

Witness Name: Caroline Lamb
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**UK COVID-19 INQUIRY
MODULE 6**

**WITNESS STATEMENT OF THE DIRECTOR GENERAL FOR HEALTH AND
SOCIAL CARE [CHIEF NURSING OFFICER DIRECTORATE]**

This statement is one of a suite provided for Module 6 of the UK Covid-19 Inquiry and these should be considered collectively. In relation to the issues raised by the Rule 9 notice dated 12 September 2024 served on the Scottish Government, in connection with Module 6, the Director-General for Health and Social Care will say as follows: -

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1. This statement outlines the Chief Nursing Officer (CNO) and the Chief Nursing Officer Directorate (CNOD) role in relation to matters within the scope of Module 6. This should be read in conjunction with the corporate statement, covering Health and Social Care (HSC) submitted on 9 May 2025 [INQ000614179].

2. This statement is split into the following sections:

- Section 1 - Background and overview of the CNO and CNOD
- Section 2 – Stakeholder engagement
- Section 3 – CNO advice and guidance
- Section 4 – Key decisions made in relation to the adult social care sector (ASC)
- Section 5 – Operational Support for the ASC sector
- Section 6 – Workforce
- Section 7 – Testing
- Section 8 – End of Life Care
- Section 9 – Impact and inequalities
- Section 10 – Lessons Learned

Background

3. The Permanent Secretary is the senior civil servant in Scotland. There are eight portfolio Directors-General (DG) who report to the Permanent Secretary. A DG manages a number of Directorates and agencies which are responsible for proposing legislation and putting Scottish Government policy into practice. The DG Health and Social Care (DGHSC) is Caroline Lamb. The direct reporting line for a Director is to their portfolio DG but they also report directly to the Permanent Secretary and to Ministers. The direct reporting line for Deputy Directors is to Directors but they may also report directly to Ministers. Just as Ministers are accountable to Parliament, civil servants are accountable to Ministers.

4. Within the directorate organisational structures of the Scottish Government, the CNO is considered a Director, and is directly managed by the DGHSC, as are other Directors with the HSC Directorates.
5. The CNO is supported in the delivery of their duties by the Deputy CNO (DCNO), often delegating directly to them in a range of functions, the Chief Midwifery Officer, the Chief Allied Health Professions Officer (CAHPO) and a Chief Scientific Officer (CSO), all of whom report directly to the CNO. CNOD is comprised of policy officials and clinical and educational professional advisers.

Chief Nursing Officers

6. Three individuals held the post of CNO for Scotland during the period 1 March 2020 to 28 June 2022 (“the relevant period”):
 - **Fiona McQueen**: November 2014 to February 2021 (interim from November 2014, and then substantive from April 2015)
 - **Professor Amanda Croft**: February 2021 to August 2021
 - **Professor Alex McMahon**: October 2021 to April 2024 (interim from October 2021, and then substantive from January 2022)
 - **Anne Armstrong**, who was the DCNO from 1 August 2021 to 25 April 2024, was appointed Interim CNO from 26 April 2024.
7. Prior to taking up the post of CNO, **Fiona McQueen** was executive director of nursing in various organisations within NHS Scotland, including the health boards NHS Lanarkshire and NHS Ayrshire and Arran. She is a qualified nurse and holds a Masters in Business Administration (MBA), a BA in Nursing, and a Diploma in Management Studies.
8. **Professor Amanda Croft** is a qualified nurse and holds clinical, leadership and managerial qualifications as well a Master of Science in Nursing. Prior to her appointment as CNO, Ms Croft served as the Chief Executive of NHS Grampian from April 2019 to June 2020, having been acting CEO for the previous year.

Professor Croft previously held several other professional and management positions. Prior to this she was the Executive Director of Nursing at NHS Grampian.

9. **Professor Alex McMahon** is a qualified mental health and general nurse (qualified in 1986 and 1989 respectively), registered with the Nursing and Midwifery Council (NMC). Over the course of his career, he has worked within the NHS and the wider health system, including for the Royal College of Nursing (RCN) and Scottish Government and in the private sector (AstraZeneca,). Professor McMahon has a degree and postgraduate diploma in education and a Masters in policy studies in addition to his nursing qualifications. Prior to October 2021, when Professor McMahon became CNO, he was the Executive Director of Nursing, Midwifery and Allied Health Professions for NHS Lothian, a post he had held since 2016.

Role of the CNO and CNOD

10. At a national level, the CNO and CNOD are responsible for all matters that relate to the professional leadership of nurses, midwives, Allied Health professionals (NMAHP) and Healthcare Scientists (HCS) across Scotland. This includes nurses in the ASC sector.
11. The CNO also participates in a range of Scottish Government and external senior meetings, including NHS Chairs, Chief Executives, Scottish Executive Nursing Directors (SEND) and Health and Social Care Management Board (HSCMB).
12. The CNO and CNOD support the achievement of the best health and care outcomes by providing clinical and policy advice:
- Both internally and externally, in relation to all aspects of the roles of NMAHP/HCS, Regulation of Healthcare Professionals and Healthcare Associated Infection (HAI) / Antimicrobial Resistance (AMR) and wider strategic and policy aims for the various professions within its remit

- By overseeing the current student nurse, midwife, and paramedic intake on an annual basis
- By maintaining visible professional leadership and providing quality advice within Government and within the wider health and social care system in Scotland and the UK on issues relating to nursing, midwifery, allied health professions and healthcare science.

13. It is important to note that while the CNO provided professional leadership and clinical advice across a wide range of topics relevant to HSC Directorates within Scottish Government, the policy for these topics does not always sit within CNOD but within the respective policy areas. The policy areas that do sit within CNOD are in relation to HAI and AMR, the commissioning of undergraduate nursing and midwifery education, policy on regulation of all healthcare professionals, and supporting a range of Chief Professional Officers including the Chief Allied Health Professions Officer (CAHPO) and Chief Healthcare Science Officer (CHCSO).

Changes to the role of the CNO/CNOD during the pandemic

14. In addition to the pre pandemic roles and responsibilities set out above, the CNO/CNOD also undertook the following additional responsibilities during the pandemic:

- Chairing the Louisa Jordan Oversight Board which oversaw the creation and ongoing use of the Scottish temporary medical facility
- Appearing, where required, at the First Minister's daily Covid-19 media briefings.

DCNO

15. As stated above at paragraph 5, the CNO is supported by a DCNO. During the relevant period, two individuals held the post of DCNO:

- Diane Murray: January 2016 – October 2021
- Anne Armstrong: August 2021 – April 2024.

16. Diane Murray continued in a DCNO role from August 2021 to October 2021, overlapping with Anne Armstrong, in order to assist with work relating to the creation of the National Care Service (NCS).

17. During the pandemic, the DCNO provided professional leadership and clinical input by:

- Supporting and deputising for the CNO in their professional function to meet the long-term Scottish Government plan for NHS Scotland, through change and innovation and in a range of Scottish Government and external senior meetings
- Providing strategic leadership within the CNOD as well as working effectively across boundaries within the HSC Directorates and the wider Scottish Government, the NHS and local government
- Leading and co-ordinating strategic policy development reflecting the strategic vision, leadership and direction for the nursing profession and ensuring it is progressed and translated into practice within the NHS and beyond
- Taking an overview of policy across the Directorate and identifying and influencing the contribution of, and implications for, the nursing profession
- Leading and co-ordinating strategic policy development that maximises the contribution of NMAHP to the implementation of the Quality Strategy
- Providing high quality advice to Ministers and officials both personally and by advising professional officers as necessary within the Directorate and wider HSC Directorates
- Providing professional, policy and organisational advice on nursing matters to health boards, local authorities and the public to ensure delivery of NMAHP and Health Directorates' policy direction

- Establishing and sustaining multi-professional working with the other clinical professions and the Chief Professional Officers to promote integrated approaches to clinical policy development and service delivery, particularly in the areas of care quality
- Providing strategic professional leadership to NHS Scotland and other key stakeholders including NHS Education Scotland (NES) and Health Improvement Scotland (HIS)
- Leading and managing the professional adult nursing portfolio and associated national programmes of work.

18. The DCNO co-chaired the Clinical and Professional Advisory Group for Social Care (CPAG), along with Professor Graham Ellis, Deputy Chief Medical Officer (DCMO). Further details about CPAG can be found at paragraphs 69 to 75 below.

Organisational Structure of CNOD

19. The organisational structure for the DG HSC family of directorates, including CNOD, has been previously provided to the Inquiry [CL16/001 – INQ000469941].

20. As of January 2020, CNOD had a headcount of 73 which was made up of 45 directly employed staff and 31 advisors (Chief Officers and professional advisors including four specialists in HAI/AMR).

Stakeholder Engagement

21. The CNO, DCNO and CNOD continued to work closely with other senior clinicians and relevant individuals throughout the pandemic. For example, CNOD provided comments on guidance and communicated changes on guidance to relevant staff and stakeholders via letters. An example of this is the joint CMO, Chief Social Work Advisor (CSWA) and CNO letter issued on 26 March 2020, which listed the available clinical guidance for social care settings [CL16/002 – INQ000376204]. Further detail regarding this guidance is provided at paragraphs 131, 159 and 174 of this statement. CNOD worked closely with the CMO

Directorate (CMOD). Between February 2015 and April 2020, the CMO was Catherine Calderwood. From April to December 2020, Professor Sir Gregor Smith was acting CMO and became CMO in December 2020.

The role of nursing in ASC

22. ASC in Scotland provides help with day-to-day living when required because of illness, disability, or older age. It can be provided in many settings, including at home, in care homes or in the wider community. The population receiving social care and support is diverse, with wide ranging needs and circumstances. Figures indicate that, at the outset of the pandemic, there were:

- CL16Around 238,000 (1 in 25) people receiving social care and support in Scotland [CL16/003 – INQ000544493] (the figure is taken from the Public Health Scotland (PHS) insights publication – social care covers all aspects of personal and practical support. PHS collects information on support and services including: home care, care at home, meals, community alarm/telecare, housing support, social worker and day care. People involved in choosing and controlling their support through self-directed support are also included)
- Around 60,000 people in Scotland were receiving care at home (this figure is taken from PHS Insights in Social Care: Statistics in Scotland – Support provided or funded by Health and Social Care Partnerships (HSCPs) in Scotland 2019/20 – 2020/21 – Trend in Home Care People and Hours [CL16/004 - INQ000544494])
- The majority (77%) of people requiring social care services or support were aged 65 and over. Younger adults with physical and learning disabilities or mental health conditions also received vital support [CL16/005 – INQ000544495]
- Around 82,000 people requiring social care services or support had a physical and / or sensory disability. Around 16,000 people had a learning disability [CL16/003 – INQ000544493]

- 61% of people requiring social care services or support were female [CL16/005 – INQ000544495]
- 98% of people requiring social care services or support where ethnicity was known, were white [CL16/006 – INQ000544496];
- In 2020/21, the data indicated that 63% of people supported during a stay in a care home required nursing care [CL16/005 – INQ000544495]
- As at 31 December 2019, there were a total of 1,074 services and 40,844 total registered places (this figure is taken from the Care Inspectorate Register of Services) [CL16/007 –INQ000320180]
- People residing in a care home tended to be older, with around 90% of residents aged 65 and over and 1 in 2 aged 85 plus [CL16/005 – INQ000544495]
- There were around 90,000 people with dementia in Scotland [CL16/008 – INQ000509917]
- There were 206,400 people employed in the social care sector, with many more individuals supporting delivery through multidisciplinary health and social care teams [CL16/009 –INQ000509918]
- There were around 690,000 unpaid carers living in Scotland, including 29,000 young carers [CL16/010 – INQ000509919].

23. While the same principles of nursing apply across all settings, the needs of patients and residents in ASC tend to be complex and include co-morbidities, compounded by frailty in ageing. These can include issues such as mobility (walking, dressing and toileting) and physical illnesses; neurological conditions and speech impediments; and impairment in cognitive ability.

24. Nurses in Social Care in Scotland work across a variety of settings:

- Across NHS boards including primary care centres and in community and GP lead services

- In Local Government social care
- For charitable organisations, such as Marie Curie and Erskine Veterans
- In the private sector.

25. NHS nurses provide nursing care and support to those in care homes, especially in residential care homes that have no on-site nurses. This encompasses different service user groups such as those who experience social exclusion through addictions or homelessness and older people. Social care nurses require a broad range of expertise as they have not only to care for complex health and care needs but also need to achieve this within the setting they are in, while supporting the individual to actively participate in activities while living daily with the care need.

26. NHS Scotland Boards have operational responsibility for deploying staff in accordance with their service provision responsibilities. Mutual aid arrangements exist for the provision of support between Health Boards. The Scottish Government does not directly oversee these: they are managed at an operational level. Guidance on sourcing staff to allocate to areas of most need asks Boards to consider:

- Internal redeployment due to the suspension of services
- Bank staff
- Sharing staff at local level
- Drawing on former staff
- Staff released to work in NHS services by independent providers
- Ready and registered staff currently not working
- Health related staff from Higher Education Institutions (HEI) / Colleges
- Members of the public volunteering
- National recruitment appeals.

27. The Scottish Government does not collect or hold data in relation to the number of nursing staff employed in the ASC sector (including details of types of employment contracts, employers, and information regarding protected characteristics, vulnerabilities and/or inequalities). Data relating to nursing staff employed in the ASC sector is collected and held by the Scottish Social Services Council (SSSC).
28. The SSSC publishes data on the social care workforce as part of its legal duties under the Regulation of Care (Scotland) Act 2011 and as the approved provider of official statistics on the social service workforce in Scotland.
29. The SSSC uses job function classification to identify nurses working in the sector and then grosses up the figures to give an estimated annual workforce (as it is not a complete data return). In 2020, the SSSC estimated that there were 6,490 nurses working in independent HSC (IHSC) in Scotland with 60% (3,890) employed in care homes for adults, and 39% employed by nursing agencies (who supply significant numbers of staff to NHS, independent and social care settings) [CL16/011 INQ000509920]. The SSSC Report on 2020 Workforce Data states that, of the approximately 4,230 registered nurses understood to be working in care homes for adults, the majority are employed by the private sector (92%) [CL16/011 – INQ000509920]. The Scottish Government does not hold a further demographic breakdown of this data. As indicated at paragraph 27, the SSSC collect data relating to nursing staff employed in the ASC sector and may be able to provide more detail.
30. The PHS Care Home Census for Adults [CL16/012 – INQ000507842] and accompanying Statistical Report 2014 – 2024 [CL16/013 – INQ000544497] stated that on 31 March 2019, 91% of all care home residents were in older adults' care homes. The number of registered nurses working in care homes for adults has continued to decline. In 2018, there were 4,610 registered nurses in care homes for adults. This decreased to 4,230 in 2020 and has continued to fall gradually to stand at 3,660 in 2023. Further details of measures taken to counter this decline are provided at paragraphs 56, 84 to 87, and 286 onward of this statement.

Advice to the Scottish Government

31. Strategic decisions made in response to the Covid-19 pandemic were made by Scottish Ministers. DGHSC, HSC Directors and senior clinicians, including the CMO, DCMO, CNO, National Clinical Director (NCD) and CSO, attended briefing meetings where advice was discussed. The CNO contributed to written advice to Ministers alongside other senior clinicians via briefings.
32. As part of the DG HSC, the CNO worked collaboratively with clinical colleagues across the DG, including the CMO, DCMOs and NCD. The CNO regularly attended meetings with non-clinical colleagues including DG HSC Policy Directors, the Cabinet Secretary for Health and Sport, other relevant Scottish Government Directors and policy civil servants to provide clinical views. The then CNO, Fiona McQueen, also attended a number of meetings where the First Minister and other Cabinet Secretaries were present, and met with the First Minister, other Cabinet Secretaries and Special Advisers in preparation and delivery of the media briefings that were carried out to discuss matters relating to the communication of decisions. The CNO also contributed to jointly-issued CMO letters that were sent to NHS Boards.
33. During the specified period, the CNO exercised their responsibilities by providing professional advice and briefings. The CNO is responsible for providing clinical and policy advice, both internally and externally, in relation to HAI/AMR, which includes leading on all professional and policy aspects of healthcare-associated infection policy and antimicrobial resistance. As part of this role, CNO was responsible for providing clinical and professional advice to policy colleagues and Ministers on such matters, including as part of the response to Covid-19.
34. In relation to ASC, the CNO provided advice to ASC policy units and also to Scottish Ministers directly. This was mainly done as part of comprehensive and integrated advice / briefings, often given alongside the CMO and, where relevant, the CSWA. CNO professional nursing adviser representatives also informed:

- Scottish Government Clinical Guidance for Nursing Home and Residential Care Residents – 13 March 2020 [CL16/014 – INQ000370196]
- Scottish Government Guidance for Care at Home, Housing Support and Sheltered Housing – 26 March 2020 [CL16/015 – INQ000276978]
- Scottish Government Clinical Guidance for Nursing Home and Residential Care Residents – 26 March 2020 [CL16/016 – INQ000429281]
- Scottish Government Clinical Guidance for Nursing Home and Residential Care Residents – 15 May 2020 [CL16/017 – INQ000383486]
- Standalone Scottish Government visiting guidance during the time period [CL16/018 - INQ000147431] [CL16/019 – INQ000496554]
- Guidance on the use of face masks and face coverings in HSC settings during the time period (as detailed at paragraphs 123 to 128 below).

35. The various iterations of Scottish Government Clinical Guidance for Nursing Home and Residential Care Residents [CL16/014 – INQ000370196] [CL16/016 – INQ000429281] [CL16/017 – INQ000383486] covered matters such as:

- Measures to prevent and prepare for infection in residents
- Clinical considerations and support for care home residents
- Admission of residents to care homes – clinical assessment, isolation on admission
- Advice on measures around presentation of Covid-19 – staff and service users
- Care and support for people with Covid-19
- Anticipatory care planning
- Distancing and social isolation
- Visiting
- PPE, including information on accessing stocks of PPE
- Testing (once available)

- Vaccination (once available).

36. Key matters covered in standalone visiting guidance [CL16/018 - INQ000147431]
[CL16/019 - INQ000496554]:

- Development of a staged framework to support a return to indoor visiting in care homes
- Progress through the stages and measures to support safe visiting
- Development of Open with Care – supporting full return to visiting.

37. Advice on use of face masks and face coverings in health and social care settings was developed in response to recommendations from the WHO, Covid-19 Nosocomial Review Group (CNRG), PHS and/or ARHAI Scotland. Further detail regarding the role of the CNO/CNOD in developing advice on face masks and face coverings is provided at paragraphs 123 to 128 below.

Advice regarding multidisciplinary enhanced support for care homes

38. The CNO provided input and advice to the development of the NHS board and Local Authority enhanced support for care homes. As noted at paragraphs 319 to 320 of the DG HSC corporate statement submitted on 9 May 2025 [INQ000614179], this commenced in April 2020. The Chief Performance Officer, NHS Scotland issued a letter on 20 April 2020 with the request to Directors of Public Health to work with local IPC and Health Protection (HPT) IPC Teams, the Care Inspectorate (CI), primary care teams and others to oversee the provision of local support and assurance to all care homes [CL16/020 – INQ000323166]. These arrangements were enhanced with a request by Scottish Government in May 2020 for the establishment of multidisciplinary Care Home Clinical and Care Professional Oversight Team comprising NHS and Local Authority staff to provide enhanced multidisciplinary support to care homes including mutual aid set out in the letter and accompanying annex provided [CL16/021 – INQ000320162], [CL16/022 – INQ000320169].

39. The Cabinet Secretary for Health and Sport also wrote directly and separately to Scottish Executive Nurse Directors (SEND) about their roles and responsibilities during Covid-19 pandemic and in relation to multi professional oversight of care homes and being accountable for the provision of nursing leadership, support and guidance within the care home and care at home sector on 17 May 2020 [CL16/023- INQ000228376]. The CNO provided advice to the Scottish Government on the development of these arrangements and, on behalf of the Cabinet Secretary, issued a letter to SEND around varying their roles to support care homes and care at home on 15 June 2020 [CL16/024 – INQ000429267]. Further explanation of this letter is provided at paragraph 270 below. The CNO continued to provide professional leadership to Executive Nurse Directors in this space during the recovery phase of the pandemic.

