

MODULE 1 – TEO CORPORATE STATEMENT

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Witness Name:

Statement No.:

Exhibits:

Dated:

UK COVID-19 INQUIRY

WITNESS STATEMENT OF DENIS MICHAEL McMAHON

I, Denis Michael McMahon, will say as follows: -

1. This witness statement has been drafted with the assistance of the Departmental Solicitors Office. In my statement I aim to set out the relevance of TEO's responsibilities for Module 1 of your Inquiry. TEO has had a role in relation to the matters to which the Inquiry relates.
2. I aim to set the context of TEO's work and decision making. With that in mind, I highlight to the Inquiry that Civil Servants work under the direction and control of Ministers and the Executive. Our role is to help develop and advise on policy options, recognising that policy decisions are properly taken and owned by Ministers. Once Ministers decide on policy, our role becomes implementing it as effectively and efficiently as possible.
3. I took up post as Permanent Secretary of TEO on 26 July 2021 and therefore was not in the Department for earlier events in this statement. (Prior to joining TEO, I was the Permanent Secretary of the Department of Agriculture, Environment and Rural Affairs (DAERA) between February 2018 and June 2021.) Due to the complexity and the diversity of TEO's operations, it is not possible for one individual to comment from personal experience on each of the issues identified in the Rule 9 Request for Module 1.
4. The Northern Ireland Executive ("the Executive"), chaired by the First Minister and deputy First Minister, took many of the policy decisions during the period of interest to the Inquiry. The decision-making process was supported by the Head of the Civil Service (HOCS), most recently Dr Jayne Brady, in her role as Secretary to the Executive and supported by HOCS office as well as the Central Contingencies team. My role in TEO has not involved taking public facing operational decisions in response to Covid-19.

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5. Accordingly, for the above reasons, the statement I provide is based on an analysis of Departmental records, rather than from my own personal experience. In preparing the statement, Departmental colleagues have been consulted as far as possible, including relevant colleagues who have left the Department.

TEO's Approach to the Inquiry

6. This corporate statement is the first occasion on which TEO, in its role as a Core Participant has provided evidence to the Inquiry. TEO welcomes the opportunity to participate in the Inquiry to help ensure a thorough investigation is conducted into the response to the pandemic and to contribute to the lessons to be learned for the future.

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PART 1 - NORTHERN IRELAND GOVERNMENT

DEVOLUTION SETTLEMENT FOR NORTHERN IRELAND

Overview

7. The devolved institutions in Northern Ireland are constituted under the Northern Ireland Act 1998 (TEO/258 - INQ000147489), with several institutional reforms having taken place since then.

The Agreement and the Devolved Institutions

8. The Agreement reached on Good Friday 1998 (TEO/259 - INQ000183578), often referred to as the Belfast or Good Friday Agreement, and the subsequent Northern Ireland Act 1998 (as amended a number of times since 1998, particularly following the 2006 St Andrews Agreement (TEO/260 - INQ000183579)) continue to form the basis of the constitutional structure in Northern Ireland.
9. The negotiations which led up to the Agreement had been divided into 3 'strands':
 - strand 1 - dealing with internal arrangements of Northern Ireland;
 - strand 2 - dealing with relationships within the island of Ireland (North-South); and
 - strand 3 - dealing with relationships between HM government and Irish government (East-West).
10. Under the devolution settlement for Northern Ireland there are three categories of legislative powers: reserved, excepted and transferred.
11. Schedules 2 and 3 to the Northern Ireland Act 1998 (NIA) respectively specify those matters which are excepted and reserved. Any matter that is not excepted or reserved is a transferred matter. The Assembly can make primary and subordinate legislation on all transferred matters.
12. The Assembly has no legislative competence with regard to excepted matters which are reserved to Westminster, other than where the provision of an Act is ancillary to other

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provisions dealing with reserved or transferred matters, or with regard to reserved matters other than with the consent of the Secretary of State.

13. A reserved matter may become a transferred matter or vice versa by means of the Order in Council procedure set out in s4 NIA.
14. Parliament remains sovereign (section 5(6) of the Northern Ireland Act) and retains the right to legislate in all matters relating to Northern Ireland. It will not however normally pass legislation on transferred matters without first obtaining the consent of the Northern Ireland Assembly via a Legislative Consent Motion. (Devolution Guidance Note 8 – Post Devolution Legislation affecting Northern Ireland, TEO/261 - INQ000147491)

The legislature

15. The Northern Ireland Assembly is composed of 90 members elected by single transferable vote and has full legislative powers on most economic and social matters. The Assembly sits at Parliament Buildings, Stormont Estate, in Belfast.
16. Members of the Legislative Assembly (MLAs) meet to debate issues and introduce laws to support the people of Northern Ireland. Each MLA represents her or his constituency, and there are 5 MLAs for each constituency - the constituencies themselves are the same as those used to elect MPs to the House of Commons.
17. On important or controversial matters, the Assembly votes by the special threshold of 'cross-community support, which is defined (in the Agreement and in the 1998 Act) as either:
 - parallel consent – an overall majority plus a majority of unionists and a majority of nationalists (sometimes called '50:50:50'); or
 - weighted majority – an overall majority of 60% plus at least 40% of the designated Nationalists voting and 40% of the designated Unionists voting.

