

Witness Name: Nicola Sturgeon

Statement No.: 2

Exhibits: NS

Dated: 18 September 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF NICOLA STURGEON

In relation to the issues raised by the Rule 9 request dated 1 September 2023 in connection with Module 2, I, Nicola Sturgeon, will say as follows: -

My witness statement in relation to Module 2 was submitted to the Inquiry on 8 August 2023. The following is in response to the Inquiry's further request for evidence, dated 1 September 2023.

1. I am asked if I agree with Boris Johnson's comments that divergences in the approach of the four nations was a "presentational problem" during the Covid-19 pandemic. The answer is that no, I do not agree. In my opinion, people in each of the four nations expected their respective governments to take – and be accountable for – the decisions they considered best to minimise the harms of Covid-19.
2. In my view, it would have been wrong from the perspective of public health – nor would it have been in keeping with the principle of democratic accountability – for the Scottish Government to have adopted, for purely presentational reasons, an approach that prioritised 'consistency' over taking what we considered to be the most appropriate action, not least because in a UK context this inevitably would have involved replicating UK government decisions whether or not we agreed with them.

3. Having occasional divergence in approach did however create a risk of confusion amongst the public about what was being asked of them and so increased the importance of clear communication. I took very seriously the responsibility of communicating clearly to the Scottish people what they were being asked to do and why. This included being clear about the detail of, and reasons for, any differences in approach to other parts of the UK.
4. For example, on 11 May 2020, I made remarks at my daily media briefing, which followed Boris Johnson giving an address the day before where he announced some restrictions in England around travel and time limits for outdoor leisure would be eased. He also said, while people should work from home if they can, those who cannot – such as those in construction and manufacturing – should return to the workplace if they could do so safely.
5. I said: *“I want to reiterate that those announcements do not apply here. That is not, I want to stress, for any political reason. It is because the Scottish Government is not yet confident that these changes can be made in Scotland without us running the risk of the virus potentially running out of control. Scotland’s lockdown restrictions remain in place for now.”*
6. I do not think the UK government always took sufficient care to communicate the fact that the rules and guidance that they had decided appropriate for England, did not always or automatically apply in Scotland, Wales, or Northern Ireland. I sought to be clear about what restrictions would apply in Scotland in all the Parliamentary addresses, speeches and media briefings I led.
7. I am asked what were the primary causes of the differences in response to the pandemic of the Scottish Government and the UK Government. From my perspective – and that of the Scottish Government that I led – the primary reasons for differences in response were:
 - differences in the state of the epidemic from time to time in the different parts of the UK.
 - decisions being taken by the UK government that we did not consider appropriate for Scotland and so did not follow (and presumably vice versa).

Obviously, this and the preceding factor were often linked – when the number of Covid cases or the R number or the numbers being admitted to hospital were higher in Scotland than in England, we were likely to favour a more cautious easing of restrictions than the UK might have been favouring at that time.

- a difference of opinion over what level of virus it was acceptable or sensible to 'live with' before vaccines/treatments were widely available. The Scottish Government's position – in light of the serious health harm that the virus was capable of causing, including long Covid – was that we should seek to suppress it to the lowest possible level. The UK Government did not always seem to agree with this.

8. I am asked if I agree with Boris Johnson's suggestion that the Scottish Government was said to have taken an approach that was "perhaps different for the sake of being different"? The answer is that no, I disagree strongly. Moreover, I do not believe there is any evidence to support such a statement. It is for the Inquiry to scrutinise and assess the quality of the Scottish Government's decisions and decision-making processes, but I know that we took decisions at all times based on our best assessment, combining evidence and judgment, of what were the most appropriate actions to minimise the harms of Covid amongst the Scottish population. There was no ulterior motive whatsoever, including that suggested by the former Prime Minister.

9. It may also be worth pointing out the Scottish Government's decisions did not just result at times in divergence with other UK nations (although it tended to be in close alignment with the other Devolved Administrations). When necessary, we also took different approaches in different parts of Scotland, reflecting varying levels of infection – as indeed the UK government did within England.

