

Witness Name: Nicola Dickie

Statement No.: 5

Exhibits: ND5/1- ND5/63

Dated: 14/4/25

## **UK COVID-19 INQUIRY - MODULE 6**

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### **WITNESS STATEMENT OF NICOLA DICKIE**

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I, **Nicola Dickie**, of COSLA will say as follows: -

**1. Convention of Scottish Local Authorities (COSLA)**

1.1 The Convention of Scottish Local Authorities (COSLA) was formed in 1975. This coincided with the creation of the new structure of Local Government in Scotland under the Local Government (Scotland) Act 1973, which created a two-tier system. The Local Government etc. (Scotland) Act 1994 reorganised Local Government in Scotland again into 32 unitary authorities. All 32 of these unitary authorities are members of COSLA. COSLA also acts as the employers' association for local authorities.

1.2 COSLA's predecessor was the Convention of the Royal Burghs of Scotland. The Convention of Royal Burghs dates to the 16th century and was in operation until 1975. The Convention of the Royal Burghs undertook a similar role to COSLA, including engaging with the UK Government on behalf of Local Government in Scotland on a range of issues, including civil emergencies, emergency preparedness and risk management.

1.3 COSLA is a councillor-led, cross-party organisation. Our current Leadership Team include our President, Vice-President and five spokespeople:

- President
- Vice-President
- Resources Spokesperson
- Health & Social Care Spokesperson
- Community Wellbeing Spokesperson
- Children And Young People Spokesperson
- Environment and Economy Spokesperson

Additionally, we have six political group leaders as follows:

- Scottish Green Party
- Scottish National Party
- Independent Group
- Scottish Liberal Democrats
- Scottish Conservatives
- Scottish Labour

NB: COSLA's political team changes in accordance with local elections, most recently in May 2022.

1.4 COSLA has a Chief Executive who is supported by a Director for Place Policy, Director of People Policy and Director of Membership and Resources.

1.5 COSLA's decision making structures are summarised below:

Core to our decision making are:

- Convention – is responsible for strategic direction, priorities and electing the Leadership team as well as approving COSLA's revenue and capital budgets on an annual basis and COSLA Plan for each Local Government term (with annual reviews). Delegates are elected members from each of COSLA's member councils, and appointed by their council on a basis which

reflects the party-political representation within that council. Convention meets twice a year.

- Leaders – is COSLA's main decision-making body and comprises the Leader of the Administration of each Member Council, and any Political Group Leader not also a Leader. Leaders meet at least eight times during the year to discuss and agree key political and resourcing issues.
- Policy Boards – we have four policy boards:
  - Children and Young People
  - Health and Social Care
  - Community Wellbeing
  - Environment and Economy

Each Board meets up to six times a year and is chaired by the corresponding spokesperson and is responsible for developing and agreeing COSLA's policy and positions for the topics within their remit.

Further details on the composition of COSLA can be found in COSLA's constitution (ND5/01 [INQ000114210]), scheme of delegations (ND5/02 [INQ000114208]) and standing orders (ND5/03 [INQ000114209]), which are included as part of our submission.

1.6 The Health and Social Care Board leads on all aspects of policy development and political lobbying relating to health and adult social care for COSLA. COSLA's Health and Social Care Board's central objective is to ensure that health and social care services are sustainable, accessible, personalised and of high quality, delivering on the jointly politically agreed national health and wellbeing outcomes.

1.7 The Health and Social Care Team supports the Health and Social Care Board, Council Leaders and the COSLA Convention to provide political leadership and take decisions relating to health and social care on behalf of Local Government. The COSLA team works with partners across the Scottish Government, the

NHS in Scotland, Integration Joint Boards, relevant professional bodies and professional advisors to Local Government, regulatory bodies and the third and independent sectors in order to advance the political will of COSLA. Specifically in relation to the care sector (including domiciliary carers), COSLA negotiates the national care home contract (as discussed below), is working on reform of the adult social care system and plays a key role in supporting and developing the health and social care workforce.

1.8 COSLA champions councils' vital work to secure the resources and powers they need. COSLA works on members' behalf to focus on the challenges and opportunities they face and to engage positively with governments and others on policy, funding and legislation, by:

- Engaging in key financial, legislative and policy developments to ensure they have the best possible impact
- Developing partnerships with Scottish, UK and international governments, parliaments, and the third and private sectors
- Campaigning on the issues that matter to our members and promote the image and reputation of local government.
- Championing the role of local government in the governance of Scotland, and lobby for stronger local democracy and community empowerment
- Leading reforms that improve public services and save money effectively
- Negotiating fair and affordable pay and workforce conditions on behalf of all councils
- Supporting councils to work together, and deliver shared services that increase their capacity

1.9 COSLA engages regularly with our sister organisations in the LGA, WLGA and the NILGA on a range of issues. We also engage through Council of European Municipalities and Regions with umbrella organisations across Europe on areas of shared interest. We do not have specific structures across COSLA, LGA, WLGA and the NILGA to consider emergency preparedness.

## **2. Pre-pandemic structure and capacity of the Care Sector in Scotland**

2.1 Local Government in Scotland comprises thirty-two unitary local authorities, commonly referred to as councils. Local authorities vary considerably in size and population, but all have responsibility for providing a range of public services to the communities in their area. Each council provides a range of public services, including, amongst other things, education, social care, waste management, libraries and planning. Councils receive the majority of their funding from the Scottish Government but operate independently and are accountable to their local electorates. Councils raise additional income via the Council Tax (a locally variable domestic property tax), and Business Rates (a non-domestic property tax- rates (NDR)) for this tax are set nationally by Scottish Government. NDR are collected locally but then pooled nationally and redistributed to each council. Scottish Government guarantees the level of funding each council receives annually, protecting councils if the amount actually collected differs from the income raised from NDR nationally.

2.2 Councils are made up of councillors who are directly elected by the residents of the area they represent. Each council area is divided into a number of wards, and up to three or four councillors are elected for each ward. There are currently 1,227 elected councillors in Scotland. Local elections are normally held every five years. The most recent election was the 2022 Scottish local elections, and the next election will be the 2027 Scottish local elections. As noted at paragraph 1.3, the political leadership team in COSLA changes at the start of a new Council term.

2.3 The Local Government (Scotland) Act 1973 established many local authority powers and responsibilities for local government in Scotland. The Local Government etc. (Scotland) Act 1994 set up the current council structures. The Local Government in Scotland Act 2003 introduced a range of new duties for local authorities, including requirements to secure best value, engage in community planning, advance the wellbeing of the area and additional

matters relating to the scrutiny of Local Government and other miscellaneous amendments and additional powers. The Local Governance (Scotland) Act 2004 sets out provisions for local government elections and expenses, and new requirements for the membership of local authorities (including pay and pensions).

#### 2.4 Key responsibilities of Scottish local government include:

- Maintenance of all roads and pavements (except trunk roads which are the responsibility of Transport Scotland)
- Primary and secondary schooling
- Planning and Building Standards Services
- Housing and Homelessness
- Supporting non-commercial bus services
- Early Learning and Childcare Services
- Social Work and Social Care Services
- Protection of vulnerable children and adults
- Refuse collection, recycling and disposal
- Licensing for various provisions including taxis, parades.
- Food Hygiene inspections
- Environmental Health Functions.
- Regulation of landlords
- Economic Development Services
- Sports and leisure services
- Public parks and green spaces
- Money Advice and administration of benefits including Council Tax Reduction Scheme (CTRS), Discretionary Housing Benefit and Scottish Welfare Fund
- Trading Standards functions

#### 2.5 COSLA and local government engages directly and regularly with the Director General (Communities, Local Government and Housing Directorate) within Scottish Government. This directorate of the Scottish Government assists and supports local government with relationships across all Scottish

Government Directorates as well as working collaboratively on individual and strategic policy areas.

