

FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

Witness Name: Laurence Rockey

Statement No.: 1

Dated: 4 August 2023

UK COVID-19 PUBLIC INQUIRY

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I, Laurence Rockey, Director of the Office of the Secretary of State for Scotland (“the Scotland Office”), will say as follows: -

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## **Section 0**

### **Introduction**

- 1) This witness statement is organised as follows.
- 2) Section 1 will provide an overview of the structure of the Scotland Office, and the various means of cooperation and joint working between the UK and Scottish Governments (and the other devolved administrations).
- 3) Section 2 will cover legislation and non-pharmaceutical interventions (“NPIs”), finance, and public health communications and public confidence.
- 4) Section 3 will deal with lessons learned relating to the COVID-19 pandemic response.
- 5) References to “the specified period” are references to the period between 21<sup>st</sup> January 2020, which is the date on which the World Health Organisation published its ‘Novel Coronavirus (2019-nCoV) Situation Report – 1’ and 30<sup>th</sup> April 2022, which is the date when the then remaining COVID-19 restrictions were lifted in Scotland.

### **Opening Comments**

- 6) I provide this witness statement in response to a request made under Rule 9 of the Inquiry Rules 2006 dated 6<sup>th</sup> February 2023. I confirm that I am duly authorised by the Scotland Office to provide evidence to assist the COVID-19 Inquiry (“the Inquiry”).
- 7) I am a senior civil servant and director of the Scotland Office. I am also the accounting officer for the Scotland Office and the Office of the Advocate General (“OAG”). I took up my post on 2<sup>nd</sup> November 2020. Prior to that, I was the head of strategy and communications at the City of Edinburgh Council.
- 8) I have been assisted in the preparation of this witness statement by senior officials throughout the Scotland Office. Documents held within the departmental information management system have been drawn upon to assist with drafting. Inevitably, changes to

ministerial, senior leadership team and staff involved in the response to the COVID-19 pandemic mean that, in some cases, certain documents are no longer held by the Scotland office and the statement is reliant upon the recollections of staff still in office. I am satisfied that I am able to provide accurate evidence to assist the Inquiry with the entire period covered by the aforementioned rule 9 Request.

- 9) The Scotland Office is keen to assist the Inquiry to the best of its knowledge and capacity. It acknowledges that the Inquiry is seeking disclosure of key documents, as opposed to all possible documents. The Scotland Office has sought to identify and disclose key documents relevant to the Inquiry within its possession. The Scotland Office is happy to provide the Inquiry with anything further that it may require, and to assist in any way.
- 10) I am very grateful for the opportunity to contribute to the Inquiry on behalf of the Scotland Office. Everyone at the Scotland Office recognises the importance of learning lessons from our collective response to the COVID-19 pandemic so that we are better prepared for the future. We are conscious of the impact of the pandemic to individuals, businesses and wider society both in Scotland and the rest of the UK. Importantly, I would also like to share our sincere condolences to the families and loved ones of all those who lost their lives to COVID-19. I also want to acknowledge those who are still living with and recovering from longer-lasting symptoms of COVID-19.

### **Scottish Affairs Committee inquiry into Coronavirus and Scotland**

- 11) The Inquiry may be interested to see the evidence submitted by the Scotland Office to the Scottish Affairs Committee for the Committee's Coronavirus and Scotland Report, as well as oral evidence given to the Committee by the Secretary of State for Scotland ("the SoSS"). The briefing pack produced for the SoSS has been provided.<sup>1</sup>

## **Section 1**

### **Introduction to the Scotland Office**

- 12) I will begin by setting out the structure, roles and responsibilities of the Scotland Office.

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<sup>1</sup> LR/01 – INQ000184328.



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- 13) The Scotland Office supports the SoSS in promoting the best interests of Scotland within a stronger United Kingdom. It ensures Scottish interests are fully and effectively represented at the heart of the UK government, and the UK Government's responsibilities are fully and effectively represented in Scotland.
- 14) As of January 2020, the Scotland Office had the following principal strategic objectives:
- a. Strengthening and sustaining the union;
  - b. Being Scotland's voice in Whitehall;
  - c. Championing the UK Government in Scotland; and
  - d. Upholding the Scotland Act.
- 15) Our objectives remain the same and this statement will set out how we sought to deliver on these objectives throughout the UK Government response to the pandemic.
- 16) The Civil Contingencies Act 2004 set outs the definition of a 'lead government department' in relation to the planning and response to civil emergencies. The Scotland Office is not defined under this Act as a lead government department, but the SoSS does attend Cabinet, ministerial meetings on resilience and COBR meetings, where he advocates for the interests of Scotland. He also has an important role in facilitating Military Assistance to Civil Authorities ("MACA") requests on behalf of the Scottish Government. How he discharged these duties during the specified period will be relevant to the Inquiry. The Scotland Office also undertakes wider functions that are relevant to the Inquiry and the COVID-19 response, and I will set these out in this statement.
- 17) The Scotland Office is a small UK Government department led by a director, who is the accounting officer for the department, and three ministers, including the SoSS. In January 2020, the then Director Gillian McGregor reported to the UK Governance Group ("UKGG") Director General Lucy Smith, who formally sat in the Cabinet Office and oversaw the management of Cabinet Office UK Governance Group, the Wales Office, the OAG and the Boundary Commission for England. Details of the relevant officials within the Scotland Office are set out in **Table 1** below.
- 18) The governance and accountability of the Scotland Office is discharged through:
- a. A quarterly joint management board, which is chaired by the SoSS and attended by senior leaders and non-executive directors; and
  - b. The UK Parliament Scottish Affairs Committee, appointed to examine the expenditure, administration and policy of the Scotland Office.

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The Rt Hon Alister Jack DL MP has been the SoSS since July 2019. As the UK Government Cabinet Minister representing Scotland his role includes acting as the custodian of the Scottish devolution settlement, representing Scottish interests within the UK Government, and advocating for the UK Government's policies in Scotland. He also promotes partnership between the UK Government and the Scottish Government and relations between the UK and Scottish Parliaments.

- 19) Douglas Ross MP MSP was the Under-Secretary of State for Scotland from December 2019 to May 2020. He supported SoSS in delivering the responsibilities set out above.
- 20) In May 2020, Iain Stewart MP and David Duguid MP took over the roles of Under-Secretary of State for Scotland concurrently with the same responsibilities.

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**Table 1: Ministerial and Senior Office leadership December 2019 to April 2022**

	2020												2021												2022		
Role	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M
<b>Secretary of State</b>	Alister Jack MP																										
<b>Under Secretary</b>	Douglas Ross MP						Iain Stewart MP																				
<b>Under Secretary</b>	n/a						David Duguid MP															Lord Offord					
<b>Director General</b>	Lucy Smith									Peter Lee - Acting DG									Sue Gray (2nd PS)								
<b>Director</b>	Gillian McGregor											Laurence Rockey															
<b>PPS</b>	Victoria Jones															Craig Chalcraft											
<b>DD Policy</b>	Nick Leake, Rebecca Hackett															Kris Krasnowski											
<b>DD Constitutional Policy</b>	Alison Evans/Rachel Irvine																										
<b>DD Comms</b>	Anna MacMillan																										
<b>DD Corporate</b>	Victoria Bowman									Brian Liddle-Lovie (Interim)									Alison Evans and Laura Crawforth								

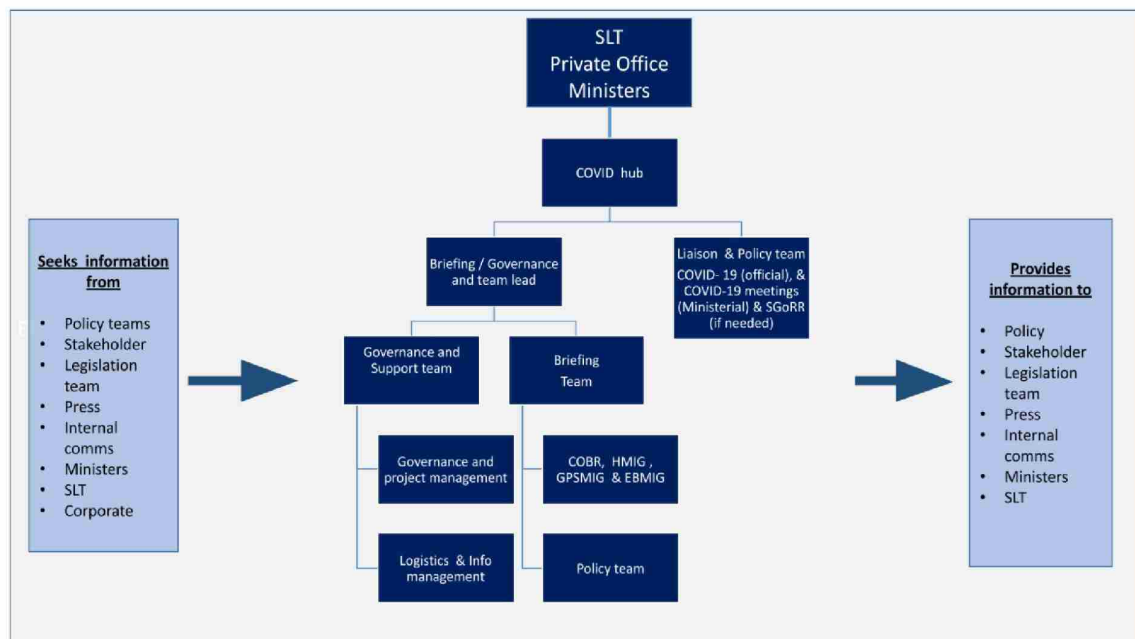
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21) In fulfilling these responsibilities in the context of the COVID-19 response, the Scotland Office:

- a. Represented Scottish and departmental interests in UK Government fora/governance structures – including COBR and governance structures created by the UK Government in response to the pandemic, such as ministerial implementation groups (“MIGs”); and
- b. Advised departments on the devolution settlement, Scottish issues and specific communications issues, including to facilitate engagement between departments and the Scottish Government where appropriate, and liaising with Scottish Government officials in the context of the COVID-19 response.

