

From: [redacted - section 38 (1)(b)]
Sent: Friday, October 27, 2023 4:20:15 PM
To: Deputy First Minister and Cabinet Secretary for Finance; First Minister; Solicitor General
Cc: Permanent Secretary; Jason Leitch; DG Corporate; Lesley Fraser; Caroline Beattie; Michael Chalmers; Tabitha Stringer; Geoff Huggins; Ruaraidh Macniven; Andrew Bruce; Nicola Richards; Anna Kynaston; Judith Mackinnon; Julie Grant; [redacted - section 38 (1)(b)]; Kevin Pringle; Callum McCaig
Subject: RE: IMMEDIATE Sensitive: Proposed Ministerial statement on COVID-19 inquiry - For clearance please

Many thanks,
We will issue that now.
[redacted - section 38 (1)(b)]

[redacted - section 38 (1)(b)]

----- [The Scottish Government - gov.scot \(www.gov.scot\)](http://www.gov.scot) -----

From: [redacted - section 38 (1)(b)] **On Behalf Of** Deputy First Minister and Cabinet Secretary for Finance
Sent: Friday, October 27, 2023 4:19 PM
To: First Minister; Deputy First Minister and Cabinet Secretary for Finance; Solicitor General
Cc: Permanent Secretary; Jason Leitch; DG Corporate; Lesley Fraser; Caroline Beattie; Michael Chalmers; Tabitha Stringer; Geoff Huggins; Ruaraidh Macniven; Andrew Bruce; Nicola Richards; Anna Kynaston; Judith Mackinnon; Julie Grant; [redacted - section 38 (1)(b)]; Kevin Pringle; Callum McCaig
Subject: RE: IMMEDIATE Sensitive: Proposed Ministerial statement on COVID-19 inquiry - For clearance please

Hello,

DFM is content with the statement.

Regarding the bids, I will be in touch as soon as possible with DFMs decision on doing the bids.

Many thanks,
[redacted - section 38 (1)(b)]

[redacted - section 38 (1)(b)]
Deputy Private Secretary to the Deputy First Minister and Cabinet Secretary for Finance – Shona Robison MSP
The Scottish Government
St Andrew's House | Regent Road | Edinburgh | EH1 3DG
[redacted - section 38 (1)(b)] | **Email:** DFMCSF@gov.scot

All e-mails and attachments sent by a Ministerial Private Office to any other official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.

Scottish Ministers, Special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



From: [redacted - section 38 (1)(b)] **On Behalf Of** First Minister
Sent: Friday, October 27, 2023 4:06 PM
To: [redacted - section 38 (1)(b)] Deputy First Minister and Cabinet Secretary for Finance; Solicitor General
Cc: First Minister; Permanent Secretary; Jason Leitch; DG Corporate; Lesley Fraser; Caroline Beattie; Michael Chalmers; Tabitha Stringer; Geoff Huggins; Ruairidh Macniven; Andrew Bruce; Nicola Richards; Anna Kynaston; Judith Mackinnon; Julie Grant; [redacted - section 38 (1)(b)]; Kevin Pringle; Callum McCaig
Subject: RE: IMMEDIATE Sensitive: Proposed Ministerial statement on COVID-19 inquiry - For clearance please

Good afternoon,

The First Minister is content with the proposal below and for DFM to undertake the bids.

Thanks,

[redacted - section 38 (1)(b)]
Deputy Private Secretary to the First Minister

Office of the First Minister

5th Floor | St Andrews House | Regent Road | Edinburgh | EH1 3DG

M: [redacted - section 38 (1)(b)]

The First Minister's box closes at 2pm, Monday to Friday. Further details, including preferences, can be found [here](#).



Office of the First Minister of Scotland

FirstMinister.gov.scot

Prìomh Mhinistear na h-Alba

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From: [redacted - section 38 (1)(b)]

Sent: Friday, October 27, 2023 2:52 PM

To: Deputy First Minister and Cabinet Secretary for Finance; Solicitor General

Cc: First Minister; Permanent Secretary; Jason Leitch; DG Corporate; Lesley Fraser; Caroline Beattie; Michael Chalmers; Tabitha Stringer; Geoff Huggins; Ruairidh Macniven; Andrew Bruce; Nicola Richards; Anna Kynaston; Judith Mackinnon; Julie Grant; [redacted - section 38 (1)(b)]; Kevin Pringle; Callum McCaig

Subject: IMMEDIATE Sensitive: Proposed Ministerial statement on COVID-19 inquiry - For clearance please

Importance: High

PS DFM, Solicitor General.

