

Witness Name:

Statement No.:

Exhibits:

Dated:

UK COVID-19 INQUIRY

WITNESS STATEMENT OF PAUL GIVAN in response to questions posed under cover of letter dated 1 September 2023

I, Paul Givan, will say as follows:

This statement is made in response to the Inquiry's request for additional information and comment in response to statements made by senior members of the United Kingdom Government with respect to the relationship between the Northern Ireland Executive and UK Government during the Covid-19 pandemic.

Response to Question 1

- a. By the time I took up post as First Minister of Northern Ireland in June 2021, the "presentational problems" to which Mr Johnson refers were less of an issue. By that stage, the devolved administrations had been reacting to the virus at regional level for a considerable period and the public generally understood that, largely, decisions were being taken by the devolved administrations. This reduced the likelihood for "presentational problems". In any event, for the most part, the differences were largely in detail and timing. The devolved administrations were constrained in their ability to diverge as they were not in control of funding but instead relied on the Barnett consequential to fund support packages for NPIs.

- b. I believe the primary causes of the differences in response among the four nations during my tenure were the need to respond at local level to the virus as its spread and effects differed across the UK. This approach also respected devolution and the principle of subsidiarity. However, there were occasions when politics is likely to have played some part in divergence. Divergence would likely have been more significant if each devolved administration had been able to access and manage their own funding. I recall the devolved administrations being resistant to, for example, the ending of the furlough scheme, and it may be that with a freer rein on their own finances, certain support packages might have continued for longer or been replaced with alternative schemes as each administration saw fit. I do also recall discussion about what would happen if the virus began running rampant in one of the devolved administrations, before affecting England. In those circumstances, it would have been important for the devolved administrations to be proactive in bringing in measures perhaps significantly more stringent, and accordingly requiring more financial support, than those in place in England, to reduce the spread and minimise the risk to the other administrations (see also paragraph 51 of my witness statement). In that scenario, which thankfully did not arise, the devolved administrations would have required much more flexibility with funding to respond appropriately i.e. it would not have been sufficient to await funding via the Barnett consequential.
- c. I do not consider that using the Civil Contingencies Act 2004 to ensure consistency across the nations would have been appropriate. It may have had some utility at the very early stages of the pandemic, but I consider that, thereafter, it was appropriate that the ability to respond to the pandemic was within the power of each devolved administration.
- d. As above, I consider that during my period in office, the differences of approach across the four nations were largely 'on the margins'. There was broad consistency of approach, primarily driven by the mode of funding. However, while I consider there was a need to ensure that the public was not confused by mixed messaging, overall I do not think that consistency of approach for its own sake should be the primary aim. Rather, I consider it is important to respond as needed to a pandemic, or other crisis, in the way that best mitigates its effects. It is also important for the devolved administrations to legislate as required. This gives democratic legitimacy and local accountability. If that means divergence across the four nations, the communication around it simply needs to be managed. This was something that was not done well at the early stages of the pandemic i.e. the Prime Minister tended to speak as though he was speaking for all the four nations, rather than giving space to the devolved

administrations to manage communications. The need for democratic accountability was also underscored when, breaches of restrictions in Westminster damaged public confidence in circumstances where there was no democratic accountability for those actions in Northern Ireland.

Response to Question 2

- a. I understand that, from a practical perspective, the Prime Minister would have been unlikely to be able to chair all the four nations calls. However, I do not agree that it would be 'optically wrong' for him to do so. Rather, I consider that, while respecting the differing constitutional positions of the UK Government and the devolved administrations, it is still possible for the Prime Minister to have regular engagement with the leaders of the devolved administrations, and this should not be regarded as demeaning in any way. Indeed, if there was more regular engagement in normal circumstances i.e. outwith an emergency scenario, and greater collaboration and cooperation between the devolved administrations and UK Government was a culture led by the Prime Minister, this would strengthen relationships and foster a greater level of trust, notwithstanding the different political perspectives involved. Moreover, I consider that the public would expect the Prime Minister to engage more regularly with the devolved administrations as the head of their Sovereign state.

