Witness Name: Michael Kellet
Statement No: 1
Exhibits: N/A
Dated: 18 October 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF MICHAEL CHARLES KELLET

In relation to the issues raised by the Rule 9 request dated 20 June 2023 in connection with Module 2A, I, MICHAEL CHARLES KELLET, will say as follows: -

1. I am Michael Charles Kellet of Personal Data. I am the Director of Strategy, Governance and Performance at Public Health Scotland (PHS). I am a Scottish Government civil servant on secondment to PHS. I have been in this role since 15 August 2022. I was previously the interim Director of Population Health in Scottish Government from September 2020 until August 2022. I have been a civil servant since April 1995, apart from three years between August 2016 and August 2019 when I was employed by NHS Fife as the Director of Health & Social Care and Chief Officer of the Fife Integration Joint Board.

2. I have prepared this statement myself by reference to records and material provided to me by the Scottish Government. I have also received assistance from the Scottish Government Covid Inquiry Information Governance Division. I have not had access to my emails from the time I was interim Director of Population Health.

3. Unless stated otherwise, the facts stated in this witness statement are within my own knowledge and are true. Where they are not within my own knowledge, they are derived from sources to which I refer and are true to the best of my knowledge and belief.

Background, qualifications, and role during the Covid-19 pandemic

4. I qualified as a solicitor in Scotland before joining the civil service on the fast stream in 1995. With one exception I have worked as civil servant for the Scottish Government and its predecessors since then. From August 2016 until August 2019 I was the Chief Officer and Director of Health & Social Care for the Fife Integration Joint Board.

5. I have undertaken many roles across the civil service in Scotland during my career. I was promoted to the Senior Civil Service in 2007 and since then have worked in policy roles in education, resilience, HR, health and constitutional policy. When I returned to the Scottish Government from Fife in 2019 I took on the role as Deputy Director Constitution & UK Relations. That role evolved slightly in late 2019 and I became the Deputy Director of Constitutional Futures Division. In that role I was involved in refreshing the Scottish Government's proposition for independence for Scotland.

6. I was working in that role in the period January 2020 until mid-March 2020. However, Scottish Ministers confirmed publicly on 18 March 2020 that work on preparation for an independence referendum was to be paused. The work was paused and I agreed with my Director that I should offer my services to colleagues in the Directorate General of Health & Social Care (DG HSC) in Scottish Government where I had previously worked.

7. That offer was accepted and from mid-March 2020 until September 2020 I was a Deputy Director in DG HSC working on various priorities determined by the Director General and members of Health & Social Care Management Board. That work included supporting the Chief Nursing Officer as the policy lead for the creation of the NHS Louisa Jordan in Glasgow. I also supported the National Clinical Director around his engagement with island communities in Scotland about the pandemic and his engagement with sport stakeholders. I was also asked by Elinor Mitchell – after she became Director General for Health & Social Care – to lead the central briefing hub that had been established in DG HSC.

8. I was appointed interim Director of Population Health in the Scottish Government in September 2020. I held that role until I moved to my current role in Public Health Scotland in August 2022.

9. As Director of Population Health, I had responsibility for four divisions which expanded to five in January 2021. The four original divisions where Active Scotland Division, Health Improvement Division, Health Protection Division and Shielding Division. Because of the extent of drug deaths in Scotland, and to support the national mission on drugs announced by the First Minister in December 2020, a bespoke Drugs Policy Division was created in January 2021.

10. My colleague Richard Foggo – who had been the Director of Population Health before the pandemic started – was the Covid-19 Director when I took up my role. He led with his team on the Covid response elements of population health. With the exception of shielding, most of my responsibilities were focused on the non-Covid ongoing population and public health priorities.

11. I participated in DG HSC Directors calls fairly regularly before I became interim Director of Population Health. Those calls were at least once daily for a considerable number of months. Once I became interim Director of Population Health, I attended them routinely. I also attended regular Health Portfolio meetings attended by the Cabinet Secretary for Health & Social Care and junior Ministers. I also regularly attended all Scottish Government Directors meetings which focused on the pandemic and a range of other official level meetings that focused on the response across Scottish Government.

12. In these various forums I participated in discussions about the Covid response and recovery and how the views of health ministers and DG HSC were best taken into account in SG wide decision making. Given my responsibilities I was particularly involved in discussions about the impact of restrictions on the sport and physical activity sector. Through the preparation of guidance and through discussions with colleagues about the imposition and lifting of restrictions on exercise we sought to balance the benefits for health and wellbeing of physical activity and the risk of transmission of Covid. I was also involved in discussions at official level and advice to Ministers about how to best continue to support and

protect the shielding community. Policy responsibility for burials and cremations in Scotland sat with my Health Protection Division and consequently I was involved in discussions about how funerals were best supported. I also had policy responsibility for screening and sexual health services. The major screening programmes had been re-started after the Covid paused before I took up post but there was ongoing work to ensure that re-start worked well.

13. I established good relationships with my opposite number in the UK Department of Health when I was interim Director of Population Health but my engagement there was not about Covid response or recovery.

Initial understanding and response to Covid-19 (January 2020 to March 2020)

14. As I said above, I was working in a different area in Scottish Government – constitutional policy – in the period January to March 2020. I was not involved in any discussions around the initial response. Neither was I involved in any discussions about the NIKE conference or the Scotland v France rugby international.

Role in relation to non-pharmaceutical interventions (NPIs)

15. I was not involved in or provided advice about the decision to adopt a national lockdown in March 2020. In relation to the second lockdown in January 2021 I was involved in discussion within DGHSC about the approach to Christmas and the need for a subsequent lockdown given the spread of the virus. I don't think a lockdown earlier than 5 January 2020 would have commanded the public support it required.