Cc: FMPO, Perm Sec, NCD,

SG Comms has today continued to receive a volume of media queries and broadcast bids (BBC and STV), in relation to SG data retention the UK Covid Inquiry, including some specific questions about (and direct approaches to) the National Clinical Director.

Labour's Jackie Baillie has also issued a news release, tied to a letter to the FM copied to Perm Sec, claiming there might need to be an investigation into a possible ministerial code breach around whether FM misled Parliament when

making previous statements about ministers and officials complying with 'do not destroy' requests. It also calls for an urgent statement to parliament.

All of the queries and bids are detailed below; [redacted- section 30]

With thanks, I would be grateful if DFM and the Sol Gen can please clear or indicate any amends to the Media statement, and also if the DFM could indicate if she is available and content to undertake the two bids in the next few hours, and if so, where and when.

Happy to discuss,

[redacted - section 38 (1)(b)]

DRAFT

Deputy First Minister Shona Robison has reasserted the Scottish Government's commitment to supporting the work both the UK and Scottish Covid-19 inquiries.

Ms Robison said:

"As the First Minister has made clear, the Scottish Government is wholly committed to co-operating fully with the COVID-19 inquiries. This includes providing any requested material that we hold.

"The Scottish Government records management policy makes clear what must be recorded in the official record, given that it isn't practical, cost-effective or necessary for any organisation to retain every exchange that everyone working within that organisation creates.

"While it is not the culture within Scottish Government to use WhatsApp for decision-making, our records management policy states clearly that government decisions, however they are made, should be recorded in the official record.

"And drawing from that official record, more than 13,000 documents have been sent to the UK Inquiry from the Scottish Government, in addition to the corporate and personal statements requested.

"The UK Inquiry has subsequently asked for WhatsApp messages relating to logistics and day-to-day communication, which of course we are working to provide.

"In the coming months Ministers and senior officials will also appear before Inquiry hearings to respond to further questions. We look forward to doing so and, within that forum, helping the Inquiries to fully explore the decisions taken to handle the pandemic, and to identify the vital lessons to be learned for the future."

Commenting on reports about the National Clinical Director, Ms Robison added:

“All ministers and civil servants, including the National Clinical Director (NCD) Jason Leitch, have been co-operating fully with the COVID-19 inquiries since their establishment.”

Background information:

It is not correct to suggest that the National Clinical Director deleted every WhatsApp message every day. However, SG guidance, including Scottish Government Records Management Policy, makes clear that information and records shall be retained only as long as they are required to support Scottish Government in its business requirements and legal obligations. This guidance was followed.

Work is on-going to provide all information and documents that have been requested by the UK Covid-19 Inquiry, including informal communication like WhatsApp messages.

The First Minister has also asked the Permanent Secretary to ensure that all steps are being taken within the government to meet the Inquiry’s requests and for the Solicitor General to satisfy herself that the government has met all its legal obligations.

Following his commitment on 29 June to do so, the First Minister wrote to all MSPs in July, to share the Scottish Government’s [Records Management Policy](#), as well as the Scottish Government’s [Records Management Plan](#), which sets out the practical application of the policy.

Beyond responding to the specific matter from the Inquiry hearing, raised in Parliament this week, it is not for the Scottish Government to disclose details of evidence requested by, and submitted to the Inquiries. Both inquiries are issuing their requests for information in confidence. It is entirely open to – and wholly a matter for – the independent inquiry chairs to determine how they consider and, where appropriate, publish such material. Ministers fully support both independent inquiries in making such decisions as part of their work to explore the handling of the pandemic and to identify the vital lessons that must be learned.

:: In response to the letter sent to the First Minister’s office by Scottish Labour deputy leader Jackie Baillie, a Scottish Government spokesman said: “We have received a letter and a response will be sent in due course.”