10. On Boris Johnson's retrospective view that the Civil Contingencies Act 2004 should have been used to ensure consistency between the nations, no, I do not agree. In my view, it would have been wrong to have either consistency (or divergence) as the objective. Our objective was to minimise the overall harm done by an infectious virus, the spread of which was not uniform in all parts of the UK at all times. This required flexibility and judgment, which devolution

helped rather than hindered. Indeed, problems more often arose as a result of the powers of the devolved governments being constrained – e.g., when we did not have the economic/fiscal levers to align the public health interventions we considered necessary with appropriate financial support for individuals and businesses.

11. I am asked what, if any, other measures could have been taken to ensure greatest consistency between the four nations, and if consistency between the four nations was desirable. As stated in my previous answer, paragraph 10, neither consistency nor divergence should have been the organising principle – instead, that should always have been, and in the case of the Scottish Government was, to take the decisions most likely to minimise the harms of the virus. Sometimes, that resulted in approaches that were consistent with other parts of the UK – and within Scotland - and at other times it resulted in divergence. On the occasions when Scottish Government took decisions that resulted in divergence, we did so for good reason and in good faith.
12. Given that I do not think that greater consistency should have been an end in itself, it follows that I do not think there are specific measures that should have been taken to promote it as an end in itself. However, I do think that greater mutual respect between the four UK governments – and in particular on the part of the UK government towards the Devolved Administrations – would have resulted in a more mature acceptance of both the fact of and reasons for divergence. I don't doubt there are things I could have done to help create that atmosphere of greater mutual respect, but I do think that the tenor of the comments I am being asked to respond to here reveal the UK government mindset that we were often confronted with - a lack of understanding that the Scottish Government's responsibility and accountability was to the Scottish Parliament and people, not to the UK government; and an assumption that where we diverged this was 'for the sake of it' rather than an acceptance that, just as the UK government presumably was, we were taking the decisions we judged to be the best ones in light of the circumstances we faced.
13. I am asked if I agree with Boris Johnson's comments where he states it is "optically wrong for the UK Prime Minister to hold regular meetings with other DA

First Ministers...”. I do not agree with these comments. The situation we were facing – in nature, scale, and severity - was unprecedented in the experience of any of us. In my view, working together constructively and in a spirit of mutual respect and support should have been more important than what the former Prime Minister clearly saw as the ‘optics’ of treating the Devolved Administrations as partners. References to ‘the DAs needing to be handled with care’ also reveal of a lack of understanding of the fact that many aspects of the pandemic response were within our areas of devolved responsibility and that we were accountable to our own parliaments and populations for the exercise of these responsibilities.

14. As to whether more regular contact with the Prime Minister would have been helpful, I think that, in theory at least, it would have been. It would have allowed us to share experiences and perspectives directly and even on those occasions when our positions diverged, allowed us to build a better understanding between us of why this was the case. Given the former Prime Minister’s leadership style, however, I accept there is an argument that this might not have been the outcome in practice.
15. For what it is worth, based on my experience of working with them, I believe that David Cameron and Theresa May would have had more regular and direct contact with the Devolved Administrations.
16. I set out views in my first Module 2 statement (INQ000235213) on the other structures and processes in place. These all served a purpose, but none were substitutes for regular engagement with the Prime Minister.
17. I am asked to what information I was referring when I mentioned information having been shared “by press release rather than direct communications” during the COBR meeting of 22 September 2020, and if it was correct that the Devolved Administrations had been informed, as asserted, in relation to the issue raised at this meeting, prior to any media announcement.
18. Given the timing of the meeting to which I am referred, I believe that I would have been referring to media coverage of the package subsequently announced by the Prime Minister on 22 September 2020. There was media coverage of elements

of the package, including particularly the closure of pubs from the evening of Monday 21 September 2020.

19. I have been informed that the lead officials who would have been responsible at the time, do not recall whether or not they were alerted to the fact that elements of the package would be announced ahead of the COBR meeting in this way.

20. I have been asked to detail instances where the Scottish Government first became aware of important information by press release where I think it ought to have been communicated directly instead.