Advice to Scottish Government on nursing matters in relation to support for ASC

40. CNO provided advice to Scottish Government on the role of NHS Boards, SEND and associated teams in providing support to the ASC sector, including matters such as IPC, and wrap around support including mutual staffing aid advice from the CNO would have fed into wider clinical advice, and is not recorded separately. As part of this advice, the CNO and/or CNO professional nursing adviser representatives engaged with NHS Boards collectively and individually to ensure consistent nursing support for the ASC sector, including care homes. The publication 'Enhanced Professional Clinical and Care Oversight Care Homes' published on 17 May 2020 sets out the outcome of advice provided on the role of NHS Boards, SEND and associated teams in providing support to the ASC sector [CL16/025 – INQ000320169].

Advice from professional advisers

41. Scottish Government Ministers and social care policy officials were supported prior to and throughout the pandemic by professional advisers with specialist knowledge of the ASC sector. These advisers were embedded within the Community Health and Social Care Directorate, Mental Health and Social Care

Directorate, Office of the CSWA, CNOD and CMOD and provided important support on key issues, particularly in relation to IPC and wider care home guidance for the sector.

42. Within CNOD, there were four advisors on HAI/AMR during the relevant dates, details of which are provided below. Three of these were involved in social care policy. Their job titles and roles were as follows:

- Lesley Shepherd - IPC Consultant Nurse from NHS National Services Scotland (NSS) (from October 2018 to April 2022). This adviser worked across HSC.
- Keith Morris - Consultant microbiologist from NHS Fife (from October 2019 to October 2021). This adviser worked mainly on AMR.
- Elaine Ross - Infection Control Manager from NHS Dumfries and Galloway (initially from January 2020 to March 2020). This adviser was recalled to their Board and returned to Scottish Government in July 2020 until February 2023. On their return to Scottish Government, this individual worked in ASC policy.
- Frances Lafferty - Retired Lead IPC Nurse from NHS Ayrshire and Arran (from April 2020 to July 2020). This adviser worked mostly in the Covid-19 policy area and not on social care.

43. CNOD has a number of professional advisors on Service Level Agreements (SLA) from NHS Boards, academic advisors on secondment, as well as clinical staff who were in post on substantive civil service contracts.

Not all of these advisors were involved in social care policy, however as IPC measures are universal they will have brought skills that are transferable across the health and care sectors. These advisors are not part of the Senior Civil Service (SCS). Further details of professional advisers within CNOD are provided [CL16/025A – INQ000597715]. Some CNOD advisors were shared with other directorates, including Directorate for Mental Health, Directorate for Children and Families and Adult Social Care. Office of the CSWA and CMOD have their own professional advisors

44. Professional advisors who supported adult social care worked across a number of directorate policy teams and stakeholder groups, providing advice in their capacity as clinical and social work professionals with relevant expertise. These professional advisors worked alongside officials in DG Health and Social Care who provided written and oral advice to ministers. All relevant minutes of these groups and relevant advice to ministers have been disclosed, if these groups and advice was relevant to the pandemic response. Further details of professional advisers within the Community HSC and Mental Health and Social Directorates, and the Office of the CSWA are provided **CL16/171- INQ000597716**.

45. The CMOD is responsible for:

- Providing policy advice to the Scottish Ministers on healthcare and public health
- Leading medical and public health professionals to improve the mental and physical wellbeing of people in Scotland
- Providing clinical advice on professional standards and guidelines
- Investing in research, particularly related to the NHS
- Encouraging young people to take up jobs in the medical and public health sector.

46. At the start of April 2020, there was one DCMO and this was increased to three during the course of summer 2020 (Professor Nicola Steedman, Dr Marion Bain and Dr David Ceasar) – to increase the capacity of clinical advice available to SG. Senior Medical Officers (SMO) formed part of CMOD. Specialist clinicians within CMOD, including Professor Graham Ellis and Dr. Paul Baughan, brought expertise in social care and care homes, advising on key issues such as clinical guidance, infection prevention and control, and care home visiting. These advisers engaged with advisory groups, including clinical cells and broader structures like the Scientific Advisory Group for Emergencies (SAGE), to inform their input. CMOD representatives attended meetings, commented on draft guidance, and supported the CMO in issuing updated clinical advice to the health and social care workforce, often jointly with others. Further details of specific

activities and advice provided by the CMO, DCMOs, and CMOD are elaborated throughout this statement. Further details of specific activities and advice provided by the CMO, DCMO and CMOD are provided throughout this statement.

Groups attended by the CNO/CNOD during the pandemic

47. The CNO, DCNO or a delegated representative attended a number of internal and external groups relevant to the ASC sector during the relevant period. The majority of these groups had advisory functions, with the exception of the HSCMB (discussed at paragraph 45 below). The outputs from advisory groups were used to inform the development of policy and advice related to the management of Covid-19 within the ASC sector. Details of these groups follow below.

HSCMB and the HSC Planning and Assurance Group (PAG)

48. The HSCMB is the main decision-making body of the DG HSC family and its membership comprises of all Directors from the DG family (including the CNO, CMO and NCD). The remit of the HSCMB is to be collectively responsible for the strategy and performance of the NHS and the DG HSC family, ensuring that resources are best used to respond to the priorities and deliver the best services possible for the people of Scotland. HSCMB takes decisions on the implementation of policy decisions and the management of financial commitments. HSCMB promotes robust assurance processes (risk management, financial and performance) and is chaired by the DGHSC. The HSCMB met weekly pre-pandemic, while the frequency changed during March 2020 to June 2022, with additional meetings held. HSCMB was one of the avenues through which concerns regarding the Covid-19 response could be highlighted.

49. The HSCMB was reconstituted to form the HSC PAG following a decision taken on 24 March 2020. The refinement to the existing operating model was undertaken to reflect the move to crisis response across DG HSC. This group commissioned and received relevant information, data and intelligence from the

military planning team and the Covid-19 Division. PAG first met on 6 April 2020 and met twice weekly (in total 11 times). On 13 May 2020, the PAG agreed to revert to the HSCMB and the last meeting was held on 20 May 2020. The then CNO was a member of the group.

Four Harms Group

50. The Four Harms Group was developed as a means to enhance existing arrangements through the already-established lines of accountability to provide advice for Scottish Ministers on the broader pandemic response. This process facilitated debate around critical decisions in the context of the Scottish Government's Framework for Decision Making (April 2020) [CL16/026 - INQ000369689], culminating in advice to Cabinet. The Four Harms Group ensured that proposals to Ministers took due account of the public health advice provided by the National Incident Management Team and the views of senior clinicians and advisers, and were assessed against the four harms on the basis of the available evidence.

51. The CNO, CMO and NCD attended in respect of Harms One and Two (direct harm to our health caused by the virus and harm to HSC services and our broader health and wellbeing). The group was chaired by the DG Constitution and External Affairs, with members drawn from relevant policy areas.

Scottish Executive Nurse Director (SEND) Group

52. The SEND meeting is an ongoing forum where CNO meets with Executive Nursing Directors to discuss professional matters and to share information. This provides a forum to share and discuss information in a safe space on a regular basis.

53. The actions from the SEND Weekly meeting held on Friday 8 May 2020 set out measures undertaken in relation to the ASC sector [CL16/027 – INQ000544498], including –

- A discussion took place following an email from the CNO's office requesting that Nurse Directors identify staff willing to work in care homes. During this meeting, the Nurse Directors agreed that it was the responsibility of Local Authorities to staff care homes and there was a mechanism in place for doing so via the SSSC portal.
- Testing of bank staff prior to deployment in care homes
- The template circulated to Directors of Public Health re: Care homes within Health Board areas and additional local requests for information
- Work ongoing to support care homes in the Borders and the development of a proforma to assist in managing challenges
- Clarification that the SG Care home guidance was distinct from the Health Protection Scotland (HPS) guidance, as stated in the Action Note, *"The SG guidance was written in the context and language of a care home. HPS may produce further guidance about the testing of care home workers and the impact of this on staffing"*
- Sharing of further useful information and SG guidance on supporting people with COVID-19 in the community.

54. The meeting of 28 August 2020 included discussion regarding the role of ENDs in care homes, action note provided [CL16/028 – INQ000544499]. The note stated that, *"If accountability to be extended post November 2020, this will need to be confirmed in writing, discussion around resources needed to fulfil this role, but likely to be identified within Boards as COVID Response."* The letter was to be modified in response to the discussion and it was stated that the CNO would discuss nursing leadership within the CI. The continued role of Nurse Directors in relation to care homes was discussed further on 9 October 2020 and the action note state that a paper would shortly be circulated the Cabinet Secretary [CL16/029 – INQ000544500].

ASC Oversight Board

55. The ASC Oversight Board was an internal Scottish Government group convened by senior Scottish Government officials to take stock of arrangements put in place to oversee and support care in care homes and wider ASC services. The Board discussed key issues facing the ASC sector, with a view to supporting the Scottish Government's pandemic response for social care through engagement directly with either local areas and national partners or through existing national social care pandemic related work and forums.

56. The CNO initially chaired the Board alongside the Director of Social Care and it met on a weekly basis with key Scottish Government officials to consider progress and escalate issues (as required). This also included consideration of matters raised at other forums, such as the PRASCG. Whilst not specifically focused on social care nursing, social care nursing matters were raised. The minute of the meeting of 12 November 2021 includes feedback on discussions in relation to nursing support and pressures and ongoing recruitment campaigns [CL16/030 – INQ000525325].

CNO Four Nation Forum

57. The CNO's main route for engagement with the other UK CNOs was through the CNO Forum. Building upon existing established relationships, the CNO forum includes the CNOs for Scotland, Wales, Northern Ireland and England and serves as a space to share legislative actions and changes and how this has impacted the nursing workforce. This is not a decision making forum and exists purely to share best practice and shared knowledge. The meeting does not have to be quorate and does not produce minutes. The forum would meet for around 45 minutes on a fortnightly basis, was established pre-pandemic and still meets. An example of points of discussion would be the NMC Temporary Register and impact on workforce, as discussed further at paragraphs 288 to 292 below.

Four Country Clinical Group

58. The group sometimes referred to as the Four Country Clinical Group was more commonly termed the Quint Senior Clinicians Group or simply 'Quint'. This was

organised by officials in the Department of Health and Social Care. Those on the membership list from the Scottish Government included the CMO, the CNO and the NCD [CL16/031 – INQ000525326]. Discussions would take place regarding new information about the pandemic or new evidence for treatment, with the aim of seeking consensus on the clinical view to the pandemic response. These discussions helped shape future advice from the CNOD.

Covid-19 Nosocomial Review Group (CNRG)

59. The CNO and CMO, in consultation with Scottish Government officials and ARHAI Scotland within NSS, identified the need to better understand healthcare associated Covid-19 epidemiology and emerging evidence to identify any further IPC measures for HSC settings, in order to reduce the risk of hospital acquired Covid-19 infection in Scotland. At the request of the Scottish Government, on 22 April 2020 HPS produced a paper [CL16/032 – INQ000322609] setting out a number of recommendations relating to reducing nosocomial transmission in hospitals. Further, the report stated that there was an identified need to better understand the healthcare-associated Covid-19 epidemiology and emergency evidence in order to identify any additional IPC measures which could be considered for implementation in HSC settings to reduce the risk of HAI.
60. The paper set out five key evidence gaps and made nine recommendations. The paper recommended the establishment of an HAI Covid-19 Group in Scotland – with key ARHAI, public health microbiology, virology/PHS and wider SAGE stakeholders from Scotland – to review the intelligence and make recommendations for national surveillance, research, guidance and policy in Scotland. The recommendations in the paper led to the establishment of the CNRG, which was established as a time-limited advisory group. The group was chaired by Professor Jacqui Reilly, Nurse Director and HAI Executive Lead.
61. CNRG members were IPC experts, clinicians and academics spanning the disciplines of epidemiology, virology, public health and statistical modelling. Clinical advisors from with the Scottish Government (including the Associate CNO, National Clinical Lead for Quality and Safety, interim DCMO and/or senior

Medical Officers and CNO Professional Advisers were core members of the group. ARHAI Scotland were represented and had the role of providing regular scientific critiques of available published literature.

62. The CNRG considered the advice coming from WHO, SAGE, PHS, Centre for Disease Control and Prevention, UK Health Security Agency, Public Health England and the UK-wide IPC guidance cell, and other appropriate sources of evidence and information, to inform its advice. The focus of the group was on nosocomial infection and transmission; however, it maintained close engagement with colleagues in Scottish Government, ARHAI Scotland and PHS to ensure findings were shared and that policy recommendations were developed collaboratively, with system considerations.

63. As the pandemic progressed, consensus from Scottish stakeholders was that the UK COVID-19 IPC Guidance was not specific enough to inform national practice and the mechanism for approval through the UK IPC Cell was not reactive enough to meet Scottish service requirements. The UK Covid-19 IPC guidance was hosted through Public Health England and referred to English-specific terminology and policy. This caused confusion and risked undermining successful implementation among Scottish stakeholders. Feedback from stakeholders was addressed and this resulted in the publication of the first version of the Scottish COVID-19 Infection Prevention and Control Addendum for Acute Settings in October 2020. This was closely followed by a further two Scottish addenda covering Care Home and Community Health & Care Settings. Although the main principles of the UK IPC guidance were reflected in the Scottish addenda, the literature reviews and Scottish nosocomial epidemiology data presented to CNRG allowed the group to recommend updates to guidance ahead of the rest of the UK. There were no significant differences in the guidance to the ASC sector. In relation to the Care Home IPC addenda [CL16/033 – INQ000544501], the underpinning IPC principles were the same as the acute IPC addenda but the language in the ASC guidance was sector specific in relation to ASC guidance more generally, this followed the same public health and IPC principles as for other settings, however guidance was adapted to take account of both the characteristics, needs and language of social care settings.

64. The group was accountable to the Scottish Government through the CNO, to whom it provided advice. Thereafter, the CNO and HCAI/AMR Policy Unit considered the advice provided and used it to inform advice to Ministers. The CNO and HCAI/AMR Policy Unit also considered any other cross-cutting policy impacts and consulted with the CMO, NCD, and other HSC Directors where necessary.
65. The CNRG first met and agreed its Terms of Reference on 7 May 2020. It met forty times before its final meeting on 17 November 2022. Between June 2020 and March 2021, the group met on a fortnightly basis, and monthly thereafter. Terms of reference and membership are provided [CL16/034 – INQ000323489]. The CNRG was closed as it was felt that it had achieved its aims, as set out in the Terms of Reference.
66. The Chair of the CNRG was invited to attend CPAG (see paragraphs below) and this helped to ensure that HSC IPC considerations were considered collectively and aligned. PHS was also represented on both groups.
67. The CNRG recognised that the production of guidance would not be sufficient and that support for implementation would also need to be required by the group – leading to the establishment of a Behavioural Insights Task Group (co-chaired by a psychologist – Professor Stephen Reicher - and professional adviser from Scottish Government – Lesley Shepherd) – during May 2020 [CL16/034A - INQ000323572]. A copy of the group's membership and structure is provided [CL16/034B – INQ000323592]. A copy of the group's action log, showing all activities undertaken and its structure is provided [CL16/034C - INQ000323770]. This subgroup led to the development of webinars, communications and campaigns and research to inform this agenda. National organisations such as ARHAI Scotland, HIS and NES were engaged in this subgroup. In addition to the existing training and support provided by ARHAI Scotland, two webinars were delivered in April 2021 on '*Infection Prevention and Control and the Covid-19 Pandemic response: Listening, Supporting and Valuing Health and Social Care Workers*', covering topics such as debunking myths, instilling trust, explaining the

importance of IPC measures and control measures. These webinars were attended by 500–800 people, including NHS staff, local authority representatives, social care staff, CI staff and students.

68. The work of this subgroup also informed policy letters to support IPC adherence as well as national campaign content. A copy of the subgroup's final report is provided [CL16/034D -INQ000323797].

Clinical and Professional Advisory Group for Social Care ("CPAG")

69. The CPAG was commissioned by the CMO and CNO in April 2020 and was jointly chaired by CMO and CNO professional adviser representatives. CPAG's initial remit was to provide clinical and professional advice and guidance for protecting the care home sector during Covid-19 and was later expanded to cover the wider ASC sector. Updated terms of reference from February 2021 are provided [CL16/035 – INQ000323461].

70. CPAG was a forum for collaborative and focused guidance and policy development. When officials were developing a policy, consultation could be conducted efficiently with a wide range of stakeholders and appropriate solutions developed. Members also brought issues to the attention of the group so that appropriate solutions could be discussed and considered. This approach enabled a more significant degree of collaboration than would otherwise have been feasible under the circumstances.

71. The CNO did not sit directly on this group but several CNO professional nurse adviser representatives were members and reported to the CNO. The then DCNO, Diane Murray, co-chaired CPAG with Professor Graham Ellis (DCMO), with Anne Armstrong taking over from 1 August 2021. Professional advisers and the IPC adviser attended meetings as required. Meetings were held twice weekly until 21 May 2020, and then weekly until 29 April 2021. Meetings were then held on a fortnightly basis and over 80 meetings were held before the final meeting on 15 December 2022.

72. CPAG brought together over 60 representatives for the care sector, including members from NHS Boards Local Authorities and social care provider representatives. This included, Executive Nursing Directors, CSWA, CI, Scottish Care, COSLA, HPS (subsequently PHS), Scottish Directors of Public Health, Allied Health Professionals, Royal College of General Practitioners, RCN, Scottish Care, Coalition of Care and Support Providers in Scotland (CCPS) and other social care providers. Original terms of reference from April 2020 are provided [CL16/036 – INQ000343806]. Key decisions made in relation to the ASC sector in Scotland were noted in meetings held between 22 April 2020 to 15 December 2022.

73. Further detail regarding specific issues discussed at CPAG, its relation to other groups and views regarding its usefulness as a forum are provided at paragraph 257 onwards below.

74. There were a number of CPAG sub-groups established, which were attended by the CNO or representatives of CNOD, to discuss and explore specific issues and topics as listed below. In addition, there were a number of further CPAG sub-groups, not attended by the CNO/CNOD which discussed relevant matters and fed into the broader work of CPAG. The Open with Care Oversight Group sub-group was established in March 2021 terms of reference provided [CL16/037 - INQ000509969], to monitor and support the implementation of the 'Open with Care – Supporting Meaningful Contact in Care Homes' guidance (published February 2021) [CL16/038 - INQ000147437] . This group was then renamed in September 2021 to become the 'National Anne's Law Oversight Group' following the introduction of a Scottish Government Programme for Government commitment to introduce legislation on care home visiting, terms of reference provided [CL16/039 – INQ000509906].

75. A CPAG Engagement Sub-Group (not attended by the CNO/CNOD) was formed and met from January to December 2021 to provide a forum for engagement with families/friends of care home residents on the work of CPAG, including care home visiting. The group then combined with the 'Open with Care' Oversight Group in December 2021.

The Care Home Assurance Short Life Working Group

76. This Working Group was set up following a discussion at CPAG (on 9 October 2021, terms of reference [CL16/040 – INQ000322882] and minute provided [CL16/041 – INQ000323306]) where Scottish Care had indicated that NHS board care home oversight and assurance visits could be improved to support better collaboration and best practice around support to the sector, staff and residents. The group met on a monthly basis from 2 November 2021 until 9 November 2022.
77. The group identified and highlighted prevailing challenges around oversight and assurance visits from NHS boards. It also had the stated aims of identifying and sharing best practice in this area and supporting staff wellbeing. The Scottish Government participated in the group, which was jointly chaired by the Executive Nurse Director NHS Forth Valley and National Director for Scottish Care, with membership from CNOD, CSWA, CI and care providers. The then DCNO, Anne Armstrong, attended these meetings.
78. There were a series of independently facilitated workshops with those involved in care home assurance, taking an appreciative inquiry approach, to consider care home assurance and best practice [CL16/042 – INQ000322887]. On 2 December 2021, the group discussed timeframes for assurance visits and the role of the group in ensuring that the development and discharge of assurance visits was done appropriately before considering the forthcoming workshops. Feedback from IJBs on their experiences of assurance visits was provided, and it was noted that there were different experiences across different areas of Scotland in terms of the status of care homes, minutes provided [CL16/043 – INQ000322886].
79. As outlined in the programme summary which was circulated on 29 August 2022 [CL16/044 – INQ000322883] approximately 250 people attended one of five 2 hour workshops to share their experiences of assurance visits and their expectations going forward. The report stated that “In general, 88% of

participants viewed assurance positively with 72% seeing them as an opportunity to explore improvement.” Some examples given of positive improvements for care homes and residents included; provision of additional nursing staff, guidance and training for IPC and improved communications between care homes and NHS services. Feedback was received that, “as Assurance and Oversight teams were directed by regional health boards, the approach and process was not standardised, and teams not necessarily trained or experienced in Care Home environments”.

