Witness Name: Richard Gregory Brunt
Statement No.: 5
Exhibits: RGB5/01 – RGB5/15
Dated: 2 June 2025

UK COVID-19 INQUIRY

WITNESS STATEMENT OF RICHARD GREGORY BRUNT

I, Richard Gregory Brunt will say as follows: -

1. I am Richard Brunt and my position at The Health and Safety Executive [HSE] is Director of Engagement and Policy Division. I am authorised to make this statement on behalf of HSE. This statement is provided to the UK Covid-19 Inquiry to explain HSE's role and functions in relation to testing of SARS-CoV-2 samples and matters relating to the classification of SARS-CoV-2.

The Health and Safety Executive role, function and responsibilities

2. The Health and Safety Executive is a UK Government agency, sponsored by the Department of Work and Pensions [DWP]. It is Britain's national regulator for workplace health and safety and operates across England, Scotland and Wales and its mission is protecting people and places.

3. HSE was established by the Health and Safety at Work Act 1974 [HSWA] to prevent work-related death, injury and ill-health through enforcing workplace health and safety in certain workplaces, mainly through HSWA (and relevant Regulations). HSE is a Category 2 Responder under the Civil Contingencies Act 2004.

4. HSE's general duty is set out in section 11(1) of HSWA, namely to *"do such things and make such arrangements as it considers appropriate for the general purposes*

of this Part". HSE is provided with a variety of powers, including enforcement powers, to assist it in achieving that duty. HSE's general powers are set out in s13 HSWA. This includes the power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of its functions (s13(1)). s16 HSWA sets out HSE's power to issue approved codes of practice [ACOPs] to provide guidance to dutyholders with regard to their legal obligations under HSWA and the associated regulations.

5. Responsibility for enforcing HSWA is divided between the HSE and other regulators – principally, and most importantly for the purposes of the Covid-19 Inquiry, by the Health and Safety (Enforcing Authority) Regulations 1998 [EA Regulations]. Under the EA Regulations, Local Authorities are the enforcing authority for certain premises, dependent upon the main activity carried out there. This includes, for example, office activities, residential care homes, accommodation provision such as hotels, the sale of goods (shops), church worship and religious activities, and beauty treatments. Conversely, HSE is the enforcing authority for HSWA purposes over a wide range of workplaces, including some of those in the health and social care sector, such as hospitals and nursing homes.

6. HSE carries out its regulatory function to prevent workplace death, injury or ill-health by using a variety of methods to influence change and assist dutyholders manage risks in the workplace, including:

    a. promoting safer working environments;
    b. developing policies, strategies and procedures for health and safety; ensuring compliance with all health and safety laws through targeted inspections and investigation;
    c. enforcement action;
    d. providing advice, guidance and information,
    e. operating permissioning and licensing activities in major hazard industries and raising awareness in the workplace by influencing and engagement.

HSE's role, functions and responsibilities in relation to testing of SARS-CoV-2 samples

Permissioning under Control of Substances Hazardous to Health Regulations 2002 [COSHH]

7. COSHH applies to the control of (exposure to) a substance hazardous to health arising out of or in connection with work activities undertaken at the workplace. In relation to the role, function and responsibilities for testing for SARS-CoV-2, HSEs role focusses on regulating the safe undertaking of testing activities as a workplace activity.

8. COSHH requires that certain deliberate (i.e. laboratory) activities with biological agents needs to be notified to HSE. HSE will assess the adequacy of the controls to be implemented to minimise the likelihood of exposure to laboratory staff when working with those agents as outlined in that notification, and if adequate grant permission to the organisation for work with that biological agent.

9. Diagnostic activities where the biological agent is only being used in relation to the provision of a diagnostic service, provided that use will not involve a process likely to propagate, concentrate or otherwise increase the risk of exposure to that agent, are exempt from notification requirements. During the relevant period this notification exemption applied to the processing of human specimens at Testing and Tracing centres, as the limited nature of the types of diagnostic activities undertaken did not involve a process that involved the propagation or concentration of the agent nor increased the risk of exposure to SARS-CoV-2, where appropriate controls were implemented.

Inspection

10. HSE undertakes inspections of certain laboratories that undertake deliberate activities with biological agents. HSE prioritises its resources on laboratories that pose the greatest risk, i.e. Containment Level [CL] 3 and CL 4 laboratories where work with Hazard Group 3 and 4 human/animal pathogens is undertaken. HSE does not routinely inspect laboratories working at CL 2.

11. As the nature of diagnostic work being undertaken as part of the test and trace remit constituted mainly activities that could be undertaken at CL 2, such laboratories are not routinely inspected by HSE.

