

Witness Name: Leslie Evans

Statement No.: 1

Exhibits: LE

Dated: 21 November 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF LESLIE EVANS

In relation to the issues raised by the Rule 9 request dated 5 July 2023 in connection with Module 2A, I, Leslie Evans, will say as follows: -

1. I am Leslie Evans, former Permanent Secretary of the Scottish Government. I left this role in December 2021 and no longer work for the Scottish Government or the civil service. I am now qualified - and am practising as - an Executive Coach. I am also a Chair/ trustee for one UK charity and assisting in another which supports women back into employment.
2. In the preparation of this statement, I have referred to records and material provided to me by the Scottish Government. I have also received assistance from the Scottish Government Covid Inquiry Response Directorate. Due to the significant volume of questions and material that the Inquiry has asked me to consider, I was also assisted in identifying documents and factual information relevant to the questions being asked to assist in the preparation of my statement. However, any views or opinions expressed in this statement are my own.
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.
4. References to exhibits in this statement are in the form [LE/000 - INQ000000].

Part A: Decision Making

a) My roles and responsibilities

5. As Permanent Secretary to the Scottish Government (“SG”) from July 2015 to December 2021 my responsibilities were principal policy adviser to the First Minister of Scotland (“FM”), Secretary to the Scottish Cabinet, leading Scottish Government staff, development, implementation and communication of Government policies, and acting as Principal Accountable Officer to ensure the propriety and regularity of the finance of the Scottish Government and thus value for money. I carried out these duties in accordance with the Civil Service Code and its core values of integrity, honesty, objectivity and impartiality. The executive nature of my role, including responsibilities and powers delegated to Director Generals, has informed and shaped my answers – some questions request a level of detail to which I simply was not party, in which case I have referred to other sources of relevant material.
6. Prior to becoming Permanent Secretary to the Scottish Government in July 2015 I held the post of Director General Education and Justice. I also held Director roles in the policy areas of including Public Service Reform, International/External Affairs, Sport and Culture after joining the Civil Service as Deputy Director for elements of local government policy in 2000.

b) Decision-making structures within the Scottish Government in response to the Covid-19 pandemic

7. The main decision making body for the Scottish Government is Cabinet, bound by the Scottish Ministerial Code and operating using collective responsibility. Thus, it is the prime formal decision making body on behalf of the Scottish Government, drawing on the work and findings of other fora, e.g. Cabinet sub committees, Ministerial working or oversight groups as required. As Secretary to the Scottish Cabinet, I attended every Scottish Government Cabinet during the period January 2020 to 31 December 2021 when my successor took over. In this role I was routinely party to the process of Cabinet discussion and decision making, as well as the recording of this process and I draw on this extensively in the material set out in this statement.
8. In my capacity as Permanent Secretary I also attended the Scottish Government Resilience Room (SGoRR). SGoRR is activated when some degree of central government coordination or support is required in response to a complex national emergency. SGoRR

is not a decision making group but does on occasion support decision makers and decision making fora.

9. The Cabinet Office Briefing Room (COBR) is the UK Government's Resilience Committee, but devolved representatives are invited to some COBR meetings. The rhythm of these meetings intensified during March 2020 and Scottish ministers participated in a number of COBR meetings throughout February and March. I accompanied the First Minister when she attended COBR on 16 March 2020, on 23 March 2020 and on 10 May 2020.
10. I am not aware of 'four nation fora' with formal decision-making powers but I did attend some four nation meetings. Commencing from 18 March 2020 I dialled into regular (almost daily) Covid-19 Cabinet Secretary Officials Meetings (Cab Sec (O)) chaired by the then secretary to the UK Cabinet, Sir Mark Sedwill, with representation from across the UK Government ("UKG") as well as the devolved administrations.
11. From early June 2020 participation was open to Directors General ("DG") and so a relevant DG from the Scottish Government would sometimes call in my place. From late January 2021 to August 2021 Scottish Government officials called into weekly Covid-19 Permanent Secretary officials Meetings (Perm Sec (O)). The first of these was held on 18 January 2021. I attended each of these throughout January – June 2021. Calls over July and August 2021 did not always go ahead due to periods of leave for a number of attendees, but all slots were held in my diary, and I attended where they ran, and when I was not myself on leave. There were no calls on 5 April 2021, 3 May or 31 May 2021 owing to Bank Holidays.
12. The overarching principle which guided core political and administrative decision making within the Scottish Government during the pandemic was to serve the people of Scotland through devolved powers as set out in the Scotland Act 1998 and amended by the Scotland Acts of 2012 and 2016. Scottish Cabinet and Ministers are accountable to the Scottish Parliament for the deployment of these powers. In addition, the Scottish Government's Framework for Decision Making (April 2020) articulated the principles that were informing decision making: safe, lawful, evidence-based, fair and ethical, clear, realistic and collective. [LE/001 - INQ000131025]
13. My core roles and responsibilities as Permanent Secretary remained the same in response to, and during, the Covid-19 Pandemic as prior to it. So during the period from January 2020 to 31 December 2021 when my successor took up post, I was principal policy adviser

to the First Minister of Scotland; Secretary to the Scottish Cabinet; leading Scottish Government staff, the development, implementation, and communication of Government policies; and Principal Accountable Officer to ensure the propriety and regularity of the finance of the Scottish Government and value for money. In order to fulfil this role effectively Directors General remained responsible for the delegated and specific areas of their responsibility including policy development, operation, delivery and spend and keeping me informed and briefed.

14. My advisory functions were primarily to the First Minister and members of her Cabinet. This might include an update on key policy implementation or operational issues, flagging up fresh information, emerging and/or future risks and pressures or concerns being raised by partners or stakeholders. Directors General, key Directors, and specialists such as the Chief Medical Officer and National Clinical Director were responsible for advising Cabinet Secretaries and Ministers on day-to-day technical and operational issues, and on policy choices and decisions on Covid 19. However, I was involved in decisions regarding progress, staffing, financial issues, external interest and partners, and wider corporate impact or issues.
15. I advised the First Minister on specific issues she raised. I advised primarily on the organisational strategic and functional response; finance, operation, delivery and capacity issues; and official contact and liaison with stakeholders, partners and with the officials in UKG and the devolved administrations. For example, the First Minister would ask me to intervene if she felt that progress was not sufficiently quick or that organisational or policy responses were not satisfactory.
16. Directors General were responsible for advisory functions through the key institutions and organisations within their Portfolio and through their Directorates. For example, DG Health led all official level contact with Public Health Scotland, with health boards and authorities and care homes, while DG Communities led on contact with local authorities. The importance of maintaining strong two-way lines of communication with these organisations was emphasised regularly. Some of these organisations were present in meetings I attended, such as SGoRR or 'deep dives' on specific topics, but I also made occasional direct contact with leaders occupying exposed leadership positions in Scotland and with whom we were working closely and in fast time, in order to check in on their experience, pressures, and emerging risks/concerns.

17. This contact included the Convention of Scottish Local Authorities, the Scottish Branch of the Society of Local Authority Chief Executives and Senior Managers, Police Scotland, Fire and Rescue Scotland, enterprise and education agencies, unions, Scottish Council for Voluntary Organisations, Scottish Chambers of Commerce, CBI, Audit Scotland and universities. SG Non-Executives were also important contacts. I held the position of Permanent Secretary until 31 December 2021 and had no further involvement in the SG response to the pandemic thereafter.
18. The roles of the First Minister, her Cabinet, her Ministers and their special advisers remained the same during the pandemic, but their working patterns, efforts and focus pivoted rapidly to the pandemic, its impact on Scotland and on their portfolios and stakeholders, whilst maintaining a watching brief on key portfolio functions. The First Minister and Cabinet Secretary for Health were most closely engaged in the detail informing Cabinet decision making on the pandemic, but each Cabinet Secretary was responsible for identifying key issues and decisions for Cabinet consideration. As prior to the pandemic, the Secretary of State for Scotland did not have a role in the devolved work of the Scottish Government.
19. The roles of SG senior civil servants were much the same during pandemic times as before, but their focus shifted quickly to the pandemic response required in their relevant Portfolio areas and to filling corporate and administrative responsibilities and roles in order to ensure that the Scottish Government as a whole pivoted to the demands of the pandemic. The First Minister worked closely with the Health portfolio and maintained oversight of the overall pandemic effort, also leading communication on a national basis. The Deputy First Minister retained his lead responsibility for SGORR.
20. I continued to work closely with the First Minister during the pandemic. Our regular schedule of weekly one to one meetings and contact at full Cabinet every Tuesday (and occasional emergency Cabinets) continued. Our agendas were shaped by the Cabinet agenda, key milestones or events and those areas where she had concerns or questions. This contact was supplemented by preparation for other meetings such as early COBR meetings, SGoRR meetings and some of the deep dive policy meetings. That contact was primarily by phone, through our offices. I also attended some of the topic specific 'deep dive' meetings - meetings called by the First Minister to gain a better and deeper understanding of key issues and pressures and progress on anticipating and addressing these. This included my attending a Deep Dive on Social Distancing (6 April 2020), and on Testing (16 April 2020). Our contact was often face to face, but I did commission notes on

key issues or questions she had raised and passed information via her office and I was in regular contact with her Private Secretary. We had occasional text exchanges which, in keeping with Scottish Government policy, I have not retained. However, these were not used for decision making, which was the role of Cabinet, but for alerts when events were moving quickly. For example, to update FM on contact with my counterparts in the devolved administrations, in advance of a meeting she was about to attend or to draw her attention to an operational development or update. Any operational action or potential decision arising from these contacts would be communicated to my team and transferred through the corporate SCOTS IT system to the corporate record in keeping with SG policy.

21. My contact with John Swinney, Deputy First Minister during the pandemic was at weekly Cabinet or SGoRR. Occasionally he would contact me directly about a concern – something not happening sufficiently quickly or a staffing or resource problem – but this was usually by phone and directed through my office. Any action or decision arising from those contacts would be communicated to my team and transferred to the corporate record through the SCOTS system in keeping with SG policy. We did not have a separate schedule of regular calls or meetings on the pandemic.
22. My contact with Jeane Freeman, Cabinet Secretary for Health and Sport, was at weekly Cabinet or SGoRR. Occasionally she would contact me through my office by phone about a concern – something not happening sufficiently quickly or a staffing problem. We exchanged the occasional text which, in keeping with Scottish Government policy, I have not retained. However, as far as I recall, these limited exchanges were on staffing and recruitment issues. And any operational action or potential decision arising from those contacts would be communicated to my team and transferred through the corporate SCOTS IT system to the corporate record in keeping with SG policy. We did not have a separate schedule of regular calls or meetings on the pandemic.
23. My contact with Humza Yousaf, Cabinet Secretary for Health and Social Care, was at weekly Cabinet or SGoRR. We did not have a separate schedule of regular calls or meetings on the pandemic.
24. I had contact with other Cabinet Secretaries prior to, or after, Cabinet or SGoRR if meeting in person, or at other meetings or briefings attended by Cabinet Secretaries. Occasionally a Cabinet Secretary would get in touch with me on a specific issue usually personal or staffing – via my office and on the phone. Any operational action or potential decision

arising from those contacts would be communicated to my team and transferred through the corporate SCOTS IT system to the corporate record in keeping with SG policy.

25. There was a close working relationship between key decision makers due to the regularity of their contact, the evolving nature of the pandemic and the fast pace and intensity of the work. In particular there was very regular contact – daily or often hourly - between senior health and clinical advisers and the Cabinet Secretary for Health and Sport (and subsequently Cabinet Secretary for Health and Social Care) and the First Minister and between their special advisers. The First Minister was kept closely informed on all Health and Social Care data, trends and emerging scientific evidence on the pandemic. There was also a close working relationship between the First Minister and the Deputy First Minister, who led on the SGoRR response. Cabinet members maintained close, constructive and supportive relationships with their Cabinet colleagues, and their Directors General, working closely with other portfolios to ensure joined up policy and decision making, and sharing information on a regular basis. As a result, Cabinet meetings were professional, efficient and focused - each Cabinet Secretary had the opportunity to share and explore their own portfolio pressures and issues, where these interacted with those of others and to identify which required fast action, as part of the collective decision making on the response to the pandemic.

26. Systemic information sharing such as the daily data bulletins introduced in March 2020, scheduled daily meetings between SG officials and advisers, with Ministers and their advisers, and with UK Government officials, were rapidly introduced and an information sharing regime established. However, the nature of the pandemic meant a constant and very rapid flow of information, updates, fresh data, analysis and advice was often received or provided at speed, late in the day and early in the morning. Ensuring that this information was shared timeously, maintained accuracy and was seen by people who needed to see it proved testing and we expanded, improved and tested our information sharing systems accordingly. This included identifying early on the information which should be shared 'raw' and at speed, and that which required further analysis on how it impacted on Scotland in order to be most useful and informative, but without compromising quality, pace or robustness. There was also the risk that information was shared with or retained within Health domain only. Cabinet's approval in April 2020 and the subsequent publication of the Scottish Government's Framework for Decision Making demonstrated recognition of, and commitment to, integrated decision making, and information was shared beyond health environs including with key partners such as local government. This document also demonstrates the wider Scottish Government strategic planning beyond the Health

portfolio, in order to address and anticipate the complex and unprecedented nature of the pandemic and its impact on every aspect of life in Scotland. In addition, the First Minister's daily public information updates and reports to Parliament deepened, strengthened and focused the need for the integrated and accurate information available at that time, in a fast moving context.

c) Informal Decision Making and communication

27. Key decisions about the SG response to Covid 19 were taken by and within Cabinet – or on occasion when an issue was still evolving, by the First Minister under a specific delegation from Cabinet. I am not aware of any key decision being taken on messaging platforms or informal or non-minuted meetings, which would be against the Scottish Government's records management policy and plan.
28. As an example, I distinctly recall speaking with the Cabinet Secretary for Health and Sport as we left Cabinet and walked down the stairs. This was a conversation about a recruitment process already underway. However, the only action which arose from this meeting was to keep her updated on the process.
29. In my experience informal messaging platforms and texts were deployed by staff for quick alerts, logistics including staffing and resources, requests to call, update and to check in on wellbeing and on progress/action in fast moving times. I did not retain these messages as any commission or request for action arising from these exchanges would be recorded in subsequent correspondence on the SCOTS system and committed to the corporate record. However, I have identified a few threads and two texts which I missed, and which remained within my personal phone archive. I am sharing these with the Inquiry. There was a clear understanding that these platforms were not for decision making, in accordance with the SG's Mobile messaging apps policy [LE/002 – INQ000131069], SG Management Policy and Records Management Plan, the SG Framework for decision making, [LE/003 - INQ000102900] and the principle of collective responsibility as set out in the Scottish Ministerial Code. If a WhatsApp exchange included a commission, response or request for action it would be standard practice for Ministerial offices or, if exchanges were taking place between senior officials, themselves or their support team, to issue this via email on the corporate SCOTS IT system. SCOTS is the Scottish Government's IT system, enabling access to the Scottish Government network for use of email, internet, Microsoft Office and internal systems. I used both a governmental and a

non-governmental phone. On my departure from government my governmental phone was returned it to my private office team.

30. I was not aware of meetings between core decision makers, including the FM, and counterparts in the UKG to which I was not invited but would have expected to have been. My diary schedule reflects the fact that I was notified of all key decision making forums, including those with the UKG. I did not routinely attend all of these, subject to agendas and availability. but the invites are held in my diary for the corporate record.
31. Civil servants would always offer and provide briefing for their Cabinet Secretaries and Ministers before significant meetings, and senior civil servants would often seek briefing where an agenda included specific, detailed or technical matters and/or where updates were required, especially given the fast moving nature of the context and/or where the Scottish needs/interests were distinctive. Directors General would each brief their Cabinet Secretaries before Cabinet, drawing on the agenda and papers, and before SGoRR where their portfolio interests featured on the agenda. Cabinet Secretaries would draw on this as required when articulating their own views and portfolio interests at Cabinet. In addition, Cabinet Secretaries would have already submitted comments on Cabinet papers whilst still in draft and these comments would be noted/responded to by the leading Cabinet Secretary. As part of Cabinet papers (and in their advice to Ministers more generally) civil servants offer options, articulating the evidence base, likely impact, views of stakeholders (where known) and risks associated with each option. All Cabinet Secretaries were present or represented at Cabinet to articulate the implications of decisions to be taken for their portfolios.
32. Most meetings in which I took part were not recorded digitally. In line with Scottish Government corporate guidance, any action, instructions or requests which arose from such meetings were recorded as required and therefore committed to the corporate record via the SCOTs system. Ultimate decision making was undertaken by Cabinet where the options under debate and views were recorded in minutes.
33. I am asked to comment on to what extent were there side, or informal meetings, at which significant decisions were discussed. I am not aware of informal meetings that were significant in this way. Of course, there were meetings with more informal or ad hoc structures/membership in addition to the formal committees described. If these took place in the presence of officials these would have been treated as 'formal' meetings and therefore have been recorded and committed to the corporate record. I am unable to

provide a chronological list of informal meetings which were significant in terms of matters discussed or those who attended other than those which form part of the corporate record. My office diary (and those of others) provides a record of my own meeting schedules and commitments during this time. However, all formal decision making was undertaken by Cabinet. Any commission, response or requests for action arising from other meetings would be recorded in subsequent correspondence on the SCOTS system, committed to the corporate record, and included in advice to Cabinet as appropriate. As such it did not affect the efficacy of decision making or the proper recording of decisions.

