have the list in front of me right now, but
- I don't have the list in front of me right how, but
- I believe that these meetings, these gold meetings,
 started in, you know, perhaps September/October 2020, so
- 25 I don't think there were very many meetings in 2020.

- during the pandemic was to do the best we could to keep
 the country as safe as possible. Sometimes we would
 have succeeded in that, other times we didn't, and
 I carry the regret for the occasions that we didn't all
 the time, and always will do. But the motivation was
 just to try to take the best possible decisions we
 could.
 - Q. Could we go to INQ000346141, please.

This is some notes taken by Ms Lloyd, you may recognise the handwriting, from 28 September 2020, and in these notes she says:

12 "Gold Command."

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And she refers to -- the next page, I think I want to look at, if that's okay?

Yes, just the passage at the top, which is obviously in that context:

"navigate economy -- avoid blunt instrument.

"FH No finances --

"FM -> starting point -- how do we reduce impact [of] spread [with] minimal [economic] impact.

"Political tactics -- calling for things we can't do to force UK."

This is a gold command meeting that Ms Forbes was not at; is that your understanding?

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25 A. Yes, "FH" will be Fiona Hyslop, who is the --

1 She wouldn't -- from her evidence yesterday she wasn't

2 there, she was at meetings in 2021. There was no --

3 this was a -- as I think you're demonstrating in your

4 questioning, it was a reasonably fluid group, in order

5 that we were -- we had the right people round the table

6 to sort of throw around the issues that we were

7 discussing in order to inform decisions at Cabinet. Of

8 course Ms Forbes, with all other Cabinet secretaries,

9 would have been at Cabinet when the actual decisions

10 came to be taken and would have been and did make their

11 views known and contribute fully to those discussions

12 and take part in the decisions.

13 Q. As she wasn't there, she obviously wasn't one of the14 right people to have round the table; is that right?

15 A. No, that is -- well, she was there when we got into16 2021 --

17 **Q**. From 20 --

25

18 A. -- when finance became more of an issue. That is not - 19 that is not the basis on which I operated at any time

20 over my period as First Minister and certainly not

during the pandemic. All I was interested in was having around the table the people that we needed to inform the

decisions that we were taking. And when those decisions
 fell to be taken, all of the Cabinet were there.

I -- you know, my only motivation at any point

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1 Q. Yes, Ms Hyslop was, that's my understanding as well.

This is a meeting in which there is a discussion about important financial matters relating to how we would reduce the financial impact of possible restrictions that were being contemplated at that time; is that correct?

7 A. That certainly is how it appears from what is in8 front --

Q. Again, to contextualise this, just to make sure we're
 literally on the same page, but my understanding of this
 period is that this is a period when cases have risen.

12 You made an announcement on 7 September that you would

have to slow down the easing of the lockdown. There

14 were -- there was advice being given in this month by

15 SAGE and others within the Scottish Government as well

that there may need to be a circuit-breaker. And
I think what -- the context of this discussion, just so

18 we're understanding each other, is that there was

19 consideration of what the economic situation would be if

we had another lockdown, in particular whether there

21 would be funding for business and for furlough and that

sort of thing. Is that, again, broadly your understanding of this period?

25 understanding of this per

24 **A.** Yes.

25 Q. We discussed this, I think, with Ms Lloyd, in particular

in

1		the part where she talks about "Political tactics
2		calling for things we can't do to force UK". What was
3		the reference there, do you recall?
4	A.	Well, this was during a period as we are sort of
5		September through the autumn of 2020, which culminated
6		in the second lockdown in England, enhanced measures in
7		Scotland but not full lockdown, and it was at that
8		point it became much more of an issue as we went into
9		2021, but this was at the point where this issue, which
10		I spoke about very often at the time and which no doubt
11		we'll speak about later today, was starting to come to
12		the fore, of a disjoint between the ability of the
13		Scottish Government and the responsibility of the
14		Scottish Government to take public health decisions but
15		our inability to borrow the money or raise the money to
16		compensate businesses or individuals for the impact of
17		those decisions. When such decisions were taken by the
18		UK Government for England, they could provide the
19		financial support. And this was a frustration that was
20		expressed by us regularly and also by the
21		First Ministers of Wales and the First Minister and
22		Deputy First Minister of Northern Ireland. That is a
23		again these are not my words, they're not my notes, but
24		we often not often, that would be putting it too
25		strongly, but this was the start at which we were 81

the part where she talks shout "Dalitical testion

financial aspect of this, up until now, where -- I mean, this was -- to be blunt, this was about making sure -the Scottish Government seeking to make sure that if we had to apply tougher restrictions or impose another lockdown, Scottish workers would get their wages paid, Scottish businesses would be compensated for that in the same way that the UK Government would be able to make possible for individuals and businesses in England, and -- and that's what that is -- I believe that is what that is referring to.

Q. Ms Forbes told us that prior to and around this time she

had been involved in considerable discussions with the

chief secretary to the Treasury around this and other

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14 financial issues. This was a discussion in which she 15 should have participated, is it not? A. It may have been. If what is being put to me, and 16 17 forgive me for -- if I'm reading into things that are not there, but if what is being put to me is that 18 19 Ms Forbes was somehow being excluded from discussions 20 that she should have been party to, then that is 21 absolutely not the case. Ms Forbes was an extremely 22 highly valued member of my Cabinet, an extremely 23 competent and professional member of my Cabinet. You

know, any discussions she would have been having with the chief secretary to the Treasury would have been 83

1 experiencing a situation where we were not managing to 2 persuade the UK Government privately and therefore we 3 were having to contemplate airing some of these issues 4 publicly.

Q. I think that did happen, Ms Sturgeon, I think you made 5 6 an announcement in this regard?

7 Α. Yes

Q. About what the situation -- on, in fact, 1 November, 8 9 just a few days after this, which then on the very same 10 day led the then Prime Minister, Boris Johnson, to respond saying that furlough would be available in the 11 event of a further Scottish and indeed Welsh or 12

13 Northern Irish lockdown?

A. I don't think we ever -- in fact I'm not sure to this 14 day we ever got the actual pinned down detail of what 15 16 that meant, whether it would be 80% furlough for as long 17 as a Scottish lockdown lasted or whether it was just 18 a sweeping statement to --

19 Q. To be clear, this isn't, in fact, it was slightly later, 20 it was the --

21 A. This was earlier than that.

22 Yes, this was --

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23 A. I'm just trying to illustrate what this was. It was 24 a time when these frustrations were beginning to 25 surface, which hadn't been there in -- in terms of the

> properly reported to me and through the government. There, you know, were many different meetings at many different levels within the Scottish Government at which different ministers and Cabinet secretaries and officials would have participated. Fiona Hyslop -- and we at that time had a Finance Secretary and an Economy Secretary -- she was there that day clearly to represent the broader business financial interests, and I'm sure -- again, you'll be able to check whether I'm right on wrong on this by reference to the public -the corporate record is that if there had been issues raised there that required answers or considerations around financial impacts, then Ms Forbes' office would have been contacted and she would have been part of wider discussions.

I did not operate on any issue, at any point of the Covid pandemic, in a way that sought to exclude people from decision-making. I tried to lead from the front, I tried to shoulder my fair share, sometimes deliberately more than my fair share of the burden of decision-making, given the severity and the difficulty of the decisions that were being made. I thought that was appropriate for a First Minister. Unlike Cabinet secretaries, who have their own portfolios, I also had a responsibility to see the whole picture.

But I tried to use the best resources I had available, ministerially and in the civil service, for the Scottish Government in the whole to reach the best decisions. And, you know, I absolutely accept that it's the case that we can look at a single note of a single meeting and look at, well, a particular person wasn't at that, and -- and reflect now, I -- so I am sitting here thinking "Yeah, I don't know why she wasn't there that day", and probably she should have been, but that was not, you know, some deliberate attempt to exclude her. On the contrary, she was crucial to the pandemic response in many ways.

Q. Well, we have her evidence on that matter.

We've looked at another exchange between Mr Yousaf and Professor Leitch actually around the time that Mr Yousaf took the role, after the election, of Cabinet Secretary for Health and Social Care, in which they start to discuss the exposure of Mr Yousaf to all the information that he needed to take on board to try to make decisions in his new role.

Professor Leitch refers -- they discuss the possibility or the imminent "deep dive" meeting that's about to take place at which they're both going to attend, and Professor Leitch suggests as regards that meeting that:

of whom just wanted to be in the room to hear what was said and didn't need to be there.

I didn't have a great deal of patience with that.

I wanted the right people, by that I don't mean people -- whether I liked them or not, I meant with the right expertise and ability to and experience to and knowledge to offer round the table. So that's, I suspect, again Professor Leitch would have to answer what he meant there, I suspect that's a reference to that thing that was said about me in the Scottish Government, that I didn't like casts of unnecessary thousands in meetings.

I absolutely wanted the people who were critical to making decisions around the table when either decisions were being discussed and shaped and certainly when they were being taken, and "She actually wants none of us" -- you know, don't get me wrong, there are days during the pandemic I would gladly not have had to see, you know, Jason or Gregor or Humza or -- or all of these people, this was an incredibly stressful period for all of us, but I wanted all of the people with the right expertise in the room so that we could take the best decisions we possibly could.

24 Q. The word "shenanigans" has the words "as always"?

25 A. I think I have set out what I think that means. I think

"There was some FM 'keep it small' shenanigans as always. She actually wants none of us."

Is that an accurate reflection of the way in whichyou managed the pandemic in Scotland?

A. No, it's not, and it couldn't be further from that.
 Perhaps you have to know Jason Leitch as well as I do to
 fully appreciate his, you know, sometimes turn of
 phrase. I should say, I have got the highest opinion of
 Professor Leitch and he was crucial, in a very, very
 positive way, to our handling of the pandemic.

This probably refers to, if it's not -- and this wasn't particular to the pandemic, it was probably particular to my First Ministership overall, a bit of a sort of, I don't know how to describe it, almost joke within the government. When you -- in government there is a tendency, and again I say this respectfully, I've got the highest regard for the civil service, and deep gratitude to the civil service for everything they do and particularly did during Covid, but when you have a -- any meeting involving ministers, particularly the First Minister and the Deputy First Minister, there is -- a tendency kicks in: everybody wants to be in the room, whether they, strictly speaking, need to be there or not. And you could end up with meetings where there would be literally a cast of thousands of people, many

it probably shows Professor Leitch was not
 discriminating in the comments -- who he chose to make

3 comments about in these discussions.

Q. You gave some previous evidence, when you helpfully appeared in Module 1, about your experience, ministerial experience, having been Health Secretary, Deputy First Minister and First Minister, and you told the Inquiry about the fact that you had in fact had, I think in your role as health minister, experience of dealing with a pandemic before, as you had dealt with Scotland's response to and position in the 2009 H1N1 swine flu crisis: is that correct?

13 A. That is correct.

14 Q. Although her Ladyship is still to make determinations on the matter, it was suggested by a number of witnesses in
 Module 2 that the then Prime Minister, Mr Johnson, was the wrong Prime Minister for this crisis. Did you share that view?

A. Yes.

Again, I'm risking, here, going further than
I should and being reprimanded for sounding political.
I'm not meaning to be. I suppose I'm trying to put that
into context where I don't think I'm betraying any
secrets here when I thought Boris Johnson was the wrong
person to be Prime Minister, full stop. So I think that

- 1 answer has to be seen within that context.
- Q. Did you consider yourself, against that background and
 your considerable ministerial experience, to be
- 4 precisely the right First Minister for the job?
- 5 A. No, that's not how I would have thought of it at all.
- 6 I was the First Minister when the pandemic struck.
- 7 There's a large part of me wishes that I hadn't been,
- 8 but I was, and I wanted to be the best First Minister
- 9 I could be during that period. It's for others to judge
- 10 the extent to which I succeeded.
- Q. Did you -- it's undeniable that you had the previous
 experience of the H1N1 crisis, that's simply a fact, and
 that you had considerable experience in dealing with
 health matters, in particular as you had been
- 15 Cabinet Secretary for Health.

I'd be interested to know, Ms Sturgeon, whether, in the juxtaposition between that simple state of affairs and your opinions, shared by some others, of Mr Johnson, that you saw a political opportunity in the fact that you were well equipped, in your mind, to deal with the response and he was not.

A. No. The answer I gave you a moment ago about
 Boris Johnson, I don't remember thinking that in the
 moment. I've made the political comment about my views
 of Boris Johnson generally. In those early days of the

pandemic were made by you?A. No. And again I would say any

A. No. And again I would say any reading of the Cabinet documents I think would show that that is not the case. Decisions were made by my Cabinet.

Did I, in those discussions leading to decisions, have views? Of course I did. I would -- reflected earlier on, I was trying to inform myself, to educate myself, I had a role in Cabinet that, to a certain extent, the Deputy First Minister had as well, to see the whole picture and not just particular portfolio impacts, but the decisions were taken collectively by Cabinet and I absolutely maintain that that is what the Cabinet documentation shows.

You asked me if, at the start of that, given that overwhelming responsibility, did I take a firm grip of leadership, and I hope I did. I had never experienced, and most people at that time had never experienced -- I had been Health Secretary during swine flu, thankfully turned out not to be anything as severe as Covid -- I had never experienced this before. And I had a sense of responsibility that, as First Minister, I had to lead from the front, that I had to take the decisions collegiately but ultimately have an attitude that said that the buck stopped with me, that I was accountable.

So we'll talk about decisions, and have done today

pandemic, my view was, and my experience was, that we were all trying our best in almost impossible circumstances.

To the next bit of your question, did I see an opportunity, I didn't see an opportunity of any description in Covid. I saw a threat, a risk, a catastrophe. My memories of the early part of 2020, in terms of how I was feeling and thinking and the emotions that I was experiencing, was, first, fear at what might be about to unfold and confront the country. At times -- and I think, you know, you've seen snippets of perhaps, you know, the sort of human side of being a leader and a politician in these moments -- at times in those early days I felt overwhelmed by the scale of what we were dealing with. And perhaps more than anything, I felt an overwhelming responsibility to do the best I could.

And that's ... so the idea that in those horrendous days, weeks, I was thinking of a political opportunity, I find -- well, it's just it wasn't true.

Q. Was it the case, Ms Sturgeon, that the overwhelming
 responsibility that you've described feeling manifested
 itself in you taking a very firm grip over
 decision-making, difficult decision-making, such that
 ultimately decisions about the management of the

and will do no doubt later on, that are decisions that were probably not taken by me but by my

Cabinet secretaries or ministers. There is no part of me that will ever say "Well, that wasn't anything to do with me". I was ultimately accountable and responsible, and that's the only way it could have been, and I tried

and that's the only way it could have been, and I tried
to do that to the best of my ability.
Q. You've mentioned, Ms Sturgeon, on a number of occi-

Q. You've mentioned, Ms Sturgeon, on a number of occasions the very initial stages of the pandemic, and that's what I'd like to turn to next, just to link it into a matter that in fact you've just been discussing.

We've heard some contradictory evidence about the extent to which those who were involved, from a scientific perspective, in the 2009 swine flu crisis, at the time when information was emerging about the new threat, took that experience to be something of a comfort based on the fact that, as you've said, it didn't turn out to be as bad as it might well have been in Scotland; and from others that used that experience really in almost completely the opposite way, to lead to the conclusion that the threat was incredibly great.

Based on your previous political experience of that and knowledge, which you've told us about in Module 1, to what extent were you able to draw on that experience, and in particular what advice do you recall having in

the first couple of months, January/February time, about whether that experience should be something from which one should take comfort or something from which one should, in fact, sense considerable alarm?

5 A. If I may, there is different parts within that.

6 Q. Yes.

7 A. So if I can try to address --

8 Q. Thank you.

9 A. -- all of them.

I don't think there was any advice in that early period that said in terms, you know, "Don't worry, it will just be like swine flu", versus, you know, "We should be thinking that because it was mild, swine flu, it will be the opposite". I don't think there was advice in those terms.

During January and into February 2020, I think
I received the first briefing -- forgive me if I'm not
getting my dates absolutely correct here -- I think
I received the first briefing about swine flu(sic)
around 17 January. I convened the first meeting of the
Scottish Government's resilience committee, the Scottish
Government equivalent of COBR, I think, on 29th -- 28 or
29 January. So from January onwards there was
a distinct and, almost on a daily basis, growing
understanding and apprehension that this was going to be

want to do differently. I think there were assumptions made, for example, around the public's willingness to comply with restrictions and how long that would last that were made by decision-makers, myself included, that turned out to be wrong, I think, that perhaps influenced some of those early decisions more than a memory of swine flu did.

Q. Thank you.

As I say, we have conflicting evidence about what scientists thought about that. We heard evidence from Professor Nick Phin who spoke -- who was not actually at Health Protection Scotland, as it was, at that time, but spoke on behalf of that body and Public Health Scotland in the evidence we heard. He in his evidence was one of the witnesses who sought to draw on the H1N1 experience as something of a comfort, given the way it had turned out. Was HPS a body from which you were getting advice about the threats at this time?

A. Yes. So I referred to the early briefings. They would
 either come from HPS or informed by HPS through whatever
 channel in the Scottish Government. H -- looking back
 at swine flu, HPS back then was a body -- I was
 Health Secretary, I was familiar with it anyway, but
 worked closely with Jim McMenamin, who I know you heard
 evidence from as well, working extremely closely with

extremely serious. Some time in February, early
February -- and I'd remember this vividly because it was
part of that sense of fear and responsibility I spoke
about, seeing, you know, reasonable worst-case scenario
projections that were terrifying in terms of what could
have happened.

In terms of -- going back to swine flu and my own view, this is a question I've asked myself often: did the experience of swine flu even subliminally influence my attitude in the early days to Covid? It was definitely there. I learned things in relation to swine flu: the communication approach, the daily briefings. The then Chief Medical Officer
Sir Harry Burns and I did a similar approach in swine flu, so I'd learned about the importance of clear, regular communication, and I was able to draw on that.

I don't think -- I don't think I had any sense that because swine flu had turned out to be, to use a loose term, a false alarm, the same was likely to happen with Covid. In fact, I think that -- because that was in my mind, I think I was guarding against that in those early days. But it is a complex question with perhaps no simple answer. I think there are others things, which no doubt we will come on to, in those early days or in those early weeks that if I had my time again I would

him, and somebody else I have the highest regard for, his expertise and commitment to these issues.

So HPS was -- obviously Public Health Scotland was established at the start of the pandemic, but HPS was a valuable and valued source of advice to me and to the government more widely.

Q. We know that HPS stood up its National Incident
 Management Team on 13 January, so we understand that
 that was a body that was providing advice at that time
 to the government. Is that correct as far as you
 recall?