80. The report also stated, however, that “it was clear, for a small number, the experience was so damaging that focused work will need to be done in order to re-engage and establish trust going forward”.

81. The report then stated that recommendations would be identified as phase 3 of the work. The work is now being considered as part of the Gold Short Life Working Group Review of Oversight and Assurance in Care Homes/ASC.

The IPC Sub-Group

82. This sub-group was chaired by Scottish Government and ARHA Scotland and met on a monthly basis from 29 April 2021 until 30 November 2022 to provide clinical and professional advice for the ASC sector regarding all aspects of IPC [CL16/045 - INQ000324253]. The work of this group focused on supporting the ongoing COVID-19 pandemic while also looking to future IPC resilience as part of the broader, longer-term work plan for care homes and care at home.

Membership included CNOD, Scottish Government Mental Health and Social Care directorates, CSWO, and representatives from care sector organisations.

Themes included learning from best practice in an international context and within Scotland, identifying and recommending IPC support requirements for care homes and care at home, identifying support needs for implementation guidance, and tools to use in care homes and care settings. Copies of meeting minutes are provided [CL16/046 – INQ000234273], [CL16/047 – INQ000324254], [CL16/048 – INQ000544506], [CL16/049 – INQ000544509], [CL16/050 - INQ000324241], [CL16/051 – INQ000324259], [CL16/052 – INQ000324268], [CL16/053 – INQ000324271].

83. The group developed a series of outputs, including in a paper submitted to the CPAG on 26 August 2021 providing proposals on outbreak management, mask flow chart and care at home manual [CL16/054 – INQ000323223]. The group considered and provided feedback on proposed guidance. For example, as discussed at its meeting on 16 September 2021 [CL16/049 – INQ000544509], the group considered and provided feedback on the draft face mask flow chart prepared following concerns raised re: the negative impacts of continued mask wearing on care home residents. At this juncture, face masks were still required in certain settings – including adult care homes. Correspondence received by SG officials stated that the continued wearing of face masks in these settings was causing distress, communication difficulties and negative impacts on wellbeing. The IPC guidance in place at that time supported a local risk assessment where it may be considered necessary to remove a mask to support a resident. To improve understanding and implementation of the guidance it was proposed to develop a flow chart which would sit with ARHA care home information on the IPC national pages.

Care Home Nursing National Working Group

84. This Working Group was established following concerns raised by CPAG members about shortages of registered nurse staffing levels within the sector and the potential quality and safety implications of this for people who had been assessed as requiring ongoing nursing care. The group was initially named the 'Care Home Nursing Task and Finish Group'.

85. It was agreed at that meeting that a sub-group of CPAG and other stakeholders would meet to discuss concerns raised and agree short, medium and longer-term recommendations, building on the pre-pandemic Transforming Nursing Roles Programme – Care Home Nursing (which commenced in 2018/2019).

86. The Group was initially chaired by a Professional Advisor in CNOD, but was later co-chaired by an Executive Nurse Director and Chief Officer. Membership was

drawn of representatives from: Scottish Government ASC and Health Workforce Directorates, SSSC, CI, NHS, HIS, HSCPs, ARHAI Scotland and care providers.

87. The first meeting took place on the 10 August 2021 and the last meeting was in April 2022. A summary of the group is provided [CL16/055 – INQ000322893].

The Healthcare Framework for Adults and Older People Living in Care Homes Reference Group

88. This Reference Group was established in November 2021 at the request of the CPAG. The terms of reference are provided [CL16/056 - INQ000509907]. The group met monthly from 9 November 2021 until 9 June 2022 when the Scottish Government Healthcare Framework for Adults Living in Care Homes 'My Health – My Care – My Home' was published [CL16/057 – INQ000323023]. Minutes of meetings are provided: 9 November 2021 [CL16/058 – INQ000544554], 7 December 2021 [CL16/059 – INQ000544516], 11 January 2022 [CL16/060 – INQ000544519], 8 February 2022 [CL16/061 – INQ000544520], 8 March 2022 [CL16/062 – INQ000544524], 19 April 2022 [CL16/063 – INQ000544529] and 9 June 2022 [CL16/064 – INQ000544534].

89. The group considered evidence and best practice and learning from the pandemic to develop a holistic model of healthcare support that was appropriate for adults and older people in care homes, setting out principles for best practice and to make recommendations to Scottish Ministers.

90. The group was co-chaired by the General Practitioner Professional Advisor (CMOD), Scottish Government and the Executive Nurse Director of NHS Forth Valley. The group used evidence, best practice and learning from the pandemic to develop a holistic model of healthcare support appropriate for adults and older people in care homes.

91. The Professional Nurse Adviser and Policy Manager attended on behalf of CNOD, alongside other Scottish Government representatives from the offices of the CMO, CSWA and Chief Pharmaceutical Officer (CPO). Other members

included representatives of the care sector across Scotland, such as the Lead Nurse for the CI, the Associated Nurse Director from HIS, the interim Nurse Director for NHS Ayrshire and Arran and representatives from the RCN, Alzheimer Scotland and care home providers.

92. Themes covered included: prevention, anticipatory care, urgent/emergency care, palliative and end of life care. Since the 'My Health – My Care – My Home' Framework was published [CL16/057– INQ000323023] An implementation group was established to support adoption of the framework

Care Homes Rapid Action Group (CHRAG) (which later evolved into the Pandemic Response in Adult Social Care Group (PRASCG);

93. CHRAG was established in April 2020 and was initially focused on the delivery of national policies on ASC within the care home sector (such as IPC, PPE, strategies to support workforce resilience, financial monitoring and support for social care). CHRAG met 17 times from 30 April 2020 to 27 August 2020, before reforming as the PRASCG in September 2020. Terms of reference provided [CL16/065 - INQ000322925] [CL16/066 – INQ000510010] [CL16/067 - INQ000324686]. The CHRAG focussed on care homes and did not consider wider social care matters, until it was reformed as the PRASCG in September 2020. This focus was due to the challenges facing care homes at the start of the pandemic, which required specific and detailed oversight. However, many of the issues and policies discussed at CHRAG were also applied to the wider care at home workforce – including policies relating to testing, PPE, IPC and workforce support. Wider social care support was considered at other policy-specific forums. Once the oversight of care homes was well-established, it was considered beneficial to bring all those with responsibilities across the wider social care sector together under the PRASCG group. . The CNO professional nurse adviser representatives were represented at CHRAG and its successor PRASCG at various points. To ensure alignment and coordination of CPAG and PRASCG groups, the Chairs of CPAG, as well as relevant policy officials, attended PRASCG meetings. Minutes are provided [CL16/068 - INQ000544457].

94. The CHRAG was comprised of key partners with operational oversight and delivery responsibility for care homes. CHRAG received daily updates and was tasked with activating any local action required to deal with emerging issues, as well as informing and coordinating the wider package of support for the sector. Given the acute need within care homes early in the pandemic, CHRAG was initially focused on the implementation of national policies on ASC within the care home sector (such as testing, IPC, PPE and workforce resilience). CHRAG was attended by representatives from COSLA, SoLACE, Scottish Care, CI, PHS, Chief Officers, Directors of Public Health, RCGP, BMA, RCN, SSSC and Scottish Government.
95. PRASCG was jointly chaired by the Scottish Government Deputy Director for ASC and COSLA and was attended by representatives from Health Board Chief Executives, HIS, Scottish Government policy officials, SSSC, HSCPs, CI, CCPS, Scottish Care, PHS, GMB, CMO, RCN and unpaid carers. Additional matters discussed by PRASCG included winter planning, vaccination and testing.
96. Further detail regarding the roles of CHRAG and PRASCG is provided later in this statement at paragraphs 257 to 267 below.

Covid-19 Workforce Senior Leadership Group (WSLG)

97. One of the early steps the Scottish Government took during the pandemic was to set up the WSLG, which was established on 23 March 2020 and chaired by the Director of Health Workforce, Scottish Government. The CNO and CNOD representatives attended these meetings, as did representatives from the Scottish Government Health Workforce and Community HSC Directorates, NHS Boards, COSLA, HSCPs, CSWO, Scottish Association of Social Work, SSSC, Scottish Care, RCN, CCPS, BMA and trade unions. Terms of reference and membership are provided [CL16/069 – INQ000389186].
98. The role of the WSLG was to provide national senior strategic leadership and guidance on key health and social care workforce related issues. The group's aims were to inform, engage, and take collective action enabling a timely co-

ordinated response to Covid-19. The group worked in partnership with a wide range of stakeholders across the HSC network; and ensured timely feedback from NHS Boards, trade unions and professional bodies/organisations for the WSLG to address key issues.

99. Draft guidance would be shared with WSLG members and then, following engagement, advice would be provided to the Cabinet Secretary for Health and Sport. The guidance, once approved, would be disseminated to WSLG members to ensure information was distributed without delay. Matters discussed at regular WSLG meetings included (but was not limited to): PPE (supply, FFP3 masks, WHO guidance), self-isolation and staff testing (including care at home testing). A full list of topics discussed is provided [CL16/070 – INQ000477444]. The matters listed which were relevant to ASC interests – these matters were all relevant to the wider health and social care workforce – in particular, discussions around Occupational Risk Assessment for health and social care staff, access to Staff Wellbeing Support via the Wellbeing National Helpline, and measures to accelerate workforce capacity given staff absences due to infection and/or self-isolation.

100. The group met as frequently as appropriate sometimes daily through the phases of the pandemic, reflecting the nature of advice and engagement that was required. The WSLG was wound up on 7 March 2023.

Scottish Government response to CNO advice

101. The Inquiry has asked to what extent advice relating to the ASC sector provided by CNO was considered and accepted or rejected by the Scottish Government. Advice from CNO was always considered and generally accepted by the Scottish Government. There was, however, a Ministerial decision made regarding discretionary access to FFP3s for HSC and ASC staff in March 2022 which differed from the clinical advice provided by ARHA and CNOD.

102. Concerns were repeatedly raised by political opposition parties, staff side, unions, media, Fresh Air (NHS lobby group), some healthcare workers and

infection prevention control specialists throughout the pandemic regarding the type of face masks healthcare and social care workers have access to in light of the perceived risk of patient to healthcare worker COVID-19 transmission. These concerns are outlined in the CNO's submission of 13 January 2022, provided [CL16/071 – INQ000245114].

103. At the start of 2022, CNOD provided a number of briefings on the subject of Respiratory Protecting Equipment (RPE) for Ministers to consider. These briefings described the calls, predominantly from professional bodies and trade unions, for higher grade respiratory protective equipment to be made available to all health and social care workers who treat patients with Covid-19 in light of the Omicron variant as well as the rational for and against changing the current guidance on RPE.
104. These briefings described the available evidence on Covid-19 and aerosol risk, epidemiological analysis, Covid-19 hospital outbreaks/ cluster intelligence. Based on the available evidence, CNOD did not advise a change to the IPC guidance that was in place at that time and therefore did not recommend introducing RPE (either FFP3s or FFP2s) over and above what was already recommended in the guidance. This position was supported at the time by the Cabinet Secretary for Health and Social Care, CMO, CNO and NCD [CL16/072 – INQ000240978].
105. However, CNOD and Health Workforce colleagues were aware that trade unions and professional organisations (in particular the RCN, BMA and Unite) were in favour of offering (as a minimum) discretionary access to FFP3 respirators in NHS settings, where staff were not performing aerosol generating procedures (AGPs). Discretionary access to RPE was seen as positive for the 'psychological safety' of health and social care staff as it was considered that people might feel safer wearing these masks, even if the epidemiological evidence had not changed.
106. The First Minister of Scotland was in favour of offering discretionary access to RPE (as outlined in correspondence of 18 January 2022, provided [CL16/073 –

INQ000544536] therefore CNOD worked closely with colleagues in Health Workforce Division to draft a Scottish Government policy that allowed for discretionary access to FFP3 masks for all health and social care workers. Further advice was provided by CNO to FM on 1 February 2022 [CL16/074 – INQ000240467], 25 February 2022 [CL16/075 – INQ000378407], 17 March 2022 [CL16/076 – INQ000241268]. It was noted that this policy did not reflect a change in the IPC guidance, but rather was in response to a conditional recommendation within the WHO updated guidance (21 December 2021) based on the individual staff member's personal preference. The First Minister approved the revised guidance on 15 April 2022, following assurance that the guidance was clear that line managers should not override individual staff wishes when requesting FFP3, correspondence provided [CL16/077 – INQ000378260].

107. This guidance was issued in a Directors Letter to Boards on 19 April 2022 that stated that an individual risk assessment should be carried out by the line manager taking into consideration the staff member's overall health, safety, physical and psychological wellbeing, as well as their personal views and concerns about the risks. Letter provided [CL16/078 - INQ000429256].

Liaison with ASC stakeholders

108. In addition to the groups and forums detailed above at paragraphs 41 to 84 above, the CNO and CNOD officials liaised with a number of relevant ASC stakeholders throughout the pandemic. For example, as noted above at paragraphs 97 to 100 above, the CNO was represented by both clinical and policy colleagues on the WSLG, which allowed NHS Scotland boards, trade unions / professional bodies (such as RCN) and health and social care partners to work in partnership with Scottish Government through WSLG forum meetings. This Forum was hosted by the Scottish Government Health Workforce Directorate (HWD) and key issues discussed are provided [CL16/079 – INQ000477444]. CNO was also represented, mostly by clinical nursing colleagues, on the main ASC stakeholder groups such as CHRAG (subsequently PRASCG) and CPAG and its subgroups.

109. Throughout the pandemic, the CNO liaised with the following ASC stakeholders:

- Local government
- COSLA
- CNOs for England, Wales and Northern Ireland
- NHS Boards including Executive Nursing Directors, NHS NSS and PHS
- Integration Joint Boards
- ARHAI
- CI
- RCN
- NMC
- Health and Social Care Professions Council (HCPC)
- Care providers or recipients of ASC
- Social care nurses
- Other key stakeholders.

110. In recognition of the additional pressures faced by HSC services in Scotland, the Scottish Government published on 3 April 2020 Covid-19 Clinical Guidance and the Covid-19 Ethical Advice and Support Framework [CL16/080 – INQ000363462] [CL16/081 - INQ000363463] . The Clinical Guidance 2020 acted as a repository to support clinical decision making throughout the pandemic and to facilitate rapid access to advice, based on the best available evidence. The Ethical Advice and Support Framework was developed to provide further support to decision makers during the pandemic.

111. During the preparation of the Equality Impact Assessment (EQIA) [CL16/082 – INQ000544560] for the Covid-19 Clinical Guidance and Ethical Support Framework [CL16/080 – INQ000363462], the Scottish Government worked closely with a range of relevant stakeholders such as Inclusion Scotland, Scottish Care, the Scottish Academy of Medical Royal Colleges. These stakeholders

provided constructive advice and support in preparing the EQIA which accompanied the guidance, as set out in the provided feedback summary [CL16/083 – INQ000343738]. The CNO would engage with a wide variety of stakeholders, such as Scottish Care and RCN through correspondence and meetings (as required) to provide insight from a nursing perspective.. This EQIA led to the agreement of appropriate language for use in relation to the Clinical Frailty Scale (to reinforce the importance of holistic and person-centre care and to ensure the language reflected equality and human rights requirements).

PHS

112. Direct interactions between CNOD and PHS were generally limited; however, PHS was a member of the CNRG. The CNRG provided advice to the CNO throughout the pandemic.

ARHAI Scotland

113. CNOD works closely with NSS via their ARHAI Scotland Team on IPC matters, as they hold and maintain the National Infection Prevention Control Manual (NIPCM).
114. Policy officials and clinical advisors from CNOD attended Infection Control Nurses / Infection Control Manager meetings chaired by ARHAI Scotland, where the practical application of IPC measures and current challenges were discussed. Professional nurse advisers, the DCNO and officials from HAI attended this meeting regularly which were held weekly initially. The frequency was then reduced to fortnightly, and then four weekly. The agenda for these meetings focused on new and emergent advice, whether existing guidance needed to be updated, what new guidance was required and the challenges to implementing and embedding guidance and policy in a range of settings. Themes included PPE, testing and staff concerns. We believe that copies of minutes and papers can be requested from ARHAI.

Care recipients and providers of care

115. The CNO liaised with care providers and recipients of ASC via participation in fora such as the CHRAG (subsequently PRASCG) and CPAG and its subgroup. For example, in addition to co-chairing the CPAG which included provider representatives, the DCNO attended the Care Home Assurance Short Life Working Group, which included an Executive Nursing Director representative, as well as carers' representatives such as Scottish Care's Transforming Workforce Lead for Nursing.
116. The Chief Executive of Scottish Care wrote to the CNO on 7 April 2022 setting out their concerns regarding care home nursing. The then CNO, Alex McMahon, responded on 22 April 2022 setting out the steps taken to address the challenges facing care homes via CPAG and the Care Home Nursing Task and Finish Group, as well as next steps [CL16/084 – INQ000525327].

NMC

117. The CNO and CNOD had regular contact with the NMC prior to, during and beyond the pandemic via correspondence and meetings, as well as the range of forums outlined above, as well as regarding specific issues.
118. The CNOD liaised with the NMC on emergency legislation to give the NMC, upon the declaration of a public health emergency by the Secretary of State of Health and Social Care, broad powers to temporarily register anyone it considered "fit, proper and suitably experienced". Further details regarding this programme are provided at paragraphs 289 to 292 below.

CNO contribution to development of policy

Testing

119. Full details regarding the Scottish Government's approach to testing, including key decision making, are outlined in the DG HSC Module 6 Corporate Statement submitted to the UK Inquiry on 9 May 2025 (at paragraphs 635 to 784).

120. The CNO contributed to clinical advice provided by the CMO to Ministers on 20 April 2020 regarding the testing of those being discharged from hospital [CL16/085 – INQ000249330].

121. The CNOD was not involved in decisions regarding the discharge of patients into care homes. However, the CNO did issue, in conjunction with the CMO and CSWA, guidance to the ASC sector [CL16/002 – INQ000376204]. The CNO did not make decisions regarding the testing of care home staff and residents, recipients of care and carers (care at home) or those being discharged from hospital to other care settings. Decisions regarding testing were made by Scottish Ministers. DG HSC and HSC Directors, including the CMO, CNO, NCD and CSO were amongst the advisers who attended meetings where advice was discussed, agreed and submitted to Scottish Ministers. The DG HSC Module 6 Corporate Statement, submitted to the UK Inquiry on 9 May 2025 [INQ000614179] sets out in detail the decision making process regarding these matters at paragraphs 691 to 713.

IPC guidance (including provision and use of PPE)

122. The CNO was responsible for the reporting of and advising on nosocomial infection and transmission, which informed IPC guidance and measures. As outlined above, the CNO/CNOD would receive advice from CNRG and this would be considered, in conjunction with other factors, when providing clinical advice to Ministers.

123. The CNOD HAI / AMR Policy Team was responsible for drafting and updating guidance on the extended use of face masks in adult hospitals and care homes for the elderly, which was first published in June 2020. All other guidance on PPE was contained in the Scottish Covid-19 IPC Addendum, which was prepared by ARHAI Scotland, in collaboration with stakeholders.

124. ARHAI produced specific guidance for adult and older peoples care homes to manage and reduce the number of onset cases of Covid-19 through the implementation of robust IPC measures. This was aligned with the National

Infection Prevention and Control Manual (NIPCM). CNOD were kept updated on this work.