34. Scottish Government guidance on internal communications, messaging and data retention was in place during this time and was supplemented by mobile messaging policy in November 2021 in response to the need for advice and guidance to support remote working during the pandemic lockdown and beyond in hybrid working [LE/002 - INQ000131069]. The Scottish Government Corporate Records Management Policy (updated February 2021) includes a requirement to record all government business of corporate value in our electronic Records and Data Management (eRDM) system regardless of the source. It specifically mentions mobile messaging applications (“apps”) and applies to everyone, whether the information is held on a personal or corporately provisioned mobile device. The Scottish Government’s Records Management Policy and Records Management Plan, are both published and available to all staff on the Scottish Government’s intranet, known locally as ‘Saltire’, setting out the practical application of the Scottish Government Records Management policy. Managers were expected to draw staff attention to this kind of corporate material and practice. As referenced above, and in keeping with the Scottish Government policy, I did not retain informal messages, and indeed, was not the administrator for those What’s App groups of which I was a member, such as those for keeping in touch with my Executive Team and my Private Office. However, when checking for personal records/notes as part of my response to the Inquiry I did find a handful of messages in the archive of my personal phone and have included these in evidence which is being submitted. These messages illustrate the purpose for which these platforms were deployed in the Scottish Government, that is, they were not for decision making. The two longer What’s App threads demonstrate the unique nature of, and particular need for, my regular contact with DGs Health and Social Care, who at any one time was managing multiple demands, commitments, information and pressures with limited resources and in urgent timescales, and sometimes unable to attend our regular Executive meetings.

35. I am not aware of identifiable gaps in the use of the SG eRDM system. There is a responsibility on staff and Ministers to report lost or stolen mobile devices and I understand that during the timeframe of 21 January 2020 to 30 April 2022 16 mobile devices were reported as lost or stolen, but that there were no reports from the annual assurance exercise of non-compliance or of any lost or missing data that should have been retained. However, no document recording system is perfect – I am confident that the SG will alert the Inquiry to any such issues in the future.

d) Inter-governmental working between the Scottish Government and the UK Government and the other devolved administrations

36. Between January and June 2020, the Scottish Government participated in a number of intergovernmental fora. Some of these were created specifically in relation to Covid-19 and some were part of well-established UK health protection resilience mechanisms. I should stress that there was a wide range of informal and formal engagement in addition to these bodies. I was not directly involved in most of these fora, but the DG Strategy and External Affairs Corporate Statement provides more information and detail.

37. Many mechanisms already existed to support the devolution settlement prior to the pandemic. These increased and were strengthened and developed during the pandemic. For example, where regular civil servant contact and information sharing already took place between some UK departments and their counterparts in Scottish Government, this increased in regularity and deepened, as did contact and exchange of information and data between specialists/key advisers e.g. Chief Medical Officers. There was new or more regular contact between some UK Government Departments and Scottish Government where little had existed before, or where contact had been through predominantly between agencies.

38. Much of this contact was through the Ministerial Implementation Groups established by the UKG to oversee specifics of the Covid response, including right across the public sector where discussions were wide ranging and included . transport, volunteering, food security etc. The Cabinet Secretary for Health maintained regular updates and sharing of information with her counterparts in all four nations. Some new initiatives were introduced such as the regular rhythm of daily contact established by the Cabinet Office for those departments in the UKG which were considered to be impacted on by Covid, namely Covid-19 Cabinet Secretary Officials Meetings (Cab Sec (O)). Devolved administration Permanent Secretaries were invited to these daily meetings and there were telephone call

catch ups between UK Government Health Department Permanent Secretary and Devolved Administration Permanent Secretaries.

39. The allocation of roles between the UKG and SG in the management of the pandemic was clear – health is a devolved matter. I have outlined SG/UK coordination and communication on core decision making above with more detail in the corporate statement provided by DG Strategy and External Affairs in June 2023. In addition, civil servants (including myself) and Ministers made regular contact with their counterparts in the UK Government in order to share/seek information and updates and ensure coordination. The Scottish Government recognised and understood the UKG responsibility for England's health policy under the devolution settlement. When the UK Government was taking steps in management of the pandemic in England it was mostly understood as to why these steps were being taken, though it was not always clear if these steps were intended as solely for England and/or if the impact across devolved responsibilities was understood. Sometimes the approach being taken in England was considered to be the norm from which the other UK nations "diverged". As an example, on 10 May 2020, Cabinet considered a summary of the FM's report from COBR(M) of the UKG's plans to ease lockdown and change messaging in a way that diverged from the more cautious approach taken by SG [LE/004 - INQ000078542].
40. I am unable to comment on the efficacy of intergovernmental fora which I did not attend regularly. Most of those listed would have been attended by Health officials and specialists who may be able to comment on which of these worked well and why.
41. I attended regular (often daily) Covid-19 Cabinet Secretary Officials Meetings (Cab Sec (O)) commencing from 18 April 2020. This was convened by the UKG Cabinet Office so they will have a list of dates, agendas, attendees and any minutes but regular items included latest data, trends and stats, key issues and milestones and planning/anticipating and readiness for challenges ahead. Permanent Secretaries of the Devolved Administrations also updated on their territories and key issues. These meetings were a useful source of information on proposed new initiatives or policy. From early June 2020 participation was open to Directors General (DG) and so a relevant DG from the Scottish Government would sometimes call in my place. Following these meetings I briefed relevant colleagues on key issues, decisions or points which might impact on Scottish Government interests/decisions or represent useful context or alerts at our daily Executive Team meetings. DGs could then follow up as required with counterparts in UKG and alert Cabinet Secretaries as required. I reported back in general terms at the weekly Directors meetings.

If there were substantial changes or issues which arose in these meetings, I would alert the First Minister.

42. From late January 2021 to August 2021 Scottish Government officials called into weekly Covid-19 Permanent Secretary officials Meetings (Perm Sec (O)). The first of these was held on 18 January 2021. I attended each of these throughout January – June 2021. Calls over July and August 2021 did not always go ahead due to periods of leave for a number of attendees, but all slots were held in my diary, and I attended where they ran, and when I was not myself on leave. There were no calls on 5 April 2021, 3 May 2021, 31 May 2021 due to Bank Holidays. They were convened by the UKG Cabinet Office so they will have a list of invites, attendees and agendas.
43. In line with normal civil service practice, the most appropriate senior official or ministerial attendee would be supported to attend each forum or if they were not available, a suitably briefed substitute identified. Key actions points or information would have been disseminated to the relevant policy leads or incorporated into wider briefing and advice as appropriate. This information, deliberation and action would also feature as appropriate in Cabinet papers for formal, corporate decision making.
44. There was a less intense rhythm of intergovernmental engagement from June 2020, but other regular contact remained e.g. between UKG and SG policy officials, the four Chief Medical Officers, the four nations Health Cabinet Secretaries and weekly Wednesday morning colleagues. Covid featured in these meetings and on these agendas. Scotland remained committed to the four nations approach to management of the pandemic. I cannot comment about the replacement of Ministerial Implementation Groups as I was not involved in them. Engagement between the Scottish Government and UK Government on issues such as coordination of policy, communication responses, sharing of data and analysis and pooling of resources did work in general.
45. A challenge to inter-governmental working between the Scottish Government and the UK Government was that many UKG Departments did not consider or understand devolution and therefore the implications and impact of their response and actions on devolved interests. This condition predated, but became particularly exposed during, the pandemic. The attendance and updates by Permanent Secretaries from the devolved administration at the UK Government Covid 19 Cabinet Secretary (O) and Permanent Secretary (O) meetings helped to flag up issues and identify points of difference in policy and communication.

46. As noted above it was not always clear that the impact of decisions by UKG across devolved responsibilities was fully understood. This was particularly the case when reserved decisions (i.e. those reserved to the UKG in the devolution settlement) would have an impact on devolved responsibilities or interests. For example, decisions relating to international travel restrictions which applied to UK airports but had an indirect effect on the ability of travellers to reach Scotland. Another example is HMT introducing economic measures across the UK where economic development is/was devolved. Consultation and communication were key here.
47. I am not aware and cannot recall any recorded examples where the pace of the pandemic response, the unprecedented rhythm of ministerial meetings and the short turnaround time on commissions for papers meant that the Scotland Office or the Scottish Government may not have always received invites, agendas or papers in time. However, given the pace of events and decision making, turnaround times were often extremely short, and agendas and papers were sometimes received very close to deadlines and/or timing of meetings.
48. A varying level of consideration for, and understanding of, devolution amongst UKG civil servants was apparent during the pandemic. Along with the devolved Permanent Secretaries in Wales and Northern Ireland, I regularly reminded my UKG counterparts of the devolution settlement and what this meant in practice including the need to consult early on. The introduction of the (almost) daily Cabinet Secretary (Officials) calls provided a regular forum for me to raise practical examples of where this interfaced with Covid planning and response. For example, Ministry of Justice approach to prisoner release in England and Wales – it would be important to ensure that any cross UK impact was understood.
49. The Scottish Government adhered to a four nations approach to the management of the pandemic, considering it essential for all four UK administrations to adopt a consistent approach with closely aligned public messaging, unless local circumstances demanded a different timescale for certain measures. For example, Scottish Government took a stricter line on stopping construction work. And on occasion the First Minister felt that she needed to announce a change in Scottish measures to ensure that they were understood and acted on sufficiently quickly to address circumstances in Scotland. I am not aware of the Scottish Government formulating a plan that it would not adopt a four nation approach or to depart from the four nation approach. Alignment and coordination between the four nations of the UK was consistently seen as preferable in the period leading to the first

lockdown. The SG considered the risks of potential divergence of approach with the UK Government – an example was at Cabinet in the context of the Chief Medical Officer advising that non-alignment had been deemed unsafe [LE/005 -INQ000273617].

50. As public health measures increased in scope, there was advice given that having different arrangements and restrictions in different geographical areas could have a negative impact on compliance. These considerations related to the imposition, rather than the relaxation of restrictions.

51. In her 11 May 2020 address, the First Minister clarified that the details of the plan for easing restrictions in England set out by the Prime Minister the previous evening, did not apply here in Scotland. I do not believe that the First Minister's comment represented the point at which the four nations approach was departed from. Indeed, it reflected the four UK administrations adopting a consistent approach with closely aligned public messaging, unless local circumstances demanded a different timescale for certain measures. I am not aware if it impacted on the working relationship between the two Governments nor on the relationship between the FM and the Prime Minister at the time.

52. I am not aware of any advice given to the Scottish Government which was rejected in favour of following the four nation approach. There is more information on the detail of how the four nations approach operated in the DG Strategy and External Affairs corporate statement.

53. There were challenges in ensuring that data and information being used in decision making by the UKG was UK wide and not driven by an England only understanding of policy issues. At the COVID (O) meetings, I raised points where England only policy was being considered in isolation from the impact on Devolved policy. On 14 April 2020 I wrote to Sir Mark Sedwill to follow up on discussions at a Covid (O) call the previous week, where the meeting had considered material prepared by the Cabinet Office on "UK wide risks in policy and delivery responses to Covid-19." that correspondence notes the commitment to produce a regular sitrep to highlight intelligence and stakeholder views on UK-wide issues, as well as to provide a ready assessment of key cross-cutting issues. My correspondence also reiterates the point I had made in the discussion prior to the correspondence being issued, that the sitrep would be most effective if it was developed in collaboration with the devolved administrations. I provided key senior (Director level) contacts within the Scottish Government to engage with the UK Government to that end. Finally, that correspondence also notes that there had been confirmation at the meeting

that the devolved administrations would be fully engaged in the review point on social distancing measures, once the required data became available, and asks for arrangements for the Scottish Government's involvement to be confirmed as matter of urgency.

54. I worked closely, effectively and productively with key official decision makers – the Cabinet Secretary and Permanent Secretaries in the UK Government and with DA Perm Secretaries – during the period January 2020 and 31 December 2021. This contact was mostly on a one-to-one basis by phone or through the regular almost daily Covid (O) meetings chaired by Mark Sedwill, Cabinet Secretary. I was not aware of any personal relationships that made it more challenging for key decision makers to work together.

55. My personal and working relationships with other key decision makers and their advisers in the Scottish Government and in the UK Government and devolved administrations during the pandemic were professional and effective. I am not aware of any personal relationships having an overall effect on the manner in which the SG and UK Government worked together nor with other Devolved Administrations during the pandemic, or on the efficacy of the response to the pandemic in Scotland. I am not aware if Alister Jack, the Secretary of State for Scotland, attended some of the Four Nations Heads of Government calls. His role in so far as it related to the management of the pandemic in Scotland is a matter for the UK Government. I do not recall attending meetings with the Secretary of State for Scotland or his office in relation to the management of the pandemic in Scotland other than attendance at COBR meetings. Hence, I cannot comment on the effectiveness of the Secretary of State for Scotland nor his office.

e) The Other Devolved Administrations

56. I was in regular, useful communication with my counterparts in the devolved administrations, as were Scottish Government civil servants with theirs, throughout the pandemic sharing information on the steps they were taking in managing the pandemic.

f) Funding

57. Measures taken by the Scottish Government in managing the pandemic were funded by reallocating other elements of its budget and Barnett consequential (that is, changes to Scottish Government's block grant in any given financial year, reflecting a population share of changes in UK Government spending on areas that are devolved to the Scottish Parliament). The size of the Scottish budget was impacted by UK fiscal policy and decisions were taken collectively by the Scottish Cabinet on how all funding would be

prioritised and allocated in Scottish budgets. The Director General Scottish Exchequer statement provides more detail on this.

58. As is normal practice in the Scottish Government, each Director General is an Accountable Officer for their areas of responsibility and delivery, i.e. they are responsible for all spend and income targets. Directors General kept their Cabinet Secretary informed about financial risk and additional costs and pressures, as well as briefing the Cabinet Secretary for Finance and subsequently the Cabinet Secretary for Finance and the Economy, who has overarching responsibility for the Government spend and probity. I would refer to the Director General Scottish Exchequer who will be able to provide more detail on this and also on what if any limitations and difficulties were faced and their causes. Funding and financial impact featured in all Scottish Government core decision making. Referring to Non Pharmaceutical Interventions (NPIs), the Directors General Scottish Exchequer and Economy will be able to provide more information on this.
59. Audit Scotland provided information regarding the Scottish Government's reallocation of budget alongside Barnett Consequentials. Over the course of 2020/21, the Scottish Government reallocated a total of £1.14 billion from other areas of its budget, though not all of this was to support the Covid-19 response. The majority of this funding (£745.4 million) was reallocated towards the end of the financial year, as part of the Spring Budget Revision. Most of these 2020/21 reallocated funds came from underspends emerging as a consequence of reductions in demand and the cancellation, postponement, or delay of individual programmes because of the pandemic [LE/006 -INQ000182992]. Some of this reallocated funding was assigned to specific and related Covid-19 measures including those for which there were no Barnett consequentials forthcoming.
60. Scottish Ministers and officials engaged with HM Treasury via existing and some Covid-19-specific channels. Scottish Government portfolio areas would also engage directly with the respective HM Treasury spending team (such as health finance) or with the UK Government department with spending authority over Covid-19 funds that applied UK-wide (e.g. the furlough scheme). I would refer to the detail contained in the DG Scottish Exchequer corporate statement, provided on 23 June 2023.
61. Scottish Ministers wrote to and engaged with UK Ministers regularly in relation to these arrangements and the furlough scheme in particular, and this correspondence is provided in the general disclosure documents. On 1 September 2020, the First Minister's Programme for Government Statement called for the UK to extend the furlough scheme.

I agree that furlough funding was a key part of SG considerations and decision making regarding maintaining restrictions and part of the SG Four Harms approach and efforts to reduce the potential economic impact of the pandemic. I would refer to Director General Economy in terms of the detail of this approach and contact and discussion with UK Government on it.

62. The published policy proposal Coronavirus (COVID-19): UK fiscal path – a new approach was developed by the Scottish Government, rather than jointly with the UK Government. I am not aware of any evaluation regarding the degree to which it was followed by the UK Government, the impact on its management of the pandemic, nor on Scotland. I do not know if the UKG judged the epidemiological situation based on its assessment of conditions in England. However factual information on conditions in Scotland were shared and communicated to the UK Government through intergovernmental fora and regular meetings between professionals such as Chief Medical Officers.