12 A. Yes, so I think 17 January was the first time a briefing13 came to me.

Q. Yes.

15 A. But that would have been informed by --

16 Q. Yes.

A. -- the -- I think at that early stage it was -- and
 I think it is reflected in the early advice, it was
 something of an intelligence gathering operation from
 what was happening principally in Wuhan in China and
 anything else that was being seen across the world. But
 that would have been the source of the advice that was

coming to me.
Q. You were also, quite naturally, receiving advice from

Q. You were also, quite naturally, receiving advice from
 Dr Calderwood over this period, is that correct?

7

- A. Yes. 1
- 2 Q. Were you aware of a series of emails exchanged in late
- 3 January from 21 January which were sent by
- 4 Professor Mark Woolhouse, a consultant epidemiologist at
- 5 Edinburgh University, to Dr Calderwood, and the contents
- 6 of those emails?
- A. No, I wasn't aware of them at the time, either of their 7
- 8 existence or of their content. I should say my direct
- 9 contact with Dr Calderwood in this context would
- 10 probably have started at around the time of the first
- 11 SGoRR, Scottish Government resilience meeting, at the
- 12 end of January. So I wasn't aware of the existence or
- 13 the content of those emails, but having now had the
- 14 opportunity to read them, certainly as we went from
- 15 January into February the tenor and, you know, the
- 16 general content of those emails was certainly
- 17 percolating through in the information that was coming
- 18 to government ministers. So I don't read them now and
- 19 say I had no idea that this was perhaps -- you know, not
- 20 in all of the detail of that but in the general sense.
- 21 Q. So would Professor Woolhouse -- the general tenor of
- 22 Professor Woolhouse -- obviously Professor Woolhouse is
- 23 very much in the camp of -- based on particular
- 24 experience, in particular his experience in dealing with
- 25 the swine flu crisis, and the emerging information, he
- 1 indicating ought to be taken at that stage in order to
- 2 try to deal with the threat which he had identified,
- 3 these include the requirement for an integrated
- 4 surveillance system, various different types of
- 5 surveillance including genomic sequencing, isolation,
- 6 infection control, contact tracing, public messaging and
- 7 social distancing.
- 8 A. These are -- and I -- you know, I'm not sitting here,
- 9 notwithstanding having been a minister through two
- 10 pandemics, to claim to be an expert on these technical
- 11 matters, but all of these are things that were built up
- 12 and developed in Scotland. It will be a matter of,
- 13 you know, judgement for the Inquiry as to whether all of
- 14 these happened as quickly as they could or should have
- 15 happened and, you know, we can go into any of these 16 individual aspects in more detail if you wish me to.
- 17 But if I take -- so we had -- and I remember this 18 well from my time as Health Secretary -- we had a system
- 19 of surveillance, the sentinel surveillance system, which
- 20 was based on sample testing of respiratory infections
- 21 across certain GP practices. Some -- not initially in
- 22 January or February but later that was scaled up to
- 23 cover I think more than a million of the Scottish
- 24 population. We very quickly established from having no
- 25 ability to carry out Covid tests in Scotland, I think by

- was very much in the camp of hitting the serious alarm
- 2 button at that stage. Do you say that was percolating 3
 - through?
- 4 A. Yes, in the sense that as we went through the latter
- 5 part of January into February, I think -- you know,
- 6 Cabinet first discussed this on, if I'm remembering the date correctly here, on 4 February.
- 8 Now, just to give a sort of accurate picture here,
- 9 the concern was increasing and mounting as we went
- 10 through late January, into February, and certainly as we
- 11 got to the end of February into March it was ever
- 12 higher, but, you know, we had a sense, a very strong 13 sense from the latter part of January that this was
- 14 something to be very worried about.
- 15 Q. The -- we have been through the emails from
- 16 Professor Woolhouse and with Dr Calderwood on a number
- 17 of occasions to look at the detail, and I think you've
- 18 seen those, as you've --
- 19 A. I have.
- 20 Q. -- indicated. I don't intend to go to the details, but
- 21 what I'm interested in is ascertaining what your
- 22 understanding was of the practical steps which
- 23 Professor Woolhouse, over and above his detailed
- 24 epidemiological analysis of things like the R0 and that
- 25 sort of thing, the practical steps that he was
- 1 10 February we had established Covid test processing
- 2 facilities in Edinburgh and Glasgow. I think at that
- 3 early stage positive tests still had to go to Colindale
- 4 in London for confirmation, but we -- so over a very
- 5 short period of time we had established from no testing
- 6 capacity to having that, and then that scaled up ever
- 7 more.

- Genomic testing, you know, again -- you know, again an issue we might or might not come on to talk about,
- 9 10 the Nike conference, there was genomic study done around
- 11 the lineage of -- of Covid in that. There was a very
- 12 substantial study done later on involving genomic
- 13 sequencing of the importation of Covid to Scotland. 14
- So whether we did it quickly enough will be for 15 others to judge, but certainly as we go into the later
- 16 part of 2020 these capacities are there in Scotland and 17 have been developed and possibly in some cases still
- 18 developing.
- 19 Social distancing, of course, you know, came later through the early COBR decisions. We, you know, started 20
- 21 to give advice, I think, some time in March about people
- 22 being careful about contacts and -- but the formal COBR 23 decisions around isolation and distancing came later on
- 24
- 25 Q. When Ms Freeman gave evidence to the Inquiry, she was of 100

the view that Scotland's public health service lacked in staff, facilities and kit to introduce a testing system of the kind that was being introduced and that the capacity of tests remained at only 350 per day until April.

Does this, in your view, based on your involvement and recollection, indicate a lack of urgency in Scotland's response?

A. So specifically on testing, I would say I don't think it reflected a lack of urgency, I think it reflected -- it reflected the capacity we had in place, and therefore and that determined the speed at which we could scale from the very limited capacity to the much greater capacity we had.

So if you take testing, for example, the testing facilities that were available -- pre-pandemic, diagnostic testing facilities tended to be, not just for Covid but generally, in small-scale, multiple small-scale labs. While there were, you know, expert staff working in these, there was a need to recruit, which is not easy to do with people of the expertise we needed. There was also at that point, and there are different conclusions that can be drawn from this, I appreciate, but at that point there was intense supply chain pressure on, you know, swabs and reagents for

have to reflect on with foresight, is the level of testing and contact tracing infrastructure that is kept in place outside pandemic periods. It is very costly to do that, but we certainly -- we certainly suffered from not having a greater baseline capacity at the start of 2020 than we had, and we scaled up as quickly as we could.

My own view -- I am no longer in a position of responsibility around this -- my own view is there should be a greater baseline capacity infrastructure in future. But that comes with costs and it comes with opportunity costs and there are obviously issues that governments have to grapple with in that.

- 14 Q. The maintenance of that baseline capacity may well be
 15 costly, Ms Sturgeon, but I rather suspect that the
 16 pandemic itself has shown that --
- 17 A. Absolutely.
- 18 Q. -- it is even more costly not to?
- A. So let me be clear, yes, and I want to be clear that
 I was not suggesting that the financial cost should,
 you know, take priority over the human cost. There were
 many costs of the Covid pandemic, the human one was the
 worst of all. So I absolutely agree with that. But -and Scotland and the UK was not alone in this
 internationally, some countries had or appeared to have

testing.

So I don't think it was a sense of a lack of urgency, but it -- by necessity, there was a certain limit to how quickly we could go from where we were at the start of the pandemic in testing to where we wanted to do. It took time to put the larger scale labs. That said, the Glasgow Lighthouse lab, which was done through the UK Lighthouse system, I think was open by some time in April.

So things moved relatively quickly. Were they as quick as I would have wanted? Even at the time and certainly with hindsight, no. But there were practical constraints that we were -- that we were dealing with at that point.

- 15 Q. Had your H1N1 experience of 2009 taught you that early
 16 decisive action to contain a viral pandemic would be
 17 necessary and that it would require a testing and
 18 tracing capacity?
- A. Yes. And because of what we've already talked about,
 swine flu and the way it developed, or didn't develop,
 the limited testing and contact tracing that we had in
 place at that time was much more capable of dealing with
 the scale of the threat. So yes, it did teach me that.

I think there is, and it's certainly a point I have reflected on with hindsight, and I think governments now

a greater baseline capacity of testing. You know, I should also say for the -- for completeness at this stage, although you'll stop me if it's an area you're going to come on to, testing had limitations. It is absolutely the case that I think it would have been desirable to have been able to do more testing at an earlier stage, but, particularly in people without symptoms, there was not a degree of confidence then, I'm not sure what the degree of confidence is now, that the tests would pick up the virus in everybody. So we talk about testing, I think it is really important that we understand how central testing is. My personal view is we've also, in doing that, got to be careful we don't blind ourselves to the limitations of testing.

- Q. Although there might be limitations related to false
 negativity in testing, you would have found, would you
 not, that you would have got more positive tests than
 the actual situation of not carrying out tests at all?
- A. Oh, self-evidently, yes. The point I'm making is that
 if -- I'm at risk of sounding as if I'm arguing against
 the importance of testing and I am not. But some of the
 clinical -- which were expressed in some of our
 decision-making around putting too much reliance on
 testing is because of the potential for false negatives.
 So if somebody does a test one day, it's negative, and

then they think "Well, I don't have to worry about social distancing or face covering or all of the other protections", then that could, at least hypothetically, have a negative effect. So I think that's more what I was talking about.

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I am not arguing against the importance of testing, nor am I suggesting that it would not have been advantageous for Scotland in a whole range of ways to have had greater testing capacity at an earlier stage of the pandemic.

Q. One other aspect of the plan, the practical plan that Professor Woolhouse suggested taps into an area that you've already mentioned. He suggested that there would be a need -- it would be extremely important, in fact, in his correspondence -- that there be public messaging, and of course that was something later on that a strategy was developed for.

Were you aware at around this time that there had been a recommendation by a consultant epidemiologist that public messaging, keeping the public informed even at this early stage, was a very important part of the strategy, rather than simply later?

23 A. No, I wasn't aware of the content of those emails, so 24 I wouldn't have been aware that that had been a specific 25 recommendation. Although the regular, which became 105

that time to the Scottish public with any degree of detail. Is it correct, in the first instance, that it was on Dr Calderwood's advice that those matters were not communicated at that time?

5 A. I mean, there were different considerations in each. 6 Understandably these have been grouped together, they 7 all stand individually and I would have to go --

8 Q. -- but simple question was --

A. -- so in the case of Nike and the rugby, yes, I took advice from Dr Calderwood and discussed that advice with her. I don't think her advice -- whatever I might think now with hindsight, but if I was to go back, would 13 I take the same judgement? I may take a different judgement but I don't think her advice was unreasonable.

> If I can take Nike perhaps as the instance to illustrate this with, the Nike was an event that the Scottish Government hadn't known about before it happened or until after it had happened, so it wasn't an event that we had been asked to approve or not approve going ahead. When the first -- in the first few cases that were associated with that conference, there was an incident management team put in place led by Health Protection Scotland. It wasn't genomic sequencing that traced individuals, that came later, to trace the sublineage and could show what happened or didn't happen

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1 daily, public messaging in the form of the daily 2 briefings didn't start until March, some time in 3 March 2020, and I -- you know, I'd have to check exactly 4 what the dates were here, I -- I recall --5 understandably, given that this was becoming a dominant 6 global story, I recall certainly in advance of that more 7 regularly being asked questions about it in interviews, 8 so the public messaging was something that we were aware 9 of and were starting to seek to do, although not in that 10 formal, very structured sense that you refer to which 11 kicked in later. 12 Q. We've seen some evidence related to various matters

13 around this period, really up to the first lockdown, 14 where there are matters that are not communicated to the 15 public, and that appears to be broadly on the advice of 16 Dr Calderwood. I'm thinking in particular around the 17 emergence of the threat and the matters raised by 18 Professor Woolhouse, the threats from the Nike 19 conference and the genomic efforts to try to trace 20 individuals who had been infected as a result of that, 21 the identity of the first person in Scotland to die from 22 Covid in the middle of March, concerns that had been 23 expressed around the rugby international which took 24 place at Murrayfield between Scotland and France on 25 8 March. None of these matters were communicated at 106

1 with the spread of the infection, but there was an 2 incident management team that kicked in do contact 3 tracing, to do everything, and we now know they were 4 very successful in halting any further spread from the 5 I think 38 primary and secondary cases that were 6 identified with that conference.

The issue --

8 Q. It's the public --

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-- became whether we put into the public domain at that time that the I think it was the second case had been associated with that conference. That was a fine judgement. This was a conference I think I heard in evidence last week that there was a couple of hundred people at that conference. There wasn't, there were 71 people at that conference. Only ten of them were from Scotland. And there was a concern that was put to me in the advice from Dr Calderwood that to say that the case was somebody from that conference would have risked identifying that person because of the small numbers

I got that advice, I think I spoke to Dr Calderwood, and I accepted that advice. I don't think it was unreasonable. I heard Dr Smith say to the Inquiry, and I thought this was a reasonable way of putting it, that a different clinician might have had a different risk

appetite for patient confidentiality and given different advice. That's not to say that Dr Calderwood's advice was wrong or unreasonable, but a different clinician might have given different advice and a different politician might have decided not to accept that advice, and the same politician, going back again, might have decided not to accept it because, even although I don't think -- when that did surface I don't think it did undermine confidence in public messaging, I can see now that it had the potential to do that and I would not have wanted to take that risk. We of course know that it didn't lead to any further spread.

The final point I want to make about this is this was in early March. On every given day there were judgements falling to be made, decisions falling to be made, often very fine judgements that could have gone one way or the other, and we were taking these in this unprecedented situation, trying to reach the best decisions we could. I hope the majority of these decisions were the right ones. Some of them undoubtedly we would have fallen on the wrong side of that judgement, and perhaps, with hindsight, this is one of those, but that doesn't mean it was a decision reached with a motivation of secrecy. There would have been no reason other than the patient confidentiality for the

and how that was going to unfold. The decisions that were taken on all of these things were not taken with the intention of being secretive or keeping information away from the public, they were taken on the basis of, in the case of Nike, considerations of patient confidentiality. That I accept. Other clinicians, other politicians may have taken a different view on, but they were the genuine considerations that were being taken into account.

In the case of the rugby going ahead, that was -HPS gave advice that came to me through Dr Calderwood at
the time that, taking it all into account, the fact that
it was open air, the fact that there were likely to be
supporters that if they weren't going to the match would
go into pubs instead because they would all come to
Edinburgh, that it was relatively safer for the match to
go ahead. These were the decisions we were weighing and
arriving at every day. Was every one of these decisions
with hindsight the correct one? Absolutely not. But
they were being taken in good faith for the best
possible reasons and in the best possible way to try to
keep people as safe as possible and be as open as
possible along the way in that process.

24 Q. Were the decisions wrong with hindsight?

25 A. Would I take -- on Nike, because I saw the potential,

Scottish Government not to have said that this was associated with a Nike conference. The reason the decision was reached was on the basis of patient confidentiality. It may have been a judgement we should have taken in the other direction but that was in the nature of what we were dealing with at the time. Q. I've put the Nike conference and the lack of publication of it in the context of a number of other things for a reason, which is: would you agree, if it were to be concluded that over this period, despite the clear indication that had been given by Professor Woolhouse of the need for clear public messaging over this period, that the Scottish Government adopted an approach of secrecy, such that it released very little if any information about the threat to the people? A. No I wouldn't agree with that at all. I think, you know, if we get -- if we're talking about the time period the Nike decision was made, which is around the same time period decisions were being made around the Murrayfield rugby match, there was copious amounts of information I think on the day that I got and accepted advice around the rugby match. We had just published the four nations strategy document, we were putting lots of information out there about how we perceived the risk

and what we thought the steps that had to be taken were

I don't think this was the reality, I don't think this risk materialised, but I saw the potential for the Nike conference to emerge later through a media disclosure, to undermine confidence. With hindsight I would have I think gone the other way on that. I think the rugby at that point is a more difficult one to call. I --again with all the benefit of hindsight, yes, I --within a few days of course I was absolutely recommending that mass events should not be going ahead. But this was public health advice that was being given to me by, you know, respected experts and I accept --and I take responsibility for accepting it, and yes, I -- on some of these would I go a different way now? Does that mean they were right versus wrong? These were

were seeking to make for the best possible reasons. We
absolutely didn't get all of them right.
Q. Was the first person to die from Covid in Scotland

matters of judgement. They were balanced decisions we

18 Q. Was the first person to die from Covid in Scotland19 a French national who had been at the rugby?

20 A. He was, yes.

21 MR DAWSON: No further questions at the moment, my Lady.
 22 If that's a convenient time?

LADY HALLETT: Certainly, I shall return at 1.45.

24 (12.47 pm)

(The short adjournment)

(1.44 pm)

MR DAWSON: Thank you, my Lady.

Ms Sturgeon, before the break we were discussing some of the early decision-making on the part of the Scottish Government relating to the emergence of the pandemic. We talked about advice being provided by Dr Calderwood and others.

In that period, do you recall whether you received advice from the then Deputy Chief Medical Officer, Professor Smith?

- A. He was part of the process of giving advice, so during that period the then Deputy Chief Medical Officer was mainly, I don't think this was exclusively but mainly, the Scottish Government's observer at SAGE, for example. So he would be the conduit of read-outs, feedback from SAGE. They would come to me in written form, but he was frequently there in person around the table when I was discussing the matters with Dr Calderwood.
- 19 Q. Thank you.

We've also obviously heard evidence from Professor Leitch, who we've talked about already, the National Clinical Director. Was he providing advice as well at that time?

A. Undoubtedly he would have been but it wasn't -- as far
 as I recall, I don't think it would have been coming to
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amongst other things, vaccines. We've obviously seen and discussed some of the evidence that emerged from individuals in the background, certainly, in Scotland, Professor Woolhouse in particular. Professor Woolhouse was also able, in his advice, to draw on discussions he had had with other experts such as Neil Ferguson and others who he mentions.

Was it your, did you have a concern over this period that the people from whom you were getting advice were not sufficiently expert to deal with the threat?

A. No, I didn't. The advice I got from all of these individuals, not just initially but, you know, in the case of two of them, over the course of the pandemic I had a high degree of confidence and trust in, and I think that confidence and trust was justified.

I was also aware that they were not simply giving advice to me as individuals, you know, operating solely, they were drawing on other sources, Health Protection Scotland, other experts, in various aspects of this.

And of course when we get into March 2020, the Scottish Government Covid-19 advisory committee is established, which has a range of experts,

Professor Woolhouse was of course a member of that, and I remember -- the membership of that again was not selected by me, it was advised to me by Dr Calderwood at

me directly from Professor Leitch. But I am sure he
 would have been part of the process of that advice being
 in-gathered from different clinicians and different
 experts to put to me.