125. These measures were aligned with the guidance set out in the Covid-19 addendum, then the Scottish Winter 2021–22 Respiratory Infections in Health and Care settings: IPC Addendum, provided [CL16/086 – INQ000322611] which was replaced by the National IPC Manual, provided: [CL16/087 – INQ000339585]. This included measures such as the appropriate use of PPE, the extended use of face masks and face coverings, physical / social distancing, ensuring optimal ventilation, enhanced cleaning measures in high-risk pathways, systematic outbreak management, healthcare worker (HCW) testing and patient admission testing to ensure patients were placed in the appropriate pathway.
126. Any changes to IPC measures in Scotland were based on the best available scientific evidence, expert opinion and consensus at that time (with the exception regarding RPE noted above at paragraph 025 and IPC guidance was updated on a regular basis throughout the pandemic. Further details of iterations of ASC guidance can be found in the DG HSC Module 6 Corporate Statement submitted to the Inquiry on 9 May 2025 [INQ000614179] (at paragraphs 785 to 793).
127. The role of the Scottish Government was to respond to emerging evidence and scientific advice and to issue guidance which sought to prevent transmission of the virus. The Scottish Government had first issued guidance on the use of face coverings on 28 April 2020 [CL16/088 – INQ000302502]. This was a recommendation to the general public that they consider wearing a face covering, in addition to social distancing in enclosed public spaces. This guidance was updated multiple times throughout the pandemic. In June 2020, as a result of new and emerging evidence, including from the WHO, the CNRG recommended that face masks should be worn continuously by staff within hospitals and care homes and that the existing PPE guidance (which allowed for the wearing of a face mask, continued to apply in other settings). This advice was provided by CNOD to the Cabinet Secretary for Health and Sport for decision on 16 June 2020 [CL16/089 - INQ000525318].

128. Scottish Government's guidance on face mask use within health and social care settings adapted over the course of the pandemic in response to recommendations from the WHO, CNRG, PHS or ARHA Scotland. These recommendations evolved with greater knowledge about the transmission of the Covid-19 virus and the differing risk/benefit profile as infection-derived and vaccine-derived immunity increased along with the availability of effective treatments for Covid-19, amongst other factors.

129. Further detail regarding the CNO's role in communicating changes in guidance in relation to IPC is provided below at paragraphs 171 to 181.

Visiting restrictions and access to health professionals

130. Advice on visiting was initially contained in the Scottish Government clinical guidance for care homes. This was followed by standalone visiting guidance from June 2020 which outlined a staged approach to supporting indoor visiting. The Open with Care guidance: Supporting Meaningful Contact with Care Homes was published on 24 February 2021 which promoted a full return to visiting [CL16/038 – INQ000147437]. All visiting guidance was developed with input from CNO, CMO, NCD, CSWA, Scottish Care, care home staff, managers and providers, CPAG members, the CPAG engagement sub-group, CI, HSCPs, Directors of Public Health, Nurse Directors and Chief Officers.

131. On 13 March 2020, Scottish Government clinical guidance stated that visiting should be reduced to minimise transmission risks [CL16/014 - INQ000370196]. Prior to the issue of updated care home guidance on 26 March 2020 [CL16/016 – INQ000429281], it was noted that most European countries had banned visits to care homes. It was queried whether the guidance, which stated essential visits only, named family contact, consideration in end of life situations and importance of risk assessment should be amended considering this information. The CNO advised ASC officials on 25 March 2020 that it was her preference that visiting should be restricted to end of life as per the guidance for hospital settings (other than those individuals with dementia who are distressed), advice provided [CL16/090 – INQ000525319]. Updated guidance was then issued by the Scottish

Government on 26 March 2020 which recommended the suspension of routine visiting but adoption of essential visits as set out below [CL16/016 – INQ000429281]:

“Routine visiting should be suspended – Only essential visitors permitted in line with HPS guidance. Local risk assessment and practical management should be considered, ensuring a pragmatic and proportionate response. Visits from appropriate health and care staff would be classed as essential. For family and friends, visits should be restricted to end-of-life care situations or people with dementia who are distressed. In such instances there should be a named contact for visiting, and ideally visits should involve one person at a time; no children should be permitted. These visitors must not visit any other care areas or facilities.”

132. The CNO, CMO, NCD and Director for Mental Health and Social Care jointly issued the Open with Care health, social care and other services in care homes and communal activity guidance to NHS Health Boards, HSCPs, CSWO, Directors of Public Health, Nurse and Medical Directors and Directors of Pharmacy via letter in April 2021 [CL16/091 – INQ000525320]. The guidance was developed with input from CPAG (on which CNO was represented), as well as representatives of relevant professionals.
133. The letter set out updated advice regarding the return of HSC services that contribute to the health and wellbeing of people in care homes and set out the range of principles which supported the staged return of visiting professionals to care homes. The letter recognised the significant steps which had been taken to safeguard care homes and the efforts made to support the vaccination and testing programmes. The letter set out the range of professionals and services covered by the guidance including: HSC professionals (such as but not limited to AHP, CI regulatory visits, geriatricians, palliative care and specialists/practitioners supporting those with dementia), people and organisations (such as advocacy services, hairdressers, pet therapy and volunteers) and site related contractors/maintenance professionals.

134. Another example is in July 2021 advice regarding the movement to Level 0 (subject to the review of conditions) on 19 July 2021 and how that would apply to care homes (and outdoor visiting). CPAG and the DCMO were involved in drafting the supporting guidance and CNOD and NCD both reviewed and approved the guidance prior to Ministerial approval [CL16/092 – INQ000240396]. The guidance was then issued in the form of a letter on 15 July 2021 [CL16/093 – INQ000496560].

Changes to the regulatory inspection regime

135. CNOD was not involved with the policy changes to the regulatory inspection regime. Full details of changes to the regulatory inspection regime are set out at paragraphs 873 to 901 of the Module 6 DG HSC statement submitted to the Inquiry on 9 May 2025 [INQ000614179].

Increased operational and clinical support for care homes

136. CNOD was involved in the work regarding the establishment of multidisciplinary teams to provide additional assurance and support around care homes, this is discussed later in this statement at paragraphs 281 to 285.

137. Further discussion of the full range of operational and clinical support for care homes is outlined in the DG HSC Module 6 Corporate Statement provided to the Inquiry on 9 May 2025 [INQ000614179].

End of Life Care (including DNACPR)

138. The CNO/CNOD provided advice on IPC and Covid-19 clinical care guidance but did not provide advice directly on the use of DNACPRs. Advice and guidance regarding DNACPR was issued to the sector by the CMO and the Scottish Government in response to concerns raised about the potential blanket use or misuse of DNACPRs.

Stakeholder concerns re: DNACPR

139. During the first wave of the pandemic in Spring 2020, there were concerns raised by third sector stakeholders including Age Scotland, the public, and reports in the media about the use of DNACPR forms. Concerns related to a perceived blanket use of DNACPR forms and a misperception that DNACPR forms indicated that a person should receive no treatment should they contract Covid-19. Many of the concerns appeared to relate to individual anticipatory care planning discussions, particularly those that encompassed the use of DNACPR forms early in the pandemic, which could have been handled in a more sensitive manner.
140. Further detail regarding the steps taken to address concerns around DNACPR is set out in the DG HSC Module 6 Corporate Statement provided to the Inquiry on 9 May 2025 **INQ000614179**.
141. The Scottish Government guidance makes clear the importance of health and social care staff having timely and sensitive conversations with individuals to plan for their care and support needs should their health deteriorate. These Anticipatory Care Planning discussions are a useful tool to help understand what matters to an individual and are suitable for anyone regardless of their health status. Pre-pandemic, Anticipatory Care Plans (ACPs) were widely promoted by Scottish Government and HIS within the health and social care sectors including care homes.
142. Sometimes as part of an anticipatory care planning discussion, it is necessary for clinicians to raise difficult matters in conversation with people and their loved ones about their care wishes should there be a risk of them becoming seriously unwell. In some cases of overwhelming illness, particularly in individuals with significant or multiple pre-existing conditions, CPR may not be an effective treatment. In such instances, medical professionals are expected to discuss this sensitively with the individual and address any concerns that they have. Ideally, these discussions take place before an emergency occurs to help ensure that the

individual has ample time and space to consider what care would be right for them and discuss this with their family.

143. Guidance did not change in light of the Covid-19 pandemic; however, the Scottish Government played a key role, alongside other organisations, in supporting the communication of guidance around the importance of ACPs and good DNACPR practice. This involved clinical and policy officials working with stakeholders to understand concerns raised and developing further communications and guidance to support consistent adoption of best practice.
144. On 3 April 2020, the Scottish Government published its Covid-19 Guidance; Ethical Advice and Support Framework, outlining the key principles to underpin the approach to ethical decision-making during pandemic. It was updated regularly to take account of feedback and concerns and support good practice around decision making in challenging circumstances [CL16/080 – INQ000363462].
145. The Scottish Government worked closely and extensively with a wide range of stakeholders including Inclusion Scotland, Scottish Care, Scottish Commission for Learning Disabilities, Equality and Human Rights Commission, Scottish Human Rights Commission, the Scottish Academy of Medical Royal Colleges, and many others, to consider the impact of the guidance. They provided constructive advice and support in developing the EQIA that accompanied the guidance [CL16/083 – INQ000343738].
146. Within the care home context, the specific advice regarding residents was contained in the Scottish Government's clinical COVID guidance for adult care homes dated 13 March, 26 March and 15 May 2020 [CL16/014 - INQ000370196], [CL16/016 – INQ000429281] [CL16/017- INQ000383486]. This was updated with additional material including links to further advice and tools on ACPs and emphasised the importance of working closely with people living in care homes and their families to discuss what matters most when making plans for care in the future. The guidance therefore recommended that ACPs should be in place so the needs and wishes of residents and families were considered in the event of changing circumstances. The care home guidance also provided

considerations around person-centred discussions for those nearing end of life and reinforced the point that a blanket approach should never be taken with regard to DNACPR decisions.

147. The Inquiry has asked about whether concerns in relation to potential blanket use or misuse of DNACPRs came to the Scottish Government's attention, the response to such concerns and any action taken. During the first wave of the pandemic in spring 2020, there were concerns raised by third sector stakeholders including Age Scotland, the public, and reports in the media about the use of DNACPR forms. Concerns related to a perceived blanket use of DNACPR forms and a misperception that DNACPR forms indicated that a person should receive no treatment should they contract Covid-19. Many of the concerns appeared to relate to individual anticipatory care planning discussions, particularly those that encompassed the use of DNACPR forms early in the pandemic, which could have been handled in a more sensitive manner.

148. In response to such concerns, the Scottish Government's CMO, the BMA and the RCGP issued a joint letter to GP practices on 10 April 2020 [CL16/094–INQ000429276] to provide advice and support on ACP conversations. This made it clear that, in line with guidance on CPR, the Scottish Government expected everyone supported by health and social care services to be treated with sensitivity, dignity and respect at all times, including during conversations around ACPs with individuals and their loved ones, and that no one should ever feel pressured to agree to a specific care plan or agreeing to a DNACPR form if they were not comfortable doing so. Furthermore, there was no requirement for health professionals to have a DNACPR discussion as part of this conversation, unless the patient wished to discuss it, or the clinician felt strongly it was necessary to raise in conversation for the patient's wellbeing. They stressed that a 'blanket' approach to DNACPR conversations should not be taken, with discussions undertaken based on individual clinical circumstances.

149. Additionally, on 17 April 2020, a further joint letter from the Scottish Government's CMO, BMA and RCGP was sent to GPs to reinforce this message and set out how they could effectively support care homes during this difficult time [CL16/095- INQ000364126]. Q&A was provided as a supplement to the

letter issued 17 April letter which also covered advice on care home access to GP support and considerations around admitting care home residents to hospital [CL16/096 - INQ000259882]

150. In addition on 5 May 2020, the Scottish Government wrote to Chief Executives and Medical Directors of Health Boards for distribution to all clinical teams regarding the use of DNACPR with younger patients, those with a stable long term physical need, learning disability or autism. The letter made it clear that treatment decisions should never be based on the presence of a learning disability and/or autism, rather they should be made on an individual basis and in consultation with their family and/or paid carers [CL16/097– INQ000471396].
151. Additionally, the NMC and GMC issued a joint UK wide statement on 15 April 2020 to highlight the continuing importance of advance care planning for individuals during these unprecedented times and to emphasise that medical professionals should not be taking a 'blanket' approach to ACP and DNACPR decisions. They also emphasised the importance of adhering to professional and clinical guidance at this time.
152. The Scottish Government worked with HIS to produce a range of tools and resources to support clinicians having these conversations in a more person-centred, sensitive and holistic way, based on our experiences early in the pandemic. These resources were available on the HIS website. A Video Blog was also produced by HIS in April 2020 to support anticipatory care planning conversations [CL16/098– INQ000509988].
153. In its 23 June 2020 response to the Equalities and Human Rights Committee's review of the impact of the COVID-19 pandemic on equalities and human rights, the Scottish Government acknowledged the concerns raised by stakeholders and the public and outlined the steps it was taking to ensure that guidance was being followed. [CL16/099 - INQ000182819].
154. The Scottish Government continued to address concerns around DNACPR later in the pandemic. In November 2020, Age Scotland communicated concerns they had been receiving via their helpline which suggested that DNACPR decisions during the pandemic had been made or communicated in ways that fell

short of good practice. Following a meeting with Age Scotland at the end of November 2020, the Scottish Government provided materials on DNACPR and ACP to Age Scotland to assist them in responding to any queries and enable people to get the right advice and support [CL16/100 – INQ000510067].

155. In February 2021, there were some media reports regarding the charity Mencap's (UK learning disability charity) concerns that people with learning disabilities were having DNACPR forms placed in their medical records inappropriately. This was expressed in a press release from Mencap where they responded to a Care Quality Commission (CQC) report in England into the application of DNACPR decisions during the COVID-19 pandemic.

156. Scottish Government guidance on DNACPR [CL16/101– INQ000429278] has always been clear that a stable long-term physical need, learning disabilities or autism should never be the sole reason for considering whether a person would benefit from CPR. The Scottish Government's Ethical Advice and Support Framework had been updated in July 2020 [CL16/102 - INQ000233594] to emphasise this point and make clear that health conditions or disabilities that are unrelated to a person's chance of benefiting from treatment must not be a part of clinicians' decision-making regarding accessing treatment.

157. Given the concerns raised by Mencap, a submission was sent to Ministers in February 2021. This provided details of the CQC report, concerns raised, DNACPR policy in Scotland and what steps had and were being taken to support good practice. The submission indicated that no concerns had been raised with officials regarding the use of DNACPR forms for those who have learning disabilities [CL16/103– INQ000510068].

158. Following the publication of Mencap's concerns in February 2021, further reassurance was provided to Scottish stakeholders that social care needs, health conditions or disabilities that are unrelated to a person's chance of benefiting from treatment must not be a part of clinicians' decision making regarding accessing CPR treatment. This involved issuing key messaging to learning disability stakeholders to provide reassurance around the expectations of Scottish Government in relation to DNACPR [CL16/104 - INQ000509978].

Guidance

159. As noted in the corporate Module 6 DG HSC statement submitted to the UK Inquiry on 9 May 2025 [INQ000614179], at paragraphs 908 to 927, the Scottish Government's clinical Covid-19 guidance for adult care homes dated 13 March [CL16/014 - INQ000370196], 26 March [CL16/015 - INQ000276978] and 15 May 2020 [CL16/017- INQ000383486] contained specific advice regarding clinical considerations and anticipatory care planning for residents. This was in line with existing guidance on anticipatory care planning. Pre-pandemic, Anticipatory Care Plans (ACPs) were widely promoted by the Scottish Government and Healthcare Improvement Scotland within the HSC sectors, including care homes. ACP discussions are a useful, voluntary tool to help understand what matters to an individual. During the pandemic the Scottish Government's clinical guidance for care homes was updated with additional material including links to further advice and tools on ACPs and emphasised the importance of working closely with people living in care homes and their families to discuss what matters most when making plans for care in the future. The guidance therefore recommended that ACPs should be in place so the needs and wishes of residents and families were considered in the event of changing circumstances. The care home guidance also provided considerations around person-centred discussions for those nearing end of life and reinforced the point that a blanket approach should never be taken with regard to DNACPR decisions.

160. As outlined above at paragraph 110, the CNO was involved in stakeholder engagement to support the preparation of the accompanying EQIA for the Scottish Government's Covid-19 Ethical Advice and Support Framework regarding ACPs.

Decisions impacting the ASC workforce

161. The CNO was involved in efforts to recruit additional social care nurses into the ASC sector, as outlined later at paragraph 226 to 231 of this statement. The CNO provided advice from a clinical and nursing perspective, as necessary, as guidance on a range of matters which impacted the ASC workforce was developed.

Data collection and analysis

162. High quality data collection and analysis, and the integration of data, was recognised as priority area for action via forums such as CPAG, on which CNOD was represented. CPAG undertook work to consider what data was required to inform decision making and drive improvements. CNO professional adviser representatives were involved in supporting the development by NES of the Safety Huddle tool (TURAS) which collected data on care homes (see description below) The Care Home Nursing National Working Group also considered the need for quality National Institute for Health and Care Excellent (NICE) data and analysis to support efforts to address concerns regarding staffing levels.

Funding decisions

163. CNO does not have a role in funding decisions regarding the ASC sector. Further details regarding the organisational and funding structures for ASC in Scotland are set out at paragraphs 86 to 99 of the DG HSC Module 6 Corporate Statement submitted to the Inquiry on 9 May 2025 [INQ000614179].

Provision of clinical advice by CNO

164. The Inquiry has asked whether the Scottish Government may have benefitted from clinical advice from the CNO on matters relevant to the ASC sector between January and March 2020. The CNO attended a range of meetings and other forums at which the pandemic was discussed. The Cabinet Secretary for Health and Sport had regular, day-to-day contact, with senior ASC policy officials and with professional advisers such as the CMO, CNO and CSWA. Professional advisers embedded within relevant policy teams were able to provide advice on emerging guidance and policy. Former postholders may be able to offer further reflection on these matters.

165. The Scottish Government Clinical advice for care homes was first published on 13 March 2020 [CL16/014 - INQ000370196] following a request from the care home sector for specific guidance, with a greater focus on clinical considerations,

on 11 March 2020. The Senior Medical Officer for Health and Ageing within CMOD led on drafting the guidance with support from officials across relevant Directorates. Given the urgency to produce guidance by the end of that week, it was difficult to engage as comprehensively as with later additions; however, there was engagement with a number of stakeholders prior to publication including Scottish Care, HPS, clinical and social care and social work leads, as well as other specialist policy teams across Scottish Government.

Scottish Government understanding of the ASC sector

166. The Inquiry has asked, whether in the CNO's view, the ASC sector was adequately understood and considered by the Scottish Government when key decisions impacting on the sector during the period January to March 2020, and throughout the rest of the pandemic.

167. The Scottish Government had a deep understanding of the ASC sector within Scotland, prior to and during the pandemic for a variety of reasons, including:

- The provision of dedicated social care policy support within the Scottish Government
- The usage of professional advisers embedded within the Community HSC and the Mental Health and Social Care Directorates, as well as the Office of the CSWA and CMO
- The wide range of advisory groups established to assist in the development and management of policy, in addition to regular bilateral and ad-hoc meetings between Scottish Government Ministers and officials with a range of representatives
- The usage of wide range of data and modelling sources to aid decision making.

168. Further details regarding the mechanisms by which the Scottish Government sought to understand and engage with the ASC sector are set out at paragraphs 149 to 210 of the draft Module 6 DG HSC statement submitted to the Inquiry on 9 May 2025^[INQ000614179].

169. The Scottish Government sought to continue and expand the existing relationships with the ASC sector from outset of the pandemic period. Existing forums, such as the COSLA National Contingency Planning Group (NCPG), were used to communicate with the sector and the need for sector specific guidance was communicated and understood by the Scottish Government. Copies of the Terms of Reference and minutes available are provided [CL16/104A – INQ000597717] [CL16/104B – INQ000597720] [CL16/104C – INQ000597723].
170. Sector-specific guidance was issued, in consultation with relevant stakeholders, at pace and updated as understanding of the pandemic developed. Further fora, such as CHRAG and CPAG, were established to ensure there were sufficient opportunities for a range of ASC stakeholder views to be heard, with clinical and scientific advice taken into consideration. This data was used to inform the policy and guidance developed and feedback on difficulties with implementation of guidance was considered and addressed as appropriate.

Publication, Updating and Communication of Guidance

171. The CNO/CNOD had various roles and responsibilities in relation to the publication, updating and communication of national and local (and updated) guidance relevant to the ASC sector. CNO would issue letters, typically alongside other chief professional leads, to relevant stakeholders, providing copies of new (or updated) guidance and setting out the reasons for the development of new guidance, key issues to be considered and expectations regarding next steps/implementation. Guidance would also be cascaded via networks such as stakeholder forums which were chaired or attended by CNO/CNOD representatives etc. as appropriate.

