

OPUS2

Scottish Covid-19 Inquiry

Day 66

December 2, 2024

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1 Monday, 2 December 2024
 2 (10.00 am)
 3 MS VAN DER WESTHUIZEN: Good morning, my Lord.
 4 THE CHAIR: Good morning, Ms van der Westhuizen. Now, we're
 5 going to hear from you first, I believe.
 6 Opening statement by MS VAN DER WESTHUIZEN
 7 MS VAN DER WESTHUIZEN: Yes, indeed, my Lord. My Lord, I
 8 appear today with my learned friend juniors, David
 9 Turner, Advocate and Chris Stephen, Advocate, who will
 10 be assisting me with presenting the evidence at the
 11 upcoming hearings.
 12 We're joined this morning by legal representatives
 13 of core participants who have been granted leave to
 14 appear at these hearings. 16 organisations and groups
 15 have core participant status in relation to Terms of
 16 Reference 2(j) and 2(l) and have been granted leave to
 17 appear at the relevant impact hearings.
 18 These are Central Scotland Care Homes; Church of
 19 Scotland; City of Edinburgh Council; Convention of
 20 Scottish Local Authorities, or COSLA; Homeless Network
 21 Scotland; Long Covid Kids Scotland; PAMIS, or Promoting
 22 a More Inclusive Society; Refugees for Justice; Scottish
 23 Care; Scottish Covid Bereaved; Scottish Enterprise;
 24 Scottish Hazards; Scottish Healthcare Workers coalition;
 25 Scottish Trades Union Congress or STUC; Scottish Women's

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1 Rights Organisations, or SWRO, which comprises Scottish
 2 Women's Aid, Rape Crisis Scotland, Engender, Close the
 3 Gap and JustRight Scotland; and finally the Scottish
 4 Ministers.
 5 My Lord, today is the start of the Inquiry's public
 6 impact hearings for one of its four main investigative
 7 portfolios, namely Portfolio 2, which covers the
 8 Inquiry's Terms of Reference 2(l) and (j) which relate
 9 to business and welfare support.
 10 The hearings will run for approximately
 11 two—and—a-half weeks and will conclude on
 12 18 December 2024. We will be sitting for five days this
 13 week from Monday to Friday; for four days next week on
 14 Monday, Tuesday, Thursday and Friday; and for
 15 two—and—a-half days the following week, from Monday to
 16 Wednesday.
 17 My Lord, as I did at the start of the Portfolio 4
 18 impact hearings, and in setting the scene for what is to
 19 follow at these hearings, I will provide a reminder of
 20 the rationale for the approach being taken. In doing
 21 so, I propose firstly to make a few observations about
 22 the background to the Inquiry and its approach to impact
 23 evidence generally; secondly, to address a number of
 24 matters relevant to the investigation and gathering of
 25 impact evidence, specifically relating to business and

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1 welfare support. This will include providing an outline
 2 of the scope of Portfolio 2; a reminder of the
 3 engagement undertaken and impact evidence gathered by
 4 the Portfolio 2 legal team; and an overview of and an
 5 update on the continuing work of the Inquiry's listening
 6 project, Let's Be Heard.
 7 Thirdly, I propose to outline the approach being
 8 taken to the presentation of evidence at these impact
 9 hearings, and to provide an overview of the
 10 organisations from whom we will be hearing evidence.
 11 Fourthly, I propose to address a few general
 12 procedural matters, including immediate next steps.
 13 My Lord, turning first to the Inquiry's background
 14 and general approach, I will again be referring to
 15 relevant parts of the Inquiry's terms of reference and
 16 also outlining the Inquiry's general approach to impact
 17 hearings; and that's in order to provide context for the
 18 approach being taken to the presentation of evidence at
 19 these hearings.
 20 In relation to the terms of reference, as your
 21 Lordship is well aware, the aim of the Inquiry is set
 22 out in paragraph 1, and is to establish the facts of and
 23 to learn lessons from the strategic response of the
 24 COVID—19 pandemic in Scotland.
 25 The Inquiry's scope is set out in paragraph 2 and is

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1 to investigate the strategic elements of the handling of
 2 the pandemic relating to 12 areas, and two of those
 3 relate to business and welfare support.
 4 With the exception of pandemic planning, the
 5 Inquiry's investigations into the handling of the
 6 pandemic are required to cover the period between
 7 1 January 2020 and 31 December 2022. It is nevertheless
 8 recognised that some of the impacts of decisions to
 9 lockdown and to apply other restrictions are still felt
 10 today.
 11 We may therefore hear evidence, my Lord, of
 12 experiences since 2022 which, being impacts related to
 13 the handling of the pandemic during the 2020 to 2022
 14 reference period, are still within the scope of the
 15 Inquiry's investigations.
 16 Paragraph 5 of the terms of reference requires the
 17 Inquiry to demonstrate how a human rights based approach
 18 has contributed to its findings and recommendations; and
 19 paragraph 7 requires the Inquiry, where your Lordship
 20 deems it appropriate and necessary, to consider firstly
 21 the impacts of the strategic elements of the handling of
 22 the pandemic on the exercise of Convention rights, and
 23 secondly any disparities in the strategic elements of
 24 the handling of the pandemic, including unequal impacts
 25 on people.

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1 My Lord, in terms of the general approach to impact
 2 hearings, the Inquiry, as your Lordship is well aware,
 3 has adopted a thematic approach and is considering
 4 evidence about the impacts of the strategic response to
 5 the COVID-19 pandemic in Scotland under a number of
 6 themes.
 7 We have now already heard impact evidence in
 8 relation to health and social care, and also in relation
 9 to education and certification. Focusing initially on
 10 the impacts of the COVID-19 pandemic and the strategic
 11 response is consistent with the commitment the Inquiry
 12 is taking to a person-centred, human rights based
 13 approach.
 14 Having an understanding of the nature and extent of
 15 the key impacts and issues and where and by whom they
 16 were most keenly felt enables the Inquiry to focus its
 17 ongoing investigations into implementation and
 18 decision-making appropriately.
 19 As regards impacts relating to business and welfare
 20 support specifically, the portfolio team has engaged
 21 largely again with organisations, although there has
 22 also been direct engagement with a number of
 23 individuals.
 24 In the time available during the upcoming impact
 25 hearings, we will be hearing oral evidence from

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1 organisations rather than from individuals. For
 2 individuals, the main vehicle for sharing personal
 3 experiences continues to be the Inquiry's public
 4 participation project, Let's Be Heard.
 5 My Lord, as I explained at the preliminary hearing,
 6 one of the main reasons for adopting this approach is
 7 because the impacts relating to business and welfare
 8 support are ones that were felt particularly widely
 9 across society, and affected whole sectors and
 10 communities, rather than specific groups.
 11 Organisations are also likely to have a greater
 12 breadth of information about and insight into the extent
 13 to which impacts were experienced. They are able to
 14 reflect the collective views of their members and to
 15 provide a more comprehensive overview of the relevant
 16 impacts and issues.
 17 My Lord, I will now turn to address three matters
 18 relevant to the investigation and gathering of impact
 19 evidence relating to business and welfare support.
 20 These include the scope of investigative Portfolio 2,
 21 the engagement undertaken and impact evidence gathered
 22 so far by the Portfolio 2 legal team, and an overview of
 23 and update on the continuing work of the Inquiry's
 24 listening project, Let's Be Heard, insofar as it's
 25 relevant to business and welfare support.

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1 In terms of its scope, investigative Portfolio 2
 2 covers paragraphs 2(j) and (l) of the Inquiry's terms of
 3 reference, which require the Inquiry to investigate the
 4 strategic handling of the pandemic, relating
 5 specifically to, in the case of (j), welfare assistance
 6 programmes, for example, those relating to benefits or
 7 the provision of food provided or supported by public
 8 agencies; and in the case of (l), financial support and
 9 guidance given to businesses and the self-employed
 10 including in relation to the identification of key
 11 workers by public agencies.
 12 In terms of engagement and evidence, as your
 13 Lordship pointed out at the preliminary hearing, oral
 14 evidence from witnesses during the public hearings is
 15 only one way in which the Inquiry can gather evidence.
 16 In relation to impact evidence specifically, the
 17 portfolio team has received approximately 64 responses
 18 to Rule 8 requests, has taken around 53 statements and
 19 has held 27 round table discussions with various
 20 organisations and businesses. These statements, Rule 8
 21 responses and reports have been reviewed and will form
 22 the basis of a narrative record of the impact evidence
 23 relating to business and welfare support, which will
 24 also include evidence heard at these hearings. It will
 25 highlight the key impacts and issues that have been

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1 identified, and is due to be published during the course
 2 of 2025.
 3 The portfolio team is very grateful to all those who
 4 have given their time to assist the Inquiry so far with
 5 its investigations.
 6 As regards the engagement by Let's Be Heard, as I
 7 emphasised at the preliminary hearings and in the
 8 opening statement for the Portfolio 4 impact hearings,
 9 although we will be hearing evidence from organisations
 10 rather than from individuals at these impact hearings,
 11 the Inquiry is nevertheless interested in hearing about
 12 the personal experiences of those impacts.
 13 The Inquiry's public participation project Let's Be
 14 Heard was set up in order to give everyone affected by
 15 the strategic response to the COVID-19 pandemic in
 16 Scotland the chance to share their experiences with the
 17 Inquiry directly. Let's Be Heard has the capacity to
 18 gather and collect individual accounts on a scale that
 19 the Inquiry could not reasonably do through oral
 20 evidence, witness statements or Rule 8 responses.
 21 During its national engagement period, which ran
 22 between May and December 2023, experiences relating to
 23 business and welfare support were shared with the
 24 Inquiry via Let's Be Heard through various methods.
 25 People from across Scotland completed the general

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1 individual experiences form online and on paper, which
 2 covers all aspects of the Inquiry's terms of reference
 3 and asks people to speak about what is most important to
 4 them.
 5 Let's Be Heard attended 12 group discussions,
 6 hearing from more than 100 people on general themes,
 7 where aspects of business and/or welfare were discussed.
 8 Let's Be Heard has also gathered existing data and
 9 information about people's experiences in relation to
 10 aspects of welfare through 31 reports from external
 11 stakeholders. Let's Be Heard published a preliminary
 12 report on the early findings in November 2023.
 13 During 2024 Let's Be Heard has continued to analyse
 14 people's experiences and has adopted a more targeted
 15 approach through its Focused Engagement Period. During
 16 this period, it has been employing various methods to
 17 hear further experiences relating specifically again to
 18 business and welfare support. This has included
 19 engagement with businesses and with organisations
 20 delivering welfare assistance as well as with
 21 individuals in receipt of such assistance.
 22 Let's Be Heard members, as I have said before, my
 23 Lord, are part of the Inquiry team. They have been
 24 working closely with the Portfolio 2 legal team in
 25 relation to engagement with organisations and

1 individuals regarding impacts relevant to business and
 2 welfare support.
 3 On 6 June 2024, as part of its Focused Engagement
 4 Period, Let's Be Heard launched a survey for businesses
 5 in order to understand the impacts of the pandemic on
 6 individual businesses and their owners. That survey, my
 7 Lord, was developed in conjunction with the Portfolio 2
 8 legal team and a total of 290 responses have been
 9 received. The survey work has been complemented by a
 10 number of group discussions for business owners run by
 11 the Let's Be Heard team.
 12 In relation to business and welfare support, Let's
 13 Be Heard has held group discussions with specific
 14 audiences to understand more about access to benefits,
 15 food and fuel poverty, housing and homelessness and
 16 business support. 43 group discussions were held which
 17 were arranged through 22 different organisations.
 18 It has been important for the Inquiry through Let's
 19 Be Heard to engage with a range of people, businesses
 20 and organisations with different sets of circumstances
 21 in order to understand better the unequal impacts felt
 22 across different societal groups.
 23 Let's Be Heard will be publishing a series of
 24 reports based on key findings which will support the
 25 Inquiry's ongoing investigations and inform its reports

1 and its recommendations.
 2 My Lord, I will now turn to outline the approach
 3 being taken to the presentation of evidence at these
 4 impact hearings and will provide an overview of the
 5 organisations from whom we will be hearing. In terms of
 6 presentation of the evidence, between us, Mr Turner,
 7 Mr Stephen and I will be leading a variety of witnesses
 8 who have been selected with a view to ensuring that the
 9 hearings cover evidence on a range of key impacts and
 10 issues.
 11 There will be a combination of single witnesses and
 12 panel sessions of between two and five witnesses. The
 13 various hearing slots are scheduled to last between one
 14 and two hours. In order to accommodate breaks for the
 15 stenographers, there will be a 15 minute break between
 16 each witness slot. If we finish a particular witness a
 17 bit earlier, that break will be slightly longer, as was
 18 the case with the Portfolio 4 impact hearings.
 19 Again, as with the Portfolio 4 impact hearings, my
 20 Lord, witnesses will be led on the basis of their
 21 witness statements, Rule 8 responses and/or round table
 22 reports as appropriate. Those have already been
 23 disclosed to core participants and will be published on
 24 the Inquiry's website on the morning of the day on which
 25 a witness is due to give evidence.

