

Witness Name: Michelle O'Neill MLA

Statement No: Module 2, statement 2

Exhibits: None

Dated: 18 September 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF MICHELLE O'NEILL

I, Michelle O'Neill, MLA, will say as follows:

Introduction

1. I am a member of the NI Assembly and the former Deputy First Minister. I was Deputy First Minister from January 2020 until June 2021.
2. This is the second statement I have provided to the Inquiry for Module 2.
3. I provide this supplementary statement at the request of the Inquiry. I have been asked to comment on certain aspects of the draft written statements provided by Boris Johnson, Michael Gove and Dominic Raab. This statement and the responses to the Inquiry's questions, are to the best of my knowledge and belief accurate and complete at the time of signing.

Response to Boris Johnson Statement

4. I have been provided with, and asked to comment upon, paragraphs 152-153 of the witness statement provided by Boris Johnson to the Inquiry. He contends that after the COBR meeting of 12 March 2020, Nicola Sturgeon was the first to brief the press. He says she did so in a way which "seemed to show the first split in the national (i.e., UK-wide) approach. He continues that, in retrospect, the Civil Contingencies Act (2004) should have been used so as "to bind the UK together".

5. I have been asked to comment upon whether I believe that divergences in the approach of the four nations was a “presentational problem” during the Covid-19 pandemic.
6. It was clear in my view that, where possible, a coherent approach across the jurisdictions would have been preferable, albeit for reasons I explain further below, it was not always possible or appropriate. Further, co-ordination across the islands of Ireland and Britain would have been optimal. I do believe that divergences in approach had the capacity to cause presentational problems. I referred in my first statement to the UK Government’s decision, in May 2020, to change the messaging to the public from “Stay home, Protect the NHS, Save lives” to “Stay alert, Control the virus, Save lives”. None of the devolved administrations adopted this changed approach because we felt that the change reflected a premature move towards opening up society and further that the message lacked the clarity of the initial message. It would have been preferable had the UK Government listened to the devolved administrations and retained the original message and of course the concern was that the divergence in messaging could cause confusion within the devolved administrations.
7. However, divergences were not merely a ‘presentational’ issue. In my opinion, the reasons for divergences were three-fold. In the first instance, divergences reflected real policy differences between the UK Government and devolved administrations. I believe that there was a concern generally on the part of the devolved administrations, and certainly I was concerned, that the UK Government approach to the pandemic was flawed, in that, they were slow to react to the crisis and thereafter lifted restrictions prematurely, in a manner which I felt created risks to public health. There was a real concern that at times they were adopting a policy of ‘herd-immunity’. I reject the suggestion that any divergences I advocated for were for the sake of being different. It was my sense that divergences adopted by the devolved administrations were motivated by the need to protect the health of citizens and to protect the health service.
8. Divergences also reflected real differences at a regional and local level which necessitated a flexible approach. Thus, the north of Ireland was around two weeks behind England in the trajectory of the virus and the R rate and a divergence in approach was a necessary response to that reality.
9. In addition, the Executive was also mindful of the fact that Ireland is a single epidemiological unit. We were trying, as far as possible, to make decisions that aligned on an island wide basis, as well as on a two-island basis. Having less restrictions on either side of a porous border would have encouraged more travel and social interaction and increased the spread of the virus.
10. I have been asked about Mr Johnson’s view that the Civil Contingency Act 2004 should have been used to ensure consistency between the nations. As I stated in my first statement, the Civil Contingencies Act may have been a more effective vehicle to

counter the pandemic. I believe that there are positives within the Civil Contingencies Act which would have been beneficial in responding to the Covid pandemic.