2.6 Health and social care services do not sit within a single structure. The Scottish Government sets out the overall strategic framework and legislative basis for the delivery of adult social care. It decides the outcomes which local authorities are expected to achieve. Local authorities have a statutory responsibility to provide adult social care services. To deliver an integrated service, local authorities and NHS boards work together. In the majority of cases this is through a Health and Social Care Partnership (HSCP) that is governed by an Integrated Joint Board (IJB). IJBs are responsible for the planning of adult social care services delegated to them by a local authority, as well as some health services delegated by their Health Board, such as mental and public health services, and other functions although the exact extent of services delegated may vary from one HSCP to another.

#### Integrated Joint Boards (IJBs)

2.7 The Public Bodies (Joint Working) (Scotland) Act 2014 (the “2014 Act”) requires Scottish health boards and local authorities to work together to deliver health and social care services with a view to improving outcomes for patients, service users, carers and their families. Health boards and local authorities can agree to delegate relevant functions to either a “lead authority” or a corporate body known as an “Integration Joint Board” (IJB). All bar one (Highland Council) of Scotland’s local authorities have adopted the “body corporate” model of integration under the 2014 Act. Highland have adopted the “lead authority” model whereby agreement has been reached to delegate functions some of the Council’s functions directly to NHS Highland. In practice, and so far as is relevant to Module 6, this means that NHS Highland has responsibility for adult health and care services and Highland Council has responsibility for children’s health and social services.

2.8 Where an IJB is formed, the health board and local authority (or in some cases authorities) agree an “integration scheme”. The integration scheme specifies the functions delegated from the respective bodies to the IJB, exhibit ND5/04 [INQ000576003] details the integration scheme between Glasgow City Council and NHS Greater Glasgow and Clyde by way of example. The scope of the delegated functions varies depending on local decision making, however, is subject to a statutory minimum as prescribed in the Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Regulations 2014 and the Public Bodies (Joint Working) (Prescribed Local Authority Functions etc) (Scotland) Regulations 2014.

2.9 Membership of the IJB is prescribed by the Public Bodies (Joint Working) (Integration Joint Boards) (Scotland) Act Order 2014. IJBs are constituted by a specified number of locally elected councillors and relevant local authority staff including the Chief Social Work Officer. IJBs are responsible for strategic planning and commissioning the services related to the functions that are delegated to it. IJBs carry out this responsibility by issuing directions. Local authorities must comply with these directions.

2.10 Whilst directly outside the relevant time period, it is worth noting that on 15 January 2021 the Cabinet Secretary for Health and Sport wrote to confirm that the Scottish Government had concluded that the results of a consultation on Citizen Space between 12th October and 22nd November 2020 on whether or not to include HSCP’s and IJB’s within the Civil Contingencies Act 2004, (the “2004 Act”), showed that there was no clear equality, operational or strategic planning barriers to progressing the proposal and legislating for the inclusion of HSCPs/ IJBs within the 2004 Act as Category 1 responders. The amendments to the 2004 Act were laid before the Scottish Parliament on 18 January 2021 and came into effect on 18 March 2021.

#### Health and Social Care Partnerships

2.11 There are 31 health and social care partnerships in Scotland. Each health and social care partnership works towards a set of national health and



wellbeing outcomes. All partnerships are responsible for adult social care, adult primary health care and unscheduled adult hospital care. Some are also responsible for children's services, homelessness and criminal justice social work. Each of Scotland's 31 health and social care partnerships has a chief officer. The role of each chief officer is to lead the implementation of the strategic plan in their area, and to integrate and transform health and social care services for their local communities. They do this in two ways, through their strategic role within their IJB and via their operational role within their NHS board and local authority. Health and Social Care Partnerships as Category 1 responders are a core part of the civil contingency working arrangements.

#### The Scottish Health Protection Network

2.12 The Scottish Health Protection Network (SHPN) was established in 2015 and is co-owned by a number of stakeholders including local authorities, NHS Boards, Scottish Government and the Scottish Environmental Protection Agency (SEPA). SHPN aims to promote consistency by sharing best practice, building resilience and capacity within health protection services, and developing the workforce.

2.13 Under the Public Health etc (Scotland) Act 2008, local authorities have a duty to provide provisions that improve and protect citizens health, and therefore play an essential role in the surveillance, investigation, control and prevention of communicable disease and environmental hazards. Local authorities develop health protection plans which aim to address national and local priorities. The duty to prepare plans is shared with health boards. These plans consider local risks, challenges and lessons identified from outbreaks and incidents.

2.14 Local authorities enforce public health legislation and adhere to guidance produced by Health Protection Scotland. Members of the Local Government workforce, such as environmental health officers, work in

partnership with professional associations to undertake investigations and ensure compliance. Health Protection Scotland was subsumed by Public Health Scotland on 1<sup>st</sup> April 2020.

2.15 COSLA is a membership organisation representing all 32 Councils in Scotland which works on occasion with some or all of the structures outlined in this submission depending on the nature of the emergency response, whether national policy decisions are required and, in all circumstances, provide political leadership as appropriate

2.16 COSLA can work with the Director General for Health and Social Care, Chief Operating Officer for NHS Scotland, NHS Directorate, Office of Chief Executive NHS Scotland, Chief Medical Officer and the Chief Nursing Officer Directorates (of the Scottish Government) to a greater or lesser extent depending on the nature of the emergency and the policy interventions that may be required.

2.17 Public Health Scotland (“PHS”) is the lead national agency for improving and protecting the health and wellbeing of the people of Scotland. Its focus is on increasing healthy life expectancy and reducing premature mortality, with an emphasis on prevention and early intervention. The Scottish Ministers and COSLA are joint partners in the strategic planning and performance review processes for PHS at a national level. This joint sponsorship arrangement, which is unique for a public body in Scotland, reflects the crucial role that local government has in creating/delivering the conditions for wellbeing and health across Scotland.

#### National Care Home Contract

2.18 The National Care Home contract (NCHC) sets the terms and conditions, including funding and care standards, for care homes providing local authority funded care across Scotland. The contract is negotiated annually between COSLA (as representative of its local authority members) and Scottish Care (as

representative of care providers). Through these negotiations COSLA works to ensure that care home providers receive fair compensation while balancing the financial constraints faced by local government.

#### Verity House Agreement

2.19 COSLA's decision making structures have not changed since the pandemic period nor since the Verity House Agreement (ND5/05 [INQ000582771]) was put in place in June 2023. The Verity House Agreement underpins the relationship between Scottish and Local Government confirming that the two spheres of Government will work collaboratively and agree to an approach "local by default, national by agreement". It also establishes shared priorities: -

- tackle poverty, particularly child poverty, in recognition of the joint national mission to tackle child poverty
- transform our economy through a just transition to deliver net zero, recognising climate change as one of the biggest threats to communities across Scotland, and
- deliver sustainable person-centred public services recognising the fiscal challenges, ageing demography and opportunities to innovate.