1 In the relatively short time available, witnesses
 2 will not be able to speak to everything covered in their
 3 witness statements or Rule 8 responses, and their oral
 4 evidence will focus on issues of particular relevance
 5 for each witness, or those they represent, with a view
 6 to, insofar as possible, avoiding repetition.
 7 The impact hearings will highlight and provide an
 8 overview of some of the key issues and impacts
 9 experienced by individuals and organisations relating to
 10 business and welfare support, including impacts on
 11 businesses and the self-employed, impacts on individuals
 12 in the context of welfare assistance programmes, and
 13 impacts on organisations that delivered welfare
 14 assistance during the pandemic.
 15 To allow the Inquiry to report as soon as
 16 practicable, as required by paragraph 6 of its terms of
 17 reference, the majority of the impact evidence held by
 18 the Inquiry relating to business and welfare assistance
 19 cannot be covered at these hearings. However, this
 20 evidence, which includes witness statements, Rule 8
 21 responses and expert reports, as well as reports of
 22 round table meetings and other documentary evidence,
 23 will nevertheless be reflected in the narrative record I
 24 have already mentioned.
 25 My Lord, in terms of the order of evidence, we

1 propose to start with witnesses who speak to issues and
 2 impacts relevant to business support, followed by those
 3 broadly who speak to issues relevant to welfare support,
 4 although it must be acknowledged that there is a degree
 5 of overlap between the two.
 6 In terms of witnesses in relation to business
 7 support, we will be calling witnesses from general
 8 business and sector-specific representative bodies,
 9 together with representatives of employees, and that
 10 will be as follows.
 11 We will be hearing firstly from the Federation of
 12 Small Businesses Scotland, or FSB, which is a
 13 cross-sectoral direct membership organisation
 14 representing small businesses and the self-employed. It
 15 has approximately 150,000 members across the UK, with
 16 around 15,000 in Scotland, and with members in both
 17 business-to-business and business-to-consumer industries
 18 from a wide range of sectors, about which we will be
 19 hearing more this morning.
 20 Next we'll be hearing from the Scottish Retail
 21 Consortium, or SRC, which is a trade organisation for
 22 Scotland's retailers. It has around 300 members and
 23 represents retailers of scale, covering every subset of
 24 retail industry in Scotland.
 25 We will also be hearing from the Scottish Wholesale

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1 Association, which is the trade body for Scotland's food
 2 and drink wholesaling sector. Its members deliver food
 3 and drink to a variety of industries, including
 4 hospitality, catering, tourism and leisure business, as
 5 well as public sector establishments, including schools,
 6 hospitals, prisons and care homes. Its membership
 7 ranges from family-run single depot businesses to large
 8 wholesalers with a number of depots.
 9 We'll further be hearing from the Food and Drink
 10 Federation, which is a major UK trade association that
 11 represents food and drink manufacturers.
 12 We'll be hearing from the Scottish Hospitality
 13 Group, which is an organisation formed during the
 14 COVID-19 pandemic to represent the interests of
 15 hospitality organisations in Scotland, and which has a
 16 membership comprising both large hospitality businesses
 17 and single site businesses.
 18 We'll hear from the National Hair and Beauty
 19 Federation, which is the UK's largest trade body for the
 20 hair and beauty sector with around 5,000 members.
 21 We'll be hearing from the British Dental
 22 Association, which is the professional association and
 23 trade union for dentists practising in the UK
 24 representing all fields of dentistry. Since its
 25 inception in 1880, I understand it's been the voice of

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1 dentistry in the UK.
 2 We will be hearing from the Confederation of
 3 Passenger Transport UK, which is a trade association
 4 representing operators of UK buses and coaches,
 5 including those that operate registered bus services,
 6 intercity coaches, coach tourism and other such forms of
 7 road-based mass transit.
 8 We'll be hearing from the Scottish Tourism Alliance,
 9 which is a membership organisation for tourism and
 10 Scottish hospitality businesses in Scotland. It
 11 comprises approximately 250 trade associations,
 12 businesses, destination groups and other organisations
 13 with an interest in tourism and hospitality, with its
 14 members spread across all regions in Scotland.
 15 We'll be hearing from the Association of Scotland's
 16 Self-Caterers, which has more than 1,700 members,
 17 supports the operation of tens of thousands of
 18 self-catering properties across Scotland, and is the
 19 leading source of knowledge and advocacy for Scotland's
 20 self-catering sector.
 21 We will be hearing from Scottish Land & Estates,
 22 which represents those who own and manage rural land,
 23 property and land-based businesses, as well as those who
 24 provide services and trades for them.
 25 We'll be hearing from the British Veterinary

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1 Association which is the national representative body
 2 for the veterinary profession in the United Kingdom. It
 3 has over 19,000 members across the UK and over 2,000 in
 4 Scotland, and its aim is to represent and support the
 5 interests of the veterinary profession.
 6 We will be hearing from the Scottish Association of
 7 Landlords, which is the only dedicated national
 8 organisation representing landlords and letting agents
 9 throughout Scotland, although we will be hearing from
 10 them slightly later in the proceedings with other
 11 property-relevant evidence in the course of next week.
 12 In relation to trade unions, my Lord, we will be
 13 hearing from the Scottish Trades Union Congress, or
 14 STUC, which is Scotland's trade union centre, or
 15 grouping of trade unions. It represents over 550,000
 16 workers through its 40 affiliated trade unions and 20
 17 trade union councils. Its purpose is described as being
 18 to co-ordinate, develop and articulate the views and
 19 policies of the trade union movement in Scotland.
 20 Further in relation to trade unions, we will be
 21 hearing from the Union of Shop, Distribution and Allied
 22 Workers, which is an independent trade union for retail
 23 workers.
 24 We will be hearing from the Scottish Artists Union,
 25 which is a trade union and representative voice for

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1 visual and applied artists in Scotland. It was
2 established to improve the working conditions of those
3 artists in Scotland and to raise awareness of the
4 contribution of artists to the public life and economy
5 of Scotland.

6 We will be hearing from Scottish Hazards, which is a
7 charitable organisation involved in promoting
8 advancement of health and the saving of lives in the
9 work environment.

10 Then, my Lord, in relation to welfare support, we
11 will be calling witnesses from the Corra Foundation,
12 which is an independent grant-making foundation that
13 distributes its own funds, and also partners with other
14 funders to distribute funds collectively and/or on their
15 behalf.

16 We will be hearing from a panel made of
17 representatives of Citizens Advice Edinburgh, Citizens
18 Advice Dundee and Citizens Advice Scotland.

19 We will be hearing from Scottish Care, which is a
20 registered charity and membership organisation
21 representing independent social care services in
22 Scotland.

23 We will be hearing from Social Enterprise Scotland,
24 which is an independent membership organisation that
25 promotes and campaigns on behalf of all social

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1 enterprises in Scotland.

2 We will be hearing from the Poverty Alliance, which
3 is a charity whose purpose is to build a strong network
4 to prevent and reduce poverty. It campaigns for policy
5 changes at the local, national and UK levels to address
6 the root causes of poverty, such as low wages, lack of
7 affordable housing and social inequality.

8 We will be hearing from the Child Poverty Action
9 Group, which is a UK-wide charitable organisation whose
10 aim is to prevent child poverty through campaigning and
11 advice provision.

12 We will be hearing from a panel of organisations on
13 the subject of fuel poverty and fuel crisis. That panel
14 will include representatives from the Fuel Bank
15 Foundation, which is the only charity in the UK to focus
16 on challenges of people living in fuel crisis. It
17 provides emergency financial support through its network
18 of partners and identifies people who cannot afford to
19 prepay for their fuel and energy.

20 On that panel, we will also be hearing from Citrus
21 Energy which is a social enterprise subsidiary of
22 Cunninghame Housing Association. It supports
23 residential tenants as well as businesses, charities and
24 social enterprises and provides advice about reducing
25 energy bills.

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1 Further on that panel, we will be hearing from
2 Queens Cross Housing Association, which is a
3 community-based housing association providing nearly
4 4,500 homes in an area that stretches north from Glasgow
5 city centre along either side of the Forth and Clyde
6 Canal.

7 We will then be hearing from Citizens Advice
8 Scotland, which is a registered charity which supports
9 Scottish Citizens Advice bureaux.

10 We will be hearing from a panel of people who work
11 for housing associations which are members of Glasgow
12 and West of Scotland Forum of Housing Associations, or
13 GWSF. That forum is the membership and campaigning body
14 for local community controlled or community-based
15 housing associations and cooperatives in the west of
16 Scotland.

17 That panel will include representatives from
18 Linthouse Housing Association, Cassiltoun Housing
19 Association, Govan Housing Association and Dalmeir Park
20 Housing Association.

21 My Lord, we will be hearing from a further panel of
22 representatives of organisations involved with the
23 Independent Food Aid Network, or IFAN, and the Trussell
24 Trust network, which will include West Lothian Foodbank,
25 Trussell Trust, Kirkcaldy Food Bank, Pollokshields

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1 Community Food Point.

2 We will be hearing from another food-related panel.
3 We will be hearing from a panel of representatives of
4 the third sector organisations involved in the provision
5 of food, namely Space⁹ Broomhouse Hub, which is a
6 Scottish charity that champions community development
7 and bringing people together, and which delivers 17
8 projects with the help of more than 70 staff and 250
9 volunteers, and provides a diverse service, supporting
10 young people, families, older people and carers.

11 Part of that second food panel will also be
12 Edinburgh Food Social, which is a social enterprise
13 working towards food justice by educating and empowering
14 young people and communities to engage with local and
15 seasonal food.

16 Further on that panel, we'll be hearing from
17 Scottish Highlands and Islands and Moray Chinese
18 Association, which provides a platform and provides a
19 voice for the Chinese community, access to information
20 and the provision of activities for older members.

21 Finally on that food-related panel, there will be
22 North United Communities, which is an organisation
23 dedicated to strengthening the community that wants
24 children, young people and their families to lead
25 happier, healthier lives.

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1 My Lord, we will be hearing from quite a few panels
 2 during these impact hearings. We will be hearing from
 3 another panel which will comprise representatives of
 4 organisations that are members of the Human Rights
 5 Consortium Scotland, which is the civil society network
 6 to defend and promote human rights in Scotland.
 7 That panel will include representatives of
 8 Interfaith Scotland, which is a membership organisation
 9 that promotes and facilitates constructive engagement
 10 between different faith and belief communities across
 11 Scotland; Equality Network, which works for lesbian,
 12 gay, bisexual, transgender and intersex equality and
 13 human rights in Scotland; East Ayrshire Advocacy
 14 Services, which provides a free independent advocacy
 15 service, enabling local people with support to be heard.
 16 Finally on the Human Rights Consortium panel, we
 17 will have Welfare Scotland, which provides a range of
 18 welfare rights, advice and support services, including
 19 support in housing disputes, landlord issues, social
 20 housing applications, benefits advice and consumer
 21 rights complaints.
 22 My Lord, we will then be hearing from a
 23 representative of Routes Out and Trafficking Awareness
 24 Raising Alliance, or TARA. In this regard, Routes Out
 25 is a service that offers advice, information and support

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1 to women who sell sex and is part of Community Safety
 2 Glasgow; whereas TARA provides support to women who may
 3 be trafficked and exploited and works with them to
 4 provide trauma-informed, practical, emotional support to
 5 help them recover from their experiences and also
 6 provides crisis accommodation.
 7 We will be hearing from another panel of
 8 representatives of organisations who offer befriending
 9 services, namely Visiting Friends, which provides
 10 volunteer befrienders for any adult in Helensburgh or
 11 Lomond who might be feeling lonely or isolated; Cowal
 12 Elderly Befrienders, which provides a range of
 13 befriending services designed to improve quality of
 14 life, reduce isolation and loneliness and keep older
 15 people independent and active for as long as possible.
 16 We will be hearing from Caraidean Uibhist; I'm sorry, my
 17 Gaelic pronunciation is not great.
 18 THE CHAIR: Probably better than mine.
 19 MS VAN DER WESTHUIZEN: Caraidean Uibhist is a befriending
 20 organisation tackling loneliness and social isolation
 21 across five island communities of Eriskay, South Uist,
 22 Benbecula, North Uist and Berneray; and Highland Hospice
 23 is the fourth member of that panel, which provides
 24 specialist palliative care in the Highlands as well as
 25 befriending and support services throughout the

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1 Highlands.
 2 My Lord, we will be hearing from Includem, a
 3 Scottish charity working with children and young people
 4 in care and their caregivers. We will also be hearing a
 5 panel of representatives of the organisation BEMIS, or
 6 members of the organisation BEMIS; and that will include
 7 Feniks Counselling, which supports integration and aims
 8 to improve the wellbeing of the Central Eastern European
 9 community in Edinburgh; Women in Action, which supports
 10 and empowers women to reach their full potential through
 11 education, building healthy relationships with their
 12 children; African Women's Group Scotland, which promotes
 13 equality, the development and advancement of women of
 14 African origin and descent in Scotland.
 15 The final member of that panel will be the Scottish
 16 Council of Jewish Communities, which represents the
 17 organised Jewish community in Scotland, advancing the
 18 public understanding about the Jewish religion, culture
 19 and community.
 20 We will also be hearing, my Lord, from a panel of
 21 members of the Scottish Refugee Council, which is
 22 Scotland's national refugee charity, which supports
 23 thousands of men, women and children every year as they
 24 rebuild their lives in Scotland.
 25 That panel will be made up of representatives of two

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1 member organisations, namely the West of Scotland
 2 Regional Equality Council, which is an organisation
 3 based in Glasgow that works with communities across all
 4 equality strands to develop and deliver community-led
 5 responses to eliminate discrimination, attain rights and
 6 remove barriers in order to build a fair and just
 7 society.
 8 The second member of that panel is Forth Valley
 9 Welcome, which is a Scottish charity working in Stirling
 10 and Clackmannanshire to support resettlement of
 11 vulnerable refugees and others with similar needs.
 12 We will be hearing then, my Lord, from One Parent
 13 Families Scotland which supports one-parent families by
 14 giving advice, signposting services, assisting with
 15 financial issues and advocating on their behalf.
 16 Then the final panel we will be hearing from, my
 17 Lord, on the last day, will be a panel of
 18 representatives of disabled people's organisations, that
 19 are all members of Inclusion Scotland.
 20 Inclusion Scotland is a national network of disabled
 21 people, their organisations and allies. The panel will
 22 include representatives of Glasgow Disability Alliance,
 23 which is the disabled people led organisation,
 24 controlled by more than 5,500 disabled members across
 25 Greater Glasgow; DG Voice, which is a region-wide

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1 organisation of disabled people in Dumfries and
2 Galloway; and People First (Scotland), which is the
3 national disabled people's organisation of adults with a
4 learning disability in Scotland.

5 So, my Lord, that's the extent of the oral evidence
6 we will be hearing.

7 I will now turn to address briefly three matters
8 relating to procedure and next steps. These are the
9 restrictions on the disclosure of information, the Rule
10 9 procedure and closing submissions.