63. I agree with the Director General Strategy and External Affairs' assessment that the Scottish Government would not have the financial means to finance furlough funding alone. I cannot recall exact circumstances but the epidemiological difference between the four nations would have been likely to produce differentiated impact and therefore require retention of some constraints and some financial support.

g) Conclusions and lessons learned

64. All core decisions regarding management of the pandemic were taken by Cabinet, considering, questioning and drawing on data, analysis and advice from a supporting infrastructure of committees, advisory groups and fora. These decisions were reported to Parliament and to the wider Scottish public by the First Minister and Cabinet Secretaries. This is described in detail in the DG Strategy and External Affairs Statement provided on 23 June 2023.

65. Everyone was working under extreme pressure and for long hours every day during this time. Despite this I had no concerns regarding the performance of the FM, any Cabinet Secretary, Minister, senior civil servant, special adviser or individual in charge of any significant aspect of the Scottish response to the pandemic between January 2020 and 31 December 2021. Nor did I have concerns regarding the performance of any of my counterparts in the UK Government or the Devolved Administrations during this period in as far as I was able to discern this.

B Sources of advice: medical and scientific expertise, data and modelling

a) Scottish Government Covid-19 Advisory group (C19AG) and SAGE

66. SAGE is a UK Government convened body and the Scottish Government had limited insight and influence over its development and the reasons behind any changes made.
67. SAGE was created primarily to provide scientific advice to UK Ministers during emergencies, but Scottish Ministers were also allowed access to that advice, and it proved a useful source of evidence and scientific consensus from which the Chief Medical Officer could develop advice for the Scottish Government. However, Scottish Ministers could not ask questions directly of SAGE. Therefore the First Minister arranged for the Chief Medical Officer to establish the Scottish Covid-19 Advisory Group (C19AG) chaired by Professor Andrew Morris, which first met on 26 March 2020 to *“consider the scientific and technical concepts and processes that are key to understanding the evolving COVID-19 situation and potential impacts in Scotland”*. The C19AG evolved over time depending on demand and the phase of the pandemic. There is detailed information on this in the Covid-19 Advisory Group corporate statement provided in June 2023.
68. Papers from SAGE provided valuable information and advice which contributed to the Group’s understanding of the pandemic and which the C19AG’s discussions helped interpret for a Scottish context. I did not attend either of these bodies, but I saw them as effective in their respective roles. As Permanent Secretary, I did not take decisions on the convening or operation of these groups or their composition. I would refer to corporate statements already provided by DG Health and Social Care and the Chair of C19AG.
69. The advice received from the Chief Scientific Adviser (CSA), Chief Medical Officer (CMO) and Deputy Chief Medical Officers (DCMOs) was transparent and clear through the pandemic. Their roles are set out in corporate statements from DG Health and Social Care (for the CMO and DCMOs) and DG Economy (for the CSA). The advice from the CSA, CMO, DCMOs, C19AG and SAGE was probed and challenged, in particular by the First Minister and Cabinet Secretary for Health and Sport.
70. The scientific and expert advisory structure available to the SG was set in the context of the Four Harms. This ensured that the potentially competing economic, social and non-Covid health considerations were also taken into account in core decisions relating to the management of the pandemic in Scotland. The Four Harms is described in detail in the DG Strategy and External Affairs corporate statement provided in June 2023.

71. Advice on the ministerial code pertains to the actions of ministers. Dame Elish Angiolini and James Hamilton were available to respond to any specific concerns raised in that regard. Insofar as I am aware, there were no such concerns raised related to the management of the pandemic.
72. I did not have concerns regarding the adequacy or sufficiency of scientific and other expert advice on which decisions about the SG response to Covid-19 were based especially given the nature of the pandemic, and the fast changing, evolving and unprecedented circumstance. Medical and scientific information and advice was presented in a way that enabled decision makers to understand and interrogate. For example, the National Clinical Director and CMO met with the First Minister and Cabinet Secretary every day to go through data, trends and the latest scientific advice. CMO and DCMO attended Cabinet regularly, the National Clinical Director attended weekly meetings of Scottish Government Directors and attended external meetings with stakeholders and partners. Cabinet Secretaries were briefed on the data and scientific advice as it might impact their areas of interest e.g. the economy, education.
73. On questions concerning confidence in the recommendations provided, conflicting medical and scientific information and advice and data modelling, any instances where medical or scientific advice or data modelling was provided but not followed and any decisions in relation to which medical and scientific information or advice or data modelling was not sought, I would refer this assessment to the DG for Health and Social Care and the Chief Medical Officer.
74. During the pandemic, Scottish Government officials liaised closely with social care representatives and stakeholders including COSLA, Scottish Care and Coalition of Care and Support Providers Scotland, IJB Chief Officer network, the Care inspectorate and with groups established to bring stakeholders together to discuss and prioritise actions to support the sector during the pandemic and to advise on the development of guidance. When an issue became apparent to officials, informal consultations were held with clinical advisors and stakeholders, advice and guidance was drafted which was informally consulted on again before taking to decision makers. Redrafting could take place again before a recommendation was made to Ministers and, following their decision, draft guidance would be consulted on before being finally published. This iterative and collaborative process ensured that published guidance was developed in conjunction with – and reflected the experience of – service users and deliverers. I would refer to the

examples and detail contained within the DG Health and Social Care corporate statement provided in June 2023.

b) Data and modelling

75. I would refer to detailed advice provided by C19AG group, CMO/DCMO and CSA. Further detail is provided in the DG Health and Social Care Corporate Statement provided in June 2023. Health and Social Care Analysts provided daily briefings to Scottish Ministers and officials on the latest Covid-19 data, drawing on data from a variety of sources including Public Health Scotland, National Records of Scotland, NHS Boards, care homes, schools, NHS Education for Scotland, the Office for National Statistics and local authorities. There was a lot of data to analyse and process. COVID-19 Data and Intelligence Forum was set up around June 2020 to ensure effective coordination and coherence across the various Covid-19 data and intelligence streams flowing within the Scottish Government and between Scottish Government, PHS and National Services Scotland (NSS) as the main providers of Covid-19 data and analytical products and infrastructure solutions.

76. I and core decision makers in SG had adequate access to reliable data and modelling information that was available at the time. I do not know specifically if this included data from the private sector although some of the data from care homes would have fallen into this category. I was not close to the collection and dissemination systems operating within the Health and Social Care Directors or other directorates. I am not aware of issues being raised about the reliability of mathematical modelling of epidemiological outcomes.

77. Daily data reports were circulated to Ministers and officials by email SCOTS. A regular flow of standard data was maintained through the SGoRR SitRep process and the first SGoRR SitRep is included as an example [LE/007 - INQ000273618]. I usually understood the data and modelling information and advice made available, but I felt able to question and probe it when I did not. Core decision makers had the same opportunities.

78. Over the course of the pandemic, decision-making was supported by various types of impact assessment including Business Regulatory (BRIA), Equality & Fairer Scotland (EqFSIA), Children's Rights and Wellbeing (CRWIA) and Island impact assessments, where appropriate. Due to the fast-moving nature of the pandemic, the rapid pace of decision-making meant that formal impact assessments could not always be undertaken in advance of decision-making. However, the SG Four Harms model ensured that impact on the economy, society (including education) and non-Covid health (including mental health) were included in the modelling of decision making. This also ensured that the interests of, and impact on, vulnerable, at-risk groups and groups such as those with

protected characteristics could be discussed in relation to each of the harms and included in advice to ministers. The Four Harms approach is set out in more detail in the corporate statement provided by DG Strategy and External Affairs in June 2023. The Co-Chair of the First Minister's National Advisory Council on Women and Girls, Ima Jackson, also chaired an Expert Reference Group on COVID-19 and Ethnicity at the request of DG Communities.

79. At all times, the Scottish Government's actions in response to the Covid-19 pandemic were guided by the best and most up-to-date expert scientific advice. It was a strength of devolution that this advice was able to guide a different approach, when necessary, to meet the specific circumstances in Scotland. Specifically, the First Minister and core decision makers listened to, and studied, the science and scientific advice available at every stage. I cannot recall the message 'following the science' per se but it was considered important to share scientific advice available/known at the time and demonstrate that this was informing decisions. This included stakeholders, service users and the wider general public hearing and understanding the scientific advice and rationale behind the introduction, implementation and lifting of restrictions and, as a consequence, scientific data and briefings featured regularly in SG meetings with partners and stakeholders, and as part the First Minister's daily briefings.

c) Other sources of information and advice

80. I was not directly involved in contact with the International Comparators Joint Unit (ICJU) and cannot comment on the effectiveness of its role. However, I understand that ICJU advice was shared with relevant policy teams/leads on various aspects of Covid response for their consideration in preparing advice to ministers. Information provided by relevant international organisations such as the World Health Organisation (WHO) and the World Health Assembly (WHA) was provided to the Health Protection Network and the CMO. C19AG received a substantial amount of information on developments internationally, both via the Scottish Government and via SAGE and its sub-groups, as well as through international scientific journals and other publications and through individual members' international contacts. This information on the international situation was valuable in increasing understanding of the science of COVID-19 and in informing understanding of actual and potential developments in the course of the pandemic in Scotland. I would refer to the Corporate Statement provided by DG Health and Social Care for more detail.

81. The Joint Biosecurity Centre (JBC) worked collaboratively with the devolved administrations to help inform public health responses in respective jurisdictions. The JBC provided analysis and assessments to SG decision makers which will have supported and informed policy making but did not make decisions given health is a devolved matter. The decision to merge the JBC with the UKHSA in April 2021 is a matter for the UK Government.
82. In January 2020, officials provided information and analysis of the Chinese response to inform decision making, drawing on Foreign and Commonwealth Development Office reporting and open source information. From March 2020, analysis was provided on how other governments were responding to different impacts of the pandemic. This included information on both the Chinese and Italian responses. Weekly analysis reports were sent to Cabinet Secretary, CMO and all Covid Hubs for awareness. The team also shared analysis of, for example borders (UK, EU/ EEA and international), situational updates in other countries in relation to easing of restrictions and reopening schools, exit strategies in various countries, approaches to test, trace and isolate, and the situation in International Development partner countries such as Malawi. Information on other countries' response to Covid also featured in Cabinet briefing and papers. Official advice to Ministers would have included the impact and relevance of such measures on Scotland.
83. Ongoing engagement with interest groups and stakeholders took place by ministers and officials, according to portfolio responsibilities and this would have informed Ministerial policy and decision making at portfolio level and at Cabinet. Over the summer of 2021, the Covid Recovery Strategy was developed in partnership with stakeholders, informed by the work of the Social Renewal Advisory Board and a series of public engagement events including with business, the third sector, local government and academia. For my part Covid and its impact on Scotland and services featured in all my discussions and engagement at that time including meetings with colleagues from other Governments, stakeholders and partners. I also instigated a range of contacts as set out in paras 16-17, including Convention of Scottish Local Authorities, the Scottish Branch of the Society of Local Authority Chief Executives and Senior Managers, Police Scotland, Fire and Rescue Scotland, enterprise and education agencies, unions, Scottish Council for Voluntary Organisations, Scottish Chambers of Commerce, CBI, Audit Scotland and universities.
84. I would have shared their concerns and ideas with the relevant DG or official or Minister. For example, after speaking with the then Chief Executive of COSLA on 25 March 2020, I sent a note to DG Communities and the Director for Local Government that reflected their

support and recognition for the positive and close working relationship between national and local government to date, as well as a specific ask for further joint working on funding and specifically on speeding up the process for issuing grants to local organisations particularly those engaged in work supporting those most at risk. After speaking with representative from Universities Scotland on the 25 March 2020, I shared a written note of the key points from that call with a range of senior civil servants, to facilitate increased awareness of, and engagement on, specific points including emergency legislation development, sharing health data, and positive recruitment of academic volunteers. I did not meet with Scottish members of Covid Bereaved CBFFJ between early January 2020 and April 2022. I am not aware of who in the SG met with them during this period.

d) Operation of advisory mechanisms

85. Advisory structures provided medical, scientific and other advice which enabled core decisions to be taken effectively and efficiently. I would refer to DG Corporate statements regarding the structures in place to enable effective communication within individual portfolios, and to the corporate statement of DG Strategy and External Affairs regarding corporate structures. I am not aware of any available advice or information which was not provided on which to base my contribution to decision making or that of others. Core decision makers took decisions after a proper process of advice and consultation. Regular, accessible and responsive medical and clinical expertise was a strength. In addition, data analysis, trend and integration and application of the Four Harms methodology worked well as it provided a clear and consistent framework on which to develop and test policy proposals and shape accurate, timely and robust advice to Ministers.

e) Conclusions and lessons learned

86. Given the nature of my role I do not have any reflections to share beyond those already given above.

C Initial understanding within the Scottish Government and responses to Covid-19 in the period from January to March 2020

a) Initial understanding of the nature and extent of the threat

87. There was limited information and knowledge about essential features of the virus and disease, including its asymptomatic nature and means of transmission, during those early

days. Scottish Government scientific, health and medical advisors provided information, evidence and updates on the emergence, evolving nature, knowledge and potential consequences of Covid-19 during January 2020 as soon as it became available. It is hard to be exact about when I first became aware of Covid-19 or what could be regarded as sufficient at that time, but I depended on verifiable and scientific assessments about the nature of Covid 19 through internal briefing material rather than what was appearing in media reports. I do not recall seeing any scientific articles or any report published in Jan 2020 being brought to my attention though these may have informed the briefings circulated to Ministers mid to late January.

88. I saw the briefing supplied to the First Minister on 17 January 2020, which provided information that was verifiable at that time. A second briefing was circulated to the First Minister, Deputy First Minister and key officials on 24 January 2020 setting out information on case numbers from China and beyond from the WHO and outlining planned actions in the event of a confirmed case in the UK/Scotland. I had contact with my line manager the UKG Cabinet Secretary on 22 January 2020. A detailed briefing and discussion then took place at Cabinet on 28 January 2020. At my meeting with Director General Health and Social Care on 30 January 2020 we discussed the virus and measures required and being taken. Advisers and officials at SGoRR on 31 January 2020 shared the most up to date information.

89. I do not know about the level of advice taken by CMO and her staff from experts such as epidemiologists, but DG Health and Social Care and the CMO would have more detail on this. I did not liaise with international organisations such as WHO, but DG Health and Social Care and the CMO would have more detail on the SG contact with such organisations.

90. My assessment of the information I received was to keep informed and abreast of information as knowledge grew and evolved. Until toward the end of January 2020, the risk to the UK public of outbreak was being assessed as low. As set out above, the First Minister was briefed on 17 January 2020, and again in a second note of 24 January 2020. Cabinet of 28 January (including the First Minister) was briefed fully on what was then known about Covid-19 and the threat it presented. There was a discussion and assessment of information available and it was noted that there were no confirmed cases of the virus in the UK at this time. However it was recognised that this was a fast-moving and continually evolving situation, that it would reach the UK and that it was important to put in place appropriate measures in all parts of Scotland to minimise the risk of contracting

the virus and control the spread of any outbreak. The rate at which the virus was spreading in China was 'alarming'. It was suggested that the virus might be infectious in its incubation period before symptoms began to show, and this would make controlling the virus very challenging. It was noted that Scottish Government messaging needed to be consistent with the latest evidence concerning how the virus spread. Work was already underway on assessing impact on existing healthcare provision and the need for additional medical facilities to protect the resilience of NHS Scotland. The R rate was not raised at that time. Good collaboration was taking place with UK CMOs. Concern was expressed that the UKG had not so far been sufficiently responsive to requests from SG on information regarding repatriation of UK nationals currently in China and how many would be travelling onto Scotland so appropriate infection control measures could be put in place. Also, it does note specific commitments made at COBR of 24 January 2020 but that these were not yet fulfilled. The First Minister asked to be kept updated.

91. The evolving understanding of Covid 19 is reflected in the papers presented to Cabinet during this time.
92. Details of the resilience structures in Scotland are set out in the Module 1 corporate statements, in particular the corporate statements supplied to Module 1 of the Inquiry by DG Strategy and External Affairs and, from a health perspective, DG Health and Social Care [LE/008 - INQ000184894] [LE/009 - INQ000184897]. Scottish Government had resilience and emergency plans, procedures and structures in place as part of SG corporate function, further detail of which can be shared with the Inquiry. In line with these, SGORR was activated on 29 January 2020 and met frequently thereafter to ensure the effective coordination of the emergency response across Scotland. This supported and informed regular discussion and decision making by Cabinet during this time. Scottish Government was drawing on information available and evolving at that time – its resilience systems operated effectively within this context.
93. The Scottish Government's response in January 2020 (and the reaction of, and decisions taken by, the FM and Cabinet) were based on knowledge and information available about the virus at this time. This information was constantly evolving, and I and others were learning every day about the virus and its features during this period and indeed, throughout the pandemic. Despite the virus being assessed as low risk in the UK, there was clear recognition by the First Minister and the Scottish Cabinet of its potential seriousness, and this is reflected in the reaction and actions arising and recorded from Cabinet in January 2020 which I attended. I cannot recall if the SG saw Covid-19 as akin

to influenza. I believe protocols associated with influenza were used (e.g. the list of those categorised vulnerable in the paper submitted to Cabinet in early March 2020 was explicitly taken from the influenza 'Green Book') and it was noted in the SCANCE paper circulated ahead of the Cabinet meeting on 4 February 2020 that "directorates are planning, in the first instance, to stand up pandemic flu plans" and that "the Scottish Government is preparing for the reasonable worst case scenario of a situation similar to an influenza pandemic"[LE/010 - INQ000348708]. The shared action plan issued jointly by the UK Government and the devolved administrations on 3 March 2020 [LE/011 - INQ000131020] stated that:

There is similarity between COVID-19 and influenza (both are respiratory infections), but also some important differences. Consequently, contingency plans developed for pandemic influenza, and lessons learned from previous outbreaks, provide a useful starting point for the development of an effective response plan to COVID-19. That plan has been adapted, however, to take account of differences between the two diseases.

