

Witness Name: Paul Johnston

Statement No.: 1

Exhibits: PJ

Dated: 16 November 2023

## **UK COVID-19 INQUIRY**

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### **WITNESS STATEMENT OF PAUL JOHNSTON**

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**In relation to the issues raised by the Rule 9 request dated 19 June 2023 in connection with Module 2A, I, Paul Johnston, will say as follows: -**

1. I am Paul Johnston, Chief Executive of Public Health Scotland. This statement relates to work done in the course of my employment in the Scottish Government. I was employed as a civil servant in the Scottish Government from May 2000 to 18 March 2022. I was appointed as a Director General in the Scottish Government in 2015. During the initial period covered in this statement I was Director General for Education, Communities and Justice. My role changed to become Director General for Communities in March 2021.
2. In my Director General roles, I was a member of the Executive Team of the Scottish Government and was Accountable Officer for the portfolios within my area of responsibility. As such, I was accountable for the propriety and regularity of the finances under my stewardship, and for the economic, effective and efficient use of resources. I was the lead adviser to the Cabinet Secretaries and Ministers with responsibility for these portfolios.
3. I have prepared this statement myself by reference to my work notebooks that I have retained. These rough notes were for my personal reference so that I could keep track of actions agreed at meetings and during conversations. My full handwritten notes have now been provided to the Inquiry. In addition, I have reviewed all What's App messages that I retained, and these have been submitted to the Inquiry by the Scottish Government.

I have also received assistance from the Scottish Government Covid Inquiry Information Governance Division.

4. Unless stated otherwise, the facts stated in this witness statement are within my own knowledge and are true.
5. References to exhibits in this statement are in the form [PJ/number - INQ000000].

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

6. I joined the Scottish Government as a qualified Scottish lawyer, working in a variety of legal roles in the Scottish Government Legal Directorate between 2000 and 2007. I was appointed to the Senior Civil Service in 2007. I was seconded to the UK Government as Director of the Office of the Advocate General for Scotland from 2010 to 2012. I returned to the Scottish Government as Director for Safer Communities in 2013, prior to being appointed as Director General for Education and Justice in June 2015. This role was expanded to the role of Director General for Education, Communities and Justice from July 2017. I therefore had considerable experience as a Senior Civil Servant and Director General prior to January 2020.
7. As Director General for Education, Communities and Justice at the outset of the Covid-19 pandemic I was the lead adviser to the Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney MSP, the Cabinet Secretary for Justice, Humza Yousaf MSP, and the Cabinet Secretary for Communities and Local Government, Aileen Campbell MSP.
8. I had line management responsibility for a team of Directors, each of whom were responsible for Directorates that provided support to their Cabinet Secretaries and, where relevant, the Ministers who served under those Cabinet Secretaries.
9. As part of my role, I attended a number of groups which played a role in terms of the management of COVID-19. My role was largely an advisory one, except in meetings of the Executive Team and the Director General Leadership Team in which settings I played a decision-making role.

10. The key groups and forums that I attended were as follows:

- **Scottish Government Resilience Committee:** I attended these on a regular basis at the outset of the pandemic. As decision making structures evolved, I attended when there were matters relevant to my areas of responsibility. At points, my areas of interest were covered by Directors and other officials from within my team.
- **Scottish Cabinet:** I was invited to join meetings of the Scottish Cabinet in a listening role only, especially in relation to my responsibilities for COVID recovery when these were confirmed in May 2021.
- **4 Harms Group, and its predecessor groupings bringing together officials to prepare advice to Ministers:** I attended 4 Harms meetings on a regular basis and at times chaired them in the place of Ken Thomson, Director General for Strategy and External Affairs, who was ordinarily the chair. When attending, I contributed to discussions around education, justice and issues in relation to social harm, as discussed later in this statement.
- **Scottish Government Executive Team:** The Executive Team met very regularly throughout the pandemic and I was an active member of the team, updating colleagues on my areas of responsibility and formulating a collective position on the civil service response to the pandemic, often with a focus on the allocation of staff to priorities, and the support needed for staff in times of emergency. An Organisational Resilience Oversight Group (OROG) was established early in the pandemic that involved a number of Executive Team members together with other key staff. Relevant What's App messages from the group that I retained have been shared with the Inquiry by the Scottish Government. These messages typically proposed agenda items for the meetings of the OROG group. As arrangements for the pandemic response matured at official level, the work of the OROG group was brought to an end.
- **DG Leadership Team:** I convened and chaired meetings of the Directors I led on a regular basis through the pandemic, overseeing the work within our areas of responsibility together with a focus on support for staff, human resourcing issues, financial issues and wellbeing.
- **Communities and Public Services Ministerial Group:** I was the lead official for this Ministerial group, chaired by the Deputy First Minister. This group coordinated the Government's response to the pandemic in relation to a range of social policy issues that

sat outside health, including education, justice and support the vulnerable. There were separate groups that focused on the economy and health. In September 2021 the groups focusing on Communities and Public Services merged with the Economy Group.

