

Witness Name: Fiona Hyslop

Statement No.: 1

Exhibits: FH

Dated: 24 October 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF FIONA HYSLOP

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

1. I am Fiona Hyslop, of the Scottish Government, St Andrew's House, Edinburgh. I am currently Minister for Transport in the Scottish Government. I have been in this post since 14 June 2023.
2. I have prepared this statement myself by reference to records and material provided to me by the Scottish Government. I have also received assistance from the Scottish Government Covid Inquiry Information Governance Division.
3. Unless stated otherwise, the facts stated in this witness statement are within my own knowledge and are true. Where they are not within my own knowledge, they are derived from sources to which I refer and are true to the best of my knowledge and belief.

Background, qualifications and role during the Covid-19 pandemic

4. I have been a Member of the Scottish Parliament continuously from 1999. My positions in the Scottish Government have been as follows:
 - Cabinet Secretary for Economy, Fair Work and Culture 17 February 2020 – 19 May 2021
 - Cabinet Secretary for Culture, Tourism and External Affairs – 18 May 2016 - 17 February 2020
 - Cabinet Secretary for Culture, Europe and External Affairs – 21 November 2014 - 18

May 2016

- Cabinet Secretary for Culture and External Affairs – 25 May 2011 - 21 November 2014
- Minister for Culture and External Affairs - 01 December 2009 - 25 May 2011
- Cabinet Secretary for Education and Lifelong Learning - 17 May 2007 - 01 December 2009

5. I held the position of Cabinet Secretary for Culture, Tourism and External Affairs – 18 May 2016 - 17 February 2020 during which period I held a collective decision-making role as a Member of the Scottish Government Cabinet. My portfolio included leadership in building positive relations with other European countries and institutions and promoting Scotland as a place to live, work, study and visit and invest in. I promoted and developed policy for Tourism and Scotland as a place to hold major events and I supported, nurtured and promoted the conditions for a vibrant cultural scene for artists and audiences.
6. I held the position of Cabinet Secretary for Economy, Fair Work and Culture – 17th February 2020 – 19th May 2021 during which period I also held a collective decision-making role as a member of the Scottish Government Cabinet. My portfolio role was to support relations with business and trades unions to help create and support the conditions for sustainable economic growth and the development of a well-being economy, as well as continuing my previous role in supporting Culture.
7. I was appointed as Cabinet Secretary for the Economy, Fair Work and Culture following a Cabinet Secretary resignation and was rapidly focussed on the Scottish Governments role in responding to the pandemic and what it meant in particular for businesses, the economy and the workforce. I worked closely with Kate Forbes MSP the Cabinet Secretary for Finance who also had been appointed on 7 February 2020 and had taken up the other part of the roles of the Cabinet Secretary who had resigned at that time. I also worked closely with Fergus Ewing MSP the Cabinet Secretary for Rural Affairs who also took on the Tourism brief on 17 February 2020
8. I left Government on 19 May 2021 following the Scottish Parliament elections and was a backbench MSP from 19 May 2021 - June 2023.

9. I attended Cabinet regularly providing advice initially on what we knew generally about other Governments globally and their high level Government responses as External Affairs Secretary from January 2020 until 17 February 2021. This included how China itself was responding and their Government response to other countries and international institutions and how the European Union members were individually and collectively organising themselves all at a very general level. These were informed by Foreign and Commonwealth Office ("FCO") briefings at the time and from in country Scottish Government staff.
10. I then advised and made recommendations to Cabinet on Economic impact and aspects of our response to Covid and plans for re-starting after the initial lockdown and for economic recovery until 19 May 2021.
11. I attended Scottish Government Resilience Room (SGoRR) meetings on occasion from January 2020 to 17 February 2020, and then more regularly as Cabinet Secretary Economy, on:
- Mon 17/02/2020 16:30
Mon 02/03/2020 15:25
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Thu 09/04/2020 17:30
Fri 17/04/2020 14:30
Fri 24/04/2020 15:00
Thu 07/05/2020 16:00
Fri 05/06/2020 15:45
Wed 19/08/2020 10:15
Mon 21/12/2020 16:15
Wed 23/12/2020 17:00
Sat 02/01/2021 14:30
Sat 02/01/2021 15:00

