

Witness Name: Richard Lochhead

Statement No.: 1

Exhibits: RL

Dated: 23 October 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF RICHARD LOCHHEAD

In relation to the issues raised by the Rule 9 request dated 16 June 2023 in connection with Module 2A, I, Richard Lochhead, will say as follows: -

1. I am Richard Lochhead of the Scottish Parliament, Edinburgh EH99 1SP. I am currently Minister for Small Business, Innovation, Tourism and Trade.
2. 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.
3. References to exhibits in this statement are in the form [RL/Number - INQ000000].
4. From August 2018 until May 2021, I was Minister for Further Education, Higher Education and Science in the Scottish Government. Prior to that I was Cabinet Secretary for the Rural Affairs, Environment and Food from 2007 to 2016. From May 2021 until June of this year I was Minister for Just Transition, Employment and Fair Work.
5. For much of the time covered by the pandemic (January 2020 to May 2021) and the period of interest to the Inquiry, I was therefore responsible for further and higher education. From the beginning of the pandemic until I left that role in May 2021, my time in office was dominated by dealing with the impact on our colleges, universities and student population and helping to steer them through an incredibly challenging time that none of us had ever experienced before.

6. There are some questions which the Inquiry has put to me which I am unable to answer as they fell outside my remit. I have produced this witness statement answering the questions I am able to in my capacity as Minister for Further Education, Higher Education and Science in the Scottish Government during the relevant period in Module 2A.
7. In terms of many of the questions posed, my involvement was limited to be a recipient of internal papers and memos that were copied to all Ministers. My own involvement, referred to below, only intensified as the impact on the sectors I was responsible for became clear with the announcement of restrictions from March 2020 onwards.

Initial Understanding of Covid-19

8. Other than from general media coverage, I became aware of the pandemic from internal papers being circulated within Scottish Government that are generally copied to all members of the government.
9. Looking back, I believe that in Scotland we were no different to many other countries in terms of observing and then responding to the growing seriousness of Covid-19. I, like others in the government, was guided by the updates provided to Ministers.
10. I had no involvement in and was not involved in the response to the events on 26/27 February (NIKE conference) and 8 March 2020 (Scotland v France match at Murrayfield) referred to.
11. As matters progressed and the threat became clearer, it was certainly my view that the Scottish Government was taking the threat more seriously than the UK Government and that our First Minister was prepared to take more difficult decisions. I believe that was view shared by the general public.

Public Communications

12. As a matter of course, as soon as the First Minister had delivered her own statements or when the relevant guidance was updated, in terms of my role in communications, I wrote official Ministerial letters to the higher and further education and Community Learning Development (adult learning sector) sectors informing them of the specific details impacting on them. I worked closely with student representatives in particular to communicate effectively to the student population and we also provided funding to the National Union of Students (NUS) Scotland to assist them with their own communications. My other communications roles involved media interviews and

appearances in Parliament. As a general comment, I would add that in terms of the wider communications strategy, often the publicly available Q and A and briefing did not anticipate the follow up questions posed by the media and the public and a lot of time was devoted to clarifying advice on particular scenarios that were not covered in the initial Q and A and guidance which in itself could be difficult to source on the website. Part of this was unavoidable no doubt due to time pressures between developing policy and new restrictions being announced in response to the spread of the virus and the need to make available Q and A to the public or guidance that covered all potential scenarios.

The Ministerial Leadership Group

13. Once the initial restrictions were introduced by the Scottish Government, I immediately set up a Further and Higher Education Covid 19 Ministerial Leadership Group chaired by myself to allow me to also verbally brief stakeholders on any new restrictions, to explain the rationale, layout expectations of the sectors, and provide an opportunity for questions to be asked and for emerging issues to be identified.
14. This forum allowed me to engage with the sectors throughout what was an exceptionally challenging and uncertain period. The group's output would then be fed back through the Scottish Government's decision-making network.
15. Those invited to attend the group included representatives primarily from the further and higher education institutions, trade unions, and student representatives (Universities Scotland, Colleges Scotland, Trade Unions, NUS Scotland etc). Government agencies (Scottish Funding Council, Student Awards Agency etc) and relevant Scottish Government officials also attended. Representatives from Community Learning and Development (adult learning) also attended.
16. The group met seventeen times and as close as possible to the First Minister's significant announcements in relation to the restrictions and overall strategy. The updated guidance for the sectors would be developed in the days after the formal announcements.
17. The Scottish Government was generally represented by further and higher education officials as well as officials from health to help answer questions. Much earlier engagement from clinicians would have been enormously helpful in terms of them understanding the impact of decisions on further and higher education given how much the sectors appreciated being able to ask questions and hear about the data etc.