- **Engagement with local government officers:** I convened regular discussions with key officers in local government. In particular, at the height of the pandemic I held daily calls with Sally Loudon, Chief Executive of the Convention of Scottish Local Authorities (COSLA) and Jim Savege, who was then President of the Society of Local Authority Chief Executives in Scotland (SOLACE). I convened discussions with a range of other senior officers in local government throughout the pandemic in relation to issues specific to their areas.
- **Expert Reference Group on Covid 19 and ethnicity:** I was the lead official providing support and advice to this independently chaired group that was established by Ministers on 10 June 2020 and that reported on 18<sup>th</sup> September 2020. The reports are provided: [PJ/001-INQ000346163], [PJ/002-INQ000346164].

11. The dates of my attendance at key meetings are documented in relevant minutes that have been shared with the Inquiry. I will be happy to provide further detail as necessary.

12. I provided support to colleagues within my DG area who were involved in other groups. I provided management support to the Scottish Government's Chief

Scientific Officer, Sheila Rowan, who attended meetings of the Scientific Advisory Group for Emergencies (SAGE) and the Scottish Government's COVID-19 advisory group. I provided management support to the Scottish Government's Chief Social Policy Advisors, Carol Tannahill and latterly Linda Bauld, particularly in relation to their responsibilities for the COVID Education Recovery Group (CERG). The CERG was established as a subcommittee of the Covid 19 advisory group. This support involved regular meetings and calls on a one-to-one basis, discussing the issues arising from their involvement in these meetings and agreeing on handling issues. As Chief Advisers, the advice was always a matter for their judgement and professional expertise.

13. I had regular communication with officials in the UK Government throughout the pandemic. This involved telephone calls and meetings with officials in the Department for Education. For some time, an informal group was established that brought together officials from the

4 nations in the UK to discuss matters of common concern in relation to Covid and education. I attended these meetings on a regular basis to provide a perspective from Scotland and to support effective sharing of issues across the four nations.

14. At initial stages in the pandemic handling, I attended some meetings of officials from across the 4 nations focused on working through the emerging data and evidence and shaping the way in which advice would be put to Ministers in advance of Ministerial Cabinet Office Briefing Rooms (COBR) meetings. These meetings were described as COBR(Officials). Responsibility for attending these meetings was passed to my colleague, Ken Thomson, once a plan was put in place to set out roles and responsibilities for coordinating work on the pandemic within the Scottish Government. I occasionally attended COBR meetings and have notes from a meeting of 16 March 2020.

#### **Initial understanding and response to COVID 19 (January 2020 to March 2020)**

15. I first became aware of COVID-19 in my official capacity from briefings at the Executive Team from my colleagues leading on health matters, in particular Malcolm Wright who was the Director General for Health and Social Care. In 2019 and 2020 I participated in a UK Government leadership development for Directors General and recall discussions about COVID-19 at meetings of the cohort in January or February 2020. At that point there was some concern about the spread of the virus in China. Initially the view was that it was unlikely to be an issue for the UK. I witnessed a gradual recognition of the severity of the virus and the likely consequences for the UK.
16. I recall some meetings with UK Government officials in early March 2020 (including on Sunday 8 March 2020 and the days following this) at which briefings were provided on the spread of COVID-19 and discussions took place about the advice that would be provided to Ministers on the measures that may be needed to contain the virus. It was on Sunday 8 March that I first realized that COVID-19 would have an enormous and entirely unprecedented impact on everyday life. It was then that I first recall discussions about the fact the vulnerable people might be required to self-isolate for many weeks. The date is memorable because I was with my family at a hotel for a special meal and had to excuse myself to take calls with UK Government officials.

17. In the coming days, I witnessed a growing recognition of the seriousness of COVID-19. It changed from being one matter among many that I was working on as part of my Director General role to being the only issue that I was working on. The notebooks that I have located commence on 16 March 2020 and demonstrate the shift to an exclusive focus on COVID 19.

18. I do not recall participating in discussions about the NIKE conference in Edinburgh on 26/27 February or the Scotland v France Six Nations rugby match at Murrayfield on 8 March 2020. I was part of meetings at which these events were discussed after they took place, such as meetings of the Scottish Government Executive Team. This was at a point when we were discussing whether earlier action should have been taken to restrict gatherings. I do not recall being part of discussions in advance of the events.

### **Initial Strategy and Decision Making**

19. My notes from 16 March 2020 include some key points from a meeting of COBR that I attended in support of Scottish Ministers. These provide some insight into initial discussions around the approach that would be taken and the decisions that would be required. Matters that I noted include:

- The country was on the cusp of fast upward swing.
- Action would be needed to ensure that NHS capacity could be preserved.
- Advice was discussed about reducing social contact, with stronger advice about shielding for the most vulnerable.
- The fast moving and dynamic nature of the situation was recognized.
- A comment from the First Minister as follows: “reluctantly agree to the package of measures. They change life as we know it. Potentially for a long period of time. There is a lot of fear and concern. Compliance will be high.”
- A request by the First Minister to develop at pace a plan for supporting vulnerable people.