22) In response to the pandemic and the UK Government response, the Scotland Office established a structure (COVID-19 Hub) to respond to and support ministers and the central governance set up to respond to the pandemic. Given the scale of the pandemic and its wide-reaching impacts, a large proportion of teams and members of staff were deployed to support the response. This included staff who worked full time on the COVID-19 response, as well as those who supported the work alongside their usual duties. Throughout the specified period at least 30 officials (in a department of approximately 75 officials) were involved in the response with varying responsibilities and input alongside Scotland Office functions. **Image 1** sets out this structure.

**Image 1: Scotland Office Pandemic Response Structure**



## **Cooperation and joint working between the UK and Scottish Governments (and the other devolved administrations)**

- 23) I will set out briefly the relevant constitutional arrangements between the UK Government and the Scottish Government that determined the role, scale of involvement and decision-making responsibility of the Scotland Office.
- 24) The Scotland Act 1998 (as amended by the Scotland Act 2012 and the Scotland Act 2016) identifies those areas that are reserved to the UK Parliament. Everything that is not explicitly reserved to the UK Parliament is devolved to the Scottish Parliament. If a matter is reserved to the UK Parliament, the Scottish Parliament cannot legislate on it. The executive competence of Scottish Government ministers to act follows the legislative competence of the Scottish Parliament unless UK Parliamentary legislation provides otherwise.
- 25) The Scotland Act provides for a series of checks and balances to ensure that an Act of the Scottish Parliament relating to a reserved matter cannot become law. In the case of a failure of inter-administration liaison to resolve an issue, it could be determined by the Supreme Court.
- 26) Throughout the period of interest to the Inquiry, it was crucial to identify which aspects of the emerging pandemic response were reserved to the UK Government and which areas were the responsibility of the Scottish Government. The complexity of the COVID-19 response presented issues that touched on reserved and devolved areas of policy. The split of competency on relevant issues is set out in below **Table 2**.
- 27) The following selective list covers the most relevant matters to the COVID-19 response which are defined in the Scotland Act as reserved:
- a. National security;
  - b. Defence and the armed forces of the Crown;
  - c. International relations;
  - d. Emergency powers;
  - e. Telecommunications and internet services;
  - f. Transport (rail, aviation and maritime) security and, at present, the British Transport police;
  - g. Immigration and nationality;
  - h. Health and safety at work and control of dangerous substances;

- i. Cross-border rail services, aviation policy and regulation, and maritime issues (except for ports and ferries in Scotland); and
- j. Broadcasting.

### **Policy objectives of the Scotland Office during the pandemic response**

28) UK Government departments largely understand devolution issues as they apply to their own departmental portfolios. The Scotland Office is often called on to provide expert advice on which issues are reserved or devolved or involve a mix of competencies. The ability of the Scotland Office to perform this function was particularly necessary when policy was being developed at pace, such as in the early period of the COVID-19 response. Legal advice on the devolution settlement and Scots law is provided to the UK Government by the OAG. The Advocate General is one of the three UK law officers, and the OAG is part of the UK Government.

29) Where policy was reserved, the objective of the Scotland Office was to ensure that UK Government departments had appropriately considered the needs of, and the impacts to, Scottish citizens and businesses.

30) Where a policy area relevant to measures taken during the pandemic was reserved, the Scotland Office would consider the implications for the overall response and advise Whitehall on the potential challenges arising from this. In some cases, this meant advocating for alignment between Scotland and the rest of the UK in order to achieve a simpler regime of regulations that would make adherence easier, especially for people and businesses operating in both Scotland and England.

31) The Scotland Office also worked with the Cabinet Office Constitution Group, the Wales Office and the Northern Ireland Office to embed:

- a. UK-wide thinking into policy discussions within the UK Government, to ensure the response worked for all nations and that the UK Government could provide appropriate support to the devolved administrations and pool and share resources;
- b. Use of UK-wide data to underpin UK Government decision-making and to communicate UK Government impact;
- c. Effective engagement with the devolved administrations to support a joined-up approach to the response;



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- d. Clear communications across the UK about the UK Government response to the pandemic; and,
- e. Ensuring that UK departments understood the devolution settlements and operated within the existing framework.

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**Table 2: Reserved/ Devolved status of key issues**

Issue	Sub-issue	Policy
<b>Non-Pharmaceutical Interventions</b>	Face coverings	Devolved
	Lockdowns	Devolved
	Local restrictions	Devolved
	Social Distancing	Devolved
	Travel restrictions	Devolved
	Border Controls	Reserved
<b>Personal Protective Equipment</b>		Devolved
<b>Test, Trace, Isolation</b>	Testing	Devolved
	Tracing	Devolved- Test and Protect provided contact tracing in Scotland
	Isolation	Devolved- Scottish Government followed the advice of the Chief Medical Officer for Scotland
<b>Covid legislation and Regulations</b>		Devolved <i>The Coronavirus Act 2020</i> <i>Coronavirus (Scotland) Act</i>
<b>Policing and Enforcement</b>		Devolved
<b>Vaccines</b>		Devolved

## Engagement with the Scottish Government

- 32) Before the pandemic, Scotland Office ministers and senior officials regularly engaged with the Scottish Government on a wide range of issues, and through both formal and informal fora. UK Government departments also had existing relationships with the relevant departments in the Scottish Government.
- 33) Until the new Cabinet Committee structure was established by Prime Minister Johnson in 2019, engagement between the Scottish Government and the UK Government on resilience happened at the National Security Council (“NSC”) Subcommittee on Threats, Hazards, Resilience and Contingencies Officials meeting (“THRC”)(“O”). Scottish Government Ministers do not attend the National Security Council or any of its ministerial subcommittee meetings, as National Security is reserved to the UK Government.
- 34) The Cabinet Office structures (described below) for coordinating the UK Government and national response to COVID-19 were the primary high-level structures for discussions between the Scotland Office and ministers in the Scottish Government and other UK Government ministers. Scotland Office ministers attended these meetings and raised issues relating to Scotland as relevant. The Scottish First Minister was sometimes present. The engagement with devolved administrations during the first stage of the COVID-19 response has broadly followed the principles for relations set out in the Draft principles for intergovernmental relations, including maintaining positive and constructive relations and sharing information and respecting confidentiality.<sup>2</sup>
- 35) As the Cabinet Office provided the secretariat function for the meetings below, the Scotland Office relies on them to provide the Inquiry with a timeline of the meetings that took place, the agendas, attendees, action and minutes. Where a minister from the Scotland Office attended these meetings, we have provided the briefing given to them in advance of the meeting. This advice would have reflected the internal discussions officials were having at the time, any debates and the department’s view. The briefing would also have included handling and communications advice.

### Formal structures

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<sup>2</sup>LR/02 – INQ000226508

- 36) The first set of decision making structures UK Government made use of during the early COVID-19 response were COBR meetings and this was the forum through which Scotland Office ministers and other officials engaged with the UK Government and the Scottish First Minister.
- 37) Due to the COVID-19 restrictions in place, meetings were, for the most part, held virtually, and primarily conducted through the formal structures. Scotland Office ministers did not meet with the Scottish First Minister or other Scottish Government ministers to discuss the pandemic response in Scotland outside of these meetings.
- 38) The structures then evolved, with COBR meetings ceasing to be the primary forum for the day-to-day management of the pandemic response. They were replaced with the MIGs.
- 39) This later evolved into the COVID-Operations Committee, which was chaired by the Chancellor of the Duchy of Lancaster (“CDL”). It was the primary decision-making forum on delivery of the response to the pandemic.
- 40) As the structures evolved, a decision was taken by the Cabinet Office to have a dedicated Four Nations regular meeting, chaired by the CDL to discuss issues impacting Scotland, Wales and Northern Ireland. These began in June 2020. The Scotland Office was invited to this meeting as a standing member and SoSS attended.
- 41) In addition to the ministerial fora, there were official-level fora, the most important being the pre-Four Nations meetings.
- 42) The record of advice provided by officials to Scotland Office ministers in advance of their attendance at the structures referred to above has been provided where relevant.

