

Witness Name: Neil Rennick
Statement No.: 1
Exhibits: NR
Dated: 6 November 2023

**UK COVID-19 INQUIRY
MODULE 2A**

WITNESS STATEMENT OF THE DIRECTOR GENERAL EDUCATION AND JUSTICE

Further to the issues raised by the Rule 9 notice dated 10 March 2023 served on the Scottish Government, in connection with Module 2A, the Director-General Education and Justice will say as follows: -

Introduction

This statement is one of a suite provided for Module 2A of the UK Covid Inquiry and these should be considered collectively. This statement has been proactively submitted to the Inquiry in order to address feedback received on 24 May 2023 and should be considered an addendum to the statement provided for Module 2A by DG Education and Justice (Education) on 23 June 2023. The previous Module 2A statement was provided by Director General Joe Griffin. On 17 July 2023, Neil Rennick has taken over the role of DG Education and Justice, and as such, this statement is submitted in his name.

Advice to Ministers

1. Ministers received advice from officials in a number of ways during the specified period. More information on how advice was provided to Ministers is set out in the Module 2A DG Strategy and External Affairs corporate statement submitted to the Inquiry on 23 June 2023. Officials in DG Education and Justice used these mechanisms to brief Ministers to support them in their role to reach decisions on matters relating to education.

2. When considering advice in relation to schools, early learning and childcare, school age childcare and child-minding settings, officials sought advice from key partners and stakeholders. This was done through the Advisory Sub-group on Education and Children's Issues, the COVID Education Recovery Group (CERG), and, for childcare provision, the Critical Childcare and Early Learning and Childcare Group (CCELC), which was succeeded by the Covid-19 Reference Group. More information on these groups can be found in the earlier Module 2A DG Education and Justice (Education) corporate statement, provided to the Inquiry on 23 June 2023, and additional information on attendance at these groups is provided in paragraphs 43-56 of this statement.
3. Officials regularly engaged with members of these groups to consider the options available, to help understand the emerging evidence and scientific advice, along with potential impacts or risks, and to gain insight on the varying perspectives of partners involved in the delivery of education and early learning and childcare. The input from these groups was considered by officials when preparing advice to Ministers and reflected in submissions, emails and conversations with Ministers.

Educational Continuity Directions (ECDs)

4. ECDs were Ministerial Directions issued under the powers conferred by section 38(2) and schedule 17, part 2 of the (UK-wide) Coronavirus Act 2020. They were not Scottish Statutory Instruments (SSIs) and were therefore not subject to parliamentary procedure. ECDs were legally binding on a relevant operator of an educational establishment by virtue of the duty to comply imposed by paragraph 12(1) of schedule 17. There were no debates in the Scottish Parliament regarding ECDs and officials were not aware of any concerns raised around the process used for the ECDs.
5. Directions were given when the Scottish Ministers were satisfied that it was necessary and proportionate to specify requirements of relevant operators of educational establishments to prevent the spread of the coronavirus, protect public health and ensure the continuity of educational provision. Officials provided advice to Ministers, through the process outlined above, around the need for the requirements of the ECDs.
6. When reaching decisions regarding the ECDs, Ministers took the advice of the CERG, a ministerially led reference group which included representation from education authorities, teaching unions and other educational stakeholders, and the Covid-19 Advisory Sub-Group on Education and Children's Issues.

7. Once advice had been given, the ECDs were then drafted based on instructions from the School Funding, Infrastructure and Organisation Unit within DG Education, Communities and Justice, which also coordinated input from other areas, including Support and Wellbeing Unit, Directorate for Early Learning and Childcare, and Directorate for Advanced Learning and Science.
8. The draft ECDs were then shared with Ministers who approved them. The ECDs were published on the Scottish Government website and in the Edinburgh Gazette. In addition, the Scottish Parliament's Education and Skills Committee and other key stakeholders (e.g., Convention of Scottish Local Authorities (COSLA), Scottish Council for Independent Schools and local authority Directors of Education) were informed and advised of the ECD's' requirements directly via email. A supporting guidance note for each ECD was published on the Scottish Government website to aid understanding of the legal text of the ECD.
9. Paragraph 13(4) of schedule 17 of the 2020 Act required the Scottish Ministers to review any ECD which made provision under paragraph 11(3) every 21 days for as long as the direction remained in effect. As only ECDs No.9 and No.10 had effect for a period that exceeded 21 days, only those ECDs were reviewed in accordance with paragraph 13(4). Officials provided advice to Ministers on whether an existing Direction should continue to have effect. The outcome of those reviews was published on the Scottish Government's website and is provided: [NR/001-INQ000256715], [NR/002-INQ000256716]. Following publication, the Education and Skills Committee of the Scottish Parliament and all other relevant stakeholders were informed of the reviews in a similar manner to that used for the publication of ECDs.

