Witness Name: David Hutchison
Statement No.: 1
Exhibits: DH
Dated: 25 October 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF MR DAVID GEORGE HUTCHISON

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

1. I am David Hutchison, Senior Special Adviser to the First Minister, of work address Scottish Government, St Andrew's House, Regent Road, Edinburgh, EH1 3DG.

2. I have been a Special Adviser to the First Minister since June 2011. From September 2012 until April 2023, I was the lead policy Special Adviser for the health and care portfolio. Since September 2012 I have also supported or led the briefing for the First Minister for regular events, such as First Minister's questions (FMQs), and ad hoc events and debates both within and outwith parliament.

3. The role of a Special Adviser is defined by the Special Adviser code of conduct [DH/001 - INQ000222065]. In short, we provide political and policy advice to ministers, and the civil service. The role is entirely advisory and is not a decision-making role. I do not come from a clinical background or training, so no advice that I would offer could ever be considered clinical advice to ministers.

4. All Special Advisers in Scotland are appointed by and to the First Minister. There are broadly two types of Special Advisers – communications and policy. Communication Special Advisers are focused on media engagement and responses across Government. Policy Special Advisers are allocated to portfolio areas and will work with Cabinet Secretaries and their Ministers, in addition to

supporting the First Minister. As health and care Special Adviser I worked closely with Ms Jeane Freeman CBE prior to, and during, the pandemic.

5. I have prepared this statement by reference to publicly available materials, such as the official report of the Scottish Parliament, press coverage, and the material provided to me by Scottish Government officials.

6. 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.

7. References to exhibits in this statement are in the form [DH/number - INQ000000].

Initial Understanding and Readiness

8. I believe I first became aware of Covid-19 as a potentially new 'viral pneumonia' in China akin to SARS following reports on the BBC on 3 January 2020. As part of my duties in relation to commissioning and preparing briefing for FMQs I routinely monitor significant health stories reported in the media.

9. Each Wednesday evening, prior to FMQs taking place on a Thursday, I participate in briefing the First Minister, alongside the wider FMQ team.

10. At the prep meeting of Wednesday 22 January 2020, we provided briefing to then First Minister Nicola Sturgeon on the novel coronavirus situation as it was understood by the Scottish Government at that point. The virus was first raised in the Scottish Parliament at FMQs the following day by MSP Kenneth Gibson [DH/002 - INQ000222066].

11. We discussed the First Minister's experience as Health Secretary during the Swine Flu outbreak and the clear advice from Prof Sir Harry Burns, who was CMO in 2009, as to the important and value of regular, frank, public communication and having clear authoritative voices for public health messaging wherever possible. The First Minister expressed concern at the pace of escalation outwith China and

observed that now that the first case was found in the USA that there was a high degree of likelihood that it was already present in Europe.

12. The First Minister asked, as a follow up, for further engagement with the CMO, Dr Catherine Calderwood, and Ms Freeman. No cases had been confirmed in Europe at this point, but the images from China were distressing. Coverage on 23/24 January 2020 showed scores of heavy construction equipment in Wuhan flattening earth in order to construct a temporary hospital within a week to deal with the volume of patients that were anticipated.

13. From the initial ministerial engagement with UK ministers it did not seem that they appreciated the seriousness of the threat that was being faced. The first meeting between Ms Freeman and the UK Government Health Secretary Mr Matt Hancock on the coronavirus was a COBRA call on 24 January 2020.

14. Ms Freeman was enroute to Inverness to meet with staff at NHS Highland when we received notice that she was being invited to a COBRA call that afternoon on the novel coronavirus that had been identified in China, and the implications for the UK.

15. As a COBRA call it had to take place at a 'secure line location'. Ordinarily this would have been in the Scottish Government Resilience Room (SGORR) meeting room in the basement of St Andrew's House, the Scottish Government's main office in central Edinburgh. However, as Ms Freeman was halfway to Inverness the most accessible location was the Transport Scotland National Control Centre in South Queensferry, Edinburgh. Ms Freeman's car was turned around from its journey and headed to the control centre. In March these calls switched to being carried out over Zoom and the previous efforts for secure lines was dropped.