12. I convened meetings eventually three times a week at the height of the lockdown period with a) the main business organisations in Scotland and b) trades unions in Scotland . Officials then took on regular convening and latterly I convened weekly meetings of these 2 groups.
13. Early issues in Cabinet were to confirm the critical national priority industries sector previously identified as such in emergency planning would not be subject to lockdown e.g. the Energy sector.
14. Early actions initiated and reported to Cabinet were to ensure any public funding and commitments to private and other contractors were paid to ensure cash-flow in businesses and the economy. Similarly encouraging maintenance of cash flow in the private sector. I liaised with banks about how the initial UK Covid loans system was working. This included concerns relayed to us that the threshold of company financial size would be too big to allow much of the Scottish SME base to benefit. This was subsequently widened by the UK Government following our and other representation on this issue.
15. There soon was established a regular Friday morning meeting chaired by the First Minister to address the economic and business needs and impact of the pandemic. At these meetings would agree approached to use of Covid economy/finance funding in forms of targeted loans or business rate relief. These started on 20 March 2020.
16. I initiated in March/early April 2020 following lock-down, the subsequent commissioning by the First Minister of an Economic Recovery Taskforce to report on how we might best respond and recover from the initial first few months of the pandemic with lockdown bearing in mind we had no firm insight as to how long it might last. Towards a Robust, Resilient Wellbeing Economy for Scotland: Report of the Advisory Group on Economic Recovery" was published on 22 June 2020 [FH/001 - INQ000131080].
17. I attended and took part in regular meetings with UK Business Ministers – initially chaired by Nadhim Zahawi and then Paul Scully with other devolved administrations. These were known as 'DA Quad Calls'.
18. Separately and additionally to the 'DA Quad Calls', for a period starting from 7 April 2020 I attended UK Secretary of State meetings with the Chancellor of the Exchequer then Rishi Sunak and relevant UK Secretaries of State with other devolved administrations Economy Ministers called 'The Economic and Business response Implementation Group'. This was

usually an exchange of what the situation was facing key economic sectors and the workforce and what action UK may have to take in that area. It was an opportunity for me at an early stage to impress on the UK Government that some form of 'short time working' business subsidy as a number of other European countries already had as a standard economic intervention to make up for loss of income but to maintain wages for workforce would be required. It did not seem to me that this was a decision making forum but more of a forum for the Chancellor and Treasury to discuss how best to implement decisions made already by the UK Government or for Secretaries of State and devolved administrations to try and influence decisions which could or would be taken by the UK Cabinet or other UK Government decision making fora.

19. This advice from SG started in March 2020 to Nadhim Zahawi as then Business Minister from me on behalf of the Scottish Government and alongside trades unions and many other bodies influencing for this kind of support the UK 'furlough' scheme was developed.
20. There was little joint decision making at the Scottish Government and UK Government forums but there was useful insight and exchanges made about key pressures and needs economically and the opportunity to impress on the UK the need to take a particular form of action and intervention and support. We would identify where there may be funding consequential to Scotland from Covid funding in the economic area and how we might all be best using them to meet our national economies and particular needs and focus of our respective countries. I do recall advising UK Secretary of State Alok Sharma on the need for multi-sector employer/trades unions work on route maps to safe re-opening to give both staff and customers confidence to return to work.
21. Contact with Wales and Northern Ireland was usually through UK wide calls chaired by UK Government which I would attend and participate in with usually pre-prepared agendas on topics of common interest where we could share insights and challenges and potential solutions for economic response and recovery e.g. steel making and supply, aviation industry, tourism and hospitality. Later on there were a few bi-lateral meetings of mutual interest perhaps in pursuing additional UK funding and preparing the case to make to the UK Government.
22. Other Cabinet colleagues took the lead role in liaising with local authorities re decision making with them around school closures and on the various levels of Covid restrictions.