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The Executive

18. The Northern Ireland Executive is structured to ensure power-sharing and inclusivity. It is chaired by a First Minister and deputy First Minister (who hold office jointly and are required to act jointly). It is made up of 8 other ministers appointed by the d'Hondt process in proportion to the parties' strength in the Assembly. Each minister heads up their own Northern Ireland department with responsibility for specific areas of policy and delivery. The Justice Minister is also a member of the Executive but is elected by the Assembly following a cross-community vote rather than by d'Hondt. The FM and dFM may appoint two Junior Ministers to assist them in the exercise of their functions. While they may delegate certain functions to the Junior Ministers or ask them to undertake certain activities on their behalf, decision making is not delegated to them.
19. The Executive Office is a Department in itself, which is responsible for several policy and delivery areas. These are set out under "The Executive Office Purpose, Role and Structure" below. The other Departments are:
- Agriculture, Environment and Rural Affairs – including fisheries;
 - Communities;
 - Education;
 - Economy – including further and higher education;
 - Finance;
 - Health;
 - Infrastructure; and
 - Justice - created in April 2010 when policing and justice functions devolved.

Transferred matters

20. Issues on which the Northern Ireland Assembly has full legislative powers include:
- health and social services;
 - education;
 - employment and skills;
 - agriculture;
 - social security¹;

¹ In the area of Social Security, the parity principle with GB arrangements is normally applied.

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- pensions and child support;
- housing;
- economic development;
- local government;
- environmental issues, including planning;
- transport;
- culture and sport;
- the Northern Ireland Civil Service;
- equal opportunities;
- justice and policing

Excepted matters

21. HM government retains responsibility for matters of national importance, including:

- the constitution
- Royal succession
- international relations
- defence and armed forces
- nationality, immigration and asylum
- elections
- national security
- nuclear energy
- UK-wide taxation
- currency
- conferring of honours
- international treaties

Reserved matters

22. These are issues where legislative authority generally rests with Westminster, but where the Northern Ireland Assembly can legislate with the consent of the Secretary of State.

These include:

- firearms and explosives;
- financial services and pensions regulation;
- broadcasting
- import and export controls;
- navigation and civil aviation;
- international trade and financial markets;
- telecommunications and postage;
- the foreshore and seabed;
- disqualification from Assembly membership;
- consumer safety;
- intellectual property.

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Unique characteristic and differences from the Westminster model

23. The Northern Ireland Executive² is a coalition government, comprising the Ministers from the nine Executive Departments, each of which is a separate legal entity.
24. The Executive differs from the Westminster model of cabinet government in key respects. Ministers are appointed by their party Nominating Officers, in proportion to the size of their respective party representations in the Assembly (the d'Hondt arrangements). The exception to this is the appointment of the Justice Minister who is appointed through a nomination made by the First and deputy First Minister acting jointly and approved by a cross-community resolution of the Assembly.
25. In general, individual Ministers have authority to determine policy and operational matters within their departments, without the general requirement to observe a collective '*cabinet position*'. However, this is qualified by a statutory requirement for certain matters to be the subject of consideration by the Executive. Those matters include:
- '*cross-cutting*' matters, that is, matters that affect the statutory responsibilities of more than one Minister (more so than incidentally);
 - significant or controversial matters that are outside the scope of the Executive's Programme for Government³, or that the First Minister and deputy First Minister (acting jointly) have determined to be matters that should be considered by the Executive.
26. The constitutional arrangements are further reflected in the governance and accountability arrangements for the Northern Ireland Civil Service (NICS), which is constitutionally separate from the Home Civil Service. Paragraph 11 (1) of Schedule 12 to the Northern Ireland Act 1998 provides for the interpretation of references in statute to the 'Head of the Department'. The paragraph reflects the position in law that, for each Northern Ireland Department, the Minister is the Head of the Department. Article 4 of the Departments (Northern Ireland) Order 1999 (TEO/313 - INQ000183644) requires that the

²Formally, the Executive Committee of the Northern Ireland Assembly.

³See section 20 (3) of the Northern Ireland Act 1998, and paragraph 20 of the Belfast Agreement.

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functions of a Department shall at all times be exercised subject to the direction and control of the Minister. It follows that the Permanent Secretary of each Department is accountable to the Minister for the performance of the Department's functions. Additionally, as Accounting Officers, each Permanent Secretary is accountable to the Assembly.