94. I am not aware of any direct contact by SG officials with WHO but this is not surprising given contact was mediated through the UK, which holds the membership of this international body. The declaration of the PHEIC was outlined to Cabinet in a SCANCE paper of 4 February 2020, which noted that this had taken place on 30 January and that the four UK CMOs had subsequently advised raising the national risk assessment level from low to moderate in order to "escalate planning and preparation in case of a more widespread outbreak". Early briefings and Cabinet papers were based on input from the CMO for Scotland who made clear that she had been participating in discussions with the other three UK CMOs to make shared recommendations at a national level arising from WHO advice. I am not aware of specific dated guidance - detailed information on this matter would be better answered by the CMO.
95. By the end of January 2020 Cabinet had been briefed and taken decisions on the Scottish Government's response to the emerging threat, and COBR and SGoRR had both met to assess the nature and seriousness of a fast-evolving picture. First Minister and core decision makers were present at these meetings and therefore aware of all the information which was available at that time about a potentially fatal new respiratory disease. From that perspective we were successful in bringing what was known about Covid-19 at that time to their attention. The Cabinet minutes of that time show that the Scottish Government priorities at the end of January 2020 included the Budget and UK's departure from the EU. Covid rapidly became the single priority and focus of the Government.

96. The SCANCE paper of 4 February 2020 described the Scottish Government's preparations for "the reasonable worst case scenario of a situation similar to an influenza pandemic" and the Conclusions for the corresponding Cabinet meeting that day echoed this, stating that "[t]he Scottish Government Resilience Room continued to monitor the situation, and preparations remained in hand, based on a reasonable worst case scenario of a situation similar to an influenza pandemic" [LE/010 - INQ000348708]. At this stage Cabinet were informed that the UK had two confirmed cases of Covid-19, neither of which were in Scotland.

97. The RWCS figures are provided in a Cabinet dated 18 February [LE/014 - INQ000238703]. There was also discussion of the first cases in Scotland in the Cabinet meeting held on 3 March [LE/015 - INQ000232901]. The latter explicitly discusses the concept of a 'reasonable worst-case scenario', stating that:

There was widespread misunderstanding of what a 'reasonable worst case' scenario might mean in practice. For example, an estimate of 200,000 cases in Scotland could be spread over a number of months and did not imply that they would all happen at once. This said, the impact on the health service and wider society was likely to be significant, and the extent and nature of preparations should not be concealed.

98. A set of outputs from a UK Government workshop on the RWCS were shared through SGoRR on 28 February.

b) COBR/SGORR

99. I cannot answer this question as instigation of COBR lies with the UKG. COBR ('Cabinet Office Briefing Room') meetings are called by the Cabinet Office, usually to handle matters of national emergency or major disruption. COBR is a UK Government mechanism, and the timing and invitees are at the discretion of the UK Government. COBR meets during any crisis or emergency where it is warranted, but this can be ad hoc, and the timing of meetings may be dependent on ministerial availability. If invited SG would prioritise attendance.

100. The first COBR(M) meeting was held on 24 January 2020, and attended by the Cabinet Secretary for Health and the CMO for Scotland. A summary was shared with Cabinet as part of SCANCE [LF/016 - INQ0000000].

101. I am not aware of the reasons for the Prime Minister's nor the First Minister's non-attendance at early COBR meetings. I understand that there was a COBR(M) meeting on

26 February 2020, attended by the Cabinet Secretary for Health and Sport, and a COBR(O) meeting on 28 February 2020, attended by the Scottish Government's Head of Resilience Response and Communications Unit and the DCMO. COBR is a UK Government mechanism - the UK Government would be able to offer details of the arrangements for the meeting on 2 March 2020.

102. Details of relevant SGoRR and Cabinet meetings have been provided.
103. On 2 March 2020, the same day as the COBR meeting discussed in paragraph 101, SGoRR also met to discuss the latest developments and thinking. The agenda for this meeting (and the papers for the COBR meeting) are provided [LE/077 - INQ000233302]. A summary of the discussion and action points is also provided [LE/078 -INQ000233559].
104. It was recognised that whilst SG had devolved responsibility for all health matters, the management of a pandemic would require close cooperation and joint effort by all Governments in the UK.

c) Pre-lockdown response

105. In keeping with the responsibilities and collaboration set out in my previous answer, an action plan was issued jointly by the UK Government and the devolved administrations on 3 March 2020 outlining a shared approach on the response, including reference to public health authorities' hand hygiene guidance and discussion of the respiratory nature of the virus.
106. It is for the UK Government to address their measures to carry out surveillance at this time. Given the data available and knowledge about the virus at this time the rate at which Covid 19 was spreading through the UK would have been hard to fully assess.
107. Testing for suspected cases of Covid-19 in Scotland began on 24 January 2020. The SCANCE paper circulated to Cabinet on 28 January 2020 [LE/016 - INQ000238718] covered testing and tracing across the UK in the pre-lockdown period. I was present at all Cabinet discussions and meetings, and party to relevant briefings in my role as Permanent Secretary.
108. In addition to Cabinet, UK analysis of the RWCS was shared with SGORR on 6 February. That meeting agreed to plan for a Reasonable Worst-Case Scenario using the planning assumptions prepared for a pandemic flu.

At Cabinet on 24 March 2020 [LE/017 - INQ000078531], there was discussion of reducing the peak number of infections across the population and it was accepted that this was a 'logical' approach given the hope that vaccines and therapeutics would emerge. Discussion at an earlier Cabinet meeting on 10 March [LE/018 - INQ000238706] indicates the understanding of the overall UK strategy at the time: the minutes state that

Given that there was currently no cure or vaccine, the main purpose of the UK's public health measures would be to delay and 'flatten' the expected peak in case numbers over coming months, in an attempt to protect, so far as possible, capacity in the health service (and particularly, its intensive care capacity), social care and other critical services, as well as to 'shift' the highest incidence of cases into the warmer months, where possible, when the NHS typically had more capacity to treat the most serious respiratory cases. It needed to be recognised, however, that, even with the implementation of the delay measures, the pressures on the NHS and other responder bodies were likely to be of a scale not experienced before. The gravity of the challenge facing the country was clear, and this realisation lay at the heart of the mobilisation of effort across the Scottish Government and its public bodies.

d) Flattening the curve

109. I consider that I and key decision makers were being briefed on the data and information available at the time in order to help to assess the curve and how it might be flattened. I cannot comment on the UK Government's response strategy in this regard. However, the Scottish Government's overall strategy was as set out in the 'Framework for Decision-Making' [LE/001 - INQ000131025] and in the 'Route Map' series of publications which built on it and was underpinned by the 'Four Harms' approach marshalling the many and various harms of the pandemic into four categories:

Harm 1: direct Covid-19 harm

Harm 2: other health harm caused by the pandemic

Harm 3: societal harm

Harm 4: economic harm

e) Herd immunity

110. My understanding of herd immunity was protection from an infectious disease that happens when the population becomes immune through exposure to that disease or vaccination. However, as outlined in the DG Health and Social Care corporate statement provided in June 2023: *There was no herd immunity strategy. What was discussed in the early stages of the pandemic and how to respond was the potential compromise on the NHS's ability to cope if high numbers of the population were infected with Covid-19. At*

meetings of SAGE, the extent to which the NHS would be able to cope and how that would need to be controlled was discussed very early on. I cannot comment on the UK Government's response strategy in this regard nor that of SAGE.

111. The guidance on 12 March 2020 advising those with Covid-19 symptoms to self-isolate at home for at least seven days was sourced in scientific advice which applied to the whole of the UK (primarily provided by SAGE, raised at COBR meetings and discussed by the CMOs of the four nations). The scientific advice was that the UK was about to see a rapid escalation in the number of cases, which meant that far more stringent steps were required to suppress the spread, to protect and allow time for scaling up capacity of the NHS. My role as Permanent Secretary as always – I was party to the evidence being presented to Ministers at Cabinet on 10 March 2020, which discussed progress towards issuing guidance [LE/018 – INQ000238706].
112. The announcement in Scotland came from the Chief Medical Officer, [LE/019 – INQ000078911] referring to the appropriate advice and guidance for Scotland.
113. The advice to move to the delay phase applied to the whole of the UK and was from SAGE, which was disseminated through COBR mechanisms. This shift had been anticipated in Cabinet discussion on 3 March, [LE/015 - INQ000232901] when the Cabinet Secretary for Health and Sport's update included the following observation:

Although Containment remained the highest priority, it was likely that the response to the outbreak would move into the Delay phase in the near future. The objective during that phase would be to maximise the NHS's ability to cope with the outbreak by spreading the number of cases over a longer period. Ideally, it would be best to delay the spread of the disease into the summer months, when it was thought that the medical effects might be less severe (although this was as yet not proven).
114. The Cabinet Minutes of 17 March at which I was present, indicate scientific advice was that the UK was about to see a rapid escalation in the number of cases, which meant that far more stringent steps were required to suppress the spread, to protect and allow time for scaling up capacity of the NHS [LE/020 - INQ000078529].
115. Efforts to develop testing capacity continued at the time in question. There was a SGoRR Deep Dive on testing plans on 3 April. Contact tracing also remained an active concern: the First Minister asked for further advice on strengthening Scotland's contact tracing capabilities on 16 April, as set out in a submission on 25 April on the latest position [LE/021 – INQ000249510]. This note informed a deep dive discussion with FM, which I attended,

on 27 April, at which Ministers discussed how a contact tracing service would be delivered, as part of the wider strategy for maintaining low rates of transmission.

116. The advice that all indoor and outdoor mass events of 500 people or more should be cancelled was considered at SGORR on 16 March. The paper supplied noted that while there was limited clinical evidence to suggest banning large gatherings prevents transmission of the virus, advising against gatherings would align with the Government's approach on social distancing and maintains public confidence in the Government's overall interventions. [LE/022 – INQ000214782]
117. On the closure of schools, I understand that this was considered in the COBR meeting attended by the First Minister on 18 March 2020. Advice had been provided to the DFM in early March. As is often the case I was copied into this submission. [LE/023 – INQ000261239]. Cabinet considered and discussed this advice including on 17 March which I attended. [LE/020 - INQ000078529]
118. I understand that the decision to close cafes, pubs, and restaurants on 19 March 2020 was carried out in alignment with the UKG and as part of the wider drive to reduce social contact in an attempt to suppress the virus, following SAGE advice disseminated via COBR meetings and related channels.
119. The scientific and professional advice as was available at the time informed decisions taken by Cabinet, including the timing of lockdown and the consideration of the degree of measures required to control the virus. This is reflected in Cabinet discussion on 3 March 2020 which I attended. [LE/015-INQ000232901]
120. Alignment and coordination and a consistent approach amongst the four nations of the UK wherever possible and where local circumstances did not dictate otherwise, was a material consideration and consistently seen as preferable in the period leading to the first lockdown.

f) Super-spreader events

121. A briefing on large events taking place in Scotland was prepared for the First Minister in advance of the COBR meeting on Thursday 12 March [LE/024 – INQ000080732]. This contained a list of future events known to be taking place in Scotland between 12 March and 7 April.

122. My role as Permanent Secretary was as always - to ensure that appropriate and relevant advice was prepared and shared with the First Minister and Cabinet. Official advice was based on the very best evidence and scientific advice available at the time and discussed through the governance which was in place at the time, covering both health protection and policy oversights.

123. I was not closely involved with steps taken relating to management of large events to try to minimise the spread of the virus and so cannot offer a view on these questions. I understand that Ministers received advice at their request and that this included insight from meetings of the four CMOs on this issue. However, I cannot comment on the detail of that advice including whether it covered potential effects on transmission of the likely attendance at such events of individuals coming to Scotland or indeed to what extent it was followed. I do not therefore have detailed insight on what strategy was adopted. However I am confident that official advice to Ministers drew on the very best evidence and scientific advice available at the time and was discussed through the governance which was in place at the time, covering both health protection and policy oversights. This was reflected in the strategies deployed at that time and in that respect, these were as effective as was possible at that time.

124. The impact of the (at that stage) postponement of the women's international rugby match was noted as part of a DCMO update in a SGoRR(O) meeting on 24 February. [LE/025 – INQ000233292]. I cannot recall whether comment was made on the fact that the men's match had taken place.

125. I would not have been close to the initial discussion of the Nike Conference in my role as Permanent Secretary, but DG Health and Social Care would have further information. Details of the case at the Nike conference were confirmed in a news release on 4 March 2020. My understanding is that the approach drew on advice from the CMO around striking the balance between public disclosure, patient confidentiality and public interest.

Part D: Testing

126. It is important to state that I was not closely engaged with work on the testing and tracing strategy. I relied on updates from DG Health and Social Care and CMO - therefore I am only able to offer limited comment.

127. I was not aware of WHO and other scientific advice - DG Health and Social Care and the CMO would be better placed to address the importance of testing.
128. I did not play a role with regard to PHS surveillance and tracing. DG Health and Social Care and the CMO would have more detail on this. On the decisions surrounding the establishment of a mass testing programme, I would refer to the corporate statement supplied by DG Health and Social Care, which also outlines the background to the implementation of testing. The timing of the launch reflected the focus on increasing/freeing up and speeding up of testing capacity, the strengthening and implementing of the tracing function and piloting of new digital self-service tool and dashboard. This featured in the deep dive meeting into Testing on 27 April 2020 commissioned by the First Minister, which I attended.
129. As health is devolved in Scotland, the Scottish Government developed its own strategy to respond to Covid 19 within the framework of an existing UK strategy. I would refer to the corporate statement provided by DG Health and Social Care which provides detail on this matter.
130. Given my limited role I would refer to Public Health Scotland who worked closely with the Scottish Government to implement Test and Protect. I would refer to DG Health and Social Care and the CMO for evaluation of the testing programme and on target setting, publicity, tensions between reaching testing targets per day and building the Test and Protect System and how resources were applied and managed.
131. I was therefore also not close to the issue relating to covid testing backlogs, nor am I aware of the specific details of the discussions between the First Minister and the UK Government on this point. I am thus unable to comment in detail on this. However, I understand from a review of the papers in my preparation for this statement and my own recollection that the issues were with a UK wide laboratory backlog of test results. As was often the case in this fast moving context, and with many technical, delivery and operational problems, it was important to fully understand the issues and the scale of the problem and to quickly explore options available so that officials and specialists could then work collectively through how this is to be resolved, and offer advice with - if possible - choices to Ministers. This was especially important when working across and with other Governments.

Part E: Decisions in relation to non-pharmaceutical Interventions (“NPIs”)

a) Overview and b) General questions about NPIs

132. The SG assessment of Four Harms – the direct harm caused by Covid-19, the other harms to health, the economic and the social harm resulting from the pandemic - formed an integral part of the Government's approach to the pandemic including decisions about NPIs and were consistently prominent in the management and preparation of advice to Ministers and in core decision-making including type and duration of NPIs. Indeed, there was consistent consideration of each of the Four Harms ahead of each major decision point throughout the pandemic, not least because a decision might involve trade-offs between different harms. I would refer to the Scottish Government's published documents Covid-19 A Framework for Decision Making and Scotland's Route Map Through and Out of the Crisis as well as the corporate statement provided by DG Strategy and External Affairs for more detail.
133. In relation to the concept of the Hammer and the Dance, I am not aware that anyone from the Scottish Government had dealings with Mr Pueyo directly, but, given my role, that would not have been something to which I would have been alerted.
134. My attendance at Cabinet, access to high level policy advice and contact with the First Minister and her advisers meant that I was aware of the seriousness of the threat. The Cabinet discussion on 3 March 2020 reflects the clear understanding of the seriousness of the Covid 19 threat in Scotland at this time, namely that the country faced a "very serious situation which would have long-term effects", that the impact on the economy could be similar to that of the 2008 banking crash and that the outbreak would continue to be treated as "an urgent priority across all portfolios and that all necessary co-operation should be facilitated." [LE/015 – INQ000232901].
135. The Scottish Government's understanding of the spread of Covid 19 through Scotland at this time was based on evidence, including the latest Covid-19 data presented daily to Scottish Ministers and officials and drawn from multiple sources including PHS, National Records of Scotland, NHS, care homes, schools, NHS Education for Scotland (NES), the Office for National Statistics and local authorities.
136. Lessons from the way other countries managed the pandemic are addressed in the corporate statement provided by the Chair of Covid-19 Advisory Group in June 2023. From an early stage in the pandemic, reporting from the UK Foreign and Commonwealth Office

was also analysed on a weekly basis, with relevant insights fed into policy officials. These products were also accessible to ministers.