School Building Closures and Exams

10. The Inquiry has requested further information on the provision of advice and decision making mechanisms relating to the various school building closures and re-openings. This has been provided below for key dates of closure and re-opening.

March 2020

11. In March 2020, the Deputy First Minister took the decision that school buildings and early learning and childcare settings should close, except for any critical provision where local schools and community hubs were open to support some key groups, including the

children of key workers and vulnerable children. This decision was made following the Cabinet meeting on 17 March 2020, where it was advised that SAGE advice was now likely to recommend school closures in the coming days. Following this, officials provided advice the same day to the then Deputy First Minister on school closures. The Deputy First Minister discussed this advice with the First Minister, following which the decision was taken to close schools. In addition, the Deputy First Minister encouraged teachers to support educational continuity for pupils completing coursework for national qualifications in the senior phase of their education. Relevant guidance is provided: [NR/003-INQ000182844] [NR/004-INQ000182845] [NR/005-INQ000182846].

12. At this early stage of the pandemic, specific governance structures had not been set up to support the response. This meant that officials relied on existing mechanisms to gather data and evidence to support advice to Ministers – this included working through the existing Scottish Government Resilience Room (SGoRR) structures as a source of data and other updates through sitreps in the early stages and working with analysts to understand the data coming through which was relevant to schools and early learning and childcare. Additionally, officials engaged with their counterparts in the other three nations to understand their approach and share any data/evidence to help ensure that advice to Ministers was able to take account of as much evidence as possible. Officials engaged with partners involved in the delivery of education to understand the impact Covid-19 was having on schools, teachers, practitioners and learners, again to help support robust advice to Ministers.
13. Officials closely monitored the data available in order to be able to provide clear advice to Ministers on potentially closing school buildings. Throughout this period, officials kept Ministers up to date on the most up to date scientific advice, as it related to schools, and shared internal thinking of colleagues in the Department for Education (DfE) around school closures. A submission sent to Ministers with SAGE modelling from 5 March 2020 on the impact of interventions, including school closures, and DfE thinking on school closures has been provided: [NR/006-INQ000256752]. Officials regularly provided updated advice to Ministers on these issues and carried out scenario planning on the various options being considered up until the decision was taken to close schools. This was done both via submissions and during calls with Ministers.
14. Following a discussion at Cabinet, the Chief Medical Officer (CMO) sent an email to DG Education, Communities and Justice noting that it was likely school closures needed consideration as a matter of urgency [NR/007-INQ000256751].

15. Based on this, initial advice from officials recommending school closures was sent from the Director of Learning on 17 March 2020, provided: [NR/008-INQ000256717]. This also covered the 2020 exam diet and initially recommended that should longer term closures be required; schools should open as exam centres (as per the examinations timetable) on the dates required between 27 April and 4 June. However, with a fast-moving situation, on the same day, DG Education, Communities and Justice spoke with the then Deputy First Minister, Directors and Deputy Directors about possible contingencies relating to the exam schedule and the then Deputy First Minister noted that alternative certification options were being considered.
16. Taking into consideration the system wide risk to the delivery of National Qualifications, officials convened the Qualification Contingency Group to ensure collective leadership in identifying and implementing mitigating actions for the 2020 exam diet. In their initial meeting on 17 March 2020, the Group based their discussion on the assumption that the exam diet would go ahead, as per the advice from officials the same day.
17. On 18 March 2020, the Director for Learning spoke with the then Deputy First Minister where it was agreed that the position had very quickly changed and that taking into account the current evidence and intervention, it would no longer be possible to deliver the 2020 exam diet. The Deputy Director for Curriculum and Qualifications then spoke with the Chief Examiner asking them to finalise their alternative certification model. A letter was sent from Deputy First Minister's office to the Chief Examiner on 18 March 2020 advising that he has reached the decision that it is no longer possible to deliver the exam diet in 2020 and is provided: [NR/009-INQ000256718]. The Chief Examiner responded in a letter to the Deputy First Minister on 19 March 2020 accepting the decision that it was no longer possible to deliver an exam diet in 2020 and accepting the commission to develop an alternative certification model for the year [NR/010-INQ000256753].
18. On 19 March, the Deputy First Minister announced the decision to close school buildings and early learning and childcare settings as well as cancel exams. This decision to close school buildings and early learning and childcare settings was effective from 17:00 hrs on 20 March 2020. Officials provided advice and guidance to schools and early learning and childcare settings on these measures.