20. Following this meeting, I briefed the Directors I managed and outlined the next steps that would need to be taken. These matters including advice for schools, sharing of science

advice with the Educational Institute for Scotland (EIS), securing the provision of free school meals, questions around whether exams could go ahead, the potential for the emergency release of prisoners, messaging to Scottish Government staff, and whether staff should be asked to attend the office.

21. I also held calls with my key partners in local government. My notes from my call with Jim Savege, Chief Executive of Aberdeenshire Council and SOLACE President, emphasize the need for close communications with partners and the fostering of a collective national endeavor. We discussed whether schools could be kept open and recognized the risk of closure in a disorderly manner due to the illness of teachers, pupils, or an unwillingness to attend on the part of teachers and pupils. We recognized that we were dealing with a challenge never seen in our lives. We discussed the need for a focus on staff wellbeing. We agreed on the need to treat others with kindness as everyone was working under pressure.
22. Between 17 and 20 March 2020, I was involved in a wide range of conversations about the likelihood of some form of school closure. Advice was awaited from SAGE on this. It was recognized that there would be a need to open hubs for the children of keyworkers and vulnerable children and ensure that online resources were available for children to learn at home. There was a wish to ensure that those sitting exams in the following term would have the opportunity to complete their coursework. I had discussions with the Deputy First Minister and Colin McAllister, lead Special Adviser, about these matters. I had calls with officials in the Department for Education. I spoke with Maureen McKenna who was Director for Education at Glasgow City Council and the President of the Association of Directors of Education in Scotland (ADES). At the same time, I led a range of discussions about internal staffing and resourcing, recognizing that some areas needed additional resource that would be obtained from the pausing of more routine work. There was an expectation that many staff would move into directorates in DG Health and Social Care to support work there. I supported this, while also working to ensure that sufficient staff remained in DG Education, Communities and Justice to handle the range of issues around the pandemic response that fell within our areas of responsibility.

23. I recall some discussions about the concept of “herd immunity”, especially in the meetings that I attended of COBR. I recall that there was concern about this concept in meetings that I attended given the extent to which it would involve huge numbers of people contracting COVID 19, and the catastrophic impact that this could have in terms of illness, death and the ability of the NHS to cope. These concerns were expressed at meetings with the UK Government and within Scottish Government meetings. As I recall, herd immunity was never seen as the most likely option to be pursued given the unacceptable level of risk it would present.
24. In all these initial discussions I recall broad alignment between the Scottish and UK Governments. There was a clear desire to hear the advice of the UK Chief Medical Officer and Chief Scientific Officer and see the modelling and evidence on which their advice was based, while also looking to the Chief Medical Officer for Scotland to understand their position and hear their advice. There was always a clear recognition on the part of Ministers and officials in Scotland that health was a devolved matter, and many decisions would ultimately be for the Scottish Ministers to take. However, the benefits of a UK wide approach were recognised, especially in terms of the level of public concern and anxiety that existed across the whole of the UK and the need for financial support from the UK Government for businesses and individuals who would be impacted. In the days following these initial meetings there was a growing awareness of the need to establish clear advisory mechanisms that were specific to Scotland, while recognizing the need for these to operate alongside the UK wide advisory groups. I recall very close and helpful alignment between the Chief Medical Officers for all of the nations in the UK.
25. The Scottish Government was clearly constrained in its decision-making abilities in light of the constitutional arrangements that exist in the UK. As matters progressed beyond the point of initial decisions this became a source of significant concern on the part of Scottish Ministers. In most cases, this was a concern that UK Ministers were not moving fast enough or hard enough to put in place restrictions that would contain the virus. The key constraint was around the need for UK wide arrangements around financial support to business. These could not be afforded on a Scotland only basis.
26. I did not provide personal advice to Ministers in the period to March 2020 on the use of lockdowns, strategies on community testing, surveillance of Covid-19, the move from



“contain” to “delay”, the discharge of patients into care homes and the guidance and advice to health and social care providers. My role focused on the impacts of decisions for education, schools, the justice system and those most vulnerable and impacted by poverty.