11 In relation to the restriction on the disclosure of
12 information, as mentioned at the preliminary hearing,
13 there are currently no restriction orders pertaining
14 specifically to the Inquiry's investigation of matters
15 covered by Terms of Reference 2(j) and (l) relating to
16 business and welfare support, or in relation to any of
17 the witnesses who will be giving evidence at these
18 hearings.

19 There is, however, a general restriction order that
20 covers witness statements, documents and all other
21 evidence, information and material that is either
22 provided to or generated by the Inquiry and shared with
23 core participants and other recipients, which operates
24 to restrict their disclosure or publication prior to
25 publication by the Inquiry itself. A copy of that is

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1 available on the Inquiry's website.

2 As I have already mentioned, material for each of
3 the witnesses that has already been disclosed to the
4 core participants with leave to appear and witness
5 statements, Rule 8 responses and/or round table reports
6 that are relevant to the witnesses giving evidence on a
7 particular day will be published on the Inquiry website
8 on the morning of the day that that witness is due to
9 give evidence. But prior to that, protected material
10 should not be disclosed by core participants or their
11 legal representatives.

12 As further mentioned, my Lord, in relation to Rule 9
13 procedure, as I mentioned at the preliminary hearing,
14 your Lordship has issued guidance in relation to Rule 9,
15 and that is available on the Inquiry website and sets
16 out the relevant procedure applicable.

17 Just as a reminder for core participants, it
18 requires informal approaches to be made to counsel
19 through the Inquiry mailbox no later than one week
20 before a witness gives evidence, with suggestions of
21 relevant questions or topics.

22 It provides a formal procedure for applications to
23 be made to your Lordship no later than two working days
24 before the relevant witness is to give evidence, in the
25 event that counsel is not minded to ask the questions

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1 suggested.

2 Finally, my Lord, it provides that your Lordship
3 will consider applications to question a witness at the
4 conclusion of the evidence, but that is restricted to
5 information that has arisen during the course of the
6 evidence that is material, relevant and new.

7 Finally, my Lord, in relation to closing statements,
8 your Lordship has issued a direction in relation to
9 closing statements for this set of hearings, in terms of
10 which, as with Portfolio 4 impact hearings, core
11 participants with leave to appear may, if they so wish,
12 submit a written closing statement to the Inquiry by no
13 later than 12 noon on 29 January 2025. That's to be no
14 longer than 2,500 words and should have regard to the
15 terms of the appendix to that direction.

16 My Lord, unless I can be of further assistance, that
17 is the opening statement for the Inquiry.

18 THE CHAIR: No, thank you very much, Ms van der Westhuizen.

19 That's very helpful. We'll now take a break before we
20 start with the evidence, and we'll come back at 11
21 o'clock for that purpose. Thank you very much.

22 MS VAN DER WESTHUIZEN: Thank you, my Lord.

23 (10.34 am)

(A short break)

24 (11.00 am)

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1 MS VAN DER WESTHUIZEN: Welcome back, my Lord.

2 THE CHAIR: Yes, good morning, again Ms van der Westhuizen.

3 Now, you have a panel for us.

4 MR COLIN BORLAND (called)

5 MR GARRY CLARK (called)

6 MR DAVID GROUNDWATER (called)

7 MS VAN DER WESTHUIZEN: We do, my Lord. We have a panel of
8 three representatives of the Federation of Small
9 Businesses. We have Mr Borland, who's the director of
10 devolved nations. We have Mr Clark who is the east of
11 Scotland development manager, and Mr Groundwater who is
12 the regional development manager for Scotland.

13 THE CHAIR: Very good. Good morning, Mr Borland, Mr Clark
14 and Mr Groundwater. Thank you very much. Right, now,
15 when you're ready, Ms van der Westhuizen.

16 MS VAN DER WESTHUIZEN: Thank you, my Lord. If I could
17 start just by asking each to confirm in turn, perhaps,
18 starting with Mr Borland and working down the line, just
19 to confirm your full names and to provide a brief
20 overview of your role now and during the pandemic and
21 what it entailed.

22 COLIN BORLAND: Yes, good morning. My name is Colin
23 Borland, FSB's director of devolved nations, which means
24 that I look after the staff teams in Scotland, Wales and
25 Northern Ireland. So during the pandemic, my main role

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1 in Scotland was to oversee the management of the teams
2 that are — what was our Glasgow office and our field
3 teams as well (inaudible) supporting members.
4 MS VAN DER WESTHUIZEN: Thank you. Mr Clark?
5 GARRY CLARK: I'm Garry Clark. I am FSB's development
6 manager for the east of Scotland area. So I look after
7 our members across Edinburgh and the Lothians, Fife and
8 the Borders. During the pandemic, I was in that role
9 and was engaged very directly with member businesses and
10 indeed nonmember businesses affected by issues around
11 the pandemic. I was also involved with engaging with
12 local authorities during that time, and to some extent
13 Scottish Government officials as well.
14 MS VAN DER WESTHUIZEN: Thank you. Mr Groundwater.
15 DAVID GROUNDWATER: Good morning. David Groundwater. I'm
16 currently the regional development manager for Scotland,
17 but during the time of the COVID-19 pandemic, I was in a
18 similar role to Garry there, but my geographical area
19 was the northeast of Scotland, so from Tayside,
20 Aberdeen, Aberdeenshire and the Moray area.
21 MS VAN DER WESTHUIZEN: Thank you very much. My Lord, just
22 for reference, we have a witness statement, and that has
23 been being signed by Mr Borland. The reference for your
24 Lordship can be found under WT0514. We also have a
25 Rule 8 response from the FSB, which is

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1 SCI-FSBxxx-000006. Four case studies have also been
2 lodged. I won't give the references for those now, but
3 we may come on to speak about them, in which case I will
4 provide those references.
5 I think this is not a traditional panel in the sense
6 that we don't have a round table report, but we do have
7 effectively three witness speaking to one witness
8 statement. So what I'm going to do is given that
9 Mr Borland is the deponent or the signature of the
10 witness statement, I will direct the questions to the
11 panel, but Mr Borland, if you could possibly indicate if
12 you're not going to be answering it, which of your two
13 colleagues will be taking the lead on any particular
14 area or aspect that we discuss, just for the
15 stenographer to be able to record who's speaking. Thank
16 you.
17 I think if we could start, just before we get into
18 the substance of things, just to get an overview of FSB
19 and FSB Scotland. In particular, if you could please
20 provide an overview of FSB Scotland and FSB, including
21 the aims, composition of the membership and the sectors
22 of operation, please.
23 COLIN BORLAND: Yes, certainly. I mean, FSB were founded in
24 1974. We are a direct member business organisation
25 about — we were initially set up to represent the

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1 interests of the self-employed, and to this day 45% of
2 our members are self-employed individuals with no staff.
3 Another 45% have fewer than 10 employees. So therefore
4 90% of the membership is in that micro-category. We are
5 cross-sectoral, so we don't represent any one particular
6 sector. We're not dominated by a particular sector. We
7 broadly reflect the economy as it is.
8 And we might come on to talk more about this later,
9 but also we represent people who don't necessarily fit
10 neatly into a particular sector, maybe have interest
11 across some sectors.
12 What we do is we provide our members with support,
13 advice and services. So we have things like a 24/7
14 legal advice helpline. We have a tax protection
15 service. We also — within the group we also have a
16 specialist insurance broker, FSB Insurance Service,
17 essentially giving the self-employed and
18 micro-businesses access to services that they otherwise
19 couldn't get because of our buying power.
20 We also lobby on behalf of the small business
21 interest in general, to make Scotland and indeed the UK
22 the best place it possibly can be to do business. And
23 we have colleagues like Garry and David who are
24 supporting members on the ground, rather like a
25 constituency MSP or MP, making representations on behalf

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1 of members, and trying to right wrongs or cut through
2 issues where that's required.
3 MS VAN DER WESTHUIZEN: Is that — representations on the
4 ground, is that to local authorities or representations
5 made to —
6 COLIN BORLAND: It can be to local authorities, it can be to
7 large PLCs, any agency, effectively, that comes into
8 contact with our members, and, you know, maybe causes
9 them some issues.
10 MS VAN DER WESTHUIZEN: Thank you, and just in terms of —
11 you've indicated that 90% of your members are on the
12 micro end of the scale.
13 COLIN BORLAND: Yes.
14 MS VAN DER WESTHUIZEN: Are you able to give approximately
15 what percentage of Scottish businesses were small
16 businesses, including micro, at the start of the
17 pandemic.
18 COLIN BORLAND: About 93%.
19 MS VAN DER WESTHUIZEN: 83?
20 COLIN BORLAND: 93.
21 MS VAN DER WESTHUIZEN: 93%, thank you. You've given an
22 indication of some of the key services that FSB normally
23 provides. Could you please just give an indication of
24 how FSB Scotland normally communicates and engages with
25 its members, and how that changed during the pandemic.

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1 COLIN BORLAND: I mean, we go — we use the channels that
2 they use so things, as you would expect, like social
3 media, email, newsletters etc; also direct — people
4 come to us to tell us things as well. Obviously, during
5 the pandemic the face-to-face element of that
6 disappeared. Beforehand it was a mix, then during the
7 pandemic, it was, you know, remotely only, and now
8 largely as things have got more back to normal, we have
9 returned to the hybrid model.

10 MS VAN DER WESTHUIZEN: Thank you, and you have given an
11 indication of the sort of key services you provide in
12 normal times. Are you able to just give a summary of
13 the services that FSB provided to members during the
14 pandemic, just an overview of those services.

15 COLIN BORLAND: I think in addition to the sort of standard
16 member benefits, what we were able to do was make
17 representations on their behalf, so again, we might come
18 on to talk about this in a bit more detail, but if
19 people were finding it quite difficult to maybe cut
20 through some bureaucracy, or they were finding that
21 rules were perhaps being interpreted in a way that they
22 disagreed with, or in a way that seemed illogical, then
23 we could intercede on their behalf, make that point to
24 the individual decision-maker.

25 But we would also have colleagues who are pointing

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1 that out to the people who are setting the policy or who
2 are setting the guidance, and say: do you understand how
3 this is working; is this what you intended because this
4 is the outcome. So we could approach it from both
5 sides.

6 MS VAN DER WESTHUIZEN: Thank you. We'll come on in a
7 minute to discuss the national extent of FSB's
8 communication with the Scottish Government and local
9 authorities during the pandemic, but there's a reference
10 in your witness statement to a small business survey
11 that was published in June 2023. Did FSB carry out any
12 surveys during the pandemic, or if not, what other means
13 did it use to ingather the views of its members and the
14 concerns that they were experiencing?

15 COLIN BORLAND: We publish a quarterly small business index
16 which we did throughout the pandemic, where we ask a set
17 of tracker questions about the sorts of issues that are
18 facing your business. I don't think there will be any
19 surprises as to what that data showed, in terms of
20 how — what footfall was like, what confidence was like,
21 what costs were doing.

22 So yes, we get that feedback in that way. We also
23 have regular events, particularly during COVID a lot of
24 online events, a lot of online information events and
25 discussion; people saying: how should I comply with this

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1 particular regulation; what does this mean in my
2 business; how does that apply. We had some experts
3 talking to them.

4 So from those sorts of interactions, we got a lot of
5 feedback back. And again, as I said, we also get people
6 coming directly to us, and saying: can you help me cut
7 through this, can you explain this; and that's how we
8 managed to get that feedback and that feeling for what
9 was happening on the ground.

10 MS VAN DER WESTHUIZEN: Thank you. You obviously had
11 services that you provided to your members. Were those
12 extended at all to those — other than your members
13 during the pandemic period?

14 COLIN BORLAND: Generally, if someone was on the phone
15 looking for advice, we would help them, show them where
16 to go, point them in the right direction. We would tell
17 them when — what we knew.

18 MS VAN DER WESTHUIZEN: Thank you. Just turning to the
19 communication engagement that you had with the Scottish
20 Government and local authorities, could you please just
21 give an overview or describe how that happened, just in
22 terms of the means of the communication in the first
23 instance, and then the lobbying that you did during that
24 period?

25 COLIN BORLAND: I mean, yes, one thing I remember was that

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1 right at the start of the pandemic, the Scottish
2 Government didn't really — hadn't really embraced the
3 joys of videoconferencing. So a lot of phonecalls on
4 speaker phones and those sorts of set-ups, until
5 there's — something a bit more robust was in place.
6 There were, as you would expect, regular contacts,
7 meetings, two-way process, many groups were set up, too
8 many to enumerate now.

9 But we did — we were a member of a number of
10 groups, and that over time formalised into a sort of a
11 group of the sort of main cross-sectoral business
12 organisations, plus some of the key sectoral bodies who
13 would meet with senior officials, because there was a
14 feeling at some point that we weren't quite engaging at
15 maybe senior management level, and maybe that we weren't
16 quite getting those messages across to people who needed
17 to hear them.

18 So that's why those regular meetings were
19 instituted, and from memory, I think they happened
20 initially about maybe three times a week, and then as
21 restriction was eased, they were down to weekly, and
22 I believe it still meets in some form or another, but
23 now it's about quarterly.

24 MS VAN DER WESTHUIZEN: Thank you. You also discuss in your
25 statement the involvement in Scottish Government

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1 advisory groups and governance groups. Was that group
 2 that you mentioned, was that separate or in addition to
 3 those ones that you referred to in your statement, the
 4 various groups —

5 COLIN BORLAND: Forgive me, I can't remember exactly which
 6 ones we list there.

7 MS VAN DER WESTHUIZEN: It's quite a long list. Paragraph
 8 47, you say:
 9 "... the principal means of communication was
 10 through regular online meetings with the major business
 11 representative and sectoral bodies and senior Scottish
 12 Government and other officials. These initially took
 13 place several times a week, with the frequency
 14 dropping..."

15 Then you have governance groups and you have
 16 business organisations. You list a number of those
 17 there —

18 COLIN BORLAND: Sorry to interrupt you, but it would be
 19 covered under (a), 48(a).

20 MS VAN DER WESTHUIZEN: 48(a), so those — the particular
 21 one that you mentioned that was set up was that.

22 COLIN BORLAND: Yes.

23 MS VAN DER WESTHUIZEN: Okay, thank you. In terms of
 24 lobbying, could you please just give an outline of the
 25 type of lobbying activities that you were involved in?