Q. The three principal government medical advisers,
 Dr Calderwood, Professor Smith and Professor Leitch,
 came from an obstetrics and gynaecological background,
 a general practice background and a dentistry
 background; is that correct?

10 A. Yes

11 Q. None of them were trained in virology, epidemiology or respiratory medicine; is that your understanding?

A. As far as I am aware, I know that they have varying degrees of experience in public health, Professor Leitch in particular has qualifications in public health. I --forgive me, I'm not saying this in any way to say these appointments are -- the First Minister is not involved in the appointment of these, so I wouldn't have been involved in the appointment process for any of these individuals.

Q. We've seen in this module and others that advice was provided to the UK Government by Professor Chris Whitty, who was an expert in infectious diseases, public health,
 Sir Patrick Vallance, who had a background in clinical pharmacology and had worked in industry dealing with,

the time, and I do recall that she specifically said that she thought it was important to have him on there because she wanted to ensure that there was a diversity of views coming through that, that we didn't want to have people -- obviously we were guarding against anything that could be described as groupthink or simply people that had one particular perspective.

8 Q. But that body didn't exist, it wasn't set up until the
9 end of March and became operational in early April; is
10 that right?
11 A. I -- again, you will have the dates in front of me.

A. I -- again, you will have the dates in front of me,
I don't have the dates in front of me. I think it met
for the first time in late March and it was set up -established by Dr Calderwood at my request for specific
reasons that I'm happy to cover if you wish me to. But
before then, you know, again, SAGE was an important
source of advice, and although there were frustrations
I had with the SAGE process that led me to ask
Dr Calderwood to establish the advisory group, I had
great confidence in the scientific advice coming through
SAGE.

So we -- at no point did I feel that I was not getting good advice, it was an uncertain time, the knowledge of the virus was developing, there was, you know, significant doubts and uncertainties around

1 different aspects of how it transmitted, which became 2 less uncertain over time, but I had confidence in the 3 advice I was getting and I have great respect for and, 4 indeed, real gratitude for the work that Dr Calderwood, 5 Dr Smith and Professor Leitch did in that period and, in 6 the case of the latter two, subsequently to that.

- 7 Q. We've seen some evidence to suggest that Dr Calderwood 8 didn't appear to have very much of a plan as regards the 9 testing aspect of the pandemic response. Was that your 10 experience of dealing with her over this --
- 11 A. Forgive me, I didn't hear whether you said did or did 12
- 13 Q. The evidence is that she did not have --
- A. I wouldn't agree with that, nor would it necessarily 14 15 have been, on testing, solely for the Chief Medical 16 Officer to have that plan.

We -- I think I said earlier on, we went from a period in late January to having no capacity whatsoever in Scotland to process Covid tests to by the 6th -- 10 February, I think, if I'm getting that date correctly, to have facilities established in two labs. And in the weeks subsequent to that, capacity rolled out to every health board in Scotland. So there was a plan. I think there are very legitimate questions which we covered this morning about whether the pre-existing

1 to her resignation?

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A. On the evening of the 4th, the Saturday night. She resigned on the Sunday, if that's 5 April. I struggle sometimes with the precise dates.

On the Saturday evening I got a call from one of my special advisers who advised me that they had taken a call from a Sunday newspaper with the story that then emerged in that -- on that day.

- Q. Were attempts made within the Scottish Government to retain Dr Calderwood despite that report? 10
- 11 A. So I would -- as I do for all aspects of the Covid 12 response, but particularly this one, I take absolute 13 responsibility. I -- in the immediate moment, and 14 remember we're in the very early stages of 15 an unprecedented situation, I was -- I had two 16 considerations in my mind, and I'll end by saying what 17 I think I got wrong in this.

Firstly, I immediately understood that there would be significant public anger about this, and that that would have to be addressed, and that Dr Calderwood would have to very clearly apologise and be very clear that she had made a mistake and that the rules applied to her as they did to anybody else.

The other consideration was that we were at this relatively early but still very pivotal stage in the 119

1 infrastructure we had in place allowed that plan to 2 develop at sufficient pace. But I would contend the 3 Chief Scientist for Health, David Crossman, was also 4 closely involved in and brought great expertise to the 5 role of developing our testing capacity and the use of 6 testing, which of course was as important as the 7 capacity that we had.

8 Q. Would it be fair to say that Dr Calderwood was one of 9 the main architects of what there was of a Scottish

10 Government strategy in the period from January to March?

- 11 Strategy for testing or strategy for overall --Α.
- 12 Q. Overall --
- 13 A. She was -- she was a critical part of that. She was the 14 main conduit of clinical advice to me. But that advice 15 was coming from different sources. And she was part of 16 the collective Scottish Government team that was 17 responsible for both devising and implementing the plan 18 to respond to the pandemic. I don't think it would be 19 accurate to say that was her sole responsibility. And 20 while, you know, different people would interpret 21 phrases in different ways, "the architect" I'm 22 respectfully not sure would properly describe it either.
- 23 Q. She resigned on 5 April.
- 24 A. Yes

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25 Q. When did you become aware of the circumstances which led

> pandemic. From a period of decision-making that, you know, was very fast paced, that we had to, you know, respond very quickly to things, we had begun to settle into -- I'm talking internally in government decision-making -- more of a rhythm of how we were doing things, of, you know, the advice and the decisions that that would then lead to, and Dr Calderwood was a very key part of that, she was a conduit of clinical advice to me, I had high trust in her and she was a key part of the communication effort as well. And therefore I was mindful of how disruptive it would be to suddenly, in those circumstances, lose a Chief Medical Officer. And so I initially thought I wanted to try to achieve two things: address the public anger and make sure there was no doubt at all that she had made a very serious error; but retain what I thought was very valuable expertise and advice in government.

I think as the Sunday progressed, I began to realise I couldn't achieve both of those things and that if I continued to try to achieve the latter of those I would seriously compromise trust in the government's message, and that the internal ways of working, that was something for the government to deal with, and I had to prioritise the confidence in public messaging. So that led on the Sunday evening to me having a conversation

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with Dr Calderwood that led to her resigning.

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I should say, and I want to say this on the record, she had already reach that conclusion herself and made no attempt then to avoid her resignation, and I think it is to her credit that she, at that point, was very clear with me that the public -- the confidence in the public messaging had to take priority. And I do think -- it perhaps stands contrast to other incidents, but I think that is to her credit. But it was a very difficult episode in what was, overall, an incredibly difficult period.

- 12 **Q**. We've seen some correspondence over that weekend -- as 13 you describe she eventually resigned late on the Sunday, 14 the 5th -- that tend to suggest there was a process over 15 that day whereby there was an evolving realisation, 16 I think, that she would end up having to resign. Are 17 you saying, Ms Sturgeon, that your initial reaction was 18 to try to keep her but that became impossible?
- 19 A. Yeah, I think I thought wrongly, as it turned out, and 20 I quickly realised this was not possible to achieve both 21 of those objectives, to make sure we didn't have the 22 public confidence in our messaging undermined and keep 23 the Chief Medical Officer in post in the midst of 24 a pandemic. You know, and I perhaps tried to give equal 25 weight to those considerations but, over the course of

is not surprising. It was a -- in the midst of a really 2 tough, difficult time for everybody. This was 3 an episode that -- you know, I hadn't known Dr Calderwood or worked with her for as long as others 5 had, it was -- you know, it was upsetting, the whole 6 circumstance. And so, yes, I can see that perhaps the 7 process that unfolded over that Sunday of trying to 8 achieve both of those things may have -- may have given 9 an impression to other advisers that I thought the loss 10 of her would be so catastrophic that they felt that I didn't value their advice or their input. That wasn't 11 12 the case. I can perhaps see why they might have thought 13 that, but that wasn't the case, I highly value the 14 contribution of all of the individuals who were advising 15

- 16 Q. Did that experience to any extent undermine the ongoing 17 relationships with the team that remained in place, with 18
- 19 A. Certainly not in my experience, and I don't --20 I genuinely don't think that was the case. We very 21 quickly, you know, moved to an adapted way of working, 22 Dr Smith became the, at that time, acting Chief Medical 23 Officer and, you know, later became Chief Medical 24 Officer in his own right. And, you know, yes, there were difficulties over the next few days, we had to 25

1 that Sunday, I realised that was not possible and if 2 I continued to try to achieve the latter, the outcome of 3 that would be the undermining of confidence. And that 4 quickly led to the situation that unfolded on the Sunday 5 evening. But, as I say, Dr Calderwood had already, 6 I think, herself, come to that same conclusion.

- 7 Q. So ultimately did you tell her to resign or did you 8 agree that she should?
- 9 A. In point of fact, I said earlier on that the Chief 10 Medical Officer is not a First Ministerial appointment. 11 I probably technically couldn't have, you know, made her 12 resign. But that wasn't necessary. By the time I spoke 13 to her on the phone on the Sunday evening I was clear it 14 was an inevitable outcome and she was clear it was 15 an inevitable outcome, so the conversation really became 16 that that was what was going to happen.
- 17 Q. We've also seen some internal correspondence involving 18 Professor Smith and others that tended to suggest that 19 the way in which the resignation had been handled had 20 undermined their position and they felt that it had 21 undermined the confidence that they felt was in them to 22 be able to continue in that role. Was that something of 23 which you were aware?
- 24 A. I wasn't aware of it at the time. Looking back on it, 25 and having now seen that correspondence, I suppose that 122

adapt to the loss of somebody who had been very central to our response going forward. But I don't think it damaged relationships at all.

I think something else I read into that correspondence was that there had been a sense of -because Dr Calderwood, with me, had been the key clinical communicator, had Dr Calderwood not resigned that weekend we were already -- we'd decided to try to establish a very firm point of, you know, contact between the public and the government, but, you know, that position of her doing the daily briefings with me every day would not have been sustainable because it would have taken up, you know, too much of the time she -- so we were already planning to move to a situation, which we did, anyway, where the clinicians would share that responsibility.

Q. I might -- on that particular aspect of that correspondence, it might be read slightly differently, I think, to suggest that the remaining medical and clinical advisory team, if we can put it that way, were of the view that too much reliance had been placed on Dr Calderwood as an individual and not on the team more widely and indeed other sources of expert advice.

Was that -- if that is the correct interpretation of that documentation, is that a fair representation of the 124

1 way in which advice was taken from medical sources by 2 the government?

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A. I don't think so. I can absolutely see why that would be an interpretation that could be put on that, and it may indeed be what the author of that correspondence meant by it. Dr Calderwood was the principal conduit of advice to me. She was not the sole author of that advice.

I said earlier on I interacted regularly with Dr Smith in the period before Dr Calderwood resigned, so it wasn't as if he wasn't a key part of the response; he was, and a very valued part of the response.

And, you know, you asked me earlier on about my experience as Health Secretary when we confronted -were confronted by swine flu, and I had, albeit as Health Secretary at the time, although if swine flu had developed differently no doubt the First Minister would have adopted this role, but I developed at that point a very key working relationship with the Chief Medical Officer, who at that time was Sir Harry Burns. And so, again, that was part of my -- the lesson I had taken from that: the importance of that relationship, of having a clear conduit for advice was important, but of course she wasn't giving me advice that she was the sole author of, she was drawing on multiple other 125

1 A. I -- on both of those, it had the potential to do both 2 of those things. I don't believe it did either. Had 3 Dr Calderwood not resigned on that Sunday evening, 4 I believe, in terms of confidence in the public 5 messaging, it may well have had that impact. I would 6 suggest that the evidence, through public attitudes and 7 public polling after that, suggests that it didn't have 8 that effect. I think her resignation stemmed the 9 potential for that.

> And on the first, it did have a disruptive effect, but it was one that we were able to overcome reasonably quickly, and establish ways of working, and, you know, I think Dr -- I know Dr Smith stepped up and did a very good job in those circumstances. So I absolutely accept the potential for both of those things to happen; I wouldn't necessarily agree that either of them were the outcome.

Q. Thank you.

Sorry to jump around a little in the timeline, I'm going to go a little bit earlier than that, beginning of April. On 12 February 2020 there was a ministerial tabletop exercise called Exercise Nimbus which took place involving representatives of the UK Government, Scottish Government, Welsh Government and Northern Irish Executive. Was this something you were aware of at the

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1 sources and giving it to me.

2 Q. But in translating, if you like, those sources of 3 information to you and her being the person that you 4 were speaking to, there was a risk, was there not, that 5 in that translation the right information might not be 6 getting to you?

7 A. There was -- as I said -- there's -- if I've given 8 an impression -- so, you know, Dr Smith would not always 9 be, but, you know, equally, not infrequently be in the 10 room at the same time. It wasn't that she was the only 11 person that I was speaking to. You know, frequently in 12 the very early days, she would take part, as Dr Smith 13 did later, in four -- the calls between the four UK CMOs 14 and come straight off that call and give me information 15 that she had got from the other three CMOs. So it was 16 a -- it was a situation where she may have been the 17 principal conduit of information to me, she wasn't the 18 only person in the room during these discussion, and 19 I was absolutely aware that she was bringing to me 20 information that came from different sources.

21 Q. Her resignation was, was it not, Ms Sturgeon, 22 a cataclysmic event for the ability of the Scottish 23 Government to react appropriately to the threat and also 24 had an enormous effect on public confidence in the 25 government's strategy? 126

1 time?

2 A. I undoubtedly would have been aware of it at a certain 3 level at the time, but I don't think it was something at 4 that point that was particularly high up my awareness 5 scale, if I can put it that way.

6 Q. You didn't attend it?

7 A. I didn't attend it -- unless you're about to tell me 8 that I did and I --

Q. You didn't --9

A. -- pretty certain I didn't attend it. 10

11 Q. Ms Freeman also did not attend it. Is that your 12 understanding?

13 A. That I -- yes, that is my understanding.

14 Q. It was attended by Mr Fitzpatrick, who was a minister in 15 the health area as well. Should either you or 16 Ms Freeman have attended such an event, which was, we 17 heard from Ms Freeman, an event which sought to update

18 pandemic planning in order to apply more specifically to

19 the circumstances of the emerging threat?

20 A. I think -- forgive me, I haven't in advance of today 21 reviewed Operation Nimbus. I hadn't been aware you 22 wanted to question me on this. So I would have to go

23 and review the detail of that to give you -- and I'm

24 happy to do so if you wish me to -- to give you

25 an answer about whether, with hindsight, on reflection,

1 I think I should have been at it. Personally I suspect 2 my answer to that would probably be no. You know, 3 having a minister, Mr Fitzpatrick, involved in that 4 would not be, in any sense, abnormal in these 5 circumstances, and, you know, he would have fed back 6 through the normal -- the normal processes in government 7 what the findings and conclusions and any 8 recommendations from that would have been. There would 9 have been, I'm absolutely certain, senior officials in 10 attendance at it as well. I think --

Q. And Dr Calderwood was at it as well, to be fair. 11

12 A. If Dr Calderwood was at it, then that makes part of my 13 point. I think -- and again, you know, we may come on 14 to other aspects of this -- I think in government in 15 normal times but particularly in the times we were in, 16 not everybody can be at everything, and just because 17 a particular minister or a particular civil servant is 18 not present at a particular meeting doesn't mean that 19 that minister is not engaged in the outcome or the 20 deliberations around that meeting.

21 Q. But it's a matter of priority between conflicting 22 commitments, one imagines?

23 A. Most days in government, yes, that is absolutely the 24 case, that there will always be an element of 25 prioritisation.

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1 simply isn't."

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The next day he indicates that, despite attempts to encourage them, still "no still engagement".

"They then spent 20 [minutes] talking about internal SG comms. Completely amazed!"

And even by 5 March he notes:

"I attended Directors meeting ... Laid it out thickly but few believe this is going to be serious."

Is that, as far as you're concerned, and as far as you were aware at the time from your position, an accurate understanding of the state of preparedness and urgency amongst directors in the Scottish Government, in particular the observation that it appeared that the UK Government's operation was sufficiently further advanced?

15 16 A. I couldn't comment in any detail on the UK Government's 17 operation at that point, and perhaps I should limit 18 myself to commenting on the government I was responsible 19 for. It -- that wouldn't be my understanding or 20 experience. That said, and I didn't know about these 21 views at the time. Derek Grieve is a civil servant that I have worked with in various capacities over my time in 22 23 government. Again, you know, he is a civil servant of 24 the utmost professionalism, integrity and expertise, so 25 I would take seriously what he says. I would make two,

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Q. Would this event not have been, in the circumstances 1 2 given the evidence we've heard about the extent of 3 the --

4 A. Possibly.

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5 Q. -- threat, something which should have been prioritised 6 more than it appears to have been?

7 A. It -- possibly. Just -- I'm not -- genuinely not trying 8 to avoid answering the question. I've not in advance of 9 this reviewed Operation Nimbus so I don't want to --10 without having done so, I don't want to be more 11 definitive than I'm being. It may well be that what 12 you're putting to me I would answer "yes" to and I'm 13 happy to give some written evidence to the Inquiry on 14 this point if that would be helpful.

15 Q. Thank you, Ms Sturgeon.

> We have seen in a notebook from an individual named Mr Derek Grieve, the deputy director for health protection division, within the directorate of population health, a number of entries ranging from 26 February to 5 March which read as follows.

> On 26 February it says that he attended the COBR (M) meeting with the Cabinet Secretary, Ms Freeman. He noted that:

"It's clear all [departments] in UK [Government] are fully engaged [and] mobilised in a way that the SG 130

I suppose -- in acknowledging that I can't directly comment on a meeting I wasn't at and a note that I didn't write, beyond saying that was not my experience at the time.

I think there's two other things I would say. In preparing for today, it struck me that at a Cabinet on, I think, 10 March 2020, I make some quite extensive comments about the fact that this is going to be a whole-government, whole-society challenge and not just a health, I'm paraphrasing, so clearly at that point it was something I was certainly stressing, that -- that it had to be something everybody saw as their business and their priority.

The other comment I would make, which possibly is not fair to ascribe, and I'm not trying to ascribe it to David Grieve, but I remember at the start of swine flu, as Health Secretary, that -- a sense when you're in a crisis that is very much initially focused on health, it is absolutely all you're thinking about, and even people who are thinking about it a lot but maybe not as much as you, there is a sense of frustration that they're not as seized of it as you might be. And of course swine flu thankfully didn't progress beyond it being largely a health challenge in the way that Covid

My recollection, my experience, my understanding is that there was certainly an increasing, over that period, realisation of how serious this was in the Scottish Government, but there was a realisation that this was something that was serious and that was going to affect everybody and every section of our society. Can we go to INQ000238705, please.

These are the minutes of a Cabinet meeting held the day before the entries that I've started to read out from Mr Grieve's notes.

On 25 February 2020 you're noted as being in attendance. Can we go to paragraph 44, please. It says under "Any Other Business":

"Novel Coronavirus ...

