

Witness Name: Joe Griffin

Statement No.: 6

Exhibits: JG6

Dated: 06 December 2023

**UK COVID-19 INQUIRY
MODULE 2A**

**WITNESS STATEMENT OF THE DIRECTOR GENERAL STRATEGY AND EXTERNAL
AFFAIRS**

This statement is one of a suite provided for Module 2 and 2A of the UK Covid-19 Inquiry and these should be considered collectively. In relation to the issues raised by the Rule 9 notice dated 2 February 2023 and served on the Scottish Government, in connection with Module 2 and 2A, the Director-General Strategy and External Affairs will say as follows: -

1. This statement is provided in order to correct some drafting inaccuracies made in the Module 2/2A DG Strategy and External Affairs statement provided to the Inquiry on 23 June 2023 that arose in the final stage of editing when some points were moved from footnotes into the main text.
2. This statement will note how the paragraph currently reads in the statement, and how it should be corrected.

Paragraph 3

3. Paragraph 3 currently reads

The 1998 Act followed a referendum on devolution in 1997. The 1998 Act established the Scottish Parliament and Scottish Executive (which has since been renamed the Scottish Government) and defines their powers. Scottish devolution is based on a

“retained powers” model of devolution in which – broadly – the power to make legislation about matters not “reserved” in the 1998 Act is “devolved” to the Scottish Parliament. As a result, the Scottish Parliament has the powers to make primary legislation – Acts of the Scottish Parliament – on a 2 range of matters commonly called “devolved matters”. The UK Internal Market Act 2020 also increased the powers of UK Ministers to undertake expenditure in devolved areas.

4. This should have included a sentence about the position in Northern Ireland which has erroneously been included in paragraph 7 instead. As such, paragraph 3 should read:

The 1998 Act followed a referendum on devolution in 1997. The 1998 Act established the Scottish Parliament and Scottish Executive (which has since been renamed the Scottish Government) and defines their powers. Scottish devolution is based on a “retained powers” model of devolution in which – broadly – the power to make legislation about matters not “reserved” in the 1998 Act is “devolved” to the Scottish Parliament. As a result, the Scottish Parliament has the powers to make primary legislation – Acts of the Scottish Parliament – on a range of matters commonly called “devolved matters”. The position differs from that in Northern Ireland where there is a tri-fold subdivision of matters (transferred, reserved and excepted). In the definition of the Scottish Parliament’s legislative competence in the 1998 Act, there is no concept of a “shared” matter; there are simply reserved matters and there is everything else.

Paragraph 5

5. Paragraph 5 has a factual inaccuracy. It currently reads:

Scottish Government Ministers have executive powers, including to make secondary legislation (such as regulations and orders), and responsibilities for which they are accountable to the Scottish Parliament. Those are in areas where legislative competence is devolved to the Scottish Parliament and a range of “executively devolved” powers and duties in relation to matters (for example many aspects of transport) for which the competence to make primary legislation is reserved. Section 53 of the 1998 Act removed most UK Ministerial powers and duties, so far as they were exercisable in relation to devolved matters, and transferred them to the Scottish Ministers. Under section 56 of the Act, UK ministers retained a limited number of powers (such as to provide financial assistance to industry) in devolved areas that

are exercisable by them as well as the Scottish Ministers. Section 35 specifically relates to the power of UK ministers to block a Scottish bill in certain circumstances, with section 58 the equivalent of section 35 but exercisable in relation to ministerial actions and secondary legislation rather than Scottish bills. Section 68 includes minor powers for UK ministers to provide financial assistance to industry if required.

6. However, it should read:

Scottish Government Ministers have executive powers, including to make secondary legislation (such as regulations and orders), and responsibilities for which they are accountable to the Scottish Parliament. Those are in areas where legislative competence is devolved to the Scottish Parliament and a range of “executively devolved” powers and duties in relation to matters (for example many aspects of transport) for which the competence to make primary legislation is reserved. Section 53 of the 1998 Act removed most UK Ministerial powers and duties, so far as they were exercisable in relation to devolved matters, and transferred them to the Scottish Ministers. Under section 35 of the 1998 Act UK Ministers may block a Scottish Parliament bill in certain limited circumstances. Section 58 is a related power exercisable in relation to ministerial actions and secondary legislation.

Paragraph 7

7. As noted at point 4, paragraph 7 incorrectly included a reference to the position in Northern Ireland. As this should be moved to paragraph 3, paragraph 7 should now read:

Accountability is worth emphasising. The Scottish Ministers are accountable to the Scottish Parliament rather than to the UK Ministers or the UK Parliament. Successive UK Governments have retained a Cabinet post of Secretary of State for Scotland (sometimes combined with other roles), but that post-holder does not have any overarching supervisory role for devolved government.

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: 06 December 2023