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 [RIDDOR]

12. HSE issued guidance on RIDDOR reporting requirements in relation to COVID-19 which directed people to make a report under RIDDOR where: -

    a. an accident or incident at work had, or could have, led to the release or escape of coronavirus (SARS-CoV-2). This must be reported as a dangerous occurrence
    b. a person at work (a worker) had been diagnosed as having COVID-19 attributed to an occupational exposure to coronavirus through either deliberately working with the virus or being incidentally exposed to it. This must be reported as a case of disease due to exposure to a biological agent
    c. a worker died as a result of occupational exposure to coronavirus through either deliberately working with the virus or being incidentally exposed to it. This must be reported as a work-related death due to exposure to a biological agent.

13. During the relevant period if an exposure to SARS-CoV-2 was reported that could have or did occur as a result of laboratory activities, this would have been assessed by HSE to determine whether a formal investigation of the circumstances leading to the exposure was required.

Classification of SARS-CoV-2 as a High Consequence Infectious Disease [HCID]

14. HSE did not have a role in deciding the classification of SARS-CoV-2 as a HCID. This is a decision that was made by the Advisory Committee on Dangerous Pathogens [ACDP]. HSE is not a member of ACDP but requests and receives advice from ACDP and attends ACDP meetings as an observer.

15. The ACDP is an expert committee of the Department of Health and Social Care [DHSC]. Its role is to provide independent scientific advice on the hazards and risks to workers and others of exposure to pathogens. Its work cuts across a number of organisations, including the HSE, UK Health Security Agency [UKHSA], and the Department for Environment, Food and Rural Affairs [Defra].

16. In relation to the classification of SARS-CoV-2, the Four Nations Public Health HCID Group made an interim recommendation in January 2020 to classify COVID-19 as an HCID. This was based on consideration of the UK HCID criteria and information about the virus and the disease available during the early stages of the outbreak.

17. Once more was known about COVID-19, the public health bodies in the UK reviewed the most up to date information against the UK HCID criteria. They determined that several features had changed; in particular, more information about mortality rates (low overall) and there was greater clinical awareness and a specific and sensitive laboratory test, the availability of which continued to increase.

18. In making the decision to remove COVID-19 from the HCID list, the opinion of ACDP was sought who were also of the opinion that COVID-19 should no longer be classified as an HCID. On 13 March 2020 ACDP agreed that COVID-19 should not be classified as a HCID. This is reflected in the *ACDP meeting minutes* produced as exhibit RGB5/01 INQ000223384.

19. Subsequently on 19 March 2020, the Government updated external guidance to confirm COVID-19 was officially no longer classified as a HCID. This is reflected in *Guidance: High consequence infectious diseases (HCID)* produced as exhibit RGB5/02 INQ000269843.

Practical implications of HCID classification on testing of SARS-CoV-2 samples

20. COSHH implements the European Directive 2000/54/EC on the protection of workers from risks related to exposure to biological agents at work in Great Britain. The Directive requires Member States to classify biological agents that are or may be a hazard to human health. Annex III to the Directive contains a list of the Community Classifications of biological agents. The classifications of biological agents approved by HSE is referred to as the 'Approved List'.

21. The Approved List is relevant to any risk assessment for work with biological agents and the application of appropriate control measures. Risk assessments must identify the steps to adequately control exposure to biological agents (where it is not reasonably practicable to prevent exposure), taking into account the hazard(s) that they present.

22. The classifications in the Approved List assign each biological agent listed to a hazard group according to its level of risk of infection to humans. Any agent that is on the HCID list also has a formal classification on the ACDP Approved List of Biological Agents.

23. Biological agents are grouped according to the following definitions:

    Group 1: Unlikely to cause human disease.

    Group 2: Can cause human disease and may be a hazard to employees; it is unlikely to spread to the community and there is usually effective prophylaxis or treatment available.

    Group 3: Can cause severe human disease and may be a serious hazard to employees; it may spread to the community, but there is usually effective prophylaxis or treatment available.

    Group 4: Causes severe human disease and is a serious hazard to employees; it is likely to spread to the community and there is usually no effective prophylaxis or treatment available.

24. The classification of an agent as a HCID does not have a direct bearing on the measures required for the testing of samples suspected or known to contain SARS-CoV-2 as it is the ACDP Approved List of Biological Agents hazard grouping classification of an agent, not its inclusion on the HCID list, that influences the containment level at which that human pathogen should be handled in laboratories.