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written.

"44. The First Minister informed Cabinet that, later that day, she would be chairing a further Ministerial meeting in the Scottish Government Resilience Room to discuss Scotland's response to the global outbreak of the novel coronavirus, COVID-19 ... about which there would be a fuller discussion at the following week's meeting of the Cabinet. It would be particularly important to ensure that messages to the general public were as informative as possible and couched in appropriate language."

Was it appropriate, given the information we've

information, and there would then be a fuller, more fully informed Cabinet discussion in the week after

This was also not the first discussion that Cabinet had had about Covid. I think the first discussion was on 4 February, and so there would have been extensive Cabinet discussions along the way, and, you know, that would -- is an indication to fuller discussion, as it were, ongoing across government.

- 10 Q. There's no note of any discussion relating to procuring 11 or building a testing capacity, is there?
- 12 Α. Because that one note doesn't describe it, it doesn't --13 so this is 25 February. By the time this note is 14 written we have already taken the first steps to build 15 testing capacity. Our testing capacity at the end of 16 January, zero, by 10 February, two weeks before this 17 note, we had established testing facilities in Glasgow 18 and Edinburgh. I think we very quickly after that 19 established a facility in Tayside, in Dundee, as well. 20 I don't know whether that would have been before or 21 slightly after this note. So clearly, evidently from 22 the reality of what was happening, there was work to 23 build up testing under way by the time this note was
 - Q. There's no note of any discussion of the current state 135

looked at, emerging from Professor Woolhouse in 1 2 particular, that as at 25 February novel coronavirus was 3 being dealt with under "Any Other Business", with no 4 substantive discussion of what might be done to prevent 5

6 A. I think if that had been all that that was, that that 7 note was communicating, I would agree with you. But 8 I was communicating the fact that later that day I was 9 chairing a meeting of the Scottish Government Resilience 10 Room, that was -- forgive me, what date was --

11 Q. 25 February.

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12 A. I started chairing those meeting in 28, 29 -- 29 I think 13 of January, with one exception, when I'd been visiting 14 flooded areas elsewhere and the Deputy First Minister 15 chaired, I chaired all of these meetings.

> This was a period where there was significant work ongoing. There was, either the following week or the week after that, at Cabinet there was a very substantive paper submitted and led by Jeane Freeman. So I would suggest that that was giving, if that had said there is a -- you know, there's a global outbreak of the novel coronavirus, you know, we'll keep Cabinet informed and there was no action behind it, I would accept that. But that, in Scottish Government terms, is very significant action that is clearly in train as a result of that 134

1 of building testing capacity, though, is there?

I would -- no, that note suggests there wasn't, but that 2 3 doesn't mean that that work wasn't under way. The 4 Health Secretary would have been leading that work. The 5 Scottish Government resilience meeting that I was 6 chairing later that day undoubtedly would have touched 7 on that -- that work, and we know from -- we know from 8 what was happening, had already happened, that that work 9 was under way and was progressing. As I said earlier 10 on, the question of whether it was progressing quickly 11 enough is another discussion, but it was undoubtedly 12 progressing.

13 Q. There's no note of any discussion or information being 14 shared about procuring personal protective equipment, is 15

16 A. Again, that does not mean that work wasn't under way. 17 We had, I think -- in fact I think, again, I don't --18 I can't bring it up, perhaps you can bring it up, but 19 I think one of the first Cabinet meetings -- no, sorry, 20 one of the first briefings I received in January 2020 21 told me about the first release of face masks from the 22 national stockpile, so clearly, again, just because this 23 note doesn't say that these issues were discussed at 24 this particular Cabinet meeting, the evidence, both in 25

documentation but in reality of what was happening, was

1		that this work was under way.
2	Q.	The earliest predictions in January from
3		Professor Woolhouse had involved a prediction of
4		a pandemic fuelled by mild cases with mortality amongst
5		the vulnerable. Scotland was known at this stage to
6		have an elderly and vulnerable population, that there
7		were recognised health inequalities amongst those with
8		protected characteristics and in lower socioeconomic
9		groups. Isn't that exactly why a project should be put
10		in place, to introduce Public Health Scotland to address
11		those issues?

12 A. Could you repeat that question? Sorry.

Q. Certainly. I'm pointing out that the earliest
 predictions in January 2020 from Professor Woolhouse had
 involved a prediction of a pandemic fuelled by mild
 cases with predicted mortality amongst the vulnerable.
 Scotland had an elderly and vulnerable population with
 recognised health inequalities amongst those with
 protected characteristics and in lower socioeconomic
 groups.

I asked you: this was why Public Health Scotland, by this stage, was in the process of being set up, to deal with those very problems; isn't that right?

24 A. Sorry, it was the very final part of the question that25 I hadn't quite caught.

encapsulated there doesn't mean that wasn't happening - Q. What steps were being taken to protect the vulnerable part of Scotland's population?
 A. All of the work we were doing to understand Covid, to

A. All of the work we were doing to understand Covid, to make sure we were preparing and scaling up facilities like testing, making sure that we were in a position to supply PPE -- and I know there were, you know, many concerns raised about all of these things, I'm not suggesting all of that worked perfectly. All of that was designed to protect, as far as it was possible to do in the face of a pandemic, the entire population and, within that, those who we were beginning to understand were going to be more vulnerable to a virus of this nature. It was part and parcel of all of the work we were doing.

16 Q. At this stage the Scottish Government was asleep at thewheel, wasn't it, Ms Sturgeon?

A. No.

Q. Could I ask you some questions, please, about the COBR meeting which took place on 12 March 2020. We went
 through some evidence in this regard with Mr Gove. It's a meeting which was chaired by Mr Johnson.

If we could go to INQ000056221, please. Could we go to page 8. Thank you.

You may recall, Ms Sturgeon, that there was some 139

Yeah, one of many reasons why Public Health Scotland was being set up. Public Health Scotland was due -- before Covid arrived with us, Public Health Scotland was due to be formally established, I think on 1 April 2020, and that was a long-standing programme of work.

I think it's important to say that it is not the case that the Scottish Government only started dealing with these issues when Public Health Scotland was established, the Scottish Government, through many of its pre-existing bodies and processes, were, you know, acutely and intensely focused on health inequalities and the needs of older people. Public Health Scotland was established because it was thought that having a body of that nature, particularly one that brought the health service and local government more closely together, would be better able to do that amongst other things.

Q. There's no discussion here, no mention here of any discussion or any information being provided about any steps to try to protect that vulnerable part of Scotland's population?

A. I know from the work that was under way in the
government at that time that all of these issues were
being progressed, all of these issues were being worked
on. I -- you know, I suspect that, you know, because
not -- I know that -- because not all of that is

discussion around this stage as regards Scotland's emerging position, that it was interested in seeking to cancel mass gatherings, which did subsequently happen.

At paragraph 15 it says:

"Continuing the CHAIR said that the GCSA should use the announcement to set out what stage two would be, and begin socialising options three and four to protect the most vulnerable. That the general public would not be asked to do options two, three, or four immediately, but that these policies would come in the next few weeks. He respected the Scottish Government's decision to cancel mass gathering to manage pressure on emergency responders, noting that as the epidemic progresses this approach may need to be taken by the whole UK to protect public services. However it was crucial for the government to stick to the SAGE advice and as far as possible, the Four Nations should try to stick together as one United Kingdom."

At page 10 there is a list of actions where it states:

"CHIEF MEDICAL OFFICERS for all Four Nations,
DEPARTMENT FOR HEALTH AND SOCIAL CARE and DEPARTMENT FOR
DIGITAL, CULTURE, MEDIA AND SPORT to prepare advice for
consideration by COBR on approach to mass gatherings."

Then the decision reached underneath at number 3 -- 140

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sorry, at number 5:

"COBR will keep under review the policy towards mass gatherings, with particular reference to their impact on public and emergency services."

We can see from the first page of this document that this meeting, chaired by Mr Johnson, took place at 1.15 pm. Do you read that, as I do, to the effect that there was an agreement that COBR would keep the issue of cancelling mass gatherings under review and that further advice in that regard would be provided by, amongst others, the chief medical officers for all four nations?

- 12 A. I accept the reading that you have put on the minute. 13 I was at the meeting --
- 14 Q. Yes --

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A. -- there was no doubt in that meeting that the Scottish 15 16 Government was going to confirm a decision to advise 17 that -- that day, it was later, before we had legal 18 powers to enforce it, but that we were going to advise 19 the cancellation of gatherings of over 500 people.

> You rightly point to the time of that meeting, 1.15. Just before that meeting I had taken part in the weekly session of First Minister's Questions in the Scottish Parliament, and I advised Parliament that that is what the Scottish Government was minded to do. We would obviously listen to other views at COBR, but this was

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And thirdly, I thought there was emerging a serious disjoint in the messaging of governments that we were seeking to communicate that this was a very serious threat but yet saying it was okay for them to continue to go and gather together in big crowded events. And if people saw that it was okay to do that, would they be less likely to follow the other advice we were giving them in the day-to-day business of their lives? Before lunch you asked me about the rugby match at Murrayfield and, you know, I think there is, as you put to me, an argument that should not have gone ahead. So that was my position, I set it out at COBR and I indicated that the government would confirm that decision.

Jeane Freeman went back to the Scottish Parliament that afternoon to announce -- to confirm what I had said at First Minister's Questions, and I was -- I announced the decision that the Scottish Government had taken. And I would assert very strongly then, and I would now, that, having taken that decision, we were perfectly within our rights to take that decision, and I was perfectly, not just within my rights to announce it, it was important that I announced it, alongside, which we may come on to, the other important decisions that were taken at COBR that day, that it was essential the public were given quick and effective information about.

a Scottish Government decision to take. I was in no doubt in that meeting that that is the decision the Scottish Government was going to take.

By this time I was increasingly concerned that we were not moving fast enough to deal with the rate of transmission of Covid. I heard it referred to, I think perhaps by Mr Gove in evidence to you, that I jumped the gun on mass gatherings. I would counter it. I think by this point none of us were jumping the gun, we were arguably all going more slowly than we should have been. I think the public was ahead of governments at this point in the action they thought was appropriate.

My view on mass gatherings, which I set out to COBR, was that for three reasons I thought it important to take this action at this time.

Firstly, that while the medical advice was that open air events were relatively less risky than others, there was no -- it was not the case that there was no risk of transmission. And I thought at that stage, given the state of the pandemic, we had to do whatever we could to reduce the risk of transmission.

Secondly, I was increasingly concerned at that point about the pressure on emergency services having to police large events when they were dealing with other pressures associated with Covid.

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- 1 Q. Are the minutes wrong then?
- 2 A. If what you're saying -- if what the reading of that
- 3 minute is -- forgive me. If your reading of that minute
- 4 is putting a question to me that says I somehow breached
- 5 good faith in that I did something that was against the
- agreement in COBR, there was no doubt in that COBR 7 meeting -- I mean, I think the -- it's not in the pages
- 8 in front of me just now -- where it says the
- 9 Prime Minister respected the Scottish Government's
- 10 decision, or words to --
- 11 Q. I think it was the passage that I referred to earlier at
- 12 page 8, yes.
- 13 Α. Yeah, which -- yeah, he respected the Scottish
- 14 Government's decision. I mean, it's clear that he
- 15 understood we had taken a decision.
- Q. Well, to be fair, Ms Sturgeon, if one reads that passage 16
- 17 in isolation without looking at the subsequent actions
- 18 one might conclude that, but one obviously needs to see 19
- what's reached by the end of the meeting in the actions,
- 20 which involved further advice being taken on the issue.
- 21 A. All I can say is I was in that meeting, I recall it very
- 22 clearly, and there was no doubt that that was the 23 decision that I communicated. I tried to persuade the
- 24 other governments to follow suit. As it happens, they
- 25 all did, I think, follow suit, within two or three days,

- because the situation was developing at pace, and in
 a not good direction. I -- I believe the Scottish
 Government was right to take that decision then. And if
 I have a regret about that decision, it's not that
 I took it that day, it's that I didn't take it days
 earlier.
 Q. Including in relation to the rugby international at --
- A. I've -- I tried to reflect in my answers earlier, the --I suppose what I'm trying to reflect here is how -- how difficult those decisions were and how -- to describe now, looking back with hindsight, something as, you know, in very binary terms, right and wrong, is not always fair in the nature of the decisions we were taking at the time, but it is one of the decisions that, yes, if I look back on, and could take -- you know, have my time again, may go the other way. But that was --that match was the weekend before that, so certainly, yes, I think that was -- yes, if I have a regret it is not that I took the decision too early, it's that we
- Q. You did announce at 3.20 pm that day that mass
 gatherings of more than 500 people would be banned in
 Scotland; is that right?
- **A.** If you tell me that's the time I did it, roughly, yes.
- **Q.** You also provided other updates from the COBR meeting 145

not decisions that were meant to be kept secret. It wasn't just important they were communicated, it was important that they were communicated quickly. So I would -- I would put it that it wasn't that I communicated these things too quickly, perhaps the UK Government were communicating them too slowly, and perhaps not doing so with the urgency that at that point was required.

9 Q. Did you tell the UK Government of your intention to make
 10 the announcement at 3.20 pm?
 11 A. It would have been -- I'm certain would have been known.

I don't know whether I specifically said. Again,
I don't mean this to sound in any way politically
adversarial. You know, I have a duty to communicate,
this was advice we were giving the public, how were the
public meant to know what we were asking them to do if
I didn't tell them -- in Scotland, if I didn't tell them
and the rest of the UK other leaders didn't tell them?

My expectation and what I do remember, my expectation was that by the time I made -- Boris Johnson would have already spoken out of that COBR meeting. The media, the public on that day I remember were desperate for information. I guess I was surprised that I spoke before him, not because I went too quickly, because I was surprised that by the time I did it he hadn't.

such as the decision not immediately to close schools.

2 You made these announcements before Mr Johnson was due

3 to speak to the public about the outcomes from the COBR

4 meeting later. What were the reasons for the timing of

5 your announcement of these matters?

A. Well, I'll give you the reasons for the timing very clearly in a second, but perhaps just to be clear, and I don't mean this in a political sense or in any way seeking to be adversarial, my responsibility as First Minister was to the Scottish people, not to Boris Johnson. I tried and he tried, I'm sure, we all tried to work as collegiately as possible, but my responsibility was to the Scottish people.

Why did I announce those -- the very nature of the decisions we were taking -- we were in a pandemic of a rapidly transmitting virus. The nature of the decisions we were taking meant that they had to be communicated quickly and clearly to the public. At this particular point, 12 March, my strong sense was that the public were anxious for their governments to act, to do more, to be much more on the front foot. We were -- in that meeting as well as the discussion about mass gatherings we had decided at that meeting to advise isolation of symptomatic cases. That was really important in trying to stem transmission. These were

These obligations of which you speak are not mutually exclusive, are they? One can have an obligation to the Scottish people, which of course you had, but you can also have an obligation to try to do what one can to maximise the efficiency of four nations working, which was the policy at that time. So therefore would it not have been possible to discharge both of those obligations at the same time?

A. Absolutely, and I always tried to do it. There was only one occasion that I recall in a COBR meeting where the timing of respective communications was discussed, and that's that was on Monday 23 March, the day we went into lockdown, and in that COBR meeting there was a discussion about the Prime Minister communicating first. And I agreed and honoured the agreement that I would wait until he finished -- this was in the evening I think -- before I did so.

At no other point was there, you know, "Who is going to do it first?" or "You shouldn't do it before I do".

I fully -- I left that COBR meeting thinking it important to communicate the decisions that had been taken to the Scottish people, because it involved the Scottish people doing things and not doing things in order to try to -- we were in a race against a virus -- in order to try to stem transmission of a virus.

(37) Pages 145 - 148

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- I fully expected the Prime Minister to do exactly the
 same. I think it would have been wrong and negligent to
 wait for ages before telling people what that COBR
 meeting had decided.
- Did you consider that you had a duty of confidentialityas regards the matters discussed at the meeting?

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A. I did not breach confidentiality. I am not bound by confidentiality in the UK Government sense, but nothing in -- this was a -- these were Scottish Government decisions, the fact that we were all agreeing them in a four nations context did not change the fact they were decisions within the power and responsibility of the Scottish Government. I was not breaching confidentiality

And I would go further than that and suggest that, given the situation we were dealing with, the whole notion of confidentiality is a bit absurd. This was a virus that was spreading rapidly at this point. We were taking decisions that were about trying to stem the spread of that virus, and the only way those decisions could have the desired effect was if the public knew about them, and if the public knew about them quickly. Therefore, in my view, the responsibility on all of us -- I can't speak for Boris Johnson, but the responsibility on all of us was to get out there and

1 acquiescing in decisions that we thought were wrong and 2 not in the interests of keeping people as safe as 3 possible. But I never -- I had many -- and I know 4 Michael Gove spoke about this on Monday, I think, he was 5 here, and we worked -- I would pay tribute to 6 Michael Gove in particular on these matters. We had 7 very -- didn't always agree, but we had very 8 constructive discussions. I always sought to work as 9 collaboratively as possible within the four nations 10 framework but I couldn't allow that to usurp my duty as 11 leader of a government, with particular 12 responsibilities, to take the decisions we thought were 13 best in the circumstances.

- 14 Q. It would be necessary in order to try to promote the
 15 likely success of four nations working to work with
 16 respect for the other participants in that process. Do
 17 you think that's a correct principle?
- 18 **A.** I do.
- 19 Q. You said a moment ago that you considered
 20 the UK Government's expectation that these discussions
 21 would be conducted confidentially to be absurd. Does
 22 that suggest any respect on your side?
- A. I don't think it suggests any disrespect. I was making
 a point about the nature and status of decisions being
 taken in the face of a spreading virus and making the

tell the people of Scotland -- tell people across the UK what we were asking them to do and not to do in order to -- if we'd operated on the basis of these decisions being confidential, then I think self-evidently that would have been a very, very mistaken position to be in.

Q. There was a commitment at the stage by the Scottish

Government to seek to promote four nations working in

8 light of the fact that the virus was no respecter of 9 man-made boundaries or responsibilities. Is that right? 10 A. I had a strong commitment to four nations working. Even 11 when our -- the detail of our approaches started to 12 diverge, I didn't ever form a view that four nations 13 working wasn't important. My understanding of 14 four nations working is we aligned our approaches where 15 we could, and where we were, for legitimate reasons, 16 taking different approaches, we tried to nevertheless 17 work together, understand each other's position and 18 co-ordinate where we could.

But I -- you know, I had a duty as First Minister of Scotland to the people of Scotland. If I had simply, in order to keep a notion of four nations working -- that I know some people hold to, which is that it should mean we all do exactly the same at all times and that should be decided by the UK Government, I would have ended up, and the Scottish Government would have ended up

point that, by their very nature, these can't be
 confidential decisions because otherwise the public
 doesn't know about them and therefore can't implement
 them. And that's the point I was making.