[redacted - section 38 (1)(b)]

----- [The Scottish Government - gov.scot \(www.gov.scot\)](http://www.gov.scot) -----

For DFM/SolGen info – MEDIA APPROACHES, FRIDAY:

Asks for the Times / Prof Leitch line to be reissued

The Sun – line was reissued over duty period

Global – approached us for comment

Record – approached us for comment

Bauer – approached us for comment

Telegraph – approached us for comment

Scotsman – approached JL for comment and the query was redirected to us

Asks for comment on opposition news releases

Daily Express – approached us for comment on Conservative news release saying ‘SNP ministers must come clean and be fully transparent on whether the actions reportedly taken by Jason Leitch were replicated by them’ and calling for parliamentary statement.

Herald – approached us for comment on Labour news release and letter to FM (with Perm Sec copied). It suggests there might need to be an investigation into a possible ministerial code breach around whether FM misled parliament when making previous statements about ministers and officials complying with ‘do not destroy’ requests. It also calls for an urgent statement to parliament.

[redacted – out of scope]

Bids for DFM / Professor Leitch

BBC Scotland – This came in from [redacted - section 38 (1)(b)] and has not been taken forward yet. He was looking to speak to them at some point today, ideally before 4pm to make Reporting Scotland this evening.

STV – Bid for Jason Leitch this morning for TV broadcasts and online content. The interviewer would be [redacted - section 38 (1)(b)] and they said anytime of day can be done.

Sunday Show – Bid for Jason Leitch. It would be a one to one with presenter [redacted - section 38 (1)(b)] covering his use and deletion of WhatsApp messages during the covid pandemic. The interview would run for up to 10 minutes. The show is on from 10 – 10.30am and this would most likely be near the top of the programme and ideally live. However they can also pre-record from 9am.

NEWS FROM SCOTTISH LABOUR

BAILLIE ACCUSES YOUSAF OF MISLEADING PARLIAMENT ON COVID INQUIRY

IMMEDIATE

Scottish Labour has called for an investigation into a potential breach of the Ministerial Code by Humza Yousaf following the bombshell revelations about Jason Leitch destroying WhatsApps.

The party's Deputy Leader Jackie Baillie wrote to the First Minister highlighting inconsistencies between his past comments in the chamber and the evidence that has since come to light.

Under questioning from Anas Sarwar in June, Mr Yousaf pledged that the Scottish Government had fully complied with the "do not destroy" order, would provide all requested information to both Covid inquiries, and had a longstanding policy of correspondence retention applying to messages such as WhatsApp.

Scottish Labour has called for an investigation into whether the First Minister misled Parliament, an urgent statement, and a guarantee that the findings of the investigation into Professor Leitch's compliance with the "do not destroy" order are made public.

Notes

Find attached a copy of Jackie Baillie's letter to Humza Yousaf, copied to the Permanent Secretary.

FMQs June 29:

Anas Sarwar: Will the First Minister confirm that all ministers and officials, past and present, have complied with the do not destroy instruction? Will he give a guarantee that all requested emails, texts and WhatsApp messages will be handed over in full to the inquiry?

Humza Yousaf: Yes, they will. [...] To ensure that there is simply no doubt whatsoever, any material that is asked for—WhatsApp messages, emails, Signal messages, Telegram messages or whatever—will absolutely be handed over to the Covid inquiries and handed over to them in full. [...]

It is really important for me to reiterate that, of course, we have—and have had—a long-standing policy on retention not just of documents but of written correspondence, including email and social media messages.

<https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/meeting-of-parliament-29-06-2023?meeting=15402&iob=131393>

Jason Leitch 'deleted WhatsApp messages every day' during Covid pandemic:
<https://www.thetimes.co.uk/article/jason-leitch-deleted-whatsapp-messages-every-day-during-covid-pandemic-ffwb3thdq>

Full text of letter:

Dear First Minister,

I am writing to you to raise serious concerns that you have misled the Scottish Parliament regarding the Scottish Government's co-operation with the Covid inquiries. I also have sent a copy of this letter to the Permanent Secretary.

During First Ministers Questions on 29 June 2023 you gave an unequivocal guarantee that all ministers and officials, past and present, had complied with the "do not destroy" instruction and that all requested emails, texts and WhatsApp messages would be handed over in full to the inquiry.

However, the Times has since revealed that WhatsApp messages belonging to the Scottish Government's clinical director Jason Leitch have been destroyed and cannot be handed to official inquiries.