11. By way of example, the Civil Contingencies Act establishes a clear set of rules and responsibilities and decision-making which is delineated between the respective levels of central and local government. It makes provision for responding to a complex and rapidly changing crisis with both local knowledge and speedy action being important aspects of the response. It allows for an automatic distribution of funds which would have been more beneficial and allowed a more independent response from the devolved administrations. The Civil Contingencies Act also has built in accountability mechanisms and appeared to allow for more collaborative decision-making between the UK Government and the devolved administrations.
12. However, the Civil Contingencies Act would not have resolved the fundamental problem which related to the UK Government's policy response to Covid which I have addressed previously. Whether we operated under the Civil Contingencies Act or the Public Health legislation, the policy position of the UK Government would have caused difficulties.
13. I have also been asked what measures could have been taken to ensure greatest consistency between the four nations and whether consistency was, in fact, desirable.
14. I believe that better communications internally and more genuine engagement and consultation from the UK Government would have been of great benefit. This would have then flowed into better external communication.
15. However, I believe that a rigid 'consistency' of approach would have constrained the devolved administrations when they needed to respond to local conditions or in circumstances where their policy approach differed from London. I could not have advocated consistency with a UK Government position that I fundamentally disagreed with and believed to be the wrong approach to a major public health crisis.
16. I have also been provided a copy of paragraphs 186-187 of Boris Johnson's statement. He makes clear that a reason for his allowing Mr Gove to take the lead in meetings between the UK Government and the elected representatives of the devolved administrations, was because he didn't want it to develop into anything that could be regarded as an equal four nation approach or a "council in a federal structure". He regards this as inconsistent with how devolution is intended to work.
17. In my opinion, it would have been beneficial for there to have been more regular contact between the leaders of the devolved administrations and the Prime Minister as the ultimate decision-maker in the UK Government, given the nature of the pandemic and our role within the devolved administrations. I believe a Prime Minister who was fully informed as to the perspectives of the leaders of the devolved administrations would

have been better informed. We were in the midst of a serious global pandemic, decisions needed to be taken quickly and information needed to be shared to reach those decisions quickly. It would have been helpful for the Prime Minister to hear directly from the elected Ministers of each devolved administration to get a grasp of the regional variations and issues arising within each jurisdiction and for the Ministers of the devolved administrations to get direct insight into the Prime Minister's thinking, firstly to understand his reasoning, and further, so as to be able to challenge that when appropriate.

18. The structures and processes already in place were not sufficient. I reiterate my view, that the meetings held between UK Government and the devolved administrations were little more than our being provided with information about decisions that had already been taken by the UK Government. There was little evidence of the UK Government working collaboratively with the devolved administrations. Decisions were communicated to the devolved administrations at the last minute, just prior to and sometimes just after, they had been communicated either to the public or to Westminster. There was no opportunity for the devolved administrations to have any meaningful input into decision-making nor was the UK Government minded to take on board the views of the devolved administrations.

Response to Michael Gove Statement

19. I have been given sight of paragraphs from Michael Gove's statement, provided sequentially, as follows: paragraphs 167, 177, 168, 169, 171, and 173.
20. In paragraphs 169 and 171 he contends that the devolution arrangements did not lend themselves to an obvious mechanism to bring the devolved administrations into the decision-making process where a UK-wide decision was required and decisions required to be taken urgently.
21. I do not agree. I believe that if the will had existed within the UK Government, then a ministerial committee with a decision-making role could have been put in place very quickly to involve the devolved administrations in decision-making. Ministers in the devolved administrations would have responded positively to such a development.
22. Furthermore, there were already structures in place to facilitate greater co-ordination – such as the Joint Ministerial Council, which was not utilised. The British Irish Council could also have been used to maximise co-ordination across the two islands. Despite repeated requests this was never convened.
23. In response to his view that in future the UK Government “must have the ability to act UK-wide and so the backstop powers of the UK Government should be strengthened”. Again, I disagree, it is and remains my view that from the initial stages of the pandemic the UK Government got its response wrong and was an outlier in European and global

terms. This set a trajectory for a series of flawed decisions centred around the UK Government being too slow to act and too hasty in lifting restrictions. This resulted in a higher death rate compared to comparable countries. I believe that this Inquiry should examine how, if faced with a similar situation, the devolved administrations could have: greater input into decision-making; greater flexibility to take regional conditions and variations into account; and, in particular, make recommendations on how devolved administration decision-making can be under-pinned by sufficient financial resources.