However, I do appreciate that Clinical Director Jason Leitch in particular was over stretched and in high demand.

18. Over time, officials from the testing and vaccinations teams began to attend meetings to listen to concerns and views as well as to answer questions. The Clinical Director Jason Leitch and either of the Deputy Chief Medical Officers did begin in due course to regularly attend meetings which was greatly valued by stakeholders.
19. The impact on Scotland's education institutions and student population (260,000 university students including 62,000 from overseas and 250,000 college students for academic year 19/20) was a very significant aspect of the pandemic. The pandemic also had ramifications for the sector's finances. The impact on so many young people in terms of their education and wellbeing as well as the impact on staff were important and high-profile features of the pandemic. The impact on the student population, its behaviour and influence on the pandemic was a major and much publicised feature of the pandemic.
20. I had no direct role in decision making over the strategy or any discussions around herd immunity or timing of restrictions that may have occurred as that was very tightly managed by the First Minister and clinical colleagues on the First Minister's advisory groups. As an observer, it was also my impression that the Scottish Government was frustrated with the lack of strong action by the UK Government and by the talk of herd immunity etc.
21. I understood the First Minister Nicola Sturgeon to be the ultimate decision maker, and above me, was my own Cabinet Secretary for Education Mr John Swinney who also Deputy First Minister, as well as the Health Secretary Jeane Freeman all working alongside the clinical advisers. Although I had no role in decision making, I sought to ensure the decision-making process was informed in line with my own portfolio responsibilities.

My Role

22. Once the scale of the threat became clear and the First Minister began to outline steps to prevent the spread of the virus, I established a direct link between the Scottish Government and stakeholders to keep them apprised of the strategy, inform them of developments and decisions to allow the sectors to understand what restrictions were being put in place, why and the next steps to ensure they had as much time to prepare as possible. I also saw my role as ensuring that the views of the sectors in terms of

their asks and concerns were fed back to the decision makers, and that emerging issues were identified and addressed.

23. I also had responsibility to report to and to be held to account by Parliament on my portfolio throughout the pandemic. I answered parliamentary questions, delivered oral statements to Parliament, and appeared before the committees as well as fulfilling many media engagements.
24. I was not the only Minister to directly engage with Higher Education and Further Education stakeholders and the Deputy First Minister and First Minister from time to time to would meet the same stakeholders. Scottish Government officials also had regular bilateral, often daily, contact with the various stakeholders especially when drafting the guidance that had to be introduced, formulated, and updated each time there was an announcement. I also had bilateral engagements with stakeholders as and when appropriate. The Health Secretary also took a close interest in my area and occasionally commented on advice from my officials and of course she was working closely with the First Minister.

The Key Issues

25. Once restrictions were introduced and Scotland had adopted a Covid-19 levels system and each had sector had a different set of rules on what you could or could not do depending on what protection level the area fell into, many issues arose for the institutions in terms of face to face versus remote learning, the welfare and support for staff and students both on and off campus. There were also implications for the awarding of qualifications and financial viability of teaching and research for instance in the sectors.
26. The lockdown in particular clearly had significant implications for the tens of thousands of students living away from home (mainly higher education rather than further education) who were unable to travel and this led to issues around, for example, welfare and how to respond to the fact that many students simply wanted to go home if there was no face to face teaching or simply because they wanted to be under lockdown at home rather than in student accommodation.
27. There was an urgent need to define exemptions under travel restrictions including on the grounds of mental health and welfare ground and this was reflected in the legislation and guidance. It was clear that families wanted their loved ones home rather than being trapped in student accommodation and that it was clear many vulnerable

students such as students requiring mental health support required to be back home with their families and carers. We also took into account issues considered by the Equalities and Human Rights Division in relation to issues such as impacts on equality groups, and a range of issues that they were overseeing during the pandemic.

28. When such issues arose, officials and I would make representations to the clinicians including the Chief Medical Officer (CMO) and Deputy CMOs to ensure that such exemptions in line with the Scottish Government approach to the balance of harms were reflected in the relevant regulations and guidance. We agreed advice on returning home for short visits, returning home when self-isolating, and returning home on a more permanent basis.
29. Officials would take issues raised at the ministerial leadership group or via bilateral discussions with stakeholders and discuss with health colleagues to agree solutions that both helped address the concerns of stakeholders but satisfied the clinicians in terms of the risk of Covid spreading. The final proposals were either agreed or amended by the First Minister.