Professor Leitch has claimed that he was unable to comply with the "do not destroy" order he was issued with as he deletes his WhatsApp messages daily. This appears to contradict your assurance that the Scottish Government has "a long-standing policy on retention not just of documents but of written correspondence, including email and social media messages".

It is always essential that politicians uphold the highest standards of honesty and accuracy in the Scottish Parliament – and that is even more important on a matter as serious as the Covid inquiry. Bereaved families deserve answers about what happened during the pandemic and your government owes them total transparency.

This new evidence strongly suggests the statements you made in Parliament were not accurate and you may therefore have misled Parliament. At the least there must be an investigation into whether this constitutes a breach of the Ministerial Code.

Furthermore, I hope you will make a statement to the Parliament as a matter of urgency in order to correct the record. It is essential that you explain why you seemingly misled MSPs and confirm whether any other information required by the Covid inquiries has in fact been destroyed or withheld.

I welcome the news that the Solicitor General will investigate whether any "do not destroy" orders have been breached but it is unclear why this is only happening after you made the commitment to Parliament that such breaches had not occurred. I would be grateful if you could confirm that the findings of this investigation will be made public in full and without delay.

The public deserves to know the truth about what went so tragically wrong during the Covid pandemic and the destruction of evidence is a betrayal of all those fighting for justice.

I hope you will take these steps in order to rebuild trust in your government's approach to these vital inquiries.

Kind regards,
Jackie Baillie

Scottish Conservative chief whip Alexander Burnett MSP, said: "There is a rotten culture of secrecy within the Scottish Government. The revelation that they have not handed over any messages to the Covid Inquiry will only make grieving families and the wider public wonder what the SNP have to hide.

"Humza Yousaf's responses were pitifully weak when Douglas Ross challenged him in Parliament as to why he has refused to hand over these messages.

"Since then, we have heard allegations that Jason Leitch – arguably Scotland's most well-known civil servant – was apparently deleting messages every day on WhatsApp during the pandemic.

"That comes across as completely reckless and would potentially even break the law. These latest revelations mean SNP ministers must come clean and be fully transparent on whether the actions reportedly taken by Jason Leitch were replicated by them.

"That must include Nicola Sturgeon, John Swinney and Jeane Freeman who fronted up the Scottish Government's Covid response as well as the current First Minister and his team of ministers.

"The SNP cannot try to run away from this issue, which is why I have demanded a ministerial statement on the matter at the earliest opportunity in Parliament. There are grieving families at the heart of this, who deserve to know if and why crucial messages were deleted, because that would undoubtedly hinder the work of the inquiry.

"They must agree to deliver this statement and Humza Yousaf must guarantee to honour his previous commitment to hand over any messages to the Covid inquiry – and hand them over in full."

From: Lesley Fraser

Sent: Friday, October 27, 2023 2:11 PM

To: [redacted - section 30(c)]; [redacted - section 38 (1)(b)]; Julie Grant; Michael Chalmers; Tabitha Stringer; Geoff Huggins; [redacted - section 30(c)]; Andrew Bruce; Nicola Richards ; Anna Kynaston; Judith Mackinnon

Cc: DG Corporate; Kevin Pringle; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)];

[redacted - section 38 (1)(b)]

Subject: RE: Proposed statement on COVID-19 inquiry - For DG and SGLD views pls

Many thanks indeed [redacted - section 38 (1)(b)]

That looks very good to me, and a v sensible way to responding to the range of requests. Content for my interests. I assume that colleagues copied in are also content – and glad to hear any quick points (thanks Caroline) if there are any further suggestions.

[redacted – out of scope]

Many thanks again

L

Lesley

Lesley Fraser | she/her | Director General Corporate
Scottish Government |[redacted - section 38 (1)(b)]

This mailbox is for my urgent personal attention only. Please send other mail to DGCorporate@gov.scot. I work Monday to Friday when the DG Corporate inbox is normally covered from 8.45am-5pm. If you need an urgent response outside those hours, please call or text.