137. I am not aware of any formal audit arrangements of lockdown arrangements and NPI related harms being in place, given the fluid nature of the pandemic. However, data was supplied on a regular basis to support the interpretation of whether NPIs were effective. As it became available, new information and scientific analysis was factored into modelling to aid decision making, including international studies where relevant, and data on social attitudes regarding compliance and adherence. The COVID-19 Framework for Decision Making sets out detailed criteria that would be considered to guide decisions on whether to maintain, tighten or relax restrictions.
138. The process and governance to permit some final decisions being delegated outwith Cabinet discussions was established before the pandemic. This would usually occur as part of the conclusions from a Cabinet discussion of the item in question. The terms of this delegation would be specified in Cabinet minutes.
139. I would not have been copied in, but I understand that a submission was provided to the Cabinet Secretary for Health and Sport on 04 November 2020, regarding Long Covid Sick Pay prior to a conversation with the British Medical Association later the same week.
140. I was not close to the work on NPIs and religious worship, but the SG recognised that gatherings for religious purposes were affected in the same way as other gatherings by the initial imposition of lockdown. Regular meetings and strong relationships with Scotland's faith and belief stakeholders were helpful in discussing the appropriateness and impact of restrictions on worship with religious leaders and incorporating this into advice to Ministers.

c) NHS capacity

141. The risk of NHS Scotland becoming overwhelmed was a constant factor in the management of the pandemic and featured in Cabinet discussions including 28 January 2020, where the resilience of NHS Scotland in the face of large-scale outbreak was specifically raised, and it was noted that work on the provision of additional healthcare facilities was already underway. The Louisa Jordan Hospital was a precautionary facility, related to the risk of NHS becoming overwhelmed. I would refer this to DG Health and Social Care and the Chief Nursing Officer for further information on the facility and its use. DG Health and Social Care and the Chief Medical Officer would be able to give a view on what role if any shortages of PPE in the NHS and/or ICU beds played in these

considerations. The phrase 'Protect the NHS' featured in SG messaging as part of the SG evolving communications strategy which is detailed in DG Corporate's statement provided in June 2023.

d) Schools

142. School closure was one element of NPIs, informed by scientific and clinical advice on transmission and – importantly - considered through the lens of the Four Harms. I would refer to the corporate statement provided by DG Education and Justice on this matter. I am not aware of separate or specific work on the impact of school closures. These closures were part of a broader package of NPI measures which were apparently successful in reducing the prevalence and transmission rate of the virus. DG Education and Justice may have more detail on this.

e) Vulnerable and at risk groups

143. The identification and consideration given to at risk and vulnerable groups is addressed in the corporate statement provided by DG Communities in June 2023. The Four Harms approach also provided a framework for the consideration of equality and human rights impacts by officials and Ministers to consider different perspectives and experiences and highlighting unintended consequences. Contact with stakeholder groups such as the Expert Reference Group on COVID-19 and Ethnicity also helped SG's understanding of the needs and lived experience of vulnerable or at risk groups. The SG recognised the potential for groups with protected characteristics as set out in the Equality Act 2010 to be adversely and disproportionately impacted, and the need for potentially vulnerable groups to be considered when making policy decisions on NPIs. There is further detail in the corporate statements supplied by both DG Communities and by DG Strategy and External Affairs in June 2023.
144. I was not directly involved in producing Equality Impact Assessments (EQIAs) related to Covid-19 which are available to the Inquiry. SG Directorates were advised in their compliance with the Public Sector Equality Duty, including using Equality Impact Assessments to support ongoing policy development and adjustments and advice to Ministers and this topic is addressed in more detail in the corporate statement provided by DG Communities in June 2023. The impact of NPIs on at risk and other vulnerable groups in light of existing inequalities featured in SG decisions and policy making, informed and supported by the Framework for Decision Making, Four Harms approach, advice from the Equalities Inclusion and Human Rights Directorate and duties on Ministers. Thus it was an integral part of the consideration and decision making by First Minister and Cabinet.

145. I have reviewed the relevant excerpts of the statements provided by Age UK, Save the Children UK, Scottish Women's Aid, Inclusion Scotland and Clinically Vulnerable Families as requested by the Inquiry, but I am unable to comment in detail as I was not involved with these areas of work. I would refer to my previous answers referencing the Framework for Decision Making and the Four Harms approach, i.e. recognition of how policies would affect older people and disabled people with existing health conditions, children and young people and other vulnerable groups were a significant part of thinking about Harm 1 of the Four Harms approach (including direct health impacts on individuals) when making decisions on measures to prevent or reduce transmission in the community. All SG decisions and new policies followed the evidence available at the time and advice from experts and clinicians, including SAGE. Officials ensured that concerns raised on behalf of at-risk and vulnerable groups were fed into advice supporting decision-making, new policies and legislation.

f) Vulnerabilities relating to pre-existing health conditions

146. In my role as Permanent Secretary, I was not involved in this area. In terms of my understanding of the way in which those who were medically vulnerable to Covid-19 should be defined, I would refer to detail in the corporate statement supplied by DG Health and Social Care in June 2023 and to the Note on identifying extremely vulnerable groups from 23 March 2020. [LE/026 – INQ000260777]. The rationale behind shielding was to create a method of reducing the risk of severe illness or death from Covid 19 infection to those *at the highest risk of severe illness or death from COVID-19 infection* and systems and resources to support and deliver this on the ground. I would refer to more detail in Final Report of the Second COVID-19 Shielding Programme (Scotland) Impact and Experience Survey March 2021 [LE/027 – INQ000244091, INQ000244092 and INQ000244093].
147. It is hard to ascertain how successful a strategy focussed on maximising the protections put in place for medically vulnerable individuals would have been. However, SG efforts to identify and contact those identified as Clinically Extremely Vulnerable demonstrates that their protection was prioritized. There was an awareness of maintaining equality at the heart of decision making because measures were impacting differently different groups of the population. I would refer to the Framework for Decision Making - Assessing the Four Harms of the Crisis Dec 2020.

g) Decisions relating to the first lockdown

148. The reasoning behind the adoption of a national lockdown is detailed in the corporate statement provided by DG Strategy and External Affairs. At the time, it was set out in Cabinet papers, in the First Minister's statement to Parliament on 24 March 2020 and in the UK Coronavirus: Action Plan of March 2020. The decision to adopt a national lockdown in March 2020 was one taken by Ministers and not by civil servants. I am therefore only able to offer limited comment on the decision to impose a national lockdown in my capacity as a civil servant.
149. Cabinet considered and received evidence regarding the potential economic impacts of different measures (including potential differentiated impacts on vulnerable groups). However, in keeping with the Framework for Decision making and Four Harms approach, these were balanced with consideration of other potential impacts, including social impacts and achieving the strategic aim of minimising the overall harm of the pandemic. For example, I can recall Cabinet discussion around March 2020 on the economy and CMO advice regarding businesses who were not specifically required to close at that juncture. There was a balance to be struck between mitigating economic and social harm and minimising harm from the pandemic. I do not know if a national lockdown could have been avoided if early intervention had been adopted by the Scottish Government.
150. I was not directly involved in consideration of strategic decisions other than lockdown and therefore am only able to offer very limited comment. I would refer to the corporate statement provided by the DG Strategy and External Affairs. I was not directly involved in early thinking about an exit strategy from lockdown and therefore only able to offer very limited comment. Scotland's route map was published in May 2020 and set out the SG's intentions in removing restrictions and the basis on which these decisions would be taken. [LE/028 – INQ000131072].
151. The resignation of Catherine Calderwood as CMO on 5 April 2020 did not impact on the Scottish Government's understanding of, nor response to, the pandemic threat.
152. I attended the Cabinet meeting of 3 March 2020 where the advice was that *no vaccine was expected in the near future, and physical containment remained the priority*. [LE/015 – INQ000232901]. I also attended Cabinet Secretary (Officials) meetings chaired by Mark Sedwill where there were regular though general updates on efforts to source/create a vaccination. The likelihood and timing of an effective treatment was also raised at the Cabinet of 21 April 2020. [LE/029 – INQ000078537]. Preliminary results suggesting vaccines were effective emerged in November 2020.

h) Continuation of the first lockdown

153. I don't recall the term 'Zero Covid' but prompted by material I have read in preparation of this statement I do recognise the stated aim of the Scottish Government to suppress the virus to the lowest possible level, while reducing each of the four harms. As requested by the Inquiry, I have read and considered the statement made by the DG Strategy and External Affairs and agree with para 155 of that statement.
154. I am asked to comment on a number of decisions around the extension and ending of lockdown restrictions in April and May 2020. I confirm that all such decisions were taken by Cabinet. Cabinet papers and minutes include details of the rationale and evidence on which these decisions were based. On occasion, as noted above the detail or timing of decisions was delegated to the First Minister.
155. I would refer you to the corporate statement provided by DG Strategy and External Affairs in June 2023 for details of the development of the Scottish Government's Framework and the Four Harms set out within it. The strategy set out in the Framework informed and shaped advice to Ministers and Cabinet. Regarding the effectiveness of the implementation of the policy and practices in the Framework, I would assess implementation as effective.
156. I do not have the relevant scientific expertise to comment on the science around mask wearing. This is addressed in the corporate statement provided by DG Health and Social Care in June 2023.

i) Effectiveness of the first lockdown

157. The effectiveness of the lockdown in controlling the spread of Covid 19 was discernible through online data published regularly, which set out the prevalence of Covid-19 in Scotland at any one time. I am not aware of any assessment of how different or earlier decisions at the time of the first lockdown may have impacted.
158. I was not involved in the production of assessments on impact of the first lockdown on vulnerable and at risk groups both during and after the lockdown, but they are addressed in the corporate statement provided by DG Communities in June 2023.

j) Conclusions and lessons learned

159. I was not involved in the production of them, but I understand a range of documents were commissioned to consider lessons learned including Health and Social Care response to Covid 19 in Scotland document [LE/030 – INQ000147474] and Supporting Children, Young People and Families: Key Lessons from lockdown October 2020. [LE/031 –

INQ000273619].

160. I believe the systems put in place to ensure that lessons were acted upon in the subsequent management of the pandemic such as documents above were effective. Some are referenced in the corporate statement supplied by the DG Health and Social Care in June 2023. This includes ways of working with other administrations including the UK Government.

Part F: Decisions relating to easing the first lockdown in the period from 29 May 2020 to 8 September 2020

a) General

161. All decisions on the management of the pandemic, including decisions to ease lockdown, were taken by Cabinet, drawing on official advice, the Framework for Decision making and the Four Harms approach.
162. I refer to my previous response to questions on equalities and the protection of at risk and vulnerable groups. Every effort was made to ensure that restrictions imposed would be fair and will include data analysis and evidence on the impact of the pandemic on some sectors of society (and their lived experience) in the policy advice to Ministers and Cabinet.
163. The Criteria for decision making as set out in the Framework for Decision Making and the 'Route Map' publications were based on data from within Scotland and will have differed from the approach taken elsewhere depending on local circumstances, the progress of the pandemic and the prevalence of the virus

b) The steps taken to ease the first lockdown

164. I was not close to the process of development of the Routemap, however it was agreed and adopted by Cabinet on 19 May 2020 [LE/032 – INQ000078400] and the rationale and scientific bases for it will be in the Cabinet paper of that meeting
165. The Director of Communications will have more strategic information on the rationale to shift wording from 'stay at home' to 'stay safe'. Survey data of the Scottish population indicates that the SG communication was effective and is quoted in the corporate statement provided by DG Corporate in August 2023.
166. The move to mandatory wearing of face coverings in shops featured in discussions and decisions at Cabinet which I attended. Cabinet took a decision on the mandatory wearing

of face masks in retail environments as of Friday 10 July. [LE/033 - INQ000078409]. I cannot recollect the exact scientific or CMO advice, but this would have been considered as part of Cabinet discussion. To the best of my recollection this decision would have been communicated to the Scottish public through direct contact with the retail sector and stakeholder groups and included in the relevant FM daily communication bulletin, and any statement to Parliament

167. The decision to reopen schools was discussed and taken at Cabinet which I attended. The DFM invited Cabinet to consider his recommendation not to enter phase 4. It was important for Cabinet to hear the Chief Medical Officer's assessment that *we have not met the Phase 4 criterion*. [LE/034 - INQ000078412]. Regarding communication of this decision to the Scottish public, the intention was to publish a paper in the week beginning 3 August setting out the Chief Medical Officer's view that the Phase 4 criterion has not been met, but also providing an update on progress against the more extensive Phase 3 criteria. In addition, communication would have taken place with key stakeholders and this decision would have featured in the FM daily bulletin.
168. The question of whether to impose stricter travel restrictions and border controls was discussed at Cabinet on which I attended on 23 June 2020 [LE/035 - INQ000078555]. It would have been important for Cabinet to hear the Chief Medical Officer's most up to date scientific advice and assessment of the requirements/criteria to move to Phase 4 and whether they had been met at this point.
169. A paper to the SG Executive Team by Dominic Munro who was SG lead on this policy work at that point, on 24 July 2020 considered the approach to local outbreaks.[LE/036 - INQ000249267]. This data and analysis would have been incorporated into, and informed, advice to Ministers and Cabinet as required.

c) Eat Out to Help Out

170. I was not involved with the Eat Out to Help Out (EOtHO) scheme. EOtHO was a UKG scheme and therefore SG had little input into the design of the scheme. I am not aware of discussions with the Prime Minister or Chancellor prior to its implementation. I was not close to work or detailed discussions on the scheme but there is likely to have been contact between officials and UK Government and the Scottish hospitality and tourism sectors. The decision to apply the EOtHO scheme in Scotland was a decision taken by Ministers and not by civil servants. I am therefore only able to offer limited comment on the decision

to adopt the scheme in my capacity as a civil servant. I do not have anything further to add on the details of the scheme and its impact. I do not know whether the Treasury sought or received scientific advice in respect of its Eat Out to Help Out scheme prior to its implementation am not aware of any specific scientific advice to the Scottish Government, but Ministers will have been advised on relevant data and epidemiological information available at that time. I am not aware of the SG having the option of not introducing the scheme in Scotland but that would be for UK Government to confirm. It is unlikely that the SG would have wanted to have opted out given the Four Nation approach.

d) Conclusions and lessons learned

171. I have covered my general awareness of the lessons learned in my earlier responses.
172. At the end of the period in question, a PHS evaluation of the shielding programme including survey material was presented to the Cabinet meeting of 29 July 2020. I believe that report was published thereafter. I would also refer to the corporate statement provided by DG Health and Social Care regarding recommendations based on insight from the overall response to the pandemic. I believe those systems that were put in place was to ensure that lessons were acted upon in the subsequent management of the pandemic and were effective.

Part G Decisions relating to the period between 7 September 2020 and the end of 2020

173. The Scottish Government's rationale during this period remained - as before - to minimise overall harm of the pandemic in Scotland, and in particular to minimise harms as described by the Four Harms approach. This task became more complex and interrelated as the pandemic progressed, both in term of type of NPI and how and for how long it was applied, and the impact sustained. Issues of proportionality, longevity, status of restrictions, trade-offs between interventions and timing of introduction and roll out of a possible vaccination all required careful consideration of the data and evidence where this existed, but also, ultimately, judgement. Strategies and NPIs over this period were based on advice from different professional sources including legal implications in decision making, equality impact assessments and scientific advice. Also, WHO advice/criteria informed the Route Map strategy. A high level and diversity of professional advice and data was incorporated into and informing advice to Ministers on the SG strategy in play during this period. I would refer to the corporate statement provided by DG Strategy and External Affairs in June 2023 and to Cabinet advice on the restrictions being proposed as sufficient to suppress cases of Covid 19 at that time.