I always tried to be respectful in, you know, all my dealings with the UK Government. There were, not just in Covid but on many things, you know, moments and issues of tension, where no doubt they found me difficult to work with, at times I would find them difficult to work with, but I always tried to be respectful and be constructive in those interactions.

- Q. Mr Gove gave evidence to the fact that what had happened on that day caused considerable irritation, at least on the part of a number of individuals including the
 Prime Minister, on the basis that there was a perception that you had not behaved respectfully and breached confidentiality. Was that a phenomenon of which you were aware at that time?
- A. It wasn't particularly, I suppose I can see why that
 would have been the case. I ... at that point the last
 thing in my mind was -- I wasn't setting out to irritate
 anybody, but equally I wasn't -- you know, I had reached
 a view, the Scottish Government had reached a view, that
 to try to stem transmissions of the virus, we should

25 advise the cancellation of mass gatherings. COBR had 152

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1 taken a decision that was asking people with symptoms of 2 Covid to isolate and not leave their homes. I took the 3 view that it was vital to communicate these decisions 4 and to communicate them quickly and effectively. 5 I wasn't doing it to irritate anybody, and I'm sorry if 6 that was the effect, but my overriding -- you know, 7 I got lots of things wrong in the whole process of this, 8 I don't suggest otherwise for a second, but my 9 overriding motivation and priority was to try to reach 10 the best decisions, communicate those decisions so that 11 the public could comply with those decisions and we 12 could collectively try to stem spread of a virus that 13 was already doing significant harm.

14 Q. The phenomenon of you making announcements about matters
 15 before the UK Government would go on to become something
 16 of an issue between the governments. Were you aware of
 17 that?

18 A. Yes, I was. I didn't think then and I don't think now19 it was fair or rational.

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Fairly early on, I can't remember exactly when, my detailing briefings became set at a time of day, I think 12.15, slightly later in the day, when I gave statements to Parliament, because that was determined by Parliamentary sitting times. So my public announcements were at a fixed point in the day. The UK Government

focused here on areas of disagreement or divergence.

There was a huge amount of good joint working and alignment and, you know, the different governments working together effectively. But where I thought the UK Government was taking a decision for England that was not the right one, I would have been negligent in my responsibilities just to go along with that in order to avoid, bizarrely, irritating people.

I suppose another point in this is, it's been described -- it's often described as if the UK Government's position on these things was the orthodox one and any of the devolved administrations that diverged were stepping out of that orthodox position. That wasn't -- that's not, I think, the right way of looking -- often in these issues where the Scottish Government was diverge -- in the language the UK Government would use -- diverging from their four nations preferred road, we were joined in that by Wales and Northern Ireland. So, so often Wales, Scotland and Northern Ireland were in exactly the same position but the UK Government, as was their right, had decided to take a different position. In effect, they often became the outlier in four nations decision-making, not Scotland.

Q. Surely that can't have been the UK Government's 155

1 decided to have theirs, and I'm not making any 2 criticism, but they decided to have theirs at 5 pm or 3 thereabouts. That was their choice. If they had wanted 4 to speak before me every day, they had the choice of 5 doing that earlier. I was simply trying to communicate 6 decisions to the public that we were relying on the 7 public to comply with. I was trying to do that openly, 8 I was trying to do that as clearly and as effectively as 9 I could. At no point in my thinking was I trying to 10 steal a march on anybody else or trying to get ahead of 11 it. I was simply trying to -- I was simply trying to do 12 my job to the best of my ability.

Q. Your job, however, as we've identified, involved
 a responsibility to the Scottish people, of course, but
 also a responsibility to try to promote four nations
 working. Why was it that those two obligations were not
 able to co-exist?

18 A. I don't believe it is the case that they didn't
 19 co-exist, but in order for me -- I have to choose my
 20 words carefully here.
 21 In order for me not to, to use the phrase that's

In order for me not to, to use the phrase that's been put to me, irritate Boris Johnson, I think I would just have had to adopt a position of doing whatever Boris Johnson wanted me to do. Now, as First Minister, if I thought the -- as -- look, you know, we were

position, Ms Sturgeon, because in the schedules to the Coronavirus Act 2020 the UK Parliament had granted power to Scotland -- we'll avoid the word "diverge" -to differ, to take a different path.

A. I'm not sure I understand the question you're putting to
 me.
 Q. You were suggesting a moment ago that the UK Gover

Q. You were suggesting a moment ago that the UK Government thought that the way this should work is that their
position should be the orthodox one and there should be some limitation on Scotland's ability to take
a different path. The legislation made it clear that the UK Parliament had granted that power?

13 A. No, indeed.

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14 Q. So that cannot possibly be the UK Government's position.

A. What I'm saying is often -- some of the comments you're
 putting to me about me being or others being irritated

17 at things I did --

18 Q. Those aren't my words --

A. No, no, forgive me, Mr Dawson, I know they're not your words. But that gave the impression that while the legislation was exactly as you've set out, when the reality of that manifested itself in different decisions, then somehow that was an irritation. It was

not intended to be an irritation, we were all trying to

do our best based on the epidemiology, on the

demographic and health profile of our countries, to try to take the best decisions we could.

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I simply make the observation -- you know, the first, I suppose, significant policy divergence was in early May, over the Stay at Home advice, when the UK Government decided to move to Stay Alert. It's often been suggested that that was the point at which the Scotland diverged from four nations decisions. In actual fact, at that point Scotland, Wales and Northern Ireland stuck with Stay at Home and the UK Government for England moved to Stay Alert. I'm just making the point that when things are described as the Scotland moved outside of four nations decision-making, we took the decisions we thought were best but often we were in the same position as two of the other four governments that made up the four nations.

18 Q. On the subject of the legislation, was it your 19 understanding or had you received advice about whether 20 the Scottish Government considered that the Scottish 21 Parliament had power to impose restrictions before the 22 enactment of the Coronavirus Act 2020 which came into 23 force on 26 March?

24 Α. No, I was aware and we were always very clear that until 25 that came into -- that Act came into force on 26 March, 157

> been talking about, mass gatherings. We also took the decision to recommend the closure of schools slightly --I think -- as it happened. Others followed suit again fairly quickly but at that point I was of the view we had to start moving more quickly and started to demonstrate that through the examples I've spoken about.

> I, one of the -- before I say this, I can't say and I don't know that anybody can say with certainty what difference it would have made in the overall trajectory of the pandemic and the outcomes of the pandemic, but of the many regrets I have, probably chief of those is that we didn't lock down a week, two weeks earlier than we

14 Q. You are a staunch supporter of Scottish independence?

15 A. I believe that the record will show that to be true, 16 ves.

17 Q. Yes. It runs through you to your very core, does it 18 not?

A. It does. 19

20 Q. Is it possible, do you think, for you to take decisions 21 on any matter without seeing them through the prism of 22 Scottish independence and your burning desire to achieve 23

24 A. Yes, I know for a fact it is, and if I ever doubted that 25 before Covid, although I had other examples of doing 159

1 25/26 March, as you say -- you know, take mass 2 gatherings, until that point it was advice that we were 3 giving, it was not enforceable until that point. And 4 similarly I think with the initial Stay at Home advice, 5 for a period of a day or two that was advice until the 6 legislation came into force.

7 Q. So the position, as you understood it before the 8 enactment of the Act, was that the Scottish Government 9 and the Scottish Parliament did not have the power to 10 impose restrictions, hence those decisions were issued 11 on an advisory basis?

12 A. Yeah, we wouldn't have had the power to enforce 13 restrictions. We of course had the power to advise 14 people to do certain things --

15 Q. Which is what you did over that period. 16 Did Scotland, the Scottish Government push for

17 an earlier lockdown? 18 Α. Well, the Scottish Government started -- so, no is the

19 answer to -- the simple answer to that, in the sense 20 that we weren't pushing -- the advice to have a lockdown 21 really only crystallised through COBR on 23 March. So 22 no. But, as I think we have just been reflecting on in 23 the context of mass gatherings, the Scottish Government 24 was starting to move or argue that we should be moving 25 more quickly. One example of that is the one we have 158

1 that in the job of being First Minister, and 2 3 4 5 6 7 8 9 10 11 12 13

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Health Secretary before that, I ... I have been in politics for 30 years, I have been a lifelong campaigner for independence. I don't think in my entire life have I ever thought less about politics generally and independence in particular than I did during the course of the pandemic, and particularly in those early stages of the pandemic. People will judge, you know, for better or worse, the decisions my government took. I want to say to people, and give this Inquiry an assurance, that none of those decisions were influenced in any way by political considerations or by trying to gain an advantage for the cause of independence. I was motivated solely by trying to do the best we could to keep people as safe as possible. And we did that to some extent but not to -- and perhaps we never could have done it -- to the extent I would have wished we could have done. And I carry the regret for the loss of life, the loss of opportunity, you know, the loss of education of our young people, I carry the regret of that with me every single day. But in all of the mistakes I made, that I will concede, some I may argue weren't mistakes, I will absolutely assert very strongly that I did not take decisions for political reasons and I certainly did not take decisions

influenced in some way by considerations around the constitutional argument.

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I -- on 18 March 2020, my constitution secretary, Mike Russell at the time, wrote to Michael Gove saying that we were suspending all work on an independence referendum. That didn't recommence -- apart from reactive work in a particular very focused thing in -- before the Scottish election in 2021, that didn't recommence until much later in 2021. The government I led focused entirely on trying to do the best we could through Covid.

12 Q. It's a matter of instinct, for you, isn't it, to seek to13 promote the cause of Scottish independence?

A. Yes, it is but perhaps ... when you suddenly find yourself of being in the position of a leader of a government in the face of a global pandemic, you suddenly find that the instincts you thought you had are not the instincts that come to the fore.

My only instinct in the early part of 2020, and this remained the case, was to try to take the best decisions I could and for my government to take the best decisions we could to steer the country through Covid.

And I hope that people observing the Scottish Government, observing how I went about things during that period, whatever they think about me, my politics,

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Could we look, please, at INQ000214408.

Page 13, paragraph 56(e). This is the 30 June Cabinet minutes. An agreement is reached at the end of this Cabinet meeting that it was:

"Agreed that consideration should be given to restarting work on independence and a referendum, with the arguments reflecting the experience of the coronavirus crisis and developments on EU Exit."

The Cabinet agreed on that date, did they not, to seek to promote the cause of Scottish independence by politicising the pandemic?

A. No, I respectfully don't think that is a fair or accurate reading of that paragraph. I remember the meeting. There was no particular discussion -- this was a Brexit paper. Again, you know, we were having to consider issues around Brexit. We had no choice in that matter, this was a Brexit paper. I don't -- there was no particular discussion around that recommendation as far as I recall.

We agreed that consideration should be given to restarting work. In matter of fact, work did not restart. It was not consideration that led to that happening. And that is -- that is the fact of the matter. We agreed to consider something.

I certainly am not aware of being part of any real

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my government, I hope that any reasonable person willhave seen that.

Q. It's a matter of instinct to seek division between the
 Scottish Government and the UK Government to achieve --

5 A. No, it's not

6 Q. -- and promote the cause of Scottish independence, isn't7 it?

8 A. No, it's not.

Q. As you said, the position as at the beginning of the
 pandemic, I think you said 18 March, was that Mr Russell

11 had written in fact to Mr Gove to indicate that

12 campaigning for a second independence referendum would

13 be suspended; is that correct?

14 A. Yes, I think we also requested at that time that theUK Government did likewise around the constitutional

16 project of Brexit, and that was declined. The

17 UK Government never suspended any of its work on Brexit.

One of the reactive things that the Scottish Government

19 officials had to do during Covid was respond to

20 consultation on the Internal Market Act, for example.

21 Q. It was the transition period for Brexit, wasn't it, in

22 2020, so work was required on that?

23 A. I think that is perhaps a matter of opinion rather than

24 fact.

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25 **Q.** Okay.

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1 consideration because, in my mind, there was no prospect 2 of starting work on independence at that time. But in

3 any event it didn't happen.

4 Q. Why would there have been any mention of this at all,5 given Mr Russell's announcement?

A. I think it's very -- it would have been very difficult
 in the context of a debate or a paper on Brexit perhaps

for that not to have -- so that would have arisen in the

9 context -- this was not a Covid paper that this

10 conclusion was attached to, this was a paper on EU exit,

11 it was a paper on Brexit.

12 **Q.** The words say what they say, Ms Sturgeon:

"... consideration should be given to restarting work on independence and a referendum, with the arguments reflecting the experience of the coronavirus crisis ..."

16 crisis ..."
17 A. I appreciate the words say what they say, I'm not arguing with that, but the facts also say what they say,

19 which is that whatever consideration may or may not have

20 been given, I certainly wasn't part of it at that point,

21 and if somebody, you know, had come to me after that and

said, "Right, okay, should we consider this and restart

work?", I'd have said "Absolutely not". The facts are

24 that no work did restart on independence at that point.

25 Q. You've told me earlier in other contexts that Cabinet

- 1 minutes are really the highest source of authority as to 2 what was actually happening. Not in this case 3 apparently?
- 4 A. Well, I'm not saying they don't reflect an outcome of
 5 Cabinet I'm saying that that didn't happen. So we
 6 didn't restart work. Whether or not Cabinet had -- you
 7 know, somebody in the course of a Cabinet meeting had
 8 said "We should agree consideration of this", the fact
 9 is it didn't happen.
- Q. A few hours after this meeting on the same date as these
 Cabinet minutes you appeared on your regular coronavirus
 briefing and said:

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"Frankly, anybody who is trotting political or constitutional arguments is in the wrong place completely and has found themselves completely lost."

Is there not a hypocrisy between saying publicly that anyone who is making constitutional arguments during the pandemic is in the wrong place and completely lost and there having been a decision in Cabinet hours before that there should be consideration of restarting work on the campaign for independence reflecting the experience of the coronavirus crisis?

A. That had not been a significant part of the discussion.
 It was clearly a comment that was made, otherwise it
 wouldn't appear in the conclusions like that, but I did

A. But agreed that consideration should be given. What I meant is if somebody had come to me afterwards and said "We've done this process of consideration and we now think we should restart work on independence", I would have said I don't want to do that and I would have said to Cabinet "Let's not do that because its not the right time to do that". But I think more materially, that didn't happen. Nobody came to me and said -- you know, if that said "Agreed to restart work on independence", that would mean something much more than that does. There was not a process of consideration that then saw somebody come to me with a proposal to restart work on independence.

And I'm sorry, my Lady, I'm genuinely sorry if it sounds as if I'm dancing on the head of a pin here, I don't mean to, but the key point here is that we did not restart work on independence at that point, or anywhere near that point.

MR DAWSON: If it were to be decided on the basis of the
 evidence before this Inquiry that that -- that there was
 a politicisation of the pandemic and that you had used
 the pandemic as a means of pursuing your goal of
 Scottish independence, that would be a considerable
 betrayal of the Scottish people, would it not?

25 **A.** With respect, I don't believe that conclusion would 167

work on independence, and I would have made my views
clear that that was not going to happen if that had been
the case. We didn't restart work on independence. We
didn't -- you know, we had to -- over the course of the
pandemic we had to respond to a court case that had been
taken about a judicial review that had been taken,
you know, governments have to answer PQs or FOIs, we had

not leave that Cabinet thinking we were about to restart

to respond to some Brexit -- but we didn't -- all of
 the -- the team that had been working pre-Covid on

independence and an independence referendum had at thestart of Covid been redeployed into Covid work.

LADY HALLETT: Ms Sturgeon, that's not a comment. The
 minutes read "Agreed", that means Cabinet agreed,
 doesn't it? So are you saying you would have overruled
 Cabinet?

17 A. If, after that -- so let me be clear what I mean. That
 18 there was clearly some comment made in that Cabinet
 19 meeting that said "Oh, maybe we should think about
 20 restarting work on independence" -- remember this was at

21 a point where we had -- we were in -- going into the 22 summer 2020, where cases were falling and --

LADY HALLETT: No, no, just please focus on the point. It's
 agreed. It's not a comment, it's an agreement by
 Cabinet.

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fairly be reached, because it's not what I did, and I don't believe there is evidence to suggest --

Q. You've given your position, Ms Sturgeon, as to whether
you did it or not. My question was, if it were to be
decided that that's not right that would be
a considerable betrayal of the Scottish people, would it
not?

A. If I had at any point decided to politicise a global
pandemic that was robbing people of their lives and
livelihoods and educational opportunities and had
decided in the face of that to prioritise campaigning
for independence, then yes, it absolutely would have
been as you described. Which is precisely why I didn't
do it and wouldn't have done it.

15 MR DAWSON: If that's a convenient moment, my Lady.

16 **LADY HALLETT:** Certainly.

17 I shall return at 3.15.

18 **(3.00 pm)**

19 (A short break)

20 (3.15 pm)

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21 LADY HALLETT: I think I've beaten most of the public

gallery, so if we just wait a second.

23 MR DAWSON: Of course.

(Pause)

25 **LADY HALLETT:** Yes, Mr Dawson.

MR DAWSON: Thank you, my Lady.

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Ms Sturgeon, moving on to a different topic, that of border controls. We heard evidence earlier in the module from a Mr Halliday, who was the Chief Statistician to the Scottish Government, that the UK Government and Scottish Government would make decisions about restrictions of people coming into the country and going out of the country as regards visiting others or coming in based on largely the same data about the threat of an individual country. I think he said that the data would often come through the Foreign Office, which would have contacts in the countries to try and work out what the threat was.

Is that your understanding, broadly, of the evidence base upon which decisions was taken, although of course a different analysis of it might have been undertaken?

- A. Yes, that's broadly my understanding. I think as the matter progressed, the Joint Biosecurity Centre became central to the provision of that data.
- Q. Yes. It's fair to say, is it not, that there were,
 although not necessarily huge differences between the
 Scottish position as regards which countries people come
 in or go out to, there were periods where they weren't
 quite the same as the UK Government? For example, on
 July the UK Government published a list of

1 control that for Scotland?

2 A. Yes, I think borders are one of these areas where the 3 interface between devolved and reserved responsibilities 4 is particularly complex. So the Scottish Government 5 I think under the Public Health Act 2008, section 94 6 I think to be precise, has the ability to put 7 limitations or restrictions on people coming into the 8 country for public health grounds. So that's the 9 statutory position. I think practically we rely on 10 Border Force, which was a reserved organisation, to 11 deliver that in a practical sense.

There is then obviously the case that, as we encountered later on, if there were differences between the two, one of the things that made it difficult for the Scottish Government, whether or not we thought it was desirable to take a different position, is if we may have had a different set of rules at, say, Glasgow Airport but people, if they wanted to avoid those restrictions, could fly into London and travel up by rail or road. So it was an area where the differences in power and responsibility were often complicated by just the practical realities.