From: [redacted - section 30(c)]

Sent: Friday, October 27, 2023 2:00 PM

To: [redacted - section 38 (1)(b)]; Julie Grant; Lesley Fraser; Michael Chalmers; Tabitha Stringer; Geoff Huggins; [redacted - section 30(c)]; Andrew Bruce; Nicola Richards ; Anna Kynaston; Judith Mackinnon

Cc: DG Corporate; Kevin Pringle; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]

Subject: RE: Proposed statement on COVID-19 inquiry - For DG and SGLD views pls

[redacted Section 36(1)]

[redacted - section 30(c)]

[redacted - section 30(c)]

Scottish Government Legal Directorate

(I am working mostly from home and contactable via email, Teams or on my mobile [redacted - section 38 (1)(b)])

From: [redacted - section 38 (1)(b)]

Sent: Friday, October 27, 2023 1:54 PM

To: Julie Grant; Lesley Fraser; Michael Chalmers; Tabitha Stringer; Geoff Huggins; [redacted - section 30(c)]; Andrew Bruce; Nicola Richards ; Anna Kynaston; Judith Mackinnon

Cc: DG Corporate; Kevin Pringle; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]

Subject: RE: Proposed statement on COVID-19 inquiry - For DG and SGLD views pls

Importance: High

Lesley, SGLD colleagues,

Further to Julie's email below – indicating the volume of opposition/media questions/requests, latterly focused on the NCD JL – I've drafted the following statement. [redacted - section 30]

With thanks, I'd be grateful for views, incl any necessary amends or helpful enhancements, so we can get to the DFM for clearance and issuing this afternoon.

Happy to discuss if easier,

[redacted - section 38 (1)(b)]

Deputy First Minister Shona Robison has reasserted the Scottish Government's commitment to supporting the work both the UK and Scottish Covid-19 inquiries.

Ms Robison said:

“As the First Minister has made clear, the Scottish Government is wholly committed to co-operating fully with the COVID-19 inquiries. This includes providing any requested material that we hold.

“The Scottish Government records management policy makes clear what must be recorded in the official record, given that it isn't practical, cost-effective or necessary for any organisation to retain every exchange that everyone working within that organisation creates.

“While it is not the culture within Scottish Government to use WhatsApp for decision-making, our records management policy states clearly that government decisions, however they are made, should be recorded in the official record.

“And drawing from that official record, more than 13,000 documents have been sent to the UK Inquiry from the Scottish Government, in addition to the corporate and personal statements requested.

“The UK Inquiry has subsequently asked for WhatsApp messages relating to logistics and day-to-day communication, which of course we are working to provide.

“In the coming months Ministers and senior officials will also appear before Inquiry hearings to respond to further questions. We look forward to doing so and, within that forum, helping the Inquiries to fully explore the decisions taken to handle the pandemic, and to identify the vital lessons to be learned for the future.”

Commenting on reports about the National Clinical Director, Ms Robison added:

“All ministers and civil servants, including the National Clinical Director (NCD) Jason Leitch, have been co-operating fully with the COVID-19 inquiries since their establishment.”

Background:

It is not correct to suggest that the National Clinical Director deleted every WhatsApp message every day; Guidance, including Scottish Government Records Management Policy, was followed. That makes clear that information and records shall be retained only as long as they are required to support Scottish Government in its business requirements and legal obligations.

Work is on-going to provide all information and documents that have been requested by the UK Covid-19 Inquiry, including informal communication like WhatsApp messages.

The First Minister has also asked the Permanent Secretary to ensure that all steps are being taken within the government to meet the Inquiry’s requests and for the Solicitor General to satisfy herself that the government has met all its legal obligations.

Following his commitment on 29 June to do so, the First Minister wrote to all MSPs in July, to share the Scottish Government’s [Records Management Policy](#), as well as the Scottish Government’s [Records Management Plan](#), which sets out the practical application of the policy.

Beyond responding to the specific matter from the Inquiry hearing, raised in Parliament this week, [redacted Section 36(1)]. Both inquiries are issuing their requests for information in confidence. It is entirely open to – and wholly a matter for – the independent inquiry chairs to determine how they consider and, where appropriate, publish such material. Ministers fully support both independent inquiries in making such decisions as part of their work to explore the handling of the pandemic and to identify the vital lessons that must be learned.

:: In response to the letter sent to the First Minister's office by Scottish Labour deputy leader Jackie Baillie, a Scottish Government spokesman said: "We have received a letter and a response will be sent in due course."