23. My officials worked directly and very closely with local authorities on identifying the various economic funding packages routed through them when, for example, business rates systems were the vehicle to identify and verify applications and distribution of funding. This involved basic grant provision, rates relief and subsequently more targeted sectoral support and funding. The Finance Secretary would have had more direct role with Council leaders and the Convention of Scottish Local Authorities (“COSLA”) on financing issues.
24. I did have meetings collectively with local authorities and latterly individual local authorities to hear and be informed by them and asked for particular sectors important to them e.g. City Centre support.

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

Initial understanding and readiness

25. Cabinet had been kept informed of developments and the Chief Medical Officer (“CMO”) started attending regularly to brief us on developments and what the expert analysis was at that time emerging from the Scientific Group for Emergencies (“SAGE”). The growing seriousness and implications were made fully clear to Cabinet and the need to initiate pandemic planning implementation.
26. I asked my officials for the economic planning recommendations from pandemic planning but was told that as assumptions were for the economy and businesses to keep functioning through a pandemic albeit at a reduced rate, there was not extensive planning for a full lockdown. Emergency planning for major incidents and the key sectors and priorities to run functioning society were used and this covered for example the need for energy companies and key critical national priority industries to keep functioning to support emergency response measures to be effective.
27. Major issues for the economy were supply chain and key sector resilience spaces and the extensive planning for a No Deal Brexit was used to inform likely needs, risks and challenges in key sectors and parts of the country.
28. A key Cabinet meeting was held on 17th March 2020 when we discussed the key issue of needing to close schools. For my portfolio responsibility this would have a major impact on businesses as many parents would have to stay off work to care for children.

29. As the world watched the spread and impact of Covid from China onwards I asked my External Affairs officials in the period January 2020 - Feb 17th 2020 when I held the External Affairs role to provide some kind of briefing available to Cabinet as to how different Governments were responding generally to Covid at a very high level. This would have been informed by intel in country from our own Scottish Government officials internationally in addition to the information drawn from the extensive FCO footprint and read outs. This was not in-depth medical intelligence as this was provided through the public health channels from the UK.
30. The Scottish Government appreciated the seriousness of the threat and did start making preparations. In the early stages (before the decision for lockdown preparations) this followed the health advice at the time from the UK Government that at any one time 20% of the population would be ill and unable to work. Yes responses could have been better and different as we look back understanding what we know now that a full lockdown would be needed. There was an initial anticipation that only 20% of people infected at any one time would not be at work rather than in some cases 100% of workers not at work in some sectors as happened in lockdown. The UK Government appeared to be taking the threat seriously but to be more reluctant to move swiftly to full lockdown than the Scottish Government when the severity of the impact of transmission was being understood.
31. A key decision was to close schools, and this was announced on 18 March 2020. Previous Cabinet discussion included the impact this would have on the economy with parents needing to look after their children and the timing of the earlier and imminent Easter school holidays in Scotland, but the Cabinet collectively accepted the clear and unequivocal advice of the CMO that this immediate closure of schools would be needed.
32. I was unaware of the NIKE Conference which took place in Edinburgh on 26/27 February 2020 until it was reported to Cabinet to be of interest in relation to the Covid situation. I cannot recall discussions about the Six Nations rugby match at Murrayfield on 8 March 2020 and this was not in my direct area of responsibility.

Initial strategy and decision making

33. The scientific advice Cabinet were given I understood to be sourced from SAGE and the UK Government. I don't recall hearing the term 'herd immunity' actually being used until after this period and then in analysis in the media about UK Government approach. We

knew Covid would reach the UK including Scotland but what we were being told is that at any one time only 20% of the workforce would be affected, ill and off work and that would spread and eventually provide population wide protection which is understood as 'herd immunity'. It also seemed that there was a 3 week difference from the high level of initial infections in London and what was expected when we expected to start seeing infections in Scotland.