### **Correspondence and written communications**

- 43) Formal correspondence between the Scotland Office and the Scottish Government or other UK Government departments regarding the pandemic response in Scotland was primarily through ministerial and official letters.
- 44) Ministerial colleagues wrote to the SoSS to seek agreement on policy issues through the write round process. A function of the Scotland Office is to scrutinise write rounds to

determine the territorial extent of the policy and how it impacts Scotland. Key write rounds pertaining to the pandemic response have been provided to the Inquiry.

45) Parliamentary business also continued with questions raised by members of Parliament. Relevant parliamentary questions (“PQs”) have been provided to the Inquiry.

46) Scotland Office ministers wrote to UK Government and Scottish Government ministers in the course of their duties. Where this is relevant to this Inquiry, they have been provided.

Letters to note are:

- a. Letter from the SoSS to the Scottish First Minister on the vaccination programme<sup>3</sup>; and,
- b. Letters from the SoSS to the UK Health Secretary on orders made pursuant to section 93 of the Scotland Act 1998.<sup>4</sup>

## Section 2

### Legislation and non-pharmaceutical interventions (“NPIs”)

47) The role of the Scotland Office in relation to legislation brought forward in response to the pandemic can be categorised as relating to the following:

- a. Primary legislation in the UK Parliament;
- b. Primary legislation in the Scottish Parliament; and
- c. Secondary legislation under the Scotland Act 1998.

### Primary legislation: The Coronavirus Bill

48) Advising on primary legislation in the UK Parliament is part of the Scotland Office’s usual functions. Scotland Office officials routinely engage with departments on the development of Government legislation, including its application or otherwise to Scotland. This includes territorial extent but also the interaction of legislation with the devolution settlement and

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<sup>3</sup> LR/03 – INQ000184526

<sup>4</sup> LR/04 – INQ000184506; LR/05 – INQ000184510; LR/06 – INQ000184511; LR/07 – INQ000184514; LR/08 – INQ000184519.

the application or otherwise of the legislative consent process to the Scottish Parliament. The Scotland Office provides advice on legislation to the UK Government and supports relevant departments as legislation is developed. This particularly applies to legislation where provisions interact with the devolution settlement and/or devolved competence, and where a legislative consent motion is likely to be sought from the Scottish Government and Scottish Parliament.<sup>5</sup>

49) The Scotland Office fulfilled the same functions during the pandemic that it usually undertakes for primary legislation in the UK Parliament. The Scotland Office's role in the development of the Coronavirus Act 2020 was to provide advice and ensure that the Act appropriately reflected the devolution settlement and that its provisions respected devolved competencies. The devolution settlement was an important factor in the drafting of this legislation and the conferral of powers for relevant administrations, particularly in respect of health policy.

50) Scotland Office officials attended cross-Whitehall meetings which coordinated the delivery of policy and drafting of the legislation. The *'Coronavirus action plan - A guide to what you can expect across the UK'*, published with the agreement of all four administrations on 3<sup>rd</sup> March 2020, was the first key piece of guidance to the public during the pandemic.<sup>6</sup> It stated that the Government "*would ensure necessary changes to legislation are taken forward as quickly as possible*".

51) The SoSS is also a member of the Parliamentary Business and Legislation Committee ("PBL"), a sub-Committee of Cabinet. Officials in the Scotland Office advise the SoSS in that capacity. The committee itself is responsible for considering matters relating to the Government's parliamentary business and delivery of its legislative programme. Policy clearance for legislation is usually taken forward by the relevant UK Government Cabinet Committee. Primary legislation brought forward by the UK Government during the pandemic response similarly went through this process, including the Coronavirus Act 2020. In this instance, policy clearance was sought from the COBR committee, which can include Scottish Government ministers, and did so for this legislation. PBL subsequently cleared the bill for introduction.

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<sup>5</sup> A legislative consent motion is the means by which a devolved legislature indicates that it is content for the UK Parliament to pass a law on a devolved matter.

<sup>6</sup> LR/09 – INQ000226511



52) The Scottish Parliament passed a legislative consent motion on 24<sup>th</sup> March 2020 and the Coronavirus Act 2020 received Royal Assent on 25<sup>th</sup> March 2020. The Scotland Office contributed to the process of drafting this legislation and securing the legislative consent motion in various ways and documents relating to this role have been shared with the Inquiry.

### **Scottish Parliament Legislation**

53) It is also the case that the Scottish Government could and did bring forward legislation in the Scottish Parliament which was designed to complement and supplement the Coronavirus Act 2020 passed by the UK Parliament. Subsequent bills/Acts were taken forward in the Scottish Parliament.

54) In respect of Scottish Parliament legislation, the scope and decision-making for policies and provisions to be included in such legislation is the responsibility of the Scottish Government (and subsequently the Scottish Parliament which scrutinises it). In the same way that Scottish Ministers are not part of the formal governance of UK Government decision making structures for legislation (for example, PBL), UK Government ministers are not party to Scottish Government decision-making structures. That does not preclude engagement, but neither does it necessitate a role.

55) The 'formal' role for UK Government ministers in relation to Scottish Parliament legislation applies only once a bill has passed through the Scottish Parliament (specifically sections 33 and 35 of the Scotland Act 1998, the latter of which is a power awarded to the SoSS). In normal circumstances, the UK Government has four weeks to consider a bill under these provisions before the Presiding Officer in the Scottish Parliament can submit the bill for Royal Assent. However, within the specified period, the Scottish Government requested expedited consideration for coronavirus legislation, which the UK Government agreed to. This enabled the legislation to proceed to Royal Assent sooner than the four-week period allowed. No Scottish Parliament legislation was blocked by UK Government during the specified period.

### **Secondary legislation**

56) There are a number of provisions within the Scotland Act 1998 that provide regulation-making powers to UK Ministers and/or Scottish Ministers. In particular, section 93 of the

Scotland Act 1998 enables the UK Government to undertake functions on behalf of Scottish Ministers and vice versa. Such arrangements, known as agency arrangements, can only be exercised if there are appropriate orders in place that have been passed by both the UK and Scottish Parliaments. For example, some of the testing for COVID-19 in Scotland during the specified period was provided (and funded) by the UK Government. This was made possible by an existing agency arrangement made under the Scotland Act 1998 called the Scotland Act 1998 (Agency Arrangements) (Specification) Order 2011.

57) During the specified period, the Scotland Office coordinated secondary legislation for other agency arrangements to allow the UK Government to support the response in Scotland. This included the following:

- a. The Scotland Act 1998 (Agency Arrangements) (Specification) (Coronavirus) (No. 2) Order 2020, made to allow the Joint Biosecurity Centre Health Protection Agency / UK Health Security Agency to function in Scotland; and
- b. The Scotland Act 1998 (Agency Arrangements) (Specification) (Coronavirus) Order 2020, made to enable the Department of Health and Social Care (“DHSC”) contact tracing application to operate in Scotland. (The order was passed by both Parliaments before the Scottish Government announced that it was to adopt a different application.) The Scotland Office also advised on the subsequent agreements made in respect of the Joint Biosecurity Centre (now part of the UK Health Security Agency).

## **Non-Pharmaceutical Interventions**

58) The devolution settlement and Scotland Act 1998 enables the Scottish Parliament and/or Scottish Ministers to make laws and take decisions in areas that are within devolved competence in Scotland (including those as set out in the **Table 2**). As such, differences between policies in respective parts of the UK is a consequence of devolution. Notwithstanding this, there were structures to align and coordinate the response between the administrations, as well as relationships sustained over many years of planning and response to emergencies, including health emergencies. Divergence was therefore, in some cases, a result of choices made by the respective governments.

59) Given the public health nature of the response, the Scottish Government was, and is, responsible for a majority of the decisions and measures implemented to respond to the

COVID-19 pandemic within the specified period, and for accounting for those decisions to the Scottish Parliament. However, the UK Government is responsible for reserved matters across the UK, such as substantial economic support and fiscal measures that were introduced as part of the pandemic response and which citizens across the UK benefited from.

- 60) There were also opportunities and benefits in coordinating and pooling resources to respond to the pandemic (for example vaccine supply and testing). Whilst there was no formal or legislative requirement for NPIs to be aligned across the nations of the UK, and respective administrations were entitled to make decisions based on their respective responsibilities and competencies, in practice a degree of alignment was an aspiration throughout the pandemic. Indeed, the Governments worked together on a strategic level across the specified period, and this was the primary function of the Four Nations meeting.
- 61) That began with the “contain, delay, research and mitigate” phases to planning, although once the first lockdown was initiated the respective competencies and/or policies of each administration demonstrated where there were policy differences in specific areas. It was desirable that there should be consistency between the UK and Scottish governments. There were a number of reasons for this, including concerns about compliance and messaging, the fact that the virus itself moved across boundaries as well as interdependencies with reserved matters. However, it is also the case that, as the pandemic response developed, the respective policy objectives of the respective governments adjusted to reflect local contexts, for example in the degree to which an elimination strategy was pursued and the timing of and access to economic support packages.
- 62) As outlined previously, the SoSS was only part of the decision making on NPIs through structures established by the Cabinet Office throughout the specified period. Unlike other departments with responsibility for specific pandemic policy, there were no ministerial fora convened or led by the Scotland Office. For example, the Health Secretary met his Scottish, Welsh and Northern Irish counterparts directly rather than through the Scotland Office. The Scotland Office represented the views of stakeholders, reinforced communications, as well as encouraging and facilitating engagement.
- 63) The Scotland Office identified areas where alignment should be encouraged, for example in advice and communications to key workers or guidance to industry and businesses. SoSS officials also engaged with other UK Government officials on a range of policy

matters including with counterparts in the Scottish Government to update on developments and/or topical issues.