19. On 21 May 2020, the *Strategic Framework for Reopening Schools and Early Learning and Childcare Provision* was published and is provided: [NR/011-INQ000182826]. The framework was jointly developed by the Scottish Government and local government, with support from key partners across the education system through CERG. The approach taken to developing the Framework was similar to that for developing advice to Ministers. Officials considered the data and evidence available at the time from a range of sources, including the Advisory Sub-group on Education and Children's Issues, the Scientific Advisory Group for Emergencies (SAGE), Public Health Scotland and other key experts. The options available were considered and discussed with members of CERG. Once the approach had been agreed with members, officials shared drafts of the Frameworks with members of CERG until key partners, officials and Ministers agreed with the content. CERG shared the draft Framework with the Covid-19 Advisory Group, seeking their expert advice on the guidance. The majority view of the Covid-19 Advisory Group was that it would be appropriate to consider actions to support distancing in schools and situations where children were in indoor environments for extended periods of time. The advice from the Group to the CERG is provided: [NR/012-INQ000256713].
20. The Advisory Sub-Group on Education and Children's Issues, CERG and the CCELC were all involved in the development of the framework. The CCELC provided views on a package of measures that could allow for the safe reopening of early learning and childcare services without the need for strict physical distancing, including hand hygiene, regular cleaning and infection prevention control measures. A paper summarising the CCELC's input into the framework development is provided: [NR/013-INQ000256714].
21. The Advisory Sub-Group on Education and Children's Issues provided scientific advice on specific issues in relation to schools and early learning and wider childcare. One example of this is on physical distancing in schools. As the framework was under constant review, the Sub-Group was asked to provide advice on the need for physical distancing in schools as that was the main factor in deciding whether to have a blended approach to learning. The Sub-Group advised that the infection rate was lower than when the strategic framework was originally published and it was therefore agreed that from August 2020, there would be a blended approach of in-school and at home learning for almost all children and young people. The Sub-group members agreed that time spent in school should increase as and when it was safe to do so. Copies of the Sub-group's advice and minutes have been provided previously to the UK Inquiry and are saved in the Objective Connect folder named "Scottish Inquiry – Tranche 6 – Education and Children's Issues Advisory Sub-Group".

June 2020

22. From 3 June 2020, all registered childminders and fully outdoor childcare provision were able to reopen if they wished to do so and, from 15 July, all wider registered childcare services, including early learning and childcare and school age childcare services were able to reopen.
23. Officials based their recommendations to Ministers on these issues on the data and evidence available at the time from Scottish Government and Public Health Scotland analysts and the advice from experts and clinicians, SAGE, the Advisory Sub-group on Education and Children's Issues and CERG. As mentioned in the Module 2A DG Education and Justice (Education) corporate statement provided to the Inquiry 23 June 2023, officials attended SAGE and a number of its sub-groups as observers only. Officials are of the opinion that it would have been beneficial for them to also be able to contribute to SAGE discussions and be able to provide the Scottish Government's perspective on the issues raised.
24. The advice from experts included consideration of the additional benefits school and childcare building closures would bring on top of the relaxation of social distancing measures already announced, what timing would give most benefit, what the impacts of partial school building closures would be, and whether the benefits would be outweighed by the impact of children being looked after by friends and family or school students gathering in other locations. The impacts on NHS capacity and potential impact on parents/carers, their ability to work and balance childcare, taking into account the four harms approach, all formed a key part of this analysis.
25. In June 2020, officials worked with the Advisory Sub-group on Education and Children's Issues and provided advice on physical distancing within schools, provided: [NR/014-INQ000256719], and offered input to the Deputy First Minister's statement in Parliament on the full re-opening of school buildings in August 2020. The school and early learning and childcare closures since March 2020 were considered to be having a negative effect on children's progress and development, including their wellbeing. To respond to this, the Scottish Government worked quickly to enable as many more children and young people as possible to return to education and childcare settings at the earliest date on which it was safe to do so.

26. Guidance was published to support the reopening of all childminding services and fully outdoor nurseries from 3 June 2020. Officials provided advice and guidance on the reopening of all registered childcare services from 15 July 2020, as well as advice on options for allowing informal childcare (provided by friends and family) to restart. In addition, advice was provided on the publication of university and college specific guidance aimed at minimising the risk of transmission of Covid-19. The Advisory Sub-group on Education and Children's Issues was also established at this time. The role of this Sub-Group is explained in the Module 2A DG Education and Justice (Education) corporate statement provided to the Inquiry on 23 June 2023, and further clarified below in paragraphs 47-50.

August 2020

27. There were a number of factors that were taken into consideration when preparing advice to Ministers for the potential reopening of school buildings in August 2020. This included the baseline mitigations that would be required in schools (face coverings, physical distancing, enhanced hygiene protective measures), Joint Committee on Vaccination and Immunisation (JCVI) advice on vaccinations, self-isolation requirement for school pupils, stakeholder views, approaches in other nations and plans around testing. Officials also consulted with experts and clinicians through a variety of forums, including the Advisory Sub-group on Education and Children's Issues and CERG.
28. As noted at paragraph 6, a request was made to the Advisory Sub-Group on Education and Children's Issues for advice on the need for physical distancing in schools and it advised that the rate of infection was lower than when the strategic framework had been published.
29. The sub-group advised that "subject to continued suppression of the virus and to surveillance and mitigations being in place - the balance of the evidence suggests that no distancing should be required between children in primary schools. The evidence is less clear for secondary schools but at present we would support the same approach being taken in secondary schools on the basis of the balance of known risks and the effectiveness of mitigations". The decision to fully re-open schools without physical distancing took that advice into consideration and guidance was provided for schools and early learning and childcare settings to support them in preparing for the new academic term in August 2020 [NR/015-INQ000182852]. Agreement was reached with local government partners to standardise the date at which school buildings re-opened.

