

Witness Name:
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UK COVID-19 INQUIRY
MODULE 2A

WITNESS STATEMENT OF THE DIRECTOR GENERAL COMMUNITIES

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

1. This statement is one of a suite provided for Module 2A of the UK Covid Inquiry and these should be considered collectively. This statement has been prepared to address further questions from the Inquiry and should be considered an addendum to the statement provided for Module 2A by DG Communities (EIHRD) on 23 June 2023.

The role of the Equality, Inclusion and Human Rights Directorate

2. The Equality, Inclusion and Human Rights Directorate (EIHRD) has an established role within the Scottish Government in providing policy advice, in general terms, on matters relating to equalities and human rights. This, however, does not mean that this Directorate holds sole responsibility for all equalities matters. Rather, the EIHRD works with Directorates across the Scottish Government to ensure that the impact(s) of their policies on people with protected characteristics are duly considered.
3. So, whilst the EIHRD sets the strategic direction of the Scottish Government policy for those with protected characteristics, it is for each individual Director to uphold the Scottish Government's obligations under the Public Sector Equality Duty. Thus, when formulating policy on shielding, as an example, the EIHRD would have provided

advice but the ultimate responsibility would have rested with the Director for that policy team within DG Health and Social Care.

4. New policies should have been subjected to a written Equality Impact Assessment (EQIA). EQIAs are a way of assessing how policies address the three needs of the Public Sector Equality Duty (PSED), (Section 149 of the Equality Act 2010):
 - eliminate discrimination
 - advance equality of opportunity
 - foster good relations.

The “four harms” approach

5. During the pandemic the “four harms” approach was adopted in Scotland. This marshalled the many and various harms into four broad categories;
 - Harm 1: direct Covid-19 harm
 - Harm 2: other health harm caused by the pandemic
 - Harm 3: societal harm
 - Harm 4: economic harm.
6. Further details on how the four harms approach was developed is provided in the Module 2/2A DG Strategy and External Affairs (Addendum) corporate statement, provided to the Inquiry on 6 November 2023.
7. Unlike the approach taken by the Welsh Government, Scotland’s four harms process did not include a ‘harm’ that specifically considered equalities issues. Instead, inequalities were regarded as a factor within each of the four harms. This enabled equalities issues to be included within the assessments made of each of the four harms and not viewed in isolation of the other factors, and is reflective of the way that the Scottish Government deals with inequalities in policy development and delivery generally. I.e. each individual policy would be considered for its impact on protected characteristic groups by the policy team, rather than being considered in isolation by a distinct team. This approach is consistent with the aspirations of the Scottish Government, both before and after the pandemic, to build equality into policy making across all areas of government.

8. It is also important to note that four harms assessments only formed part of the decision-making process. Wider equalities issues, including the legal requirements to consider equalities in decision-making, were part of this wider process. For example, the Module 2/2A DG Strategy and External Affairs corporate statement provided on 23 June 2023 outlines the various impact assessments which were undertaken for policy and legislation proposals, including NPIs. These included Equality Impact Assessments, Business Regulatory Impact Assessments, Equality & Fairer Scotland Impact Assessments, Children's Rights and Wellbeing Impact Assessments and Island Impact Assessments.

9. Therefore, the text that follows will give an example of how vulnerable groups were considered in the formulation of policies relating to the pandemic. This supplements and should be read along with the narratives provided in the other Module 2/2A corporate statements which consider how equalities were addressed in specific settings and contexts.

10. All decisions in relation to restrictions, including those mandated by law, were required to be subject to detailed impact assessments which required consideration and evidence to consider how each change would impact a wide range of groups, including mitigations to offset any potential impact. All impact assessments were approved by Ministers and published throughout the pandemic. A more detailed account of the use of impact assessments is contained within the Module 2A DG Strategy and External Affairs corporate statement, provided on 23 June 2023 and impact assessments across all relevant policy areas have previously been provided to the Inquiry in inventories accompanying previous corporate statements. A fuller sample discussion of how the application of NPIs was balanced and applied in relation to the needs of different vulnerable groups in relation to the closure of schools can be found in the DG Education and Justice (Education) (Addendum) corporate statement, provided to the Inquiry on 6 November 2023.