174. In her statement on 7 September 2020, I understand that the FM described a "very definite trend at the moment" because whilst ICU and hospital numbers were lower than earlier in the year, that was most likely due to a younger demographic catching the virus, and that "if transmission takes hold again....it will eventually seep into older and more vulnerable groups.....At that point we could again see more deaths and serious illnesses".
175. As Permanent Secretary, I attended the Cabinet meeting of 8 September 2020 which discussed the Route Map Review of regulations and considered and assessed the review of the phasing of covid regulations and the levels system in place [LE/037 - INQ000078567] and [LE/038 - INQ000078367] . Cabinet wanted to hear the Chief Medical Officer's assessment, which at that point was that Scotland had not met the requirements to progress to phase 4. Data showed that the level of infections in Scotland had increased significantly since last review, Scotland was yet to experience full impact of significant easing of restriction which took place on 24 and 31 August, and Scotland continued to experience viral importation risk from cross-border travel. This meant that changes scheduled for 14 September were to be considered relatively high risk.
176. Cabinet always considered communications and handling carefully as part of its deliberations – how the Scottish public would understand and react to continued restrictions and how this might affect levels of compliance, and how messaging at a nation level filtered down to, and matched up with, on the ground experience in all parts of Scotland. Setting Scotland in the context of wider (international) experience and levels of transmission was also considered important to aid public understanding and help strengthen compliance. Accurate, authentic and regular communication reflected the importance which Cabinet and the SG attached to the level of public trust in the Scottish Government during this time.
177. The Coronavirus (Covid-19) Phase 3: Scotland's Route Map Update [LE/039 - INQ000273620] was published and available to the public. The First Minister gave a televised briefing on 14 September 2020 [LE/040 - INQ0000000] outlining the new restrictions and was very clear in her explanation of the seriousness of transmission, and the wider international picture "Transmission is higher than we can be comfortable with right now, and that is the case across the country. And the wider international picture is also a concern. Many countries in Europe are seeing an increase... we believe that we need to act now, to act quickly to reduce the chances of an even greater increase in cases in autumn, and as we head into winter".

178. Decisions on the management of the pandemic were taken by Cabinet drawing on scientific and policy advice. The rationale and scientific basis for such decisions were often included by the FM in her daily statements. I attended Cabinet on 8 September 2020 when Cabinet was advised that compliance appeared to be a particular problem among the younger age groups (especially 18-39 year olds) in the context of the imminent risks of outbreak as students return to campus. The Cabinet paper included consideration of any SAGE advice available. [LE/037 - INQ000078567]. I refer to advice from Chief Medical Officer, Chief Nursing Officer and National Clinical Director produced on the 7th of October 2020.
179. On the decision to announce the closure of bars and restaurants in the central belt, I understand advice was provided from Chief Medical Officer, Chief Nursing Officer and National Clinical Director on the 7th of October 2020 and the decision would have been announced in Parliament that day by the First Minister.
180. I was not close to the source of advice about new variants such as Alpha and Delta and would have become aware when these issues were raised at Cabinet. The variants were discussed at Cabinet on 15 December 2020 [LE/041 - INQ000078587] and noted in the First Minister's statement on the same date.
181. Discussions and decisions relating to possible changes in restrictions took place at several Cabinet meetings during the period in September–October 2020 at which I was present. As always, Cabinet took careful consideration of advice from CMO, evidence and data from specialists, analysis of impact of measures from around Scotland, and other relevant and timely information such as measures being announced in other nations and reports back from FM on her attendance at COBR(M). Cabinet Secretaries were invited to give their perspectives, evidence from their own portfolios and contribute their views on options and actions.
182. I attended all Cabinet meetings during the period from September to December 2020, where I witnessed careful consideration of options to control the virus. In making the decision not to further lockdown, Cabinet was especially mindful of the importance attached to the Christmas and New Year period but clear that this had to be considered in the context of detailed scientific advice and data on the status of the pandemic.

183. Cabinet considered the impact of lockdown carefully when considering whether to impose a circuit breaker or second national lockdown during this period. This included the scientific evidence, lived experience and data from the last national lockdown.

a) The 5 tier Covid management system

184. In the First Minister's Covid briefing of 23 October 2020 [LE/042 - INQ000273621] she describes and explains the new 5-tier framework as *"trying to balance different types of harms. It seeks to tackle the direct and very real harm to health and life caused by COVID. But it also recognises the wider health harms that will result if our NHS is overwhelmed by COVID; the social harms caused by lockdown restrictions, such as increased isolation or inequality; and of course, the economic harm suffered by businesses and workers across the country, which in turn causes physical and mental health problems"*. Further detail is included in the Module 2A DG Strategy and External Affairs Corporate Statement provided in June 2023, including on how this system related to the tiered system in force in England from 14 October. As ever I played the role of Permanent Secretary as described earlier in this statement in the development of advice for Cabinet to support their decision to adopt the new five-tier system.
185. The tiered system was intended to address the differential rates of prevalence across Scotland, and it was effective in this regard. I do not believe that any system could have given complete assurance on the avoidance of need for a second national lockdown but based on knowledge of the virus at that time, the proposed system offered the opportunity to differentiate and apply higher levels of restrictions in those areas with greater transmission. Advice to Cabinet included advice to communications and public understanding and I am satisfied that this element was probed in the development of such advice.

b) Conclusions and lessons learned

186. The SG series of publications entitled Coronavirus (COVID-19): protection levels - reviews and evidence provided weekly reviews from 29 October - 22 December 2020 of the levels allocation to local authority, with evidence and analysis for the decisions made. [LE/043 - INQ000273622]. Trends and modelling graphs were produced weekly for each local authority to evidence the current levels of virus circulating and hospitalisations/deaths etc. and also forecasts for each which were used as basis for the levels decisions.
187. In terms of what the impact of different or earlier decisions might have been I would refer to the Coronavirus (COVID-19): route map and regulatory review published on 15 October

2020 [LE/044 - INQ000273623], which sets out the considerations at the time. Details of the assessment of the economic, social or non-Covid health related consequences of the restriction have been included in the Module 2A corporate statement provided by DG Strategy and External Affairs in June 2023.

188. In terms of lessons learned covering this period, I would note that NHS Scotland prepared a report in August 2021, which focussed on lessons learned during the first six months of the pandemic [LE/045 - INQ000147474].
189. I understand that consideration was also undertaken by the Social Innovation Partnership of the impact of lockdown on the most vulnerable which was shared with the CPSMG ahead of Cabinet discussions in May 2020. [LE/046 – INQ000273625]
190. The Module 2A corporate statement provided by DG Strategy and External Affairs in June 2023 highlights impact statements taken over the course of the pandemic, which provided material on which to draw in developing policy responses. One example included reflection on the impact of school closures on children's education and mental health and which that led to a prioritisation of keeping schools open over other services. I understand that the Scottish Science Advisory Council published a report named Building on the Science Legacy of Covid-19 in Scotland, and that this made a number of recommendations for Scottish Government science advice processes.
191. For my own part, I believe SG officials continued to learn throughout the pandemic as data, knowledge, experience and understanding increased. This included the importance and powerful nature of hearing lived experience directly from those affected and acting on this, the importance of communication – internal, external and maintaining open lines of communication with other governments – and understanding and staying abreast of the constantly evolving and complex nature of the virus, infection and impact. Officials also learned about the importance of regular communication with the Scottish public, about social attitudes and behaviours including towards compliance, and about the precious and fragile nature of trust in Government. I believe SG staff also learned about their own resilience and capacity to work flexibly, across boundaries and at pace, reducing bureaucracy and assessing risk proportionately.
192. I believe systems and changes in approach were put in place - for example, more regular communication, wider sharing of data, ensuring new policy took account of lived

experience – so that lessons were acted upon in the subsequent management of the pandemic were effective.

PART H Decisions relating to the second lockdown (January 2021 to 2 April 2021)

a) Background to the second lockdown

193. The corporate statement provided by the DG Strategy and External Affairs in June 2023 gives details on the “levels approach” whereby restrictions were tailored to be location specific. Minutes of the relevant Cabinet meetings which I attended set out the advice received, and the consideration given to the appropriate arrangements for Christmas Day 2020 and restrictions from 26 December 2020 onwards.
194. The rationale for the decision to implement level four restrictions was the need to limit the spread of the new variant. I would refer to detail on this decision in Cabinet discussions on 19 December and 22 December 2020 and the minutes are provided [LE/047 - INQ000078588] [LE/048 - INQ000078589]. As ever, Cabinet heard the scientific basis for restrictions including the increased transmissibility of the new variant. In terms of communicating the decision to the public, the First Minister would have carefully crafted these messages in her statement on this to Parliament later that day, including the news that further restrictions were likely to be introduced.

b) The second lockdown

195. In terms of the process leading up to the decision to introduce further restrictions early in the New Year, Ministers met chief clinical advisors and lead policy officials, including myself, to assess the emerging situation on 2 January 2021. Cabinet considered further emerging evidence on the new strain at its meeting of 4 January 2021 which I attended. The First Minister announced the resulting decisions in a statement to a special session of Parliament on the afternoon of Monday 4 January 2021 [LE/0049 - INQ000249238].
196. The stay at home/work from home guidance was imposed in order to strengthen the protective measures in Level 4 set out at Cabinet which I attended on 4 January 2021. The papers presented outline the rationale for the new legal requirement, [LE/050 - INQ000078417] to stay at home including the decisions on closure of schools. As ever I played the role of Permanent Secretary in the development of advice for Cabinet and Cabinet’s decision to place mainland Scotland under lockdown in January 2021.
197. My role as Permanent Secretary included recognising and acting on the need for advice on how to gain greater public compliance in the face of the advent of a new, and more

transmissible virus. I ensured an emergency Cabinet was facilitated including the commissioning of advice on this matter. Decisions regarding the management of the pandemic, and timing of those decisions, were for Cabinet.

198. Official and scientific advice to Cabinet drew on SG Framework for decision making and assessing the four harms, and protective action required. This would have included an assessment of any alternative strategies including their impact or effect on the current and forecast levels of transmission and on levels of public compliance. I am not aware of consideration given to the Great Barrington Declaration.
199. I believe systems that were put in place to ensure that lessons were acted upon in the subsequent management of the pandemic were effective.
200. The rationale for the continuation of Level 4 restrictions and the closure of schools was considered and discussed at Cabinet on 19 January 2021 which I attended [LE/051 - INQ000078594]. The First Minister communicated the decision to the public to maintain lockdown restrictions by way of a Statement to the Scottish Parliament on the 19th of January 2021 [LE/052 - INQ000273624].

c) The easing of the second lockdown

201. On the rationale behind the phased relaxation of restrictions from February 2021, I would refer to First Minister's statements during February and March 2021 and Cabinet meetings which I attended.
202. Cabinet considered the updated Strategic Framework at its 23 February 2021 meeting which I attended. [LE/053 - INQ000078598] This was to reflect two substantial changes of a new variant and vaccination. The updated Framework was communicated to the public as part of the First Minister's briefing on 22 February 2021. [LE/054 - INQ000273628]
203. On the reasoning behind the lifting of the 'stay at home' order I would refer to the papers discussed at the meeting of Cabinet on 16 March 2021, which I attended. [LE/055 - INQ000078429]. The method of communication to the public was covered in papers presented to Cabinet on 23 March, which I also attended [LE/056 - INQ000078431]
204. Children in early learning and childcare and those in primaries 1-3 had already gone to school or nursery on 22 February, and all children in primaries 4-7 went back on the 15 March. There had also been a phased return to secondary schools, with all secondary school pupils (S1-S6) returning on a part-time basis from the 15 March. The decision to

allow all pupils to return to full time education after the Easter break subject to continued suppression of the virus was made by Cabinet on 16 March, with the final decision delegated to the First Minister, who confirmed in her statement of 6 April 2021 [LE/057 - INQ000273629] that:

....having assessed the data with the input of our clinical advisors, that when the Easter holidays end, virtually all pupils will return to school full-time. So secondary schools after Easter will go back to in-person full-time learning.

But the one exception to this is children who are on the shielding list. We are continuing to recommend that they stay at home until 26 April. That's in line with advice already received from the Chief Medical Officer.

d) Conclusions and lessons learned

205. The second lockdown was intended to address the step change in the course of the epidemic and the sharp rise in case numbers and hospital and ICU admissions, and to take account of the incubation period of the virus over seasonal retail and social activity. My understanding is that this end was achieved.
206. I was not closely involved in work to assess the impacts of lockdowns but would reference documents such as the "Framework for Decision Making - Assessing the Four Harms" [LE/058 - INQ000131028] published in December 2020 as a baseline assessment of harms already caused ahead of the second lockdown. Details of work done on future risks, reviews, reports and lessons learned exercises are included within corporate statement provided by DG communities in June 2023.
207. The published Equality and Fairer Scotland Impact Assessment on Scotland's Route Map from December 2020 [LE/059 - INQ000182799] includes the challenge of balancing act of measures and mitigations throughout the response to the pandemic as reflected in the SG Four Harms approach. The Module 2A DG Health and Social Care Corporate Statement - June 2023 contains a section on "Lessons Learned".
208. In addition, it was important to ensure that officials drew on, deployed and incorporated equality data and impact information in the development of policy, guidance and advice to Ministers, and included as part of Four Harms assessments. During the course of 2021, the Scottish Government worked with a large range of stakeholders and insight groups

and their views and experience were fed into advice that supported decision-making on new policies and on responsibilities under Equalities legislation.

209. I was not closely involved in this assessment work but would reference documents already referred to above. I believe that systems put in place to ensure that lessons were acted upon in the subsequent management of the pandemic were effective but needed to be revisited regularly.

Part I: Decisions relating to the period between April 2021 and April 2022

a) General

210. The decision to ease lockdown restrictions in mid-April 2021 was taken by Ministers and not by civil servants. I am therefore only able to offer limited comment on the decision in my capacity as a civil servant. Advice to Cabinet included evaluation and analysis of data and trends at that time including the 'R' number, and an assessment of the Four Harms impact. On the basis of this analysis the advice to Ministers was that to gradually ease the second lockdown was appropriate.
211. Cabinet discussions relating to the series of decisions to ease restrictions over the course of April and May 2021 had taken place in March 2021, as the last Cabinet meeting before the pre-election period was held on 23 March. The relevant Cabinet papers included the scientific and clinical advice on which these discussions were based and are provided [LE/060 - INQ000078428] [LE/055 - INQ000078429] [LE/056 - INQ000078431]. There were no cabinet meetings after 23 March 2021 until 21 May 2021 owing to pre-election period and election. The timings of precise decisions were delegated to the First Minister, who communicated the decisions as they were taken in her public statements.
212. I refer to the Cabinet meeting on 1 June 2021 which I attended and at which Cabinet was provided with advice from the National Incident Management Team, members of the Four Harms group of senior advisors and lead officials, including clinicians and from SGLD. Cabinet agreed all protective measures applicable in all parts of Scotland should be kept under review and to delegate to FM final decisions on allocation of protection levels for each local authority area [LE/061 - INQ000078480]. The First Minister communicated this in a statement to Parliament on 1 June 2021.

b) The move to level zero

213. The decision to move to level zero restrictions was discussed and taken at Cabinet on 13 July 2021 which I attended, and which included modelling to inform options for action.

[LE/062 - INQ000214493] Discussion on communications featured prominently including the importance of retaining public understanding of, and support for, continued COVID protective measures, not least the rationale behind differences between Scotland's approach and the UK Government's. As before it was considered important to continue to stress collective responsibility as opposed to individual choice.

214. Decisions to remove the bulk of the remaining restrictions on 9 August 2021 were discussed at Cabinet on 3 August 2021 which I attended [LE/063 - INQ000078611]. The First Minister communicated this in a statement to parliament later that day.
215. I was not close to the work on the passport scheme or the traffic light system. I was not close to work to manage the risk of transmission at COP26 but the COP26 Covid-19 Adaptation Plan [LE/064 - INQ000268003] sets out a number of measures to mitigate the spread of Covid-19 during the conference which I attended on 4 November 2021. The document was developed by the UKG and SG working closely with CMO, NCD, Public Health Scotland, Glasgow City Council and NHS Greater Glasgow and Clyde.

c) The emergence of the "Omicron" variant

216. At the meeting of 7 December 2021, which I attended, Cabinet was advised on the Omicron variant – including steps to be taken immediately. [LE/065 - INQ000078503]. I was not close to the work on whether the existing restrictions and systems were deemed to be the most appropriate way to manage the Omicron threat but was aware that the key characteristics of the variant were now known. There was too much uncertainty surrounding the Omicron variant to implement or re-implement other measures.
217. I do not have enough technical knowledge to be able to answer the question of whether further lockdown or other further restrictions should have been implemented in response to the emergence of the Omicron variant but DG Health and Social Care and CMO would have had informed views here.
218. With regard to the decisions announced over the course of December 2021, I was not party to the discussion on these other than through the decision making process at Cabinet and my answers reflect that position. Cabinet on 7 December [LE/066 - INQ000078628] discussed the overall review of the response to the virus at that point, including the publication of a public facing evidence paper on Omicron in Scotland, which was published on 10 December 2021 to coincide with the First Minister's statement announcing changes to self-isolation rules to take effect the following day.