27. My overall view of the initial period of work is that arrangements within the UK Civil Service worked reasonably well to ensure full and frank sharing of data, information and advice on what was an unclear and very dynamic situation. Scottish Government officials were included in Cabinet Office convened meetings every day. It was recognised that Scottish Government Ministers would require to attend COBR meetings so that they could take an informed view on the decisions that would fall within their area of responsibility. I know that there was concern on the part of UK Government Ministers and officials about Scotland taking a divergent approach on the basis that this could undermine confidence in the approach that was being taken elsewhere in the UK.
28. In my view, the initial Scottish Government response was rapid, effective and robust. There was great uncertainty as to scale of the issues at the outset. At times the situation was confused and the strategy around decision making was one that needed to evolve as circumstances developed. However, as an Executive Team, we had strong and trusting relationships among us. There was a high degree of professional respect. We shared information daily about the meetings we were involved in and the information we were receiving. We recognised the growing scale of the crisis that we faced. We also worked closely with Ministers through both formal meetings and one to one discussion with the Ministers we were responsible for supporting. These good working relationships helped to ensure an effective response across the Scottish Government.
29. Colleagues in Health and Social Care were most concerned and anxious about the pressure that would be placed on the NHS, and the significant additional resource that they would need in terms of people and money. In the very early days, it was hard to identify the staff who would move to provide additional support in health and social care. However, this changed when a very clear mandate was provided by the First Minister and other Ministers to pause most non-Covid related work. At that point, very rapid work took place to mobilize the organization to respond to Covid. The focus at the outset was undoubtedly on the mitigation of the health impacts of Covid, and I had to work to ensure

that sufficient resource was in place to address other issues in terms of education and social impacts of the pandemic.

### **Role in relation to non-pharmaceutical interventions (NPIs)**

30. The Scottish Government aligned with the UK Government in terms of the timing and imposition of the first national lockdown. My recollection is that the UK Chief Medical Officers were united on the need for the lockdown, and this was a factor that persuaded the First Minister to follow the approach that was being adopted by the UK Government.
31. There were many discussions about the timing and scope of the lockdown. I know that, at times, there were concerns in the Scottish Government about delays in decision making while plans were formulated, and different possibilities were explored. Clinical advisers were pressing for earlier decisions. From my perspective, the national lockdown decision was taken rapidly, and its scale was much greater than expected from the initial conversations that I had been part of earlier in March. The “stay at home” order was astonishing in its scope and impact. The implications for children, young people and education were profound and required very rapid and intensive work to ensure that some provision was in place for children of key workers and those most vulnerable. While with the benefit of hindsight I know it can be argued that earlier decisions should have been taken, the pace of decision making at the time felt incredibly rapid.
32. My comments in relation to first lockdown would also apply to second national lockdown in January 2021. With the benefit of a much greater understanding of the science and the evidence, and with a strong preference to focus on the mitigation of health-related harm, I know that Scottish Government Ministers were keen to see more rapid action from the UK Government in relation to the imposition of restrictions, and greater restraint from the UK Government in terms of the lifting of restrictions. In my own view, the emerging evidence of the social harms brought about by the lockdowns meant that I was very reluctant to see the second lockdown and I do not think it should have been implemented sooner.
33. My comment about the general stance of the Scottish Government in relation to the primacy of health harm is qualified in four significant respects:

- a. Firstly, it was recognised from an early stage that Covid health harms needed to be considered alongside non-Covid health harms (such as mental health and impact on other physical conditions), social and economic harms. The 4 harms group that was established sought to ensure that this range of harms arising both from Covid 19 and from measures imposed to respond to it were considered in a rounded and evidence-based way. I attended this group on a regular basis through the pandemic. It was a key forum in which these matters were discussed and debated. This was generally done in an open and collaborative manner, with the benefit of expert advice from Chief Advisers on medical, economic and social issues. That advice was underpinned by detailed analysis and evidence that was then presented to Ministers and considered by the Scottish Cabinet.
- b. Secondly, and more specifically, it was recognised that the lockdown had a significant impact on the education and wellbeing of children and young people. As such, there was a huge focus in Scotland to re-open schools as early and as fully as possible. At points, this meant that Scotland led the way in terms of the re-opening of schools. There was an enormous collective effort to achieve this, involving robust advice from the Covid Education Recovery Group (CERG) and intensive work with local authorities, teacher unions, parents and young people. Looking back, I feel pride in the effort that was made to re-open schools, while very much regretting the fact that they were closed in the first place.
- c. Thirdly, the importance of children and young people having social contact was emphasized and recognised by the Scottish Government, especially given the advice about the lower risk that Covid-19 presented to children. As a result, rules around children mixing with other children were often more permissive in Scotland than in the rest of the UK. I recall that children under 12 were excluded from limits on numbers who could gather. There was a regular focus on the measures that could be taken to lessen the negative impact of COVID on children and young people.

- d. Fourthly, there was a focus on the impact of Covid 19 on people with protected characteristics whether, especially in terms of race and religion. As such, at points there was greater freedom to gather for worship in Scotland than in England. As the pandemic developed, there was a particular focus on the impact on minority ethnic people, leading to the formation of an Expert Reference Group on Covid and race.