[redacted - section 38 (1)(b)]

----- [The Scottish Government - gov.scot \(www.gov.scot\)](http://www.gov.scot) -----

From: Julie Grant

Sent: Friday, October 27, 2023 1:18 PM

To: Lesley Fraser; Michael Chalmers; Tabitha Stringer; Geoff Huggins; [redacted - section 30(c)]; Andrew Bruce; Nicola Richards ; Anna Kynaston; Judith Mackinnon; [redacted - section 38 (1)(b)]

Cc: DG Corporate; Kevin Pringle; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)];

Subject: Proposed statement on COVID-19 inquiry

Below are the opposition comments and media enquiries we have received so far today. [redacted - section 38 (1)(b)] will circulate a draft statement shortly that aims to address these points.

Many thanks

Julie

Asks for the Times / Prof Leitch line to be reissued

- **The Sun** – *line was reissued over duty period*
- **Global** – approached us for comment
- **Record** – approached us for comment
- **Bauer** – approached us for comment
- **Telegraph** – approached us for comment
- **Scotsman** – approached JL for comment and the query was redirected to us

Asks for comment on opposition news releases

- **Daily Express** – approached us for comment on Conservative news release saying 'SNP ministers must come clean and be fully transparent on whether the actions reportedly taken by Jason Leitch were replicated by them' and calling for parliamentary statement.
- **Herald** – approached us for comment on Labour news release and letter to FM (with Perm Sec copied). It suggests there might need to be an investigation into a possible ministerial code breach around whether FM misled parliament when making previous statements about ministers and

officials complying with 'do not destroy' requests. It also calls for an urgent statement to parliament.

[redacted – out of scope]

Bids for DFM / Professor Leitch

- **BBC Scotland** – This came in from [redacted - section 38 (1)(b)] and has not been taken forward yet. He was looking to speak to them at some point today, ideally before 4pm to make Reporting Scotland this evening.
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BAILLIE ACCUSES YOUSAF OF MISLEADING PARLIAMENT ON COVID INQUIRY

IMMEDIATE

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The party's Deputy Leader Jackie Baillie wrote to the First Minister highlighting inconsistencies between his past comments in the chamber and the evidence that has since come to light.

Under questioning from Anas Sarwar in June, Mr Yousaf pledged that the Scottish Government had fully complied with the "do not destroy" order, would provide all requested information to both Covid inquiries, and had a longstanding policy of correspondence retention applying to messages such as WhatsApp.

Scottish Labour has called for an investigation into whether the First Minister misled Parliament, an urgent statement, and a guarantee that the findings of the investigation into Professor Leitch's compliance with the "do not destroy" order are made public.

Notes

Find attached a copy of Jackie Baillie's letter to Humza Yousaf, copied to the Permanent Secretary.

FMQs June 29:

Anas Sarwar: Will the First Minister confirm that all ministers and officials, past and present, have complied with the do not destroy instruction? Will he give a guarantee that all requested emails, texts and WhatsApp messages will be handed over in full to the inquiry?

Humza Yousaf: Yes, they will. [...] To ensure that there is simply no doubt whatsoever, any material that is asked for—WhatsApp messages, emails, Signal messages, Telegram messages or whatever—will absolutely be handed over to the Covid inquiries and handed over to them in full. [...]

It is really important for me to reiterate that, of course, we have—and have had—a long-standing policy on retention not just of documents but of written correspondence, including email and social media messages.

<https://www.parliament.scot/chamber-and-committees/official-report/search-what-was-said-in-parliament/meeting-of-parliament-29-06-2023?meeting=15402&iob=131393>

Jason Leitch 'deleted WhatsApp messages every day' during Covid pandemic: <https://www.thetimes.co.uk/article/jason-leitch-deleted-whatsapp-messages-every-day-during-covid-pandemic-ffwb3thdg>

Full text of letter:

Dear First Minister,

I am writing to you to raise serious concerns that you have misled the Scottish Parliament regarding the Scottish Government's co-operation with the Covid inquiries. I also have sent a copy of this letter to the Permanent Secretary.

During First Ministers Questions on 29 June 2023 you gave an unequivocal guarantee that all ministers and officials, past and present, had complied with the "do not destroy" instruction and that all requested emails, texts and WhatsApp messages would be handed over in full to the inquiry.