This was based on the date (11 August) when the first few local authorities were due to return after the summer break. This was one week earlier than planned for most pupils.

30. In December 2020, schools closed as planned for the Christmas holidays. On 19 December, in response to the emergence of a new variant, the First Minister announced the extended holiday period for most children until 11 January 2021 and that learning would then be online until 18 January (other than for the children of key workers and the most vulnerable) at which point the intention was for pupils to return to school in person. This decision was taken by Cabinet on 19 December 2020, taking into consideration a range of factors including the path of the virus at the time as well as the impact of further closures on children, young people and parents/carers. On balance, Cabinet agreed that further restrictions on in-person learning were a necessary measure to suppress the virus.
31. From 26 December 2020, there were also temporary restrictions placed on early learning and childcare, school age childcare and childminding services. Early learning and childcare and school age childcare services were only available to children of keyworkers and vulnerable children. Childminding services with a registered capacity of fewer than 12 could continue to operate their service for all children. Early Learning and Childcare Directorate developed guidance to support implementation of these restrictions in collaboration with the Deputy Chief Medical Officer (DCMO) and COSLA, which was approved by Ministers and updated to reflect changes to the timeframes for restrictions on learning in education settings. The updated guidance is provided: [NR/016-INQ000256749].
32. Self-isolation guidance for students had already been published on 14 December 2020, provided: [NR/017-INQ000256722] along with guidance for students returning to Higher or Further Education after the winter break, provided: [NR/018-INQ000256723], and advice for providers on the setting up campus testing facilities, provided: [NR/019-INQ000256724]. Advice was also published by the Advisory Sub-group on Education and Children's Issues in relation to the use of face coverings in college and university, provided: [NR/020-INQ000182874].
33. The Advisory Sub-Group on Education and Children's Issues considered the risks of a return to education across all stages, in the context of the new variant, in an extraordinary meeting held on 31 December 2020. The minutes of the Sub-Group's meeting on 6 January 2021 refer to the advice given at this extraordinary meeting and are provided: [NR/021-INQ000256720]. The advice from the sub-group was that schools and early learning and childcare settings should remain closed to all but the children of

key workers and other priority groups beyond 18 January 2021 on a precautionary basis, and that there should be a fortnightly review of that decision.

34. On 4 January 2021, the First Minister announced that all schools, including nursery schools, were to use remote learning until at least the end of January, except in the case of vulnerable children and those of key workers, who would attend their school or nursery setting in-person. This statement is provided: [NR/022-INQ000256721].
35. As indicated in the earlier Module 2A DG Education and Justice (Education) corporate statement provided to the Inquiry on 23 June 2023, these decisions applied to those schools under local authority control. Independent schools, including boarding or residential schools generally followed the decisions taken by local authorities.
36. When Cabinet reviewed the situation on 19 January 2021, they decided not to reopen schools or early learning and childcare beyond the groups already attending in-person before mid-February. At this time, local authorities were required to continue provision of in-school education for children of key workers and vulnerable children, up until that date. Local authorities were also required to provide remote learning for the corresponding period for all other children.
37. At the next review point on 2 February 2021, Cabinet agreed there should be a phased return to full time in-school learning from 22 February for all children in early learning and childcare, and Primary 1 to 3, as well as senior pupils who needed to complete in-school practical work for their National Qualifications. This decision was taken balancing the known impact of closures on children and young people against the need for wider restrictions elsewhere in Scotland to continue to suppress the virus. Cabinet decided a phased return for school pupils would mean broader public health restrictions would be necessary for longer so that progress in suppressing the virus continued.
38. On 16 February 2021, the First Minister confirmed the phased return to in-person learning (which had been provisionally announced on 2 February), starting with early learning and childcare and Primary 1 to 3 returning to school buildings full time from 22 February 2021, provided: [NR/023-INQ000256725].
39. There was also an expansion of testing for those in education settings from February 2021, agreed by the Deputy First Minister and Cabinet Secretary for Health and Sport in January 2021, with staff in schools and early learning and childcare and wider registered

childcare settings, and senior phase pupils offered twice weekly home testing kits. The submissions sent to the Deputy First Minister and Cabinet Secretary for Health and Sport, submitted jointly by the Directorate for ELC and the Testing and Contact Tracing Policy Division, recommending this expansion are provided: [NR/024-INQ000256726], [NR/025-INQ000256727].