34. The CMO was clear about the gravity and seriousness of what was coming and so too was the First Minister and the need for a lockdown once it was proposed. I relayed what the likely response from business would be but at that time there was a growing understanding that Covid was deadly to too many people and a reluctant understanding this was necessary by that community. The only issue was timing where there was a difference of opinion with the UK Government with the Prime Minister. The issue in Scotland was on timing and the initial school closures and whether these could and should be delayed to the start early that year of the Easter holidays, but the CMO was clear that would be far too late an intervention and all Cabinet Secretaries accepted her advice re timing.
35. Health colleagues at Ministerial and senior official level led on all aspects of community testing and moving from 'contain' to 'delay' and I accepted their professional expertise and advice in this area.
36. I did raise some concern in March 2020 following alerts to me by banks (before some of the main financial support mechanisms were put in place by both Governments) about the financial position of a few private care homes contacting them for support and I encouraged the banks and they were willing to provide whatever financial support they could to help these companies.
37. There was a clear willingness and understanding by the UK Government of the need in the economic space to understand the particular nature of the economy in each country and the specific sectoral needs. Scotland does not have car manufacturing, but we do have a greater reliance on Tourism for example. Steelmaking was important to Wales and Aviation manufacturing to Northern Ireland. Once regular Quad meetings of the UK Government and the devolved administrations, which I attended, were established there was good exchange of data and insight.

38. Furlough was a key economic intervention and the prospect of it ending too early resulting in mass unemployment was a key concern. Eventually it was kept as a key economic and business support mechanism but not without causing businesses a great deal of worry and concern for their employees.
39. Support for the Tourism, travel and aviation sectors because of the need for lead time for recovery and the international nature of the business and the phased re-opening geographically was an area which needed constant attention. The constantly changing position facing this sector made it difficult to strategise, plan or co-ordinate effectively.
40. Lack of notice by the UK on new funding sources resulting in immediate demand for use for these resources in Scotland was a weakness in co-ordination. It was known by businesses and other interested parties that a share of these funds would automatically come to the Scottish Government through an established formula known as the Barnett formula and they expected instant decision on use of this. Although UK Government too was trying to make rapid decisions to disburse economic recovery funds, the lack of notice put immediate pressure on the Scottish Government to either replicate the UK Government use of these funds or provide immediate alternative uses. This area was dealt with mostly by my colleague Kate Forbes MSP the Finance Secretary although demands for onward disbursement would come to me from industry.

Role in relation to non-pharmaceutical interventions (“NPIs”)

41. The public health knowledge and insight informed at international level also as to how other countries were responding made it clear that a lockdown was inevitable. The impact of Covid in terms of severity and mortality made it obvious that halting and stopping spread of Covid by limiting and interrupting its spread was essential. It was also made clear to Cabinet that not stopping the spread by halting it by lockdown would lead to our NHS being overwhelmed and unable to cope. “Stay Home, Save Lives, Protect the NHS” was the early slogan, instituted at the start of the first lockdown on 23 March 2020, which explained what lockdown would be about.
42. It was a case of deciding when and how lockdown would come about and in my area of responsibility what sectors would have to keep operating as priority e.g. in the economic space energy supply and critical national infrastructure.

43. The Scottish Government decision was timely and once made was effected as soon as practicable. In hindsight it could have been earlier but there were on-going discussions with the UK Government re co-ordinating lockdowns which I was not part of it so I don't know if we could reasonably have been earlier but I suspect we could have been and if we could have been we should have been in order to interrupt and attempt to halt spread earlier.
44. On the January 2021 lockdown, having gone through one lockdown and carefully prepared and planned safe return to the workplace for the workforce, economic sectors were very concerned about a return to lockdown. The stop-start nature of this second lock-down had been what many recovering sectors e.g. hospitality had been dreading.
45. However the extensive planning and liaising with the particular sectors meant that a differentiated planned system for re-opening was at least put in place to allow sectors e.g. retail to work towards. The economic detriment which unemployment due to failing businesses was built into planning and strategy for the January 2021 lockdown – the emphasis may not have been what some businesses or sectors would have wanted but there was an appreciation that a balance had been attempted to be struck.
46. My role was as a collective decision maker within Cabinet when we sought agreement on the issues of lockdown, regional restrictions, working from home, social distancing , self-isolation, school closures, face-coverings use and border controls. I would present the case for actions which provided economic protection and recovery. In particular as the Economy Secretary the practicalities of home-working and social distancing were important to a number of business sectors and I had to work hard with business organisations, companies and trades unions to work through how practically they could work in each setting. I made decisions to approve or not the various return to work safely plans being produced by each sector and seeking wider approval of these with the First Minister and Deputy First Minister.
47. The sector by sector recovery and safe return to working Plans we put in place signed off by sector working groups supported by public health endorsement consisting of employers and trades union helped build confidence for both workforce returning and customers in key sectors. This meant for example that the economically important Construction sector was able to fully open non-essential aspects of construction earlier than might otherwise have been anticipated.