Individuals at particular risk who did not fall within protected characteristics

11. A useful example of how equalities issues were incorporated into the policy and decision-making process for those individuals who could be considered particularly at risk and vulnerable during the pandemic, but did not fall within those protected characteristics set out in legislation, can be found in how shielding policy changed and developed during the pandemic in response to emerging data and evidence.

While in accordance with the structures explained in this statement, the policy lead for this area sat within DG Health and Social Care, in the Directorate for Population Health, detail is given here in an attempt to make clear how these processes operated across the Scottish Government. Further details of how shielding policy was then applied in areas for which other parts of government were responsible are also given in the draft Module 2 DG Health and Social Care corporate statement provided to the Inquiry on 23 June 2023.

Identification of at-risk individuals

12. In March 2020, the four UK Chief Medical Officers (CMOs) agreed the criteria for the cohorts that they assess may be most at risk of severe illness or death should they contract Covid-19. These initial groups were as follows:

- Group 1 – Solid organ transplant recipients
- Group 2 – People with specific cancers
- Group 3 – People with severe respiratory conditions
- Group 4 – People with rare diseases
- Group 5 – People on immunosuppression therapies which increased risk of infection
- Group 6 – People who are pregnant and have significant heart disease.

13. Proactive steps were taken to identify individuals who might fall into these categories and ensure they received information and support appropriate to their circumstances. Some individuals met the criteria for inclusion in more than one group because of multiple health conditions and Public Health Scotland worked to identify individuals falling into these categories. Initially, c136,000 individuals were identified and added to the Shielding list. Clinicians were also asked to identify patients who they considered to be at highest risk but who did not fall into the existing six groups of people identified by the CMOs. From this the 'Group 7 – clinician identified' cohort was established.

14. On 26 March 2020, the first CMO letter was sent to approximately 100,000 people initially identified for the Shielding List asking them to self-isolate for the next 12 weeks as they were deemed to be at extremely high risk from Covid-19. The CMO also wrote to Nursing and Medical Directors advising of the highest risk groups, and

asking for hospital clinicians and GPs to identify patients within these six groupings who may not have been identified through the national identification process.

15. If an individual thought that they were in the highest risk group but had not received a letter, they were advised to contact their doctor. Individuals were continually added to the central list to ensure people could be supported to shield, for example, people who were newly diagnosed, or if clinicians felt it was required.
16. Throughout the pandemic new criteria were added to the Shielding List based on emerging evidence, data and clinical consensus. On 30 October 2020 people with Down's Syndrome were added to Group 4 of the Shielding / Highest Risk List, and Chronic Kidney Disease Stage 5 was added to Group 5. CMO letters were sent to these individuals to notify them of this. In December 2020 the decision was taken to add people with liver cirrhosis to the Shielding / Highest Risk List. In December 2021, approximately 9,000 people who were identified as severely immunosuppressed were added to the Shielding / Highest Risk List (Group 5).

Assessment of how NPIs would impact shielding / highest risk groups

17. The Covid-19 Highest Risk Division (a Division within the Population Health Directorate) was closely involved with providing advice in relation to the potential impact on individuals assessed as having higher clinical risk to colleagues developing guidance for early learning settings, schools and further education, workplaces, and prisons, as well as targeting specific professional or advisory areas. Covid-19 Highest Risk division organised or contributed greatly to forums which sought to draw together these areas of expertise. These groups included local authorities, voluntary and third sector, medical organisations / charities, Convention of Local Scottish Authorities (COSLA), NHS, education, the Clinical Leads Advisory Group for Scotland (CLAGS) and Resilience Partnerships.
18. This helped to provide a greater understanding of the impact of the pandemic on those cohorts but assisted in decisions and advice designed to support those people with greatest need. Impact assessments across all relevant policy areas have been provided to the Inquiry in inventories accompanying previous corporate statements, and the Covid-19 Highest Risk Division also contributed to EQIAs in relation to updates to the Scottish Government's Strategic Framework. This ensured that intersectional issues were also raised and consideration was given to any potential

impacts of changes to restrictions / guidelines that may affect those people with protected characteristics who also appeared on the Shielding / Highest Risk List. Example correspondence demonstrating how the Strategic Framework EQIA was developed and contributed to by the Covid-19 Highest Risk Division policy officials is provided [LM3/001-INQ000256754].