- 64) UK Government departments also sought to ensure devolution was factored into decision-making through their own devolution teams, and UK Governance Group deployed liaison officers into the Cabinet Office COVID-19 secretariat to influence central decision-making. Scotland Office officials engaged regularly with departmental devolution teams to compare issues, provide advice on emerging issues and seek resolution where a policy could have unintended consequences in Scotland. The levers available to the Scotland Office were using communications channels, the media, stakeholders or through official level engagement. This was not a new function of the Scotland Office and was instead, as alluded to above, our business-as-usual role in the pandemic context. For example, in May 2020 when the UK Government messages shifted away from the “Stay At Home” campaign advice. This was an example of where the Scotland Office identified risks arising from potential divergence and sought to influence decision-making departments. This also included making the case that policy development could benefit from earlier engagement with respective administrations.
- 65) In light of the devolution settlement there were areas, including governance and NPIs, where there was either divergence or the potential for divergence. The prominence of these issues ranged throughout the specified period but can broadly be considered alongside the significant moments or phases of the pandemic.
- 66) As outlined previously, the Scotland Office has no direct responsibility for delivering NPIs in either reserved or devolved areas. In respect of reserved areas, and policy matters in respect of England, for example, the role of the SoSS as part of the UK Government’s Cabinet Committee structures is to represent Scottish interests in such forums, to consider impacts in Scotland and the UK of such policies, and, where appropriate, represent stakeholder views. Devolved administrations were also invited to many UK Government forums and could similarly represent their policy in devolved areas and other impacts.
- 67) The Scottish Government’s decision-making process is a matter for the Scottish Government, as set out in the Scotland Acts - the SoSS has no formal role. Whilst there were fora and meetings that enabled intergovernmental discussions, including where policy decisions were discussed and where participants sought to influence the policies of others, ultimately the decision makers were the respective government which had policy responsibility over a given matter.



68) In the context of devolution in Scotland, this meant that the UK and Scottish Government had different responsibilities and decision-making responsibilities in devolved areas (such as health policy in England), and the UK Government had responsibilities in relation to reserved matters. The Scotland Office maintained awareness on such matters through participation in relevant fora and was able to give feedback and views into the centre i.e. Cabinet Office, as well as represent the UK Government's position back to relevant stakeholders.

69) Whilst overall strategies remained aligned across the UK to a large degree (notwithstanding the different publications on strategies published by the respective government), there were certain matters where policy decisions differed (such as timing, scope, and the decisions themselves). These altered and evolved as the pandemic response continued through the various stages.

70) Throughout the phases of the pandemic response, there were subjects where the Scotland Office sought to inform or influence policy making and engagement. This covered matters that had either been raised or identified by the office, colleagues in other parts of government, the Scottish Government, the media and stakeholders. Such issues would be considered by officials and were often the subject of ministerial meetings. Our role was to provide advice on the devolution settlement, territorial extent of decision-making and legislation and represent the interests of Scotland. The office also sought to identify opportunities for alignment, as well as cascading information. Issues included but were not limited to:

- a) Supply chains (for example, the production and distribution of hand sanitizer);
- b) UK-wide communications (see letter issued by PM and chief medical officers);
- c) Registering on volunteering (for example, people resident in Scotland were initially unable to register on UKG volunteering sites);
- d) Feedback from stakeholders on business support measures and policies;
- e) Definition of key workers (for example, in the construction industry);
- f) Advice for businesses on social distancing measures;
- g) Advice and sharing of information such as planning (for example, the Nightingale and Louisa Jordan hospitals);
- h) Procurement of PPE (to enhance the collective buying power of the UK Government, the Scotland Office provided advice to the SoSS ahead of a

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ministerial discussion on the matter, which contrasted with the Scottish Government's approach for self-sufficiency in Scotland);

- i) Provision of information and data to UK Government central structures;
- j) Understanding and representing how data (for example, the R rate) was informing decision-making;
- k) Procurement and distribution of PPE (for example, following a media story about supplies being redistributed from a supplier in Scotland to the NHS in England);
- l) Visibility of support packages through established and new engagement channels (for example, for example, following the issue of a Scottish Government letter to MSPs and MPs outlining the support that the Scottish Government were providing to businesses and citizens, the Scotland Office issued a similar document outlining government support);
- m) Guidance or regulations in respect of travel corridors and advice on intra-UK travel;
- n) Guidance and regulations in respect of social distancing measures, including bubbles, exercise, mask wearing, use of public transport, capacity;
- o) Guidance and advice on COVID-19 recovery and engagement, as well as the interaction with the end of the transition period, and concurrent response structures including severe weather and the emergence of COVID-19 variants;
- p) Guidance and advice on other NPIs including contact testing, COVID-19 passports or apps, and guidance for events such as weddings and funerals;
- q) Vaccination roll-out; and
- r) Establishment of the Health Security Agency and the Joint Biosecurity Agency.

71) Scotland Office officials also highlighted where officials felt governance structures within the UK Government could be enhanced or amended to facilitate strategic decision making (this later happened through the Four Nations meetings).



## Finance and assistance to the Scottish Government

### Funding arrangements for Scotland, as per Statement of Funding Policy<sup>7</sup>

72) The Scottish Government receives grants from the UK Government that fund most of its spending. The Barnett formula determines how the largest of these grants – the block grant – changes from one year to the next. The Barnett formula aims to give each country within the union the same pounds-per-person change in funds.<sup>8</sup>

73) The Barnett formula takes the change in a UK Government department’s budget, specifically its Departmental Expenditure Limits (“DEL”) and multiplies it by two figures that consider the relative population of the devolved administration (population proportion) and the extent to which the UK department’s services are devolved. This is illustrated in the table below.

#### Barnett formula calculation

(A) Change to planned UK Government spending	X	(B) Comparability factor	X	(C) Appropriate population proportion
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74) The Scotland Office has a technical role in administration of funds to Scotland but this is limited to ensuring that funds are transferred appropriately and that transfers are recorded correctly in our accounts. It is for the Scottish Parliament to determine how the funds are spent and for the Scottish Government to account for the expenditure.

75) Funding to Scotland for the pandemic response would have been in line with the Barnett Formula and the exceptional circumstances in relation to COVID-19 and the end of the EU transition period were considered at the Spending Review 2020.<sup>9</sup>

<sup>7</sup>LR/10 – INQ000226510

<sup>8</sup> LR/11 – INQ000226510 Section 3.6.

<sup>9</sup> Section 3.16, Statement of Funding Policy (*update February 2023*)

76) The Scottish Government worked closely with HM Treasury on funding allocations as these allocations were provided directly by the Treasury. The Scotland Office engaged with a variety of stakeholders, including UK and Scottish Government departments, on the UK-wide response to the pandemic but was not involved directly in the funding arrangements.

77) According to a number of Freedom of Information Act 2000 responses published by the Scottish Government in 2022, the Scottish Government received £14.564bn in Barnett consequentials in respect of the COVID-19 response. In 2020-21, £9.7bn was received and a further £5.1bn was received in 2021-22. The UK Government allocations and deployment of funds is set out in **Table 3**<sup>10</sup>.

78) HM Treasury officials have confirmed that as of April 2022, a total of £15.7bn in Barnett consequentials were allocated to the Scottish Government since March 2020 as a result of the measures taken to deal with the COVID-19 crisis, with the Scottish Government choosing to carry forward £0.3bn forward into 2022/23. The breakdown in funding allocation is set out below in **Table 4**. The discrepancy of c£1.3bn between HM Treasury and SG figures may be attributed to differences in the accounting approach between UKG Mains/Supps and SG reconciliations. HM Treasury figures also include additional core spend figures.

