

Witness Name: Ellie Nicholson

Statement No.: 001

Exhibits: N/A

Dated: 1 June 2023

UK COVID-19 INQUIRY

WITNESS STATEMENT OF ELLIE NICHOLSON

I, Ellie Nicholson, of the Cabinet Office, 1 Horse Guards Road, London, SW1A 2HQ, will say as follows: -

1. I am a senior civil servant and I am a co-Director of the Public Inquiry Response Unit ("PIRU") within the Cabinet Office, which is leading the Cabinet Office's response to the UK Covid-19 Inquiry ("the Inquiry").
2. I write this statement in response to the letter from the Inquiry dated 29 May 2023 varying the Ruling dated 22 May 2023 so as to require a witness statement covering the matters set out in §§1-2 of that letter.

WhatsApp communications

3. Paragraph 2 of Annex (i) of the Notice requires the provision of:

*'Unredacted WhatsApp communications dated between 1 January 2020 and 24 February 2022 which are recorded on device(s) owned / used by the former Prime Minister, **The Rt Hon Boris Johnson MP** and which:*

- a. *Comprise messages in a group chat established, or used for the purpose of communicating about the UK Government's response to Covid-19 ("group messages"); or*
- b. *Were exchanged with any of the individuals listed in Annex B ("individual threads")'.*

4. The Cabinet Office received copies of WhatsApp communications from Mr Johnson on the afternoon of 31 May 2023. I set out below a chronology of correspondence with Mr Johnson's office in relation to those WhatsApps:
 - a. **26 August 2022** – PIRU notified Mr Johnson, through his office, that he was likely to be a witness in the Inquiry. Mr Johnson was also provided with the Government Legal Department's ("GLD") guide for witnesses and the email to Mr Johnson stated 'Enclosed is a '*Guide for potential witnesses to COVID-19 Inquiry*' prepared by GLD, which provides information on the Inquiry's procedure, the likely timetable of events and the legal powers the Inquiry uses to gather evidence. **If you hold any papers or electronic records that relate to the Inquiry's Terms of Reference that may be relevant to the Inquiry, whatever device these may be held on, please ensure that they are kept safe and secure, so that they can be made available if requested.**' (Bold text from source.)
 - b. **9 January 2023** – PIRU, GLD and Counsel, instructed by GLD, met with a member of staff from Mr Johnson's office to discuss Mr Johnson's role in the Inquiry and materials for disclosure. The Inquiry's approach to disclosure, the duty of candour, and the need to disclose as soon as possible were discussed and confirmed. The discussion also included reference to WhatsApp communication and the need to identify personal, business messages and groups that might be relevant. The process for downloading from devices was also explained.
 - c. **26 January 2023** – Mr Johnson's office wrote to me to ask for contact details of our eDisclosure provider, Epiq, so that Mr Johnson's office could provide copies of relevant WhatsApp messages. PIRU liaised with Epiq and Mr Johnson's office to arrange a meeting.
 - d. **1 February 2023** – PIRU received a question from Epiq about the make and model of Mr Johnson's phone. This question was passed to Mr Johnson's office.
 - e. **3 February 2023** – the Rule 9 Request for Mr Johnson was issued by the Inquiry.
 - f. **9 February 2023** - PIRU, GLD and Counsel, instructed by GLD, met with Mr Johnson to discuss the Rule 9 Request.

- g. **13 February 2023** - Mr Johnson's office provided information to the Cabinet Office about the make and model of Mr Johnson's phone (in response to questions asked by Epiq to Mr Johnson's office) and Cabinet Office passed that information on to Epiq. Epiq set a date of 23 February 2023 to attend Mr Johnson's office to obtain WhatsApp messages. However, it was subsequently decided that PIRU should speak to Mr Johnson first about his WhatsApp messages before Epiq attended, in case there were any national security sensitivities. Mr Johnson's office confirmed to PIRU that Mr Johnson's WhatsApp messages were contained on Mr Johnson's personal device.
- h. **21 February 2023** – PIRU wrote to Mr Johnson's office to provide an update that work was being done to find the most effective method for extraction of WhatsApps from his device.
- i. **5 April 2023** – A member of the Counsel team, instructed by GLD, assigned to assist Mr Johnson with the preparation of his witness statement, confirmed to PIRU that she had received electronic copies of Mr Johnson's unredacted Whatsapps. I understand that when printed out these amount to approximately 300 pages of material. Mr Johnson asked that only that particular counsel should review the WhatsApps and that the Whatsapps should not be shared with anyone else until redactions had been applied. The particular counsel started work reviewing the WhatsApp communications for information relevant to the Terms of Reference. The particular counsel did not provide any of the WhatsApp material, whether redacted or unredacted, to the Cabinet Office.
- j. **21 May 2023** – GLD's legal support for Mr Johnson in relation to the Inquiry is ended. Mr Johnson indicated that he would like to continue to be supported by the counsel team that were currently supporting him, including the particular counsel who held his WhatsApp communications confidentially.
- k. **30 May 2023** – In the afternoon PIRU and GLD had two calls with Mr Johnson's intended legal representatives, including the particular counsel to whom he had confidentially provided his Whatsapp material. We discussed the possibility of Mr Johnson providing the WhatsApp communications and notebooks to the Cabinet Office. On the second call a short while later the