48. As the pandemic developed the Scottish Government started to have a more holistic view of the various impacts of the pandemic – right at the start the primacy of the health impact driving everything was evident. As impact and analysis developed a more rounded view measuring or at least trying to factor in the impact of poverty, education and the economy developed. My role was to make judgement and then present what was the most important in protecting the economic interest and persuade colleagues of that. It was very hard to advance an economic case when the other pressing health, inequalities and educational needs in making decisions about unwinding restrictions were being made. However it was possible to do that in some form of balance with other areas using the tools of impact and analysis known as the 'four harms' framework developed within the Scottish Government for that purpose.
49. It became clear that existing inequalities in society meant that Covid had a greater impact on deaths and infection in most financially deprived areas and in black and ethnic minority groups. That did lead to more extensive poverty related support, relief and funding and protection of groups more vulnerable to Covid. I had little personal role in this but in my Economy Secretary role reflecting that Inverclyde Council district had the highest infection rates and was known to be an area of high financial deprivation, I was very mindful of this and made it clear that the shipyard the Government owned in Inverclyde made sure its workforce was protected as much as possible with closure and distancing measures.
50. Of course things could have been better and improved but when you are working in the intense pressures of a continuing emergency you get on with what was in front of you and what you are provided with in terms of information and advice which was extensive, regular and up to date. There was a strong emphasis put on shared and singular information sharing so everyone had the same information and basis to understand where we were and what was needed.
51. Economic data was available nationally for Scotland and with the UK to help inform understanding of the economic impact and also to inform decisions about phasing, social distancing in the workplace etc.
52. There was good co-ordination between teams and latterly public health working with key economic sectors on re-opening and recovery became an important area of co-ordination.

53. On strategy and planning as I had to lead on the economic response I knew we had to future think and plan for recovery and sometimes there was so much focus on the immediate health emergency it was difficult to get traction, interest or attention on longer term recovery focus but that did not stop us preparing for that in the Economy portfolio so it was ready to implement.

Divergence

54. I can't recall when a divergent approach between the UK Government and the Scottish Government began although from the start there appeared a different value system, judgement and approach although every effort was made when at all possible to have a 4 nation response to promote public confidence. It made sense to have some divergence as devolution means we have developed our own distinct governance and policies in key areas like health and education. There were practical differences also - for example our school term time dates are different, Scotland had more of a focus on tourism as a sector, and we had a bigger reliance on our Small and medium sized enterprise sector. I agreed with Cabinet that when the Scottish Government needed to diverge we should, but in my observation of colleagues there was far more efforts and support to secure 4 Nation approaches than is perhaps understood in my view and I heard that reported at Cabinet for example by the Transport Secretary on international travel.

55. Divergence was needed as in other devolved or different tiers of government internationally a localised tailored response by a trusted tier of government close to the people was most effective. The German experience of the Lander having divergent approaches when needed and appropriate to their powers is an example of this. As devolution means that we have developed distinct and nationally responsive institutions, policies and experience then using that strength and understanding to effect major change in pressured and emergency situations made sense. The pandemic required rapid and attuned decision making and devolved governments were capable of doing that in a responsive and importantly rapid way.