16. The CMO also attended on 24 January, as did supporting officials (Mr Derek Grieve CBE and a media manager) and myself.

17. The call was audio only and we were surprised by the tone from the UK Government. Mr Matt Hancock sounded almost gleeful at stages on the call due

to the imminence of Brexit finally being passed on 31 January 2020. A good deal of time on the call was taken up by Brexit.

18. Having spent so much time and effort on Brexit no-deal planning (Yellowhammer) and mitigating its impact on the health service in the preceding months, Mr Hancock's tone was not welcomed by the representatives of the devolved nations on the call.

19. On the call Mr Hancock continued in a bullish tone that risks were low, and the UK Government would be taking the lead as whatever may follow would be a civil contingencies matter. Ms Freeman corrected Mr Hancock that while there would need to be close 4 nations working as far as was possible, that health was devolved, and as such would lead on those matters – as we had in the case of the 2009 Swine Flu outbreak and a case of Ebola. She was clear that where decisions related to border control that the responsibility rested with the UK Government, but that she would expect engagement with the devolved governments on these matters. Welsh Government representatives agreed with this position.

20. Mr Hancock provided an update about British citizens in Wuhan province and the UK Government's actions on repatriation. This was followed-up on the COBRA call on 29 January 2020.

21. Following the 24 January meeting Ms Freeman and the CMO gave the First Minister a readout. The First Minister shared the concern of Ms Freeman and the CMO that while risk may be assessed as low, the experience of the Swine Flu outbreak in 2009 meant we should proceed with caution. They also noted concern that the UK Government was distracted by the upcoming Brexit day.

22. CMO was clear that due to the novel nature of the virus that information and scientific understanding would be evolve quickly as matters developed. She observed that based on the information that was available, principally from China, was deeply concerning and it was clear that it was already spreading well beyond China's borders. She said in her view while there may not have been cases detected in Europe that it was only a matter of time. She was proven correct later that day when France announced the first 3 cases in Europe that evening.

23. CMO was engaged with her 3 counterparts in England, Wales and Northern Ireland on a routine and frequent basis as the situation was being monitored closely. In other discussions the First Minister stressed, based on her experience of Swine Flu, that the network and coordination between CMOs and Chief Scientists was vital – particularly when there were there was differences in view between different political administrations.

24. By mid-February Mr Hancock's tone on COBRA calls had entirely changed and it was clear he was now alive to threat and his communications mirror those from Prof Sir Chris Whitty and Sir Patrick Vallance through clinical channels. However, many of his cabinet colleagues had not yet made the journey to recognising the threat before us.

25. Through COBRA discussions, and the work of senior clinical advisers in particular, the 4 stage 'action plan' was agreed across the 4 nations' governments, publishing on 3 March 2020.

26. Neither I, nor the wider Scottish Government as far as I am aware, had any prior knowledge that the Nike event was taking place in Edinburgh on 25-27 February 2020. As such there was no discussion as to whether it should go ahead. The first case in Scotland was not identified until a few days after this meeting had taken place.

27. There was some discussion about the Scotland v France Six Nations Rugby match, 8 March 2020, in the days leading into it. We understood at the time there were also discussions in a similar vein on the Cheltenham races in England. The clinical evidence that was consistently presented to ministers was that such events were, relatively, lower risk from a clinical standpoint as it was in open air. That events that were indoor between people who were familiar with each other, a wedding for example, would have a greater risk as there would be a higher degree of physical contact.

28. The First Minister was cautious of this approach as it felt contradictory to continue to allow mass gatherings, with associated transport and gatherings outwith the events in pubs and restaurants, while trying to convey a message of caution. As case numbers continued to rise sharply in the week further discussions were held. The clinical advice had not shifted; however, the First Minister probed the wider impact on public services of such events continuing as they could take police and health resources away from the increasing demands being made by the impact of the virus. Then DCMO, Prof Sir Gregor Smith, shared that SPI-B had considered the question on mass gatherings and observed that there may be an issue of public trust in messaging as other countries had put in place restrictions and there may not be a wide understanding of the clinical rationale. On the 14 of March the regular fixtures of the football season were due to be carried out, including a Rangers FC versus Celtic FC football match. Following discussion on 12 March it was decided that to protect health and police resource, rather than on clinical grounds, that banning mass gatherings of over 500 was a proportionate response in the circumstances [DH/003 - INQ000249326].