IPC guidance

172. CNOD was responsible for communicating updates to IPC guidance to NHS Scotland Boards.

Clinical guidance

173. The CNO and DCNO had a role in both contributing to, approving and communicating guidance on a range of issues during the pandemic.

174. On 26 March 2020, [CL16/002 - INQ000376204] the CMO, CNO and Chief Social Work Adviser (CSWA) jointly issued guidance to social care providers, Chief Social Work Officers, Local Authority Chief Executive, Integration Authority Chief Officers, NHS Board Chief Executives, Primary Care Leads and NHS Board Medical Directors providing copies of the:

- Updated Health Protection Guidance for Social or Community Care and Residential Settings [CL16/105 - INQ000189302]
- Clinical Guidance for Nursing Home and Residential Care Residents [CL16/016 – INQ000429281]
- Guidance for Care at Home, Housing Support and Sheltered Housing [CL16/015 - INQ000276978].

175. As outlined earlier at paragraph 70, from April 2020, the CPAG (co-chaired by the DCNO) had a role in considering and reviewing clinical guidance for the sector, based on the latest evidence and stakeholder feedback and communicating this guidance to their networks.

Guidance relating to the use of face masks/face coverings

176. The CNO was involved in the process of updating the guidance alongside clinical colleagues before it went to Ministers for clearance. The CNO was then responsible for issuing the updated guidance as it was made available. For example, on 2 April 2020, a joint letter was issued by the CNO and CMO providing Covid-19 guidance to HSC staff regarding revised PPE guidance. The letter was issued to all NHS Scotland Chief Executives, Chairs NHS Scotland, WSLG members, HR Directors, national staff-side representatives, Medical Directors, Nursing Directors, Employee Directors, Chief Officers (NHS Boards and Local Authorities), CSWOs, Chief Officers of HSCPs, CI, SSSC, Scottish

Care, CCPS, funded HSC Partners and Directors of Public Health. The guidance set out the evidence underpinning the changes to guidance and asked that senior clinical and care leaders “ensure that compliance with PPE is in line with the updated PPE guidance”, adding that “We also ask that clinical leadership is provided to board procurement teams in this difficult time, to ensure local distribution is effectively managed to those areas which require it, and there is no over-ordering or stock piling at local level.” [CL16/106 - INQ000259889].

177. On 18 September 2020, the Scottish Government published interim guidance on the extended use of FRSM in HSC settings (replacing the guidance issued on 23 June 2020) [CL16/107– INQ000509953]. The CNO issued a letter to HSC stakeholders on the same date to make them aware of the new guidance and the expectation that it would be implemented by 30 September.

IPC Guidance

178. The CNO and CNOD were involved in the production of guidance to support IPC adherence, such as the guidance prepared for care homes in May 2020 [CL16/108 - INQ000525321]. These posters were developed following feedback from IPC Teams and other HSC workers in relation to reported issues around staff physical distancing when not in direct patient contact. Two posters – one on physical distancing in the workplace and one on IPC within care homes – were produced and distributed to NHS Boards, care homes, CI, Scottish Care and HPS. The WSLG were also sighted on these posters. The poster for care homes was an abbreviated version of the existing IPC guidance in place and was intended to make the guidance easily accessible and understandable.

Visiting guidance

179. As part of the core duties of the CNO and DCNO, guidance would typically be issued with an accompanying letter signed off by relevant clinical adviser(s). For example, the DCNO and DCMO jointly issued an update on protective measures in response to Omicron (including additional advice on visiting care homes) on 15 December 2021, followed by a further letter providing more practical advice in a

Q&A in response to queries received from the sector, on 22 December 2021 [CL16/109 – INQ000241683], [CL16/110 – INQ000496549].

180. The DCNO and DCMO jointly issued a letter to supported housing settings regarding guidance on indoor socialising on 16 December 2021 [CL16/111 – INQ000241684]. The CNO, NCD, CMO and Director for Mental Health and Social Care jointly issued a letter introducing the ‘Open with Care’: Visiting health, social care and other services in care homes guidance on 14 April 2021. [CL16/091– INQ000525320]. A full list of the guidance relevant to the ASC sector, which was issued or contributed to by the CNO during the relevant period is provided [CL16/112 – INQ000525638].

Views regarding guidance

181. The Inquiry has asked for the CNO’s views regarding to what extent the guidance applicable to the ASC sector which was issued by, or contributed to, by the CNO was clear, consistent, timely, adequate, realistic and produced following adequate consultation with stakeholders. Former postholders may be able to offer further reflection on these matters.

182. It is appreciated that changing guidance was in itself challenging for stakeholders, particularly for care providers. Understanding of the virus developed rapidly, particularly during the early stages of the pandemic, and a key Scottish Government priority was ensuring that the adult social care sector was informed quickly of new developments and the implications this could have on the management of Covid-19 within care homes. There was also a need to respond to urgent requests from the adult social care sector for advice on specific issues. Changes could be announced through updating the main Scottish Government national clinical guidance for care homes, but it may also have involved the preparation of separate specific guidance documents or through Ministerial announcements or statements. The priority was to make sure that developments in understanding the virus were acted upon quickly and the ASC sector informed of the implications for them as quickly as possible.

183. From April 2020, wider engagement between Scottish Government and HPS – which became PHS – in relation to published guidance on care homes was formalised in two ways. Firstly, as noted above, the establishment of CPAG in April 2020 provided a forum for bringing together stakeholders from a range of sectors including HPS/PHS to provide clinical and professional advice on supporting the care home and ASC sector during the pandemic, including related guidance. Secondly, in June 2020, the Scottish Government also put in place a formal review process for HPS/PHS Covid-19 guidance, referred to as the Policy Alignment Check (PAC), which ensured consistency across the guidance publications. Further detail regarding the PAC process is provided at paragraphs 310 to 316 of the Module 6 DG HSC Corporate Statement provided to the Inquiry on 9 May 2025 **INQ000614179**].

184. From April 2020 onwards, standalone Covid-19 guidance for care homes was published by PHS with increasing detail included in subsequent iterations. The Scottish Government published standalone detailed guidance for the sector on specific areas, as needed, for example in relation to face masks, care home visiting etc. The Scottish Government also developed specific guidance around addressing elements of care home life, for example at Christmas time, that were not covered in PHS guidance. These continued to be co-developed with stakeholder representatives through CPAG.

NIPCM, NIPCM for Older People in Adult Care Homes and the Care Home Cleaning Specification

185. The NIPCM [CL16/087 - INQ000339585] provided practical guidance for clinical settings in Scotland. The NIPCM is considered as best practice in all health and care settings for all IPC practices and procedures but was not specifically tailored for care home settings. It was a source of information and advice which was utilised within social care settings and recommended as best practice.

186. The NIPCM describes standard infection control precautions and transmission-based precautions that when used, help reduce the risk of HAI and

ensure the safety of those in the care environment – those being cared for, as well as staff and visitors. It aims to: make it easy for care staff to apply effective infection prevention and control precautions, reduce variation, promote standardisation and optimise infection prevention and control practices throughout Scotland; help reduce the risk of HAIs and help align practice, monitoring, quality improvement and scrutiny.

187. The Inquiry has asked about the development of the IPC guidance titled 'Infection Prevention and Control Manual for Older People and Adult Care Homes' and 'Care Home Cleaning Specification' and the involvement of CNO in contributing to it.
188. Antimicrobial Resistance & Healthcare Associated Infection (ARHAI) Scotland is the clinical service providing national expertise for infection, prevention and control (IPC), antimicrobial resistance (AMR) and healthcare associated infection (HAI) for Scotland. It is part of NSS and during the pandemic it was responsible for IPC guidance for social care settings, including care homes.
189. Pre-pandemic, the national IPC guidance produced by ARHAI Scotland was the National IPC Manual (NIPCM) [CL16/087 – INQ000339585]. It was a source of information and advice which was utilised within social care settings and recommended as best practice. However, during the pandemic there was feedback from the social care sector that sector-specific guidance would be even more useful.
190. The specific Scottish Covid-19 Care Home IPC Control Addendum (Covid-19 Addendum) was published by ARHAI on 16 December 2020 to provide further guidance and support for adult care home settings. This provided guidance in a single place to improve accessibility. The Covid-19 Addendum focussed on IPC practices specific to Covid-19 and it was agreed that the guidance and language contained in the NIPCM needed to be attuned to ASC settings, to support the future and 'business as usual' implementation of IPC and cleaning practices within care homes. The Addendum stated that "When an organisation adopts practices that differ from those recommended/stated in this national guidance,

that individual organisation is responsible for ensuring safe systems of work, including the completion of a risk assessment(s) approved through local governance procedures.” The Covid-19 Addendum covered matters including:

- Covid-19 case definitions and tirage questions
- Resident placement/assessment of infection risk
- Hand hygiene
- Respiratory and cough hygiene
- PPE - including face mask use for staff, visitors and residents, Aerosol Generating Procedures, Post AGP Fallow Times and sessional use of PPE
- Safe management of care equipment, the care environment, linen, blood and body fluid spillages and safe disposal of waste
- Occupational safety (including car/vehicle sharing for staff)
- Physical distancing
- Resources and tools
- Compendium of additional IPC resources.

191. The Covid-19 Addendum was updated on 25 January 2021, 31 March 2021, 8 July 2021 and 31 August 2021 to reflect latest guidance regarding matters such as; international travel isolation, the Acute Addendum, the introduction of the 14 day isolation period, Visiting Guidance (including ‘Open with Care’), additional resources, changes to testing and self-isolation guidance. On 29 November 2021, the Covid-19 Addendum was replaced by Version 1.0 of the Respiratory Addendum. ARHAI Scotland are responsible for the production of these documents and therefore we would suggest that the Inquiry approach AHRAI directly if they have detailed questions regarding the development of, and any updates made to, the Covid-19 Addendum.

192. The Covid-19 Addendum focussed on IPC practices specific to Covid-19 and it was recognised by stakeholders that the guidance and language contained

in the NIPCM needed to be attuned to ASC settings, to support the future and 'business as usual' implementation of IPC and cleaning practices within care homes. In response to these concerns, a care home specific manual and cleaning specification were developed by ARHAI Scotland – in conjunction with extensive stakeholder engagement (including consultation with care homes).

193. The Manual and Cleaning Specification were published on 24 May 2021 and were circulated by the CNO and Scottish Government Director of Mental Health and Social Care [CL16/113 - INQ000510054]. The information contained in the Manual was based on the same principles and evidence base as the NIPCM, however, the language and context were updated to provide clear and practical advice relevant for adult care home settings – the manual also reflected and linked to Standard Infection Control Precautions as the basic IPC measures necessary to reduce the risk of transmission of microorganisms from both recognised and unrecognised sources of infection. The letter accompanying letter stated that both the Manual and Cleaning Specification were mandatory for all HSC staff working in care homes and that the aim of both documents was ease of use by care home staff to support the application of effective IPC precautions (including best practice cleaning processes), to reduce variation and optimise IPC and cleaning practice throughout Scotland, to reduce the risk of infections and to align practice, monitoring, quality improvement and scrutiny.

194. ARHAI Scotland would be best placed to provide more information on the development of this guidance, as well as the stakeholders with whom they consulted. CNO, along with other SG professional and social care policy officials, would have been one of the consultees.

195. The Inquiry has asked to what extent the CNO was aware of any issues or concerns in relation to the NIPCM and its application or use by the ASC sector. Former postholders may be able to offer further reflection on these matters.

Timing of ASC sector specific guidance

196. The Inquiry has asked for the CNO's views as to whether the ASC sector's response to the pandemic may have been adversely affected by the absence of tailored IPC guidance (prior to June 2021).
197. As noted above, pre-pandemic, the National Infection Prevention and Control Manual (NIPCM) [CL16/087 - INQ000339585] provided practical guidance for clinical settings in Scotland. It was and remained a source of information and advice which was utilised within social care settings and recommended as best practice.
198. The Public Health England 'Guidance for Social / Community Care and Residential Settings on COVID-19' was seen and cleared by the CMO for Scotland on 24 February, having been shared with the CMOs of devolved nations for this purpose by Department of Health and Social Care officials. HPS was also given sight of the guidance and offered comments on the draft that day [CL16/114 - INQ000525323]. In the HPS covering email for their comments, they noted that, "it is our intention to adapt this for use in Scotland and publish on the HPS website, so it isn't necessary to add Scotland-specific content (phone numbers, NHS Inform etc) to this version which will be published on PHE website".
199. On 4 March, HPS issued their 'COVID-19 Information and Guidance for Non-Healthcare Settings [CL16/115 - INQ000189216], which included some advice specifically on social care settings and an indication that the more general advice was intended to apply to 24-hour care settings.
200. On 9 March, Scottish Government officials asked HPS whether more detailed sector-specific guidance for social care settings was being produced. HPS stated in response that their COVID-19 Information and Guidance for Non-Healthcare Settings would "cover residential care settings and [was] for anywhere that care is delivered outwith healthcare settings". They added that they were engaging with the CI to identify any additional informational needs that could be addressed by producing published FAQs. Finally, HPS advised that, "Given the change in pace with this virus it would not be appropriate to produce guidance for every

setting and we have aligned this to guidance produced by the other UK countries mainly PHE" [CL16/116 - INQ000544537].

201. On 11 March, an email was issued to HPS jointly from the Scottish Government's Deputy Director for Social Care Support, Jamie MacDougall, and the Interim Deputy Director within CNOD, Greig Chalmers, outlining the need for dedicated guidance for the social care sector and highlighting the calls from sector representatives for context-specific guidance. It acknowledged the helpful practical advice issued by HPS for non-healthcare settings but expressed that the Scottish Government would be grateful if guidance specific to the social and community care sector could be developed urgently, with SG and the CI ready to support its development through input and review. HPS confirmed in response the following day that the guidance for use in long term care and care at home settings, based on the NIPCM, was now in an advanced state of preparation [CL16/117- INQ000525329].

202. The Covid-19 IPC guidance for adult social care settings in Scotland was duly published by HPS on 12 March 2020 (COVID-19: Information and Guidance for Social or Community Care & Residential Settings) [CL16/118- INQ000280632]. As with the PHE guidance for social or community care and residential settings on Covid-19 published on 25 February 2020, this guidance contained advice on preventing spread of infection, caring for someone with Covid-19 (including isolation), the use of PPE and environmental decontamination.

203. PHS, formerly HPS, would be best placed to comment on the specific factors contributing to the development of their 12 March guidance, including timings [CL16/117 - INQ000525329].

204. IPC guidance for adult social care settings was thereafter updated regularly throughout the pandemic.

205. On 16 December 2020, an addendum to the NIPCM (Scottish COVID-19 Care Home Infection Prevention and Control) was published, and on 24 May

2021, ARHAI Scotland published the National Infection Prevention Control Manual for Older People and Adult Care Homes [CL16/113 - INQ000510054].

206. These iterations of IPC guidance for social care represent continuous improvement and they were not necessarily each produced to fill a gap. There was therefore tailored IPC guidance for the ASC sector in Scotland prior to June 2021.

Clinical guidance for nursing home and residential care residents – March 2020

207. On 13 March 2020, the Scottish Government provided the detailed Clinical Guidance for Nursing Home and Residential Care Residents directly to IJB Chief Officers, Local Authority Chief Executives, IJB Chief Social Work Officers, Scottish Care, CCPS, CI and SSSC provided [CL16/014 - INQ000370196]. This reflected the IPC advice published by HPS the previous day, provided: [CL16/118 - INQ000280632]. Final approval of this guidance was made by the Cabinet Secretary for Health and Sport following a submission provided by officials on 11 March 2020.

208. The Scottish Government's Clinical Guidance was aimed at providing both advice and reassurance to the sector and was subsequently updated on 26 March 2020 [CL16/016 – INQ000429281] and 15 May 2020 [CL16/017- INQ000383486] to reflect both updated HPS advice on IPC and also wider developments in understanding the nature of the virus and its likely impact on care homes and the wider social care sector. The updated draft guidance was shared with CNO, CMO and CSWA for clearance on 26 March 2020. As noted above, PHS started to publish standalone care home guidance with increasing detail included in subsequent iterations and so Scottish Government guidance on care homes was withdrawn.

Updates to the clinical guidance – May 2020

209. As the national response to the pandemic changed in response to emerging findings and scientific advice, it became clear that the safeguarding measures

introduced to protect care home residents, including recently transferred patients, were not as effective as anticipated, and rates of infection and fatalities continued to rise. In the early stages of the pandemic, test and protect measures were not established across the UK, as noted in the Module 2A corporate statement provided by DG Health and Social Care on 23 June 2023. It was widely understood in the very initial stages of the pandemic that only symptomatic patients could transmit the virus, all of which contributed to the increased infections. Further detail regarding the Scottish Government's developing understanding of asymptomatic transmission is provided below. The CNO was also involved in discussions regarding testing, particularly of asymptomatic testing, following issues raised by HSCPs, as set out in the example correspondence provided from 28 May 2020 [CL16/119– INQ000544539].

210. The Scottish Government recognises the importance of an inclusive society and aims to make Scotland a fairer place for everyone. It strongly encouraged people to be mindful of the communication needs of others at all times and bear in mind that face coverings can be temporarily removed to aid communication, as long as physical distancing could be respected.
211. Scottish Ministers received frequent communications from stakeholders representing deaf people highlighting challenges faced including those which included those communicating with lip-readers. Their responses reinforced the message that one of the most effective ways of preventing transmission of Covid-19 was to maintain physical distance and clean hands frequently using soap or antibacterial gel when communicating without wearing a face covering. The benefits transparent face coverings could bring were balanced with clear information on alternative approaches to improve communications.
212. In June 2020 Scottish Enterprise awarded £50,000 of funding from their Pivotal Enterprise Resilience Fund to an Edinburgh-based company Breathe Easy to expand its production of face coverings to include reusable face coverings with transparent panes, which facilitated lip-reading.
213. The wearing of face coverings became mandatory on 14 September 2020. Everyone who could do so was legally obliged to wear a face covering where it

was mandated by law. The Scottish Government acknowledged that there were some people who could not do so, due to health conditions, disabilities or other special circumstances where a face covering may cause difficulty or distress. Both the regulations and the Scottish Government Guidance provided for this.

214. In particular, the Scottish Government recognised that face coverings could pose a real challenge for people who rely on lip-reading or seeing facial expressions in order to communicate and interact with others. The Scottish Government Guidance and advice published for non-clinical settings advised multiple approaches and adjustments which could be taken in order to aid communication. For example, in situations where face coverings were mandatory, the use of paper and pens, laptops or tablets, or visuals or symbols could facilitate alternative methods of communication..
215. The use of transparent face coverings was one such approach; other options were also highlighted. On 20 October 2020, the Scottish Government launched the face covering exemption card scheme in partnership with Disability Equality Scotland to support those who are unable to wear one to feel more confident and safer when accessing public spaces and using public services. The card was developed in conjunction with a range of equality stakeholders as something which could clearly communicate to others if a person was exempt from the regulations.
216. The Scottish Government worked to ensure there was an understanding of the role that transparent face coverings could play in aiding discussions and conversations, along with other approaches permissible in guidance. This included providing organisations with information on supply/procurement and sectoral guidance. Transparent face coverings were available from a number of retailers.
217. In December 2021, through a separate workstream from “Breathe easy”, a transparent face mask was approved for use in health settings in Scotland. The “Alpha Solway” mask was developed in accordance with the transparent face mask specification originally published on 1 April 2021. This specification was produced by the NHS Transparent Face Mask Working group brought together

by NHS England and NHS Improvement (NHSE/I), which included Scottish Government representation.

218. In December 2021, four nations approval was agreed for the transparent facemasks, which were then released for distribution with appropriate guidance. By February 2022, 225,500 transparent masks had been issued to social care settings and by March 2022 this had increased to 233,400. By the end of June 2022, a total of 240,250 had been distributed with stock levels indicating that there was unlikely to be an access issue with regards to social care. The SG was unaware of any specific difficulties in people being able to access these masks.

219. The mask featured a clear anti-fog front panel, positioned to prevent reflection and make lip reading easier, and could be worn in healthcare settings where a Type IIR surgical face mask would be worn. The product was introduced to make communication easier and help reduce the challenges the pandemic created for those with communication needs following feedback about the challenges which facemask use posed for a proportion of disabled people. These masks were made available by NSS to Social Care providers through the Social Care PPE triage service and Social Care PPE Hubs. They were also provided to NHSS health boards and Primary Care Independent Contractors providing NHS services.