The Balance of Harms

30. Higher Education and Further Education campuses, and community learning settings, like the rest of the country, were of course included in the lockdown and my concern was a potentially disproportionate impact on our young people especially those living away from home. The exemptions for students permitted in the regulations (as referred to in paragraphs 65 and 66) were therefore welcome and we know that many families took advantage of this.
31. In the wider sense, I was always concerned about the balance of harms where we had to take into account the risk of transmitting the virus but also the risk of wider social harms and the Four Harms Framework [RL/001 – INQ000131028].
32. SAGE had said that in terms of the impact of remote learning *“changes to the structure of higher education may exacerbate these effects by decreasing the ability of people to make friends, engage in social activities together, gossip and chat, and interact with tutors or mentors, as well as by increasing the difficulty of work and studying.”* I referred to this report in an oral parliamentary statement on 30 September 2020 [RL/002 – INQ000249299].

33. The restrictions that were applied to students both in terms of movement throughout the country and by reducing face to face teaching on campuses were to stem the spread of the virus. However, I was always concerned about the impact on students' welfare and education. This would play on my mind as we navigated the pandemic throughout the academic years.
34. I do feel we underestimated the impact on our young people (and probably still don't understand the extent) but accept there were no easy options. There was a fear that the public may blame young people for spreading the virus and I was always at pains to emphasise throughout my time in office that our students were not to blame for the circumstances we all found ourselves in. There was considerable publicity over student parties and gatherings in halls of residence and I had to have individual conversations with university principals to ensure there was adequate security to prevent these parties from occurring.
35. Again, I was concerned not only about the spread of virus caused by these gatherings but by the impact on the public perception of students and our young people. I recall that information we received from Police Scotland actually showed that many parties they were attending were out with the halls of residence and didn't involve students at all, but the media were focussing a lot on parties in the student halls.

Isolation

36. I spent a great deal of time ensuring that students remaining on campus, of whom many were isolating, received adequate support. A significant issue arose with students who were isolating (sometimes hundreds at any one time on the same campus and often in the same halls) struggling to access food and supplies.
37. Some university authorities failed to anticipate the scale of the issue and the media began to highlight stories featuring the experience of large numbers of students isolating in halls who complained of receiving little, if any, support. I intervened to demand the universities urgently resolved this. Food trucks were soon located outside halls and as the days went by the issues eased. Other forms of support such as Netflix subscriptions were also provided. Students who had previously taken to social media to complain about a lack of support welcomed the turnaround.
38. In terms of isolation, and as the weeks went on, I expressed concern over the impact on the mental health of students who were potentially being asked to undertake several consecutive periods of isolation in small student flats or in their rooms etc. amounting

to several weeks of isolation. After a few weeks, thankfully, the clinical advisers amended their guidance to take this into account and the universities also reconfigured their accommodation to help address issues around isolation and lack of access to leisure facilities etc. Again, concerns such as this led me to constantly question if we had got the “balance of harms” right.

39. The health risk to our young people was lower but the main issue concerning the clinicians was the mass movement of students across the country spreading the virus. Yet, we were imposing strict conditions on them when they were together. The clinicians always had the final decision but did respond to feedback after constantly reassessing the risks. It is also worth noting that many students chose to remain on campus or in their private student accommodation rather than return home for fear of infecting elderly loved ones.

Face to Face versus Remote Learning

40. One of the most challenging issues was the introduction of remote learning for those who were unable to travel to campus or who chose to stay at home. Trade unions wanted remote learning to protect staff as did student representatives who fed back that students didn't want face to face.
41. The universities were concerned about the ability to get students through their courses where face to face teaching was deemed important. The colleges were largely comfortable but concerned about courses with practical skills where face to face was essential. As time went by this became more of an issue.
42. The strong view from the First Minister and clinical advisers was that there should be no face to face initially but as the levels were introduced there was much discussion over the extent to which face to face should be reintroduced with different views amongst stakeholders. The trade unions and student representatives favoured a very cautious approach. Striking a balance between face-to-face teaching and remote learning was one of the more difficult areas for me.
43. My officials listening to the views of stakeholders worked with health officials to strike the balance taking into account the need to also balance the harms. Students faced not being able to graduate without some face to face and there was also the impact on mental health of students being at home and not socialising or benefiting from attending lectures, tutorial etc. Universities were keen on reinstating face to face teaching and also having for instance greater limits on the number of students back in

lecture theatres with mitigating factors to build back quicker through the phases and the trade unions and student representatives were more cautious.