29. The First Minister advised the COBRA call that day that this was the approach that we would be taking in Scotland and setting out for them the rationale for doing so. There was some resistance to this approach on the call from some UK Cabinet members, but Mr Hancock was appeared to be sympathetic to the approach being proposed. Following the COBRA meeting the First Minister, Ms Freeman and the CMO held a press briefing and setting out several restrictions that were common across the UK and the additional approach we were taking on mass gatherings and the rationale for it – that from the following week mass gatherings of more than 500 would be prohibited. The Scottish Premier Football League announced the following day that the season was being suspended.

30. On 16 March the UK Government agreed at COBRA that mass gatherings of over 500 should be prohibited to protect health and police resources.

31. Sources briefing from the UK Government in the media suggested the UK Government were unhappy that Scotland was acting on mass gatherings. Then UK Health Secretary came to Scotland that night, 12 March 2020, to meet with Ms

Freeman, with plans to travel to Northern Ireland and Wales the following day. I believe that Mr Hancock and his team were traveling to Scotland by military aircraft.

32. There was a sense that Mr Hancock was coming to Scotland to somehow manage the 'devolveds' – as the UK Government tended to refer to Scotland, Wales, and Northern Ireland on calls.

33. Ms Freeman and CMO had expected Mr Hancock in St Andrews House around 8pm, but ultimately, he did not arrive until around 9.40pm.

34. Around 9pm Scottish Secretary Alister Jack arrived at St Andrew's House. Mr Jack appeared to lack any understanding of the seriousness of the consequences that COVID-19 may have, an example being that prior to Mr Hancock's arrival he told us that a large number of people in Westminster were self-isolating and said, "I was surprised it was so widespread".

35. CMO explained that the virus spreads quickly, which was one of the reasons we had a pandemic to manage.

36. Mr Hancock, Ms Freeman, Mr Jack, and Dr Calderwood sat to discuss current issues, with myself and a UK official in the room.

37. Mr Hancock raised the frustration of his colleagues (he was clear this was not his frustration) that the Scottish Government had acted unilaterally on mass gatherings. His tone was noticeably different, and less confrontational, to the initial COBRA meeting between himself and the health ministers of devolved administrations.

38. Ms Freeman reiterated the position that had been outlined earlier in the day that our action was not a criticism of the UK Government's position, but that we have a responsibility to protect NHS Scotland, and this was one step we were taking to do this. Mr Hancock agreed that not all resilience matters were reserved that that these issues were covered in devolved responsibility and recognised that that

would mean we sometimes do things differently – just as we have different decisions in our respective National Health Services every day.

39. Mr Hancock intimated that he thought UK Government would inevitably get to a similar position and implied there were challenges in persuading some of his Cabinet colleagues to take certain courses of action to help manage the threat and how he wanted to work with the 'devolveds' to try and get the message across.

40. They discussed matters around isolation and support for people who were immunosuppressed. It was clear that Mr Hancock had been persuaded of the necessity of isolation as a NPI, but that this was being resisted by a number of his cabinet colleagues. It was apparent that he was seeking to get alignment on his position from the devolved governments.

41. Mr Hancock stressed how keen his cabinet colleagues were that school closures would not be considered due to the potential impact on the economy. Ms Freeman and CMO responded that school closures would bring significant challenges depending on the length of closure – not least the impact on the upcoming exam diet – and that any decision would not be easy and would ultimately be a balance of harms, but with the nature of the spread as it appeared to be, albeit with limited knowledge, that it may ultimately have to be used to restrict spread. CMO explained that she would be working with the other CMOs and senior clinical advisers to make their advice on any measures taken as robust as possible, and in particular praised the expertise of UK Government CMO Prof Whitty.

42. I informed the meeting that it had just been announced in Belgium that schools and other facilities were to be closed for at least 2 weeks.