Digital barriers

220. The Scottish Government also heard from its stakeholders that access to the internet was a barrier for some disabled people during the Covid-19 pandemic. In addition, some disabled people needed support staff to help them understand documents or support them to give their views. More widely, the Scottish Government worked in partnership across all sectors to identify fresh opportunities to build sustainable programs that will support even more people to gain or improve their digital skills.

221. There were wider issues of isolation, exclusion and a lack of accessible information needed to support people during periods of national lockdown where

physical contact and access to services were limited. It was recognised that digital exclusion was an issue for disabled people and those without adequate digital connectivity were particularly at risk of isolation as they lacked alternative forms of interaction.

222. To help mitigate this, the Cabinet Secretary for Health and Sport announced on 7 May 2020 the Connecting Scotland programme to support 9,000 low-income individuals across Scotland that are clinically high risk to Covid-19. The programme was launched with £5 million package of funding to offer an internet connection, training and support, and a laptop or tablet to connect with friends and family during the pandemic.

223. Third sector organisations also provided support to autistic people and people with learning disabilities in response to Covid-19. As with other organisations, they had to be flexible and restructure their traditional face-to-face services online to address the lack of face-to-face connections and social connections. This has proved to be more person-centred and preferred by some clients at risk.

224. The Scottish Council for Voluntary Organisations (SCVO) worked with local authorities and the third sector to lead on identifying people who were digitally excluded to offer digital devices, distributing them and providing training and support. SCVO also provided training to staff and volunteers working for organisations to be able to support individuals to use the internet safely, confidently and effectively.

225. There were also challenges for people with learning/intellectual disabilities to understand Covid-19 government guidance and messaging. This was identified early on addressed by the Scottish Commission for people with Learning Disabilities providing an easy read translation service commissioned by the Scottish Government. They provided an Easy Read translation service of key Covid-19 information, such as the infographic circulated [CL16/105 - INQ000189302], as well as easy read information in relation to Shielding, Christmas guidance and NHS Inform.

226. A range of Covid-19 resources were developed with partners on the Inclusive Communications Hub. Funding was also provided to several DPOs throughout this period to projects aimed at supporting disabled people in Scotland impacted by the pandemic. The Scottish Government provided advisory services to help people interpret information to their personal situations.
227. On 16 April 2020 it also launched a service on gov.scot to help people find available support building on the UK government's 'Find Coronavirus Support' service by highlighting Scotland-specific support services for those affected by coronavirus. It provided information on staying safe, getting food, mental health and wellbeing, paying bills and other services.
228. In addition, the Scottish Government's Equality and Human Rights Fund provided £5 million to key disability organisations between 2021-2024. This fund provided support to deliver work focused on tackling inequality and discrimination, furthering equality, improving outcomes for disabled people, and advancing the realisation of human rights in Scotland. GDA also received a grant funding from the Scottish Government's Covid-19 Immediate Priorities Fund to support members during the pandemic, including money to improve digital access through the 'no-one left behind' project.
229. In response to increased infections, the Scottish Government Clinical Guidance was updated on 15 May 2020 to recommend tighter measures and limits on the numbers and types of direct contact between patients, visitors and staff, provided [CL16/017- INQ000383486]. The guidance was also updated to reflect the more detailed advice on routine testing and isolation of those being admitted to care homes (as announced on 21 April [CL16/120 – INQ000147429], and the further announcements on 1 May around testing in care homes – including outbreak testing).
230. The Inquiry has asked why the clinical guidance was not updated immediately following the decisions to start testing hospital patients prior to discharge or to provide additional operational support to the ASC sector. The Inquiry has asked for the CNO's views as to whether this may have caused confusion for the ASC

sector between 22 April and 15 May 2020. Former post holders may be able to offer further reflection on these matters. However, as stated above, understanding of the virus developed rapidly and the Scottish Government's priority was to make sure that developments in understanding the virus were acted upon quickly and the care home sector informed of the implications for them as quickly as possible.

231. Following the Cabinet Secretary for Health and Sport's statement to Parliament on 21 April 2020 on updated testing and isolation arrangements for people being admitted to a care home [CL16/120 – INQ000147429], PHS guidance for care homes and hospitals was updated from 26 April to reflect these arrangements [CL16/121 - INQ000189331]. More detail was added in subsequent iterations of PHS guidance - e.g. 29 April 2020 guidance - to reflect further discussions between clinical and public health colleagues on the arrangements required to implement and operationalise the policy. It was important to ensure that the wording was very clear so all teams on the ground knew what to do. The Scottish Government's Covid-19 guidance for care homes published on 15 May 2020 reflected these detailed arrangements alongside the further announcements on 1 May around testing in care homes – including outbreak testing [CL16/017- INQ000383486]. The DG HSC Module 6 Corporate Statement, submitted to the UK Inquiry on 9 May 2025 [INQ000614179], sets out in detail the guidance issued during the pandemic and the methods of communication used to update care homes.

232. The new arrangements for testing patients before discharge were also reflected in HPS guidance for hospitals on 26 April [CL16/122 - INQ000343832]. This provided detailed arrangements for testing and isolating.

233. The care home sector was aware of these new arrangements in advance of the publication of the 15 May guidance [CL16/015 – INQ000276978]. For example, Scottish Care communicated latest advice to their members, including updating their website on 27 April 2020 to include the latest HPS care home guidance [CL16/122 - INQ000343832].

234. A letter was also issued to NHS chief executives on 28 April 2020 setting out the updated approach to testing including testing people before admission to a care home [CL16/123 – INQ000189332] and a further letter was issued to NHS CEOs to provide a further update on the Scottish Government’s strategy and priorities for testing.

Pace of guidance

235. As set out at paragraph 176 above, on 2 April 2020 a joint letter was issued from CNO and CMO [CL16/106 - INQ000259889] highlighting revised PPE guidance which had been jointly published by Department of Health and Social Care, HPS, Public Health Wales, Public Health Agency Northern Ireland, Public Health England and NHS England. The guidance allowed for health and social care workers to self-assess the risk associated with the tasks they were being asked to undertake and to make a professional judgement based on that, including choosing to use fluid resistant masks and masks / visors. .

236. Following subsequent discussions with COSLA and UNISON, and a request from COSLA, the then CNO, Fiona McQueen, wrote a letter to COSLA on 5 April 2020 to provide supplementary guidance on the use of PPE by the workforce in Health and Care settings, provided [CL16/124 - INQ000488902]. Within this letter it was highlighted that: *“Where the person is neither suspected to be, nor confirmed as COVID positive, care at home staff carrying out personal care should wear what they have always worn – that is, an apron and gloves; and no mask”*. It was not appreciated that this wording may have caused difficulty with local authority staff as there was information in Table 4 of the 2 April guidance that supported the wearing of a mask in areas where staff essentially believed Covid-19 may have been prevalent, even if their clients had no signs or indication of Covid-19 infection. As soon as this anomaly was brought to the attention of the Scottish Government clarification was provided.

237. The letter of 5 April 2020 also clearly stated that a home care worker would be expected to wear the same PPE as a community nurse in a range of situations [CL16/124 - INQ000488902]. The situations being: “the person being cared for is

suspected of, or confirmed as having COVID; the person is neither suspected to be, nor confirmed as COVID positive; or, the person had not been expected to be suspected or confirmation as COVID positive, but then displayed symptoms on visiting their home". The guidance further stated "The guidance is for the health and social care profession, but not specific to any aspect – so, for example, a home care worker would be expected to wear the same PPE as a community nurse, depending on the situation described above".

238. Furthermore on 9 April 2020 a joint statement issued on behalf of SG, COSLA and the SJC Trade Unions [CL16/125 - INQ000489903] confirming that the UK nations guidance published 2 April was the official and fully comprehensive guidance on use of PPE in the context of Covid-19. The guidance made clear that social and home care workers could wear a fluid resistant face mask along with other appropriate PPE, where the where the person they were visiting or otherwise attended to was neither confirmed nor suspected of having Covid-19, if they considered doing so necessary to their own and the individual's safety.

239. There was never any intention that Scottish social care workers would be out of step with the rest of the UK.

240. In the early stages of the pandemic guidance was evolving rapidly in line with what was being learned about SARS-CoV-2. There was also a need to respond to requests from the ASC sector for guidance on specific issues. It was a key priority for the Scottish Government that stakeholders were informed quickly of new developments and the implications that this could have on the management of Covid-19 for the ASC sector. The Inquiry has asked for CNO's views on whether the rapidly evolving guidance issued throughout the pandemic may have given rise to confusion.

241. The Scottish Government was aware of concerns raised by Chief Executive and Human Resource Directors groups, as well as care home sector representatives through the main engagement forums discussed above (eg CPAG), regarding the frequency and timing of guidance issued and the implementation timescales.

242. To mitigate the risk of confusion and challenges around HSC settings having to proactively implement guidance that was issued from Scottish Government late on Friday afternoon, the Chief Executive of NHS Scotland put in place a temporary process to minimise the amount of correspondence issued to Health Boards. Updates were to be distributed to Health Boards through the Office of the Chief Executive of NHS Scotland for a defined period. This was not to prevent essential guidance being issued, but instead to ensure Health Boards were receiving only those communications directly related to their response to the pandemic.

243. For ASC guidance, the Scottish Government sought to ensure there were long lead times where possible and as much prior communication and engagement as circumstances would allow. There were occasions where Scottish Government had to issue or change guidance quickly when risk levels changed or where measures needed to be stepped up to protect people. One example of this was when the Scottish Government engaged care providers and other stakeholders on plans to make significant changes to guidance with the removal of routine face mask use and regular asymptomatic testing. SG worked with the sector to highlight changes well in advance through a series of webinars hosted by Scottish Care and others. See for example, workshop slides prepared for staff webinar on 1 September 2022 [CL16/126 – INQ000544542].

244. The CNO was a member of the WSLG which allowed communication with stakeholders and supported the implementation of clinical guidance. This process helped to develop and implement new guidance without delay, by engaging stakeholders at the earliest opportunity and raising awareness that new guidance was being prepared. The pace and implementation of guidance was also raised in the Care Home Review – a Rapid review of factors relevant to the management of Covid-19 in the care home environment (November 2020) (commissioned by the former Cabinet Secretary for Health and Sport) [CL16/127 - INQ000001279]. The review was commissioned to review the circumstances surrounding the occurrence and transmission of Covid-19 infection within four care homes in Scotland. The review was undertaken to provide meaningful

insight into the nature of any systems defects which may have had an impact on the management of IPC and to understand the issues and challenges facing care homes during the pandemic. A mixed methodology was employed, including a table-top review and analysis of relevant information and data, complemented by interviews with stakeholder using an appreciative inquiry approach (including interviews with representatives from care home managers and staff, Care Home Relatives Scotland, Scottish Care, Directors of Public Health, Executive Nurse Directors, HSCPs, IJBs, trade unions, HIS, PHS, SSSC and ARHA Scotland). The contributory factors and root causes are identified in the report, but the following factors were found to have been present in at least two or more of the care homes included in the review;

- High community prevalence of Covid-19 in the geographical region
- Homes which had >20 resident places, were for older adults and had not experienced a Covid-19 outbreak previously and had high occupancy
- Presence of asymptomatic cases and lack of awareness of the wider spectrum of symptom presentation in older people
- Delays in testing and reporting of results
- Slow confirmation of an outbreak
- Delays to initiation of additional control measures to stop the widespread transmission
- Context specific challenges in the care home environment with IPC measures.

245. The report included 15 recommendations relating to the following themes:

- Care home risk factors
- First wave
- Data landscape and digital infrastructure
- Early warning systems
- Testing

- IPC knowledge and expertise
- IPC indicators
- Leadership
- Training and education
- Guidance and local adoption
- Inspection arrangements
- Carer perspectives
- Built environment
- Raising concerns.

246. CNOD were represented on the review team and a reference group (including representatives from NHS Boards, Scottish Care, HIS, CI and SSSC) contributed to the review. Former postholders may be able to offer further reflection on these matters.

Guidance on the use of face masks/face coverings

247. Guidance on face masks and face covering use within health and social care settings adapted over the course of the pandemic in response to recommendations from the WHO, CNRG, PHS and/or ARHA Scotland. These recommendations evolved with greater knowledge about the transmission of the Covid-19 virus and the differing risk/benefit profile as infection-derived and vaccine-derived immunity increased along with the availability of effective treatments for Covid-19, amongst other factors. This guidance was appropriate for and tailored to all health and social care settings and was developed in collaboration with social care stakeholder groups such as CPAG.

248. In June 2020, as a result of the emerging evidence, the CNRG recommended that face masks should be worn at all times by staff within hospitals and care homes.

249. In September 2020 further updated guidance on the use of face masks, to cover primary and wider social care settings – bringing these settings into line with acute and community hospital settings – was issued.

250. The Inquiry has asked whether there were any issues of which CNO/CNOD were aware of at this time in relation to the existing guidance issued in September 2020. The Scottish Government was not aware of any issues in relation to the existing guidance. Former postholders may be able to offer further reflection regarding these matters.

Disaggregated face mask / face covering guidance – June 2021

251. Updated guidance on the use of face masks and coverings in social care settings specifically was published on 7 June 2021 [CL16/128 - INQ000525332] to support the sector's understanding and awareness and to expand the scope of the guidance to reduce the risk of nosocomial transmission in hospitals, primary care, community care and adult care home settings.

252. The guidance was issued by the CNO, with support from ASC officials, and was drafted following extensive consultation with the CNRG, SEND, WSLG, Scottish Care and CI, as well as Scottish Government officials in ASC, PPE, Shielding, FACTS and Compliance units and teams [CL16/129 - INQ000510031]. An accompanying FAQ document was also produced.

253. The decision to publish guidance for the ASC sector only was made in response to feedback from the ASC sector following an update to the HSC guidance on 7 June 2021. The guidance was drafted in such a way to help stakeholders quickly identify the areas of direct interest/relevance to them – which was previously difficult due to the combined nature of the guidance.

254. The HSC guidance had recommended all staff, visitors and patients in hospitals, primary care and wider community healthcare settings and care homes should wear a fluid resistance surgical mask (FRSM) where possible. This,

however, led to a concern that residents of care homes were expected to wear masks at all times, including in communal areas. It was therefore considered more appropriate to have separate guidance for ASC settings to ensure it was adequately communicated that residents in adult social care were not required to wear a mask within a care home, which is first and foremost their own home.

255. As a result, from 23 June 2021 onwards, guidance on the use of face coverings in social care settings, including adult care homes, was published separately from guidance on the use of face coverings in acute and primary care settings.

256. The Inquiry has asked for the CNO's views on whether the ASC sector's response to the pandemic may have been adversely impacted by the absence of tailored guidance for the ASC sector in Scotland prior to June 2021. The Scottish Government was not aware of any requirement for such guidance prior to June 2021, and once this requirement arose, for the reasons outlined above, the ASC sector specific guidance was developed and published. Former postholders may be able to offer further reflection on these matters.

Operational support for the ASC Sector

The role of CPAG, CHRAG & PRASCG

257. As detailed above at paragraphs 69 to 73, CPAG was established to provide clinical and professional advice and guidance and guidance for protecting the care home sector during the pandemic. It was recognised that Covid-19 may present in an atypical fashion and affects the most vulnerable, particularly those living in care homes. CPAG was commissioned and co-chaired by representatives from CMOD and CNOD on behalf of the CMO and CNO. Its remit was initially to cover care homes, but then expanded to consider the wider social care sector.

258. Details of the sub-groups formed under CPAG which representatives of CNOD attended are listed above at paragraphs 76 to 92. The need for sub-groups was identified and agreed by CPAG members and details of further sub-groups are provided in this section below.
259. As outlined above, the separate CHRAG was reformed as the PRASCG in September 2020. In order to maintain coherence of the different strands of CPAG and PRASCG groups, the CNO convened on a weekly basis the ASC Oversight Board with key Scottish Government officials to consider progress and escalate issues, if necessary.
260. CPAG priorities for action were identified as:
- Advice on Scottish Government Covid-19 clinical guidance for ASC including care homes
 - Covid-19 guidance developed by PHS and ARHAI
 - Care home visiting: guidance on the reintroduction of indoor visiting and monitoring progress. CPAG provided advice on the development of guidance for care homes on visiting throughout the pandemic. The CPAG sub-group, the Open with Care national oversight group, was established to monitor progress with national and local partners
 - Visiting Professionals guidance: services who contribute to the wellbeing of residents in care homes. Scottish Government advice was provided to the sector on 14 April 2021 which set out the phased approach to the return of HSC and other visiting professionals, including hairdressers (within the Open with Care guidance) – CPAG advised on the development of this guidance
 - Healthcare Framework for Care Homes: an integrated framework for adults and older people living within care homes was developed (based on the four core elements of care). A CPAG sub-group was established and met monthly to discuss and coproduce the framework and implementation plan with key stakeholders

- CPAG engagement work stream: a sub-group was established to provide a forum for engagement with families/friends on the work of CPAG, including care home visiting. This group then merged with the Anne's Law / Open with Care national oversight group, terms of reference provided [CL16/039 - INQ000509906]
- IPC in care homes; work to implement the IPC recommendation of the root cause analysis: outbreaks in care homes [CL16/130 - INQ000280638]. CPAG established a sub-group to consider recommendations around training and support for staff - induction module, webinars, guidance, the NIPCM Care Homes Addendum
- Data to inform decision making: CPAG recognised the importance of the integration of data to inform guidance. Work was undertaken to consider which data was needed to inform decision making and drive improvement
- Safety Huddle tool (TURAS): the TURAS tool was developed and used daily by all adult care homes and the local multidisciplinary oversight teams during the pandemic. The tool was developed by the Scottish Government in collaboration with care homes and NES in August 2020. The tool collects pertinent data such as IPC measures, occupancy, staffing and outbreak levels, and information on care home visiting to enable situational awareness and risk assessment for care homes. This daily data supported oversight teams to identify care home risks earlier and the need for early intervention and enabled ongoing monitoring of Covid-19 across HSCP areas. A TURAS Care Home Management group met monthly
- ASC testing programme: the roll out and review of testing for care homes (staff and visitors) and care at home staff. CPAG provided advice on the delivery of programme and guidance and training to the sector. In November 2021, a review of the enhanced care home staff testing was undertaken with input from SAGE
- Advice on the implementation of vaccination policies in social care
- Advice on local oversight and Multi-Disciplinary Team (MDT) support for care homes and ASC (described at paragraph 285)

- Advice around adoption of Vitamin D supplementation in care homes. A Vitamin D CPAG sub-group/short life working group was established in June 2021 by the CMO and CPO to consider the issue of Vitamin D supplementation and access to consider the evidence and make recommendations.
261. The work of CPAG was also closely linked to the roll-out of the vaccination programme for care home staff and visitors and the use of digital in social care.
262. As noted elsewhere, CPAG was a useful forum for collaborative, focused and appropriate guidance and policy development which enabled a wide range of stakeholders to come together to collectively consider the needs of the sector around advice and guidance, which informed the development of guidance for the ASC sector. When policy or guidance was being developed, CPAG supported rapid consultation with relevant stakeholders across a diverse and wide group which enabled appropriate solutions and advice to be developed.
263. The Inquiry may wish to note that the views of CPAG members on the work and effectiveness of CPAG were sought and these were discussed at its final meeting of 15 December 2022, minute provided [CL16/131 - INQ000525639].
264. Whilst CPAG and CHRAG were not established at the outset of the pandemic, these groups built on the range of existing forums and arrangements for discussing operational support for the ASC sector.
265. This included the COSLA-convened NCPG, a multi stakeholder social care group that had existed since 2011 to support contingency arrangements in social care. The NCPG discussed emerging issues and the approach to providing collective support to the social care sector. As other COVID-19 resilience structures for social care were put in place by the Scottish Government from April 2020, the NCPG role around collective support for the sector in relation to Covid-19 ended in June 2020, with many members forming part of the new advisory groups.

266. There were also regular individual meetings between Scottish Government and stakeholders such as care providers and representative bodies prior to the establishment of CPAG and CHRAG. This included bodies and groups such as IJB Chief Officers, COSLA (for local government), Scottish Care (for independent and some third sector providers), and CCPS (for third sector). Regular meetings were also held with regulators such as the CI and SSSC and with trade unions, including both the Scottish Trade Unions Congress (STUC) and individual trade unions, including GMB, UNISON and UNITE.