**Table 3**

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<sup>10</sup>LR/12 INQ000226513

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UK Government Covid Allocations to SG (£m)	Resource	Capital and FTs	Total
2020-21 Allocated by UK Gov	8,600		8,600
2020-21 Allocated by UK Gov at Supps	874	278	1,152
2021-22 Allocated by UK Gov - SR20	1,328		1,328
2021-22 Allocated by UK Gov - Budget	1,206		1,206
2021-22 Allocated by UK Gov - Main Estimate	1,000		1,000
2021-22 Allocated by UK Gov - UKSR	516		516
2021-22 Allocated by UK Gov - Estimated Supplementary Estimate	707	55	762
<b>Total</b>	<b>14,231</b>	<b>333</b>	<b>14,564</b>
*Includes BCT on test and trace which UK Gov did not classify as Covid			
Deployment of funds to support Covid response by Scottish Government (£m)	Resource	Capital and FTs	Total
2020-21 Budget Revisions	8,677	11	8,688
2021-22 Scottish Budget Bill as Amended	3,593	278	3,871
2021-22 Autumn Budget Revision	1,050		1,050
2021 22 Spring Budget Revision	1,162	84	1,246
<b>Total</b>	<b>14,482</b>	<b>373</b>	<b>14,855</b>

**Table 4: HM Treasury figures on funding to Scotland additional Barnett-based Total DEL funding 2020-21 and 2021-22**

£billion	SG	WG	NIE	Total
<b>20-21 (funding guarantee)</b>	<b>8.6</b>	<b>5.2</b>	<b>3.0</b>	<b>16.8</b>
<b>21-22</b>	<b>6.8</b>	<b>4.0</b>	<b>2.4</b>	<b>13.2</b>
o/w carry-forward from 20-21	1.2	0.7	0.3	2.1
o/w SR20	2.4	1.3	0.9	4.7
o/w Budget21	1.2	0.7	0.4	2.4
o/w Main Estimates 21-22	1.1	0.6	0.4	2.1
o/w Autumn Budget 21	0.6	0.4	0.2	1.3
o/w Supps 21-22	0.7	0.4	0.2	1.3
o/w Post Supps carry-forward to 22-23	-0.3	-0.2	-0.1	-0.6

79) Additional support by the UK Government also included:

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- a. The Coronavirus Job Retention Scheme (furlough), which ran between March 2020 and September 2021 and supported 911,900 Scottish jobs. UK-wide 11.7 million employee jobs were furloughed through the scheme, at a cost of £70 billion;
  - b. The Self-Employment Income Support Scheme, which provided 175,000 self-employed people in Scotland with grants totalling £1.7bn;
  - c. The Coronavirus Business Interruption Loan Scheme and the Bounce Back Loan Scheme, which provided £4.1bn of loans to 99,792 businesses in Scotland;
  - d. The Future Fund, which provided 23 loans valued at £8.3m to businesses in Scotland; and
  - e. The Eat Out to Help Out scheme, which helped to support 4,775 hospitality businesses in Scotland throughout August 2020, with the value of discount claimed totalling £42.9m.
- 80) The Scottish Government has responsibility for presenting a Scottish budget to the Scottish Parliament detailing its spending and taxing plans. It was accountable to the Scottish Parliament on how and where it spent funds allocated to it in response to the pandemic.
- 81) Where the Scottish Government raised concerns about the allocation of funding in respect to the pandemic response, these would have been directly with HM Treasury. For example, the then Finance Secretary Kate Forbes, wrote to the Chief Secretary to the Treasury ("CST") Stephen Barclay on 23<sup>rd</sup> May 2020<sup>11</sup> to seek clarity on consequentials. The Scotland Office would not have been had a decision-making party to these discussions or in drafting of the letters between HM Treasury and Scottish Government.
- 82) The Inquiry has indicated that it is interested in whether any requests were made by the Scottish Government for additional funding during the specified period, which were declined. As set out above, this is a matter for HM Treasury.
- 83) In June 2020, the Scottish Government set out ten principles it proposed the UK Government should follow to support the UK economy and public finances as we began to recover from the impacts of coronavirus. This was wide-ranging and commented on taxation, fiscal and monetary policy which would have been not only reserved matters but not directly related to funding the response in Scotland.

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<sup>11</sup> LR/13 – INQ000226514

## **Non-financial military assistance provided to the Scottish Government by UK Government**

84) The Ministry of Defence (“MOD”) Joint Doctrine Publication: *UK Operations: the Defence Contribution to Resilience*<sup>12</sup> defines MACA as “*Military operations conducted in the UK and Crown Dependencies involving the employment of Defence resources as requested by a government department or civil authority. This is subject to Defence ministerial approval, either prior to, or at the time of an event.*”

85) The process for the Scottish Government requesting MACA is also set out. For ‘bottom up’ requests, the civil authority requiring support should initially staff requests through their own agency and local resilience partnership to ascertain the availability of mutual aid, and then through the Strategic Coordination Group, if activated, to identify whether mutual aid, third sector or commercial resources are available. Should other options for assistance not be possible, the relevant department in the Scottish Government should work with the Defence Regional Liaison Officers (“RLOs”) to develop a MACA request, which would then be channelled through the Scotland Office.

86) The Scottish Government cannot request MACA support directly from the MOD, and the MOD will expect to receive MACA requests from the Scotland Office rather than directly from the Scottish Government, as defence is a competence reserved to the UK Government under the Scotland Act. There is no formal devolved MACA funding agreement in Scotland between the Scottish Government and devolved agencies. The model is similar to that used in England where the Scottish Government meets costs as required, and then claims back funds from the civil authority as appropriate.

87) The SoSS therefore has a defined role in considering MACA requests from the Scottish Government and making a formal request to the MOD. His endorsement does not guarantee that the Defence Secretary will agree to the request, but the Scotland Office has an important role in scrutinising requests to ensure they are appropriate and that other options have been exhausted. The SoSS also acts as an advocate for requests from Scotland, especially in a period where there were increased pressures on the defence estate from across Whitehall.

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<sup>12</sup>LR/14 – INQ000226509



- 88) During the specified period, the Scotland Office received MACA requests from the Scottish Government. These are summarised below. Scotland Office officials had strong relationships with counterparts in the Scottish Government and MOD and issues were raised and initially considered at this level. This facilitated timely assessment of potential MACAs, advice to the SoSS and requests to the MOD.
- 89) Initially the Scottish Government allowed a high degree of autonomy to health boards to make requests directly to the Defence RLOs. As the number of requests increased, it became difficult to prioritise the deployment of niche military personnel, such as medical staff and regular fortnightly meetings between MOD, 51 Brigade, Scotland Office and the Scottish Government resilience leads were put in place to coordinate the prioritisation of requests. This process worked well as it provided, for the first time, a centralised and clear picture of the volume of requests, allowed discussions on prioritisation and made it easier for the Scotland Office and MOD to process requests in a timely manner.
- 90) This process now forms the basis of the system today whereby all requests for MACA in Scotland are now first routed through the Scottish Government Resilience Division.
- 91) During the pandemic streamlined procedures were also introduced in the MOD to allow delegated authority to officials to provide sign-off to MACA requests in line with the policy to delegate authority to military joint commanders for the most significant and wide-ranging disruptive challenges. Details of these delegations should be held by the MOD. In all circumstances, requests had to be made by the authorities in Scotland and authorised by the SoSS. Scotland Office approval was generally rapid, often being provided within 24 hours of a request being made. A comprehensive list of these requests is set out in **Annex A**.

### **Public health communications and public confidence**

- 92) Health responsibilities, including for public health, are devolved to the Scottish Government. As such, the role of the Scotland Office in public health communications is limited. Where appropriate, and for the benefit of the people of Scotland, we use our various communications channels to amplify and promote useful public information, messages and content. However, we did not directly create or deliver our own public health campaigns.



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- 93) While the health response was largely devolved, particularly after the first stage of the response, there were certain elements that the UK Government led for the whole of the UK. The Scotland Office communications team undertook a number of tasks supporting these aspects, which are detailed below.
- 94) The Scotland Office press office was involved in helping to promote the availability of testing facilities, the efficiency and effectiveness of the post-testing lab process, and the support of the UK's military in relation to pandemic response.
- 95) This was done through news releases, ministerial visits, briefing journalists, coordinating media facilities at COVID-19 testing sites and the Lighthouse lab in Glasgow and on the vaccine rollout.
- 96) The press office actively promoted the UK Government's public testing network including (but not limited to) centres at Inverclyde, Dundee, Oban, and Edinburgh. These news releases would be issued to Scottish national outlets as well as local media outlets, backed up by social media, to ensure people knew where they could get tested. At some of these, the Scotland Office press office invited media outlets to film and photograph people getting tested.
- 97) Ministerial visits included Aberdeen and Moffat, when media would also be invited to help show the testing process and raise awareness.
- 98) The Scotland Office press office helped to coordinate media events at the Glasgow lighthouse lab. These events helped to show the rigorous 'back end' of the testing process and demonstrate to the public the value of the Scottish lighthouse lab being part of a bigger UK network.
- 99) The press office undertook proactive communications on the vaccine rollout – making clear this was a UK-wide programme being created in partnership with NHS Scotland, and to encourage people to get vaccinated. It issued supportive quotes and tweets from the SoSS issued to the media, an Secretary of State op-ed and news releases.
- 100) To make clear to the public that the UK Government was doing all it could, and to reassure people when they saw military personnel, the press office worked with MOD colleagues to proactively highlight the extensive role of the military in supporting our

response to COVID-19 including transferring people to hospital from hard to reach places and, in particular, helping people to get vaccinated.

101) On a number of occasions, the press office proactively briefed Scottish journalists to aid understanding of where measures announced covered Scotland, counter misinformation on MOD activity, testing and vaccines. It also worked with UK Government departments, such as the DHSC to ensure that Scottish journalists had access to relevant briefings from Whitehall, including spots to ask questions at the regular press briefings.

### **Social media activity**

102) The Scotland Office's campaigns and digital team amplified much of the main UK Government campaign messaging as well as supporting SoSS press activity through its social media channels, including on Facebook and Twitter. This involved amplifying the elements of the UK Government external health campaigns which were relevant to Scotland, including the main 'Stay at Home' and 'Hands, Face, Space' national campaigns. The team closely monitored the evolving communications and changes when the approaches of the UK and Scottish Governments diverged to ensure the Scottish audience received accurate instruction and information via social media.