43. CMO Calderwood explained that in all likelihood if there were to be school closures that they would need to be for a much longer period than 2 weeks – she suggested it would require to be a period of months for it to be effective.

44. Despite the discussion and the focus of concerns there were aspects of Mr Hancock and Mr Jack's behaviour that suggested they had not fully adopted the

need for changes in their own behaviour. For example, as the meeting closed Mr Hancock attempted to shake everyone's hand. When I recoiled, he said 'oh, yes' and attempted to bump elbows.

45. I briefed then Special Adviser Chief of Staff Ms Liz Lloyd that night on the meeting and its outcomes. Ms Lloyd subsequently briefed her opposite number in Wales on the conversation and Mr Hancock's push for isolation to be a tool to be used in face of the reticence of his cabinet colleagues.

Initial Strategy and Decision-making

46. In terms of initial strategy this was largely in common with the rest of the UK. The pre-planned pandemic response was presented to ministers as utilising the 'four phase' approach to help 'flatten the curve' of impact on the health service. The four phases being containment, delay, research, and mitigate. Non-pharmaceutical intervention (NPI) options were presented to ministers with assessed likelihoods on the level by which they would contain the spread of the virus and reduce the consequent number of deaths.

47. These were part of material from SAGE that DCMO shared with First Minister, and CMO containing various assessments on the potential for volume of infections and loss of life in parliament one afternoon. I cannot recall the precise date, unfortunately.

48. The scale of the potential loss of life if there were no NPIs put in place was unlike any briefing that I have ever seen presented to ministers. It was disturbing that even after this there were UK cabinet members on COBRA calls who still resisted some actions being taken in March.

49. Following that discussion I informed my colleague Mr Colin McAllister, then Special Adviser Head of Policy and lead on Education, of the briefing and my own assessment of the material that school closures were inevitable – and as per the view of the CMO, that unlike the announcements elsewhere in Europe so far that this would not be for a little as a fortnight.

50. It was never my understanding that it was the policy of the Scottish Government to seek 'herd immunity' through infection as a solution to the pandemic. The aim of Scottish Government action was in the early stages of the pandemic was to reduce the peak impact of the virus on the NHS – the notion of 'flattening the curve' to ensure the NHS was not overwhelmed. This was to be coupled with additional action to protect the most vulnerable from the virus in order to protect life.

51. Then DCMO Prof Sir Gregor Smith was an observer to the discussions of SAGE and would provide ministers and the CMO a readout of discussions that included reference to population and the herd immunity threshold on 26 February 2020. As an observer Prof Smith could not participate directly in the meetings. This lack of direct participation for the clinical advisers of the Scottish Government was made more worrying when in late April 2020 it was reported that a UK Government Special Adviser was not only attending SAGE but also participating in its deliberations. As a Special Adviser I could not see why was the approach that was being taken by the UK Government.

52. The First Minister was keen to interrogate the advice that was originating at SAGE as it was not clear what NPIs, or combination of NPIs, would be necessary to keep the virus below levels that would flatten the curve to the extent the capacity of the NHS would not be breached. As often the presentation of flattening the curve had been done as an illustration of the strategy and was initially not presented as a matter with X and Y axis values. The feedback at that time was that Prof Whitty in particular, in common with the view of SAGE, had set out that there were two risks in how the curve was flattened. The first was compliance fatigue, that the public would fatigue from following whatever NPI restrictions were in place, with compliance starting high and decaying over time. This was a rationale for not going 'too quickly' in introducing restrictions. The second was that depending on how much the curve was flattened, this would mean the period the restrictions were necessary would extend, as whenever the restrictions were lifted this would lead to a spike in infections and necessitate further action.

53. As we moved into March 2020 the First Minister was becoming increasingly frustrated about the lack of direct access to SAGE to interrogate aspects of their

recommendations. We were tracking the decisions of other European countries and a number had made either significant restrictions or started toward full lockdowns.

54. On 11 March 2020 the WHO escalated its classification on the virus to a pandemic. This was the same day we reported the first identified case of community transmission in Scotland. Two days later we had the first confirmed death in Scotland linked to COVID-19, a tourist visiting Scotland.