### *Schools and education settings*

- 34. I played a role in relation to restrictions as they applied in schools and education settings. I was involved in meetings and discussions about the initial decision to close schools. The decision to close schools in Scotland was driven by both the decision to close in England and the medical and scientific advice received by the Scottish Government that pointed to the need for closure in Scotland.
- 35. Once the decision to close had been made by Ministers, part of my role involved communicating and engaging with leaders in local government about the implementation of the decision, and the rapid standing up of provision for the children of key workers and vulnerable.
- 36. A great deal of work took place on the definition of key worker, and the extent to which provision could be made for key workers in education settings. This involved liaison across the 4 nations of the UK, and close engagement with Scottish Government colleagues in DG Economy as they faced calls from many areas of business to be included within the definition of key worker. I played a role in ensuring that capacity was in place within the Scottish Government to monitor and report on the take up of key worker and vulnerable places. Ultimately, local authorities were able to make provision for all those who required it. There was concern about the relatively low numbers taking up provision for vulnerable children and the potential for a great deal of hidden harm to children. This was handled in part by ensuring that communications from Government made very clear the availability of this provision, and by encouraging local authorities to be proactive in engaging with parents who might benefit from the provision.

37. At all times following the initial closure of schools, a great deal of work was undertaken to ensure that they were opened as rapidly as possible and that alternative arrangements could be made for those due to sit exams. It was always clear that schools should be closed for the shortest possible time and that priority would be given to them opening before other areas could be opened up. "Last to close, first to open" was a phrase that was used in discussions among both Ministers and officials.
38. There was a concern that the Scottish Government Covid-19 Advisory Group had limited capacity to give specific consideration to issues around children and young people. I championed the creation of a dedicated subgroup to focus on education and children's issues to give focused advice on these issues. In my opinion, the formation of this group, the Covid Education Recovery Group (CERG), and its leadership, firstly by Professor Carol Tannahill and latterly by Professor Linda Bauld proved to be of great value in bringing together holistic perspectives on education and children's issues. The CERG brought in expertise around Covid-19 (including clinical perspectives from Public Health Scotland) together with expertise around children's wellbeing and the operational environment in relation to schools and early learning. The advice coming from the Group had authority given the credibility of the members and the careful and collaborative way in which they considered issues and presented their recommendations. In addition to advising on school opening, the CERG played a significant role in wider areas including social contact for children and young people and the use of face coverings in school.
39. One other valuable source of advice came from the International Council of Education Advisers. This forum was convened by the Scottish Government prior to the pandemic to advise the Scottish Government on approaches to raising attainment in schools. Their close work as a group of advisers, and the relationships they had established with both Ministers and officials in Scotland, meant that it was natural to reach out to them, convene them virtually, and obtain their perspective and advice on the approach to children, young people and COVID. From my notes, I took away a clear challenge from the ICEA to recognize the lasting harm to development that every week of school closure would generate, and to ensure that even in times of great concern about the pandemic we kept the wellbeing of children to the fore, including the need for them to socialize and play.

I am clear that their advice informed the overall approach taken by the Scottish Government.

#### *Local restrictions*

40. I played a role in relation to the management of levels within local areas from around August 2020 onwards when the system of levels was introduced. This meant that the restrictions could vary between local authorities depending largely on the prevalence of Covid-19 in their area. A great deal of work required to be undertaken every time a review of the levels in each local authority area was undertaken, including engagement with the relevant Chief Executive and local directors of public health. The aim was to take a 4 Harms approach to the setting of levels, having regard to health, social and economic impacts. It was clear that the level would ultimately be for the First Minister to determine, albeit in consultation with the local authority and other partners. In my opinion the aim of the levels system was a laudable one, recognizing the different levels of infection across Scotland. However, the system of setting levels was a difficult, time consuming and contested one, as a significant number of my retained What's App messages show. There was a need to arrange urgent briefings with local leaders on a regular basis and assess all of the issues they raised shortly before and after decisions were taken. The fact that at points the levels system meant that people could not travel from one local authority area to another unless for essential purposes also had difficult social and economic consequences given the extent to which people do not live their lives bounded within a particular local authority area.

#### *Wider health, social and economic impacts of NPIs*

41. I played a significant role in seeking to ensure that wider social impacts of the NPIs were considered by the Scottish Government in decision making. The team that I led across Education, Communities and Justice saw their role as ensuring that the evidence around the impact of NPIs on social factors played an appropriate role in decision making. I had the benefit of significant analytical capacity within my area of leadership and had close

working relationships with the Scottish Government's Chief Advisers on Science and on Social Policy.