Classification of SARS-CoV-2 as a hazard group 3 [HG3] pathogen

25. In February 2020 HSE presented a paper to the ACDP to establish a HG classification for the COVID-19 agent. The reason for the preparation of the paper was that laboratories were starting to see cases of COVID-19 and there were research facilities that wanted to work with the agent. *Paper Title: Hazard Grouping for Pathogens* is produced as exhibit RGB5/03 INQ000269620. The minutes of the ACDP on 13 February 2020 show that the Panel endorsed the provisional classification of SARS-CoV-2 as HG3. *Advisory Committee on Dangerous Pathogens Meeting Minutes* is produced as exhibit RGB5/04 INQ000251902.

26. The hazard grouping assigned to SARS-CoV-2 aligned with the grouping assigned by other countries around the world and as recommended by the World Health Organisation [WHO]. This is reflected in *Laboratory Testing Strategy Recommendations for COVID-19 Interim Guidance (21 March 2020)* published by WHO produced as exhibit RGB5/05 INQ000606910 and *Laboratory Biosafety Guidance related to Coronavirus Disease (COVID-19) Interim Guidance (28 January 2021)* published by WHO produced as exhibit RGB5/06 INQ000606909.

27. The hazard grouping has not changed. SARS-CoV-2 is still a HG3 agent. This is reflected in *The Approved List of Biological Agents - Advisory Committee on Dangerous Pathogens 2021* produced as RGB5/07 INQ000300463 and the current edition of *The Approved List of Biological Agents - Advisory Committee on Dangerous Pathogens 2023* produced as exhibit RGB5/08 INQ000606907.

Practical implications of HG3 classification on testing of SARS-CoV-2 samples

28. Schedule 3 of COSHH sets out 4 containment levels (CL1 – 4) that apply when working with biological agents, dependent on their hazard grouping. It also sets out the minimum control measures required for CL2 – 4 laboratories. The control measures are a combination of specific facilities, safety equipment and safe working practices.

29. Part 1 of Schedule 3 of COSHH provides that the minimum containment level shall be:

    a. level 2 for activities which involve working with a HG2 biological agent;
    b. level 3 for activities which involve working with a HG3 biological agent;
    c. level 4 for activities which involve working with a HG4 biological agent;
    d. level 2 for laboratories which do not intentionally propagate, concentrate or otherwise increase the risk of exposure to a biological agent but work with materials in respect of which it is unlikely that a HG3 or HG4 biological agent is present;
    e. level 3 or 4, where appropriate, for laboratories which do not intentionally propagate, concentrate or otherwise increase the risk of exposure to a HG3 or HG4 biological agent but where the employer knows, or it is likely, that such a containment level is necessary; and
    f. level 3 for activities where it has not been possible to carry out a conclusive assessment but where there is concern that the activity might involve a serious health risk for employees.

30. In accordance with Part 1 of Schedule 3 of COSHH, HSE can approve guidelines specifying that minimum containment measures that are to apply in any particular case, provided that the HSE is satisfied that the health of any person affected by the use of the guidelines will not be prejudiced.

31. In relation to testing of SARS-CoV-2 samples, on 28 February 2020, HSE was approached (through the ACDP) by Public Health England [PHE] /UK Health

Security Agency [UKHSA] to request that certain CL3 control measures could be dispensed with when undertaking certain diagnostic activities with samples that might or did contain SARS-CoV-2. This was based upon their assessment that emerging data suggested that many cases had mild symptoms and case fatality rates may be significantly lower than initially described, coupled with restricted capacity for large-scale testing at CL3 and throughput of samples. Large scale requirement for CL3 would also place constraints on other diagnostic or supportive pathology. A copy of *Request to HSE for permission to dispense with some containment measures for the diagnostic testing of clinical samples for SARS-CoV2* is produced as exhibit RGB5/09 INQ000223406 along with a covering email *ACDP Derogation request* dated 28 February 2020 produced as exhibit RGB5/10 INQ000606899.

32. Following discussions and assessment of information by ACDP, HSE and PHE it was agreed that in light of the exceptional circumstances posed by SARS-CoV-2 and the potential impact on the diagnostic sector, a risk-based proportionate approach was to be adopted, whereby certain laboratory activities could be undertaken within a MSC at CL2, where a risk assessment identified it safe to do. Work involving propagation, culturing or deliberate work on SARS-CoV-2 for diagnostic or research purposes should be undertaken at CL3. An email chain between HSE's Chief Scientific Advisor Professor Andrew Curran, Sir Christopher Whitty and PHE entitled *Update from HSE regarding COVID-19 screening under exceptional circumstances* dated 3 March 2020 and 6 March 2020 is produced as exhibit RGB5/11 INQ000606904. This is also reflected in *PHE Guidance COVID-19: safe handling and processing for samples in laboratories Updated 29 March 2021* produced as RGB5/12 INQ000606911.