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1 Was that through these meetings, or was there separate
 2 lobbying that was done?

3 COLIN BORLAND: It was both. It was both. I think through
 4 these meetings, that was helpful to feed back what was
 5 happening, the general feeling, of what people were
 6 reporting, and also to get an update as well from the
 7 medical experts and officials of what was happening
 8 there.

9 But we would also have ongoing, quite detailed
 10 discussions with specific policy officials, or indeed
 11 local government officials as well, and even the people
 12 who would be sort of on the ground enforcers, like
 13 environmental health officers, people — pretty much at
 14 every level we would be having those discussions about:
 15 how is this working in practice; how are you
 16 interpreting this; what is it that our members need to
 17 know.

18 And us also saying: this is the feedback that we're
 19 getting; do you have an answer to this particular
 20 scenario; how would this scenario be treated.

21 So it was very much one to one, but in addition to
 22 those sort of more formal networks that we mentioned
 23 there.

24 MS VAN DER WESTHUIZEN: Okay, thank you. Were there any
 25 other key — we'll come on to speak about the impacts on

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1 members in general terms, but any other significant ways
 2 in which FSB supported small businesses and the
 3 self-employed during the pandemic that you want to flag
 4 now before we move on to discuss impacts?

5 COLIN BORLAND: I think obviously we're talking about the
 6 Scottish support here, but obviously it was a UK-wide
 7 effort. We were also lobbying, through our colleagues
 8 in Westminster, lobbying the UK Government to make sure
 9 that some of the acute financial pressures that people
 10 were facing were mitigated.

11 MS VAN DER WESTHUIZEN: We'll come on shortly to discuss the
 12 financial support, which is really the main aspect that
 13 you cover, I think, in both your Rule 8 response and in
 14 your witness statement, the financial support and some
 15 of the issues and impacts relating to that.

16 But before we do, I would just like to get a general
 17 overview of some of the specific issues that members
 18 were experiencing as a consequence of the pandemic and
 19 the strategic response, just your members and small
 20 businesses generally.

21 So you have already provided an overview of the
 22 typical size and nature of the small businesses and your
 23 membership in Scotland, and the percentage of
 24 self-employed individuals that make up your membership.
 25 Could you provide an indication of the size and

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1 nature of the majority of businesses that were affected
 2 by the pandemic and the restrictions in Scotland; did
 3 that correlate with your membership in terms of...

4 COLIN BORLAND: I mean, it's difficult to generalise, what I
 5 would say is that the official business in Scotland
 6 statistics suggest that in the first year of the
 7 pandemic, we lost 20,000 businesses from the Scottish
 8 economy, and the vast majority of them were small.

9 And again, on the one hand, small businesses can be
 10 very good at pivoting, they can be very agile and
 11 nimble, but at the same time, they don't have the deep
 12 pockets of a large international corporate, for example.
 13 How much of that was attributable to businesses which
 14 may have been in distress initially and may not have
 15 made it through that year; how much is directly
 16 attributable to the pandemic, correlation, causation,
 17 not entirely sure; but it's interesting that we had been
 18 in a relatively stable amount, and then that year, we
 19 lost 20,000.

20 The next time that we lost 20,000 from that was
 21 during the cost of doing business crisis and the Ukraine
 22 war and everything that flowed from that. So that would
 23 tend to suggest to us that there was a link.

24 MS VAN DER WESTHUIZEN: Thank you. In terms of — at
 25 paragraph 56 and following, you have a discussion about

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1 sectoral and geographical impacts. Can you please just
2 give an indication, were there any noticeable or notable
3 differences in the impacts experienced by businesses in
4 particular sectors, or across geographical areas of
5 Scotland, or is it more complicated than that?

6 COLIN BORLAND: I think it is slightly more complicated than
7 that. I will maybe ask Mr Clark to share his thoughts
8 on that, if I may.

9 GARRY CLARK: Yes, I think it is a complex situation, as you
10 looked at the impact, and particularly at various stages
11 of the pandemic. So initially in that first phase and
12 in March 2020 of the pandemic, obviously almost every
13 business was instructed to close its doors at that
14 point. And I think in the initial phase, it was about
15 everyone is affected equally, but not everyone was
16 accessing the financial support equally. And we'll come
17 back to financial support later, so I don't want to
18 dwell too much upon that.

19 But obviously only businesses who had premises were
20 compensated financially in that very early stage, that
21 first couple of weeks of the pandemic, although it took
22 longer than that to get the money out in some cases.

23 So there was that differential between businesses
24 with premises and those without premises, and if you
25 look at the make-up of our membership, I think you

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1 referred to the survey in 2023 that we ran after the
2 pandemic, I think around about a third, just over a
3 third of our members operate from home, and another,
4 just under 20%, I think operate from shared premises or
5 from vehicles. So obviously those businesses were
6 perhaps struggling more at first.

7 Obviously things changed as the restrictions
8 changed, and as restrictions were more based around the
9 ability of a business to operate, and if you weren't
10 allowed to operate, then you received financial support,
11 but we'll cover the financial support later.

12 But, yes, I think in the very early stages, it was
13 more to do with the type of business because those
14 businesses without premises were the ones who weren't
15 initially compensated in the first round of
16 compensation.

17 MS VAN DER WESTHUIZEN: What about the interplay between
18 where you're located and the type of business; is there
19 a relationship there that makes it more complicated to
20 determine whether it was, you know, for example rural
21 versus urban or —

22 GARRY CLARK: I mean, some parts of the country obviously
23 had a different demographic in terms of the local
24 business population. Obviously here in Edinburgh, where
25 I was representing members, you know, there's quite a

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1 strong retail make-up amongst members, quite a strong
2 accommodation and hospitality make-up among members,
3 creative industries; whereas if you go into the more
4 rural areas, you'll see more agricultural businesses,
5 who — more of those were essential businesses during
6 the pandemic, and could continue to operate in some way
7 to provide food supply. So there was a difference
8 between area to area.

9 MS VAN DER WESTHUIZEN: Thank you. There's reference to
10 debt in the witness statement; what were the key impacts
11 on businesses in terms of debt and resilience?

12 COLIN BORLAND: Well, I suppose — I mean, that finance was
13 vital to keep them — to get them out the other side, so
14 there was obviously a positive impact from those
15 schemes, but, of course, it was finance the businesses
16 weren't expecting to take on, that they hadn't planned
17 for.

18 Some people maybe took it out thinking it's on the
19 insurance policy, but then ended up using it, having to
20 rely on it. One of the things that happened was because
21 we didn't know what was around the corner at that point,
22 but when we emerged from COVID, we had a brief respite,
23 and then we had the inflation crisis, the energy crisis,
24 the cost of doing business crisis, and everything else.
25 So it made people less resilient, because they were

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1 servicing that debt and carrying that debt, to be able
2 to deal with those external shocks.

3 MS VAN DER WESTHUIZEN: Just in terms of generally mental
4 health and wellbeing, you touch on this again in your
5 statement, are you able to comment on the nature and
6 extent of any mental health and wellbeing impacts
7 experienced by small business owners and self-employed
8 and their employees during the pandemic.

9 COLIN BORLAND: Only anecdotally, but, yes, we all spoke to
10 people who were incredibly distressed, and if you were
11 running a small business, it's not just a job, it's your
12 family finances you've tied up in it, your family home,
13 your vehicles, you have family members that work there.

14 You're also acutely aware of your responsibilities
15 to your employees, to your customers, to your wider
16 community, and all that pressure bearing down on you
17 when you just don't know what's going to happen, how
18 it's going to end.

19 We did have people who were incredibly distressed,
20 who were worried they were going to lose everything they
21 had worked to build up over decades in some instances.
22 So, yes, I think the impact from what we saw and what we
23 picked up from people was certainly significant.

24 MS VAN DER WESTHUIZEN: Thank you. Just in terms of your
25 staff, we obviously won't have time to talk too much

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1 about the impacts on FSB generally, but in terms of your
 2 staff members dealing with people and these calls coming
 3 in, were there any other particular impacts on your
 4 staff members from that perspective?
 5 COLIN BORLAND: Yes, we had to make sure — I mean, we were
 6 supporting each other, we were talking to each other
 7 every day, we were sharing these sorts of things. Many
 8 of our people who are frontline are good at dealing with
 9 people, they're employed to deal with people. But the
 10 level of distress that they were dealing with was
 11 unusual, and we did make sure that training was
 12 available to ensure that they knew how to handle those
 13 calls, and where maybe to sign someone — signpost
 14 someone who was in extreme distress.
 15 MS VAN DER WESTHUIZEN: Thank you. I think we can turn now
 16 to discuss financial support, and I think if we can
 17 start just in terms of the early identification of gaps
 18 in financial support, which you discuss in paragraphs 70
 19 to 73 of your witness statement, there you explain that
 20 much of FSB Scotland's initial engagement with
 21 government was to inform it of where the gaps were, and
 22 that this then subsequently became a major priority for
 23 you in terms of lobbying.
 24 Could you please describe how FSB Scotland worked in
 25 the early stages to identify the gaps in initial finance

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1 support schemes introduced by the UK, and specifically
 2 the Scottish Government, and what those initial gaps
 3 were.
 4 COLIN BORLAND: Yes, I will hand over to Mr Groundwater in a
 5 second to expand on that in a bit more detail, but
 6 I think the short answer is, it was the feedback that we
 7 were getting from the ground, and what our members were
 8 feeding back to us, and that's what we in turn fed back
 9 up the line.
 10 MS VAN DER WESTHUIZEN: Thank you. Mr Groundwater.
 11 DAVID GROUNDWATER: Thank you. Indeed, the first scheme —
 12 or the first schemes that were announced by the Scottish
 13 Government focused on those, and the — with the
 14 retail — sorry, with the rates value, and it quite
 15 quickly became clear that the information that was held
 16 centrally on businesses, right across Scotland, wasn't
 17 up to speed. I appreciate it was the quickest and
 18 easiest way to get money out to businesses, but I think
 19 my role, Mr Clark's role and other colleagues across
 20 Scotland was through discussions with members, through
 21 the discussions with the groups that we all sat on, at
 22 an individual level, was pointing out those small
 23 discrepancies. And we think about a system that was
 24 based on rates, and we provided examples such as a
 25 stance or a yard or a showroom, and digging into those

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1 details; and where we found differences across the
 2 country on the levels of, I suppose, staff that local
 3 authorities had to be able to deal with those individual
 4 cases. But I suppose our role within that point was
 5 day-to-day, hour-by-hour asking what if and what about
 6 this sector.
 7 And to jump back to the point that was made earlier
 8 about the differences between geography, the support and
 9 the turnaround was very much dependent on each local
 10 authority and how they were structured. Obviously, a
 11 number of businesses, including ourselves, were ready to
 12 go, I suppose, when COVID hit. We worked at home, half
 13 the staff, half the organisation did. Others, local
 14 authorities, were sending staff home without any IT
 15 equipment.
 16 So there was a delay in getting support available
 17 there. As we progressed, obviously, Mr Clark and
 18 Mr Borland have mentioned the percentage of our business
 19 that is either vehicle-based or home-based, and this was
 20 a group that focused on rateable value, and not the 50%
 21 of other businesses that were there.
 22 So from that, it became the Self-Employed Income
 23 Support Scheme, at various different levels across the
 24 UK. Again, that produced further gaps in the markets.
 25 When we looked at company directors, which was a large

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1 campaign that we ran, right across the UK, and
 2 unfortunately just the way that they were structured and
 3 the dividend payments meant that we weren't able to get
 4 support to them.
 5 And then I suppose from those became the other up to
 6 200, 180 different funds that were being highlighted as
 7 we progressed. I think it links back to the statement
 8 there about the debt. So when businesses are seeing
 9 people, and other businesses getting payments, there is
 10 this: I have run out of that kind of slush fund; or: the
 11 bank that I had now I need to help and I don't fit into
 12 this bracket. And it just spiraled day on day, week on
 13 week from there.
 14 MS VAN DER WESTHUIZEN: Thank you, and you mentioned the 180
 15 funds, which we'll come on to discuss in a bit more
 16 detail later, but in paragraph 100 to 107 of this
 17 witness statement, you discuss the application process,
 18 and again, we'll come on to ask — or I'll come on to
 19 ask you about issues with that process. But just in
 20 terms of administration and distribution of the support
 21 and the 180 funds that Mr Groundwater mentioned there,
 22 what bodies were responsible for doing that in general
 23 terms?
 24 COLIN BORLAND: Mr Clark.
 25 GARRY CLARK: Sorry, yes, I'm happy to take that. Yes,

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1 initially it was largely down to local authorities to
2 distribute , for example, the funds that were based
3 around the rateable values and the valuation roll . But
4 obviously, as we pointed out more and more examples of
5 businesses who were being left out by that kind of
6 support, then increasingly more and more bodies became
7 involved in administering grants.

8 So, for example, grants like the -- early grants
9 like the pivotal enterprise fund, was administered by
10 Scottish Enterprise initially . You had the wedding
11 funds, which was administered by South of Scotland
12 Enterprise for the whole of Scotland. You had various
13 creative funds which were administered by
14 Creative Scotland.

15 So we found various ways of getting money out to
16 businesses, and of course some of that created its own
17 issues , because the processes we had been used to in
18 terms of dealing with local authorities , you know, were
19 changed when you're dealing with, for example, a
20 national enterprise agency in relation to another fund.

21 Even within the local authorities themselves, I
22 mean, Mr Groundwater has already raised the issue
23 around, you know, where in the early stages of the COVID
24 funding, for example, you know, I had local authorities
25 in my region where economic development staff were being

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1 put in charge of administering funds. Other areas, for
2 example, some very large local authorities , only had a
3 handful of maybe non-domestic rating staff looking after
4 all of that grant support. And that had to be increased
5 and the local authorities found ways of finding more of
6 their staff to be able to come in and administer some of
7 those funds.