55. I believe it was on the 13 March 2020 the First Minister had a call with the CMO, and the DCMO Smith – with me and Ms Lloyd on the line. DCMO had shared papers that had been considered by SAGE which included one dated from the previous week from Imperial College London on the impact of non-pharmaceutical interventions (NPIs) to reduce COVID-19 mortality and healthcare demand (later published dated 16 March) [DH/004 - INQ000222067]. That paper set out that there were two fundamental strategies that were open to governments in response to the pandemic – suppression or mitigation. Importantly the paper observed that "Given that mitigation is unlikely to be a viable option without overwhelming healthcare systems, suppression is likely necessary in countries able to implement the intensive controls required." The First Minister was very unhappy that this paper had not reached her at the time it went to SAGE. She was clear on the call that had we had this knowledge earlier, we would have pushed for a move to a suppression approach given it was clear that the mitigation approach would not achieve the goal of preventing the NHS being overwhelmed.

56. On the call the First Minister set out that if she couldn't have an opportunity to interrogate SAGE directly, or even simply have DCMO as an active participant rather than observer on an often bad line, then she would want to have a Scottish advisory structure in place to give her direct advice. Due to the delay in some papers reaching the Scottish Government there was a fear that that material going to SAGE was being filtered by the UK Government before reaching us. It was also clear that the initial fairly firm consensus in clinical opinion outwith Government was no longer in place and there were increasingly a range of views on potential responses. The First Minister commissioned that work be carried out swiftly to put

such a structure in place and repeated her call for SAGE papers to share with her swiftly. The First Minister voiced her frustration that it was clear other countries in Europe were moving more quickly but we were beholden to the pace of the UK Government.

57. On 25 March 2020 she announced the creation of the Scottish Government COVID-19 Advisory Group – to be chaired by Prof Andrew Morris of Edinburgh University, who was Director of Health Research UK, and a member of SAGE.

58. On 17 March 2020 Ms Freeman announced to the parliament that we were putting the NHS on an emergency footing under the provisions of the National Health Service (Scotland) Act 1978. In that statement she set out the further urgent steps to be taken to ensure the NHS had the capacity necessary to meet the pressure it was about to face. As the Special Adviser working most closely with Ms Freeman we discussed the appropriate steps to take with officials and clinical advisers at length to inform those decisions.

59. On 18 March 2020 the First Minister set out that we anticipated schools and nurseries would close from the end of the week. With the volumes of pupils and teachers being infected it was clear that we would either face ad hoc closure, as had been announced in Shetland on 13 March, or could support a structured closure and ensure that vulnerable children continued to get free school meals and that steps could be taken to determine the shape and nature of the upcoming exam diet. The Prime Minister followed suit that day for schools in England.

60. The barrier to taking a different approach in Scotland was that many of the supporting measures, and legal powers necessary, were at the gift of the UK Government. For example, without full fiscal powers as a government there was no option to instigate a furlough scheme prior to the UK Government agreeing to its establishment. Even had the First Minister and ministers wanted to go further sooner, we had no ability to do so at our own hand. Consequently, we were in the frustrating position of having to ask the public in mid-March not to visit pubs, cafes and restaurants, but without the ability to support the businesses affected at that stage. This emerged as an issue later in the pandemic where devolved

administrations wished to take steps to restrict the spread of the virus but the UK Government would not give guarantees on furlough.

61. Some in the UK Government cabinet who were resistant to taking steps quickly in the pandemic were also those who pushed for the ending of restrictions quickly. This culminated in the 'Eat Out to Help Out' scheme. We were perplexed as to why when caution was required to open up different sections of society slowly that the UK Government were directing huge investment to encourage more people into shared spaces. This appeared to run counter to every understanding we had on how the virus spread at that point.

Role in relation to non-pharmaceutical interventions ("NPIs").

62. The rationale for adopting NPIs was to reduce the spread of the virus to protect life and prevent the NHS from being overwhelmed.

63. I believe that the pace that we moved to full lockdown would have been swifter had the First Minister been provided with all papers that went to SAGE earlier in the pandemic, and if the Scottish Government had full fiscal powers to support matters like business support and furlough.