21. Aside from the example above, the only other example I specifically recall was around the UK government's replacement of the 'Stay at Home' message with 'Stay Alert'. However, notification often took place at a very late stage – for example:

- the retention, in July 2021, of quarantine measures for travellers from France
- the proposal to move from voluntary to mandatory vaccine certification
- the levels of financial support available to DAs during the Omicron wave and whether this would be an advance or an additional amount.

22. However, given the pace at which all involved were working, I would expect that there may have been occasions of on which there was similarly rapid notification of Scottish Government measures and announcements.

23. I am asked if I agree with Michael Gove's suggestion that "devolution arrangements did not lend themselves to an obvious mechanism to bring the devolved administrations into the decision-making process where a UK-wide decision was required but decisions needed to be taken urgently".

24. While I agree that there was no pre-existing mechanism, I do not agree that one could not have quickly been created or adapted – for example, adapting the operation and accountability of COBR so that it could have fulfilled this function.

The problem, in my view, was not the lack of a mechanism, but the difficulty the UK government had in treating the Devolved Administrations as equal partners – as long as they see that, to quote the former Prime Minister, as ‘optically wrong’, they will not be prepared to deploy the flexibility necessary to make any mechanism work effectively.

25. I am asked if I agree with Michael Gove’s view that the UK government ‘must have the ability to act UK-wide and so the backstop powers of the UK Government should be strengthened’. I do not agree. That would be to over-ride the democratic accountability of the Devolved Administrations in the areas for which they have responsibility. In the context of Covid-19 it would also have reduced any flexibility the Devolved Administrations had to respond quickly to a virus that did not spread uniformly across all parts of the UK at all times.
26. I am asked if I consider that such powers and ‘greater streamlining of decisions and measures would have improved the UK-wide response to the pandemic’. No, I do not agree.
27. I am asked if I agree with Michael Gove’s comments that committee meetings involving the Devolved Administrations ‘worked reasonably well’ and were ‘collegiate’. Yes, I broadly agree.
28. I am asked if I have any views on the comment that ‘there were concerns raised more generally that some administrations were diverging for the sake of being different...’ I disagree strongly, for the reasons set out in paragraphs 7 and 8 above.
29. I am asked if I agree that the calls with Michael Gove MP were regular and that such calls provided a forum for discussion of closer working arrangements, and also if there were any resulting changes or improvements to closer working arrangements between the Devolved Administrations and the UK government? I agree on the first question. In relation to the second, the model deployed for Covid-19 certainly proved helpful in co-ordinating our responses to, for example, Ukrainian refugees. I am less sure that it has led to more systemic, mainstreamed improvements to working relationships.

30. I am aware that a DG Strategy and External Affairs corporate statement (INQ000184894) provided by the Scottish Government sets out various channels of Cabinet Office engagement. I was not directly involved in all of these. These are summarised as follows:

At ministerial level:

- Cabinet Office Briefing Room (COBR) was used to co-ordinate actions by the UK Government in response to instances of national or regional crisis, or during events abroad with major implications for the UK. Devolved representatives are invited to some COBR meetings.
- One of the ministerial implementation groups (MIGs) was the General Public Sector (GPS): The Chancellor for Duchy of Lancaster (CDL) chaired this group and the Deputy First Minister (DFM) and other Scottish Government Ministers participated, depending on the agenda. GPS MIG generally met every weekday (for around an hour) covering a wide range of topics. Due to the wide-ranging agenda, there was no fixed Scottish Government Minister in attendance. Often the DFM would participate where it was a broad agenda. The GPS MIG terms of reference defined its role as to co-ordinate and advise on public sector issues relating to the pandemic across the UK, excluding the NHS and social care. MIGs were a UK Government internal mechanism to which devolved Ministers were invited. The process was intended to facilitate co-ordination of the response across the UK in a way that allowed the development of common, and where necessary, distinctive approaches in Scotland, Wales and Northern Ireland in a way that reflected the responsibilities of devolved governments and the respective devolution settlements.