Notebooks

7. Paragraph 1 of Annex A (ii) of the Notice requires the provision of '*Copies of the 24 notebooks containing contemporaneous notes made by the former Prime Minister, **The Rt Hon Boris Johnson MP** during the period 1 January 2020 to 24 February 2022. These notebooks are to be provided in clean unredacted form, save only for any redactions applied for reasons of national security sensitivity*'.
8. I confirm that the Cabinet Office was authorised by Mr Johnson's office to collect the specified notebooks from 10.30am during a call at 9am on 31 May 2023, and did so at 10.35am the same day. They are now being held in Government offices.
9. Members of the Cabinet Office legal team (GLD and counsel) and Cabinet Office officials had previously reviewed the notebooks at the location that Mr. Johnson was storing them but had not been given permission by Mr Johnson's office to remove them. The chronology of events is below.
 - a. On or about the **30 March 2023** – the Counsel team assisting Mr Johnson in the preparation of his statement were made aware that he has information in 24 notebooks. The Counsel team began to review the notebooks for information relevant to the Terms of Reference. The counsel team notified the Cabinet Office about the existence and location of the notebooks.
 - b. **31 March 2023** – PIRU contacted Mr Johnson's office by telephone to request that the Cabinet Office be permitted to collect the notebooks and move them to a secure location for review.
 - c. 3 April 2023 - Mr Johnson's office confirmed verbally to an official in PIRU that Mr Johnson did not agree to the removal of the notebooks.
 - d. **19 April 2023** – Cabinet Office officials attended the location where Mr Johnson was storing the notebooks to undertake an initial security review.
 - e. **27 and 28 April 2023** – GLD and the counsel team assisting Mr Johnson continued to conduct a review of the notebooks to identify and physically tag pages that contained material relevant to the Terms of Reference.
 - f. **28 April 2023** – The Cabinet Office received the section 21 notice requiring production of the notebooks and Mr Johnson's WhatsApps.

- g. **21 May 2023** – GLD’s legal support for Mr Johnson in relation to the Inquiry is ended.
 - h. **26 May 2023** – Mr Johnson wrote to the Cabinet Office (addressed to me) and explained that he (Mr Johnson) remained in possession of the notebooks and that if the Cabinet Office required any action to be taken in relation to the notebooks that the Cabinet Office must tell him in writing.
 - i. **30 May 2023** – As I set out in paragraph 4(k) above, the Cabinet Office and GLD had two conversations with Mr Johnson’s intended legal representatives. We asked about the possibility of Mr Johnson providing the WhatsApp communications and notebooks to the Cabinet Office and the counsel who had been assisting Mr Johnson indicated that Mr Johnson was likely to be content to disclose both.
 - j. **30 May 2023** – I wrote to Mr. Johnson and asked that Cabinet Office officials be allowed to collect the notebooks later that day or on 31 May.
 - k. **31 May 2023** – At 9am, I had a call with a member of staff in Mr Johnson’s office who said that Cabinet Office officials could collect the notebooks between 10.30am and lunchtime. At 10.35am a Cabinet Office official collected the notebooks (which in fact numbered 25) and moved them to a secure location.
10. The notebooks are currently being reviewed for national security sensitivities and unambiguously irrelevant material and appropriate redactions are being applied.

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:A handwritten signature in blue ink, consisting of a stylized initial 'S' followed by a long, horizontal, wavy line.**Dated:** 1 June 2023