March 2021

40. In March 2021, there was a phased return to full time in-school learning for remaining Primary pupils (Primary 4-7) and remaining secondary school pupils (priority for in-school time was given to senior phase pupils). Following the Spring break in April 2021, there was a full time return for almost all pupils. This decision was taken by Cabinet on 2 March 2021, following consultation with COSLA and local authorities; as well as discussions with the Education Recovery Group; and scientific advice from the advisory subgroup on education and children's issues. The CMO wrote to those on the shielding list confirming that from 26 April 2021, children and young people on the shielding list could return to school and formal childcare. It was expected that on this date all areas in Level 4 would go down to Level 3, which means the infection risk would be much lower. The CMO wrote to all children on the shielding list on 23 March 2021, provided: [NR/026-INQ000256750].
41. At this point, additional evidence was available to help understand transmission of Covid-19, including a systematic review by the Advisory Sub-group on Education and Children's Issues of studies on transmission which reported that transmission of Covid-19 was higher in household settings than in other community settings, including schools and early learning and childcare settings, provided: [NR/027-INQ000256728]. All of this contributed to the evidence that children and young people are not drivers of infection, but that their infection rates follow community prevalence quite closely, which was central to decision making around the extension of school holidays in January 2021 and the phased return to school buildings in February/March 2021.
42. The reason Cabinet decided a phased return was the appropriate approach was because controlling the spread of the virus was still reliant on significant restrictions on individuals, the use of social distancing and other public health measures in order to suppress transmission. The contribution that restricting in-person attendance at school could make to suppression was balanced against the impact this was having on children and young people.

Governance and Advisory Groups

Covid-19 Education Recovery Group (CERG)

43. As is to be expected, officials attending the CERG changed throughout the pandemic.

This was as a result of internal staff changes as well as changes to the remit and structure of various policy teams. The CERG was not an internal forum for DG Education and Justice officials, it brought together decision makers and key influencers across education to ensure that the delivery of childcare, early learning and education maintains a strong focus on excellence and equity for all, within the necessary constraints of the Covid-19 response. Membership was drawn from a range of partners and stakeholders across education, including representatives from COSLA, SQA, local authorities, trade unions and third sector.

44. Attendance of officials was driven by the agenda for each meeting. Officials from other divisions across the Scottish Government were invited to attend either to support or observe discussions on issues that concerned their policy area.

45. A number of Senior Civil Servants from DG Education and Justice were members of the CERG and are provided below:

Name	Job Title
Alison Cumming	Director, Early Learning and Childcare
Clare Hicks	Director for Education Reform
Graeme Logan	Director for Learning
Andrew Drought	Deputy Director of Workforce and Infrastructure
Eleanor Passmore	Deputy Director of Early Learning and Childcare
Civil Servant C3 Grade	Interim Deputy Director, COVID Response, Learning Directorate (TRS)
Julie Humphreys	Deputy Director of Children and Young People – Covid Recovery
Malcolm Pentland	Deputy Director for Curriculum, Qualifications and Gaelic
Mick Wilson	Deputy Director for Education Analysis
Sam Anson	Deputy Director, Covid-19 Education Strategy and Recovery

46. As explained in the earlier Module 2A DG Education and Justice (Education) corporate statement, provided to the Inquiry on 23 June 2023, the secretariat function was also held by officials in DG Education and Justice.

Advisory Sub-Group on Education and Children's Issues

47. The Advisory Sub-Group was established to provide the Scottish Government with advice to support and inform the development of operational guidance for providers of learning, childcare and children's services. The majority of members of the Sub-Group were external stakeholders and delivery partners, not Scottish Government officials.

48. However, Scottish Government officials attended the Advisory Sub-Group on Education and Children's Issues both to speak on specific agenda issues and also held the secretariat function.

49. Senior Civil Servants who attended the Sub-Group to speak on specific issues are provided below. This should not be interpreted as an exhaustive list as many civil servants spoke directly for their policy area at these meetings as recorded in the minutes.

Name	Job Title
Alison Cumming	Director for Early Learning and Childcare
Michael Chalmers	Director for Children and Families
Clare Hicks	Director for Education Recovery
Dr Edward Doyle	Senior Medical Advisor, Paediatrics
Andrew Drought	Deputy Director, Workforce and Infrastructure
Eleanor Passmore	Deputy Director for Early Learning and Childcare

50. Senior Civil Servants responsible for providing the secretariat function are provided below. Again, many civil servants were directly engaged in the delivery of the secretariat function:

Name	Job Title
Civil Servant C3 Grade	Interim Deputy Director, COVID Response, Learning Directorate (TRS)

Katherine Peskett	Deputy Director supporting the Covid-19 Advisory Sub-Group on Education and Children's Issues
Mick Wilson	Deputy Director for Education Analysis
Sam Anson	Deputy Director for Improvement, Attainment and Wellbeing / Deputy Director for Covid-19 Education Strategy and Recovery

Critical Childcare and Early Learning and Childcare Sub-Group (CCELC)

51. The CCELC was established in April 2020 to bring together key individuals to ensure that the provision of early learning and children, including wider childcare, was available to those who needed it to support key national infrastructure, within the necessary constraints of the Covid-19 response.