103) During the initial 'Stay at Home' messaging phase at the beginning of the pandemic, where all parts of the UK were following the same public health advice, the campaigns and digital team amplified UK-wide messaging through the Scotland Office's social channels. As the pandemic continued and elements of the response diverged the team worked to promote all relevant information to audiences in Scotland, including amplifying relevant Scottish Government content. Examples of material that was communicated included:

- a. Using UK Government Stay Home, Protect the NHS and Save lives branding, marketing materials and content;
- b. Creating a COVID-19 testing map where people could identify locations of nearest sites;
- c. Highlighting different COVID-19 levels in areas around Scotland and Scotland's individual rules through graphics and animations;
- d. Promoting the Scottish Government's protect and test messaging;

- e. In-house animations explaining UK Government procedures (this changed as Scottish Government started introducing their own rules and we reflected accordingly); and
  - f. Creating content that told the story of those who came together to deliver the COVID-19 vaccine across the UK.
- 104) The team played a significant role in informing the central government's paid-for Press Partnership, which placed advertorial information about COVID-19 in a wide variety of newspapers across Scotland. It helped provide Scottish case studies and information to the central team in Cabinet Office, making sure that materials used were appropriate for the audience and again took into account the divergence in rules between Scotland and other parts of the UK.
- 105) The team also consolidated advice from both UK and Scottish Governments into central gov.uk websites – this was particularly important to allow both members of the public and businesses to scan the various routes to assistance in one place. Again, the aim was to help the public navigate diverging messages and schemes as quickly and easily as possible.

### **Stakeholder engagement**

- 106) The engagement team helped facilitate an array of conversations with key stakeholders. This was largely to provide avenues for discussion, to help direct concerns and to respond to information needs from businesses, civic Scotland and wider Scottish stakeholders.
- 107) In particular, this included:
- a. Facilitating frequent ministerial calls with different business groups and stakeholders, including local authority leaders, to better understand key issues arising from the pandemic/ lockdown and help to mitigate these with other departments;
  - b. Facilitating calls for the then Parliamentary Under-Secretary of State, Douglas Ross MP, with cross-party MPs to directly raise key issues, responding directly to the concerns which were being raised by their constituents;

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- c. Monitoring and noting ongoing issues and concerns within our sectors and responded with relevant guidance and information through our regular stakeholder newsletters; and
  - d. Participating in the Scottish Government-organised stakeholder call. This initially took place three times a week but moved to a weekly call as the pandemic progressed. The guest list was mainly business and sector representative groups. This took specific questions from stakeholders and obtained answers/clarification, either directly or in the forum.
- 108) Our role in coordinating public health communications between the UK Government, the Scottish Government and the other devolved administrations was relatively informal, but an essential element of ensuring the smoothest possible running of communications across the UK, particularly after the point where the public health messaging and guidance diverged.
- 109) This coordination support role often involved our communications teams in discussions between the Cabinet Office team responsible for UK-wide campaigns and Scottish Government colleagues managing their distinct activity.
- 110) At an early stage we instigated weekly phone call meetings between the Director of Communications and Head of News in the Scotland Office and the Head of News in the Scottish Government. This allowed us to share relevant information about upcoming announcements and agree on coordination where possible.
- 111) Relationships were also established with the Scottish Government Deputy Director in charge of marketing, with responsibility for all of its Scotland-only public health campaigns.
- 112) An early example of our input occurred shortly after the Stay at Home, UK-wide campaign was changed to Stay Alert, which the Scottish Government did not adopt as a public campaign. This meant efforts had to be taken to ensure that advertising for the UK campaign did not appear in Scottish editions of national newspapers. As an example, when an advert appeared in the Scottish edition of the Daily Mail creating press interest about confusion, the Head of Marketing at Scottish Government reached out to the Director of Communications at the Scotland Office to resolve. Our contacts within the Cabinet Office ensured the right people were involved and the error was resolved quickly – avoiding potential confusion for the Scottish public.

- 113) As the pandemic continued, formal structures were put in place to facilitate coordination between the Cabinet Office, territorial offices and the devolved administrations. Weekly calls involving relevant Directors of Communications took place and comms officials built and maintained a range of direct relationship with Scottish Government counterparts. This allowed us to share information from the centre and get updates on what was planned by the Scottish Government (and other devolved administrations). The principle was to ensure good early sharing of plans so that opportunities for join-up were explored and mitigations could be considered in areas of potential confusion.
- 114) An example of this was when the UK Government moved towards a more generic 'Hands, Face, Space' campaign to highlight the behaviours the public should be undertaking to minimise its exposure to COVID-19. By liaising at an early stage, it was possible to find a route which allowed this to be used in Scotland as well as the wider UK, even though the underlying rules in terms of distances apart, numbers in groups and so on were different. The Scotland Office team helped the Cabinet Office to make the case to Scottish Government for pan-UK campaigns on the basis that the singularity of messaging would reach more people and provide clarity.
- 115) This coordinated approach was also essential in the run up to Christmas 2020 when the need to communicate clearly around travel to and from different parts of the UK was required in a constantly evolving situation.
- 116) The Scotland Office team role in this context was advisory. The team had both a high level of knowledge about Scotland and the fast-changing environment and decisions which provided practical support to the central Cabinet Office team, as well as the resource and contacts to both create and tailor content to support and advise on public messaging in Scotland. It could also use existing contacts with Scottish Government teams to discuss issues around marketing, sharing information and avoiding conflicts in messaging – for instance, in some of the discussions around media-buying and duplication in Scotland.



## Section 3

### Lessons learned

- 117) This section covers lessons, as identified by the Scotland Office, drawn from our collective experience of the pandemic response. Scotland Office officials have engaged with lessons learned processes of other UK Government departments including the Cabinet Office and the DHSC.
- 118) The Scottish Affairs Committee inquiry into Coronavirus and Scotland in 2020 also provided an opportunity to consider emerging lessons. The SoSS wrote to the Committee in response to its First Report of Session *Coronavirus and Scotland: Interim Report on Intergovernmental Working* (HC 314) on 23 July 2020, and its Second Report of Session 2019–21, *Coronavirus and Scotland* 22 October 2020. The Government's responses to reports published by this Committee have been published and are available on the Parliament website.
- 119) We also held internal discussions at the time, including by the senior leadership team, on how the Scotland Office was functioning to support the response.
- 120) A key objective for the UK Government in its response to COVID-19 was to ensure that it was responding to the needs of citizens and businesses regardless of whether they were based in England, Scotland, Wales or Northern Ireland. The Scotland Office role was crucial to the realisation of this objective. There were both specific lessons about how the UK Government delivers an emergency response to a pandemic and general lessons about how the UK Government collectively respond to a UK-wide crisis.
- 121) The response showed that devolution does indeed provide local accountability for decision-making in Scotland, but the scale, scope and complexity were such that it necessitated action in both devolved and reserved policy areas and the pooling of resources. For example, the strength of the UK economy made it possible to support 930,000 jobs in Scotland and to fund the response in Scotland with the Treasury providing the SG with an additional £6.5bn.
- 122) UK Government departments and the devolved Administrations had developed a common approach to flu pandemic planning and the chief medical officers were



accustomed to working through the Scientific Advisory Group for Emergencies (“SAGE”). Public health is a devolved matter to Scotland but there was an understanding that the UK Government and its scientific advisers would provide the policy leadership during the crisis. The UK Government’s macroeconomic interventions were widely understood to be integral to the response.

- 123) This cooperation also extended to legislation. The Coronavirus Act was passed with the legislative consent of the three devolved legislatures. The Bill was first drafted during the cross-UK pandemic flu planning and reflects the agreement between the UK Government and the three devolved administrations that there should be a common approach to managing a pandemic and that the legislative provisions could be best managed by a single UK-wide Act, applying across the whole of the UK.

### **Engagement with the devolved administrations and approach to intergovernmental relations**

- 124) A key theme was the importance of effective and regular engagement with the Scottish Government at the ministerial and senior official levels to allow for coordination of policy and communication responses, sharing of data and analysis, and pooling of resources. We have set out above the various fora in which this engagement took place and believe this to have worked well in general. For example, devolved administration attendance at a majority of meetings – 54 meetings in total – contributed positively to the UK-wide join-up on the response, especially in the first few months. MIGs facilitated information flow which was crucial for driving effective collaboration and for helping to sustain initially the UK-wide response. The SAC also was interested in this point, and in his response, the SoSS explained that, beyond the formal committee meetings, there had been regular interactions between lead Ministers in both administrations on matters such as:

- a. Financial support and business impacts;
  - b. Military assistance;
  - c. Ventilator manufacture; and
  - d. Vaccines.
- 125) The four UK chief medical officers were in regular contact from January 2020, sometimes meeting several times a week to ensure that scientific advice was shared across the UK. The Permanent Secretary of the DHSC also had monthly meetings with his counterparts in the devolved administrations. There were numerous other officials’ fora

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for the UK Government and devolved administration engagement on matters including the coordination of responses to local outbreaks, test and trace, the provision of PPE, vaccines and immunisation, medicines' supply and therapeutics, and travel into and within the UK.