Yes, I think we've seen some documentation that suggests
 that that particular issue, going to Glasgow via
 Manchester or something like that, was an issue early on

59 countries for which quarantine restrictions would no
 longer apply to travellers arriving in England from
 10 July, however at that time quarantine requirements
 remained unchanged in Scotland.

A. Yes, that -- that would be my broad recollection of
 that. Generally I think on international travel,
 rightly or wrongly, there was more alignment --

8 Q. Yes.

9 A. -- than divergence. I think when the air travel started 10 to be opened up in the summer of 2020, the regulations 11 took effect in June 2020, the key difference at that 12 time was that there was for a short, relatively short 13 period of time, Spain was one of the countries that the 14 UK Government had opened up a -- what was called at the 15 time a travel corridor with them for a short period of 16 time, Scotland didn't do that, we delayed doing that for 17 a period. I think it was then -- Spain was then taken 18 off that by all countries later on.

19 **Q.** Yes. It my not be entirely surprising there wasn't huge difference, if we're avoiding the word "divergence", because it was based on the same data, although the essential point I'm trying to make is that the Scottish Government had -- in terms of its devolved public health responsibilities and indeed responsibilities which had been given to it under the 2020 Act, it had the power to

when travel was a big part of the decision-making, and
 then it came back later on under Mr Yousaf's period as
 Cabinet Secretary for Health.
 Could we have a look, please, at INQ000292564.

Could we have a look, please, at INQ000292564.

This is an exchange of emails which shows -- we're

going to page 6, please.

So the page at the top I think indicates that the position here as at 20 July is that the Deputy First Minister was requesting a call to discuss international travel and that there were a number of people who were involved in that.

Page 6, please. The previous page, please. Sorry, Ms Sturgeon.

(Pause)

Yes, this is, we can see here that it's an email
 from the Deputy First Minister, Mr Swinney, to a number
 of people, including yourself. Is that right?

18 **A.** Erm ...

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19 Q. Are we on the same page here? Yes.

19 July, Deputy First Minister and Cabinet Secretary for Education and Skills, to -- and there's a number of people listed there, one of whom is First Minister, and a number of others, some of whom actually we've heard from, Audrey MacDougall, Roger Halliday, et cetera.

And this is an email in which -- some details around 172

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the discussion which the Deputy First Minister had been interested in having on international travel, where it says:

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"I'm extremely concerned about this. Spain is now being held to a much higher level of scrutiny and performance than other countries. If it is added to the exemptions list, ministers will have to explain why not when it has an estimated point prevalence rate of 0.015 (compared to 0.33 when the decision not include was already taken) -- 0.015 is verging on Green. And there is visible action from the Spanish authorities to do whatever it takes to suppress outbreaks (compare and contrast with outbreaks in England). It won't matter how much ministers might justify it on health grounds, the Spanish Government will conclude it is entirely political; they won't forget; there is a real possibility they will never approve EU membership for an independent Scotland as a result."

This is an email copied to you. To what extent were concerns about the possibility in the future that Spain would block an application for EU membership by an independent Scotland a factor in the decision-making around the Spanish travel corridor?

Α. They weren't. For me -- this email is copied to me, 173

A. I -- it wasn't part of my consideration. I certainly, to the best of my knowledge, didn't have any discussion of that nature. I didn't write that email, I can't speak for other people as to why that was written in that way. What I can tell the Inquiry, sitting here today answering questions, is that's not the basis on which the discussion took -- not the way in which the decision was taken. These were finely balanced decisions on public health ground that often -- in fact 10 not often, always clinical advisers would be inputting their own opinions to as well.

12 Go to page 4, please. This is an email chain. Yes, and 13 an email from Ken Thomson to a number of people that 14 says there:

"Colleagues --

"You were (mostly) on the call with FM and other Ministers just now. The FM agreed to a pause, in which we are to give her advice on the implications for the borders review of the non care home COVID cases currently being investigated.

"We have to do this rapidly, obviously. I'm proposing to write the outline of advice to Ministers, and to ask Scott, Rachel, Gregor and Derek to comment and contribute to that."

Is the position then that there was a -- on 20 July, 175

I assume I would have seen it at the time, but I remember very well the decision-making around this. I think it was around 10 July that travel corridors were introduced and we had significant doubts about adding Spain to that because the prevalence of the virus at that time was higher in Spain than it was in Scotland, but that was moving, and over the next couple of weeks I think, if my memory is serving me correctly, that changed, the prevalence was reducing in Scotland and actually was -- in Spain, and rising in Scotland.

These are decisions that were taken for public health reasons. They were, you know, difficult decisions, they were often very finely balanced decisions and, you know, if that concern had been the one driving the decisions then, you know, presumably at great criticism, not least from our own airport sector at the time, we wouldn't have kept Spain off the travel corridors in the first place.

19 Why is it though there is discussion, if matters are 20 being addressed solely on public health grounds, about 21 the possibility that the Spanish Government may conclude 22 that there is a political aspect to things that they 23 will not forget and that they may vote subsequently 24 against EU membership for an independent Scotland? Why 25 is that even part of the discussions?

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1 shortly after this, quarantine requirements for Spain 2 were lifted?

3 A. I don't have that date in front of me but I know it was 4 a relatively short space of time between the Scottish 5 Government not lifting them and lifting them, but again, 6 if memory serves me correctly, we then very quickly 7 reapplied them. I think all of the countries in the UK 8

Q. That's correct as I understand it --9

10 A. -- which I --

11 Q. -- on 20 July I think what happened is that you agreed 12 with other ministers that there should be a pause to the 13 restriction that -- those were reimposed from 26 July.

14 A. The relative prevalence was changing at that point. We 15 had reached a point where we thought on public health 16 ground that it was -- that it was appropriate to add 17 Spain to the travel corridors and then the data 18 obviously changed that position.

19 Q. Did the consideration regarding the political 20 implications connected to Spain mentioned in the

21 previous email feature on the call that's been referred 22

23 A. Not that I can recall. So that is not my recollection.

24 Q. But you were the one that made the decision to pause the restrictions despite the fact that there was concerns 25

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about the data upon which such a public health decisionmight be made?

- 3 A. Well, at that point the data had reached a position 4 where we felt we could make that decision. I mean, 5 I would suggest that had the consideration that appears 6 in the previous email that was shown to me been guiding 7 the decisions around this, we would not have taken the 8 decision, which was extremely controversial at the time, 9 and attracted criticism, I think, from many people, 10 including very hefty criticism from airports in Scotland 11 and the airport in -- in this city. We would not have 12 done that in the first place. The fact that we were, in 13 the face of that controversy, prepared to take 14 a decision that was to continue to apply restrictions to 15 Spain at a time when other parts of the UK were not 16 doing that, would I hope suggest that these were 17 decisions being driven by data and public health 18 considerations.
- Q. But the decision on 20 July was that quarantine
 requirements for Spain should be lifted, but then they
 were reimposed on the 26th?
- A. And the data -- I mean, I don't know whether it's
 possible to, you know, put it on the screen what the
 changing data around that time would have been.
 I remember that period, the data was changing at that --

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A. No, actually, with respect, I read that differently to that. What I think Dr Smith is saying here, although he would have to tell you what he meant, is that while we were seeing evidence of multiple large outbreaks in different areas of Spain, and that was what had driven our concern about having restrictions on Spain lifted, the point prevalence data was actually showing something different: it was showing a change that was suggesting that cases were coming down at that point.

And my -- not just my reading of this, my recollection of the discussions at the time is that what that is saying is that, notwithstanding these very high profile outbreaks, the overall data for Spain shows that the risk is reducing, which was what was driving our decision around 20 July to lift restrictions, before that data, I think, started to go in the wrong direction in Spain again.

- Q. So despite concerns about the robustness of the data in
 the face of evidence of multiple large outbreaks, you
 did open up the travel corridor to Spain, albeit only
 for a short period?
- A. With respect, I do think the interpretation of this
 that's been put to me is not what this is saying, and
 I remember some of the discussions at the time, is that
 the data, the point prevalence data was no longer

2 short lived but we had reached a low point in cases in 3 Scotland at that point. Spain had been particularly 4 high. That was the reason for our initial decision. 5 Spain had taken, I think, further steps to suppress the 6 virus, it was coming down there, I can't -- I'm not sure whether at this point cases would -- there was even the 7 8 indication yet of cases starting to rise in Scotland. 9 These were decisions that involved changing data. Data 10 that was often changing on a daily basis.

this is July 2020. We were -- sadly it was relatively

11 Q. Could we look at page 2, please. In this regard, again,12 Dr Smith says that:

"[He] asked for a view on the robustness of this data for Spain -- there's been a remarkable change in the point prevalence from the set considered previously that is difficult to reconcile with the public facing evidence of multiple large outbreaks in different areas of the country."

And he asks whether:

"Can anyone offer an assessment of this?"

Now, the evidence there for -- on a public health basis would tend to suggest that there had been multiple large outbreaks which would not be consistent with the decision taken the next day to lift the quarantine; is that correct?

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backing up the ongoing restrictions, that despite there
 appearing to be outbreaks, they were outbreaks in
 particular parts of the country and the overall point
 prevalence data was showing that the risk from the virus
 in Spain was reducing.
 And actually I do consider that this and the

discussions that lay behind this were actually what was driving, not that this was contrary to the decision we took at that point but that was part of what was driving that decision at that point.

- 11 Q. But surely it doesn't make a lot of sense, if there are
 12 issues about the robustness of the data, to change the
 13 position? I mean, in any event we know that you had to
 14 change it back a few days later?
- 15 A. Mr Dawson, there was issues about the robustness of data
 at every step of the management of --
- 17 Q. But would you not take a more precautionary approach if18 the changes in the data didn't seem to add up?
- A. We were under a lot of pressure from airports at that
 point, we were under a lot of criticism for being
 an outlier in -- at that point, I think -- can --
- 22 I think we were at that point an outlier, and the data,
- the point prevalence data was showing that we were no longer able to justify the position we were taking of
- 25 more onerous restrictions on Spain. And that was --

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that was the position. The data was particularly around comparisons between different countries, was changing all the time, it was necessary to assess not just the overall data but the -- what lay behind that data.

If it's -- what's being put to me here is that this was a politically-driven decision, certainly on my part it was absolutely not. And I come back to this, decisions that were taken by my government in this period, I hope many of them were right, I think some of the outcomes in a relative sense suggest that that would be the case, some of them were undoubtedly wrong, but speaking for myself none of them were driven by extraneous political considerations.

14 Could I go to INQ000274143, please.

> You will recall that Mr Johnson visited Scotland on 23 July 2020, Ms Sturgeon.

17 A. I do.

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18 **Q.** Yes, and this is a tweet by you where you say:

> "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 decide by politicians we didn't vote for, taking us down a path we haven't chosen. His presence highlights that."

This is a political tweet relating to your support

1 exception to that. If they did --2

Q. So you think that this was?

A. I think Boris Johnson, not coming to Scotland per se, but coming to Scotland with the narrative that they put around that was an exception to what I've said, that I think generally they didn't try to politicise the pandemic. And other than this occasion, the occasions where I thought they did, it was more around, you know, Brexit and the vaccine roll-out being possible because of Brexit.

So it's not a general accusation I would've levelled at them. I think this was an exception. I listened to parts of Michael Gove's evidence earlier in the week, and now realise that there may have been discussions at UK Government level that led to this that I wasn't aware of at the time

So this was a response. Was it as mature a response as, with reflection, I might've wished for? Perhaps not. But it wasn't ... it wasn't me deciding suddenly to start talking about independence apropos of nothing; it was a response to the Prime Minister's visit, and in particular the narrative of his visit.

23 Q. Again, Ms Sturgeon, in fairness I was also going to 24 refer you to the paper that we took Mr Gove to, the "State of the Union" paper which he delivered to the 25

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for the cause of independence in July 2020, isn't it? 1 2 A. It is. But it's also a response to the Prime Minister 3 at the time coming to Scotland and very overtly 4 describing that visit as a mission to save the Union. 5 I think he had first-person pieces in at least one

newspaper ahead of that.

Now, on reflection, should I have risen to the bait and posted that tweet? Probably not. But I would never even have been in that space at all but for the pretext of the Prime Minister's visit.

I was also -- because he was coming to Scotland, because of the narrative that the UK Government had put around his visit, I was inevitably being asked about it in my briefings and interviews. But, yeah, perhaps I should have been the bigger person and not reacted in that way with that tweet.

17 Q. I had intended, of course, to put to you also the 18 context, which is that on his visit, and I think in the 19 newspapers before. Mr Johnson had spoken about the 20 "might" and "merit" of the Union, and therefore your 21 interpretation of that is that he was seeking to 22 politicise the situation; is that right?

23 A. I think I say in my written statement, I -- to be fair, 24 I don't think, generally, the UK Government tried to 25 politicise the pandemic. I think this was a rare 182

UK Cabinet on 21 July, two days before the visit in which he described the risk to the Union as the greatest challenge for the UK Government to confront, and said that protecting and strengthening the Union had to be the cornerstone of all that the UK Government did. So I put to him that that put some context -- which of course you were not aware of at the time -- to the

But your position, as I understand it, was that "I may have politicised the pandemic, but he did it first"?

12 No, I don't think I did politicise the pandemic at all. 13 I responded to a particular narrative of his with 14 a tweet, and undoubtedly some answers to media 15 questions, and the answers to media questions were 16 unavoidable because I took lots of questions every day from journalists. The tweet, yeah, and perhaps 17 18 I shouldn't have, but I don't think a tweet adds up to 19 politicising the pandemic. Perhaps I was just trying to 20 defend the position against the claims that were being 21

22 Q. Perhaps, though, the accumulation of evidence which 23 we've looked at might suggest that there was an attempt 24 on your part to politicise the pandemic?

25 A. I would strongly argue the reverse, and, with respect,

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- 1 if the evidence that's been put to me today is the 2 evidence of that, I would say it demonstrates nothing of 3 the sort.
- Q. In the period after the election, did you attempt to
 revive the campaign for a second independence
 referendum?
- 7 A. I think the work that -- on a second independence
 8 referendum did not restart in government until much
 9 later in 20 --
- 10 Q. There was an announcement in --

A. -- 21.

- 13 Q. -- which you made in September --
- 14 A. September --
- **Q.** -- 2021.
- 16 A. -- which is some six months or more after the Scottish17 election.
- 18 Q. What I'm interested in exploring is whether in fact
 19 there was within the Scottish Government an attempt to
 20 seek to do so before that.

We went with Mr Thomson to an entry in his diary from a period in May 2021, shortly after the election, in which, amongst some reflections about his position and his future role within the Scottish Government, he wrote the words "Indy ... back".

1 Government in the summer of 2020?

A. There was a maximum suppression strategy. I think the phraseology that was used in -- was in, if not our first strategic framework, then later iterations of that, was "suppress to the lowest possible level and keep it there". It is undoubtedly the case that we would have colloquially used terms like "zero Covid" and "elimination" -- although emphatically not "eradication", which was a very different concept -- to describe that strategy in shorthand.

Basically what we and I was -- and I, on many occasions, explained this at briefings and in response to questions. At no point was my belief that we would get Covid to a level where it was eliminated and went away; that would take a vaccine. But in the days before a vaccine and before, you know, effective treatments, when Covid -- the direct harm of Covid was so severe, we needed to suppress it as far as possible, both to protect life but also to create the conditions where we could start to safely open up the economy and society, and that the best way of achieving maximum suppression was to try to drive it as low or as close to zero as possible, and that was the position of the Scottish Government certainly throughout the summer of 2020. That strategic objective changed later, I think, around

Does that not suggest that it was a policy of the Scottish Government at that time to try to seek independence again, despite the fact that you made no announcement to that effect until September?

- A. As a matter of fact, it was not the case that work on independence restarted at that point. We were still in, you know, a very challenging situation with Covid through the summer of 2021, so I heard Ken Thomson's answer to what that meant, that he was looking ahead to things that might be on the horizon for civil servants and the varying degrees of challenges they might be facing. As a matter of fact, independence work did not restart at that point. So at the risk of contradicting somebody I've got the highest regard for, at that point Indy was not "back".
- 16 Q. I'd like to ask you some questions about the zero Covid
 or elimination strategy, which we've touched on already.
 You say in your statement:

"I was of the view that 'Zero Covid' in the period before a vaccine was available was an aim worth striving for. I knew that our circumstances -- particularly if the rest of the UK was not following suit -- meant it was unlikely to be completely achievable for any sustained period of time."

Was there a zero Covid policy in the Scottish

about the spring, early summer of 2021, when we got to
 the position where growing and significant numbers of
 the population were vaccinated.
 Q. On 14 April 2020, the Scottish Covid Advisory Group

Q. On 14 April 2020, the Scottish Covid Advisory Group provided a formal advice entitled "Lockdown Review", in which the government was advised that it was the group's advice that in the context of there being no vaccine or specific drug treatments available to prevent or treat Covid-19 and, to quote:

"We do not believe that it will be possible for the foreseeable future to eradicate the SARS-CoV-2 virus (henceforth 'virus'). We need to find ways of living with the virus as best as possible, which includes protecting the NHS and social care capacity, to care for citizens."

Around this time, what planning did the Scottish Government have about the prospect, the requirement that had been advised by the Covid Advisory Group that there would need to be found ways of living with the virus?

A. We were already actively planning for that. In fact off the back of the kind of advice that was coming through, we published in late April 2020 our strategic framework for decision-making, there were other publications with more detail in that, through me, and then of course I think on the 28th or later in May, round about that

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time, we published the route map for exiting lockdown which set out different phases of lifting the restrictions, and therefore opening up and starting to live with the virus while keeping it for -- to use an expression for shorthand, as under control as we could.

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The word "eradication" appears in that advice. I just want to stress, it was never -- eradication and elimination mean very different things. In preparation for today, I came across the way I articulated the elimination strategy in a briefing, I think, in June 2020 where I say explicitly: elimination is not eradication, it is about getting the virus to the lowest levels you can, which doesn't mean it has gone away and doesn't mean it won't rise again, but it gives us more confidence that we can keep it under control with surveillance testing and contact tracing, and with targeted measures as opposed to blanket lockdowns.

That's what was meant by it. It was a way of -- all through this we got it, including from the Covid Advisory Group and certainly from SAGE, as we came out of lockdown we had to come out of it in a way that avoided the R number going above 1 again, and people will recall references across all the governments at the time to how much headroom we had, and therefore we had

it won't rise again. You're taking measures to try to keep it at a level as close to no cases as possible, but it doesn't mean that if you lift those measures it won't start to transmit again.