2.20 Local and Scottish Government work together to deliver the Care Sector in Scotland with the SG providing financial support, setting the policy and strategic direction and setting the regulatory environment; and Local Government ensuring delivery of services and that feedback on practical experience of delivery and insights from communities are fed into the policy development process.

2.21 COSLA, as the representative body for all 32 local authorities, leads on the engagement with Scottish Government. Political mandates for policy in this area will be developed at either the Health and Social Care Board or COSLA Leaders (as discussed at paragraphs 1.6 – 1.8 above). The COSLA Spokesperson for Health and Social Care meets regularly with counterparts

in the Scottish Government and COSLA officers work closely with Scottish Government officials to ensure that care services in Scotland are responsive to the needs of the population and are delivered to a high standard.

2.22 The Care Inspectorate is responsible for regulating care services, including ensuring services have a suitably skilled, qualified, and safe level of staffing within services to meet service users' needs. In addition, the Scottish Social Services Council (SSSC) is the regulatory body for Scotland's care workforce. The SSSC also leads on the collection and dissemination of workforce data, which supports local and national government with planning of services and policies. The SSSC report on an annual basis, the report for 2020 is produced as Exhibit ND5/06 [INQ000509920]. COSLA draws on a number of data sources such as SSSC's detailed workforce data as well as the registration data which details registered services and registration of the staff who work directly with people who use social services. In addition, COSLA will draw upon consultation responses, publications, and reports from other organisations and professional associations which inform COSLA's position on a range of issues including the Improvement Service's Local Government Benchmarking Framework. This is valuable to inform our responses to, and position on, key issues and to help reflect the issues facing Local Government. Further, COSLA will, on an ad hoc basis, commission or draw attention to key pieces of research that may support our members in the local planning, or in national policy discussions.

2.23 Prior to the pandemic there was no national overview of available care home bed capacity. Capacity and vacancies are managed locally in large part with social work services holding considerable knowledge and detail in relation to bed availability locally. As a result, the Safety Huddle Tool (SHT) was developed and repurposed to capture care home data so that HSCPs and Scottish Government were aware of where there were care home vacancies. The SHT was developed to enhance patient safety and care quality in care homes. It allows care homes to collect and monitor data on various aspects of care, including patient safety incidents, staffing levels and

outbreak management. This data helps identify areas for improvements and track the effectiveness of interventions. Due to the mixed market of care home provision, and the significant demands on staff, response rates varied.

2.24 The Care Inspectorate is responsible for registering and inspecting all care services commissioned or delivered by local authorities, this includes all care at home services; residential care homes for older adults; and care homes for people with mental health problems, physical and sensory impairment, learning disabilities and respite services. All care services operating within Scotland must register with the Care Inspectorate who publish this information on their website.

2.25 Issues relating to the sustainability of the care sector in Scotland, specifically in relation to capacity, largely as a result of funding and workforce issues are issues that COSLA has raised consistently with the Scottish Government. Capacity challenges existed both for in-house services delivered by Local Government as well as those commissioned in the third and independent sector. The capacity of the Care Sector has a direct impact on people's ability to access care and support as well as an impact on the performance of other parts of the system such as the NHS, so it is in the shared interest of Scottish and Local Government to work together to tackle the problem. Scotland has an ageing demographic and as such this is a long-term issue that predated the pandemic.

2.26 Prior to the pandemic, COSLA was engaged with Scottish Government on a review of the progress with integration of health and social care in Scotland. This was led by a Ministerial Strategic Group and followed evidence that the health and social care system was experiencing challenges in making progress with the pace and effectiveness of integration (Exhibit ND5/07 [INQ000582752] Accounts Commission Report on Health and Social Care Integration). The Ministerial Strategic Group worked together to understand the challenges and opportunities in integrating services, focusing on people and communities, and proposed a series of recommendations

(Exhibit ND5/08 [INQ000200274] Ministerial Strategic Group for Health and Community Care Review of Progress with Integration of Health and Social care).

## **Liaison and communication with Government and other stakeholders**

2.27 During the relevant period COSLA advised and collaborated with a number of organisations and worked within established response structures. COSLA was a member of the Scottish Government Resilience Room (“SGORR”) enabling it to reflect and express the views and concerns of Local Government and the professional bodies operating within its structures at the highest level. A number of other Scottish Government groups sat below SGORR that COSLA were involved in. These included the National Incident Management Group and the National Contingency Planning Group, the latter of which is chaired by senior COSLA officers. Both groups were established prior to the relevant period and were constituted in such a way as to ensure that there was a coordinated public sector response to emergency or critical incident situations in Scotland. COSLA’s role is to represent the views of its member councils and to ensure that any strategic decisions that are capable of being operationalised by local authorities.

2.28 A number of specific groups were set up by the Scottish Government in response to the Covid-19 pandemic including the Shielding Group, PPE Group and Test and Protect. COSLA officers attended these groups to represent the interests of Local Government. COSLA’s officers would ensure that Local Government were involved in work where appropriate and ensure that measures being suggested by Scottish Government were capable of being implemented. Local Government played a key role in ensuring that those shielding were supported to do so and assisted in providing support in the delivery of testing and vaccine centres.

2.29 COSLA works closely with PHS. COSLA also worked closely with PHS’ predecessor Health Protection Scotland. PHS operates the Scottish

Health Protection Network, an obligate network, which includes a variety of stakeholders including local authorities, the aim being to improve health protection through a collaborative approach. This collaborative approach was maintained throughout the relevant period. PHS were responsible for collating and sharing data on infections, testing and vaccination and this data was of use to local authorities when determining their response, for instance, by ensuring that where vaccination rates were low that there was easy accessibility to vaccine centres through the provision of pop-up facilities.

2.30 The Scottish Resilience Partnership (“SRP”) (Exhibit ND5/09 [INQ000102938]) is a core group of the most senior statutory responders and key resilience partners in Scotland. The group acts as a strategic policy forum for resilience issues, providing collective assurance to Scottish Ministers, and local political leaders, that statutory responders and key resilience partners are aware of significant resilience gaps and priorities, and are addressing these. It provides advice to the resilience community on how best to ensure that Scotland is prepared to respond effectively to major emergencies. Scottish Councils are key participants of the SRP. COSLA’s members were also key members of Regional and Local Resilience Partnerships with both these frameworks providing a vehicle for agencies to work collaboratively ensuring that each fulfilled their relevant duties to support the overall effort to tackle the pandemic.

2.31 A workforce Senior Leaders Group was set up by the Scottish Government in the first half of 2020. This group brought together representatives from across Scottish Government Directorates including Health Workforce, Chief Nursing Officer and Children and Families. COSLA was also represented on this group as were Health and Social Care Partnerships and NHS Employers. The group provided an opportunity to discuss issues across the various workforces. This group provided direct links between COSLA officers and the senior leadership within Scottish Government and NHS Scotland.