44. Education officials and health officials agreed an acceptable limit taking into account all the above factors. The same negotiations occurred with safe distances in corridors with some universities explaining the need for reduced social distances. I recall the Health Secretary was paying close attention to how the asks of the sectors compared to the schools.
45. The lack of face-to-face teaching certainly had a detrimental impact on the students' experience of college and university. Some overseas students were also questioning the value for money they were receiving given the lack of face-to-face teaching and engagement and saying they would have better off staying at home.
46. As the guidance was updated in line with the different levels, more face to face was permitted. We had much discussion on both the extent to which face to face could be reintroduced as the country went through the various levels of the Covid strategy that included debates over the number of students that could attend lectures as well as social distancing measures in corridors etc.
47. The universities made a strong case that research should be allowed to continue given that the number of people in a laboratory could be far more easily managed. However, the clinicians continued to take a cautious approach. Scottish Government Higher Education and Further Education officials and the clinicians considered the views of the sectors and reached agreement with the decisions reflected in updated guidance.

Support for Remote Learning

48. The institutions adapted quickly to remote learning but there was a mixed reaction from students. Some courses were suited to remote learning and the students were happy to be at home throughout the pandemic. Others felt isolated and others needed help with accessing devices.
49. Scottish Government worked with the colleges in particular to ensure that devices and support were made available to those who needed it and they did a wonderful job adapting quickly using their own resources and also Scottish Government funding that was made available.

Students Returning End of Term (Testing)

50. A decision was taken to allow students to return home at the end of term to provide for their wellbeing and provide the necessary travel exemptions for this. There were a number of internal meetings on this issue to decide how to handle this challenge given concerns over mass movement of students at one time could cause the spread of Covid. Many students were concerned about infecting loved ones especially elderly relatives should they return home so not all travelled home in the event. This combined with the understanding that different institutions finished their terms at different times as was also the case with different courses mitigated the risk of a mass movement of students in close proximity that would also have put pressure on public transport etc.
51. My role was to discuss these challenges with officials who in turn discussed this with the institutions and health officials to ensure the guidance that was written was appropriate. The First Minister accepted the advice once finalised.

Students Returning to University

52. The next challenge identified was the return of students for the new term and on the advice of clinicians it was decided that students would be encouraged to take a test on arrival or before they travelled. The testing teams decided to set up testing stations on campuses to provide for staff and students and the general public. Students were employed to work at these providing part time work. The teams worked closely with the institutions. The First Minister regularly requested advice on all these matters.

Student Hardship

53. Student representatives expressed concern over the financial difficulties caused by the pandemic including a loss of income from part time work given the number of students that worked in hospitality over the summer months. With hospitality being severely affected, this had a knock-on effect on student income.
54. An £11m package was introduced by Scottish Government for institutions to distribute to students most in need. Counsellors were also employed to help campuses cope with the growing need for mental health support. Measures were introduced by Scottish Government to make it easier for students to exit leases and likewise the universities were urged to make it easier for students to exit or amend their halls leases. It was challenging to persuade all providers to be as helpful as possible. I met private student

accommodation providers as well as the sectors to seek as much flexibility and understand as possible in terms of accommodation arrangements and leases.

Relations with the UK Government

55. I had regular bilateral meetings with my UK counterpart. Usually this focussed on mutual information sharing as well as reflecting on the kinds of issues we were facing as Ministerial counterparts facing such a challenging situation for the first time such as how many students should be allowed back on campus at any one point. We also discussed direction of travel regarding some of the decisions that lay ahead.
56. There did appear to be some different factors at play across the UK. For instance, UK Ministers were perhaps sensitive to growing demands for refunds from students who were not receiving face to face teaching, whereas in Scotland this was less of an issue due to free higher education. We did hear some comments from overseas students in Scotland complaining that they did not pay for remote learning which negated the need to travel to Scotland.
57. The issue of financial support for universities reliant on income from overseas students became an issue given concerns that overseas students would not travel to the UK or that they may return home at the end of term and not return to Scotland. In the end, many overseas students decided to remain in Scotland in between terms.
58. The institutions met with UK Ministers, as I also did, to seek financial support. The issue of supporting research was also discussed given that deadline for grants or contracts would be missed due to the pandemic with research being affected.
59. As well as my own bilateral with UK Ministers, all four Ministers from across the devolved nations and UK also met together to discuss a range of issues including the pandemic. These issues included to what extent students should take a test near their home before returning to campus. This was a particularly relevant because so many English students would be returning to Scottish campuses. The UK Ministers put together a contingency package of support for universities including for research. The Scottish Government also announced £75m to help universities protect their research base. We endeavoured to forewarn the UK Government of our announcements. The UK's contingency package was unpopular in Scotland both because of inadequate funding and also because it left it up to the UK to decide if a Scottish institution was in enough financial difficulty to justify support and this failed to respect devolution.