52. The aim of the CCELC was to provide advice and solutions to the CERG and oversee workstream 9 (critical childcare) and workstream 10 (early learning and childcare). Details of these were provided in the earlier Module 2A corporate statement provided by DG Education and Justice (Education) on 23 June 2023.

53. Members of the CCELC were mostly from public bodies, like Public Health Scotland and Education Scotland, and external stakeholder groups like COSLA, the Association of Directors of Education in Scotland (ADES) and Trade Unions. A full list of members is provided: [NR/028-INQ000256729].

54. Civil Servants attended to present, discuss agenda items, facilitate secretariat functions and to observe.

Covid-19 Reference Group (for the Regulated Childcare Sector)

55. This Group was set up to ensure that the experience and views of early learning and childcare, wider childcare providers and the workforce were reflected in the pandemic response. It replaced the CCELC in May 2021 on the basis that early learning and childcare and wider childcare services were fully open, meaning the 'critical childcare' provision for key workers and vulnerable children was no longer being provided.

56. The Group provided feedback to the Scottish Government on staff confidence and safety, and on draft Covid-19 guidance. In addition, the Group helped identify any additional support that the sector needed to promote understanding and compliance with

guidance. The membership of this group is included within the terms of reference, provided: [NR/029-INQ000256730].

Covid-19 Further Education and Higher Education Ministerial Leadership Group

57. The details of this group have been provided in the earlier Module 2A corporate statement provided by DG Education and Justice (Education) to the Inquiry on 23 June 2023.

58. This Group was chaired by the Minister for Further Education, Higher Education and Science, Richard Lochhead. In addition to Scottish Government staff listed below, the Group was made up of staff from colleges and universities, Trade Unions, Colleges Scotland, Universities Scotland, Scottish Funding Council (SFC), Scottish Qualifications Authority (SQA), Student Awards Agency Scotland (SAAS) and the Community Learning and Development Council.

59. Senior Civil Servants who attended these meetings are listed below, and the secretariat function was undertaken by civil servants.

Name	Job Title
Lorna Gibbs	Director of Advanced Learning and Science
Linda Pooley	Deputy Director of Colleges, Young Workforce and Scottish Funding Council Sponsorship Division
Roddy Macdonald	Deputy Director of Higher Education and Science Division

Covid-19 Advanced Learning Recovery Group

60. Details of this Group have been provided in the earlier Module 2A DG Education and Justice (Education) corporate statement provided to the Inquiry on 23 June 2023. The Group involved Scottish Government officials, SAAS, Universities Scotland, Colleges Scotland, Trade Unions, SQA and the SFC.

61. Senior Civil Servants who attended these meetings are listed below, and the secretariat function was undertaken by civil servants.

Name	Job Title
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Katherine Peskett / Stephen Pathirana	Directors of Advanced Learning and Science (Job Share)
Linda Pooley	Deputy Director of Colleges, Young Workforce and Scottish Funding Council Sponsorship Division
Roddy Macdonald	Deputy Director of Higher Education and Science Division
Civil Servant C2 Grade	Deputy Director of Covid Recovery and Response Division (TRS)

Covid-19 Advisory Sub-group on Universities and Colleges

62. The group included scientific and public health experts, clinicians and academics, as well as experts in educational and other issues relevant to universities and colleges. Details of this Group have been provided in the earlier Module 2A DG Education and Justice (Education) corporate statement provided to the Inquiry on 23 June 2023.

63. Senior Civil Servants who attended these meetings are listed below, and the secretariat function was undertaken by civil servants:

Name	Job Title
Katherine Peskett / Stephen Pathirana	Directors of Advanced Learning and Science (Job Share)
Civil Servant C2 Grade	Deputy Director of Covid Recovery and Response Division (TRS)

Student Accommodation Group

64. This Group included individuals from universities, trade Unions, Colleges Scotland and the SFC. Senior Civil Servants who attended these meetings are listed below:

Name	Job Title
Roddy Macdonald	Deputy Director of Higher Education and Science Division

International Students Action Plan Group

65. The Group was attended by officials from Scottish Government, staff from universities and colleges, Universities Scotland, SFC, Brand Scotland, the British Council and Trade

Unions. Senior Civil Servants who attended these meetings are listed below, and the secretariat function was undertaken by civil servants:

Name	Job Title
Lorna Gibbs	Director of Advanced Learning and Science

Covid-19 Learner Journey Ministerial Task Force

66. This Group was chaired by the Minister for Further Education, Higher Education and Science, Richard Lochhead. It had representatives from stakeholders including Universities Scotland, Colleges Scotland, Skills Development Scotland, SFC, SAAS and SQA.