219. There was further discussion at Cabinet on 14 December 2021 of a package of additional measures given the continuing progression of the Omicron variant. The minutes recorded the basis for decision making at that point, noting that the situation remained highly serious [LE/067 - INQ000078629]. The detailed timing of decisions and announcements was delegated to the First Minister over the following days.
220. I cannot offer further detail on decision making in this period – I left the Scottish Government at the end of December 2021

d) the Lifting of Restrictions in April 2022

221. As noted above, I left the Scottish Government at the end of December 2021 and so I cannot answer questions relating to the period from January 2022-April 2022.

e) Conclusions and lessons learned

222. I was not close to the work on assessment of the effectiveness of restrictions over the period from April 2021 to March 2022. In preparation for this statement, I have been made aware of documents such as 'Effectiveness of public health measures in reducing the incidence of covid-19, SARS-CoV-2 transmission, and covid-19 mortality: systematic review and meta-analysis' [LE/068 - INQ000273620] produced with the aim of reviewing evidence of the effectiveness of restrictions (published in the British Medical Journal 2021). I understand that the paper compares the various approaches taken by different countries, and that the University of Edinburgh and Cancer Research UK Edinburgh Centre contributed to the paper.
223. I was not close to the work on assessment of the economic, social or non-Covid health related consequences of the restrictions implemented between April 2021 and March 2022, but refer to the corporate statement provided by DG Strategy and External Affairs and that provided by DG Communities in June 2023. As an example, the submission of 9 July 2021 on proposed relaxation of restrictions, contains particular consideration around the impact of restrictions on young people under 12.[LE/069 - INQ000273631]
224. I agree with the corporate statement of the DG Strategy and External Affairs at paragraph 118 that the optimal timing of any tightening of measures involved judgement on account of the unavoidable uncertainties involved. Advice to decision makers drew on data, analysis and trends and scientific, medical and clinical knowledge of the time. Advice also included the assessment of Four Harms impacts. Judgement was also required. Hindsight and greater current knowledge about the virus might result in different decisions or timing

now but at that time decisions were taken with the information, experience and evidence available.

225. Informal but important lessons learned included how civil servants operate and behave in these circumstances. That included the importance of effective partnership working and what helped/hindered this, joined up advice to ministers, balancing pace and risk, regular and high quality communication with stakeholders, interrogating data and experience, challenging each other and seeking out others' perspectives and lived experience - hearing all the voices. I would refer also to my answers in previous sections on lessons learned during the various phases of the pandemic.
226. Communication was a constant theme during the pandemic and much importance was attached to consistent, clear and credible messaging. The First Minister's daily media briefings were a key part of this and helped to build trust in the Scottish Government's approach to saving lives and reducing harm during the Covid-19 pandemic. This was borne out in statistics and polling.
227. I was not directly involved in the border controls detail but an example of how advice on these issues was developed would be the paper shared with Cabinet on considerations around the 10 July 2020 set of travel exemptions [LE/070 - INQ000078384]. These issues were regularly discussed in international travel coordination groups.
228. More generally if devolved/reserved powers were causing issues SG officials would first tend to raise them with their counterparts in the UKG. Indeed, I did this when required at the Cabinet Secretary (Officials) meetings chaired by Mark Sedwill, and have given examples earlier in this statement.
229. I recognise DG Strategy and External Affairs' point in paragraph 156 regarding international passengers being able to circumvent tougher restrictions in Scotland by travelling via England and that this could reduce the efficacy of Scotland's restrictions to a degree. This demonstrates the importance of a well informed and collaborative 4 nation approach, in order to avoid operational and information challenges arising from significant divergence across the four nations.
230. The Scottish Covid-19 Inquiry seeks to ensure that the correct lessons are identified and learned from the whole pandemic period.

f) Conclusions and lessons learned from the use of NPIs in response to the pandemic

231. I have nothing further to add on lessons learned from the use of NPIs further to the points already made.

PART J. Care homes and social care

232. As Permanent Secretary I was not closely involved in the discharge of people from hospital to care homes. The Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care will have information on this. However, Cabinet was responsible for all core decision making during the pandemic drawing on information and data available and provided.
233. While I was not involved in the detail, I know SG officials liaised closely with social care stakeholders through regular attendance at stakeholder network meetings. Cabinet Secretary for Health and Sport, Health Protection Scotland and DG Health and Social Care would have more information on their understanding of the domestic care sector and the risk of transmission involving those receiving social care in the community, on risk of the spread of COVID-19 within the care setting and on the rationale behind the announcement made by the Cabinet Secretary for Health relating to care homes on 21 April. Cabinet did discuss testing arrangements ahead of the statement to Parliament given by the Cabinet Secretary for Health and Sport in Parliament that day. [LE/029 - INQ000078537]
234. As Permanent Secretary I was not closely involved in procurement of medical or scientific advice on the discharge of people from hospital to care homes. Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care and will have information on this and on the role the management of transmission of the virus involving care homes and those receiving social care in the community play in the Scottish Government's overall strategy. However, the SG Framework for Decision Making in October 2020 highlights that care homes are particularly high-risk settings (as these usually have many people living under one roof, in a situation where social distancing is difficult). The elderly are among the most vulnerable, and those living in care homes often require personal care.
235. As Permanent Secretary, I was not closely involved in the discharge of people from hospital to care homes. Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care would have more information on reports from other countries on their experiences of the impact of the virus on care home providers and residents and those receiving social care in the community. I understand that Scottish Government advice for care homes followed WHO technical guidance and that the Scottish

Government considered international advice on testing of asymptomatic people transferring from hospital to care settings.

236. The Scottish Government would have been receiving a regular flow of advice, data and modelling information and the relevant policy areas would have been responsible for analysing this and highlighting any risks including risks to those in care homes/receiving social care in the community. As Permanent Secretary, I did not review this material directly.
237. As noted above, as Permanent Secretary I was not closely involved in communications with the social care sector. The Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care will have information on this. I have considered the extract from the statement provided by Scottish Care. However, I would not have been aware of such contact at the time in my role as Permanent Secretary. I have considered the further extract from the statement provided by Scottish Care, but as Permanent Secretary, I was not involved in the clinical assessments of people being discharged from hospital to care homes. Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care will have information on this. Similarly, I would not have been aware of representations from other sources on assessment and testing of residents entering care homes in February and March 2020.
238. I cannot comment on the Deputy First Minister's alleged statements but advice to Scottish Cabinet and Ministers was based on clinical knowledge and practice and not shaped by political considerations. Responsibility for discharging patients from hospital remains a clinical decision.
239. As Permanent Secretary I was not closely involved in the discharge of people from hospital to care homes and cannot give a view on the timing of this. Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care will have information on this. Cabinet was made aware on 21 April ahead of the guidance being introduced [LE/029 - INQ000078537]. On 21 April guidance was introduced that required all Covid patients being discharged to care homes to have two negative tests and all community admissions to be tested [LE/072 - INQ000147428]. On 15 May, guidance was updated to include a presumption that everyone being admitted to a care home should have a negative test [LE/073 - INQ000080449].

240. As Permanent Secretary, I was not closely involved in the discharge of people from hospital to care homes. I have reviewed the statement from Scottish Care as requested but am not aware of these representations. The Cabinet Secretary for Health and Sport, Health Protection Scotland and DG Health and Social Care may have information on this. As above, I have reviewed the statement from Scottish Care as requested, but as Permanent Secretary I was not closely involved in PPE provision and am not aware of these representations. Cabinet Secretary for Health, and DG Health and Social Care will have detailed information on this. However, detail was shared with Cabinet on 21 April on PPE including in care homes and the responsibilities for sourcing this. [LE/029 - INQ000078537]
241. As Permanent Secretary, I was not closely involved in the PPE provision. Cabinet Secretary for Health and DG Health and Social Care will have information on the work undertaken to address PPE supply. As Permanent Secretary, I was not closely involved in the discharge of people from hospital to care homes including any consideration of the availability of beds. Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care and will have information on this as will documents already with the Inquiry.
242. As Permanent Secretary, I was not closely involved in the contact with NHS Directors of Public Health nor other actions described relating to care homes. Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care will have information on this.
243. As Permanent Secretary, I was not closely involved in contact with Social Care. Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care will have information on this. I cannot recollect seeing the representations from Scottish Care per se, but these would have been directed to, and addressed by, the DG Health and Social Care. Views and representations about the impact of restrictions would be included in advice to Ministers. Stakeholder views and experience formed part of the Cabinet decision making.
244. As Permanent Secretary, I was not closely involved in the clinical oversight of care homes. Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care will have information on this. I know that early on in the pandemic the Scottish Government required local professional leads – Directors of Public Health, Executive Nurse Directors, Chief Social Work Officers, Chief Officers, Medical Directors from NHS boards and Local

Authorities to provide oversight and support to adult care homes. However as Permanent Secretary I was not closely involved in addressing local outbreaks in care homes. Cabinet Secretary for Health, Health Protection Scotland and DG Health and Social Care will have information on this.

245. As stated above, as Permanent Secretary, I was not closely involved in the management of care homes or engaged with the care sector. I have reviewed the various elements of the statement provided by Scottish Care at their paragraphs 92 and 128-33 as requested by the Inquiry but cannot add any information or opinion as these matters were not within my role at the time. The Cabinet Secretary for Health and Sport, Public Health Scotland and DG Health and Social Care will have information on these issues. Equally I was not involved with the assessment of risk or dissemination of data with regard to social care. I cannot contribute any lessons learned on these matters.

PART K – Borders

a) Internal UK borders

246. I agree that the complete closure of the land border with England would not have been feasible for the reasons cited. I do not recall it ever being considered as feasible and as far as I can recollect, official advice reflected this position. Advice was to put in place measures to limit non-essential travel to and from areas of high prevalence in Scotland and elsewhere and this was covered at Cabinet on 29 July and SGoRR on 31 July 2020. [LE/071 - INQ000078411]
247. I am not aware that consideration was given by the Scottish Government to closing borders between Scotland and the other nations of the UK– but advice was provided to Ministers on non-essential travel within Scotland and to other parts of the UK and beyond.
248. As Permanent Secretary, I was not close to the production of public guidance on crossing the borders with other parts of the UK, in particular the land border with England but advice and guidance would have followed the SG communications strategy, including publication and maintenance of online guidance to explain the restrictions and what was expected of people. SG communications strategy was informed by regular polling and informed by behavioural science.
249. As Permanent Secretary, I was not close to whether there were any difficulties with England and Scotland placing different controls for quarantine for returning travellers, but

I know communication efforts were put in place to ensure travellers were aware of the quarantine requirements.

b) International borders

250. Migration matters and the closure of an international border would be a reserved matter for the UK Government, rather than for the Scottish Government. In regard to the passage I am asked to consider from the corporate statement provided by DG Strategy and External Affairs commenting on the effect of the shared approach arising from the fact that health is a devolved matter but borders are reserved, this is another example of the 'ragged edge' of devolution where devolved responsibilities can bump up against reserved matters and vice versa. I was not present but understand that Scottish Ministers and SG senior officials attended C-19 Operations Committee (Covid-O) meetings in relation to international travel. CMOs continued to meet regularly throughout the pandemic period to discuss relevant matters, which included travel. I am not aware of any advice shared with Scottish Ministers on closing the border.
251. I do not know the position of the UK Government and the Office of the Secretary of State for Scotland on the closure of borders, nor can I comment on matters around closure of borders, or the decisions made on flights between Scotland and China in January-March 2020 - immigration issues are reserved.
252. I was not closely associated with work on the significance of the Chinese New Year, but SG was alert to events which might prompt additional or extra travel. It would have been on Public Health Scotland and DG Health and Social Care radar. Implementation of any measures at points of entry to Scotland would have required coordination from UK Border Force.
253. Cabinet took all decisions on devolved matters affecting the pandemic. I am not certain, but I suspect that the initial guidance for traveller arriving from Category 1 countries was UKG guidance and as such I would not have been aware of or involved in this process. Foreign and Commonwealth Office advice for consular support and to UK nationals travelling overseas, is reserved.
254. I am not aware of this study quoted on international transmission of the virus but early in the pandemic concerns were raised about international sporting events and travel to countries where infection rates were rising. I was not closely engaged in work to consider stricter travel restrictions in the summer of 2020, but I know that Ministers received advice

on this matter including discouraging non-essential international travel. Border control is a reserved matter.

255. The rationale for limiting non-essential travel was to reduce the spread of infection as set out in Scotland's Strategic Framework and supporting guidance, as well as the supporting "four harms" assessment conducted for travel. There was regular contact with relevant stakeholders and sector representatives on these kinds of decisions. This included ongoing contact with Police Scotland and COPFS on proportionality and enforcement – this often featured in advice on decisions and policy changes.
256. All decisions regarding the pandemic, including to diverge from approaches by other Governments, were taken by Cabinet based on advice supplied by officials. I was not close to the detail of this work and so cannot offer further reflections here. The potential need for divergence on public health grounds was discussed on 10 March 2020 Cabinet, at which I was present, on the basis of the papers presented. [LE/010 - INQ000238822]. In relation to decisions on international travel restrictions, Cabinet would have agreed the initial approach and the initial set of countries in the red/green list. As the response developed to become a regular series of changes to the list, advice would go to the relevant Cabinet Secretary, copied to the First Minister (having first been agreed by the CMO/DCMO). On some major decisions – e.g. concerning Spain in summer 2020, Danish mink in November 2020, and the introduction of Managed Isolation in January 2021 - the First Minister was the decision-maker.
257. Decisions regarding the pandemic were taken by Cabinet and this process worked well throughout the pandemic.

PART L - Decision-making between the Scottish Government and (a) the UK Government and (b) the other devolved administrations in Wales and Northern Ireland

258. As set out previously in my statement, there was a Four Nations approach to Covid 19. I cannot give a detailed response on all the facets of interaction but in general, regular collaboration, coordination and communication took place between the UK Government and devolved administrations. It took many forms and through many different routes. I myself attended Covid-19 Cabinet Secretary Officials Meetings (Cab Sec (O)) chaired by the secretary to the UK Cabinet, Sir Mark Sedwill, regularly - alongside the Perm Secs from the other two devolved nations – and was often invited to share Scotland's position on these occasions. In addition, Ministers were meeting regularly with the UK Government Ministers through MIGS and other fora. UK Government officials sometimes say a different

approach in the devolved nations was a deliberate divergence from the English approach rather than being informed by the best and most up-to-date expert scientific advice. It was a strength of devolution that this advice was able to guide a different approach, when necessary, to meet the specific circumstances in Scotland.

259. COBR is a UK mechanism and SG attends if invited. The representative attending does so as a full participant. Attendance at COBR and changes to its format are matters for the UK Government. In my view the effectiveness of the four nation approach is somewhat dependent on how structures work rather than the structures per se. Such effectiveness requires a clear understating and knowledge of, and respect for, devolution and how it works, openness and recognition of equal partners. I am no longer in government so out of date on reform still necessary, but the present Permanent Secretary will have more contemporary views on what reforms to intergovernmental structures should still result from lessons learned and which should be used in any future pandemic.
260. In my experience officials queried different decisions by the devolved administrations but I am not aware of formal attempts by the UK Government to persuade the devolved administration to follow their decision on England's lockdown etc. or of attempts by the SG to persuade the UK Government or devolved administrations to follow SG decisions on lockdown etc.
261. There was regular on going contact between officials on communications. And I believe that there would have been discussion of briefing arrangements at COBR or other Four Nation coordination mechanisms around communication of key decisions.
262. The meetings convened by the Chancellor of the Duchy of Lancaster for the First Ministers of Scotland and Wales and the First and deputy First Ministers of Northern Ireland were usually attended by the First Minister, or occasionally another minister on her behalf. I did not attend and so am unable to offer further detail on these points.
263. In my experience, informal messaging platforms and texts were deployed for quick alerts, requests to call/updates and to check in on wellbeing and on progress/action in fast moving times and not for decision making. My use of such platforms with UK Government and Devolved Administration counterparts was limited and I have not retained any such messages.

264. I understand that the operation of SAGE, including decisions about attendees and how meetings are organised, are for the UK Government to answer, as SAGE Secretariat sits in the Government Office for Science. The information flow from SAGE to SG was important and helpful.
265. I do not know of the level of contact between the SG and the various 'Tsars' appointed by the UK Government in April 2020 to tackle what it perceived to be major issues relevant to ensuring public health but for my part, I met with Dido Harding once, at her invitation, on 22 May 2020, along with others involved in the JBC. I believe Kate Bingham and Paul Deighton attended Covid-19 Cabinet Secretary Officials Meetings (Cab Sec (O)) chaired by the Secretary to the UK Cabinet, Sir Mark Sedwill.
266. I am not aware of how regularly at risk groups or people living and working across internal UK Borders featured specifically in four nations considerations, but each nation was seeking to address the needs of at risk groups in their own domain, including on the impact of those living close to internal borders.
267. I was not at the four nations call on 19 December 2020, which discussed the latest situation regarding the Christmas period, but information was shared with me confirming the UKG's approach for England going into further lockdown restrictions, and that DAs were to consider their plans.
268. I am not aware of work to identify lessons arising for the four nations approach from other multinational states, but this would be fall to the UK Government to address.
269. Generally, I experienced a steady information flow and good cooperation in my contact with senior UK Government officials. In general, the collaboration, coordination and communication took place between the UK Government and devolved administrations was effective. I have commented previously on the level of awareness, recognition and understanding of devolution and how it works. This did cause problems, but these were usually addressed by official contact and clarification.