- 2.32 COSLA includes the Employers' Organisation for Scottish Local Government which provides a crucial role in managing workforce priorities including pay and terms and conditions. Throughout the period of the pandemic COSLA worked with Trade Unions representing the Local Government Workforce to ensure that concerns were heard, and appropriate mitigations were put in place to protect the workforce as much as possible. This was done through the Workforce Issues Group that was constituted in May 2020 (Exhibit ND5/10 [INQ000517022] COSLA Leaders Paper Item 16 15-05-20).
- 2.33 Prior to and following the pandemic, COSLA has engaged regularly with a variety of organisations and professional networks in order to support a national response to changing policy, legislative, and operational activity. This includes regular engagement with care sector representative bodies – including Coalition of Care and Support Providers Scotland and Scottish Care. There was also regular engagement with local authorities and Health and Social Care Partnerships through the relevant professional advisory networks.
- 2.34 COSLA and the bodies identified above worked together during the specified period on a variety of matters that are relevant to the Provisional Outline Scope of Module 6. These include the impact on the care sector and ensuring the sustainability of social care providers, working with the Scottish Government and NHS Scotland to ensure that decisions were operationally practical and supporting the distribution of the £500 “thank you” payment to social care staff, assisting in the provision of facilities for testing and vaccination, hosting and staffing hubs for the distribution of PPE and ensuring that those requiring to self-isolate were supported to do so.
- 2.35 The Care Home Rapid Action Group (“CHRAG”) was established in April 2020 to address the urgent needs and challenges faced by care homes during the COVID-19 pandemic and facilitate a collaborative approach. CHRAG, chaired by the Chief Nursing Officer for Scotland, and of which



COSLA was a member aimed to provide rapid support and intervention to care homes, ensuring the safety and well-being of residents and staff. The group took a role in coordinating efforts to manage outbreaks and prevent the spread of COVID-19 within care homes. The group worked closely with various stakeholders, including health and social care partnerships, the Care Inspectorate, and other relevant bodies.

2.36 In September 2020 the Pandemic Response in Adult Social Care Group (“PRASCG”) was set up. This group was chaired jointly by Scottish Government and COSLA, Exhibit ND5/11 [INQ000582766] sets the terms of reference for the group. The specific objectives of the group were to:-

- enhance existing collaborative working across adult social care sector leaders;
- identify key issues for resolution (where appropriate supported by relevant data/metrics/evidence);
- as a result of key issues make proposals to the Scottish Government and the adult social care sector leadership as appropriate for other national level actions;
- ensure relevant links are made with other groups for example, Clinical Professional Advisory Group (CPAG)

2.37 PRASCG was the key consultation forum for the preparation of the Scottish Government’s Adult Social Care Winter Preparedness Plan 2020/21 (Exhibit ND5/12 [INQ000147362]). This plan set out the measures already in place that were to be retained and those that the Scottish Government believed needed to be introduced across the adult social care sector.

2.38 The Scottish Government acted as the secretariat for PRASCG and were responsible for all records relating to it.

### **3. Impact of the Pandemic**

3.1 There was significant concern amongst social care providers about the sustainability of social care provision throughout the relevant period. This was

due to the impact of additional costs in areas such as staffing and sickness costs and personal protection equipment. Concerns were also raised by the COSLA Spokesperson for Health and Social Care about the impact of non-delivery of services caused by COVID 19, particularly in relation to care home occupancy, which in some care homes declined rapidly. These concerns were raised during the weekly meetings held with the Cabinet Secretary for Health and Sport to discuss mobilisation plans. The Cabinet Secretary was responsive when concerns were raised in this forum and this constructive dialogue was fed into Scottish Government policy.

3.2 The Scottish Government put arrangements in place to support providers of social care in May 2020 and these ran throughout the period of the pandemic. These arrangements were agreed in partnership with COSLA and were based on a set of principles (Exhibit ND5/13 [INQ000300723] COSLA Leaders Item 7A 15/5/20). The aim was to mitigate the additional costs and impact on service delivery caused by the pandemic.

3.3 Capacity within adult social care settings was of concern given the impact of the pandemic on staffing numbers. In order to mitigate this a national recruitment portal was set up by SSSC and NHS Education for Scotland (“NES”). Health Boards and social care representatives, including the Care Inspectorate, identified areas of critical need and ensured that the most urgent staffing requirements were prioritised.

3.4 On 29th May 2020 COSLA Leaders were presented with a paper (Exhibit ND5/14 [INQ000300737] COSLA Leaders Item 7 and Exhibit ND5/15 [INQ000582740] COSLA Leader Item 7A) outlining the developments surrounding the second Integrated National Health and Social Care Workforce Plan. Scottish Government had released a discussion paper (exhibit ND5/16 [INQ000582765]) that sought to develop a refreshed set of workforce planning assumptions. These reflected both the changing demands on the health and social care system in light of Covid-19 and the need to have robust models of care in place that are responsive in times of crisis.

Leaders recognised that while the NHS were at this stage looking at workforce planning linked to 'recovery', social care was not at that stage and still focussed on many pressing issues, especially within care homes. To reflect balance to the sectors as they were operating at that time, a dynamic response was recommended that could be used by the sectors and be responsive to the different stages of their response to the pandemic.

3.5 Issues relating to the adult social care workforce were raised through the appropriate channels including the Workforce Issues Group mentioned as referenced at paragraph 2.31 above.

3.6 COSLA did not carry out any specific research or survey work in relation to the impact of the pandemic on specific groups. Our thinking has however been informed by a range of sources from academia and from Public Health Scotland.

3.7 We know from research such as the Analysis of the impact of COVID-19 on Scotland's care-homes from March 2020 to October 2021: from Oxford University (Exhibit ND5/17 [INQ000582759]) that the impact on care home residents was significant. At the same time the study acknowledges that more needs to be done to understand the impact on staff and relatives. We also know from research from the University of the West of Scotland (Exhibit ND5/18 [INQ000591814]) that many care workers noted they felt blamed for care home deaths and that during the crisis they had been an 'afterthought' as compared to health care workers like doctors and nurses, despite undertaking stressful and high-pressure work. This is also something we heard from social care provider representatives.

3.8 We know from the work of the Scottish Government through their tracker study on public attitudes to Coronavirus (Exhibit ND5/19 [INQ000131029 ND5/20 [INQ000350943], ND5/21 [INQ000350938], ND5/22 [INQ000350942], ND5/23 [INQ000222930], ND5/24 [INQ000302512], ND5/25 [INQ000302513], ND5/26 [INQ000249263]) that general levels of unhappiness and anxiety

amongst Scottish society rose at the beginning of the pandemic and during lockdown measures. It would be a reasonable assumption that for those working in the care sector, those receiving care and their relatives this would apply more intensely.

- 3.9 There has been a great deal of reporting on the distress and upset caused by restrictions placed on care home visiting. This stress applied to residents, relatives and staff who had to enforce guidance. The Care Reform (Scotland) Bill has been introduced to the Scottish Parliament. Amongst other things, the bill introduces 'Annes Law' which would give visitation rights in the event of another such event. COSLA fully supports this legislation.

#### Hospital Discharge

- 3.10 The decisions around discharging residents from hospitals to social care settings (including care homes) without testing were taken by NHS Scotland following guidance from Scottish Government. COSLA was unlikely to be in meetings where these decisions were made however, COSLA would have been in meetings with officials where the guidance was discussed. Scottish Government provided secretariat for these meetings and should be able to provide minutes. Furthermore, this is a matter that will have come up at the weekly meetings between the COSLA Spokesperson and the Cabinet Secretary for Health and Sport, given the concerns connected with this, however these meetings were not minuted. These issues may also have been discussed at the CHRAG and PRASCG.