Response to Question 3

- a. I do agree that there was no obvious mechanism to bring the devolved administrations into decision-making where urgent UK-wide decisions are required. There is a tension between the sovereignty of the UK Parliament at Westminster and the powers given to the devolved administrations. Under the current arrangements in Northern Ireland, if leaders of the devolved administrations were involved in UK-wide decision-making, the First and deputy First Minister would likely have to bring any agreement reached to the Northern Ireland Executive for decision. This would likely be unworkable in an emergency scenario. Rather, I consider that UK Government needs to be able trust the devolved administrations and bring them in at a timely point in their consideration. It is up to the UK Government to decide how much time and process to devote to devolved administrations in any given decision, based on the timing and level of risk. However, I consider a mechanism could be put in place to ensure the integrity of the process of inclusion to minimise the risk of decision-making being undermined or compromised.

- b. In exceptional circumstances, UK Government must be able to legislate for the whole of the UK, and can do so. Constitutionally, a devolved administration given its power by Westminster, cannot block Westminster from exercising its sovereign power. For the most part, the means of responding to the Covid-19 pandemic, namely with the devolved administrations introducing legislation at regional level worked and permitted for regional variation as required to deal with the virus, and the particular local circumstances, as well as providing democratic accountability.
- c. I do not agree that “greater streamlining of decisions and measures would have improved the UK-wide response to the pandemic”. I have no doubt that it would have been easier and more straightforward for the UK Government to have been able to legislate on a UK-wide basis without involving the devolved administrations. However, I do not believe that this would have necessarily “improved the UK-wide response to the pandemic”. First, this assumes that UK-wide decisions of the UK Government would have been the ‘right’ ones when applied in each of the four nations, and, secondly, it ignores the reality that failing to ‘bring along’ the devolved administrations in decision-making could lead to problems with implementation in areas resistant on a political basis to UK Government involvement.

Response to Question 4

- a. Yes, I agree that for the most part meetings were cordial, collegiate, and worked reasonably well.
- b. I do not recall concerns being raised at the four nations meetings at which I was present from June 2021 onwards, that some administrations were diverging for the sake of being different.
- c. I agree that the calls with Michael Gove MP were regular and provided a forum for closer working arrangements, but it wasn’t clear to me what impact discussions at those meetings had at UK Government level. However, I did feel our views were being taken on board and I felt they were helpful. As set out at paragraphs 27 to 28 of my witness statement, I do not feel they were particularly effective in coordinating the response of the four nations but they were very useful for information sharing.
- d. I was not in post during 2020 and therefore cannot comment on the changes made to the mechanisms for engagement in or around that time. What I can say is that during my period in office, I was broadly content with the way in which engagement between the devolved administrations and UK Government operated.

- e. I consider that in the period after September 2020 during which I was in office i.e. from June 2021, the meetings were fairly regular and participation was good. In December 2021 the devolved administrations attended COBR meetings regarding Omicron and I found this to be a particularly useful way to gain information and understanding about the threat of Omicron and the strategy for responding to it.
- f. As set out at paragraph 27 of my witness statement, I consider that the concerns I raised were taken on board. However, this does not mean they were adequately addressed. Difficulties around funding, and concerns I expressed around some of the restrictions proposed by UK Government, did not lead to any express or obvious change in direction. See further paragraphs 60 and 61 of my witness statement.

Response to Question 5

- a. I have set out at paragraphs 41 to 47 of my witness statement that Northern Ireland and the other administrations were broadly on the same pathway in respect of the easing of restrictions, but that each administration took their own decisions regarding timing, details, and terminology. As such, there was no significant divergence or fundamental disagreement with the course taken by the UK Government. As outlined above in the response to 1b., this alignment was likely driven by the funding arrangements which were controlled by HM Treasury.

Response to Question 6

- a. I agree that the differences across the four nations were fairly minor, however, I do not recall any particular matters during my period in office where Scotland and Wales did things differently for purely political reasons. Mr Rabb does not mention Northern Ireland. As outlined above, due to the funding arrangements, the devolved administrations had little scope to diverge from UK Government policy. As such, while the effect might have been that the devolved administrations implemented broadly similar policies, that was not necessarily as a result of UK Government engaging with, and successfully 'taking the DAs with [it] on all key decisions'

Response to Question 7

- a. I was not in post during the period when Dominic Cummings was present at COBR meetings i.e. prior to his departure in November 2020, nor when the First Minister of Scotland briefed matters arising in COBR meetings shortly thereafter. I therefore cannot comment on the functioning of these COBR meetings. The COBR meetings I attended in 2021 appeared from my perspective to function well and were very useful

in informing the response to the Omicron variant. See also paragraph 59 of my witness statement.

Statement of Truth

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

Signed:

PD

Dated: _____ 18 September 2023 _____