24. I do not believe that strengthening the backstop powers of the UK Government and greater streamlining of decisions and measures would have improved the UK-wide response to the pandemic. My view is that, given the UK Government response to the pandemic, 'greater streamlining of decisions and measures' would have exacerbated matters.
25. I have been provided with paragraphs 168, 169 and 171 of his statement. I agree with Mr Gove that the Committee meetings he held with the devolved administrations were polite – as such meetings usually are. However, they were not collaborative or a decision-making forum. They generally worked as information sessions where the UK Government informed the devolved administrations of decisions they had taken. The meetings became more frustrating as time went on as key issues raised by Ministers of the devolved administrations, particularly around resources and finances and for my part the importance of a co-ordinated two island approach, were not addressed.
26. I do not agree with the observation that some administrations were diverging for the sake of being different. Further, I do not recall this being raised in those terms by the UK Government at any meetings. I have explained that devolved administrations diverged because of genuine concerns about the UK Government's policy approach to the pandemic and also because there was a need to respond to particular regional needs during the course of the pandemic.
27. The calls with Michael Gove MP, in his capacity as CDL, were regular but became less frequent as the pandemic moved on, leading to a request for more regularised meetings. The calls also provided a forum for discussion and information sharing. I am not aware of any consequential improvements to closer working arrangements between the devolved administrations and the UK Government. As stated above, the meetings became more frustrating as time passed as they did not result in improved outcomes nor did I feel that the concerns of the devolved administrations were being addressed.
28. I do not agree with the observation that the devolved administrations were "broadly content with the way in which engagement between their administrations and the Cabinet Office operated". I was not content with the way in which engagement between the devolved administrations and the Cabinet Office operated. I took the view that participation in committee meetings needed to be regularised. I should add that the

engagement also needed to be more meaningful. I would describe the efforts to regularise and improve participation in the period after September 2020 as inadequate.

29. Further, I do not consider that concerns raised by me were adequately addressed. In particular, my concerns arising from resources and finances, a co-ordinated two island approach and the need for genuine collaboration and decision-making were never satisfactorily resolved.
30. In paragraph 173 of his statement, Michael Gove MP says that while there were occasions when the UK Government and the devolved administrations followed different courses this was not borne of any fundamental disagreement about which steps were or were not justified but rather reflected regional differences.
31. As outlined above, sometimes the different courses taken by the devolved administrations were a reflection of regional differences and local conditions. However, they were also a reflection of disagreement with the UK Government's approach to tackling the pandemic. There was a clear divide between the UK Government and the devolved administrations at a fundamental policy level. It was my belief that the majority of Ministers of the devolved administrations believed that the UK Government was initially too slow to act and subsequently too quick to lift restrictions and generally adopted an economy first approach over that of public health.
32. I have addressed above, one instance, in the change of messaging by the UK Government in May 2020, which reflects that divergence of approach. This was not just a change in the public messaging but a change in policy by the UK Government in which they began to move towards opening up society, prematurely, in the view of the devolved administrations. As we moved deeper into the pandemic the calls by the devolved administrations for more independent resources and finances were reflective of increasing concerns that we were tied too closely into UK Government policy which was moving towards the opening up of society too quickly.

Response to Dominic Raab Statement

33. I have been provided with sight of paragraph 229 of the witness statement of Dominic Raab, in which he states that arrangements for interaction and joint decision-making between the UK Government and the devolved administrations worked reasonably well. He then goes on to say that the Scottish and Welsh governments wanted to do things slightly different for what appeared to be political reasons.
34. I do not agree for reasons previously articulated. My view was that the devolved administrations made decisions motivated by what was best for the public health and well-being of their citizens within the confines of the devolution settlement and resources available to them. As the pandemic progressed the devolved administrations

had little latitude when it came to financial and resource issues as the UK Government controlled the purse strings.

35. I should also state that I do not regard the differences as “fairly minor” as I believe that lifting restrictions prematurely had the capacity to cause significant adverse impact to public health.

Response to Dominic Cummings Comments

36. I have been asked to respond to views attributed to Dominic Cummings. I should state that I have not been provided with the relevant excerpts from his statement rather I have been asked to comment on his view that COBR meetings with the Devolved Administrations functioned badly and further his expressed concern that the First Minister of Scotland briefed matters which were discussed to the media immediately afterwards.
37. I have already set out my view that COBR meetings could have been more productive if they had allowed for more meaningful input from the devolved administrations. I don't have any comment to make about Mr Cummings' claims in relation to the First Minister of Scotland who is best placed to respond to that issue.
38. I will of course comment on particular extracts from Mr Cummings if invited to do so.

Statement of Truth

39. 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:

Personal Data

Dated:

18/09/23