67. Senior Civil Servants who attended these meetings are listed below, and the secretariat function was undertaken by civil servants:

Name	Job Title
Lorna Gibbs	Director of Advanced Learning and Science
Linda Pooley	Deputy Director of Colleges, Young Workforce and Scottish Funding Council Sponsorship Division

Coronavirus (Covid-19): Further Education/Higher Education Student Hardship Task Force

68. This Group included stakeholders such as students, Universities Scotland, Colleges Scotland, SFC, SAAS and the National Union of Students. This meeting was attended by the Senior Civil Servants listed below:

Name	Job Title
Roddy Macdonald	Deputy Director of Higher Education and Science Division

College Covid-19 Leads

69. Scottish Government officials did not coordinate or organise this meeting. This was led by Colleges Scotland. Information on membership, attendees and minutes are not held by the Scottish Government.

University Covid-19 Leads

70. Scottish Government officials did not coordinate or organise this meeting. This was led by Colleges Scotland. Information on membership, attendees and minutes are not held by the Scottish Government.

Vulnerable Groups

71. As is routine practice across Scottish Government, a number of impact assessments were undertaken by officials in DG Education and Justice in order to support policy development and delivery. The use of impact assessments, especially Equality Impact Assessments (EQIAs) is covered in both the Module 2A DG Communities corporate statement provided to the Inquiry on 23 June 2023, and the Module 2A DG Strategy and External Affairs (Legislation) Addendum statement, provided in draft to the Inquiry 6 November 2023.

72. Due to the fast-moving nature of the public health emergency, the rapid pace of decision making meant that formal impact assessments could not always be undertaken in advance of decision making. That said, processes like the four harms assessments enabled impacts to be discussed in relation to each of the four harms, including the impact on groups with protected characteristics. More information on the four harms can be found in the Module 2A DG Strategy and External Affairs corporate statement, provided to the Inquiry on 23 June 2023.

Children's Rights & Wellbeing Impact Assessments

73. Within the children's rights and wellbeing impacts assessments (CRWIA) carried out during the pandemic, particular consideration was given to some young people, including those with additional support needs who might not be receiving the additional support they would usually receive whilst learning at home, and those learners who have shielded and/or have underlying health conditions; vulnerable children and young people with an increased risk of experiencing domestic violence, physical abuse, and poorer mental health and wellbeing; who experience disadvantage; and those preparing for national qualifications, who will likely experience reduced classroom teaching in preparation for those qualifications. The assessment specifically considered children and young people who may have been more adversely affected by school closures or closures of registered childcare, and the actions taken to mitigate the impact of those

closures. These assessments have been provided as general disclosure documentation and listed on the inventory submitted with this statement.

74. The impact assessment found that children's rights and wellbeing were negatively impacted by school closure and closure of early learning childcare, school age childcare and childminding in most cases, although there is some evidence that some children and young people have benefitted from learning and playing at home. There were significant actions put in place to mitigate negative impacts, but it is not possible to mitigate all of the impacts that occurred as a result of the Covid-19 pandemic.
75. The impact on children and young people's wellbeing is recognised and was highlighted as part of planning for educational recovery, provided: [NR/030-INQ000182764]. The full return to school in August 2020, and the opening of all registered childcare settings in July 2020, were considered to be the most effective approach to mitigate the impact of school building closures and closures of childcare provision, but this was contingent on other factors.
76. With regard to school building closures and the closures of registered childcare provision, it was important to balance the various rights of children against the wider public health advice to ensure we were able to protect the health and wellbeing of children, young people, families and communities. Both schools and childcare provision had their own CRWIAs regarding the closures and reopening of school's settings, provided as general disclosure documentation and listed on the inventory submitted with this statement.
77. Officials considered the fact that some groups were more negatively impacted than others by the closure of school buildings and registered childcare provision. Some examples follow. Vulnerable children and young people, including those known to be at risk of experiencing domestic abuse, were unable to benefit from the care and support usually provided by their schools or childcare settings, and associated access to services. Children and young people who experience socioeconomic disadvantage may not have had access to learning resources, technologies and other supports usually provided by schools and registered childcare providers, and were therefore prioritised to receive digital devices and other learning materials.
78. The impact assessments note that the impact of closing schools and registered childcare was felt differently by different groups of children and young people. Officials noted that

evidence suggested that some children and young people may have had increased experience of domestic abuse, and child protection referrals also increased following lockdown periods. Furthermore, children and young people may have required increased support for their mental health and wellbeing as a result of social isolation during lockdown and then the preparation for the return to school or early learning and childcare.