42. There were two key settings in which these wider factors were considered. The first was the 4 Harms group. The Inquiry has sight of the minutes of meetings of this group. I played a role in the group wherever possible and ensured that colleagues within my area of the Scottish Government were also in attendance and spoke to key issues from a social perspective. I recall regular conversations about the impact of NPIs on children, young people, those experiencing poverty and social isolation, minority ethnic people, and the ability of people to attend places of worship. These concerns were considered carefully within the 4 Harms group, albeit the context and Ministerial direction was one in which Covid health harm was generally seen as the primary consideration. The rationale for this was that if progress was not made in suppressing Covid then ultimately much greater harm would be caused through the spread of the virus, the level of illness and death that people would suffer and the potential for some restrictions to endure for a longer period.
43. The 4 Harms meeting included regular reporting on the mood of Scotland as a whole, together with levels of compliance with restrictions and other behavioral insights. These matters were seen as of importance given the need to secure widespread compliance for restrictions to be effective. Compliance with most restrictions was high, though over time concern grew about whether this could be sustained as fatigue and weariness among the public set in.
44. The other setting at which the social impacts of Covid and of NPIs was considered was the Communities and Public Services Ministerial Group (CPSMG). I was the lead official for this group, working with the Deputy First Minister who was the chair. The Group played a key role in ensuring that cross-government coordination and action took place in relation to a range of social impacts of Covid. In early meetings of the Ministerial Group there was a particular focus on support for those who were vulnerable and shielding, the establishment of a telephone helpline so that people could seek help and support in areas such as food and medication, the activation of volunteering networks, support for children and families at risk of harm, the approach to emergency legislation, the supply of personal protective equipment (PPE) to workers outside the health system, support for those facing

digital exclusion, support for those facing differential impacts from Covid such as minority ethnic people and the operation of key public services such as prisons.

45. In my opinion the CPSMG played an important and useful role in bringing together Ministers and officials on a regular basis, ensuring that Government action in relation to communities and public services was carefully coordinated, and that there was a forum in which concerns about social harm could be addressed with the leadership and direction of the Deputy First Minister. I was not aware of an equivalent forum operating within the UK Government.

*People with protected characteristics under the Equality Act 2010*

46. I think greater consideration could have been given to supporting those with protected characteristics and hope that this will be a key area of learning to emerge from the Covid Inquiry. I would highlight two areas in particular – race and religion.

47. In terms of race, I played an active role in supporting the Covid Expert Reference Group on race. Very clear and compelling evidence was discussed at these meetings about the differential impact of Covid 19 on minority ethnic people in terms of both disease and death. Significant anger and pain was expressed at these meetings at what was ultimately seen as systemic racism given the differential outcomes that were being experienced, but that had been overlooked in the initial stages of the pandemic. Key recommendations to emerge from the group included the need for a more proactive approach to the recording of ethnicity data, the clearer targeting of the vaccine towards minority ethnic communities, and longer-term progress through the establishment of a Race Observatory for Scotland that would play a role in challenging the system of public services in Scotland to secure greater equality of outcome in terms of race.

48. In terms of religion, severe restrictions were placed on people's ability to gather to worship as part of the initial lockdown. Once places of worship were allowed to reopen there was then very detailed guidance in place about the way in which gathering could be as safe as possible. Ultimately a successful judicial review was brought in relation to the restrictions. By the time the Court decision was issued, a limited reopening of places of worship was permitted. The existence of the legal challenge influenced decision making and ensured



that the right to attend places of worship had greater weight in decision making than would otherwise have been the case. In addition, the decision influenced future thinking in relation to the imposition of restrictions. Places of worship were never again closed by order of the Government.

49. There was concern and frustration across the Scottish Government, especially among health colleagues, about the finding of the Court in this case. I heard the view that greater latitude required to be afforded to the Government to put in place measures to control the spread of the virus. However, ultimately the court took the view that the measures that had been put in place took insufficient account of the protected right to practice religion, which includes gathering with others to engage in communal acts of worship.

50. My concern about the measures in relation to places of worship is that they both interfered with a protected right and led to greater loneliness and isolation among those who would otherwise have turned to others within their place of worship for support. One of the teams for which I had responsibility worked throughout the pandemic to engage with faith leaders and their representatives to ensure that the Government provided clear advice and support. I heard at first hand that this advice and support was greatly appreciated.

#### *Support for the third sector*

51. A wide range of third sector organisations played a vital role in mitigating social harm through the pandemic. This included organisations offering activities for children and young people, elderly people, those dealing with social isolation, loneliness, mental health and addiction issues. Colleagues within my area of the Scottish Government worked quickly to ensure substantial and flexible funding arrangements were put in place so that third sector organisations could quickly get support to those who needed it. I engaged with a number of these partners and umbrella organisations through the pandemic, including Youth Link Scotland and the Scottish Council for Voluntary Organisations. I have had very positive feedback on the approach that the Scottish Government took to enabling flexible and person-centered support to be provided by organisations that worked closely with the communities they served, and a desire that this approach informs the way in which third sector organisations are supported in future.

## **Divergence**

52. At the initial stages of the pandemic there was close alignment in terms of response across the UK Government and devolved administrations. It is a matter of public record that approaches to the lifting of restrictions diverged at later points. I think it was entirely right that the Scottish Government took decisions on the handling of wide range of devolved matters based on the data and evidence to hand, accounting to the electorate who had secured their appointment in the first place. The avoidance of Covid health harm was a major factor in the Scottish Government's decision making. However, the need for a 4 harms approach was acknowledged very explicitly in Scotland and genuine attempts were made to ensure that a range of harms informed decision making. I do not think Scottish Ministers were influenced by economic considerations to the same extent as the UK Government, though the implications of measures for business were discussed regularly. One point of concern for those of us working on the mitigation of social harms was that the evidence of these harms is less immediate and less readily available than evidence such as numbers and rates of infection and numbers in hospital. Evidence around the wellbeing of children and young people, early child development and rates of poverty are continuing to emerge alongside a fuller understanding of the impact of decisions that were taken. There is vital learning here for the future.