8 But it was very much piecemeal, by necessity,
9 because again as we went through the pandemic and
10 different funds of these 180 were created, sometimes the
11 local authorities weren't able to go back and have the
12 same people do the same jobs, because those people were
13 back to doing their day job, which they maybe weren't
14 doing in the early part of the pandemic, and that led to
15 pressure on resources as well.

16 MS VAN DER WESTHUIZEN: And just in terms of
17 inconsistencies , what sort of inconsistencies were
18 observed?

19 GARRY CLARK: Initially, I think probably the most
20 significant noticeable inconsistency was in the speed of
21 dealing with applications for financial support. So
22 those businesses who had put -- for example, for those
23 local authorities , rather, who had put enterprise
24 agency, you know, business gateway staff in charge of
25 handling grants, maybe had a more day-to-day knowledge

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1 of the local business community, and could say, well,
2 actually this -- for example, I will give you an example
3 of a retail business applying for support under the
4 grant, where the support was for retail tourism and
5 hospitality businesses.

6 In some local authorities , the support staff , the
7 business gateway staff who were dealing with the
8 applications would know probably the business itself,
9 and would know that that business was a retail business;
10 in other local authorities where you didn't have
11 economic development staff dealing with applications,
12 then you might have a situation where the staff dealing
13 with the publication were looking at the non-domestic
14 rate valuation roll and saying: this is a business unit,
15 this isn't a retail unit, so therefore this isn't a
16 retail business. But actually, if you look at the
17 nature of the business itself , it was conducting retail
18 business, but maybe not from a traditional retail
19 business unit.

20 MS VAN DER WESTHUIZEN: So inconsistencies in terms of time,
21 but also in terms of criteria that were being applied?

22 GARRY CLARK: Yes, we certainly found that as well.

23 Mr Groundwater has mentioned, you know, some of those
24 differences in terms of how properties are termed on the
25 valuation roll , you know, and he's mentioned that sort

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1 of -- the stances etc. I think it was intended to be
2 that some properties were termed -- were given a title
3 which indicated that they were not perhaps actively
4 economic; they were sort of passively economic, like a
5 yard, for example. But where you have a yard where
6 maybe caravan sales are being conducted from, that's
7 very different to a storage yard.

8 So we had to make those arguments with local
9 government to try and convince people that this is
10 actually the intention of the support. Mr Groundwater,
11 I think, would have more to add there.

12 DAVID GROUNDWATER: Yes, thank you. I think there are two
13 other main differences for me, and that was in the -- in
14 a lot of the funds, each individual local authority took
15 a different approach to the application process. So
16 some were very quick at making online applications
17 available , some insisted on paper copies being printed
18 and sent in. There was a turnaround time that it took
19 for that, so along with the -- and the other point would
20 have been along with the kind of -- how much risk they
21 were prepared to take, how quickly they wanted to get
22 that money and support out the door, what was the
23 appetite, depending on, as Mr Clark said, the kind of
24 local knowledge; is it economic development staff where
25 you have large numbers, or is it somebody else from a

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1 different team that has been seconded, how much of an
2 approach was the local authority prepared to take.

3 And we saw that across the country where we were
4 obviously speaking on an hourly basis, sometimes, about
5 examples where we could pitch and say: this yard or
6 stance in one local authority area has received support;
7 however, here's an example of somebody doing exactly the
8 same thing the next door authority, or a couple of
9 hundred miles away being rejected from that.

10 So those were the kind of inconsistencies that we
11 were highlighting on a day-to-day basis, and I think
12 when you have a government programme, obviously,
13 Mr Clark has mentioned the other support that was
14 available through the enterprise agencies, one
15 application form going out and then to be paid, but to
16 have one set of guidance and rules that could be
17 interpreted in slightly different ways across 32
18 authorities with 32 different application processes was
19 one of the big challenges that we fought right at the
20 start.

21 MS VAN DER WESTHUIZEN: Thank you very much. We'll come on
22 to discuss just the challenges specifically with the
23 valuation roll based support and eligibility criteria in
24 a bit more detail, but before we do, there's reference
25 in a few places in the witness statement to a lack of

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1 data about the business community in Scotland and issues
2 arising from that. For example, in paragraphs 115 and
3 129, there's reference to that.

4 So as I said, we'll come on to discuss specific
5 issues relating to valuation roll as a proxy, but in
6 general terms, what were the implications of the
7 Scottish Government and local authorities lacking
8 comprehensive data on the small business community in
9 Scotland, or to what extent was that data lacking, if
10 you could expand on that a bit more, please.

11 COLIN BORLAND: I think Mr Groundwater and Mr Clark have
12 already explained a lot of that. It was an imperfect
13 proxy. The advantage of using the valuation roll is it
14 is there, it is done, and you're ready to go with it.
15 But it was designed to enable the collection of
16 non-domestic rates; it wasn't designed to facilitate the
17 smooth administration of emergency grant support.

18 And again, as my colleagues have said, the issues
19 around about misclassifications, how it's interpreted,
20 who is interpreting it, gave rise to anomalies, but it
21 also then led to a situation where because we were
22 basing it on that, gaps would emerge.

23 So then a patch would go on top of that gap, fill
24 that gap, and then another patch would go on top of
25 that. Then as things dragged on, we might want to, for

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1 example, repeat a particular scheme, but that scheme
2 might have changed its name, or it might be administered
3 by someone different, and the new person who was
4 administering it might not have a data-sharing agreement
5 with the people who administered it last time.

6 So a lot of that spiraled and became more and more
7 and more complicated, but it all stemmed from that
8 initial issue about the lack of reliable local economic
9 data.

10 MS VAN DER WESTHUIZEN: And has that been addressed
11 subsequently? Was that ever an issue before, that lack
12 of data about Scottish businesses?

13 COLIN BORLAND: It's not a new issue. It's just, I think,
14 that COVID brought it into real stark relief and pushed
15 it up the priority list. I would refer to my
16 colleagues, but I don't recall anything formal that has
17 changed. I think we still are where we were.

18 GARRY CLARK: Yes, I would agree with that. You know, if
19 you look at the Businesses in Scotland annual
20 publication that the Scottish Government publishes,
21 you'll see a fairly exact number in terms of the number
22 of VAT registered businesses in Scotland, but if you
23 look at the overall number of businesses in Scotland,
24 which is a couple of hundred thousand higher than the
25 number of VAT registered businesses, it's an estimate

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1 and it still is.

2 And absolutely, you know, we — when we were looking
3 at the businesses that were coming to us in that early
4 part of COVID who weren't receiving support, you know,
5 the local — you know, economic development departments
6 and certainly the Scottish Government had very little to
7 go on in terms of who are these businesses. You know,
8 I had people come to me who were running boat trips from
9 Eyemouth, so vehicle-based businesses.

10 I had someone — cleaning business from Midlothian
11 come to me, saying: where's my support? But they were
12 based from home and had to have a van that went round,
13 you know, where they would clean people's properties or
14 offices. So neither of these businesses were on the
15 valuation roll. So there is a question of how we
16 identify these businesses and get support to them.

17 MS VAN DER WESTHUIZEN: And just in terms of that, I mean,
18 are there other countries, either within the UK or out
19 of the UK, that have an alternative, a database of
20 businesses that's an alternative to just using the
21 valuation roll that was done in Scotland.

22 COLIN BORLAND: I think we're straying rather far from our
23 sphere of expertise; sorry, I don't know.

24 MS VAN DER WESTHUIZEN: Okay, that's fair enough. We have
25 had some discussion about the valuation roll and

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1 challenges of that, but just taking a step back, it
 2 obviously was used because of a lack of data on Scottish
 3 businesses. Could you please just explain in practical
 4 terms how it was used?
 5 COLIN BORLAND: Essentially going through the valuation roll
 6 where the business is categorised, and then deciding,
 7 using that categorisation, to identify the intended
 8 recipients of particular pieces of support.
 9 MS VAN DER WESTHUIZEN: So on that valuation roll, would it,
 10 for example, say this is a retail business, therefore it
 11 qualifies for —
 12 COLIN BORLAND: Say it's a retail premises.
 13 MS VAN DER WESTHUIZEN: Premises, so it's based on the
 14 premises, retail premises versus ...
 15 COLIN BORLAND: Yes, as opposed to a warehouse or a factory,
 16 and, you know, as we have discussed, you can obviously
 17 carry on different types of businesses from different
 18 types of premises. So Mr Clark's example of, you know,
 19 something that's designated as a storage yard, but
 20 actually it's a used car lot, and there's a tiny little
 21 Portakabin from which the paperwork is done. It's about
 22 getting to the character of the business, and if you had
 23 people who were mechanically applying that test, that
 24 threw up anomalies. If it was people who said, "No,
 25 wait a minute, I have known that business for 20 years,

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1 this is what they do", then it was less of an issue.
 2 MS VAN DER WESTHUIZEN: So it's not designed for that
 3 purpose, and it kicks up the problem of not accurately
 4 reflecting what the nature of the business is.
 5 COLIN BORLAND: Yes, precisely.
 6 MS VAN DER WESTHUIZEN: We have already touched on
 7 accessibility of financial support, and I think
 8 Mr Groundwater mentioned some of the differences, but in
 9 general terms, how were support schemes advertised? How
 10 did people know what support schemes to apply for?
 11 COLIN BORLAND: I will let Mr Groundwater answer that one.
 12 DAVID GROUNDWATER: Again, that approach varied — depended
 13 on the local authority, if it was the local authority
 14 that was indeed administering that fund. Some were very
 15 proactive, in the northeast of Scotland particularly,
 16 where there was adverts taken out in the local press and
 17 both print and broadcast, they were using the various
 18 network groups to be — myself and colleagues sat on
 19 sometimes daily to advertise the funds, and they were
 20 giving us updates on the applications that were
 21 received, and trying to push.
 22 Others didn't need to take that approach. Again,
 23 going back to the previous comments about the
 24 departments that existed and how well the economic
 25 development team knew their business base, and they

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1 would directly support, or sometimes there was, just,
 2 again, through engagement databases, they were able to
 3 direct constantly. Other times was them, in terms of
 4 agencies and others, asking all the other partners to
 5 promote, be that through the daily and the hourly, the
 6 minute—by—minute conversations we were having with
 7 members on the phone saying: did you know about this;
 8 through social media, email shots, anything and
 9 everything.
 10 I think most of the broadcast interviews that we
 11 were doing, or certainly that I was doing across the
 12 northeast always finished with: check out this website
 13 if you're based in Aberdeen; or the general one that
 14 developed through find business support for further
 15 information about the funds.
 16 As you can imagine, as COVID kind of grew and the
 17 funds grew, it became very difficult to be up to speed
 18 on 180 different funds that were available. I remember
 19 being asked to attend a business group in Moray, and
 20 asked to be — talked about COVID support, and the
 21 question was: which part, who's the audience.
 22 And then you quickly found that talking about 20, 30
 23 different funds to direct people to, so it was a mixture
 24 across the board. Yes. I don't know if Garry has
 25 anything to add from his experience.

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1 GARRY CLARK: Yes, I would just probably add that for us, it
 2 was a complex process trying to, you know, figure out
 3 how each fund worked and who it was — you know, there
 4 was information out there, most of it online, about the
 5 broad features of a fund, and who it was intended for
 6 and how to apply for it. But, you know, Mr Groundwater
 7 and I, particularly dealing with businesses on the
 8 frontline, were often referring to things like
 9 non—domestic rates practice notes for each of the funds,
 10 which, you know, whilst they were available publicly on
 11 the Scottish Government website, you know, may not — or
 12 may have been sufficiently technical that a lot of
 13 businesses might not have been able to get their heads
 14 around: okay, you know, do I even have a process of
 15 appeal here, if so, what do I base my appeal on; and it
 16 was very complex to be able to do that.
 17 Now, we had experience of not only multiple
 18 businesses within the same local authority or different
 19 local authorities; we were also consulting with each
 20 other, as Mr Groundwater says, on a daily basis, and
 21 consulting with colleagues like Mr Borland who were
 22 dealing with Scottish Government officials, to be able
 23 to make sense of all these rules and bring them together
 24 and fight successful cases for our members.
 25 But that's a particularly difficult process for an

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1 individual , perhaps feeling quite alone, to be able to
 2 navigate themselves.
 3 COLIN BORLAND: I think this is also maybe worth making the
 4 point that not all local authorities were quite as
 5 proactive as the ones that Mr Groundwater mentioned, and
 6 a few rather sat back and waited for people to approach
 7 them. And that obviously raises — or maybe — or
 8 contacted people with whom they were already in contact,
 9 and that obviously has an effect because we know there
 10 are certain parts of the business community who are less
 11 likely to access that sort of publicly available
 12 support. So if you're waiting for people to contact
 13 you, or contacting people with whom you have an existing
 14 relationship , then that just exacerbates that
 15 inequality .
 16 MS VAN DER WESTHUIZEN: Do you have any particular groups in
 17 mind — of the business community in mind?
 18 COLIN BORLAND: For example, ethnic minority—owned
 19 businesses are less likely to engage with traditional
 20 business support structure.
 21 MS VAN DER WESTHUIZEN: We have heard a fair bit so far in
 22 the Inquiry about digital inclusion or exclusion. To
 23 what extent — obviously, Mr Groundwater mentioned
 24 some — applications were paper based, some were
 25 digital , but just in terms of accessing the funding and

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1 having to find information about funding, to what extent
 2 was digital inclusion or exclusion an issue for some
 3 business owners, in terms of actually knowing where to
 4 go if they weren't your members, for example.
 5 COLIN BORLAND: That was an issue, particularly for older
 6 business owners, if the application process was online
 7 only. So again, another barrier that was put in their
 8 way.
 9 MS VAN DER WESTHUIZEN: Thank you. In terms of the actual
 10 delivery of funding and challenges in terms of getting
 11 support out to businesses, so assuming somebody actually
 12 manages to know what to apply for, could you please
 13 provide a bit of detail about the issues, if any,
 14 experienced with the delivery of specific — maybe with
 15 an example of a specific fund, you mentioned the
 16 Discretionary Fund, for example, what were the issues,
 17 if any, in relation to the delivery and getting the
 18 funds out?
 19 COLIN BORLAND: I'll defer to Mr Clark on that one.
 20 MS VAN DER WESTHUIZEN: Thank you, Mr Clark.
 21 GARRY CLARK: I think this might be a wee bit of a team
 22 effort because —
 23 MS VAN DER WESTHUIZEN: Just as long as we know who's
 24 answering what, that's fine.
 25 GARRY CLARK: We came across quite a few issues across the