Inclusive communications

19. As detailed in the DG Communities (EIHRD) Module 2A corporate statement, provided to the Inquiry on 23 June 2023, on 25 June 2020 the Minister for Equalities and Older People, Christina McKelvie, set out to the Scottish Parliament's Equality and Human Rights Committee how the Scottish Government was developing "inclusive communications" to ensure guidance was accessible to everyone [LM3/002-INQ000256755]. This reflected the Scottish Government's commitment to inclusive communication as set out in *A Fairer Scotland for Disabled People* (published 2016), provided [LM3/003-INQ000256769], which commits to communication in Scotland to be accessible to and inclusive of all. Explicit references to the need to communicate in an inclusive way have also been included in the Social Security (Scotland) Act 2018, the Consumer (Scotland) Act 2020, the Coronavirus (Scotland) Act 2020 and the Coronavirus (Scotland) (No.2) Act 2020.
20. The *Programme for Government 2020-21*, provided [LM3/004-INQ000256771], also included a commitment to step up work across Scottish Government and to support the wider public sector to promote accessible, inclusive communications for all – ensuring everyone in Scotland can access information and express their views and needs on an equal basis.

Communications and working with stakeholders

21. Scottish Government communications has worked closely with stakeholders to ensure messages from key marketing campaigns reach all geographies and seldom-heard communities, including racialised groups, in an inclusive way. During the peak of the Covid-19 pandemic there were many communications work streams dedicated to improving availability of translations and accessible formats. Ongoing stakeholder relationships have helped shape Scottish Government communications activities and allowed increased reach and message penetration across communities via community trusted voices. Key learnings, gained through working with public and

third sector partners, are currently being disseminated to share knowledge of language and accessibility requirements. Further work is required to ensure collaboration across organisations to share best practice and signpost to translation, interpretation and transcription services. Further details and practical examples of this work are included in the Module 2/2A DG Corporate (Addendum) corporate statement, provided to the Inquiry on 6 November 2023.

Equalities data and decision-making

22. How the research, analysis and reporting on Covid-19 disparities was undertaken by the Communities Analysis Division (CAD) is outlined in the DG Communities (EIHRD) Module 2A corporate statement, provided to the Inquiry on 23 June 2023.
23. This material was provided to Ministers in a number of ways. Slide packs were regularly presented to the Communities and Public Services Ministerial Group, a group chaired by the Deputy First Minister comprising all ministers with broadly social policy portfolios and relevant senior officials. The Chief Social Policy Advisor, Chief Social Researcher, Chief Scientific Advisor, DG Exchequer and communications officials were also attendees at this group. This material was discussed by the group in the context of Harm 3 (Societal Harm). The agenda, minutes and meeting papers for this Group have been provided to the Inquiry as general disclosure with this statement.
24. Equalities analysis also formed part of the regular briefings provided to Cabinet. Further details on how equality evidence papers and analytical reviews would have fed into Cabinet Papers via the four harms process is outlined in the Module 2/2A DG Strategy and External Affairs corporate statement, provided to the Inquiry on 23 June 2023.

Stakeholder engagement

25. In paragraph 28 of the DG Communities (EIHRD) Module 2A corporate statement, provided to the Inquiry on 23 June 2023, it is stated that: “No new groups or committees were set up within EIHRD for the purpose of responding to the pandemic but there was enhanced engagement activity by the Connected Communities Division and faith and belief stakeholders due to the changing impacts of lockdown restrictions on places of worship”. Following further evidence gathering, this

statement offers further detail on the numerous fora established or utilised for ongoing engagement between Equality, Inclusion and Human Rights Directorate and relevant stakeholders, most of which built upon pre-existing relationships between the EIHRD Directorate and those stakeholders. These are in addition to the Social Renewal Advisory Board, Communities and Public Services Ministerial Group and the Expert Reference Group on Ethnicity and Covid-19 already referred to in the previous statement referenced above.