64. From COBRA calls in March 2020 it was clear that there was a different mindset among many UK cabinet members than was the case with either the devolved administrations or the clinical advisers. For example, when the decision to move to close schools was being there was a point made by a UK Cabinet member which gave those in the St Andrew's House SGORR room in Scotland cause for concern. The Cabinet minister questioned if schools were closed would parents have to stay at home with them and was there a minimum legal age where a child couldn't be left on their own at home – as otherwise school closures would have an economic impact.

65. At another COBRA meeting when the initial lockdown was being discussed one UK Cabinet minister asked if, with a lockdown being in place, whether there was an opportunity for the construction industry to 'crack on' and carry out projects when streets would be quieter.

66. My role in relation to the NPIs being considered was in the space of advising on how these should be communicated to the public. In addition, for the purposes on supporting the briefing of the First Minister at FMQs and at the routine press briefings, I monitored the actions being taken outwith the UK, particularly elsewhere in Europe. For example, Czechia mandated the wearing of face coverings in public spaces on 23 March 2020, and was one of the very few countries to do so at that time and was almost unique in Europe. (In late May Czechia subsequently dropped its mask mandate, at this time impact of COVID-19 in the country had been relatively lower than its neighbours. In mid-October Czechia reintroduced its mask mandate as cases has increasing substantially following the re-opening of parts of its economy).

67. When we asked whether masks of the type being put in place in Czechia should be considered we were informed that the clinical advice in the UK at that time was that face masks were not sufficiently beneficial in comparison with other NPIs. A further concern was that in the early stages of the pandemic that if a mask mandate was enacted that this might put pressure on NHS and care access to medical grade face masks. This clinical opinion shifted over time as further information on the virus became available and asymptomatic transmission was recognised as being a more significant threat than initially assessed by SAGE. By the end of April, they agreed that, based on improved understanding of the virus, requiring face coverings in enclosed spaces may be beneficial – but a stress on face covering rather than medical grade face masks.

68. The First Minister and the Ms Freeman took an interrogative approach when considering NPIs, and on the consequent different harms that may arise as a result. These discussions often shaped the daily morning briefings that we held with the First Minister, Ms Freeman and one of the senior clinical staff – the CMO, a DCMO, or the NCD – me and Ms Lloyd or Mr McAllister, and senior civil service officials. The First Minister would want as much material as was possible that had informed the recommendations from officials. The National Clinical Director Prof Jason Leitch CBE observed more than once that when engaging with his counterparts elsewhere in the UK he would explain that he had to dig further into

the detail as he'd be briefing the First Minister, and she would routinely request NERVTAG papers.

69. The First Minister, Deputy First Minister, Ms Freeman, and their colleagues, were acutely aware of the gravity of some decisions and wrestled with the consequences of action or inaction. They were keenly aware of the potential issues of some restrictions on the most vulnerable in society. Ms Freeman's experience as Social Security Minister helped inform much of her deliberations.

Divergence from UK Government Approach

70. The points of practical divergence with the proposals from the UK Government did not fully publicly emerge until mid-March 2020. With wider UK Cabinet participation in COBRA from early March it was clear that there was significant resistance to interventions that may have an economic impact. By this stage, other than the UK clinical and scientific advisers, the exceptions to this were Mr Hancock and Mr Dominic Cummings. On several March COBRA calls the impression was that they were the only two on the UK Government side that appreciated the scale of the challenge and that actions that had been taken in Asian nations and in Italy would likely need to be replicated in some form here.

71. On the COBRA calls and in other engagements it became apparent that ourselves, the Welsh Government and the Northern Irish Government held a common position on a precautionary approach, but that the UK Government did not share this readily. When they were engaged, the office of the Mayor of London also held common position with the devolved administrations.

72. The position of UK ministers, with a few notable exceptions, was that cooperation between the four nations would be the UK Government setting the policy and the other three nations agreeing. The only departure from this was for the period that the then Prime Minister, Mr Boris Johnson, was hospitalised following infection with COVID-19. During this period the UK Government's tone shifted in COBRA calls as the then Deputy Prime Minister, Mr Dominic Raab, the then Chancellor,

Mr Rishi Sunak, and then Cabinet Office Secretary, Mr Michael Gove, led the UK Government's response as a triumvirate.