53. In general, I think it is important that decisions are taken by the devolved administrations given their greater proximity to their populations and responsibility for health and wellbeing. This may or may not lead to divergence. What matters is whether decisions are based on the evidence as to what is likely to be most effective for the area in question. The main areas of divergence that I was involved with personally related mainly to the role of children, young people, and education. I have narrated my involvement in these areas and my views of the effectiveness of the approach taken in Scotland earlier in this statement.

## **Medical and scientific expertise, data and modelling**

54. As set out previously, I was responsible for providing management support to the Chief Scientific Adviser (CSA) for Scotland and the Chief Social Policy Adviser for Scotland.

55. I saw a very strong reliance throughout the pandemic on medical and scientific advice, together with data and modelling. The Scottish Government established its Covid 19 Advisory Group, Chaired by Professor Andrew Morris. The CSA was a member of the Group. Scottish representatives, including the CSA, participated in meetings of SAGE and a number of its sub-groups. As such, the Scottish Government was in no way restricted or prevented from understanding the full scientific picture. They had full access to the UK level science and could also access the huge depth of scientific expertise that exists in Scotland.

56. Tensions arose at points around the involvement of the CSA and the CSA(Health), especially given the external chair of the Scottish Government Covid 19 Advisory Group. At times there was a concern on the part of the CSA and CSA (Health) that the external chair had greater access to Ministers than the internal advisers. These were worked through by ensuring that the CSA and CSA (Health) were invited to key briefings with Ministers, were part of the range of advisory mechanisms and came together with other Chief Advisers across the Scottish Government to ensure effective communication and sharing of information. I saw Ministers being very receptive to medical and scientific advice, while always being willing to test assumptions. Among officials, the evidence was also taken very seriously, and modelling was commissioned and scrutinized on a very regular basis. My recollection of the modelling is that it was more likely to overstate rather than understate levels of risk. However, I recognize that the NPIs, together with roll out of the vaccination programme, may thankfully have operated to prevent the more severe predictions of infection, hospitalisation and mortality coming to pass.

### **Covid-19 public health communications**

57. I did not play a public role in terms of public health communications. My communication role extended to internal Scottish Government staff and partners in other sectors, in particular local government. As co-chair of the Scottish Leader's Forum, I also played a role in convening online meetings of the Forum to ensure that there was a collective space in which public service leaders could come together to share experiences and perspectives and receive support and input from their peers.

58. In most cases, I think the Scottish Government's approach to communications worked well. The First Minister's media conferences were seen as vital events in the calendar and a significant focus of attention. In addition to these events, the need for more nuanced communications to particular groups was recognised, in particular those who were potentially more impacted by Covid-19 and less likely to watch the First Minister's briefing. These include children, young people and minority ethnic communities. The Scottish Government worked with Young Scot to support effective engagement with young people and found their "lockdown lowdown" survey of young people to be of assistance. My recollection is that the Scottish Government also provided funding to third sector organizations such as those working at a community level with minority ethnic groups to support effective communication at a more local level.
59. During the pandemic I communicated largely by email, Teams calls and telephone calls. I made use of text messages and WhatsApp largely to organize meetings and ensure the rapid sharing of information, with more formal follow up by email. I was part of WhatsApp groups for the Executive Team and the DG Leadership Teams that I was responsible for. Our policy was not to retain these exchanges, and to ensure that a formal record of decisions and exchanges was kept through email and the formal minuting of meetings. I retained messages from the Organisational Resilience Oversight Group that have been shared with the Inquiry. There were points at which I sent text messages and WhatsApp messages to the Ministers I served, again to alert them to immediate issues or to arrange times to speak when this needed to happen urgently. These were not retained. I retained some WhatsApp messages with colleagues and these have been shared with the Inquiry.
60. There was an acute awareness in the Scottish Government of the risk that any breaches of the rules or guidance could create in terms of public confidence in the decisions of Government and overall compliance rates. As such, decisive action was taken when the former Chief Medical Officer was alleged to have breached rules around essential travel. There was great concern that breaches of the rules on the part of UK Government Ministers, officials and special advisers would undermine public confidence in the approach that was being taken to the management of the pandemic, leading to greater non-compliance, further spread of Covid-19 and tensions within the public about the overall approach that was being taken at a time of national crisis.

## **Role in public health and coronavirus legislation and regulations**

61. I did not have a decision-making role in relation to legislation and regulations. The legislative arrangements were, however, discussed at meetings I attended, including the Communities and Public Services Ministerial Group and the crossparty group on COVID recovery. Careful consideration was given to legality and proportionality of the legislation at all times. The area of legislation that generated a great deal of discussion within my area of responsibility related to a ban on evictions during the pandemic. I worked with Ministers and stakeholders on the extent to which this ban could continue in place once the peak of the pandemic had passed.