56. It is very hard in hindsight, and after so much time, to identify what worked well but an obvious area is in tailoring school closures and adaptation of continuous assessment to both Scotland's different term timetable, curriculum and exam/assessment system – I was not actively involved in this, but it is the most obvious one.

57. In the Economic area being able to use Covid business grant funding to reflect Scotland's needs in for example Tourism and self-employed and cultural freelancer areas are good examples where divergence allowed a more tailored approach.

58. Aviation and travel internationally (to and from other countries) I think was the most problematic and although every effort for a 4 Nations approach was tried, latterly it became more disjointed which affected the tourism economic sector as the length of time or arrangements for quarantine were different affecting expectations for times for holiday bookings or where international athletes travelling to compete were subject to different rules.

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

59. I was not involved in preparation of medical and scientific data or modelling but used that data as a decision maker in Cabinet.

60. The geographic insight by local authorities of covid infection proved an important source of data for decision making on tiered re-opening and lifting of restrictions. Although initially it wasn't expected that whole sectors of business would be locked down, an economic data system for pandemic preparation may have proved useful to have to hand rather than needing to be developed.

61. There was early reliance solely on SAGE and I understand but was not involved in the evolution of specific advice systems for the First Minister from the Scottish Covid 19 Advisory Group but did attend some briefings from them.

Role in Covid-19 public health communications

62. I was not involved directly in public health communications apart from amplifying messages to key business, trades union and economic organisations and sectors to re-enforce communications. The collective reliance on each other and our individual behaviours regardless of position or status was critical in suppressing infection levels and therefore breaches of the rules by people in authority undermined this and appeared in the reaction by the public to make public messaging more difficult.

Role in public health and coronavirus legislation and regulations

63. I was involved in collective decision making as a Cabinet member and as a parliamentarian in voting in regulation making. I did not initiate regulations or draft them but did check regulations for the Economy interest. The relative proportionality and enforcement contained in regulations which were drafted and produced were reflective of the need or perceived need at the time in terms of content and legal sanction.

Key challenges and lessons learned

64. I had left Government before any period of review. During my period in Government I answered questions in Parliament sessions and to the Economy and Fair Work Committee at the time and in statements to Parliament all which will be on the record in the Scottish Parliament Official report. Detail is also provided through the committee timeline [FH/002 – INQ000222063]. I don't recall any evidence given to the UK Parliament.

65. The key challenges in managing the pandemic were that all preparations seemed to be for a flu like virus where only 20% were ill and the economy did not need to shut down completely (or at least the non-essential parts). This was unforeseen and not planned for. Lack of community testing affected business operations and earlier mass testing and tracing was needed. Knowledge of symptomless spread earlier would have affected decision making and response. If it proves to be the case that larger care homes proved to be less infection resilient to Covid-19 than smaller care homes then this will need to be a lesson learned and in a mixed market business perspective that will have implications for both the private sector as well as the public sector.

Informal communications and Documents

66. I only started using WhatsApp in the workplace on becoming Economy Secretary in February 2020 at the suggestion of my new Private Secretary and then only for arrangements for practical, functional things with him on things like timing of meetings changes, or delivery of items or papers to my house, especially with lockdown. I have not retained these messages as they were for logistics only and did not have corporate value. My Government mobile was dated and needed replaced in early 2021 and I left Government not long after that.

67. Informal messaging was not used for discussion or decision making. Similarly texts were for making arrangements for meetings or calls which were then themselves recorded. There was no culture of regular, informal discussion or decision making between Ministers on informal messaging platforms that I was aware of or involved in.

68. I was not a member of any WhatsApp groups with other Ministers or advisors, and I didn't use collective group chats as part of Ministerial business.

69. I didn't send messages on WhatsApp groups to Ministers or advisors and wasn't on any WhatsApp Groups with them. I did not keep or record any texts with Ministers. If these platforms were used at all, this was rare and would be minimal and functional and not to make decisions.

70. I did not keep any diary or personal notes over this period.

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: 24 October 2023