So in epidemiological terms, I'm not an expert on this --

7 LADY HALLETT: Nor am I, but it sounds as if --

- A. -- other people can explain it better than me.
- 9 LADY HALLETT: -- people are playing fast and loose with the
 10 language.
- 11 **A.** Well, I was trying, obviously not as successfully as
- 12 I hoped to -- I read out a quote there from a briefing
- in June 2020 where I'm obviously being asked these very
- 14 questions, and I start by saying "elimination is not
- 15 eradication". I didn't -- I didn't come to that
- 16 conclusion myself, that was the --
- 17 LADY HALLETT: That was the expert advice?
- 18 **A.** -- the expert advice that was being given to me.
- 19 LADY HALLETT: Right.
- 20 MR DAWSON: Language in this regard is of course important,
- 21 Ms Sturgeon, isn't it?
- 22 A. Very much so, and I always tried to be as precise as
- 23 I could in my language, hence explanations like that.
- 24 I am not suggesting for a second I always succeeded.
- 25 **Q.** Because the language of "zero Covid" and "elimination" 191

to open up in a phased way, and that's what we were trying to do: open up, learn to live with the virus, but keep it under control so that it didn't take off again and start overwhelming us in the way that it had in previous -- in the early stages.

That was a very difficult balance to strike, it involved lots of judgements about what could open, what had to stay closed, what the phasing of that was, but that's what we were trying to achieve.

LADY HALLETT: Can I just check that we've got the note
 correct, because it's what I understood you to say.

Did you say elimination and eradication are different things?

14 A. Yes.

15 LADY HALLETT: Aren't they the same thing?

A. No, in a -- in the sort of epidemiological, I think - you will find comments from Gregor Smith and comments
 he's made, I came across one in a committee in the
 Scottish Parliament that we both appeared at.

Eradication effectively means you get to a point where a disease has gone away and it's not a risk any more. With Covid, that was likely and understood likely to only come with vaccines.

Elimination was effectively -- you know, as I put it there, it doesn't mean it's gone away, it doesn't mean 190

or "eradication" permeated the public's understanding of what the objective was, didn't it?

A. In that we were trying to get to a point where we were
 suppressing the virus as much as possible --

Q. The word "suppression" wasn't the word that was
 generally used by the Scottish Government at this time,
 was it?

A. I believe -- and it's my opinion, and others will take
 a different view -- I think the level of understanding
 of the public at that time was very sophisticated, and
 I think there was an understanding of what was being
 talked about, what was meant. Language is really
 important but sometimes -- you know, one of the things

14 I think I was perhaps criticised for on the day of

15 lockdown was calling it "an effective lockdown", when

the Prime Minister at the time didn't use the term"lockdown". I took the view that we needed to

18 communicate with people in language that they were using

themselves, that they could understand, that we could then make sure was defined.

So I think there was an understanding of what was meant by that: that we couldn't make Covid go away, you know, but we could keep it at levels that wouldn't overwhelm us, get contact tracing and surveillance and testing back so that it was allowing us, as for much of

2020 from -- you know, through the autumn of 2020, before the Alpha variant came, we managed to do, through particular outbreaks, outbreak control, then the levels system that we used for a period.

We were having a degree, not complete but a degree

of success in that, and that was only possible because we had got over the summer the virus to a sufficiently low level to allow those approaches to be successful.

Q. The language is important, Ms Sturgeon, because the language of "elimination" or "eradication" rather than "maximum suppression", which is a phrase you were using just now, gave people the impression that Covid was over, didn't it?

A. I genuinely and very firmly don't believe that was the impression at any point in Scotland over that period.

Just to be clear, I never used the term "eradication",

I went -- I was at pains, when asked about it, to be clear I wasn't talking about eradication. But I don't believe that was the view in Scotland over any part --

Ms Sturgeon, you know perfectly well that people jumped

on planes to Spain and this caused the second wave.

A. Well, we've just been talking about how we tried to,
you know, deal in a way that was cautious around travel
to other countries, including Spain. Some people went
on holiday that summer. I don't -- I think many people

education of children.

I ... I ... the thing I find, I guess -- forgive me, I appreciate I'm here to answer your questions, I'm not ... I accept that there will be genuine and serious scrutiny about the contents of decisions that were taken, and some of those decisions I wish I'd taken, my government had taken differently; some I think were right. My motives in this were only ever about trying to do the right thing to minimise the overall harm that the virus was doing. The toll it took in Scotland, as in other parts of the UK, was far too high, so I didn't do that as successfully as I wish I was -- had been able to. But perhaps in some ways the measures we took had some impact.

Professor Sir Ian Diamond, the UK Statistician's evidence to this Inquiry looking at the, you know, quite significant lower deaths in terms of Covid-19 on an age-standardised basis in Scotland and in other parts of the UK, still far too high.

We were always trying to protect people and to minimise harm in all of its forms, and the nature and the content and the substance of those decisions deserve to be scrutinised as closely as possible. It genuinely -- I take it very, very, you know, personally when people question the very motives, because I know 195

didn't. I think many people tried -- many people wouldn't have gone on holiday at all, many people who did stayed in Scotland and holidayed at home. Some people would have gone overseas. I genuinely don't believe that was because people thought -- the majority of people thought Covid had gone away. I stood up every day and reminded people, Covid hadn't gone away and wasn't going to suddenly and magically go away, and I think that was there was a very high degree of understanding.

And I've talked earlier on about, you know, criticism perhaps -- and I don't mean this as a criticism of them, some of our sternest critics over this period were the airport sector, who felt that my messaging in Scotland was actually making it -- was discouraging people from going on foreign holidays at a time when they thought they were being encouraged in perhaps other parts of the UK.

19 Q. You wanted to have the reputation, did you not, of the20 person who had driven Covid out of Scotland?

A. I'd never thought I was capable of driving Covid out of
 Scotland. I hoped that the decisions my government
 would take would keep Covid at the lowest possible level
 so that it took the lives of fewer people, you know,
 minimised the disruption to people's livelihood and the

that the motives were absolutely in good faith and for the best reasons.

Q. Your desire to be the person that drove Covid out of
 Scotland was the reason why you entered into direct
 Twitter messaging with Professor Sridhar, whom
 Professor Morris, the chair of the Covid group, has told
 us was in a minority of one in being the only person on
 that group who thought that Covid could be driven out of
 Scotland at that time.

A. I don't think that is a fair representation of her view, but I'm not here to speak for her. Can I just say I didn't -- this wasn't about my reputation as the person who drove Covid out of Scotland. I desperately wanted to minimise the harm of Covid in Scotland. I was not under any illusions about the reality of the situation we faced. I reached out to Professor Sridhar, I think for two main reasons: one was that she was a member of the advisory group, but she was also somebody -- I think to her great credit -- who was seeking to communicate through the media messages that she thought was important, regularly. As a result of that I was periodically being asked for my response to views she'd expressed and I wanted to, you know, have --

make sure I understood where she was coming from.

She was also, I knew, very plugged into the

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responses in different countries, I think she had connections into the WHO, the government of New York at the time and other countries, and I was at that stage --I just wanted to understand as much as I could about the pandemic, about other countries' approaches. It was part of a process of me just trying to make sure I wasn't missing anything, I wasn't overlooking anything, and that while I wasn't trying to elevate one voice over others, I was wanting to make sure that if 10 she was a minority voice, that I wasn't losing 11 a different perspective, that I was able to hear -- that 12 it wasn't being lost in the consensus, that I was able 13 to hear the diversity of views.

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And again, you know, the motives were only -whatever mistakes and misjudgements I might have made, the motives were only about trying to equip myself as well as I could to do the job that I had -- I was in the position of having to do.

- 19 Q. Your messages with her demonstrate a co-ordination of 20 your two, the two of yours media strategy; what you were 21 trying to equip yourself with was the view of 22 a scientist who would support your view that elimination 23 was possible, even although she was in a minority of one 24 on your Covid Advisory Group.
- 25 A. I don't believe that the messages -- well, whatever the

1 My motives were never anything other than just trying to 2 do the best I could in a situation that at times, I'm 3 sure for every decision-maker, felt as close to 4 impossible as I've ever experienced. 5

- **Q.** The focus on the elimination strategy took the Scottish 6 Government's eye off the need to prepare for a second 7 wave which experts would have told you was inevitable, 8 did it not?
- 9 A. We knew a second wave was almost inevit -- as close to 10 inevitable as anything was, though it didn't --
- 11 Q. -- preparation was done for it?

was applied.

12 A. That I don't -- I don't accept that that is the case.

We, through the autumn of 2020, we went from lockdown to an opening up of the country through the roadmap -- the route map, rather, that we'd set out at the end of May. We got to a point where we couldn't go to the final phase of that because of the epidemiology at the time. We then had a period where, instead of reimposing measures, we were able to deal with outbreaks. We had some very localised outbreaks, we dealt with them through specific measures, and then the levels system

And actually, contrary to we didn't do anything to prepare for a second wave, we had continued to build up the testing and contact tracing capacity there that was 199

impression the messages might give, I know there was no co-ordination of media strategy. My media strategy was fairly obvious and well established. She was speaking in the media, generally, there was alignment. I wanted to -- the Scottish Government to be suppressing Covid as much as possible and whether, you know, she believed that that could go further than others believed it could and that I believed it could, generally the thrust of those messages was in vein with what the advice to me was and to the messages we were communicating to the public.

12 **Q**. She frequently runs what she intends to say in the press 13 and in press interviews by you, in order to ensure that 14 your positions are aligned.

15 **A**. The volume of Professor Sridhar's media output would suggest that if she ever did that, it was on a very small number of occasions, and -- but also in terms of -- I would very, very frequently in the question and answers that followed my daily briefings, be asked about her views. So some of what you're reading in messages about and putting to me as co-ordination was simply, you know, flagging up things she'd said in order that I knew what it was when I was asked about it.

> I ... yeah, come back to a point I keep making: my decisions and judgements can and should be scrutinised. 198

a necessary part of trying to mitigate and minimise a second wave and deal with that as it happened.

As it happened, the second -- we didn't go into a second lockdown in November 2020 in Scotland, the second lockdown in Scotland came when the Alpha variant came along.

So I don't accept that we were -- our eye was off the ball. I think we were taking difficult decisions, reaching difficult balances in the best way we possibly could, and I think the evidence overall is that while our response was far from, you know, far from avoiding all of the horrible, horrendous harm that was done, I would say an assessment of the outcomes overall suggest that while our approach was far from perfect, it actually managed to mitigate some harm that perhaps wasn't mitigated in some other places.

17 In his statement to this module, Professor Mark Q. 18 Woolhouse states at paragraph 345 that the start of the 19 vaccine roll-out -- the vaccine campaign which you'll 20 remember, Ms Sturgeon, started towards the end of 2020 21 and into 2021 -- created a false impression that the 22 pandemic would soon be over, and described it as 23 overoptimistic.

> Professor Sridhar, when we looked at your direct messages with her, when I asked her why the messages had 200

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stopped at the end of 2020, gave the answer that:

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"When the vaccine arrived, input of the nature that I had been provided with regard to fighting the virus was no longer necessary."

Was it your view and that of the Scottish Government that the pandemic would soon be over as a result of the arrival of the vaccine?

A. No. The pandemic is -- we're no longer in a pandemic, but people are drying from Covid every week as we speak. Last year I think 2,000 people died of Covid. Covid has not gone away. Arguably Covid will never go away, and I have never believed otherwise. In fact I, at points, faced criticism for almost suggesting the alternative, I was criticised at points for being the voice of doom around Covid.

What happened with the vaccine was that we entered a different phase, we entered a phase where, unlike the situation until that point, we had -- we haven't talked vet. I don't know whether we will, about the Scottish Government's four harms approach -- we had no way of mitigating harm 1, which was the direct health impact of Covid. So we had to, albeit trying to minimise harm overall, we had to have a particular focus on reducing harm 1, and harm 2 to some extent as well. When the vaccine came along, we had a way of mitigating harm 1 201

the Euros in Glasgow, which was eventually allowed to go ahead.

The exchange says -- at 11.45, Professor Leitch says:

"And still it goes on...FM wants more advice. Her instinct says cancel fanzone. Her office will write back (which Ken is writing) to ask for more and then Ken will gather legal etc to reply."

Mr Yousaf says:

"Yeah she messaged me this morning. Wants more detail from GCC around costs involved if we cancel."

Then there's some discussion around how much it would cost, £6 million is mentioned, and then at 11.53 Mr Yousaf says:

"£6 [million] seems cheap for 31 days...wonder if that factors in costs the food and beverage suppliers would have expected to make over the course of the [fan zone] (may look for compensation).

"Either way. If FM needs to cancel needs to be done soon. She could hold the line and see how we get on and what the scenes on Monday look like. If people behave then that might settle her nerves."

Professor Leitch:

"Yep. I think that's costs not profit."

And he says:

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without restrictions, which allowed us then to rebalance towards harms 3 and 4.

So we entered a very different phase of the pandemic because of the impact of vaccination, and that's why across all of the four nations we put such a great emphasis on, as fast as possible, a roll-out of the vaccination campaign.

8 Q. Could I ask you to have a look, please, at INQ000334792. 9 Returning to that exchange between Mr Yousaf and 10 Professor Leitch, this time on 10 June 2021, pages 12 to 11

12 A. Forgive me, I'm not seeing it.

13 Q. Sorry, yes, we'll just get it up. I apologise.

(Pause)

So again this is an exchange in June of 2021, you may recall, Ms Sturgeon, that one of -- we looked at this with the current First Minister -- one of the characteristics of the fight against the virus in 2021 was that there were a number of large events which ran the risk of spreading the virus, and decisions needed to be taken around whether those should be allowed to go ahead or not

This was a discussion in particular around the decision-making with regard to the possibility of cancelling a fan zone which had been put together for

"She needs to do it before or at FMQs if at all." 2 Then Mr Yousaf says:

"I'll tell you what, from knowing her for 15 [years], it is not often her [instincts] are wrong."

Both Professor Leitch and Mr Yousaf, the then Cabinet Secretary for Health and Social Care, seem to be describing the ultimate decision taken in connection with the possible cancellation of this event as a matter which will be governed by your instincts.

That's how you made decisions during the course of the pandemic, wasn't it, Ms Sturgeon?

12 A. I think had the fan zone been cancelled, that is 13 certainly an accusation that, based on this exchange, 14 could have been made at me; but the fan zone wasn't 15 cancelled, therefore my instinct didn't govern the 16 decision.

> That was my instinct, I was -- you know, the Euros, delayed by a year, were happening. The fan zone did make me very nervous about people coming together in that way, given what we were dealing with. That was my instinct. I asked for further advice and consideration. That advice came back, and I was persuaded on the basis of the advice that my instinct was not what we should go with, we should go with the advice, and that is -- that is the position.

I -- you know, you have -- in managing a situation like this, you have instincts about what's sensible and what's not sensible in a whole host of things. Had I only made decisions purely on the basis of that, then that would've been deeply misguided, but I didn't.

I had an instinct, I probed the question, I asked for advice through proper channels, I considered that advice carefully and, on the basis of that, agreed that it should go ahead and, as it turns out, I think it was the right decision to allow it to go ahead, because it was -- it did not -- the risks that I had been worried about did not materialise.

- Q. Would you agree with the proposition, Ms Sturgeon, that
 the Scottish Government's pandemic strategy was run on
 your instincts?
- 16 A. No.

- 17 Q. Decisions were ultimately made not by Cabinet but by you18 and a small band of trusted advisers?
- A. As I've said earlier on, I think the evidence before
 the Inquiry of the Cabinet papers and the Cabinet
 minutes show that that is not the case.

I was the First Minister, I had a responsibility to lead, to try to see the whole picture, when Cabinet secretaries, rightly and properly, are focused on their own portfolio interests. In any leadership 205

didn't unfold at that level -- my instincts became something completely different. In that moment, my only instinct and the instinct I brought to the management of the pandemic was: how do I lead a government that makes the best possible decisions in horrific circumstances to try to minimise the harm that this virus is going to do?

And people will make their own judgements about me, about my government, about my decisions, but for as long as I live I will carry the impact of these decisions, I will carry regret at the decisions and judgements I got wrong, but I will always know in my heart and in my soul that my instincts and my motivation was nothing other than trying to do the best in the face of this pandemic.

- Q. It was your instinct to seek to create a difference
 between your approach and that of the UK Government,
 despite the obvious need in the face of the virus for
 a collaborative strategy, wasn't it?
- A. No, it wasn't. It was my instinct to do everything
 I thought was necessary and appropriate to minimise harm
 to the people of Scotland. That was my instinct, and
 where that necessitated being different to the
 UK Government, it was more important to me that we did
 what we thought in Scotland was right, than it was in
 aligning with decisions we thought were wrong and would

position, you have instincts you learn to trust, or also to know when not to trust your instincts.

But as this exchange -- again I would say if this exchange had ended with, "Her instinct is to cancel the fan zone", and at 12 o'clock at First Minister's Questions I'd stood up and announced the cancellation of the fan zone, that would prove, I think, the proposition you're putting to me, but it didn't. I had an instinct, I tested it with the experts, I asked for advice, I considered that advice and, on the basis of that advice, decided the opposite of what my instinct had started out telling me.

- 13 Q. Part of your instinct is based on a desire to seek to14 advance the cause of Scottish independence, isn't it?
- A. Not in the management of the pandemic. I've -- I don't think it's any -- I don't think I'm breaking any news today to say that I have spent a lifetime campaigning for independence, I will no doubt continue to campaign for independence. I know I will. But when in a position of leadership and decision-making you are confronted with a global pandemic and, as I remember sitting one night in probably February 2020 in Bute House, with a set of reasonable worst-case scenario figures in front of me and a figure for the potential number of deaths that might unfold -- which thankfully

potentially increase harm rather than minimise harm.

I ... I feel to my core that the number of lives lost to this pandemic were far too high. We were never going to be able to get through a pandemic with no loss of life. I think it was far too high. I think the other impacts were far too high and, you know, every death is a tragedy that I regret and that people in this room and outside across the country are living with the grief and trauma of. So we didn't do as well as I wish we were able to.

I think I quoted the evidence to the Inquiry from Sir Ian Diamond: on the age-standardised mortality measure, the one that he says is legitimate, the deaths in Scotland were significantly lower than in other parts of the UK. Far, far too high. But that says to me that even if it was only at the margins, our decision-making managed to minimise the harm to some extent, and that was my duty.

- 19 Q. It was your instinct to seek to move away from existing
 20 structures which had been designed to try to manage
 21 procedures in this type of situation like COBR and SAGE
 22 and to form your own?
 - A. I would have -- if I can address SAGE and COBR. It wasn't my decision when COBR met, how often it met. I wish COBR had continued to meet. The

Prime Minister at the time decided not to have COBR meetings. I wasn't able to convene COBR meetings at my own hand, and so I am not responsible for the frequency of COBR meetings.