26. The Director of EIHRD would have attended these meetings or been provided with updates on issues raised in these meetings as part of “business as usual” information flows such as meetings with Deputy Directors and / or strategic leads. The Director was therefore well-informed on equality issues and able to provide advice based on those insights from stakeholders when attending the Four Harms Group meetings and to influence proposals made to Cabinet.

Stakeholder engagement – gender

27. Officials met gender stakeholders immediately at the start of the pandemic, first organising a meeting with the Cabinet Secretary (Shirley-Ann Somerville at the time), and the Minister for Equalities and Older People (Christina McKelvie). Gender Equality team officials then organised calls fortnightly, beginning in April 2020, with Engender, Scottish Women’s Aid, Close the Gap, Scottish Women’s Convention and Rape Crisis Scotland. Stakeholder views were fed through to the relevant teams and divisions within the Scottish Government. The meetings were later scaled back to every two months with the last meeting taking place in January 2022.

Stakeholder engagement – LGBT

28. Officials met stakeholders on a rolling basis, around every six to eight weeks, with the first meeting taking place on 15 April 2020 with Scottish Trans Alliance, LGBT Health and Wellbeing, Stonewall Scotland and LGBT Youth Scotland. The meetings were used to understand how issues were playing out on the ground for communities and to work with stakeholders to ensure emergency funding was being effectively utilised and unmet need identified.

Stakeholder engagement - disability

29. Officials set up meetings with three Scotland based disabled people's organisations (DPOs): Inclusion Scotland, Glasgow Disability Alliance (GDA) and Disability Equality Scotland (DES). Meetings were held on a monthly basis from early Spring 2020 to facilitate a regular touch point. The Minister for Equalities and Older People (Christina McKelvie) attended the first meeting and they were then then chaired by Lisa Bird, Deputy Director, going forward. There was no set agenda, but the meetings were used as an open forum for Scottish Government officials to provide updates on relevant issues and to listen to issues raised by the DPOs.
30. Where other policy teams wanted to engage with DPOs on particular topics, such as face coverings, or access to shops, those teams attended the meetings and spoke directly to the DPOs, enabling teams to get live feedback and use that in their policy planning. In addition, DES ran weekly polls with their members on topics arising in the pandemic, often setting questions with policy teams, to enable them real time feedback from disabled people on current issues.
31. The meetings continued on a fortnightly basis well into the autumn of 2020, and then moved to a monthly basis until early 2021 when the organisations requested a pause to focus their limited resources on making applications to the newly-launched Equality and Human Rights Fund.

Stakeholder engagement - British Sign Language

32. Officials met with British Deaf Association Scotland fairly regularly; the frequency varied but it was weekly at some points. They also met with Deafblind Scotland, but that was more ad hoc and less frequent. Both organisations regularly fed back what the situation was like for communities, and how services were operating and supporting "on the ground". The Scottish Government provided funding to both organisations to mitigate some of the issues raised, particularly around isolation, through the Immediate Priorities Fund.

Stakeholder engagement - race

33. Officials engaged with the Coalition for Racial Equality and Rights (CRER), the Council of Ethnic Minority Voluntary Organisations (CEMVO) and the Black and Ethnic Minority Infrastructure in Scotland (BEMIS) throughout the pandemic and this gave rise to various initiatives geared towards supporting communities at this time.

Through the Immediate Priorities Fund, the Scottish Government supported the development of the Ethnic Minority Resilience Network to support individuals, families, young people and organisations during this time.