126) That is not to say that engagement was without its challenges. The pace of the response, the unprecedented rhythm of ministerial meetings and the short turnaround time on commissions for papers meant that the Scotland Office or the Scottish Government may not have always received invites, agendas or papers in time. In addition, UK departments drafted a large number of officials into the response from across the civil service, meaning that knowledge and experience of devolution often varied, even on a shift-by-shift basis. This was particularly the case in the early stages of the response but as the engagement structure settled and officers from the UKGG were deployed into the COVID-19 Secretariat, this improved greatly.

127) Embedding an understanding of the devolution settlements early and at the core of response structures will allow the UK Government to better engage the Scottish Government. Future planning should consider the inclusion of liaison officers from either the territorial offices or departmental devolution teams into UK Government departments leading the response to ensure that senior officials have devolution expertise available to them. The deployment of liaison officers into MIG structures allowed UKGG to track the response and increase the ambition of some policies to be UK-wide (for example, package of support for agricultural workers) and encourage engagement and information sharing in others (for example, shielded and non-vulnerable shielded). It also allowed the teams to troubleshoot a range of potential issues from avoiding great divergence on critical workers (who can continue to send their children to school) to ensuring people registering to volunteer in England-only apps are redirected to other sites.

128) A regular senior officials forum was initiated by the UKGG and included the devolved administrations and territorial offices with a view of maintaining a strategic overview across engagement taking place on COVID-19 and providing a space to discuss medium-term policy issues. This was recognised by all as an important space for strategic information flow even if the goal was not necessarily to influence policy outcomes. Forum discussions also provided the basis for a short weekly situation report of UK-wide issues provided to the Cabinet Secretary and devolved administration permanent secretaries.

129) It would be useful to have a forum for regular information-sharing at senior official-level embedded as early as practicable during national crises.

130) Strategic engagement was most effective when combined with engagement at policy team level within departments, which ensured the Scottish Government was involved at an earlier stage of policy development. For example, regular ministerial engagement by the then Department for Business, Energy and Industrial Strategy (“BEIS”) helped to build positive relationships and improve understanding of the economic shock to the Scottish economy and the impact of the business support programme. Combined stakeholder events by BEIS ministers and devolved administration ministers were received particularly positively. The ministerial engagement was underpinned by substantial and frequent official-level discussions throughout the pandemic.

131) Engagement with the Scottish Government is most effective when it happens in parallel at the strategic, policy and operational levels. Departments should be encouraged to create appropriate engagement structures to underpin Prime Minister or Cabinet Office-led engagement in the early stages of a response. Throughout the response, the depth of engagement led by ministers at the departmental level continued to deepen. Various departments have commented on the strength of individual relationships built through the pandemic which became increasingly important as the frequency of Cabinet Office-led meetings reduced.

## **Data**

132) Even where devolved administrations were not in attendance, for example in the strategy meetings chaired by the Prime Minister, the data and information being used in decision-making needed to be UK-wide. The work done to develop a shared analytical picture played an important role in ensuring decisions were not driven by an England-only understanding of policy issues. There were challenges in achieving this picture. Given the different data capture methods and approaches across the different administrations, ensuring that there was comparable data was a significant undertaking.

133) Devolved administration capacity was stretched in supporting these requests; worsened by initially uncoordinated requests from the UK Government; having a strong rationale for requests for particular types of data and how providing it benefited the devolved administrations as well as UK Government was important. A centralised prioritisation process for new datasets was introduced and coordinated by the Civil Contingencies Secretariat, supported by UKGG, and provided significant value, and the

UK-wide picture became clearer on data such as PPE distribution and other medical supplies.

- 134) Data will continue to remain central to how the UK and Scottish Governments respond to future crises. The National Situation Centre and the COBR teams should embed a UK-wide approach in developing Sitreps, dashboards and Commonly Recognised Information Pictures (“CRIPs”).

### **Devolution capability of civil servants**

- 135) As the response to the pandemic progressed and moved on from the initial crisis response, departments felt there was an increasing need to be clear on the rationale of working on a UK-wide basis to inform the policy approach. Departments noted the importance of understanding the objective of working on a UK-wide basis within varying policy areas, for example, the different approaches required where there is a critical need for alignment to ensure compatibility of technical solutions, such as track and trace, compared to the need to understand the impact of different policies on each nation and to ensure clear communication across the UK.
- 136) In the later stages of the response, UKGG circulated guidance for departments and the newly established task forces to support them in considering how to engage with the devolved administrations and how to take a UK-wide approach. Departments acknowledged the usefulness of having a clear framework for considering this issue, and this is something we should continue to incorporate within our suite of capability tools.
- 137) There may be a need to increase the level of understanding of the devolution settlements throughout key Whitehall departments. During the planning phase, lead government departments should ensure that at least one nominated role within any relevant policy and strategy team with the specific responsibility for ensuring the whole team is aware of the devolution position of the policy, as well as being responsible for engaging with the devolved administrations. They should draw on the expertise of their devolution teams and the territorial offices.

## **Military Assistance to Civilian Authorities**

138) The Scotland Office plays a key role in ensuring that requests for military assistance are appropriate and in coordinating the requests with the MOD, armed forces and the Scottish Government. The relationships in this area were (and remain) strong, allowing for timely responses to critical issues.

139) During the pandemic, the need to ensure central coordination of requests by the Scottish Government to allow proper prioritisation of requests and effective coordination with the Scotland Office and MOD became apparent. The procedures put in place to deal with this whereby requests are all dealt with through the Resilience Division in the Scottish Government are effective and play an important role in the successful deployment of MACA in Scotland today.

## **Communications**

140) A significant part of the response to COVID-19 relied upon effective public communications. UK departments sometimes had limited awareness of the devolution landscape, which led to several public communications issues and, in some circumstances, a lack of clarity on the territorial extent of announcements. The Constitution Group policy desk and the territorial offices' communications officials worked closely with the communication hub, highlighting areas of risk and opportunity, and were sometimes successful in influencing communication plans to take into account the UK-wide aspects of a policy. Including media from Scotland, Wales and Northern Ireland in the daily briefings was a positive step and provided an increased focus across UK Government on the territorial extent of policy announcements.

141) However, the coordination and timing between decisions being made and then communicated were a challenge, and while there have been significant improvements this continues to be an area of concern for departments. Departments noted that even where coordination had been agreed at a policy level this did not always follow through to communications, suggesting coordination within departments is a factor in this challenge. In the early stages of the response when UK and devolved administration ministers met in COBR to agree on the next steps it was sometimes the case that the Scottish First Minister announced the agreed position before the UK Government. This risk can be mitigated to



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some extent if there is a collective decision by ministers in the UK Government and the devolved administrations to coordinate the timing and content of announcements.

**Closing Statement**

142) I wish to re-state the Scotland Office's commitment to working with the Inquiry to identify the lessons of the UK's response to the COVID-19 pandemic. Should the Inquiry require any further assistance or information from the Scotland Office, we will be happy to provide this.

Statement of Truth

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

SIGNED

Personal Data

**Laurence Rockey**

Dated 4 August 2023



FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

Annex A:

**Table 5: List of Military Aid to Scottish Civil Authorities**

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
<b>Military Aid to the Civil Authorities (MACA) – both UK Government- and Scottish Government-requested MACA</b>						
20/039	Transportation of med diagnostic equipment.	3 x Vehicle & Crews	JMC Scotland	Cabinet Office	29-Mar-20	29-Mar-20
20/046	MedEvac of COVID positive patient from Shetland.	1 x A400m (BZN)	Highlands and Islands	Scottish Ambulance Service	22-Mar-20	22-Mar-20
20/055	Provision of a hangar at Kinloss Barracks as overflow mortuary facility. Not used.	1 x Hangar at Kinloss Barracks – Defence Estate	Grampian	Moray Council	05-Apr-20	07-Aug-20

FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
20/059	Request for 8 MOD Planners by SG for strategic support, supported by an additional 4 liaison officers (non-MACA), to support SGoRR and the SG Policy Hubs. Commanded by an OF5.	8 MOD Planners	JMC Scotland	SG	29-Mar-20	25-Sep-20
20/061	<p>SG submitted a MACA request for planning support to the Health and Social Care (H&amp;SC) Directorate.</p> <p>By 31 Mar, a 1* led team of augmentees formed the H&amp;SC MLT, which varied in size, as specific requirements changed. Its role was to support H&amp;SC and NHS(S) operationalisation of crisis resilient processes and structures.</p>	12 MOD Med Planners	JMC Scotland	SG	30-Mar-20	03-Aug-20

FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
20/083	<p>Aviation Task Force North - 3 x PUMA Hel to support to NHS Scotland</p> <p>UKG initiated a top down MACA to support the pandemic by forward basing Avn assets.</p> <p>ATF(N) comprised 3 PUMA ac and 3 crews on RS60 in support of Scottish Ambulance Service (SAS) to provide MEDEVAC (COVID and other critical care) and logistics support (eg for critical medical supplies).</p>	3 x Puma Helicopter	JMC Scotland	UK National Directive	27-Mar-20	19-Jun-20
20/084	Police Scotland use of Edinburgh Drill Hall. Approved	Defence Estate	301 Colinton Road, Edinburgh	Police Scotland		