79. For children and young people with additional support needs, the return to school or early learning and childcare enabled the resumption of access to the full supports for their learning, including individualised approaches to teaching, therapeutic support and care within a school or early learning and childcare setting. Many children and young people with additional support needs benefit from a regular routine and from their relationships with friends and staff, and the resumption of these impacted positively in terms of wellbeing and learning. Officials acknowledged that this would likely require additional supports for some children with additional support needs to make this transition, as they may have become settled into a routine at home.
80. When considering children and young people who experience disadvantage and poverty, the return to school or early learning and childcare setting allowed the resumption of their learning and teaching and wider supports. Other protective factors, including for their wellbeing more generally, also resumed. Officials noted this was likely to impact positively for children and young people in these circumstances. All these impacts and mitigations were taken into consideration by officials when providing advice to Ministers on the closing and reopening of school buildings and registered childcare provision and shared with the relevant governance groups to support them in making recommendations.
81. The other area where a CRWIA was carried out was in relation to the routine protective measures introduced in schools and early learning and childcare services when they reopened to help suppress the spread of Covid-19 while ensuring children and young people were able to benefit from their time in school or early learning and childcare. The types of routine protective measures that were adopted in schools and early learning and childcare during the pandemic included self-isolation for those with symptoms or a positive Covid-19 test; good hand and respiratory hygiene and surface cleaning; focus on the importance of good ventilation; the use of face coverings (by staff and/ or children); and asymptomatic testing for children and young people in secondary schools

and for school and early learning and childcare staff. The CRWIA is provided: [NR/031-INQ000182740].

82. In terms of the potential impacts on children and young people of these protective measures, particularly those in vulnerable categories or considered at risk, a number of issues were considered by officials as part of advice to Ministers. For instance, as the pandemic progressed, it became better understood that children and young people as a group, had a relatively low risk of direct Covid-19 harm but were at particularly high risk of wider and long-term social, educational, developmental, and wellbeing harms caused by social isolation and reduced access to education. Those wider risks were particularly relevant for more disadvantaged children, and those with additional needs. Evidence suggested that these disproportionately affected the most vulnerable, and included concerns about learning, and speech and language development (especially in younger children), as well as wider health concerns such as mental health and obesity.
83. The Advisory Sub-Group on Education and Children's Issues supported officials in developing advice for Ministers by considering the potential impact of the return to routine protective measures on children and young people previously on the Highest Risk List. Specifically, regarding testing, the Advisory Sub-Group on Education and Children's Issues considered whether there should be a differentiated approach to asymptomatic testing for special schools. The group agreed that there should not be a blanket approach to testing for those settings, as it would single out the sector.
84. The group noted that many pupils with additional learning support needs are also attending mainstream schools and early learning and childcare settings and therefore advised, consistent with existing clinical advice, that there should continue to be tailored advice and tailored personal child plans, for individual pupils who had additional needs.
85. Once any potential negative impacts of the decisions were identified, officials worked alongside stakeholders, delivery partners and other Scottish Government policy teams to consider actions which could mitigate and gave due consideration to ensure non-discrimination (article 2 of the UN Convention on the Rights of the Child) within the mitigations. The protection of health was a primary consideration in relation to the closing and opening of school buildings and registered childcare provision.

Equalities

86. During the pandemic there were several impact assessments carried out which considered equalities and protected characteristics in relation to education. These considered the impact of policy decisions during the pandemic on those with protected characteristics and were mindful of the three elements of the Public Sector Equality Duty – eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

Equalities Impact Assessment

87. When considering the impacts in relation to equalities or protected characteristics officials looked at a wider range of factors such as age, disability, accessibility, additional support needs, sex, wellbeing, gender reassignment, pregnancy and maternity, race religion or belief, sexual orientation, marriage or civil partnership, socio-economic disadvantage, impact on island communities and Gaelic medium education. Officials considered the latest scientific advice at the time as well as input from stakeholders and partners to help understand the potential impacts and consider any mitigations that could reduce negative impacts where possible. This meant not only considering the impact of any decision on children and young people, but also taking into account the impact decisions would have on school and early learning and childcare staff as well as parents, carers and families.

88. Ultimately through the equalities considerations when carrying out impact assessments, officials concluded that school and early learning and childcare setting closures had a disproportionate impact on children and young people and adults (workforce, parents and carers) who were at risk or had particular vulnerabilities. As such, it was important that the Scottish Government continued to engage closely with stakeholders and local authorities to ensure that the impacts experienced by different groups were considered as plans to fully re-open school buildings and early learning and childcare settings in Scotland progressed and beyond. The impact assessments also made it clear that it was vitally important to continue to work in partnership with stakeholders and local authorities, ensuring that the stakeholders who represent the interests of groups who may be disproportionately impacted were involved.

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: 6 November 2023