267. Pre-CPAG there were also direct bilateral discussions with professional groups via professional forums to discuss issues facing the health and social care sectors. These forums continued to be important throughout the pandemic but CPAG brought together a broad range of clinical and professional advisers and stakeholders including care providers to consider issues collectively.

Remit of Executive Nursing Directors – May 2020

268. The CNO acts in a professional leadership role for Executive Nursing Directors. The then Cabinet Secretary for Health and Sport wrote to Executive Nursing Directors on 17 May 2020 [CL16/132 - INQ000228376] to alter their roles and responsibilities to include accountability for the provision of nursing leadership and for support and guidance within the care home and the care at home sectors. This followed a prior request from the Cabinet Secretary for Health and Sport for the establishment of multi-disciplinary teams, comprising of key clinical and care leads from NHS Boards and local authorities, to provide whole-system support to protect residents and staff.

269. The letter stated that Executive Nursing Directors and their officers were expected to support the Directors of Public Health to review the information submitted to them by care homes, identify specific issues and support the development and implementation of solutions to ensure residents received safe, high quality services. This included reviewing care home safety data to:

- Identify where specific nursing support may be required and to develop and implement solutions where required, including clinical input that there are effective community nursing arrangements in place to support increasingly complex nursing care requirements
- Identify where specific IPC support may be required (including recommendations and review in relation to cleaning to prevent transmission and appropriate use of PPE)
- Support the development and implementation of testing approaches for care home and care at home settings
- Identify and support sourcing of staffing as required by the care home and care at home settings, as defined by the requirements set out in DL(2020)10 and DL(2020)13.

270. As previously stated at paragraph 39, the then CNO, Professor McQueen, wrote to this group on 15 June 2020 [CL16/024 - INQ000429267] to clarify that Executive Nursing Directors were not accountable for the care being provided by external providers to those individuals in receipt of care in their own home. The letter clarified, however, that where clinical and professional nursing leadership and input was required, the Executive Nursing Directors should have a professional advisory role. The letter also clarified that, whilst the emphasis in the letter of 17 May 2020 was on care homes for older adults, should clinical leadership, advice and guidance be required within other residential settings within their Board areas as part of the current pandemic, this should be given, in line with the ask described regarding care at home.

271. Further guidance for multi-agency scrutiny assurance partners was issued on 1 October 2020 [CL16/133 – INQ000429273] which provided further detail of the Executive Nursing Director role in care homes, as follows:

- Direct responsibility with Medical Director for the clinical support required for each care home in their health board area in collaboration with Directors of Public Health

- Professional nursing leadership, support and guidance
- IPC, PPE, workforce requirements, provision of mutual aid, education and training
- Standards of Care through undertaking supportive reviews and visits with each care home.

272. The Inquiry has asked for the CNO's views as to what extent the additional support provided by Health Boards from 18 May 2020 onwards was timely and adequate, and what additional action could have been taken to support the ASC sector during the early stages of the pandemic. The DG HSC Module 6 Corporate Statement, submitted to the UK Inquiry on 9 May 2025 [INQ000614179], sets out in detail the additional support provided to the ASC sector at paragraphs 873 to 905. Given the current CNO was not in post at the time, however, the former CNO from this time period may be able to provide further views regarding the timing and adequacy of this support.

273. It is important to note that the support package put into place in May 2020, was not the first, or sole, set of support arrangements to be provided to care homes. Prior to May 2020 COSLA and the Scottish Government had arrangements in place to provide support in the ASC sector. The Cabinet Secretary for Health and Sport's Ministerial Statement on 21 April 2020 set out a tailored series of additional steps to support staff and residents of care homes [CL16/134 - INQ000292544]. The support package built on the experience of earlier provisions put in place by local and national partners to provide direct and tailored support to the sector including:

- The request to Directors of Public Health in April 2020 around their leadership role relating to their statutory responsibilities for the safety and wellbeing of care homes and staff working with local IPC teams, the CI, primary care teams and others to oversee the provision of local support and assurance to all care homes

- CI being equipped to have an enhanced role of assurance, including greater powers to require reporting from April 2020 onwards
- Distribution of PPE – including the delivery of a top-up supply of PPE to around 1,100 adult care homes between 18 to 23 April 2020, prioritising care homes with known outbreaks and increasing access to NHS PPE to care homes. This built on the existing provision of PPE from national stock, which was provided free of charge for top-up and emergency provision for social care support needs (where normal supply routes were unsuccessful).

Operational concerns

274. The CNO was made aware of operational concerns via a range of sources, including through involvement in CPAG and other fora, as well as via discussions at SEND meetings. For example, the following operational issues were discussed at CPAG meetings where issues were flagged by individuals/organisations for further consideration (Please note, this is not an exhaustive list of all issues discussed):

- 28 May 2020 – consideration of PPE being provided to visitors [CL16/135 – INQ000323335]
- 5 November 2020 – visitors to care homes [CL16/136 – INQ000323428]
- 12 November 2020 – safety huddle tool [CL16/137 – INQ000323311].

275. The CNO chaired meetings with SEND. These meetings discussed professional matters and allowed for senior nurses within territorial and national boards to feedback on the impact of guidance or policy. Matters discussed during the pandemic included the increased oversight of Nurse Directors in care homes, further details can be found at paragraphs 52 to 54 above.

276. The CNO and CNOD were not aware of any shortages of PPE or RPE, for nursing or midwifery staff but were anecdotally aware that supplies were not always easily accessible to staff in some instances. The CNO discussed this with

the Chair of Executive Nursing Directors and SEND, for example, who provided details of the measures being undertaken to secure PPE and RPE supplies for health and social care staff, including those working in the ASC sector.

277. The CNO met with the Cabinet Secretary for Health and Sport on 29 January 2021 and discussed issues raised by frontline staff in relation to PPE. At the meeting, the CNO's HAI policy team were asked to work together with NES, ARHAI and other clinical experts to roll out a series of webinars to reinforce and promote the current IPC measures along with an explanation of the underpinning evidence base. These webinars were aimed at reassuring staff and providing them the opportunity to ask questions of experts.

278. The CNO and CNOD were not directly involved in testing the adequacy standard of the fit of PPE and RPE for nursing staff but were aware of issues around fit of PPE (including face fitting). Face fit issues were discussed at the WSLG on 15 April 2020. The CNO worked with the PPE Directorate to ensure there was a variety of PPE options available for staff. Officials were kept informed of issues via attendance at weekly PPE policy meetings and via the PPE Clinical Advisory Panel (CAP). The CNO was made aware of the letter sent by BMA to the Department of Health and Social Care on 13 January 2021, which set out concerns regarding ill-fitting PPE. Issues regarding PPE, including the development of transparent face masks to facilitate lip reading, were handled by the PPE Directorate.

279. The Inquiry has asked to what extent the CNO/CNOD may have been aware of any difficulties experienced by social care nursing staff in accessing care settings or in accessing doctors, medication, ambulance services and/or other support services for any recipients of care during the pandemic. In addition, the Inquiry has asked for the CNO's views in hindsight of what more, if anything could have been done during the pandemic in terms of operational support for the ASC sector. The CNO in post during the time may be offer further reflection regarding these matters.

Workforce

280. The Scottish Government took a number of steps in the early stages of the pandemic to protect those working within social care settings. These focused on measures to prevent staff contracting Covid-19 in the workplace, prevention of transmission of Covid-19, detection of Covid-19 among staff and service users, support for staff with Covid-19 and wider wellbeing support around the impact of Covid-19 on staff.

Workforce capacity

281. Extensive work was undertaken with Scottish Government and its partners to put in place arrangements to increase social care workforce capacity. From the first week of March 2020, the Scottish Government was engaged in discussions about the use of nursing, midwifery and allied health profession students in the workforce. The aim was to increase the health and social care workforce capacity as staff sick absence was expected to be high and health and social care services were also expected to be stretched.

282. The WSLG received regular updates regarding workforce pressures across the system (although this did not provide detailed breakdowns of nursing absences). This provided details of the current levels and numbers of staff being recruited to support the health and social care system. WSLG members worked to take collective action enabling a timely co-ordinated response.

283. The Executive Nursing Director role, outlined above at paragraphs 268 to 273 above, was given responsibility to ensure locally that care homes had sufficient staffing including where necessary providing mutual staffing aid.

284. NHS boards and local authorities were requested in May 2020 by the Cabinet Secretary for Health and Sport to provide enhanced multidisciplinary wrap around support for care homes, building on earlier support arrangements for care homes. As part of this, SEND were specifically asked to extend their roles and responsibilities (as outlined above at paragraphs 39 and 70 above). Executive Nurse Directors worked closely with other NHS and Local Authority professional

leads such as CSWO, IA Chief Officers, Scottish Directors of Public Health and medical directors to provide wrap-around support for care home providers including assurance and support for IPC implementation.

285. As part of these enhanced MDT support arrangements, mutual staffing aid was provided. In many places, nursing staff were deployed in care homes, particularly where there were staffing shortages, but also where there were concerns about the care and support being provided to residents. This was informed by information from the care home about challenges they were facing, and through NHS, Local Authority and Care Inspectorate working with care homes. Care homes used the safety huddle tool (SHT) to escalate matters relating to staffing and other issues. As noted elsewhere, the SHT was designed to collect pertinent data such as IPC measures, occupancy, staffing and outbreak levels, and information on care home visiting to enable situational awareness and risk assessment for care homes. This daily data supported oversight teams to identify care home risks earlier and the need for early intervention including mutual staffing aid, and enabled ongoing monitoring of Covid-19 across HSCP areas.

286. As outlined above at paragraphs 84 to 87, the Care Home Nursing National Working Group was established in August 2021 to consider concerns regarding nurse staffing levels. The group discussed and considered matters such as recruitment, defining roles/transforming roles, models of care, continuous training and development and the need for quality workforce data.

287. As part of its system response/winter planning work in Autumn 2021 the Scottish Government considered a number of approaches to maximise staff capacity which were relevant to retired and returning nurses and doctors, including:

- Maximising the opportunities for professionals who were on temporary emergency registers held by GMC, NMC, HPCP and GPhC to return to the service

- A nationally coordinated recruitment campaign across Scotland and the rest of the UK to address shortages for care at home nurses and band 5 nurses
- A renewed 'call to arms' to retired staff or those who had left the service, directly linked to local recruitment opportunities as advertised via JobTrain, NHS Scotland's recruitment IT system.

288. The Scottish Government engaged with regulatory bodies (GMC and NMC) around communications with temporary medical and nursing registrants encouraging them to apply for vacant roles. As part of a wider national 'call to arms' it was anticipated that communications were to come from the relevant senior officer e.g. the CMO and CNO. To that end, letters were sent (on 27 September 2020) from Chief Professions Officers (CMO, DCNO, Chief Allied Health Professions Officer, CPO) to staff that remained on the emergency registers of the regulatory bodies, encouraging them to return to the service if they continue to be interested in doing so.

Temporary registration

289. The CNO was involved in a number of efforts to increase the number of nurses in the healthcare system to help respond to the pandemic. The CNO spoke with the Chief Executive of the NMC on 12 March 2020, where the CNO advised that the UK Government would bring forward emergency legislation to give the NMC, upon declaration of a public health emergency, by the Secretary of State, broad powers to temporarily register anyone it considered "fit, proper and suitably experienced". Frequent conference calls were held between the NMC and four country CNOs and their offices, regarding these matters.

290. Decisions regarding eligibility criteria for temporary registration, and mitigation of risk, were the statutory responsibility of the NMC. The Scottish Government was not involved in subsequent decisions to amend the scope, eligibility criteria or duration of the NMC or other temporary registers. The management of risk was for employers, commonly through deploying temporary registrants in areas of lower acuity, and with higher levels of supervision, thereby increasing substantive capacity for higher risk settings. There was regular engagement

between the NMC Executive Team and CNOD to understand the implications of students supporting the response, also taking into account views of other key stakeholders such as trade unions, universities and the RMC. The regulator made the determination as to what roles students were permitted to take up. For example, first year students were not permitted to enter the substantive workforce but were allowed to join the Staff Bank as Healthcare Support Workers. Patient safety was the primary concern in agreeing which student cohorts should be offered the opportunity to join the workforce, recognising the need to balance support and professional supervision requirements against potential impacts on the workload of the registered workforce. The standards were agreed as suitable for students in the final six months their course, having, by that stage, accumulated sufficient clinical and academic learning to be able to meet them. The UK CNOs were informed of this decision in advance of announcement; however, this was a decision for the NMC Council in its role as regulator.

291. The UK Coronavirus Act 2020 (passed on 23 March 2020) allowed temporary registers to be established, and on 27 March 2020 the NMC opened a temporary Covid-19 emergency register to encourage nurses and midwives who had left the register in the past three years to opt back in, should they so wish. This decision was taken collectively on a four nation basis.

292. The emergency register was expanded on 6 April 2020 to include overseas nurses and midwives who had completed entire NMC registration process (excepting those who had undertaken Objective Structured Clinical Examination). The register was expanded again on 15 April 2020 to include nurses and midwives who had left the register in the previous four or five years.

Wellbeing

293. Throughout the period of the pandemic, the Scottish Government maintained its support to the social care workforce to deliver safe support and care and to have positive mental health and wellbeing. The Scottish Government identified the importance of providing on-going support to promote both physical and psychological wellbeing, and worked with NHS Boards, HSCPs and social care

providers to ensure arrangements were in place for actively promoting rest and recuperation.

294. The Scottish Government continued to recognise that individuals who work in health and social care experienced high levels of mental ill health, including depression, anxiety and PTSD. As part of the announcement of the Programme for Government 2020, the Scottish Government allocated £5 million in 2020/21 for a comprehensive package of national support to the workforce. This included a National Wellbeing Hub, digital therapies, Coaching for Wellbeing, the National Wellbeing Helpline, funding for psychological therapies and a new Workforce Specialist Service. The CNO was sighted on proposals for a suite of services to support the wellbeing and mental healthcare needs of the HSC workforce during and beyond Covid-19 [CL16/138 - INQ000241212].

295. On 17 April 2020, the DGHSC wrote to Chief Executives of NHS Boards with a request from the First Minister and Cabinet Secretary for Health and Sport that Directors of Public Health take immediate action to deliver an enhanced system of assurance around the safety and wellbeing of care home residents and staff [CL16/095 - INQ000364126].

296. Furthermore, the document “Re-mobilise, Recover, Re-design: the framework for NHS Scotland” published on 31 May 2020 [CL16/139 - INQ000324498] also outlined staff and carer wellbeing as one of eight key priorities for health and social care mobilisation. The document set out that the Scottish Government would:

- Support people to recover including their mental health and wellbeing
- Capture the interventions currently in place; identify additional actions required to support staff and include in the plan for recovery
- Emphasise the importance of wellbeing and kindness.

Wellbeing Line

297. On Monday 20 July 2020, the “wellbeing line” for the health and social care workforce, based within NHS 24’s Mental Health Hub, was launched. The health and social care workforce wellbeing line routed callers to a ring-fenced team of Psychological Wellbeing Practitioners who offered callers a compassionate and empathetic response based on the principles of Psychological First Aid. They also provided advice, signposting and onward referral to local services if required.

Wellbeing Hub

298. The National Wellbeing Hub provided a range of self-care and wellbeing resources for all staff, unpaid carers, volunteers and their families to enhance personal resilience, and signposted to relevant mental health and support services. This included the Workforce Specialist Service – which offered confidential mental health assessment and treatment for regulated health and social care professionals; digital apps to help with stress, anxiety and sleep; and online ‘Coaching for Wellbeing’. In addition, grant funding was made available via a new Workforce Wellbeing Fund intended to improve staff wellbeing for staff working in Adult Social Work & Social Care across the public, private & voluntary sectors.

Wellbeing Conversations

299. Another area of staff support around mental and physical health were Wellbeing conversations. These were intended to be regular, supportive, coaching-style one to one conversations that focused on the wellbeing of staff. They considered the whole wellbeing of an individual (e.g. physical, mental, emotional, social, financial, lifestyle, safety), They could help identify areas where an individual may need support, signpost them to that support and regularly monitor their wellbeing over time. Learning from the experience of where Wellbeing Conversations were working well, and using tried and tested national tools for stress prevention/management the Scottish Government provided templates, guidance, resources and training to roll these out widely across the health and social care system. These took cognisance of Work Positive managed

by PHS, and the Health and Safety Executive (HSE) Stress Indicator and Talking Toolkit.

Reflection

300. The Inquiry has asked what, in the CNO's view, could have been done, if anything, during the pandemic to support the social care nursing workforce. The previous CNOs, in post during the relevant time period, may be able to provide further insight. The Scottish Government undertook a range of measures to support the social care nursing workforce, and ASC workforce more generally. Scottish Ministers recognised the valued contribution of the workforce during the pandemic. As described earlier in the statement a range of measures were introduced to demonstrate support to the adult social care workforce. Those included establishment of a new wellbeing hub, an uplift to the Real Living Wage, and a "Thank you" payment. Further details regarding the "Thank You" payments' are provided at paragraph 492 of the Module 6 DGHSC Corporate Statement provided to the Inquiry on 9 May 2025 INQ000614179.

301. The Scottish Government engaged with workforce representatives throughout the pandemic to understand the issues facing the social care workforce and worked with them to develop guidance, monitor its implementation and provide support. The Guidance issued by both the Scottish Government and HPS/ PHS on the management of Covid-19 in care homes and residential settings aimed to protect all those within social care settings, including staff and residents. The guidance focused principally on preventing ingress of Covid-19 within care homes and other settings and minimising transmission in outbreak situations.

302. Local PPE Hubs were established in March 2020 which ensured that social care workers across the social care sector had access to PPE support. The Scottish Government also worked with its partners such as the local multidisciplinary oversight teams and Care Inspectorate to obtain assurances around training on IPC measures, staffing levels and use of testing in care homes.

303. In April 2020, care home staff and their household members with symptoms were given access to testing. This was followed by routine whole-home testing of everyone regardless of symptoms in care homes with cases of Covid-19.
304. In June 2020, the Scottish Government introduced the requirement for care home staff who interact with residents to wear a medical face mask throughout their shift as part of enhanced safety for health and social care staff. Furthermore, anyone entering care homes was asked to wear a face covering throughout. The Scottish Government also worked with its partners to obtain assurances around training on IPC measures, staffing levels and use of testing in care homes.
305. In conclusion, the Scottish Government recognised the importance and valuable contribution of individuals working in social care. During the pandemic, the Scottish Government acknowledged the concerns raised by workforce representatives and sought to protect and support key workers. This is demonstrated through the range of measures put in place from early in the pandemic to protect the workforce, as outlined above.

Testing

306. The CNO and CNOD's understanding of the virus grew and was informed by their participation and involvement in key groups such as the CNRG, Covid-19 Advisory Group and CPAG.
307. Further detail regarding the development of the Scottish Government's approach to testing, including the Scottish Government Testing Strategy [CL16/140 - INQ000147448] (published 17 August 2020) is set out at paragraphs 635 to 784 of the Module 6 DG HSC Corporate Statement submitted to the Inquiry on 9 May 2025 **INQ000614179**].
308. The CNRG provided advice to the CNO and CMO. This advice was considered by the CNO and CMO, in conjunction with officials in the HAI/AMR Policy Unit to inform policy development. CNOD and CMOD provided submission to Ministers, containing CNRG advice, on the following topics:

- The evolving understanding of the nature of Covid-19 and infection routes, potential consequences of infection, at-risk groups, the risk of re-infection and death
- The impact of the Covid-19 pandemic and the countermeasures taken by the Scottish Government on those at risk or vulnerable, whether as a result of underlying medical conditions or protected characteristics in Scotland
- Testing strategy and rollout
- NHS capacity, including the availability of staff, equipment, PPE and infrastructure, and the management and significance of nosocomial infection
- Non-pharmaceutical interventions (NPIs)
- Face coverings.

309. One example of this was when CNRG provided advice on the use of face masks and face coverings in health and social care settings, which was used by CNO and CNOD to formulate and update the guidance on extended use of face masks in health and social care settings. The view of CNRG as noted in a briefing to Cabinet Secretary for Health and Sport on 5 June 2020 [CL16/141 – INQ000261245] was that current evidence from NHS Scotland cluster analysis on the number of staff testing positive, supported the SAGE view that face coverings / masks should be used by all healthcare staff who are unable to physically distance as well as members of the public who are attending healthcare settings. An article in the Lancet publication on 1 June 2020 supported the policy view. The extended use of face mask and face covering guidance was then developed and implemented [CL16/142 - INQ000343820] [CL16/143 - INQ000343819].