#### **4. The Management of the Pandemic**

- 4.1 COSLA worked closely with Scottish Government and others on a wide range of issues during the pandemic including the Adult Social Care Sector ("ASC Sector"). The collaborative approach that was taken meant that there were ample opportunities and mechanisms to ensure that there was good understanding across the system of the ASC Sector and how decisions would impact on them. The Cabinet Secretary for Health and the COSLA Spokesperson for Health and Social Care met regularly throughout the

relevant period. The fact that COSLA were included in the high level groups outlined earlier in this statement (CHRAG and PRASCG) provided the opportunity to ensure that the views of local government could be expressed and heard. Scottish Government provided the secretariat for these meetings and should be able to provide minutes detailing what was discussed at these meetings at various points throughout the pandemic.

4.2 There were occasions when COSLA officers had to remind officials and clinicians that care homes are not purely clinical settings but the homes of the residents. Ensuring that they continued to feel like that even in the midst of lockdowns was of vital importance to the overall wellbeing of the residents and the staff who were tasked with providing that homely environment. An example would be in the run up to Christmas 2020, it was suggested by officials, that for infection control measures there should be no decorations in care homes.

4.3 The collaborative and consultative frameworks established for the pandemic response helped to ensure that there were opportunities for consultation and communication. The fast-moving nature of the response did mean that on some occasions there was limited time to consult or that communications came with short implementation timescales. COSLA was recognised as having a key role in providing a coordinated response from local authorities within these frameworks to proposed decision making and guidance.

4.4 COSLA did not raise any significant concerns with the Scottish Government about Scottish Government guidance published during the pandemic that affected the ASC Sector. In May 2020 COSLA Leaders agreed to the publication of guidance (Exhibits ND5/27 [INQ000300719] and ND5/28 [INQ000300720] COSLA Leaders 20-5-01 Item 4 and 4A) that had been written by Scottish Government and Social Work Scotland in consultation with COSLA. This guidance was aimed at councils providing assessments and subsequent finances to those choosing to recruit and pay their own care providers. Council Self-Directed Support ("SDS") practitioners, in the form of

the SDS Lead Officers' Network were also consulted as part of the drafting to cover provisions relating to SDS option one, or direct payments, during the coronavirus pandemic.

4.5 PRASCG had a role as a clearing house for issues within the sector and proposed guidance was taken to this group for consultation and feedback. This allowed concerns to be dealt with prior to publication. The Scottish Government provided the secretariat for these meetings and should be able to provide minutes detailing what was discussed.

4.6 We include with this submission exhibit ND5/29 [INQ000582760]. This is an extract from the COSLA Risks and Issues Log that was maintained during the relevant period showing the entries relevant to the Provisional Outline of Scope for Module 6. This provides a short description of the risk or issue, when it came to COSLA's attention and actions taken to mitigate the risk. It should be noted that these risks and issues were those that were identified as being of concern to COSLA in our role as a member organisation and the representative voice of local government. The issues in relation to ASC contained within the COSLA Risk and Issues Log were raised in a number of forum over the course of the pandemic, including those referenced earlier in this submission. The Scottish Government provided the secretariat for these meetings and will be able to provide minutes of what was discussed.

4.7 On 20<sup>th</sup> March 2020 an issue related to support for unpaid carers was added to the spreadsheet. VOCAL (Voices of Carers across the Lothians) had written to local authorities (we cannot produce a copy of this letter as it was written to individual authorities and is no longer available on the VOCAL website) raising concerns about the support available to unpaid carers. COSLA officers engaged with carer organisations through the National Carer Organisations (NCO) who provided an update on their concerns in April 2020 Exhibit ND5/30 [INQ000591819].

- 4.8 On 10<sup>th</sup> March 2020 an issue was added to the spreadsheet in relation to the implication of absences on the health and social care workforce. In order to mitigate this issue the SSSC and NHS Education Scotland (“NES”) established a recruitment portal in April 2020. Guidance on the use of the portal was issued to employers, Exhibit ND5/31 [INQ000576013].
- 4.9 On 10<sup>th</sup> March 2020 an issue relating to access to medical supplies and PPE was added. This was raised in recognition that there could be difficulties with the supply chain and ensuring that health and social care workers were provided with appropriate PPE. This was an issue raised at the National Contingency Planning Group (“NCPG”) on 12<sup>th</sup> March 2020 where it was noted that NSS Social Care Triage was to be stood up, exhibit ND5/32 [INQ000300820]. Issues around PPE supply to the health and social care workforce were also raised through the COSLA Workforce Issues Group and as a result a joint statement from COSLA and the main trade unions was issued, exhibit ND5/33 [INQ000147343].
- 4.10 An issue was raised on 16<sup>th</sup> March 2020 in relation to care homes to track issues with sustainability and the provision of PPE and testing. This recognised that there were issues in ensuring that care home and care at home workers were getting sufficient supplies of the appropriate PPE. The update on this issue notes the new arrangements for the oversight of care homes that were put in place in May 2020. Exhibits ND5/34 [INQ000320162] and ND5/35 [INQ000320169] are the letter from the Cabinet Secretary confirming the new arrangements and the guidance relating to these changes.
- 4.11 COSLA, the LGA, the WLGA and the NILGA engaged with one another throughout the relevant period however this engagement did not have a significant impact upon COSLA’s management of the pandemic in the ASC sector in Scotland. In the main, this was due to the fact that this is a devolved area and the mechanisms that support delivery are different from the other nations. There was discussion amongst the associations in relation

to the mobilisation plans to support the sustainability of social care provision and specifically on the distribution of funding.

4.12 COSLA does not have responsibility for the inspection of care quality, this lies with the Care Inspectorate. Data and information gathered by the Care Inspectorate as part of their inspection processes is shared with Councils and the relevant care providers, as such COSLA would not be aware of any specific issues or have sight of this data.

4.13 In response to the pandemic a Data Dashboard was developed by the Improvement Service and the Local Government Digital Office (ND5/36 [INQ000521935] COSLA Leaders Paper 200501 Item 8) which included data on the issues facing the ASC Sector in terms of staffing absences and Covid infection status of care homes, this data was shared with the Care Inspectorate and Scottish Government. Prior to the creation of this dashboard there was not a single central repository for this data. This meant that at the start of the pandemic there was not an overall picture of care home capacity across the country.

#### Infection Prevention Control Measures

4.14 As outlined above, COSLA do not have an inspection role in terms of the provision of adult social care services, this lies with the Care Inspectorate in Scotland. As such COSLA was not in a position comment on the infection prevention and control measures that were put in place within care settings as it does not have the clinical or scientific expertise within the organisation. Nonetheless, COSLA maintained a constant dialogue with its member authorities throughout the pandemic. Concerns raised by members through, principally, our Health and Social Care team were conveyed to the Scottish Government through our representation on various of the political and officer groups that COSLA was involved in throughout the relevant period (as detailed earlier in this statement). As such, COSLA were able to express views during development of policy and guidance in relation to impact on the



workforce and the delivery of service. COSLA does not hold the minutes of these meetings for which the Scottish Government provided the secretariat.