16. In relation to NPIs my most significant involvement was around the imposition and lifting of restrictions on physical activity. I and my colleagues in Active Scotland Division were regularly consulted by colleagues at the centre of SG supporting the four harms analysis and Ministerial decision making to provide advice about the impact on population health and the sport and gym sector of restrictions on physical activity. The four harms approach sought to take into account the direct

harm of the virus, the indirect harm to health and social care services and the impact on society and economic activity.

17. As the Director with responsibility for shielding from September 2020 I was also involved alongside colleagues in shielding division in active consideration about how we best supported those most clinically vulnerable to Covid. We liaised closely with the CMO and his office around the evolving approach to Covid informed by emerging evidence about its impact and we provided advice to Ministers about how that policy should evolve. We were very conscious in doing so of the need to balance a range of factors. We needed to take into account the clinical vulnerability of the individuals who had been asked to shield but also what we knew (from evidence) about the harm that shielding itself was causing. I was also conscious that the identification of those most clinically vulnerable and who should be on the shielding list was not a simple process. We relied on clinical advice co-ordinated at a UK level to do so. We explored – through the QCovid Delivery Group that I chaired – whether QCovid could help ensure identification of those most clinically vulnerable to infection could be improved. We concluded as a group that it did not. QCovid was an evidence based risk prediction model that sought to estimate a person's risk of catching Covid-19 and being seriously impacted if they did.

Divergence

18. The approach to supporting clinically extremely vulnerable individuals in Scotland compared to the rest of the UK varied over time. We did not adopt QCovid as a means of identifying the most vulnerable and we maintained the Scottish Highest Risk List (the shielding list) until 31 May 2022 significantly beyond when the UK Government ended their list in September 2021. We also communicated directly with those on the highest risk list – in the form of letters from the CMO posted to individuals – throughout the pandemic more regularly than I understand happened in England.

19. I think that divergence was justified and worked well for the clinically vulnerable people we were seeking to support. Scottish Ministers were very keen to ensure

that community of individuals were supported as long as was reasonable given what we had asked them to do particularly early in the pandemic.

Role in relation to medical and scientific expertise, data and modelling

20. I had no direct role in facilitating or providing medical or scientific expertise or data or modelling in relation to Covid-19. I was a recipient of that data and evidence as a member of the senior team in DG HSC. I was the Director sponsor of Public Health Scotland as part of my role as interim Director of Population Health and, in that capacity, I was involved in discussions from time to time about the timing of reporting to Ministers and the public of Covid infection data. Ministers were hungry for information every day and as early as possible in the day to support their decision making and communication to the public. The systems in PHS were such that meeting deadlines for the data was often a challenge.

21. I'm confident that – accepting the bounds of scientific knowledge – the Scottish Government received the best scientific advice that was possible. That was certainly the desire of Scottish Ministers and every colleague I worked with in Scottish Government during the pandemic.

Role in Covid-19 public health communications

22. I had no direct role in public communications in response to Covid-19. It was a subject though that we spent considerable time talking about in DGHSC, across Scottish Government and with Ministers. I think the direct and transparent approach adopted throughout the pandemic worked well and was respected by the Scottish people. I think the use of clinical voices alongside Ministers worked well.

23. I think it is difficult to gauge the impact of breaches of rules by prominent individuals in public confidence in the Scottish Government's response. Any such breaches in Scotland certainly did not help but I am glad that they were few in number and I do not think their impact was long lasting.

Role in public health and coronavirus legislation and regulations

24. Colleagues in my Directorate had a role in providing advice on regulations on a range of issues including burials and funerals however although I had oversight of that work I was not involved significantly personally.

Key Challenges and lessons learned

25. I did not provide evidence to the Scottish or UK Parliaments or their committees about the response to Covid.

26. I was a member of the Covid-19 Learning and Evaluation Oversight Group from when it was established in January 2022 until I moved to my current role in PHS in August 2022. The overarching aim of the group was to bring together evidence to inform Scotland's recovery from COVID-19. The group was intended to run for a period of two years and included a mix of internal and external members. It was chaired by Professor Linda Bauld (Scottish Government Chief Social Policy Adviser).

27. The key challenges in the management of the pandemic in Scotland were similar to those across the world in my view. We had an limited understanding of the threat and at the same time a need to react very speedily to protect the people of Scotland.

28. With the benefit of hindsight – and thinking about my areas of responsibility – I am not sure we would take the same approach to shielding the most clinically vulnerable we did given what we now know about the harm that shielding itself caused in terms of social isolation and impact on mental health. Although even on that issue I am very aware that, despite the longer lasting approach to supporting the clinically vulnerable we took in Scotland, members of the community affected still feel the protection was inadequate and withdrawn too soon. I'm also not sure that we would suspend national screening services again without very serious consideration faced with a similar threat. I wasn't in the interim Director of Population Health role when the decision to suspend screening was taken but I was in post when the services re-started and saw the challenges that brought. Only

with more time will we fully understand the impact in terms of cancers and other conditions that went undetected because of the pause.

29. I learned a lot from my experience supporting the Covid response and recovery in Scottish Government. I'm particularly proud of the integrity, selflessness and dedication I saw from colleagues right across the Scottish Government and in the wider public services we support in the service of the people of Scotland and the rest of the UK.

Informal communications and Documents

30. I was a member of two WhatsApp groups of colleagues at Director level in DG HSC. One of the groups was exclusively about fun and personal connection to keep our morale up given the very extreme pressure and long hours we were all working. The other was more business-focused and used for checking colleagues had seen materials that needed responded to formally (by email), dealing with logistics around meetings and the inevitable failures of Teams and IT from time to time. It was not a decision-making forum. The groups were both configured to delete messages after 7 days. I left the groups when I moved to my current role in PHS.

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: Personal Data

Dated: 18/10/2023