## **Key challenges and lessons learned**

62. I have not provided oral or written evidence to the Scottish Parliament or the UK Parliament on these matters. I have contributed to internal exercises to reflect and learn on the approach that was taken. In particular:

- Within the Executive Team, we created space to reflect on the work that was being done and how it could be strengthened, particularly in relation to the wellbeing of staff and our allocation of resources.
- Within the DG teams that I led we set aside time and space to reflect on our work. We brought in an external facilitator to work through a leadership programme *Dare to Lead* that was delivered online.
- I convened a meeting for all those involved in work around restrictions on places of worship to ensure we could reflect and learn following the judicial review outcome,
- The approach to COVID recovery that I led sought to build on the learning from the handling of the pandemic, especially in relation to the strengths that were seen in the response including around pace and flexibility, adjusting rapidly to meet needs as they emerged, focusing on what people needed rather than on organizational boundaries, and delivering services through digital means where appropriate.

63. My personal learning and reflections have been woven through this statement. I have now moved to Public Health Scotland where I have responsibility for the work that is taking

place on disease surveillance, together with work that is underway to promote health and wellbeing and tackle health inequality. The remit of Public Health Scotland is to prevent disease, prolong life and promote health and wellbeing. Public Health Scotland is responding separately to the Inquiry.

64. In conclusion, I would draw out the following key areas of learning:

- a. **Maintain a focus on harm in the broadest possible sense:** As I have indicated, COVID health harm had priority of consideration, especially in the earlier stages of pandemic handling. We now know much more about the broader harm caused by the pandemic and by the NPIs that were put in place. Should we ever face similar circumstances in future, I hope that the learning will lead to different decisions being made. In particular, I hope that schools and nurseries will remain open, outdoor association will be encouraged, and visits will be permitted to sick and vulnerable people in order to mitigate the crippling loneliness and isolation that was experienced, together with pain and suffering experienced by families who were separated from loved ones in their times of need.
- b. **Focus on those with protected characteristics who may experience a greater pandemic impact:** I have described the importance of the work and learning on both race and religion. Support for people with disability featured strongly in the pandemic work, especially in relation to the shielding programme. It was increasingly recognised in Government that the shielding programme may have done more harm than good in terms of the isolation that it created. As such, I think a crucial element of learning from the Inquiry will be around support for those with disabilities ensuring a protection of their rights in terms of both health and also their private and family life.
- c. **Build on the learning around innovation and person centred services that was seen during the pandemic.** I was responsible for overseeing the development of the Scottish Government's COVID recovery strategy. This set out some of the key learning from COVID, in particular the way in which public services responded quickly and effectively in many cases to meet the needs of vulnerable people, providing food and financial support and supporting family wellbeing. The

ambition of the COVID recovery strategy was that the learning was embedded in terms of service delivery going forward. I know this remains an ambition of both Scottish Government and local government. It is very easy, however, for barriers that were lowered during the pandemic to be raised again, and for organizational siloes to be re-established. This is especially the case when finances are scarce. It is vital that public service organisations focus on what the public need and operate in a way provides seamless support in what has been described as a “no wrong door” approach. I hope that Inquiry will help provide much needed momentum around this so that the public are better served by those providing public services and that public services operate more efficiently. In so doing, persistent inequalities that lead to premature death can be tackled and better use can be made of public resources.

- d. **Ensuring sustainable approaches to the deployment of staff working in an emergency, including those on the frontline and those playing supporting roles.** I witnessed the impact of the pandemic on a wide range of staff. In some cases, they experienced trauma and stress that led to significant sickness. I sought to create space for my colleagues to connect on a human level, to support each other and to maintain resilience and wellbeing. I sought to ensure that everyone had some time off, and to model an approach to work that was sustainable. I think there is important learning to be drawn out more fully about how we ensure that we can respond with pace and intensity while also staying well so that work can be sustained over the medium to long term.

- e. **Build our preparedness for a future pandemic, while also focusing on the wider dimensions of public health.** This last point brings together my learning from the Scottish Government together with my current role in Public Health Scotland. It is vital that good infrastructure is built and sustained in terms of disease surveillance and pandemic preparedness. It is also vital that the public are protected from disease by being offered effective vaccinations. Both of these matters are responsibilities that Public Health Scotland is working to deliver in partnership with the Scottish Government. However, alongside this, it is vital that we work to tackle the significant health inequalities and lowered life expectancy that means many in Scotland live significant portions of their life in poor health and on average die at a younger age than people in most other countries that have similar levels of prosperity. To prepare for a future pandemic we urgently need a sustained, energetic and system wide focus on tackling health inequalities and improving health across the UK.

65. I hope this statement is of assistance to the Inquiry. I am happy to provide any further material that may be useful.

### **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:** 16/11/2023