73. Later in the pandemic Mr Gove chaired several four nation calls and in tone would attempt to be conciliatory, but this did not necessarily translate to finding common positions. Mr Gove was often critical in his questioning of Mr Hancock on COBRA calls.

74. There was a standing bleak observation that prior to a COBRA meeting we would find out the actions the UK Government was about to present on any issue by checking the front page of the Daily Telegraph or Daily Mail on social media. Part of our task in preparing briefing was to decipher which bit of the UK Government had given what off-the-record briefing to try and float their preferred policy.

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

75. My main role in relation to modelling and data was in terms of its presentation for ministers in briefings.

76. My only other activity in this area was to participate in the pre-press briefing discussions with the First Minister, clinical advisers and officials to weigh up the varying views that were being presented.

Role in COVID-19 public health communications

77. My role in relation to public health communication was, like other Special Advisers, to support ministers in their messages to the public. For my part this was primarily in working with civil servants on drawing together briefing materials for the First Minister and others depending on the issues that were likely to be raised on any given day.

78. I believe that public confidence in Scotland was maintained in the pandemic response of the Scottish Government as when breaches were found by people associated with the Scottish Government, there was clear action and penalty for

those who had breached the rules, as well as the clear contrition from those involved. This was converse to the later experience of the UK Government when Mr Cummings was found to have travelled the length of England despite having the symptoms of COVID-19, and despite this having no action taken or contrition shown.

Role in public health and coronavirus legislation and regulations

79. Special Advisers are not decision-makers; our role is to provide political and policy advice to ministers and the wider civil service. My role centred on the response from the health and care sector, with colleagues supporting efforts in relation to legislation steps being taken.

Key challenges and lessons learned

80. The key challenge in relation to the management of the pandemic was the inability of the Scottish Government to act under its own steam due to the construction of the devolution settlement. In many important aspects in relation to matters requiring fiscal levers we were left beholden to the approach and pace of the UK Government. Too often devolved administrations were left in the position of wanting to act but being unable to do so due to UK Government inaction. The attitude, particularly, in the first half of March was too often that UK ministers felt the public would not accept action if they were not seeing the impact of the pandemic before them. This was counter to what should have been a swift precautionary approach. And by mid-March it was clear that the public did appreciate the seriousness of what was being faced, with coverage of the outbreaks in Italy and their impact on hospitals were plain to see.

81. One challenge that repeated during the pandemic was that every action of the Scottish Government was considered by most of the media through a political, rather than public health, frame. For example, when the Welsh Government took action to prevent people moving from higher infection areas to lower infection areas there were police on the Wales-England border preventing people from crossing. The coverage of this was entirely through a public health and public order

frame. However, when similar action was taken in Scotland in relation to higher and lower infection areas there was a huge amount of political comment and coverage that somehow, for a supposed rationale I still do not understand, this was a choice that was about the cause of independence for Scotland rather than for stop the spread of the virus. Similarly when school closures were announced on 18 March it was done first in Wales, and in Scotland later in the day, and finally followed by the Prime Minister for England. Some anonymous briefing from UK Government sources at the time suggested that this was an example of Nicola Sturgeon trying to 'bounce' Boris Johnson into certain decisions. However, there was no suggestion that Mr Mark Drakeford was trying to 'bounce' the UK Government.

82. Later in the pandemic Sir Jeremy Farrar gave a briefing to Scottish ministers that the key was swift decisive action, because if you've reached the point that the pain is widespread and visible then it's already too late. This was the opposite of the approach of the UK Government. Even later in the pandemic, in the run up to Christmas 2020 and 2021 for example, the pace of reaction in the face of rapidly growing cases from the UK Government was slower than what was desired from the devolved administrations.

Informal communications and documents

83. Retention of messages policy is set out by the Scottish Government. Any matters related to decisions are recorded distinctly in the official record.

84. During the heights of the pandemic messaging or use of Zoom or MS Teams increased in use in place of office conversation due to the necessity for remote working. Informal conversation was not routinely recorded or retained.

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: 25 October 2023