- 4.15 COSLA has not maintained a log of all concerns raised and as outlined above the infection control measures taken within social care settings was not an area that COSLA were involved in. The movement of patients from hospitals to social care settings is an area that COSLA were involved in as this is the point where costs relating to social care transfer. The risks and issues log noted earlier in this statement (Exhibit ND 5/29 [INQ000582760]) covers the issues noted with delayed discharge and patients who were medically well refusing interim places in care homes.

#### Testing

- 4.16 The availability of tests for recipients of care, care workers and unpaid carers was not something over which COSLA had any influence or control. However Lateral Flow Tests were made available through the PPE Hubs (discussed further below) operated by local authorities for use by those involved in adult social care, including unpaid carers. This was to ensure that carers had access to Lateral Flow Tests at all times when other supply routes were failing. As far as COSLA is aware the creation of the PPE Hubs ensured that there was an adequate supply of Covid-19 tests for recipients of care, care workers and unpaid carers. In June 2020 the Workforce Senior Leadership Group ("WSLG") considered a paper, Exhibit ND5/37 [INQ000117417], on the implications of the test and protect programme on care home settings. This was in response to the plan to test care home staff on a weekly basis and to plan for the likely staff shortages that this would cause. In March 2021 the Scottish Government provided an update on testing frequency in relation to health and social care, exhibit ND5/38 [INQ000576017].

- 4.17 The availability of test for recipients of care, care workers and unpaid carers was raised in a number of forums over the course of the pandemic. Including those referenced earlier in this submission. Scottish Government

provided the secretariat for these meetings and will be able to provide any minutes taken.

#### Personal Protective Equipment

4.18 During the relevant period, COSLA in its role as the employer's organisation was having near daily calls with our trade union partners, such as Unison, Unite and GMB, to understand what significant concerns or otherwise were being felt by employees carrying out essential frontline roles. One of the concerns raised was to ensure that those delivering frontline services had sufficient access to PPE to mitigate the risk of contracting Covid-19. This concern was first raised in March 2020 in the National Contingency Planning Group meeting on 12<sup>th</sup> March, exhibit ND5/32 [INQ000300820], with social care providers expressing concern. Due to the concerns regarding contracting Covid-19 there were concerns raised about the access to and use of PPE. We communicated these concerns to the Scottish Ministers and public health officials and ultimately we worked in partnership to proactively address their fears and ensure those providing vital frontline services, felt safe, equally treated and therefore able to do their jobs. Ultimately, we were trying to address in a meaningful manner legitimate concerns so that those most vulnerable in our communities were still getting access to vital services in a manner that they and the workers involved felt were safe.

4.19 An example of this collaborative working was a meeting of 8 April 2020 chaired by COSLA's then president, Alison Evison, involving the Deputy First Minister for Scotland, Cabinet Secretaries and trade union colleagues. COSLA does not hold a minute for this meeting, however, after this meeting Alison made the following press release reflecting the outcomes:

*"Firstly thank you to all the Local Government Workers who will continue to deliver essential services to communities during this period.*

*I was pleased to Chair a meeting between COSLA, The Deputy First Minister and two Cabinet Secretaries along with our Trade Union*

*Colleagues on Wednesday, bringing us all together in an important virtual meeting.*

*It was here that all sides agreed that social and home care workers can wear a fluid resistant face mask, along with other appropriate PPE, where the person they are visiting or otherwise attending to is neither confirmed nor suspected of having COVID19, if they consider doing so necessary to their own and the individual's safety.*

*COSLA played a major part in securing this for the workforce, and we are pleased with this constructive outcome after several weeks of determined work and discussions with partners.*

*The second part of my message is a reminder for people to follow coronavirus guidance over the Easter weekend. Staying at home does save lives.*

*Individuals across Scotland have helped greatly in tackling coronavirus (COVID-19) by observing the restrictions, and by staying home – it is important that this is continued over the Easter Weekend.*

- 4.20 In order to assist with the distribution of PPE, hubs were set up in each local area. The hubs provided access to PPE for those involved in care whether as paid employees in the care sector or unpaid carers and were put in place to fill a gap if normal supply routes had failed. The hubs operated in accordance with the MOU between Scottish Government, COSLA, NHS Scotland, Health and Social Care Partnerships, Coalition of Care and Support Providers Scotland, Scottish Care and National Carer Organisations (ND5/33

[ INQ000147343] MOU v5.0). COSLA made the following press release in relation to PPE hubs on 25 April 2020.

*Everyone who provides social care will have access to appropriate PPE under new arrangements announced by the Health Secretary.*

*From Monday 27 April, local Hubs will distribute PPE supplies to the whole of the social care sector where normal supply routes have not been successful. These hubs will extend their provision to include all social care providers, and unpaid or family carers and personal assistants.*

*During the coronavirus (COVID-19) pandemic, global supply chains have been put under immense pressure and that is why the Scottish Government has set up supplies of PPE to support the social care sector from the national stock.*

*Health Secretary Jeane Freeman said:*

*“The Scottish Government values the importance of everyone who is providing social care and we want to ensure they have access to appropriate PPE.*

*“As we respond to the challenges from global scarcity of PPE, we have worked with partners to agree an improved model that will ensure all social care providers have access to supplies from national NHS stock.*

*“This has only been possible because of a shared aim to ensure the right PPE gets to the right people at the right time and to keep everyone safe.*

*“In the coming weeks, we will collectively monitor how this model is operating, identifying challenges quickly and taking action as we deal with the evolving nature of the pandemic.”*

*Health and Social Care spokesperson for COSLA, Councillor Stuart Currie said:*

*“COSLA welcomes this announcement which will ensure PPE provision for unpaid and family carers and personal assistants.*

*“Local Government has worked with partners across the sector to develop this model to ensure those who are supporting vulnerable people within their communities and all parts of the workforce have access to the PPE they need.”*

#### Visiting Restrictions

4.21 COSLA were not in a position to question the scientific advice behind the guidance that surrounded restrictions on visiting those within care settings as it does not hold this kind of expertise. COSLA and its members were aware that government had put in place expert advisers to consider how to reduce the risk of infection and to manage capacity in the health and care sector. This included the guidance around operational matters such as visiting restrictions, alternative methods of providing contact and the reintroduction of visits as scientific understanding of infection control developed. COSLA and its members did not have the clinical expertise to provide expert comment on such matters so was guided by those who did. The guidance was issued shortly after lockdown was introduced so there would have been limited opportunity to comment on the guidance.

4.22 These issues were raised at a number of forums over the course of the pandemic. Including those referenced earlier in this submission. The Scottish Government provided the secretariat for these meetings and should be able to provide minutes of what was discussed.

4.23 The Scottish Government adopted a “4 Harms” approach to the pandemic response:

- Direct Health Impact: This harm focuses on the immediate health effects of COVID-19, including the number of cases, hospitalizations, and deaths caused by the virus.
- Indirect Health Impact: This harm considers the broader health consequences of the pandemic, such as the strain on healthcare services, delays in non-COVID treatments, and the mental health effects of the pandemic and lockdown measures.
- Economic Impact: This harm addresses the economic fallout from the pandemic, including job losses, business closures, and the overall impact on the economy.
- Social Impact: This harm looks at the wider societal effects, such as the impact on education, social isolation, and the disruption to daily life and community activities.

This approach helped guide decisions on easing restrictions and managing the pandemic’s overall impact on society. Harms 1 and 2 were given priority.