The Expert Reference Group on Covid-19 and Ethnicity

34. The Expert Reference Group on Covid-19 and Ethnicity was established to consider and inform the Scottish Government's approach in relation to the impacts of Covid-19 on Minority Ethnic (ME) communities. This was in response to reports at a UK-wide and international level that some ME groups may be at risk of experiencing disproportionate effects, both in terms of adverse health outcomes and in a wider context, including economically.
35. The creation of the Expert Reference Group was one of the five key actions being taken forward by the Scottish Government in response to Covid-19's impact on ME communities. The other four actions were:
- an ongoing programme of work to understand the data in relation to any disproportionate risks and impacts on ME groups
 - the publication of workplace assessments to ensure that ME staff working in health and social care settings receive the support they need
 - a targeted marketing campaign ran throughout May, to ensure ME communities received core public health messages in accessible formats
 - direct engagement with ME communities and representatives, to listen to and address concerns, and outline Scottish Government work.
36. The Group consisted of academics and other expert advisers alongside Scottish Government officials. It worked to contribute to the Scottish Government's emerging approach, advise on proposed actions to mitigate the harms felt by ME communities in relation to Covid-19 and fed into the Race Equality Action Plan Programme Board (established in 2018). The Group first met in on 10 June 2020 and was stood down in November 2020.
37. The recommendations the Group made to the Scottish Government in September 2020 are provided [LM3/005-INQ000256756] [LM3/006-INQ000256757], as is a letter from the Minister for Older People and Equalities providing an initial response to those recommendations in November 2020 [LM3/007-INQ000256758]. The Group's

minutes have been provided to the Inquiry as part of general disclosure for this statement.

The Immediate Priorities Plan for Race Equality in Scotland

38. On 14 September 2021, the Scottish Government published the *Immediate Priorities Plan (IPP) for Race Equality in Scotland*, provided [LM3/008-INQ000256759], a follow-up to its *Race Equality Action Plan 2017-21*, provided [LM3/009-INQ000256760]. The IPP actions cover the ongoing work to implement the data and systemic recommendations of Expert Reference Group on Covid-19 and Ethnicity as agreed to by the Scottish Government in November 2020. It also includes the Scottish Government's continuing work to fulfil the visions and goals of the *Race Equality Framework for Scotland 2016-2030* [LM3/010-INQ000256761], and ensure a fair, equal and anti-racist recovery for minority ethnic people in Scotland. The IPP covered the period from April 2021 to the end of March 2023, however much of the work is ongoing and will continue to be actioned, monitored and reported on.

39. A short-term Anti-Racism Interim Governance Group to Develop National Anti-Racism Infrastructure (AIGG) was formed in April 2022. It was an independently-chaired group of public appointees whose role was to scrutinise the Government's delivery of anti-racist outcomes for minority ethnic people in Scotland and to provide recommendations on how the Scottish Government can embed anti-racism into the infrastructure of government. It concluded at the end of August 2023 with plans in place for the establishment of an Observatory to provide a range of functions, including oversight and governance of:

- delivery of the IPP
- the strategic review and subsequent work to establish the programme of systemic change.

Stakeholder engagement - refugee and asylum seeker

40. No new regular forum was established to discuss the pandemic impacts on refugees and asylum seekers, however EIHRD maintained relationships with key stakeholders, such as Scottish Refugee Council. Nearly £275,000 immediate priority funding was provided from the Wellbeing Fund for third sector organisations supporting people with No Recourse to Public Funds (NRPF) in Glasgow and

Edinburgh, mostly focused on provision of essentials, like culturally appropriate food and digital access, as well as advocacy and outreach support.

Stakeholder engagement - faith and belief

41. A faith and belief stakeholder network of around 17 stakeholders, which included church leaders and community groups representing a variety of faiths and beliefs was established and met weekly. The network was focused specifically on the impacts of Covid-19 and associated restrictions on faith groups / communities. Professor Jason Leitch, Scotland's National Clinical Director, engaged regularly with this group, providing information and taking questions about the latest science and guidance.

Stakeholder engagement - Violence against women and girls

42. Engagement with violence against women and girls stakeholders was primarily conducted through a forum led by officials in the Directorate for Justice which met on a weekly basis for the early stages of the pandemic, and EIHRD officials attended where possible.

The Social Renewal Advisory Board

43. In addition, there was also stakeholder engagement in a longer-term context. The Social Renewal Advisory Board was set up by Scottish Ministers to make proposals to renew Scotland as it emerged from the pandemic. The Board met 11 times between June 2020 and January 2021 to develop its ideas.

44. During that same period, through a collaborative approach, it was helped by nine policy groups and a wide range of public engagement activity, including community listening events across 31 local authority areas, four discussions with Poverty Truth Commissions, a set of "focus groups" (Deep Dive events) with equality groups, and over 100 responses from organisations to a call for evidence and ideas.