60. The Scottish Funding Council played an important role in helping us to understand the financial impact of the pandemic on the sectors' viability. And likewise, we worked closely together to ensure no student lost out on a place at an institution due to the pandemic. The Scottish Government provided public reassurances and the funds to help the universities and colleges ensure this was the case given the likelihood of deferrals and also students unable to graduate. The Student Awards Agency greatly helped here too.
61. A key concern for Scotland was the balancing the need for some consistent messaging across the four nations given that many English students attended Scottish institutions. Given that there were often slightly different approaches across the nations this could be challenging. We were always keen to align our measures with the other nations.
62. I do recall there were other times we learnt of their handling of the situation in England when they made public announcements. However, we always understood there were different factors to be taken into account north and south of the border.

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

63. I often commissioned data and information from the universities and colleges etc in relation to a range of issues relevant to our decision-making challenges such as student numbers on campus, off campus, staying in student accommodation at any one time, the staggered end of terms dates within each institution to help understand numbers of students going home or returning to campus at any one time etc.
64. Scottish Government officials likewise sought information to help feed into the modelling undertaken by decision makers and advisors in health but also to help us understand the issues facing the sectors. We were helped by modelling supplied by Public Health Scotland (PHS) on the epidemiology of the outbreaks to inform decisions around influencing the movement of the student population across the country. PHS also undertook focus groups to better understand their perspectives. Both the Deputy Chief Medical Officer and PHS were consulted by officials for the advice that was passed to Ministers relating to, for instance, the guidance around students leaving at the end of term and returning afterwards. The on-campus testing provision made available to staff and students (and the public) and associated guidance was also informed by their input and their colleagues.

Role in public health and coronavirus legislation and regulations

65. Much of what I fed back into the Scottish Government's decision making in response to my discussions with stakeholders helped shape the regulations and guidance as far as it affected Higher Education and Further Education. The example of decisions around students travelling home during lockdown is one example or returning home or back to campus at the start and end of terms are others. Another was the need to make it easier for students to exit accommodation leases given they could not use their rented accommodation. Ministers also collectively responded publicly to concerns over students not being allowed to return home for Christmas by saying that we would permit this and then we worked hard to put in place the arrangements and guidance.
66. Finally, we decided to ensure the regulations on travel allowed a "reasonable excuse" for students to travel to include a visit home for "a family emergency, such as a bereavement, or for wellbeing reasons."

Key Challenges and Lessons Learned

67. The impact of the pandemic on further and higher education and Community Learning Development was profound and I don't believe we yet understand the impact on particularly the young people affected. The impact on students not able to benefit from the experience of university and college life that other cohorts have enjoyed such as face to face teaching and freshers weeks and various social aspects of life a student were not understood. Trade Unions and student representatives were reluctant to build up face to face teaching for instance, yet anecdotally many students felt this damaged their experience. This is a difficult issue as there were only difficult options in the middle of a pandemic but this is a key area to understand better for the future. Remote learning was clearly easier for some courses and not others. And easier for some students than others depending on their personal circumstances at home and in terms of their own wellbeing etc.
68. During my time in office, I was not involved any formal lessons learned exercises as far as I can recall. I did appear before parliamentary committees to give evidence on how we were managing the health crisis for students.

Informal communications and Documents

69. I cannot recall ever using WhatsApp at all during the pandemic. I only recall using mobile texting to ask senior officials to call me and suchlike and not for conducting any

other Ministerial business relating to decisions on the pandemic. I do not hold any text messages, records or personal notes from this time, and I used no other informal messaging platform at all.

Conclusion

70. Managing the pandemic was my toughest period in government, although all decisions were taken by the First Minister with the agreement of cabinet following advice from the clinicians. The Deputy First Minister, also the Cabinet Secretary for Education, also played a role in conveying the implications for and views of the sectors given his role in cabinet and prominent role in handling the pandemic alongside the First Minister.
71. I endeavoured to influence these decisions most usefully by feeding back the views of the sectors I was meeting regularly on the implications for the sectors and also in terms of practical implementation of the sectoral guidance and detail therein. My role was also instrumental in the formulating the various packages of support for the sectors.
72. I have no doubt that the pandemic had a detrimental impact on further and higher education in Scotland and on the student experience. Our young people lost out on so much and I hope that if there is ever a next time that we are better prepared and that we have learnt from Covid-19. However, our young people, staff and the institutions played their role in limiting the spread of the virus.
73. The vast majority of students were very responsible, and they were all facing horrendous circumstances that no young person should have to face in terms of the impact on their personal development, wellbeing, and life changes. The biggest question for me is to what extent we balanced the harms.

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.

Personal Data

Signed: _____

Dated: ____23 October 2023____