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1 country, because by its very nature, the
 2 Discretionary Fund was up to local authorities and
 3 individual local authorities to administer. So we did
 4 find , you know, things happened in 32 different ways
 5 there.
 6 But I think if we look at the creation of the
 7 Discretionary Fund, which was back in sort of
 8 October/November of 2020, it was a fund designed to sort
 9 of plug some of the gaps in support that we've been
 10 talking about, but it was specifically initially
 11 imagined around the different tiers of restriction that
 12 the country was under at that time. I think it was tier
 13 1 to 4, from the lowest to the highest level of
 14 restriction , and local authorities received funding
 15 based upon which tier they were in. Particularly the
 16 tier 4 local authorities received a bit more — a bit
 17 more of an allocation from the Discretionary Fund.
 18 Now, at the time the fund was created in that autumn
 19 of 2020, I think 11 local authorities in Scotland were
 20 under the highest tier of restrictions , tier 4, but by
 21 the time the money was given to local authorities to
 22 begin to distribute to businesses, or to find ways of
 23 distributing to businesses, it had reached January 2021,
 24 by which point I think 29 out of the 32 local
 25 authorities were in tier 4 levels of restrictions . And

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1 of course we had changed the nature of how support was
 2 given, so it wasn't universal support given to every
 3 business which — because every business had closed its
 4 doors in spring 2020.
 5 By the beginning of 2021, restrictions were then
 6 based upon whether a business could open, so if a
 7 business was told to close, then it could apply for
 8 funding, but if it wasn't told to close, then, you know,
 9 it could continue to stay open, but it wouldn't receive
 10 any funding.
 11 And of course the issues we had there were things
 12 like obvious cases like kennels and catteries , which
 13 were deemed to be essential animal support and humane
 14 support for animals, but they had no customers, because
 15 nobody is putting their dog or cat into kennels or
 16 catteries because nobody is going on holiday. They
 17 can't even leave their local authority area, never mind
 18 putting their animals in to — but these businesses
 19 didn't receive automatic support, because by law they
 20 weren't asked to close.
 21 So these are the sorts of business that the
 22 Discretionary Fund was aimed at addressing. So we found
 23 first of all the money went to local authorities in the
 24 January, but the guidance didn't get issued until — I
 25 would probably defer to colleagues here but I think it

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1 was March of 2021.
 2 So there was a period of two months where the local
 3 authorities had money to give out to businesses, but
 4 didn't have the guidance from the Scottish Government as
 5 to how to do that. Yet despite that, some local
 6 authorities had managed to distribute all of their money
 7 before the guidance came out. Others took the view:
 8 we'll wait until the guidance comes out before we start
 9 making big allocations from this. You had other local
 10 authorities still who said: we're not going to tell
 11 anyone about this fund and wait until people come to us.
 12 And we have touched on that earlier, and the
 13 difficulties that that can cause for particular types of
 14 businesses.
 15 And then you had businesses — local authorities
 16 later on who made up their own rules, which were
 17 contrary to the Scottish Government guidance, and
 18 distributed funds based on their own rules, and ignored
 19 the Scottish Government's guidelines for distribution of
 20 funds.
 21 So it became a very complicated fund, and a fund
 22 which initially with £30 million across the whole of
 23 Scotland was rapidly extended to £120 million by April
 24 of 2021. And one of the frustrations that we had,
 25 dealing with local authorities and Scottish Government

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1 on a day-to-day basis, is that there was very little
 2 appetite from the public sector to learn the lessons of
 3 how the first £30 million was spent before the next
 4 £90 million was allocated to them. So, Mr Groundwater,
 5 if you want to maybe add.
 6 DAVID GROUNDWATER: Yes, two very quick points, I think. In
 7 terms of the speed of payment, again, that varied
 8 depending on the local authority area and how they were
 9 set up. Some had quite clear payment days, and a roll
 10 that was out there, so you were able to advise the
 11 members and indeed businesses that were maybe chasing
 12 for those funds about the actual process. Some were
 13 very open about that.
 14 And the other point goes back to, I think, the data
 15 that was held. So when you have a Discretionary Fund
 16 and businesses that may be based in one local authority,
 17 but actually operating in the neighbour local authority,
 18 on different levels and different support available,
 19 that became quite a challenge. Just because I'm based
 20 in Clackmannanshire, but actually 100% of my business is
 21 in Perth and Kinross, if I was a mile, or across the
 22 road, in some circumstances, I would be able — eligible
 23 for this fund, however, because of the postcode, I'm
 24 not.
 25 So that became a huge challenge, that, again, the

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1 discussions local authorities were trying to resolve,
 2 but as Mr Clark has highlighted, there was some — more
 3 willingness with some than others.
 4 MS VAN DER WESTHUIZEN: I think, Mr Clark, you mentioned
 5 some local authorities ignoring guidance and doing their
 6 own thing; do you have any specific examples of the
 7 types of funding or — you don't have to mention local
 8 authorities, but the types of funding that they would —
 9 GARRY CLARK: Yes, to give a basic example, the Scottish
 10 Government guidelines for local authorities using
 11 discretionary funds said that, had you received a
 12 UK-wide financial support so, for example, the
 13 Self-Employed Income Support Scheme, or using the
 14 furlough scheme, that was not a bar to applying to the
 15 Discretionary Fund. But, for example, West Lothian
 16 Council applied a bar in those circumstances and would
 17 not give support from the Discretionary Fund to
 18 businesses which had previously received either
 19 self-employed income support or had used the furlough
 20 scheme for staff.
 21 And that was — you know, that was different to
 22 every other local authority in Scotland, as far as I'm
 23 aware, and also that was contrary to the guidance that
 24 had been issued to them.
 25 MS VAN DER WESTHUIZEN: Thank you. I thought you had

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1 something more, Mr Groundwater.
 2 You mentioned at the start, or we discussed at the
 3 start the gaps that you identified in funding, and how
 4 that kind of became something that you had to continue
 5 doing through the pandemic. You've mentioned the
 6 Discretionary Fund which was designed to fill some of
 7 the gaps in the others, but to what extent did later
 8 runs of financial support such as — address some of the
 9 gaps identified earlier, or were there still ongoing
 10 gaps that weren't filled either by the
 11 Discretionary Fund for reasons other than the ones that
 12 you have articulated there, that there were just gaps in
 13 funding.
 14 COLIN BORLAND: I'll ask Mr Clark to take that one.
 15 GARRY CLARK: I think the obvious one there is one that
 16 Mr Groundwater has mentioned earlier, which would be
 17 company directors who were paid by dividend.
 18 Now, many of those businesses could apply for the
 19 Discretionary Fund, but again, it depends on the local
 20 authority that they were based in, because some local
 21 authorities chose to spend that money very specifically
 22 and for very specific purposes, and to support very
 23 specific types of businesses. Other local authorities,
 24 there was far more general support where anyone could
 25 apply for it.

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1 But generally speaking, if you were a company
 2 director paid by dividends from the company, then there
 3 was no direct support available to you. And as
 4 Mr Groundwater has mentioned, that's something similar
 5 to the Self-Employed Income Support Scheme that we had
 6 lobbied for with the UK Government, but sadly on this
 7 occasion, we were unsuccessful.

8 So I think that's a big category of business types
 9 who were left out, and you found all these groups, lobby
 10 groups almost set up by these types of people who were
 11 losing out on this support to lobby specifically for
 12 that kind of support. As I said, some of them did
 13 receive support under the Discretionary Fund but not
 14 all.

15 MS VAN DER WESTHUIZEN: Thank you.

16 DAVID GROUNDWATER: Sorry, I was just going to add, one of
 17 the other key groups that was missed out was one of
 18 Mr Clark's favourites, I suppose, in terms of engagement
 19 and the lobbying, and that was the bed and breakfast
 20 sector.

21 MS VAN DER WESTHUIZEN: Yes, I was going to come on to ask
 22 you about that, because there's mention in the witness
 23 statement, and possibly also in the Rule 8 about
 24 complexities and anomalies with later funding, and I
 25 think examples are given, the bed and breakfast, and I

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1 think the Omicron funding as well. Perhaps you can
 2 start with the bed and breakfast funding, and give
 3 examples of complexities and anomalies that emerged with
 4 that funding, and then perhaps one of you can take the
 5 Omicron as well, please.

6 GARRY CLARK: I'm happy to take the bed and breakfast issue.
 7 It's just one of those emblematic issues, I think, that
 8 shows the difficulties, right the way through the
 9 pandemic, and the different types of support that were
 10 available at various stages of the pandemic.

11 So this kind of all stems from the initial support
 12 which is available to businesses which were paying
 13 non-domestic rates on the valuation roll. Now, some bed
 14 and breakfast properties are rated, business rated, and
 15 because they pay business rates, and they're a
 16 retail/hospitality/leisure type of business, then they
 17 received direct support in that initial tranche of
 18 government support, based on business rates.

19 However, not all bed and breakfast businesses are
 20 rated for business rates. Some of them pay council tax,
 21 so the second round of support that was created for
 22 these types of businesses was the creative, tourism and
 23 hospitality fund, which was administered by Scottish
 24 Enterprise.

25 So if you had a bed and breakfast property where you

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1 paid council tax rather than business rates, and had a
 2 business bank account, then you could receive support
 3 under that fund. But then we had bed and breakfasts
 4 come to us and say: but I don't have a business bank
 5 account. So they then created a third fund, which is
 6 the — I can't even remember the name of the fund now...
 7 it's the Bed and Breakfasts Hardship Fund, which was
 8 specifically for those businesses, bed and breakfasts,
 9 paying council tax and with a personal rather than a
 10 business bank account.

11 So in three stages, it kind of got there in the end
 12 and covered every B&B in Scotland. But then when the
 13 government, you know, in the early part of 2021, was
 14 looking to repeat support, it repeated the non-domestic
 15 rate support, so those B&Bs who paid business rates got
 16 repeated support; it repeated the Bed and Breakfasts
 17 Hardship Fund, so those B&Bs paying council tax and with
 18 no business bank account received support; but the group
 19 in the middle who had received support under the
 20 creative, tourism and hospitality fund, because that
 21 fund was not repeated in the same format, those B&Bs who
 22 paid council tax but had a business bank account didn't
 23 receive any support.

24 So we pointed that out to Scottish Government,
 25 argued the case with officials, they recognised that

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1 there was a problem area, and then they went back and
 2 reestablished — or sort of basically created a new fund
 3 which would cover both the council tax paying B&Bs,
 4 whether they basically had a business bank account or
 5 not, so that way everyone was covered, but it kind of
 6 shows that by taking one sector and covering it with
 7 three different funds, when you came to repeat that
 8 support, because restrictions had continued, and, you
 9 know, in some cases where businesses were continuing to
 10 have to stay closed, replicating that support, where you
 11 had three funds and someone had forgotten that actually
 12 part of this sector was covered under one fund, became
 13 very complex, and that was a real issue in terms of bed
 14 and breakfast.

15 MS VAN DER WESTHUIZEN: Thank you, and then Omicron and the
 16 complexities with that.

17 GARRY CLARK: Omicron — I'll come back, I'll just, I
 18 suppose, carrying on the story of bed and breakfasts. A
 19 year later, in the beginning of 2022, when Omicron
 20 support — the Omicron wave which was identified in late
 21 2021, the government recognised that there was a
 22 downturn in the tourist market and created a new fund of
 23 Omicron support for businesses affected by that.

24 Now, that was largely — in large part,
 25 accommodation-type businesses, but it restricted that

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1 support to hotels, and actually no bed and breakfast or
 2 guest houses received any automatic support under the
 3 Omicron wave of funding, which, you know — in my area,
 4 I was dealing with the City of Edinburgh Council. I was
 5 dealing with — guest houses, B&Bs, who had taken
 6 bookings for Edinburgh's Hogmanay, who had taken
 7 bookings for the Six Nations internationals in January,
 8 February, March, who had seen bookings cancelled left
 9 right and centre.

10 My argument was why are these businesses not
 11 receiving the same support as hotels. So actually, the
 12 City of Edinburgh Council in that case created a new
 13 fund from its unspent Discretionary Fund support to be
 14 able to recompense some of the businesses affected by
 15 that in those restrictions. So — but that wasn't
 16 universal, it wasn't all the way across Scotland. Some
 17 local authorities, like Highland, took the view that
 18 this was winter, and tourism is more seasonal in the
 19 Highlands, and maybe they shouldn't receive that support
 20 in winter, but still hotels were compensated and B&Bs
 21 weren't. I don't know if —

22 DAVID GROUNDWATER: I think you have covered it quite well
 23 there.

24 MS VAN DER WESTHUIZEN: Thank you very much. We've touched
 25 on the delays and timing issues and sort of postcode

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1 lottery, or differences across geographic regions in
 2 relation to that, but just in a nutshell, what were the
 3 key issues around the timing and delivery of financial
 4 support for the small businesses themselves, if any?

5 COLIN BORLAND: I mean, I guess, at the top level, it's the
 6 same issue around about some of the guidance, around
 7 about lockdown rules and a lot of the restrictions, that
 8 dislocation between the high level pronouncement and
 9 then how that would then translate into the regulations
 10 that would back it up, and then the guidance that would
 11 flow from that, and some of those gaps. Because it's
 12 fairly true to say, if you're a business owner watching
 13 this, and you're told: the following is happening; they
 14 will tend to assume it is happening now.

15 So what do I need to do? I don't want to break the
 16 law, I want to do the right thing, what do I need to do
 17 now? And answering those questions: what am I eligible
 18 for; answering those questions became difficult because
 19 of those gaps.