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MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
20/114	Testing lab support to QEUH in Glasgow. Defence testing support to DHSC National Testing Facility at Glasgow and Edinburgh Airports. Part of a nationwide MACA.	15 RLC SP 1 x SP for C2	Greater Glasgow & Clyde, Grampian	DHSC	27-Apr-20	31-May-20
J3/002	Edinburgh Drill Hall for Police Scotland.	Defence Estate	Lothian	Police Scotland	30-Mar-20	03-Apr-20
20/145	MedEvac of COVID positive patient from Orkney.	1 x A400m (BZN)	Highlands and Islands	Scottish Ambulance Service	04-Apr-20	04-Apr-20
20/147	MedEvac of COVID positive patient from Shetland.	1 x A400m (BZN)	Highlands and Islands	Scottish Ambulance Service	06-Apr-20	06-Apr-20
20/153	Logistic support to setting up of a PPE hub for NHS Fife.	1 x Log SME	Fife	Fife NHS Board	05-Apr-20	20-Apr-20

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MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
20/155	Specialist personnel to operate 14 PortaCount FFP3 Fit Testing machines. CBRN Instructors deployed in support of NHS Health Board.	10 x CBRNIs + trainers	Greater Glasgow & Clyde	GG&C NHS Board	15-Apr-20	17-May-20
20/174	SUPPORT Dumfries & Galloway Council by the PROVISION of DEFENCE ESTATE assets to ENABLE storage of 2 off 12.2m x 2.45m chilled containers for excess death storage in an overflow facility, pending disposal via local Funeral Directors.	Defence Estate	Dumfries & Galloway CC	SG		
20/175	Request to use Qinetiq Range Hebrides hangar Benbecula to hold HGV trailer and mortuary veh to conduct unloading out of sight. To be activated if mortuary capacity at BENBECULA is below 1/3rd capacity or if there is a Nutwell mortuary eqpt failure.	Defence Estate	Comhairle nan Eilean Sar (Western Isles Council)	SG		



FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
20/176	Provision of 18 MTUs in the JMC Scotland AO to support the DHSC National Testing Effort.	18 x MTUs: 12 SP per MTU	National	DHSC	22-Apr-20	31-Aug-20
20/205	Request to use Qinetiq Range Hebrides hangar Benbecula to hold HGV trailer and mortuary veh to conduct unloading out of sight. To be activated if mortuary capacity at BENBECULA is below 1/3rd capacity or if there is a Nutwell mortuary eqpt failure.  This is an extension of 20/175.	Defence Estate	Comhairle nan Eilean Sar (Western Isles Council)	SG		
20/379 .1	The Scottish Ambulance Service - storage of 100 vehicles – Authorised Extension	Defence Estate	Glasgow & Clyde	Scottish Ambulance Service	09-Nov-20	30 Sept 21
20/398 .2	Military Planning Support to SG, Local Authorities, Health Boards and strategic level.	32 planners	NHS Health Board Hubs	Scot Gov	23 Nov 20	27 Feb 21

FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
	<p>The deployment of National Planning Support Team, the SG Planning Support Team and Local Planning Support Teams in order to operationalise the deployment of COVID-19 vaccines and Community Testing nationwide in Scotland National Planning Support Team (NPST) x 5 pax (No Change), SG Planning Support Team (SGPST) x 4 pax (New scale), Local Planning Support Teams (LPST) x 23 (uplift of 7 pax)</p>					
20/400 .3	Vaccine Sy Framework LO to the DAs	1 x OF2	National	UK Gov	04 Feb 20	23 Apr 21

FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
21/004	SG Vaccination Centre Setup Support	11 VCS Teams (8 SP ea.) + HQ of 10	All Health Boards	SG	19-Jan-21	15-Feb-21
21/025	National Vaccinator QRF. Support to delivery of vaccination programme.	5 Teams of 11 CMTs + 2 MSOs	National	SG	03-Feb-21	05-Mar-21
21/026	National Vaccination Centre Operations Support.	24 General Duties SP	National	SG	01-Feb-21	30-Mar-21
21/145	Ambulance driver support to Scottish Ambulance Service	114 SP	National	SG	23 Sep 21	31 Mar 22
21/100	<p><b>Lothian Health Board</b></p> <p>MACA 21/100 was generated to aid the NHS Lothian Health Board (HB) in delivery of COVID 19 vaccinations to the public in the NHS Lothian AO. The request</p>	<p>36 General Duties Vaccinators (GDVs);</p> <p>4 Registered Health Care</p>			7 Jun 21	14 Jul 21

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MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
21/101	<p>was 40 SP to reinforce NHS staff at vaccination sites with SQEP including:</p> <p><b>Lanarkshire Health Board</b></p> <p>MACA 21/101 was generated to aid the NHS Lanarkshire HB in delivery of COVID 19 vaccinations</p>	<p>Professionals (RHCPs);</p> <p>1 C2 element based with deployed troops; and</p> <p>1 C2 element based within the JMC Scotland HQ.</p> <p>18 General Duties</p> <p>Vaccinators (GDVs);</p>			7 Jun 21	28 Jun 21

FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
	to the public in the NHS Lanarkshire AO. The request was 20 SP to reinforce NHS staff at vaccination sites with SQEP including:	2 Registered Health Care Professionals (RHCPs);  1 C2 element based with deployed troops; and  1 C2 element based within the JMC Scotland HQ.				
21/035	National Testing. Running of ATS across Scotland	4 x 75 SP Sub Unit  20-strong HQ	National	SG	15 Feb 21	04 Apr 21



FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
21/036	Extension to Vaccine QRF and GD Sp Teams to NHS Scotland. Superseded - included in MACA 21-049	30 CMT and 3 x RCHP vaccinators for the Scottish Vaccination Programme . Split into 3 teams, 1 team to Dumfries and 2 teams to Fife	Fife	SG		
21/041 .1	Scottish Ambulance Service request for Defence Estate use to facilitate training at MOD Caledonia  SORT Team - Multi discipline training using various settings within the estate.	Defence Estate	Fife	Scottish Ambulance Service	03 Mar 21	16 Apr 21

FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
21/049	V-QRF & VST Extension. This MACA will supercede 025, 026 & 036.	80 x CMT 8 x RCHP 2 x MSO 49 x GD	National	SG	06 Mar 21	30 Apr
21/067	Scottish Ambulance Service have submitted a MACA Request for use of Defence estate - OFFICES and CLASSROOMS (Carmyle ARC – 221 Sqn, 154 Regt RLC and Cambuslang – Cadet Training Centre) over the period 18-Oct-21 to 19-Nov-21 for UNCOP26 (Op URRAM). SJC have granted use of delegated authority for this MACA as it is seen as non-contentious use of Defence Estate.	Defence Estate	Glasgow & Clyde	Scottish Ambulance Service	01 Apr 21	30 Nov 21
21/071	<b>National Testing.</b> Running of ATS across Scotland - Follow on from 21/035.		National	SG	05 Apr 21	02 May 21

FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY

MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
J3/001	Delivery of 90 beds to NHS D&G board facilities	1 x Delivery Team (14 SP)	Dumfries & Galloway	D&G NHS Board	06-Apr-20	06-Apr-20
J3/002	<b>Specialist Support to NHS Scotland Logistical Hub</b> - Supply of PPE (from the NSS) cannot be solved but internal (NHS Fife) management and distribution practices can be improved. Internal PPE management to be made fit-for-purpose for the current pandemic situation, which will in turn lead to better modelling of future requirement to the NSS and aid future procurement and planning. Initial set-up and modelling required from Mil Logistics (1 x RLC SME WO2 McEwan).		NHS Fife	Scotland Office		
J3/003	SUPPORT Moray and Highlands & Islands Councils by the PROVISION of DEFENCE ESTATE assets to ENABLE		Moray Council	Scotland Office		

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MACA Ref	Detail	Assets Assigned	LRP Location	Origin	Start Date	End Date
	storage of excess deaths in an overflow mortuary facility, pending full processing through the system. Was MACA 20-055 (Cancelled).					
J3/004	Authorise the use of 1 service person able to drive a Hyster 2.5T Counterbalance forklift truck for one day in support of Greater Glasgow & Clyde		NHS Glasgow	Scotland Office		
J3/005	1 Forklift driver for the clearance of a warehouse to be used for excess body storage.	1 x Forklift Driver	Greater Glasgow & Clyde	GG&C NHS Board	03-Apr-20	04-Apr-20
J3/014	Provision of West Freugh Camp as overflow body storage facility. Not used.	1 x Hangar @ West Freugh Camp	Dumfries & Galloway	D&G NHS Board	10-Apr-20	15-Jul-20
J3/037	NHS Scotland, National Distribution Centre (NDC) – 2 logistic trainers to assist in establishing PPE distribution hubs	1x Capt 1x WO2	National	NHS National Services Scotland	30-Apr-20	02-May-20

FIRST WRITTEN STATEMENT OF LAURENCE ROCKEY