33. This approach to a risk-based undertaking of work with material containing SARS-CoV-2 was formally captured within Annex 2 of the July 2021 version *The Approved List of Biological Agents - Advisory Committee on Dangerous Pathogens* produced as RGB5/07 INQ000300463.

34. The approach to facilitate the undertaking of lower risk activities involving this agent, subject to risk assessment, at CL2 with enhanced controls was also in line with *Laboratory Testing Strategy Recommendations for COVID-19 Interim Guidance (21 March 2020)* published by WHO produced as exhibit RGB5/05 INQ000606910.

Lessons Learned

35. HSE commissioned two reports that are relevant to the scope of Module 7. The first report is *HSE Workplace Health Expert Committee (WHEC) SARS-CoV-2: testing and the workplace: Rapid review to 16th February 2021* produced as exhibit RGB5/13 INQ000606905. The second report is *HSE Workplace Health Expert Committee (WHEC) SARS-CoV-2 Pandemic Reflections on and Lessons Learned - Risk Management and the Application of Workplace Controls during the First Two Years* (2022) produced as exhibit RGB5/14 INQ000269711.

36. WHEC is an independent scientific advisory committee governed by the Code of Practice for Scientific Advisory Committees and Councils produced as exhibit RGB5/15 INQ000269717. Paragraph 6.17 highlights that *"The sponsoring organisation should respect the independence of the SAC, and the SAC must bear in mind that policy decisions are based on a range of factors in addition to its own advice"*.

HSE Workplace Health Expert Committee (WHEC) SARS-CoV-2: testing and the workplace: Rapid review to 16th February 2021

37. HSE requested WHEC to consider how various testing regimens could be used to prevent individuals with SARS-CoV-2 from entering the workplace, particularly when they may be asymptomatic or pre-symptomatic. The conclusions can be found at pages 19 and 20 of the report.

38. The report identified that testing for SARS-CoV-2 in a workplace environment was a complex undertaking which should only be considered in the context of a multi-strand risk management strategy and the approach needed to be tailored to the needs of the organisation. It also highlighted that there was no official guidance for workplace applications of testing for SARS-CoV-2. The report goes on to state,

"It is reasonable to assume that HSE (with assistance from WHEC) might provide guidance based on the risks associated with a low performance tests and to provide details of how to mitigate risks in other ways should the sensitivity or specifcity be unacceptably poor. The behavioural impacts of introducing testing for SARS-CoV-2 as a workplace intervention have been discussed in this paper and the dangers of unintended, negative consequences highlighted. These issues do not currently appear to be well understood by very many in society, including policy makers and some specialists advising them. There is therefore an urgent requirement to undertake an education programme to promote better understanding."

39. The report did not suggest anything within HSE's vires that was not already being addressed and/or touched on matters that were wider public health issues.

HSE Workplace Health Expert Committee (WHEC) SARS-CoV-2 Pandemic Reflections on and Lessons Learned - Risk Management and the Application of Workplace Controls during the First Two Years.

40. HSE's Chief Scientific Adviser commissioned WHEC to prepare a report providing HSE with an independent perspective on HSE's scientific response to the pandemic. The terms of the commission are set out at page 5 of the report. The report was to assist the Chief Scientific Adviser in preparing for an appearance before the Science and Technology Committee.

41. Specific recommendations to HSE can be found at page 21 of the report. Recommendations 7 and 8 state,

"HSE is invited to consider the following recommendations in preparation for the next pandemic:

7. *Initiate a review of the hierarchy of controls, with a focus on infectious disease transmission in the workplace and the role of testing, vaccination and face coverings.*

8. *Develop specific HSE guidance on workforce testing for a biological hazard as outlined in WHEC's rapid review to 16 February 2021".*

42. The report provided a helpful review of HSE's scientific response and some useful advice that fed into the National Core Studies. It also assisted HSE in its thinking on the interface between HSE and other departments and agencies. However parts of the report went beyond the role of HSE, addressing the wider "system" and certain parts of the report misunderstood HSE's remit. In its review of the report, HSE also identified that there were instances where the report (and its recommendations) did not reflect the work that HSE had done or was in the process of doing at the time the report was prepared.

43. HSE's role in the Government's response to limiting the spread of SARS-CoV-2 was in relation to workplace activities and the use of protective measures to control the potential spread of the virus between people in the workplace. The use of test, trace and isolate was not a specific workplace control and not part of the measures HSE expected of employers and businesses. As such HSE have no reflections on the efficacy of such measures or the extent to which changes should be made to such processes and procedures in the future.

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 in its truth.

PD

Signed: ________________________________

Dated: 2 June 2025