45. The Board then produced a final report, published in January 2021, *If not now, when?* (including a chapter dedicated to "People, Rights and Advancing Equality"), provided [LM3/011-INQ000182792], and contains 20 "Calls to Action" for the Scottish Government, including the following:

- incorporate key international human rights instruments into Scots Law so as to deliver real change
- take action to realise the human rights of disabled people
- build inclusive communication into all national and local government funding requirements
- strengthen approaches to prevent and address hate crime and public sexual harassment
- apply the rights and entitlements in this report to all migrants.

46. The Scottish Government's Programme for Government (PfG) 2020-21, *Protecting Scotland Renewing Scotland* published in September 2020, provided [LM3/004-INQ000256771], commits Scottish Ministers to take forward a range of proposals presented by the Social Renewal Advisory Board. The Scottish Government responses on the calls to action can be found in Annex C of the *If not now, when?* report.

47. Finally, outwith the work of EIHRD, there was open online engagement with stakeholders at a government-wide level. A bespoke online platform (open between 5 May 2020 and 11 May 2020) received more than 4,000 ideas and almost 18,000 comments. Insights from that extensive engagement were gathered and reflected in the Scottish Government's *Coronavirus (COVID-19): Scotland's route map through and out of the crisis*, published in May 2020, provided [LM3/012- INQ000131072].

Immediate Priorities Fund

48. The funding provided by Scottish Government shows that it recognised that there would be some groups who would experience the impact of Covid-19 more than others and would require extra support.

49. The Immediate Priorities Fund was drawn down from the £350M Communities Funding announced by Community Secretary Aileen Campbell on 18 March 2020. It was intended as emergency investment in crucial services to give further support to the people in disadvantaged groups most at risk from the impacts of the coronavirus outbreak, who would otherwise be at risk of hardships such as homelessness, food insecurity or social isolation and loneliness.

50. The Fund provided c.£12 million to 93 trusted partners to take forward 110 projects in the period up to 8 June 2020. This included projects to provide support to disabled people, Gypsy / Travellers, minority ethnic older people, LGBT groups and destitute asylum seekers.
51. Through the £100 million Winter Plan for Social Protection the Scottish Government invested nearly £6 million in promoting equality and tackling social isolation and loneliness, including £4.3 million additional funding for the Connecting Scotland Programme, specifically targeted to help socially isolated older and disabled people get online.
52. In late 2020, the Winter Plan for Social Protection, awarded £187,000 of funding to support those most acutely impacted minority ethnic communities in this uniquely challenging winter season. In early 2021 a further £150,000 of funding complemented existing ongoing winter support initiatives.
53. It was recognised that women and children could be at an increased risk of violence and abuse during Covid-19 so the Scottish Government responded by providing more than £5.75 million to ensure that frontline services could adapt and continue to help people, as well as creating a Covid-19 specific crisis fund of £90,000 for women involved in prostitution.

Taking account of vulnerable groups in decision-making

54. EIHRD was able to advise on and influence collaborative decision-making through the Communities and Public Services Ministerial Group (CPSMG) in particular, which then linked into the Four Harms Group. It was for the Four Harms Group to formulate advice based on an overall assessment of the appropriateness of policies taking into account all four harms, not just Harm 3 (societal harm) on which EIHRD was providing advice. As a result, there have been no concerns identified regarding specific decisions being taken on policies or non-pharmaceutical interventions in which there was not a reasonable consideration of impacts on vulnerable groups of people with protected characteristics.
55. As set out in paragraph 72 of the DG Communities (EIHRD) Module 2A corporate statement, provided to the Inquiry on 23 June 2023, there was one instance where a decision was announced in June 2020 to reopen hospitality venues for indoor use on

15 July, prior to a decision being taken on whether indoor congregational worship could resume.

56. Equality Impact Assessments (EQIA) were subject to review in order to ensure their effectiveness. A series of workshops was held on EQIA processes. In addition, the Cabinet Secretary for Social Security and Older People, Shirley-Anne Somerville, wrote to all Cabinet Secretaries, Ministers and Director-Generals to seek their commitment to ensuring that equality and human rights continued to be embedded in the collective government response to Covid-19 [LM3/013-INQ000256762].

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed: **Personal Data**

Dated: 6 November 2023