At non-ministerial level:

- Covid-19 Cabinet Secretary Officials Meetings (Cab Sec (O)) chaired by the secretary to the UK Cabinet, Sir Mark Sedwill, with representation from across the UK Government as well as the Devolved Administrations. As well as stock-takes of developments in the pandemic, those meetings included 'deep dive'

discussions of particular topics. From early June 2020 participation was opened to Directors General and so depending on the agenda and diary pressures, a relevant DG from Scottish Government would sometimes call in in place of the Permanent Secretary. From late January 2021 to June 2021 Scottish Government officials called into Covid-19 Permanent Secretary Officials Meetings (Perm Sec (O)) chaired by a senior UK Government official.

- UK-wide Covid-19 coordination forum, convened by the Cabinet Office, to supplement the existing co-operation forums. That met for the first time on 28 April 2020 and regularly through the pandemic thereafter. Given the established arrangements for liaison between Health officials, the focus of this forum was mainly on the strategic approaches of the four governments to their responses to the pandemic, including the imposition and relaxation of restrictions. The forum's role was information exchange and identification and 'snagging' of issues rather than decision-making. Regular participation from the Scottish Government was led during 2020 by the Cabinet and Constitution Director and UK Relations Team, with other officials participating as necessary. The Director for Outbreak Management (later entitled Covid Co-ordination Director) and her team took over the lead at the start of 2021.

31. I am asked if I agree that the Devolved Administrations were 'broadly content with the way in which engagement between their administrations and the Cabinet Office operated, but shared the UK Government's view from around September 2020 that participation in committee meetings needed to be regularised'. I agree in broad terms. However, engagement with the Cabinet Office takes place in a range of different ways, at different levels and with different parts of the Scottish Government. Our experience will have been variable.

32. With regard to efforts to regularise and improve participation in the period after September 2020, I have nothing to add to the comments in my first Module 2 statement.

33. I am asked if I consider that any concerns I expressed were adequately addressed. The answer is no, not always – although it was never my expectation

that the Scottish Government's views would always be agreed with. However, there was often a sense of the views or concerns of the Devolved Administrations being listened to politely, but not always with a view to addressing them. Some examples of this were when I:

- argued for a VAT cut in July 2020 when various sectors were opening up
- pushed for 'thank you' payments to NHS workers to be tax free in January 2021
- pushed for greater transparency on published vaccine data (on supply etc) over late January-February 2021
- pushed several times for improvement in coordination on vaccine certification in July 2021.

34. I am asked if I agree with the view that the different courses taken by the Devolved Administrations was a reflection of regional differences within the nations and between nations rather than a fundamental disagreement with the course of the UK government. I agree with that to a certain extent. However, as I mention in paragraph 7 above, there was a difference of opinion over what level of virus it was acceptable or sensible to 'live with' before vaccines/treatments were widely available, and this partly explains the divergences in our approaches.

35. I am asked if I agree with Dominic Raab's comments about Scotland and Wales taking different decisions for what he calls "political reasons". No, I do not agree. At no point did I take decisions for "political reasons". My only consideration was minimising the harms of Covid. I was accountable to the Scottish Parliament and people for the decisions I took. I accept that Mr Raab may not always have agreed with those decisions – just as I did not agree with every decision the UK government took – but the fact that he found it 'irritating' that we were taking decisions we judged to be appropriate is perhaps another indication of a lack of understanding – or perhaps respect for – the role and responsibilities of the Devolved Administrations.

36. I am asked if I have any comment on Dominic Cummings' view that COBR meetings with the Devolved Administrations functioned badly and his concern

that I briefed matters which were discussed to the media immediately afterwards. I do not particularly agree that the COBR meetings that I attended 'functioned badly' – however, to the extent that they did, I do not consider that was due to the Devolved Administrations.

37. On the issue of briefing the media, I considered that to be a core part of the job I had to do. Given the situation we faced, and the extraordinary sacrifices people were being asked to make, my judgment was that building trust in Government was essential to achieving the compliance that was necessary. A key part of that, in my view, was ensuring quick, clear, and open communication that explained what we were asking people to do, and why. That is why I undertook daily media briefings. According to the weekly polling on compliance and trust in the Scottish Government (already provided to the Inquiry, as referenced in the DG Corporate statement INQ000184895) it is an approach that served us well.

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:

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Dated:

18 September 2023