M. Interrelation between the Scottish Government and local government

270. The relationship between SG and local authorities differs from the approach south of the border because Scotland's institutional landscape is simpler. Scotland has a smaller number of local authorities, all of which are single tier. This also means that Cabinet Secretaries and senior officials were able to engage regularly with the leaders of those

local authorities including on the proposed introduction of NPIs etc. I myself had regular contact with local government organisations such as SOLACE and COSLA. I was not involved in the consultation with local authorities on the imposing or easing of NPIs, but DG Communities would have more information on this.

271. I was not directly involved in work to assess the impact of decisions to impose local restrictions on different sectors of the populations in local authority areas, in particular at risk or vulnerable groups or those with protected characteristics.
272. I am not aware of the specifics of how far local government was able to access the medical and or scientific data and expertise that was available to the Scottish Government but the CMO, NCAD and CNO met with partners and stakeholders on many occasions in order to brief and answer questions on the current state of the pandemic and medical and scientific data.
273. The quick and accessible nature of contact between the local authority CEOs and SG officials, specialists and ministers was a real asset and worked well. I believe that the local nature of the 'levels approach' was welcomed by local government though complex and challenging to administer and sustain. I suspect that local government would have liked to hear more detailed information earlier on from the SG in its decision making cycle.
274. The DG Communities would be able to address contact with COSLA during SG decision making but there was regular contact with COSLA and local authorities at official and Ministerial level.
275. There was regular contact with local authorities and COSLA through a range of and around Cabinet decision making. The importance of regular contact and sharing information with local government and COSLA at key points of change and decision was often raised in discussion with Ministers and at Cabinet. DG Communities will have more detailed information on the style, regularity and content of SG coordination and communication with local authorities and COSLA and DG Health and Social Care on SG contact with IJBs and with local authorities in providing social care services.
276. I cannot recall exact structures and bodies extant in January 2020 or how these changed but DG Communities will have more detail on this and on the effectiveness of coordination and communication.

N. Covid-19 public health communications

(a) Public health communications strategy of the Scottish Government during the pandemic

277. There is detailed information on this set out in the corporate statement provided by DG Corporate in June 2023 but briefly, SG communications activity was to ensure that the general public was provided with a credible rationale about the policy decisions taken at each stage to manage the spread of the virus. On occasions, where the guidance and advice in each nation differed, Scotland specific activity would be deployed.
278. I was particularly aware of the work behind, and impact of, the regular news conferences (also known as 'daily briefings'), led by the First Minister. These formed an important, and sometimes powerful, element of the SG communications programme. Government advice was consistent across the devolved nations at the outset of the pandemic (March 2020) but varied over the subsequent months for various reasons including different epidemiological conditions and different approaches to non-pharmaceutical interventions. In these cases, Scotland specific public health messaging was necessary to ensure that the general public had the most up-to-date and relevant information.
279. Scottish Government Communications sought to reach the population of Scotland as frequently as possible in the most cost-effective way, with accessible information that could be easily understood, and would motivate and prompt life-saving action by adopting protective behaviours. The level of public trust in the Government and sharing the most up to date and continually emerging scientific evidence was important in encouraging and supporting public compliance. Behavioural science informed this approach and regular polling testing attitudes and behaviours in relation to the pandemic was shared across the organisation to inform communications and policy decisions.
280. My role as Permanent Secretary was to ensure the development of advice for Cabinet on a public communications strategy for the Scottish Government and implementation and evaluation of the same. The daily briefings were a key element in this communications effort and were delivered by the First Minister, CMO, NCD and other ministers and advisers as appropriate. In my opinion, the message promulgated about the SG justification for its key strategic decision was fair and accurate, and reflected the reason for its decision making. I am not aware of any restrictions being placed on the publication of medical data and studies carried out by the individuals/bodies providing advice to key decision makers, or of any key public health communication that went

against expert medical or scientific advice but DG Health and Social Care and CMO would have more knowledge of this.

281. I believe that the approach varied in line with the development of the pandemic – for example the frequency of daily briefings was reduced over time during less intense phases, but this did not represent a fundamental shift in strategy.
282. I was not close to work to explain the importance of vaccination but there was a paper presented to Cabinet on 1 December, which I attended [LE/074 - INQ000078376]. I recall a particular emphasis in contacting leaders in communities where take up of the vaccine was slow – this included engaging with community groups and community leaders to encourage people from minority ethnic and other communities who might be less likely to attend for vaccination.
283. SG communications activity was to ensure that the general public was provided with a credible rationale about the policy decisions taken at each stage to manage the spread of the virus. It was considered helpful to have clinical experts sharing and explaining scientific and medical information with the public. This was extended to other professionals such as the Chief Constable of Police Scotland presenting information and insights alongside that of Ministers. Communication campaigns were delivered by the Scottish Government throughout the pandemic to share public information and inform people of the required protective behaviours identified by Policy at each phase.
284. I was not involved in the sequencing of the announcements on 23 March 2020 but understand that these announcements followed a meeting of COBR at which all four governments were represented.
285. There is information on what was done to ensure that the Scottish Government's Covid-19 public health communications, including the daily press conferences, were accessible for vulnerable and minority groups and non-English speakers in the corporate statements provided by DG Health and Social Care and DG Corporate in June 2023.
286. The Scottish Government public health communications explained the territorial extent of its decisions on Covid -19 and evaluated impact. I did not have concerns over public confusion. I know behavioural science advice was received by the SG. I do not know to what extent it was followed by public health communications, but DG Corporate would have more detail on this. In my opinion, the public health messaging was consistent and clear.

b) Effectiveness of messaging

287. I would refer to DG Corporate and to the corporate statement she provided in June 2023 for further information on the evaluation and effectiveness of SG public communications. I believe the daily television briefings were an effective method to communicate public health messaging to the public as part of a wider SG communication strategy as reflected by polling data and survey material. In my opinion, Scottish Government public health communication in relation to the steps taken to control the spread of the virus in Scotland was effective and evaluated regularly.

c) Maintenance of public confidence

288. I believe that the messages that the SG was promulgating about its approach to the management of the pandemic helped to promote public confidence - this was evidenced in survey material of the time.

289. I would refer to DG Corporate for more detailed knowledge of whether the publication of modelling data was sufficiently transparent and timely and what steps were taken to counter disinformation. I am not aware of any evidence on the impact of alleged breaches of social restriction and lockdown rules by Cabinet Secretaries, Ministers, officials or advisers on diminished public confidence and observance and am not aware of any specific assessments carried out on such events.

290. I agree with the assessment of the Independent Advisory Group on Police Use of Temporary Powers that over time, as the Regulations became more differentiated (e.g. across different localities), public messaging became less clear (even by government ministers) and examples of high profile breaches diminished public confidence in the effectiveness of the Regulations [emphasis added], the challenges for policing increased.

d) Conclusions and lessons learned

291. I have no further reflections on this other than those already shared in this section.

Part P (No Part O in Rule 9)

a) Legislation

292. Cabinet took all significant decisions on the pandemic, including those on the substance reflected in legislation and regulations as described earlier in this statement. I attended all Cabinet meetings. I was not involved in the drafting of the

Coronavirus Bill 2020 or associated regulations which would have been addressed by the relevant SG policy team and so cannot give a detailed account of these matters. I am not aware of the role of the Office of the Secretary of State for Scotland in passing UK legislation.

293. I am asked for my opinion on the view of the DG for Strategy and External Affairs that the Scottish Government and UK Government developed the Coronavirus Bill 2020 collaboratively and would agree with this to the extent of my knowledge.
294. Emergency procedures were used for making and amending legislation. The Coronavirus (Scotland) Act 2020 was subject to emergency procedures. I was not close to the process and representatives of the Scottish Parliament will have views here. I understand that those processes to have been effective, but the Scottish Parliament and the DG Strategy and External Affairs will know more about this.
295. I do not know the exact number of SSIs subjected to the process of Parliamentary approval within 28 days or how many of these SSIs were approved or not. The DG for Strategy and External Affairs would have further information. SG officials would have provided advice on the relevant procedure to the relevant lead minister at the time.
296. There was discussion about the Parliamentary technical procedures at Cabinet of 23 November 2021 at which I was present, referring to criticism by Scottish Parliament Committee on the procedure adopted by the SG [LE/075 - INQ000078497]. I was not close to the detail of this work, but I am aware of Scottish Parliament's sensitivity to the use of the expedited procedures given the need to plan Parliamentary business and protect time for Parliamentary scrutiny.
297. I was not close to the detail of why the Scottish Government launched a consultation process in connection with making some of its emergency COVID powers permanent and so cannot express an opinion but would expect the DG Strategy and External Affairs to have further information.
298. I have described the operation of the devolution settlement with regards to the pandemic earlier in this statement. As stated there, in general it was clear which areas were devolved and which reserved, and as far as I am aware, this was also the case in the development of legislation.

299. I would refer to the corporate statement provided by DG Strategy and External Affairs in June 2023 with regards to legislation. Given the extraordinary circumstances in which this legislation was being reviewed and scrutinised I believe that these processes were effective. However, I was not close to the process and representatives of the Scottish Parliament will have views here.
300. The processes associated with the presentation and scrutiny of the two-monthly reports to review the operation of the Coronavirus legislation was a decision for Ministers on the conduct of Parliamentary business. I was not involved and cannot offer a view here.
301. I am not aware of any debates of the Scottish Parliament or meetings of the Cabinet at which the decision to stop ministerial statements to Parliament about the two-monthly reports was discussed.
302. I was not close to the process and am not aware of any concerns or objections from Scottish Parliament officials or members of the Scottish Parliament about the two-monthly reports not being the subject of a ministerial statement to Parliament with the opportunity for members to ask questions - representatives of the Scottish Parliament will have views here.
303. My understanding is that the decision that public health legislation should be used as the legal framework governing the UK Government's response to Covid-19 rather than the legislative 68 framework of the Civil Contingencies Act 2004 would have been made by the UK Government. SG officials would lead on the instruction of Scottish provisions within devolved competence.
304. I was not close to the process of preparation of individual elements of legislation and their respective EQIAs and so cannot answer the questions posed about this process. However, it is my understanding that EQIAs were completed and have been supplied to the Inquiry.
305. I was not close to this process, but consideration/scrutiny of equalities impacts takes place during the SG legislative and regulatory drafting process with advice from EIHRD and SGLD, not least to ensure that the legislation is to be compliant with Equalities and Human Rights legislation and that particular groups would not be

disproportionately impacted by the legislative response to the pandemic.
Consultation with stakeholders is also an integral part of SG legislative and regulatory drafting process.

b) Enforcement

306. I would refer to the communications approach as set out in the corporate statement provided by the DG Corporate in June 2023 and also information on the Police Scotland's 4Es approach within the DG Education and Justice corporate statement regarding justice matters provided in June 2023. I am not aware of concerns raised regarding enforcement, but Police Scotland may have views here. I am not aware of the impact on the circulation of guidance and enforcement action but given the nature of the pandemic, speed was of the essence. There may be more information available from Police Scotland.
307. The Scottish approach to minimising the overall impact of the pandemic (and decision making to support this aim) is set out in the April 2020 Framework for Decision Making [LE/001-INQ000131025] which included those decisions be informed by the following principles; safe, lawful, evidence-based, fair and ethical, clear, realistic and collective.
308. NPIs sought to regulate and guide people and organisations' behaviours, particularly in relation to the way this affected interactions between individuals and groups and to reduce the transmission risk posed by different settings. Decisions by Cabinet on whether to use regulations depended on the severity of the measure and whether regulating was proportionate. Proportionality reflected the current state of the public health emergency and the potential impact of the measure in mitigating it. Guidance and communication messaging was also frequently used to urge people to behave in ways that would reduce transmission.
309. Both guidance and regulation were used extensively by the SG during the pandemic and significant resource and effort was invested in communicating both types to support public adherence and reduce transmission. NPIs were placed in regulation where it was judged that adherence with specific requirements/restrictions was important enough to reducing transmission that they required to be mandated and the possibility of legal enforcement.

310. All decisions on the pandemic were taken by Cabinet. In keeping with consultation during the drafting of SG legislation, I understand Police Scotland, Crown Office and Procurator Fiscal Service (COPFS) and the Scottish Courts and Tribunals Service were consulted during the development of the initial Health Protection regulations on the design and operability of the enforcement regime, and their feedback informed the development of the enforcement regime in the Regulations. These participants will have details of advice offered and accepted.
311. As part of SG standard processes, when regulations were developed, they would have been subject to EQIA and the range of other impact assessments, as outlined in the response above, including consideration of likely impact on particular individuals/groups.
312. Fine levels available under fixed penalty notice powers created under the Scottish regulations differed from those in the rest of the UK since the start of the public health crisis. It is my understanding that Police Scotland were consulted on the decision to adopt criminal sanctions and consulted throughout the process – including review points - however I was not directly involved in this process.
313. I was not close to the details of any data analysis or behavioural modelling used to determine the proportionality and likely success of proposed sanctions, and the data or information relied upon to determine the actual penalties imposed and am not aware of any discussion with SAGE or the C19AG on these matters as I was not directly involved.
314. The development of the Bill was discussed and agreed between the four administrations at a Ministerial level through COBR meetings. SG officials led on the instruction of Scottish provisions within our devolved competence. As part of the drafting process the proportionality of the measures proposed was assessed in each case.
315. The decisions regarding sanctions and regulations were also informed by the Framework for Decision Making, the updated Framework for Decision Making – Further Information (published 5 May 2020) set out our approach to NPIs in light of the epidemiological conditions. The supporting evidence paper (7 May 2020) explained the types of evidence considered as part of the ‘four harms’ assessment of NPIs. Further regular assessment of proportionality was also required by Parliamentary procedures.

316. In his decision on the Judicial Review (JR) into places of worship, Lord Braid found Ministers' decision to close places of worship as part of "stay at home" measures unlawful and that there had been disproportionate interference with the right to freedom of religion and belief under article 9 of the European Convention on Human Rights. The outcome of this JR informed future decision making.

c) Lessons learned regarding Regulations and Enforcement

317. I cannot offer any views on lessons learned regarding regulations and enforcement, since in my role as Permanent Secretary I was not engaged in the detail of the processes put in place. DG Strategy and External Affairs and DG Education and Justice will have views on this.

d) Key challenges and lessons learned

318. I have supplied details of the session conducted by the Public Audit and Post-Legislative Scrutiny Committee of the Scottish Parliament on Covid Decision-making on 11 June 2020 [LE/076 - INQ000273632]. I did not supply any written or oral evidence to the UK Parliament or its select committees on the Scottish Government's response to the pandemic.
319. Overall, I would summarise the key challenges and lessons learned for me as Permanent Secretary as follows:
320. **Key issues and junctures** in the decision making process relating to the management of the pandemic in Scotland were:
- Rapid recognition that this was unprecedented - and that we needed to be at the top of our game - but despite that, the realisation that we would make mistakes.
 - If, how and when to introduce lockdown(s), when and how to ease lockdown restrictions.
 - Protecting the capacity of the NHS to maintain and sustain effective operation.
 - Recognition of – and addressing – the impact of Covid 19 beyond the immediacy of health – the introduction of the Four Harms assessments and integrated decision making.
 - The trust of the public in the daily communications by FM as they became established and anticipated.

321. **Key challenges** included:

- Evolving knowledge and data – realising how much we didn't know in the early days.
- Sustaining rapid and inclusive information flow beyond Health across the organisation, and between UKG and the devolved administrations.
- Maintaining sufficient capacity, resilience and wellbeing in frontline services, organisational and institutional infrastructure and senior leadership.
- Response/decision making being sufficiently inclusive – hearing all the voices and going the extra length to do so.

322. **Lessons learned** from experience in relation to core decision making involved in the SG response to Covid 19:

- retain improvements and behaviours; for example - fleet of foot decision making in the SG, inclusive and integrated policy making, working closely and more openly with our partners, capacity to rapidly deploy CS staff, digital flexibility to the best, supporting (and challenging) each other, leadership resilience.
- ensuring the rest of the organisation was briefed regularly on clinical and scientific knowledge and evolving understanding in order to anticipate and respond in their areas, including briefing - and hearing from - their own stakeholders.
- the importance of the Four Harms as a strategic tool and evidence base in decision making
- earning, building and sustaining trust with the Scottish public - the importance of treating them like adults, of honesty, transparency and an authentic and credible voice.
- Better knowledge and understanding of devolution in UKG – what it means, how it works, what it takes.

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: _____ 21 November 2023 _____