However, the Times has since revealed that WhatsApp messages belonging to the Scottish Government's clinical director Jason Leitch have been destroyed and cannot be handed to official inquiries.

Professor Leitch has claimed that he was unable to comply with the "do not destroy" order he was issued with as he deletes his WhatsApp messages daily. This appears to contradict your assurance that the Scottish Government has "a

long-standing policy on retention not just of documents but of written correspondence, including email and social media messages”.

It is always essential that politicians uphold the highest standards of honesty and accuracy in the Scottish Parliament – and that is even more important on a matter as serious as the Covid inquiry. Bereaved families deserve answers about what happened during the pandemic and your government owes them total transparency.

This new evidence strongly suggests the statements you made in Parliament were not accurate and you may therefore have misled Parliament. At the least there must be an investigation into whether this constitutes a breach of the Ministerial Code.

Furthermore, I hope you will make a statement to the Parliament as a matter of urgency in order to correct the record. It is essential that you explain why you seemingly misled MSPs and confirm whether any other information required by the Covid inquiries has in fact been destroyed or withheld.

I welcome the news that the Solicitor General will investigate whether any “do not destroy” orders have been breached but it is unclear why this is only happening after you made the commitment to Parliament that such breaches had not occurred. I would be grateful if you could confirm that the findings of this investigation will be made public in full and without delay.

The public deserves to know the truth about what went so tragically wrong during the Covid pandemic and the destruction of evidence is a betrayal of all those fighting for justice.

I hope you will take these steps in order to rebuild trust in your government’s approach to these vital inquiries.

Kind regards,
Jackie Baillie

Scottish Conservative chief whip Alexander Burnett MSP, said: “There is a rotten culture of secrecy within the Scottish Government. The revelation that they have not handed over any messages to the Covid Inquiry will only make grieving families and the wider public wonder what the SNP have to hide.

“Humza Yousaf’s responses were pitifully weak when Douglas Ross challenged him in Parliament as to why he has refused to hand over these messages.

“Since then, we have heard allegations that Jason Leitch – arguably Scotland’s most well-known civil servant – was apparently deleting messages every day on WhatsApp during the pandemic.

“That comes across as completely reckless and would potentially even break the law. These latest revelations mean SNP ministers must come clean and be fully transparent on whether the actions reportedly taken by Jason Leitch were replicated by them.

“That must include Nicola Sturgeon, John Swinney and Jeane Freeman who fronted up the Scottish Government’s Covid response as well as the current First Minister and his team of ministers.

“The SNP cannot try to run away from this issue, which is why I have demanded a ministerial statement on the matter at the earliest opportunity in Parliament. There are grieving families at the heart of this, who deserve to know if and why crucial messages were deleted, because that would undoubtedly hinder the work of the inquiry.

“They must agree to deliver this statement and Humza Yousaf must guarantee to honour his previous commitment to hand over any messages to the Covid inquiry – and hand them over in full.”

From: [redacted - section 38 (1)(b)]
Sent: Thursday, October 26, 2023 7:17 PM
To: [redacted - section 38 (1)(b)]@thetimes.co.uk
Subject: SG Response - Covid Inquiry

Hi [redacted - section 38 (1)(b)]

Please see a Scottish Government response below.

Many thanks,

[redacted - section 38 (1)(b)]

A Scottish Government spokesperson said:

“As the First Minister has said, anyone – Ministers or civil servants, including clinicians – are committed to cooperating fully with the COVID-19 inquiries. This includes providing any requested material in their possession.”

Background

Both inquiries are issuing their requests for information in confidence. It is entirely open to – and wholly a matter for – the independent inquiry chairs to determine how they consider and, where appropriate, publish such material.

[redacted - section 38 (1)(b)] **Communications: News (Net Zero & Rural Affairs)**

[redacted - section 38 (1)(b)]

Scottish Government, St Andrew's House

e: [redacted - section 38 (1)(b)]

m: [redacted - section 38 (1)(b)]

Pronouns: he/him

From: [redacted - section 38 (1)(b)]

Sent: Thursday, October 26, 2023 7:15 PM

To: Deputy First Minister and Cabinet Secretary for Finance; [redacted - section 38 (1)(b)]; First Minister

Cc: [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; Kevin Pringle
Ross Ingebrigtsen Julie Grant; Jason Leitch; Tabitha Stringer; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]

Subject: RE: DFM CLEARANCE PLEASE: Covid inquiry/Prof Leitch

Many thanks [redacted - section 38 (1)(b)],

Issuing now.