4.24 As with other bodies across Government and civil society it was clear to COSLA that the restrictions on contact with those in care sectors would impact on wellbeing and mental health, however, the Scottish Government’s emphasis was on stopping the spread of the virus and therefore limiting the direct health impacts. As outlined above, COSLA is fully supportive of the proposed “Anne’s Law” which will ensure that in the future there will be a different approach as to how restrictions will be managed in care settings.

#### Access to Healthcare and other essential services

4.25 COSLA was aware that in the early stages of the pandemic the Scottish Government and NHS Scotland scaled up the provision of video conferencing facilities in NHS settings to support access to healthcare professionals. This extended to social care settings. The Local Government

Digital Office and Scottish Government issued guidance on telecare in March 2020 and developed work in this area throughout the pandemic period working with a variety of partners. A report (ND5/39 [INQ000147422]) was produced in October 2021 on the work done to develop the digital health and care response to the pandemic. As detailed in the report, COSLA was a supportive partner in this work and through involvement could feed in any concerns or recommendations on operability and accessibility for communities.

### Vaccines

4.26 In November 2020 the Cabinet Secretary for Health and Sport wrote to COSLA Leaders (ND5/40 [INQ000300804]) seeking their support with the vaccine delivery programme when vaccines became available. The Scottish Government sought to discuss with Local Government how they could work together to ensure those individuals identified as priority could be offered the protection of a vaccine as quickly as possible. Leaders agreed to support this work and officers were tasked with engaging with the wider local government family, Scottish Government and NHS to support this work (ND5/41 [INQ000300803]).

4.27 Ensuring the vaccination of key at risk workers including health and social care staff was a priority for the Scottish Government and Local Government. Vaccination was discussed at the Workforce Issues Group from the commencement of the programme (ND5/42 [INQ000582749] note of meeting 3/12/20). Information from the Chief Medical Officer was also provided to health and social care workers to encourage uptake of the vaccine (ND5/43 [INQ000470084] and ND5/44 [INQ000343766] Letter 31/12/20 and FAQs 9/1/21).

### Funding

4.28 Concerns related to provider sustainability in the ASC Sector were raised as early as February 2020 (Exhibit ND5/29 [INQ000582760]– extract from risks and issues log). In May 2020 COSLA Leaders (Exhibit ND5/45 [INQ000300722] and Exhibit ND5/13 [INQ000300723] COSLA Leaders

15/5/20 Item 7 and 7A) agreed principles developed in partnership with the Scottish Government to ensure a consistent and transparent approach to supporting the social care sector to remain sustainable. The ASC sector had raised significant concerns about the additional costs and the impact on service delivery particularly in relation to care homes. These concerns related to the increased costs relating to staffing if additional staff were required to mitigate for sickness absence, the additional costs associated with buying PPE and the possibility that the occupancy rates in care homes could drop below the level required to keep them sustainable. The principles agreed were that Health and Social Care Partnerships and Local Authorities would;

- Ensure arrangements are in place to support sustainability for the social care sector until the end of June when a further review will be undertaken.
- Ensure fast, regular payments are made to support providers' cash flow.
- Ensure any retrospective reconciliation is only completed where necessary and is done transparently and through discussion with providers.
- Work collaboratively across areas to share information to prevent duplication for providers.

4.29 Papers on this issue were brought back to COSLA Leaders at several points throughout the relevant period (Exhibits ND5/46 [INQ000300771], ND5/47 [INQ000300777, ND5/48 [INQ000582748], ND5/49 [INQ000300894], ND5/50 [INQ000591816], ND5/51 [INQ000591818] (July, Aug, Nov 2020, Feb, May 21 and June 22) ensuring that this issue was regularly considered and that the financial frameworks were in place to support the providers of adult social care.

4.30 COSLA were aware that there were concerns from the social care workforce in relation to working conditions including their ability to self-isolate and shield. In particular, there were concerns about some social care workers being reduced to statutory sick pay whilst absent with Covid-19 and that this



might mean they chose to work rather than stay off and isolate. These issues were raised and discussed at the Workforce Issues Group at various times. Thereafter, in May 2020, the Cabinet Secretary for Health and Social Care wrote to COSLA and Social Care Scotland (Exhibit ND5/52 [INQ000260102]) to commit to funding an enhancement to statutory sick pay for social care staff and to pay death in benefit service where the individual was not covered. At the COSLA Leaders meeting on 12 June 2020, Leaders agreed that the payment mechanism for enhanced sick pay for social care would be made by Local Government. This was dependent on Scottish Government agreeing to fund the additional costs and this was subsequently confirmed. Further details of the types of issues raised at the Workforce Issues Group can be seen in the action log (ND5/53 [INQ000582745]) that was maintained. The Workforce Senior Leadership Group also maintained an action log (Exhibit ND5/54 [INQ000117689]).

- 4.31 In March 2020 COSLA Group Leaders considered a paper (Exhibit ND5/55 [INQ000582728] 20-03-27 Item 07 Living Wage in Adult Social Care) on the issues with ensuring that social care staff received a living wage uplift as of April 2020. The result was that COSLA and Scottish Government agreed to a national uplift for the living wage. This was based on an increase to the hourly rate and the basic on costs that are used in the funding agreement. COSLA received assurance from Scottish Government that the additional costs associated with agreeing this national approach would be met through the mobilisation plans. In April 2020 a joint letter from the Cabinet Secretary for Health and Sport and the COSLA Spokesperson for Health and Social Care was issued to local authority Chief Executives, IJB Chief Officers and IJB Finance Officers outlining the steps that had been taken in relation to pay and sick pay (Exhibit ND5/56 [INQ000582729]). In June 2020 COSLA Leaders agreed that the payment mechanism for enhanced sick pay for social care would be made by Local Government, subject to final agreement by Cabinet Secretary for Health and Sport (Exhibit ND5/57 [INQ000300749] 20-06-12 Item 09 Social Care Support Fund – Enhanced Sick Pay). This agreement was subsequently received.

4.32 The introduction of Social Care Sustainability payments by the Scottish Government and as supported by COSLA Leaders as outlined above was a vital part of supporting the adult social care sector during the relevant period. As already stated, this was an issue that was brought back to COSLA Leaders throughout the period of interest to the Inquiry to ensure that the provisions were continued appropriately and without disruption.

4.33 The Scottish Government and COSLA worked together to implement the provisions of the Coronavirus (Scotland) (No. 2) Act 2020 effectively. Key steps in doing so involved providing clear guidance to employers and employees about the changes to Statutory Sick Pay and the support available for those self-isolating. This was co-produced by COSLA with Health and Social Care Scotland (Exhibit ND5/58 [INQ000300750]). COSLA coordinated with local authorities to ensure that the provisions were implemented consistently across Scotland. Regular reports were published to monitor the implementation and effectiveness of these provisions, ensuring transparency and accountability.

#### Easements

4.34 Sections 16 and 17 of the Coronavirus Act 2020 (“the 2020 Act”) allowed local authorities to dispense with particular social care assessment duties, covering social care for adults, children and support for carers. COSLA officials met regularly with the Cabinet Secretary for Health and Sport and with the Deputy First Minister during the period that the 2020 Act was being prepared. These meetings were not recorded. COSLA officers were also consulting with local government professionals and IJB officers in order to provide verbal advice to Scottish Government officers. The easements outlined in the 2020 Act were intended to allow local authorities to provide urgent care without delay. The Scottish Government produced guidance on the provisions for Local Authorities on 3<sup>rd</sup> April 2020, subsequently updated in November 2020 (Exhibit ND5/59 [INQ000582761]). The guidance highlighted

that local authorities should keep a record of decision making during this period, including decisions to dispense with the duty to assess, decisions to conduct full or partial assessments, and decisions about the provision of support.