310. Advice provided to the Cabinet Secretary for Health and Sport on 20 April 2020 from HPS, CMO and CNO on testing policy and care home settings [CL16/085 - INQ000249330] referenced that symptoms can be atypical in older, frail, individuals, which may lead to failure to recognise the onset of symptoms. The advice stated that “some patients may essentially have an asymptomatic episode of Covid-19 infection” and therefore should be isolated on admission to a

care home setting. These concerns, in conjunction with concerns regarding the sensitivity of PCR tests, meant that the decision was taken to isolate patients on discharge from hospital, in order to mitigate the potential risks of asymptomatic transmission.

311. The CNO provided clinical advice on 7 May 2020 on the draft guidance regarding discharge to care homes from hospitals, those returning to care homes from hospitals and isolation, testing and PPE requirements. The CNO noted in their advice the risks around; asymptomatic transmission, the contagious nature of the virus and potential ingress routes into care homes [CL16/144 - INQ000343704].

Self-isolation guidance

312. Responsibility for the development of self-isolation guidance sat with the Health Workforce Directorate. The CNO and CNOD provided clinical advice and worked closely to support the development of this guidance. The CNO, CMO and Director of Health Workforce issued joint letters to HSC staff regarding the self-isolation guidance on 6 January 2022 [CL16/145 - INQ000477440].

313. Covid-19 testing of healthcare workers both facilitated and hindered healthcare worker availability. As stated in the advice provided on 11 May 2020 [CL16/146 - INQ000249497], the objectives of introducing health and social care workforce testing were to:

- Reduce the risk of nosocomial transmission to/from between staff – to identify cases so that steps can be taken to avoid transmission in HSC settings
- Reduce the risk of nosocomial transmission to and from patients and care home residents – to identify cases so that steps can be taken to avoid transmission in HSC settings
- Reduce the risk that HSC workers transmit Covid-19 in the community in which they live (as opposed to HSC settings).

314. However, staff who then tested positive would have to isolate in accordance with the guidance, resulting in higher absence rates. This led to measures to identify staff who could be redeployed to care homes in such instances, see further briefing to the Cabinet Secretary provided [CL16/147 - INQ000544543]. CI data demonstrated, for example, on 26 July 2022, that the Covid-19 related staff-absence rates peaked in January and March 2022 at 8-9% and 5-6% respectively and then decreased to 1% across all services in May 2022. The regular data showed the level of staff absences / unavailable staff for care at home/housing support services, care homes for adults and older people (including all types of absence and vacancies (including annual leave)) with all posts (vacant and filled) as a denominator). For example, on 19 July 2022 the unavailable staff rates were higher in care at home/housing support services (23%) when compared with care homes for adults (20%) and older people (18%). The CI can provide further detail of the data provided on social care staff absence and its source(s).

315. The aim of the programme, however, was to stop nosocomial transmission and protect those accessing healthcare from the harms caused by Covid-19.

Testing in care homes and of social care nursing staff (including access to tests for social care nurses)

316. On 15 April 2020, the First Minister announced that all symptomatic patients in care homes would be clinically assessed and, where appropriate, offered testing for Covid-19 [CL16/148 – INQ000147356]. The CNO wrote to all NHS Territorial Board Chief Executives and SDsPH on 16 April 2020 explaining the change from the existing infection management procedures [CL16/149 – INQ000147357]. The CNO's letter stated, *"we are making this change in acknowledgement of the unprecedented pressures on our care homes, in order to offer this additional level of reassurance during what will be a deeply unsettling time for both our vulnerable elderly population and their families."* CNO advised that HPS would be updating their guidance accordingly and HPS issued their updated guidance on 17 April 2020 [CL16/150 - INQ000189304]. This guidance provided contact details for local health protection teams. If it was believed that a care resident or residents were displaying symptoms consistent with Covid-19,

individuals were asked to contact the local HPT who would provide support in putting place arrangements for testing. Social care staff who had symptoms consistent with Covid-19 (or where a member of their household displayed symptoms) were told to self-isolate and discuss testing with their employer as appropriate. The employer was then responsible for referring to local arrangements for the testing of HSC staff.

317. Further details of the developing approach to testing care home staff and residents is set out (at paragraphs 691 to 727), and visitors to care homes (at paragraphs 734 to 746) in the Module 6 DG HSC Corporate Statement submitted to the Inquiry on 9 May 2025 [INQ000614179].

318. CNOD were the policy leads responsible for asymptomatic healthcare worker Covid-19 testing using both PCR and LFD tests, inclusive of healthcare assistants and midwives, throughout the pandemic. CNOD were the policy leads throughout the pandemic period for asymptomatic healthcare worker LFD testing. The timeline below – there was an original focus on asymptomatic PCR testing in haemo-oncology units, long term care of the elderly and long stay mental health facilities.

319. Testing was expanded further with routine asymptomatic staff testing commencing. This was initially confined to high-risk settings – staff in healthcare and care homes – with the Scottish Government announcing on 23 June that health and social care staff were to be offered weekly PCR testing from 8 July 2020 [CL16/151 - INQ000509949].

320. Following this announcement, the Scottish Government (led by a CNOD professional adviser) established a Short Life Working Group to support efforts to roll out PCR testing to care home staff, terms of reference provided [CL16/152 – INQ000259982] and minutes [CL16/153 – INQ000544545], [CL16/154 – INQ000544550], [CL16/155 – INQ000544551], [CL16/156 – INQ000544552]. This included representatives from Scottish Government, care home provider representatives, care home providers and NSS. Where issues were raised, Scottish Government worked with NSS and NHS Boards to resolve

them. Issues raised and discussed at the group included; accessibility of services, administration demand, procurement, challenges faced by the workforce, the clarity and implementation of guidance, registration, uptake of tests, results interpretation, costs, funding, stock, waiting lists and communication channels. For example, at its meeting on 21 June 2021 [CL16/157 – INQ000544553]. it was noted that discussions would take place with Chief Officers to support the process of transferring logistics and administration of Greater Glasgow and Clyde care homes staff testing to NSS. It was also noted that communications had been issued to care homes, Scottish Care and CCPS to support the use of pilot bar code scanners in adult care homes during July 2021. The group also worked to develop guidance and communications to nurse agencies (registered with the Care Inspectorate) to ensure staff were tested prior to deployment to adult care homes, in line with the latest testing guidance.

321. The Adult Social Care Winter Plan 2020/21 referenced the critical role of testing in limiting transmission. The Covid-19 Review of Testing Strategy produced by the CMO, CNO, NCD, Chief Scientist and Chief Scientist (Health) published in October 2020 [CL16/158 - INQ000242098] set out the approach to expanding routine testing. Priority groups for additional testing capacity were identified as health and care staff who visit care homes and other residential settings (as appropriate); designated visitors to those who live in care homes; and care at home staff [CL16/159 - INQ000241545].
322. The Scottish Government's Testing and Contact Tracing Policy Division had oversight of LFD test availability and had regular meetings with the UK Government to manage stock, demand and the requirements of asymptomatic testing programmes. CNOD were engaged in the Testing Programme Board which was a collaboration between the Scottish Government Director of Test and Protect (Christine McLaughlin) and National Services Scotland who had the operational responsibility for delivering the testing programmes. CNOD was not called on to address any shortages of LFD tests.
323. CNOD was not aware of any ASC nursing staff having difficulty in accessing LFD tests for the purposes of asymptomatic COVID-19 testing. NSS Procurement

colleagues were members of the Expanded HCW LFD testing programme board. The Boards/Primary Care Team for Pharmacy designated local distribution processes and CNOD has no record of any Board not being able to secure kits in a timely manner or in appropriate numbers. There may have been the odd local issue about distribution and/or pick up but the kits were distributed through a rigorous and well-managed process by National Procurement.

Staff absences

324. The CNO and CNOD were aware that staff absences from Covid-19 were negatively impacting the workforce, and these issues were discussed at forums such as the CPAG, PRASCG, WSLG and GOLD. The CNO was made aware of staff absences within the social care workforce including social care nurses via the NHS Capacity and Pressures Daily Reports which were issued to Ministers and Scottish Government officials on daily basis as well as through data shared at the GOLD social care group. The GOLD group, which was established to support the resilience of the care sector and ensure that people and providers were getting the support required to maintain quality services, considered a range of measures relating to the impact on the sector. This included Care Inspectorate data on Covid-19 related absence levels in social care as well as the level of staff absences / unavailable staff for care at home/housing support services, care homes for adults and older people (including all types of absence and vacancies (including annual leave)) with all posts (vacant and filled) as a denominator). On 26 July 2022, the data considered by GOLD showed that the Covid-19 related staff-absence rates peaked in January and March 2022 at 8-9% and 5-6% respectively and then decreased to 1% across all services in May 2022 [CL16/160 – INQ000544488]. Around the same time on 19 July 2022 unavailable staff rates, were higher in care at home/housing support services (23%) when compared with care homes for adults (20%) and older people (18%). Such staff absences levels meant that there were significant challenges locally in ensuring the quality of service provision for people requiring social care support.

325. To assess provision locally, staff absence levels were monitored closely by local partners to ensure the viability of services. The SHT was developed to

collect a range of pertinent care home data included information on occupancy, staffing and outbreak levels among other things and enabled situational awareness and risk assessment for care homes. Such data was used by local NHS and Local authority oversight teams, which were established early in the pandemic, to identify risks earlier and the need for early intervention and support including mutual staffing aid for nursing and social care staff. The CNO wrote to Executive Nurse Directors on 17 May 2020 regarding the variation to their roles and responsibilities indicating that as part of the MDT oversight teams they should be accountable for the nursing leadership support and guidance for the social care sector. This letter built on the one from Scottish Ministers which out new arrangements for enhanced professional and clinical care oversight of care homes 17 May 2020 [CL16/021 – INQ000320162], [CL16/022 – INQ000320169].

326. The Scottish Government responded to these and other workforce related risks by working with its partners to identify priorities and scope for support. It met regularly, often weekly, with representatives of carer organisations, COSLA, HSCPs and trade unions to support the sector and take action. This included through the PRASCG and GOLD groups .

Matters relating to end-of-life care

327. Scottish Government Clinical Guidance for care home residents provided advice on support for care home residents who were dying. This was consistent with national advice on end-of-life/palliative care. For example, the guidance issued on 15 May 2020 [CL16/017- INQ000383486] included a section on “Support for palliative and end of life care during the COVID-19 pandemic” which include advice on:

- The role of care home staff and teams supporting care homes particularly around palliative care
- The importance of good communication and coordination
- A palliative care toolkit on access to supportive and palliative care medicines;

- Accessing and administering appropriate medicines.
328. Further discussion on DNACPRs is provided at paragraphs 138 to 160 of this statement.
329. The CNOD/CNO is not aware of any social care guidance advice which was not consistent with national advice on end-of-life/palliative care. The Inquiry has asked for any views or significant concerns the CNO had on the provision of end of life/palliative care within the ASC sector during the pandemic. Former postholders may be able to offer further reflection on these matters.

Impact and Inequalities

330. From the beginning of the pandemic, Scottish Ministers set clear expectations that NHS Boards, HSCPs and local authorities should promote both the physical and psychological wellbeing of staff whether they operate in a hospital or a community setting. Further detail regarding measures taken to support staff wellbeing are set out at paragraphs 293 to 305 above.
331. It is important to note that experiences of Covid-19 differed between care homes and thus the experience of social care nursing staff will have differed. For example, anecdotal evidence has shown experiences may have varied between care homes which experienced significant outbreaks, managed outbreaks, or between larger and smaller care homes. This is reflected in the Lessons Learned from the Initial Health and Social Care Response (August 2021) [CL16/161-INQ000470067] (section G).
332. The Evidence Paper produced to support the ASC Winter Preparedness Plan 2020/2021 [CL16/162 - INQ000240708] included consideration of the relevant workforce characteristics. The report noted that the “association between ethnicity and risks from Covid-19 are well documented”. It further noted that in Scotland, SSSC data from 2019 showed for the social care workforce, 14% of

nurse agency employees are Black and 7% are Asian – showing parallels with other parts of the UK where minority ethnic people are overrepresented in the care services workforce (compared to the general population). The ASC Winter Preparedness Plan set out a range of actions to reduce the risks experienced by staff in their working life, including creating smaller teams and units within care homes, early influenza vaccination, stringent IPC measures and offering staff sick pay.

333. Data showed that during the pandemic, healthcare workers from ethnic minority backgrounds in the UK accounted for 64% of deaths for nursing and support staff, and 95% of medical staff (there is no Scottish equivalent data available). For example, on 30 March 2020 the Scottish Government published “Guidance for HSC & Emergency Service workers with underlying health conditions, and on 21 May 2020, “Interim guidance for HSC employers on staff from Black, Asian and Minority Ethnic Backgrounds” (providing best practice guidance) was issued [CL16/163 - INQ000510046], CL16/164 – INQ000510047]. The guidance stated that all ethnic minority staff with underlying health conditions and disabilities, over 70 or pregnant, should be individually risk assessed. In July 2020, the Scottish Government published the Covid-19 Occupational Risk Assessment Guidance (replacing previous guidance) [CL16/165 - INQ000429263]. This guidance issued via joint letter from CNO, CMO, DCMO, NCD and the Director of Health Workforce to the HSC workforce.

334. The Occupational Risk Assessment guidance [CL16/165 - INQ000429263] was developed to provide individuals and employers with an individualised and evidence-based approach to understanding how Covid-19 affects certain groups in the population, and what employers could do to make the workplace as safe as possible. This also recognised that underlying health conditions and ethnicity, when viewed in isolation, did not accurately predict an individual’s vulnerability to Covid-19. Therefore, Scottish Government recommended that an individual assessment should be carried out by line managers that took multiple personal characteristics into account. To that end, an Occupational Risk Assessment guidance and tool were introduced. The tool was aimed with the individual in mind, to help them to understand their own individual risk factors. The guidance

highlighted the responsibilities of the employer to minimise the risks in the workplace, making adjustments where possible, and referring to Occupational Health as appropriate.

335. As discussed at paragraphs 101 to 107, guidance was issued in April 2022 regarding the use of FFP3 on a discretionary basis based on conditional guidance from the WHO. CNOD were aware of issues around fit of PPE including face fitting of specific types of face masks during the pandemic which impacted on staff with smaller and differing physiological face shapes, which had a particular impact on women, ethnic minorities and those people who had facial hair (including for religious reasons). CNOD worked with PPE Directorate to ensure there were a variety of PPE options available to staff. In mid-2021, the PPE futures programme was established to consider the medium to long term PPE needs, including consideration of equalities impacts.

336. Throughout the pandemic, as part of the Four Harms process and the Scottish Government's Framework for Decision Making [CL16/166 - INQ000369689], CMOD considered how the advice, policies or guidance to which it contributed might impact upon groups such as disabled people, older people, people in "at risk" groups, members of ethnic minority communities, gypsy roma travellers, people from disadvantaged socio-economic backgrounds, and/or people with existing health inequalities. The CNO, alongside the NCD and CMO, attended the Four Harms Group to consider harms to health and contributed to advice provided to Cabinet regarding potential impacts on specific groupings.

337. As outlined above at paragraph 110, the CNO was involved in stakeholder discussions to inform the development of the Scottish Government's Ethical Framework Guidance, which led to improvements in the wording regarding ACP. The Care Home Assurance SLWG also considered the prevailing challenges around staff wellbeing and oversight and assurance visits.

338. The Scottish Government recognises that Covid-19 has had a profound negative impact on physical and mental health of the people of Scotland, through both direct and indirect means, as noted in "Scotland's Wellbeing: the Impact of

Covid-19” [CL16/167 - INQ000147575], published jointly by the Scottish Government and COSLA. The report noted that many studies have shown that mental health has been negatively impacted by the pandemic across the population as a whole.

339. The Scottish Government recognised the potential impact that the pandemic would have on wellbeing and levels of emotional distress during the pandemic and a number of steps were taken to promote population mental health. Mental health was also prioritised in NHS operations and mobilisation planning during the pandemic, and Scottish Ministers set out a clear direction through a set of Directives and Principles and created a set of Mental Health leads in NHS Boards to support the response. This network now supports policy development and delivery and is an important legacy of the pandemic period.

340. The Scotland’s Wellbeing report [CL16/168 - INQ000429262] notes the impacts on those providing care, setting out that whilst the overall risk of hospitalisation was low for healthcare workers, those who had a patient facing role were more likely to be hospitalised. The social care workforce, including social care nurses, had relatively high levels of exposure and higher rates of deaths associated with Covid-19 compared to other settings. As well as the nature of the work undertaken, which often requires close proximity in confined spaces, demographic and socio-economic characteristics of the workforce may also contribute to a higher risk. The report notes that “it is expected that there will be an increase in mental ill health amongst the HSC care workforce, as this has been found in previous pandemics”.

341. The PHS ‘Rapid review of the impact of Covid-19 on mental health’ (June 2020) [CL16/169 - INQ000147575] sought to summarise current evidence on Covid-19 and its impact on mental health to establish learning for Scotland and noted that there was evidence that a number of key groups who were at higher risk of adverse mental health outcomes, but that social and family support, hygiene measures and physical activity appeared to safeguard mental health.

Health and Social Care Staff Experience Report

342. The Inquiry has asked whether the HSC Staff Experience Report provides insights regarding the impact of the pandemic on social care nursing, recipients of care and their loved ones, and any disproportionate impacts of Covid-19 on social nursing staff [CL16/168 - INQ000429262].

343. Whilst the HSC Staff Experience Report provides a range of useful information regarding staff experience across Scotland, the information is not available in such a way that the views of social care nurses can be identified.

Lessons Learned

344. A detailed summary of lessons learned exercises and findings relevant to the ASC sector is provided at paragraphs 972 to 1006 of the Module 6 DG Health and Social Care statement submitted to the Inquiry on 9 May 2025

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345. Throughout the pandemic, the CNO and CNOD contributed to actions taken to support continuous learning and improvement. For example, CNOD took steps to further lessons learnt intelligence shared by other bodies like ARHA, such as:

- Developing and issuing FAQs
- Sharing key messages in communications and letters
- Organising webinars on key IPC topics
- Development of communication materials for the 'It's Kind to Remind' campaign
- Commissioning behavioural insights research and training to further support IPC guidance dissemination.

346. The CNO-led CNRG completed a review of the CNRG response to Covid-19 to inform future preparedness in November 2022 [CL16/170 - INQ000322605].

This review considered the delivery against the agreed remit and scope of CNRG, highlighting lessons learned for future preparedness in delivery of the CNRG objectives. Wider system learning, as part of the CNRG considerations, was also covered, and recommendations were made for wider future pandemic preparedness and IPC strategy.

347. CNO is progressing work in relation to those lessons learned and areas for further work provided by CNRG as well as a review of the remit, function, and location in the Public Health landscape of ARHA Scotland, as previously agreed by the Cabinet Secretary for Health and Sport at the time, Ms Freeman. A copy of the CNRG lessons learned paper (November 2022) paper is provided [CL16/170 - INQ000322605].

348. The Inquiry has asked what more, upon reflection, could have been done to support vulnerable adults in receipt of support from social care nursing staff during the pandemic. A number of actions were implemented to support vulnerable adults during the pandemic, including those in receipt of residential care and care at home, and those who provided support to them. This included the implementation of measures such as shielding, social distancing, visiting restrictions and the development of testing and vaccination strategies.

349. Further details of the work undertaken to understand and address the impacts of the Covid-19 pandemic on vulnerable people is set out at paragraphs 555 to 623 of the Module 6 DG HSC Corporate Statement submitted to the Inquiry on 9 May 2025 [INQ000614179], including additional funding, support to develop transparent face coverings, the production of Easy Read guides and the introduction of the Connecting Scotland digital programme.

350. Former postholders may be able to offer further reflection on these matters.

351. The Inquiry has asked whether there are any recommendations which the CNO would ask the Chair to consider making in order to improve the response of the ASC sector (and its regulatory oversight) in the event of a future pandemic.

The postholders during the relevant period may have further insight to offer on these matters.

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:

PD

Dated: _____ 09 May 2025 _____