Kind regards,

[redacted - section 38 (1)(b)]

From: [redacted - section 38 (1)(b)] > **On Behalf Of** Deputy First Minister and Cabinet Secretary for Finance

Sent: Thursday, October 26, 2023 7:14 PM

To: [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; Deputy First Minister and Cabinet Secretary for Finance <[redacted - section 38 (1)(b)] >; First Minister <[redacted - section 38 (1)(b)] >

Cc: [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; Kevin Pringle <[redacted - section 38 (1)(b)] >; Ross Ingebrigtsen <[redacted - section 38 (1)(b)] >; Julie Grant <[redacted - section 38 (1)(b)] >; Jason Leitch <[redacted - section 38 (1)(b)] >; Tabitha Stringer <[redacted - section 38 (1)(b)] >; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]

Subject: RE: DFM CLEARANCE PLEASE: Covid inquiry/Prof Leitch

[redacted - section 38 (1)(b)]

DFM is content.

Kind regards,

[redacted - section 38 (1)(b)]

[redacted - section 38 (1)(b)]

Deputy Private Secretary to the Deputy First Minister and Cabinet Secretary for Finance – Shona Robison MSP

The Scottish Government

St Andrew's House | Regent Road | Edinburgh | EH1 3DG

T: [redacted - section 38 (1)(b)] | M: [redacted - section 38 (1)(b)] | E:

DFMCSF@gov.scot

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From: [redacted - section 38 (1)(b)]

Sent: Thursday, October 26, 2023 7:08 PM

To: [redacted - section 38 (1)(b)]; Deputy First Minister and Cabinet Secretary for Finance; First Minister

Cc: [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; Kevin Pringle; Ross Ingebrigtsen; Julie Grant; Jason Leitch; Tabitha Stringer; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]

Subject: RE: DFM CLEARANCE PLEASE: Covid inquiry/Prof Leitch

Good evening PO,

Sorry to press, grateful to know if DFM is content with the lines.

Many thanks,

[redacted - section 38 (1)(b)]

From: [redacted - section 38 (1)(b)]

Sent: Thursday, October 26, 2023 5:53 PM

To: Deputy First Minister and Cabinet Secretary for Finance; First Minister

Cc: [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]; Kevin Pringle ; Ross Ingebrigtsen ; Julie Grant; Jason Leitch; Tabitha Stringer; [redacted - section 38 (1)(b)]; [redacted - section 38 (1)(b)]

Subject: DFM CLEARANCE PLEASE: Covid inquiry/Prof Leitch

DFM Private Office for clearance

CC FM PO for awareness only

I would be extremely grateful of DFM's consideration of lines agreed with officials and SPADS to meet a request for comment from The Times.

The journalist's query has been copied in full below for Ministerial completeness and relates to Covid-19 messages and retention. With thanks to Private Office, I would be very grateful for DFM's consideration of the suggested lines.

A Scottish Government spokesperson said:

“As the First Minister has said, anyone – Ministers or civil servants, including clinicians – are committed to cooperating fully with the COVID-19 inquiries. This includes providing any requested material in their possession.”

Background

Both inquiries are issuing their requests for information in confidence. It is entirely open to – and wholly a matter for – the independent inquiry chairs to determine how they consider and, where appropriate, publish such material.

Thanks so much,

[redacted - section 38 (1)(b)]

QUERY

As an additional thing post-briefing today, it is my understanding that Professor Jason Leitch has not retained any WhatsApps or messages from the pandemic because he deleted them every day. Is this correct and are there any concerns about breaching the DND (I appreciate that there's every chance he technically did not contravene the DND as messages were already destroyed before it was issued)? My understanding is that any messages were mostly operational with no advice given but obviously it would be impossible to check that.

If the response to this could please be given to me separately to whatever is sent out from FMQs I would be very grateful.

[redacted - section 38 (1)(b)] **Senior Media Manager DFM and Finance /**
Mobile: [redacted - section 38 (1)(b)]