20 MS VAN DER WESTHUIZEN: Thank you. Starting at paragraph —
 21 just moving on now to feedback and monitoring of the
 22 financial support, we've already touched on the fact
 23 that there were 180 schemes. You discuss at paragraph
 24 127 of the witness statement about the feedback and the
 25 monitoring of the financial support. I'll be asking you

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1 in a moment specifically about FSB's engagement with
 2 Audit Scotland, but just in very general terms, based on
 3 your observations at the time and subsequently, how
 4 effectively were those financial supports schemes
 5 monitored and evaluated by the Scottish Government, and
 6 what were some of the issues around that, if any?

7 COLIN BORLAND: I think it's fair to say there was a degree
 8 of opacity around about that, in terms of what — the
 9 difference between funds being actually spent and
 10 allocated was a debate that went on for some time. I
 11 think the question of "all funds have been allocated"
 12 doing quite a lot of heavy lifting in some of these
 13 conversations.

14 I think, as I mentioned before, there was some cases
 15 where as things went on, funds could be folded into each
 16 other, or renamed. So tracking them from start to
 17 finish was quite difficult.

18 I think, Mr Clark, you have a couple of examples of
 19 specific funds you were asking questions about; I don't
 20 know if you want to talk about them?

21 GARRY CLARK: Yes, I suppose looking at a couple of funds, I
 22 mean, one fund might be the Business Ventilation Fund,
 23 where the initial announcement was £25 million of
 24 government support would be put into helping businesses
 25 to become safer through better ventilation and better

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1 monitoring of air quality in the business.

2 But, you know, there was a report came out. That
 3 was announced, I think in the September, the fund went
 4 live, I think, in the November, and was live all the way
 5 through to, I think the beginning of April. And at the
 6 end of it, it was found that only just under £1 million
 7 of that £25 million was spent for its intended purpose,
 8 and, you know, we know of members — you know, I know of
 9 a member in Edinburgh, for example, who applied three
 10 times to that fund to try and get a £200 carbon dioxide
 11 monitor for their health studio, and kept on getting
 12 turned back and turned back and turned back. And FSB
 13 had to intervene to try and argue their case. They were
 14 ultimately successful, but, you know, perhaps that was
 15 one reason why so little of that fund was spent.

16 But of course we then asked the question: well,
 17 where is the remaining £24 million being allocated; and,
 18 you know, I think the answer we got from government was:
 19 that money has been allocated. It's not gone to the
 20 businesses who it was intended to support, so what
 21 happens to that money? And I think, you know, with
 22 Omicron funding as well, I think it was initially
 23 announced that, I think, £375 million of funding had
 24 been set aside to support businesses through the Omicron
 25 wave. But in terms of the actual announcements of

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1 various funds, that came to quite a bit less than that,
2 I think about 275, I think it 's in the evidence, that
3 we've got the exact number, and of that, only around
4 just under 200 million was actually spent when you look
5 at the government's spending figures. Yes, £267 million
6 was announced out of the 375 million and only
7 154 million was actually spent.

8 So when we're arguing the case saying: but what
9 about these businesses over here who have not received
10 support; and the government says: we have got no money
11 to support them; and we asked the question: what about
12 the money you didn't spend here; that money has already
13 been allocated.

14 So, you know, Mr Borland is right, they did seem
15 quite opaque, some of the decision—making, and again,
16 going back to discretionary funds, the initial
17 £30 million given to local authorities was done by means
18 of grant letter and was supposed to be spent by the end
19 of March 2021.

20 The additional £90 million given to local
21 authorities was done through the revenue support grant,
22 so the local authorities didn't have the same reporting
23 criteria to say how that money was spent. And, you
24 know, we did find out after a year or so after that,
25 that there was quite a substantial degree of unspent

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1 discretionary funding from local authorities, but it was
2 difficult to see, other than: we know you've spent this
3 amount of money, but where did the rest go.

4 MS VAN DER WESTHUIZEN: Thank you. Any other comments on
5 that before I ask you about your engagement with
6 Audit Scotland?

7 DAVID GROUNDWATER: Another point would be about the
8 reporting that local authorities and other partner
9 agencies had to the Scottish Government, and that was —
10 again, differed across the country, going back to
11 probably that point about staffing, but the key point,
12 announced, allocated and spend, the timeline between
13 that was very, very different. And Colin's point —
14 sorry, Mr Borland's point about funds being merged into
15 other when we're looking at those different funds, and
16 as we grow over a period of time, slight changes, as
17 Mr Clark has said, about the bed and breakfast funds and
18 how those change over time; or an announcement about
19 breweries and 5—a—side football funds, that then are
20 separate and then get merged into two — sorry, into one
21 fund for reporting mechanisms, became very, very
22 difficult to track over time as part of our submission
23 to Audit Scotland, in terms of the funds that we've
24 identified from announcement to spend to date, or
25 allocated to date to spend to date.

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1 But again, it just differed — depended on the local
2 authority and those calls that we were having on a daily
3 basis, how we get information about that, be able to
4 monitor in terms of the announcement that was made, or
5 even the high numbers of businesses that we were hearing
6 that were being rejected, and making those lobbying
7 calls by highlighting: you have this Discretionary Fund
8 that is 70% unutilised, let's make sure it gets out by
9 the date, if there was one, whether the March one or
10 indeed the subsequent top—up.

11 MS VAN DER WESTHUIZEN: Thank you. Mr Borland, did you have
12 anything to add to that? No, I thought you were taking
13 a breath to speak.

14 Again we've mentioned or discussed this 180
15 different schemes that you managed to sort of pull
16 together from the data available. Did those include
17 Scottish and UK funds, or were those just the Scottish
18 funds, support schemes.

19 COLIN BORLAND: They were just Scotland, yes.

20 MS VAN DER WESTHUIZEN: Just the Scottish ones, thank you.
21 You've referred to it in your statement and in your
22 Rule 8 response, but could you just briefly explain how
23 FSB came to engage with Audit Scotland and what that
24 engagement involved?

25 COLIN BORLAND: I believe, if memory serves, Audit Scotland

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1 approached us when they were carrying out this exercise,
2 and that's what prompted us. We had been informally
3 tracking those schemes for some time, in terms of
4 looking at who has set it up, how much was in it, how
5 much of it was spent, when did it start, when did it
6 end; you know, that sort of thing, and we had collated
7 that together into that spreadsheet which I think is
8 certainly part of a Rule 8 submission, if not part of
9 the evidence bundle, and submitted that throughout
10 Scotland.

11 I think they followed that up, if memory serves,
12 with a discussion with them, just to essentially tease
13 out the points that Mr Clark and Mr Groundwater have
14 made, about what it was looking like from where we were
15 sitting. And again, it was interesting to see their
16 conclusion about, you know, finding out where that
17 1.1 billion went after it went into reserves.

18 MS VAN DER WESTHUIZEN: Yes. Did you provide feedback to
19 other bodies other than Audit Scotland, or is it just an
20 Audit Scotland exercise?

21 COLIN BORLAND: Garry.

22 GARRY CLARK: Trying to think back in terms of our various
23 engagement, we did give evidence to the Scottish Affairs
24 Committee, House of Commons, on its Inquiry into the
25 pandemic and lessons, which I think was — was that last

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1 year, I think 2023, I gave evidence there, along similar
 2 lines, and I think the evidence we gave to
 3 Audit Scotland was along similar lines to what we have
 4 given to this Inquiry.
 5 DAVID GROUNDWATER: I mean, the feedback was also to local
 6 authorities: we know how much money has been allocated,
 7 you're reporting how much has been spent, therefore
 8 what's happened with the remainder?
 9 I suppose if you asked the question to the Scottish
 10 Government, they will say the money has been allocated
 11 to the local authorities, and it's up to them to
 12 administer those funds and get those payments out the
 13 door.
 14 So the point on the 180 or the data collection on
 15 the spreadsheets was also for our point of view, not
 16 just for reporting at the end of this, but to keep track
 17 when you have so many businesses and members getting in
 18 touch, you need to have that kind of short, sharp
 19 overview of what is the funds. So we tracked the kind
 20 of sectors and a brief note about who it might be
 21 applicable to, so that we could quickly keyword search
 22 or refer to it and say: you might be eligible for this,
 23 here's the link, here's the agency that's
 24 administrating, or the local authority.
 25 MS VAN DER WESTHUIZEN: Thank you, and Mr Clark.

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1 GARRY CLARK: Yes, I just want to — David — sorry,
 2 Mr Groundwater, has raised that issue there in terms of,
 3 you know, going back and looking at the officially
 4 published data, which we did often on a local authority
 5 by local authority basis, and, you know, that data would
 6 tell you how many applications were successful, how many
 7 were unsuccessful, and the total funding issued.
 8 And of course in some areas, we sort of knew what
 9 the local grants say for Discretionary Fund was, and if
 10 you multiplied that by the number of grants, you ended
 11 up with a different number to the overall amount spent.
 12 So in a number of cases, we went back to the local
 13 authorities and said: well, can you explain why this
 14 doesn't add up? So in some cases, for example, Fife
 15 Council, Fife had — like many local authorities, had
 16 just doubled up. So if they had given, say, a £2,000
 17 grant for someone who had applied for the
 18 Discretionary Fund, and had money left, they just said:
 19 have four instead of two; and they just doubled it up to
 20 the people who had already applied.
 21 Then another example was West Lothian Council, which
 22 had invited 51, 53, something like that, businesses to
 23 apply for a higher level of grant, which was not an open
 24 application process so far as we could determine, and
 25 there's questions there over the compatibility with

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1 Scottish Government guidance. But it had provided a
 2 higher level of support to a number of businesses who it
 3 had invited. And that then helped us add up the
 4 numbers, but a lot of that information wasn't publicly
 5 available, and we had to make specific representations
 6 to find out exactly how the money was spent.
 7 MS VAN DER WESTHUIZEN: Thank you. And then notwithstanding
 8 those investigations, and sort of tying the numbers
 9 together, in paragraph 127 of your witness statement,
 10 you said it's hard to disagree with Audit Scotland's
 11 conclusion that:
 12 "It is difficult to see how over £1.1 billion of
 13 Covid-19 funding was spent after it was put into
 14 reserves".
 15 In footnote 12, you quote a document, "Scotland's
 16 financial response to COVID-19", and that's a document
 17 by Audit Scotland dated June 2022. Is that 1.1 billion
 18 the sort of sum total of these amounts that you were
 19 referring to earlier, in terms of not being able to
 20 marry the sums up in terms of what was allocated and
 21 what was distributed; is that what you were referring to
 22 there?
 23 COLIN BORLAND: I believe so, yes. But we need to
 24 double-check with the Audit Scotland report on what it
 25 says, because that's their number.

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1 GARRY CLARK: I think a proportion of that would be able to
 2 be traced, but not all of it, I think is the thrust of
 3 the Audit Scotland report, but that's a quote from their
 4 report.
 5 MS VAN DER WESTHUIZEN: Thank you, with which you don't
 6 disagree?
 7 GARRY CLARK: No.
 8 MS VAN DER WESTHUIZEN: Time permitting, I'm going to give
 9 you an opportunity just at the end of your evidence to
 10 comment on potential lessons to be learned, but before
 11 we move on to discuss other pandemic guidance — and I
 12 see we're at 11 minutes past 12, so we don't have a huge
 13 amount of time left — I'll just invite you, are there
 14 any other significant issues you want to raise in
 15 relation to funding and/or any specific lessons learned,
 16 specifically around financial support provided to small
 17 businesses during the pandemic, that you would want to
 18 highlight now? And you do have a section on it which we
 19 have in your report under "Financial support lessons"
 20 but if there are any that you want to flag up
 21 specifically now, please do.
 22 COLIN BORLAND: I'm conscious of time. I think paragraph
 23 133, we have a number — we have listed a number of
 24 observations and we have covered a lot of ground this
 25 morning, and I think most of them are in there talking

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1 about who was actually doing administering, who was
2 making the decisions, who was getting what turned out to
3 be significant multiple schemes to cover particular
4 sectors, gave rise to issues. There were practical
5 questions about data sharing between agencies as well,
6 so we couldn't necessarily replicate.

7 There was an issue, I don't know if we have spoken
8 about it specifically, but there was an issue with
9 somewhere where there wasn't automatic appeals —

10 MS VAN DER WESTHUIZEN: Yes, we just touched on that —

11 COLIN BORLAND: — so we had to go and talk specifically to
12 the official or the agency that had taken the decision.
13 So if there was a sort of standard set of appeals and
14 rights, that would have probably made things easier.
15 Having — everything available online, again would be
16 particularly helpful.

17 We may talk about this a little bit later, but some
18 of the changes, in terms of how they were communicated.
19 A change of a pound in a threshold could actually have
20 significant impact on how much a business gets, but if
21 that guidance changed, what we would find is it would
22 simply be published on the Scottish Government website,
23 and rather unhelpfully, the previous version of it would
24 be taken down, but with no track changes, so we didn't
25 know what had changed.

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1 So you had read a 50—page guidance document, you
2 then have to go back and look over that again. So
3 again, that sort of flagging up what actually changed
4 and what shifted.

5 MS VAN DER WESTHUIZEN: We can come on to discuss that. We
6 do have a bit of time. So if we can move on then just
7 to discuss other pandemic rules and guidance, and please
8 feel free in this discussion to refer to anything that
9 applies to the funding as well as general guidance, in
10 terms of closures and openings etc but just bearing in
11 mind our time, if we could start with timing, and you
12 refer in paragraph 134, you make comments about the
13 timing of guidance. Could you please comment on the
14 timing of the rules and guidance, and as you have
15 mentioned there, the changes to the guidance issued by
16 the Scottish Government during the pandemic, and whether
17 and to what extent this caused issues for FSB and/or
18 small businesses.

19 COLIN BORLAND: Yes, I mean, I think as we touched on, there
20 was an issue with — you would see the high level
21 announcement, whether at the daily updates or in
22 Parliament, and then there would be a gap between what
23 that was going to look like in practice, and inevitably
24 practical questions would come up. I mean, I recall the
25 issues around about the distinction between what

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1 constitutes a cafe and what constitutes a restaurant,
2 and there had been no actual reliable definition of
3 either, and casting about and trying to find some
4 indicative factors that might be able to factor in.

5 That was one of countless examples of people who
6 were really keen to do the right thing, didn't want to
7 fall foul of the rules, but were saying: can you tell me
8 what these rules are. So there was definitely an issue
9 with timing there, and then following on from the
10 regulations, the issues about the guidance, and then
11 questions about how that guidance would be enforced
12 locally.