4.35 The provisions allowed local authorities the flexibility to focus on prioritising those with the most urgent need while ensuring effective safeguards. Local authorities were still expected to do as much as they could to meet people's needs. While provisions under the 2020 Act softened assessment duties, the main duties under section 12 of the Social Work (Scotland) Act 1968 remained in place.

4.36 Scottish Government and Social Work Scotland consulted with COSLA and SOLACE to develop monitoring questions to ascertain the extent to which the powers were being used. These were agreed by COSLA Leaders in May 2020 (Exhibits ND5/60 [INQ000300724] and ND5/61 [INQ000300725]). Information collected in the survey gave an outline of:

- The extent to which powers were being used across the country;
- The governance process that determined the use of the powers;
- Whether the powers were deemed useful, or not, in responding to the virus; and
- Numbers of assessments completed under the powers.

4.37 The survey was completed by local authorities on a monthly basis with the results being collected by the Scottish Government. COSLA are aware that a number of local authorities enacted the easements. We do not hold a comprehensive record of this as the monitoring was conducted by the Scottish Government. We do not hold data on the number of members who enacted easements during the relevant period. It is not within the remit or role of COSA to scrutinise or oversee this type of activity by its members.

4.38 COSLA did not provide any advice or make submissions to the UK or Scottish Governments on the continuation of easements beyond the meetings described in para 4.34 above.

#### Do Not Attempt Cardiopulmonary Resuscitation (DNACPRs)

4.39 COSLA's involvement in the Pandemic Response Adult Social Care Group provided an opportunity for involvement in the discussions around easements and the use of Do Not Attempt Cardiopulmonary Resuscitation ("DNACPRs") however, neither elected members nor officers within COSLA have the clinical or medical expertise to provide an informed response on such matters so were reliant on those within other organisations, such as Scottish Government and NHS Scotland who did. DNACPRs were raised on a number of occasions across various forums mentioned throughout this statement. Scottish Government provided the secretariat for these meetings and should be able to provide minutes of what was discussed.

#### Changes to Regulatory Inspection Regimes

4.40 COSLA does not play a role in the regulatory inspection regime and as such did not raise any concerns in relation to changes to the regime during the pandemic period. Officers would have, where appropriate, contributed to discussions related to the inspection regime at the various senior leadership groups discussed above if there was an impact on the Local Government workforce. This helped ensure that workforce implications were considered. The work done by the COSLA Workforce Issues Group ensured that the relevant Unions could feed in any concerns.

4.41 Prior to the implementation of the Scottish Government's "enhanced professional clinical and care oversight of care homes" on 17 May 2020 COSLA's role in improving oversight of residential care and nursing homes was as outlined above one of engagement with other bodies on tackling challenges particularly around workforce and planning. As previously noted, it is the role of the Care Inspectorate to conduct inspections and provide guidance to care homes to ensure compliance with standards and

regulations. The role of Health Boards and Directors of Public Health is to focus on infection prevention and control measures, providing clinical support and advice to care homes.

4.42 Local authorities work on coordinating care services, ensuring adequate staffing, and supporting care homes with resources and guidance.

4.43 The enhanced arrangements did not fundamentally change the statutory role or function of local authorities regarding the oversight of residential care and nursing homes. However, they did emphasise a more integrated and collaborative approach involving multi-disciplinary teams

4.44 The enhanced arrangements led to a more structured and coordinated approach with greater clarity on each agency's role. COSLA continued to advocate for resources and support for care homes. Health Boards and Directors of Public Health took on a more active role in providing clinical oversight and support and local authorities worked closely with Health Boards and other partners to ensure comprehensive oversight and support.

4.45 The Care Home Clinical and Care Oversight Groups played a crucial role in implementing the enhanced arrangements. These groups typically included key clinical leads from NHS Boards, Chief Social Work Officers, and representatives from local authorities and the Care Inspectorate. Terms of Reference of the groups were focused on daily discussions about the quality of care, infection prevention and control, and providing expert clinical support to residents.

4.46 Assurance Visits were undertaken to ensure that care homes were adhering to the enhanced arrangements. These visits were conducted by multi-disciplinary teams, including representatives from Health Boards, local authorities, and the Care Inspectorate. The visits had a focus on infection prevention and control and clinical support. While these visits were distinct

from statutory inspections, there was coordination to ensure that findings were shared and acted upon

#### Deaths relating to Covid 19

4.47 COSLA, in common with other bodies involved in the adult social care sector, had significant concerns about the deaths of residents, recipients of care and carers related to Covid-19. In particular, as set out above, COSLA was concerned to stress that the provision of PPE was viewed as of equal importance for the social care sector as it was for the NHS. As discussed in paras 4.10-4.12 above, COSLA communicated these concerns to the Scottish Government who took action to address them.

4.48 The work done to establish the Covid-19 data dashboard as outlined earlier in this statement did mean that the ability to access relevant data was developed early on in the pandemic and continued to develop over the relevant period.

### **5. Lessons learned**

5.1 The Scottish Government commissioned an Independent Review of Adult Social Care in Scotland in autumn 2020 which resulted in the “Feeley Report” being published in February 2021 (Exhibit ND5/62 [INQ000280640]). COSLA Leaders agreed evidence for submission to the Independent Review (Exhibit ND5/63 [INQ000582762]). Whilst not specifically tied to the Provisional Scope of Module 6 to this Inquiry there are relevant issues raised throughout the submission such as the some of the benefits that were seen during mobilisation thanks to the joined up working across the NHS and Local Government.

5.2 COSLA did not carry out an analysis as to how the Care Sector coped or operated during the Covid-19 pandemic.

5.3 As noted in the COSLA submission to the Feeley review (Exhibit ND57 – **INQ000300749**) the frameworks that existed to deliver social care in Scotland enabled HSCPs to mobilise rapidly in response to the pandemic and there were important examples of joined up working across the NHS and Local Government, such as the Home First approach which ensured that home was the default option for people being discharged from hospital. These would have been far more difficult to achieve without integration.

5.4 The social care 'market' has numerous employers and most of the provision is commissioned in the independent and third sector. Whilst this can be seen as a layer of complexity within the system, it also allows an opportunity for a healthy, sustainable and vibrant 'market' of social care support providers in Scotland. The Third and Independent sectors are partners in social care and play a vital role in providing services to our communities. This partnership working has been demonstrated throughout the pandemic and can be seen through the involvement of representatives from care providers being included in high level groups such as the Pandemic Response to Social Care Group.

5.5 COSLA believes inspection, regulation and improvement are concurrent with one another and this should be reflected within guidance and legislation. One of the most effective ways to embed improvement is through a local environment that enables change and effective implementation of policy, legislation, and change. We would suggest that a supportive and enabling context for those delivering and receiving services should be the focus for all in relation to health and social care reform.

## **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:** \_\_\_\_\_ 14/4/25 \_\_\_\_\_