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SAGE, I thought SAGE did a very good job during the pandemic. At the outset of the pandemic I thought the quality of advice coming from SAGE was very high. I had two concerns about it, or about having that as the sole source of advice. One was, understandably -- this is not a criticism -- its advice was not necessarily tailored to the demographics, the health profile, the epidemiology in Scotland; and, secondly, I had no ability -- I didn't even know at the start of the pandemic who was on SAGE -- I had no ability as a First Minister to speak directly to people in SAGE, to ask them questions to deepen my understanding. So I asked for an advisory group to be established in Scotland, not to replace SAGE but to help fill those gaps. SAGE and the advisory group, through -- and put on record my deep thanks to Andrew Morris who chaired the advisory group -- it established reciprocity, so Andrew became a member of SAGE, papers were shared. It was not seeking to replace SAGE, it was augmenting and supplementing SAGE, so that I felt the functions that SAGE wasn't able to perform for the Scottish Government 209

government to the extent that the virus allowed us to. We changed and adapted them in line with how the virus was operating. I valued -- I was reviewing some of the minutes of the Covid Advisory Group last night in preparation for today, and the minutes frequently have the Scottish Government officials reporting about how highly I valued the advice of the group and them saying how much they valued the opportunities through the deep dives for us to speak together and for me to ask them questions and for them to be able to help.

I was assisted, I did not know best, that's why I sought to take advice from as broad a range of people as I could; that's why I reached out to people like Professor Sridhar; it's why I read everything I could get my hands on. I did not know best, and I was assisted at every step by, you know, first class clinical and medical and scientific advisers, by senior civil servants, principally in the Scottish Government but let me put on record that that was the case on the part of many people in the UK Government, people like Chris Whitty and Patrick Vallance, Jonathan Van-Tam, people who were, you know, hugely helpful to me and to the Scottish Government and advisers, and I would not have been able to get through the task I had without their advice and expertise that I benefitted from on

1 were delivered in that way.

2 Q. It was your instinct to be seen to be following 3 a different path from the UK Government, and to seek to 4 get your word in in public first, wasn't it?

5 A. No.

6 Q. It was your instinct to keep decision-making secret and 7 ultimate -- as regards the way that decisions were 8 ultimately reached, the process by which they were made, 9 recorded and retained?

10 A. No. I, I think, delivered more than 250 public 11 addresses over the course of the pandemic where 12 I answered -- people will judge the quality of my 13 answers in the way that they want -- but answered 14 questions. I didn't take one or two questions,

15 I answered every question that came to me. I sought at 16 every stage to be open, to be transparent, to level with

17 the public about the complexity of this, the

18 difficulties, the almost impossible balances we were

19 trying to strike and what we were taking into account in

20 coming to the decisions we were coming to.

21 Q. It was your instinct to think that you knew best, 22 rendering the published strategies of the government and 23 the apparent advisory structures around you nothing more

24 than, to use Mark Woolhouse's words, rhetoric?

25 A. Absolutely not. We implemented the strategies of the 210

1 a daily basis.

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2 Q. It was your instinct to seek to portray yourself as open 3 and honest with the public but at the same time to keep 4 from them important elements of the management, such as 5 the Nike conference, care home deaths, and the advice 6 around the rugby which allowed Covid into Scotland in 7 the first place?

8 A. I'm not sure that that last statement would be 9 established by facts, but I stand to be corrected. The 10 Public Health Scotland genomic survey that -- study that was done later in 2020 that looked at the different ways 11 12 in which Covid came into Scotland, I don't think it 13 would be reasonable to draw from that the statement that 14 the rugby brought the virus into Scotland, but I stand 15 to be corrected on that if I am wrong.

> I've tried to be as -- I've tried to explain as fully as I can the decision-making around Nike, the reasons for that, the legitimate reasons for that, but how I think it is reasonable that people think that was the wrong judgement.

I keep saying there are thousands upon thousands upon thousands of pages of Cabinet papers and Cabinet minutes that set out -- if that was all that was available on the record -- sets out a comprehensive, full and detailed explanation of the decisions we

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- reached, the choices we faced, and the reasons that 1 2 drove our decision-making.
- 3 Q. The people of Scotland deserved better than a pandemic 4 strategy run on your instincts, did they not, 5 Ms Sturgeon?
- 6 Α. They did indeed, which is why they didn't get a pandemic 7 run on my instincts.
- 8 Q. We started these evidential hearings a couple of weeks 9 ago with oral evidence from Mrs Jane Morrison, 10 a representative of the Scottish Covid Bereaved group whose wife died of Covid acquired in a hospital in 11 12 October 2020. Mrs Morrison and her group had sought 13 answers about matters of significant concern to them and 14 about the pandemic in a meeting with you in March 2021. 15 They did not get them. In the statement of the Scottish 16 Covid Bereaved to the Inquiry, the remaining 17 representatives of many who died, these words appear: 18

The story of Covid in Scotland is the story of the hubris of Nicola Sturgeon, is it not?

"hubris does not stop a pandemic".

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21 A. No. I do not believe that to be the case. I am in the 22 fortunate position of not having personally lost anyone 23 to Covid. I wish with every fibre of my being that the 24 decisions my government had been able to take could have 25 reduced the number of people in Scotland who did lose

> that asymptomatic transmission was not possible. My Private Office replied on my behalf and at my request with the following query: '[First Minister] read information online in the last 24 hours -- [including] references to an article in yesterday's Lancet -suggesting the opposite of this ie that people may be infectious before being symptomatic. What is the very certain statement in [paragraph] 14 based on?' I received further advice from [Public Health Scotland] on 25 January ... This included the following extracts: '... it is likely that person to person transmission, when it does occur, mostly involves transmission of virus from people with symptoms' and '... infected people with symptoms (eg, someone who is coughing) are much more likely to spread virus around than someone who is infected but free of symptoms.' The evidence and advice on asymptomatic transmission remained uncertain until around April/May 2020 after which there seemed to be more of an acceptance that asymptomatic transmission was an issue."

So my question, Ms Sturgeon, is therefore: why then, if by that date you knew that asymptomatic transfer was possible, would you consider that releasing people from hospital to care homes but only testing if they had symptoms was any protection at all? And on the basis of 215

someone to Covid, and I am deeply sorry to each and every bereaved person and each and every person who suffered in other ways. I did my best, my government did our best, and people will judge that. But I know that every day I tried my best, and those working with me tried our best to steer this country through the Covid pandemic in the best way they could. MR DAWSON: Thank you, Ms Sturgeon. I have no further

questions.

10 There are some questions from Scottish Covid 11 Bereaved.

12 LADY HALLETT: I think Mr McCaffery has some questions.

Questions from MR McCAFFERY

14 MR McCAFFERY: Obliged, my Lady.

> Ms Sturgeon, I'm instructed by Aamer Anwar & Company on behalf of the Scottish Covid Bereaved.

With reference to your statement, which is found at INQ000339033, and your evidence this morning that you wished to deepen your knowledge about the virus, I'd like to take you to paragraph 149, subparagraph (b) of that statement, and this relates to you enquiring as to the possibility of asymptomatic transmission.

You will see there that it says:

"Whether Covid-19 could be spread person to person asymptomatically: the initial advice I received ... was 214

1 this advice received from Public Health Scotland that 2 asymptomatic transmission was a possibility, why was it 3 maintained that there was any uncertainty about this 4 issue, and would it not therefore have been prudent to 5 have erred on the side of safety? 6

A. Thank you. If I can very briefly -- as you can see from my evidence there and the extracts from advice and my responses to that advice, there -- if I can summarise, I think, as it can be seen there, the issue of uncertainty was not so much a binary one of: was there or was there not the possibility of asymptomatic transmission? The uncertainty was the extent to which that was a serious issue, and certainly the advice that came to me, and I think the advice from the WHO until certainly into the spring, perhaps early summer of 2020, was that there was uncertainty and disagreement about whether it was a very small risk or a much more substantial risk, and that was uncertain.

However, notwithstanding uncertainty around asymptomatic transmission, what there also was -- and certainly in advice that came to the Scottish Government -- was an uncertainty about the reliability of testing in people who either were asymptomatic or presymptomatic.

So there was a concern, and it wasn't a suggestion 216

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that testing was not important, but there was a concern -- and this was a concern that was still being expressed to the Scottish Government when, in April, when the Cabinet Secretary changed the position to testing of all admissions from care homes -- from hospitals to care homes, there was a concern that testing on its own could give rise to false assurance; somebody who tested negative may still have the virus if they were asymptomatic.

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That is why the early advice around care homes focused very much on isolation and keeping people separate, and notwithstanding the limited availability of the testing at the time there was a concern that testing on its own would not be sufficient to guard against those risks.

I -- you know, on care homes in particular, I think there are very serious issues for all of us to reflect on here. Testing is undoubtedly a significant part of that, discharges from hospitals in particular are a very serious part of that, and I'm not shying away from that, but I also think there are other issues around care homes -- and all of which the Scottish Government has to take responsibility for -- that we mustn't lose sight of in a focus only on testing.

The report that Public Health Scotland did later in 217

I'm talking here about late February into March 2020 -the objective was, where somebody didn't have the need, medical need to be in hospital, it was better for them to be discharged. I mean, that is generally true at all times, but we were watching on television, in countries like Italy, hospitals filling up with Covid patients.

So, yes, we wanted to make sure we had available capacity in our hospitals to deal with people who needed hospital treatment, but there was also a concern that hospitals would not have been safe in terms of the virus for vulnerable people who didn't need to be in hospital.

I do not think we got everything right around care homes, and I deeply regret that, but I also know that we -- it wasn't the case that we didn't think about the best way to try to protect people in care homes.

The guidance, there were undoubtedly flaws and deficiencies in that guidance, but the advice at that time was that isolation, keeping people as separate as possible, was the best way to protect people in care homes. Now, clearly that didn't have the effect that we wanted it to.

I am -- of all of the important issues around this pandemic, the situation in care homes is one of the most important to properly scrutinise and understand. I am, I suppose, simply saying that I think testing is

2020 about discharges from hospital showed that almost all care homes in Scotland over that period from March through to May had discharges from hospital, but only a third of those care homes had an outbreak of Covid or had residents who died from Covid.

So that suggests that, yes, discharges and the circumstances of discharges must be looked at seriously, but that would suggest -- and the number of deaths were very heavily concentrated in relatively small numbers of care homes.

So there are other issues I think that we need to probe very, very seriously around the structure and the size of the care home sector, the resources and the regulation in care homes. These are all profoundly important issues. Testing is a significant and important part of that, but my view is that there are other aspects of that that we must also make sure we consider in the course of a fuller examination around the situation in care homes.

- 20 Q. Well, that just comes back to the latter part of the 21 question, that with all that uncertainty and the lack of 22 capacity on testing, would it not have been prudent to 23 err on the side of safety and not discharge to 24 care homes?
- 25 **A**. When we were in the early part of the pandemic -- and 218

an important part of that, but I think for me it raises a lot of other issues about care homes, the care home sector, how we -- the ways in which we sought to protect people and the effectiveness of that, and I think it is in the interests -- and it's a duty to those who are bereaved, who have lost people in care homes, that we do understand that in the fullest possible way.

Q. Thank you.

Can I maybe just ask you to try and keep your responses as short as possible. Obviously we're limited in time and we want to get through as many questions as

Moving on to document reference INQ000370312 -- and that should come up on screen -- at page 4 of that

Didn't your enquiries at the end of January -- when Public Health Scotland explained that asymptomatic transfer could occur, in response to your question about it -- mean that you did indeed know about asymptomatic transfer at the relevant time? So the phrase quoted there that we see on screen, "and we didn't know what we know now about asymptomatic transmission", was in fact incorrect?

24 A. No, perhaps it's not as fully expressed there as I've had the opportunity to do to you today. If you go back 220

to the statement you showed me a moment ago, it was actually me who first queried a briefing saying "I think it is right to say that asymptomatic transmission cannot happen". So it wasn't that we didn't know asymptomatic transmission couldn't happen, but we didn't know at the outset what we came to know, that it was potentially a significant driver.

The response that came back to me from Health Protection Scotland, as it was then, still was saying they thought it was overwhelmingly likely that it was people with symptoms who would transmit. So we didn't know everything we came to know about asymptomatic transmission when I made that statement, but that's not the same thing as saying we didn't know anything about it

- Q. Were you aware of any recommendations made by
 Scottish Care in March 2020 in relation to the need for
 robust clinical assessment and testing of residents
 entering care homes both from the community and acute
 NHS settings and, if so, how did this affect your
 decision-making?
- A. I was aware of comments and recommendations that
 Scottish Care and other organisations and bodies were
 making. I don't know whether I was aware of the
 specific ones you're quoting to me there. We sought to

and, if so, how did this affect your decision-makingprocess?

A. In my experience and recollection, the issue of care home visiting was one of the most difficult, because I was aware of the increasing distress and trauma both to care home residents and to their loved ones of restrictions on visiting, and that was an issue on which we were always trying to strike a balance between opening up and allowing much more flexibility in terms of visiting but trying to guard against infection being in homes.

I don't think we got that right, possibly at all, but it was not because we didn't care, it was not because we didn't try to get that right. And I have had in the past, I have at the moment relatives in care homes myself, I understand or I can -- I think I can understand how awful that would have been for any family with a loved one in a care home at that time.

- 19 Q. And when the United Kingdom Government changed its
 20 policy in relation to care home testing on
 21 15 April 2020, why did that not cause the Scottish
 22 Government to consider its position or review it?
- **A.** We were considering and reviewing our position at that time. I think I'm getting the date right, that on
- 25 21 April Jeane Freeman announced a range of different 223

factor all of that into our decision-making. We extended testing to care homes and to a range of other settings, as we built up testing capacity. When -- however, we didn't think that it was ever safe to rely only on testing, for the reasons that even if we accept asymptomatic transmission happens, there is and was doubt about the reliability of tests to detect the virus in people who were asymptomatic or presymptomatic.

When I was preparing for today's session, on the day -- I think 21 April -- when Jeane Freeman made the statement in Parliament extending testing to all admissions from hospital to care homes, the advice that was still coming to us at that point was sceptical about testing and a concern that it would take away a focus on isolation and other infection prevention and control means; and so we factored all of this into our decision-making and on this, as on other things, tried to make the best decisions that we could in the circumstances we were in at the time.

Q. Were you aware of recommendations made in April 2020 to
the Scottish Government in relation to the restriction
on visiting care homes being increasingly
disproportionate and failing to meet the pastoral needs
and care of individuals -- care needs of individuals,
and the traumatic effect this was having on families,

- things including care home testing, so our position was
 under regular -- a constant ongoing review and
 assessment at that time.
- Q. It is clear from the necessity of setting up the
 nosocomial review group in May 2020 that the Scottish
 Government realised that hospital-acquired infection was
 a particular risk. Can you explain why it was decided
 to set up this body early in the pandemic?
- A. Because we understood, both from the emerging experience in Covid but also from wider experience around hospital infection, the particular risks of nosocomial infection in hospitals and we were seeking to make sure that, on an ongoing basis, there was expert advice and consideration given to how those risks could be reduced in hospitals.
- Q. Just going back to your statement -- which I needn't
 take you to again, we looked at it at the beginning of
 questioning -- in paragraph 455 you refer to:

"... the advice at that time was that the limitations of PCR testing for asymptomatic and pre-symptomatic cases may result in false assurance and therefore the focus should be on infection prevention and control measures."

Further, the fact that there was limited availability of testing capacity in March 2020 and the 224

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World Health Organisation guidance at the time was clear that testing all hospital discharges was not the best use of available capacity while it was still being expanded, and yet very frail people with complex needs were being moved in circumstances where you were aware of the problems of asymptomatic transfer, presymptomatic transfer and the problems of false assurance.

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Why, therefore, was it considered in all these circumstances safer to move them at all, and would you have taken the same decision again, knowing what you know now? If not, what would you have done differently and why?

A. I would desperately try to find ways of managing the situation of elderly people in hospital who had -didn't have a medical need to be in hospital differently that would have, if not prevented -- because in the face of what we were dealing with, I'm not sure prevention absolutely would ever have been possible -- but to mitigate and minimise beyond what happened in reality.

I would do everything in my power, and I wish I could turn the clock back and do different things that would have reduced the loss of life in care homes. But it wouldn't have changed a situation where leaving people in hospitals would not have been an option that was without risk. We had -- there was nosocomial

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infection in hospital, there were Covid patients in hospital. We didn't, thankfully, face the overwhelming of hospitals in the way that had been seen in other countries at the start of the pandemic. But hospitals would not have been a risk free environment for vulnerable people either, and that's the -- that's the context in which these decisions had to be made, and I desperately wish we could have had the ability to do things in a way that didn't result in the outcome that did materialise.

Q. And wouldn't the retention of those patients in hospital have been the best place to meet their medical needs, rather than discharging them to care homes where they were putting other vulnerable people in harm's way?

15 A. Anybody who had a medical need to be in hospital should have been in hospital. We were talking about discharge of people who didn't have a medical need to be in hospital, and discharge to their own home or to a care home was considered to be -- was considered to be better than keeping them in a hospital environment that in itself would not have been without risk of Covid transmission. That was the advice at the time. These were the judgements that were made at the time. And, yes, I think it would have been -- I would -- I wish we had been able to introduce testing earlier, more

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comprehensively, but I don't think that in and of itself would have removed the risks of care home admission, and that's why I'm saying I think there are other -a variety of other issues that also need to be properly considered in terms of the circumstances of discharge to care homes. But I don't -- I don't think I can sit here and say that keeping people in hospital would have been without risks, or certainly that, at that time, would not have seemed to me to be the situation.

Q. One final question, Ms Sturgeon.

Were there any discussions about what would happen if the criminal trial of the former First Minister Alex Salmond was still ongoing at the time of lockdown, and did the fact that it was have any effect of the timing of the lockdown being put in place in Scotland? A. No.

MR McCAFFERY: Thank you, my Lady, those are my questions. 18

LADY HALLETT: Thank you, Mr McCaffery. That completes the evidence for today?

20 MR DAWSON: Yes, thank you, my Lady.

LADY HALLETT: Thank you very much, Ms Sturgeon. I don't

know if I can guarantee that we won't be calling upon

you again, but I know we've already called upon you

twice, but it's probably unlikely, but thank you anyway

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for your help today.

(The witness withdrew)

LADY HALLETT: I notice some members of the public gallery are distressed. Please don't forget there is support available if you need it.

Very well, 10 o'clock tomorrow, please.

MR DAWSON: Thank you, my Lady.

7 (4.40 pm)

> (The hearing adjourned until 10 am on Thursday, 1 February 2024)

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