13 So that — and some of that, I mean, we can't — we
14 don't know, but it seems like it was being held — the
15 delay, the hold—up was at the centre. So perhaps more
16 sort of devolved decision—making or something like that
17 to speed that up would have been helpful, yes.

18 MS VAN DER WESTHUIZEN: You've touched there on the next
19 thing I was going to ask you about, was the — in terms
20 of the clarity of the guidance, how clear were the rules
21 and guidance, and how easy were they to follow and
22 understand?

23 COLIN BORLAND: It was very difficult. I think for a
24 typical business owner, particularly one who's maybe in
25 something like a customer—facing or a public—facing

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1 role, I think, again, as I mentioned, when these —
2 again, the same applies, actually, as it did with the
3 grants, that you could have a change, a change in
4 guidance, but if you're not telling us what the changes
5 actually are, you're just replacing one big document for
6 another big document. That's really difficult.

7 A business owner has spent their time going through
8 that, understanding, understanding it, and now two lines
9 have changed. Now, those changes must have been
10 discussed in a meeting and agreed, so that must have
11 been minuted somewhere. So it's not a question of
12 resources or time to highlight what those changes are
13 and to put them in a different colour in the document.
14 That's simple, that should happen as standard, but
15 again, despite repeated representations from us, it
16 didn't.

17 MS VAN DER WESTHUIZEN: Just in terms of communication of
18 guidance, were there any other particular issues with
19 the way in which the guidance was communicated, or the
20 rules and guidance was communicated?

21 COLIN BORLAND: I think things just dropping on to a
22 website. I think issues with things just dropping on to
23 a website, people expecting it to be found, was an
24 issue, and notwithstanding the point about letting us
25 know what had changed. I don't know if Garry —

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1 Mr Clark?
 2 GARRY CLARK: Yes, I can think of an example which I think
 3 was around about the Business Ventilation Fund, where
 4 the guidance actually changed before the fund went live.
 5 So the guidance was published before the fund went live,
 6 and then was amended again, still before the fund went
 7 live. You kind of read it and think: right, this is
 8 what we need to tell our members about. But then they
 9 changed the rules before it actually went live, and you
 10 had to kind of go back -- and again, the point that
 11 Mr Borland has raised there about a 50--page document is
 12 replaced by another 50--page document, when all we need
 13 to know, and all our members need to know, is what's
 14 changed: what do I need to do different this week than I
 15 did last week?
 16 And that's difficult when they have not told you
 17 what's changed; they have just replaced the entire
 18 document. But, yes, I think that's a big issue.
 19 I don't know if Mr Groundwater...
 20 DAVID GROUNDWATER: Yes, I think the descriptions that were
 21 used as well, the general language in plain English that
 22 was used, Mr Borland mentioned elderly earlier on in
 23 terms of digital exclusion, we've talked about those
 24 with language challenges and issues, English not being
 25 their first language, how do you interpret that 50--page

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1 document when all that you're pointed to is updated
 2 section on criteria being the key part that we're
 3 looking for. The timing of the guidance, as Mr Borland
 4 has said, the time between or even the briefs that we
 5 were maybe provided with in terms of what's coming up,
 6 I don't think any session of Parliament or broadcast
 7 from be it the First Minister or other cabinet sectors
 8 have been so popular because people were at home, people
 9 were watching television, they were seeing things and
 10 automatically picking up that phone straight away, "does
 11 this apply to me", but also going back to the
 12 descriptions that were used, we talked about rateable
 13 value being those descriptions, when you have in
 14 guidance this applies to X description and then you have
 15 but what about me, this is what I do in my business, it
 16 became very difficult and again further rereads of one,
 17 two, three sets of guidance, this isn't applicable to
 18 your business, however this one is or that one might be
 19 or both are, was the challenge for many.
 20 MS VAN DER WESTHUIZEN: And, Mr Groundwater, you mentioned
 21 the language issue and specifically people who don't
 22 speak English with the guidance coming out, you know,
 23 voluminous guidance coming out in English. How did FSB
 24 seek to address language barriers to assure non-English
 25 speaking members could access the guidance? I think

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1 there is reference to this in the witness statement.
 2 DAVID GROUNDWATER: In our statement, yes, indeed. So we
 3 had a couple of different tools and that was again
 4 through active members that we had. One example we cite
 5 in the statement is in Aberdeen where we had the
 6 Romanian member who was receiving lots of questions from
 7 fellow Romanians across the city who were not
 8 necessarily members but again, as Mr Borland said in the
 9 opening remarks, we were there to help all businesses
 10 and members, generally we didn't really have the time to
 11 search up membership status but we're above that, we
 12 wanted to help everyone, so we quickly set up events
 13 with that member where we would use online facilities on
 14 Facebook, we had the translation services or we would
 15 get the questions in to the member who would then send
 16 them to us, we would then provide the answers and maybe
 17 go back in that direction. At UK level, we -- and it's
 18 still a feature that's on our website, you can translate
 19 into over 100 different languages through the "recite
 20 me" function. This was tested by a number of
 21 colleagues. We have one Japanese colleague who quickly
 22 looked at the Japanese section and was able to say yes,
 23 that's ideal, but again with information changing on an
 24 hour--by--hour basis sometimes, it's very difficult to
 25 keep up with those things, so in general it was the kind

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1 of high level -- as we move through the pandemic the
 2 kind of level structures and maybe the UK--wide things
 3 that were on our website. Others were relying on, we
 4 know somebody locally who can help, be it Polish,
 5 Lithuanian, Romanian, across the board.
 6 MS VAN DER WESTHUIZEN: And language aside, you touched on
 7 interpretation issues there as well just in your
 8 previous answer and paragraphs 147 to 150 of the witness
 9 statement discusses issues that arose as a consequence
 10 of guidance requiring interpretation and the fact that
 11 this led to inconsistent decision--making and
 12 application. Are you able to provide examples of how
 13 the interpretation of guidance led to inconsistent
 14 application and decision--making and what the
 15 consequences were of that for business and I think just
 16 the specific mention of I think medical care versus
 17 recreational physiotherapy or tanning salons and
 18 differences of that in two local authorities.
 19 GARRY CLARK: Yes, I remember getting inquiries from
 20 physiotherapists who were members running physiotherapy
 21 practices and actually one of the them was two practices
 22 across two different local authorities, which creates
 23 its own issues sometimes but, yes, there was an example
 24 there around, what can I reopen for, you know, because
 25 the physiotherapy that they could under the guidance

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1 provide was sort of medical physiotherapy rather than
 2 physio almost sort of bordering on massage which would
 3 be more sort of recreational. It had to be sports
 4 physio type work which they were allowed to do but they
 5 weren't allowed to do other types of physio and
 6 nonurgent sorts of treatments. The other one around
 7 about the tanning salons was a question of that was a
 8 debate that came around I think it was the latter part
 9 of 2020 when we had a member with two tanning salons,
 10 one was in North Lanarkshire, one was in West Lothian.
 11 Now, he had been told by North Lanarkshire Council to
 12 close his tanning salon as that was, they deemed, a
 13 close contact service, so he closed both his salons and
 14 he attempted then because he had been instructed to
 15 close to claim financial support because he had been
 16 instructed to close those salons. Now, that financial
 17 support was forthcoming from North Lanarkshire but was
 18 not forthcoming from West Lothian because they said it's
 19 not close contact. They said someone lies down on the
 20 tanning bed, the operator is standing at a distance away
 21 from them, switches it on or off, that's not close
 22 contact.
 23 Now, in December 2020 the Scottish Government issued
 24 an update to guidance which said that tanning salons
 25 should close. And there was one of I think four

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1 different premises at that stage which were subject to
 2 the level 4 restrictions and instructed to close. So he
 3 was then able to apply to West Lothian Council but he
 4 asked after it to be backdated and West Lothian Council
 5 initially refused to backdate that application. We then
 6 made the point: was the guidance change by the Scottish
 7 Government, was that a clarification of guidance or was
 8 that new guidance? So, in other words, was the Scottish
 9 Government clarifying that these tanning salons should
 10 have been closed overall at the time and subject to
 11 those close contact restrictions or were they being
 12 added to the guidance and being told to close as of
 13 December 2020. And it was very difficult to get an
 14 answer either from the local authority or from the
 15 Scottish Government relating to that. Ultimately the
 16 member did receive a backdated payment from West Lothian
 17 Council to match his payment from North Lanarkshire
 18 Council for the same work being done ten miles apart but
 19 under two different local authorities.
 20 MS VAN DER WESTHUIZEN: Thank you. I don't know if we've
 21 got time to just briefly touch on this reference to
 22 enforcement gaps and at paragraph 151 of the witness
 23 statement. Were there issues — what were these issues
 24 for businesses in relation to the enforcement of the
 25 rules and guidance and the accountability of ensuring

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1 compliance and how big an issue was this?
 2 COLIN BORLAND: I remember we did an advice event with —
 3 I think it was environmental health chiefs who were on
 4 the ground responsible for implementing these rules and
 5 just how stretched they were because there simply
 6 wasn't — there wasn't the capacity — other people
 7 didn't have the power to enforce and, as I said, we
 8 didn't have the capacity so I think again it's the last
 9 bit in that chain from high-level pronouncement to
 10 regulation to guidance to actual enforcement and again
 11 it was difficult. We had to work — there was some
 12 absolutely wonderful people that we worked with who were
 13 incredibly knowledgeable but getting that knowledge out
 14 there from them to a member so we could advise, this is
 15 how this will look, or if you have an environmental
 16 health officer who comes in to your premises, if he or
 17 she sees this, they'll say, "yes, that's fine". If they
 18 see that, you might have an issue. You know, so that
 19 was the sort of practical information and guidance that
 20 we were just trying to get out there.
 21 MS VAN DER WESTHUIZEN: Thank you. I'm conscious we have
 22 got four minutes left. I'm just going to give you the
 23 opportunity to flag up any other key issues, any other
 24 ongoing impacts, and any potential lessons to be learned
 25 that you would like to highlight.

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1 COLIN BORLAND: I mean, I guess the only thing we've maybe
 2 not spoken about is how it felt in terms of the four
 3 harms and balancing.
 4 MS VAN DER WESTHUIZEN: Yes.
 5 COLIN BORLAND: And we made reference to it in our witness
 6 statement so I won't go into it in detail but I think
 7 there was a failure. I don't think it's unfair to say
 8 that people felt when it came to the crunch that the
 9 business would be down — down the list a bit. The fact
 10 that — the idea that was expressed to us that: we're
 11 the public health guys, we don't need to worry about the
 12 economy. Could you imagine if that was reversed, if we
 13 said: we're business, we don't care about public health;
 14 it would be disgraceful. So I think there was a feeling
 15 that it would have — that if we were balancing it a
 16 little bit more that it's not a given that the economy
 17 is going to survive, it's not a given that those
 18 business bases are going to survive. Given the extent
 19 to which our local communities depend on a strong,
 20 vibrant small business base, then there's a wider issue
 21 and a wider harm just beyond perhaps the narrow
 22 questions of hospital numbers or other sort of public
 23 health indicators.
 24 MS VAN DER WESTHUIZEN: Thank you. And in terms of —
 25 COLIN BORLAND: Mr Groundwater and Mr Clark.

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1 MS VAN DER WESTHUIZEN: Mr Clark or Mr Groundwater? 1 (12.30 pm)
2 DAVID GROUNDWATER: I think the one other observation 2 (The hearing was adjourned to 10.00 am on Tuesday, 3
3 I would make would be --- and it goes back to the 3 December 2024)
4 different geographical challenges and, you know, the 4
5 different approaches that were able to be taken during 5
6 the pandemic, so in our statement we referred to the 6
7 Aberdeen restrictions that were implemented following an 7
8 outbreak there and maybe what didn't happen in other 8
9 local authority areas as we got on but some of the 9
10 lessons to be learned from that particular circumstance 10
11 are probably reflected in the wider things about the 11
12 timing and asking a business or telling a business on a 12
13 Sunday evening that you can --- or you're waiting on a 13
14 Sunday evening to find out whether you can open on a 14
15 Monday are not ideal, I don't think anybody could work 15
16 like that, so laying things out in a more of a wider 16
17 timeline would probably be more welcome ironically 17
18 saying that you can open but at this point. I think the 18
19 other key lesson for me is it's very, very difficult to 19
20 put a business, any business, into a kind of a box in 20
21 terms of that description. We found that out from the 21
22 different funds that were available with the different 22
23 classifications and indeed the rateable value rule. 23
24 MS VAN DER WESTHUIZEN: Thank you. Mr Clark? 24
25 GARRY CLARK: No, I think both Mr Borland and Mr Groundwater 25

1 have summed that up quite nicely.
2 MS VAN DER WESTHUIZEN: Good. Well, you have got two
3 minutes, if there is anything else; but if not, I may
4 just refer my Lord, I have mentioned the case studies
5 and I didn't read in just the reference numbers just in
6 case your Lordship would like to have a look at those.
7 The Aberdeen local lockdown I think that Mr Groundwater
8 just referred to is case study 1, that's
9 SCI-FSBxxx-000001; bed and breakfast sector support case
10 study 2 is SCI-FSBxxx-000005; the case study 3 which is
11 the Business Ventilation Fund that was referred to as
12 SCI-FSBxxx-000002; and case study 4 which relates to the
13 discretionary funds that we heard something about is
14 SCI-FSBxxx-000003. Those have all been disclosed to
15 core participants already and form part of the bundle.
16 Unless your Lordship has anything further, I don't have
17 any further questions.
18 THE CHAIR: No, I'm fine, thank you. Gentlemen, I would
19 like to thank you for your contribution which is very
20 much appreciated and that's all for today I think,
21 Ms van der Westhuizen.
22 MS VAN DER WESTHUIZEN: It is, my Lord, early day, yes.
23 THE CHAIR: Early day, good. And we will convene again at
24 10 o'clock tomorrow morning. Thank you.
25 MS VAN DER WESTHUIZEN: Thank you, my Lord.

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