27. The NICS is not typically characterised by hierarchical 'command and control' governance and management arrangements. In particular, the Head of the Civil Service (HOCS) does not exercise day to day management or control of individual Departments, or their agencies or arm's length bodies. Specifically, she does not have the authority to direct a Permanent Secretary (or other officials). Furthermore, she does not hold an Accounting Officer role for any part of the NICS. The Northern Ireland Audit Office (NIAO) is responsible for the external audit of central government bodies in Northern Ireland, including Northern Ireland departments and their executive agencies and a wide range of other public sector bodies, including executive non-departmental public bodies and health and social care bodies.
28. In addition, the Civil Service (Northern Ireland) Order 1999 (TEO/262 – INQ000183580) provides that the Department of Finance '*shall continue to be responsible for the general management and control of the Civil Service*'. Under Article 4 of that Order, the Minister of Finance can make directions and regulations as to how to exercise his powers and to discharge his statutory duties with respect to e.g., the number and grading of posts; remuneration; conditions of service; conduct (including the making of a Code of Ethics); or recruitment.
29. The NICS governance arrangements reflect these constitutional and legal arrangements. They include:
 - The NICS Board, chaired by HOCS with membership comprising Permanent Secretaries (and officials at equivalent grade), together with three Non-Executive Board Members (NEMs). The role of the Board is to provide strategic direction to the NICS as set out in Terms of Reference for the Board (TEO/201 - INQ000086917).

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- A Memorandum of understanding to provide for joint working between TEO and the Department of Finance on the planning and delivery of reform of the NICS (TEO/202 - INQ000086919).

The Executive Office Purpose, Role and Structure

30. The overarching purpose of The Executive Office (TEO) is to support the Executive, and in particular: Wellbeing for all through improved relations, outcomes and governance. Within this purpose, there are three key elements:
- governance, support and secretariat for the Executive (broadly analogous to the Cabinet Office) under the leadership of the Head of the Civil Service;
 - private Offices for the First Minister and deputy First Minister (broadly equivalent to 10 Downing Street); and
 - specific policy development and delivery functions on matters (see below), including civil contingencies.
31. TEO does not however have a power to direct another Northern Ireland Department in the exercise of its functions. There is also a misconception that arises from time to time that all 'cross-cutting' matters are the responsibility of TEO. This is not the case. The fact that a matter falls within the definition of 'cross-cutting' means that the exercise of Ministerial authority in relation to that matter is subject to the requirement for consideration by the Executive. This does not automatically have the effect of transferring policy or operational responsibility for the matter to TEO.
32. TEO's current policy and delivery functions include promoting equality, the oversight of the Executive's Together: Building a United Community programme, Good Relations programmes, the Racial Equality Strategy, work on Ending Violence Against Women and Girls and on supporting victims and survivors of the Troubles/Conflict. TEO also leads on a range of specific, emergent policy issues that require cross departmental coordination or which have not sat easily within the responsibility of individual departments. Examples include supporting survivors of Historical Institutional Abuse and Mother and Baby Institutions. At the core of these issues is the protection and support of some of the most vulnerable people in our society. TEO also plays a role in supporting the work of the Executive's COVID Taskforce and in building contingency planning arrangements to

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protect the people of Northern Ireland. TEO also leads on International Relations on behalf of the Executive with offices in the US, China and Brussels.

33. A number of the above functions are delivered through a number of associated delivery bodies which fall into two categories. The first set of bodies are within the Departmental boundary and are analogous to Departmental Agencies. The following bodies fall within TEO Departmental Boundary:

- Office of the Commissioner for Public Appointments for NI;
- Office of the Attorney General for NI;
- North South Ministerial Council Joint Secretariat (North);
- Historical Institutional Abuse Redress Board; and
- Victims' Payments Board.

34. The second set of bodies are outside the Departmental boundary that are classified as, or analogous to, an executive Non Departmental Public Body (NDPB). These are as follows:

- NI Community Relations Council;
- Commission for Victims and Survivors for NI;
- Equality Commission for NI;
- Maze/Long Kesh Development Corporation;
- Northern Ireland Judicial Appointments Commission;
- Strategic Investment Board Limited;
- The Commissioner for Survivors of Institutional Childhood Abuse; and
- Victims and Survivors Service Limited.

Ministers

35. The First Minister and deputy First Minister (FM and dFM) are joint heads of the Executive Office (TEO) and are accountable to the Northern Ireland Assembly for their policies and programmes and the activities of the department, including its arm's length bodies (ALBs). All civil servants in the Executive Office operate under their direction and control in the discharge of their functions. All statutory functions assigned to the First Minister and deputy First Minister by the Northern Ireland Act 1998 must be exercised jointly and all decisions concerning the functions of TEO must be taken by joint agreement. The FM

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and dFM may appoint two Junior Ministers to assist them in the exercise of their functions. While they may delegate certain functions to the Junior Ministers or ask them to undertake certain activities on their behalf, decision making is not delegated to them.

36. The FM and dFM may also appoint Special Advisers in accordance with the statutory Code issued under Section 8 of the Civil Service (Special Advisers) Act (Northern Ireland) 2013 (TEO/263 - INQ000147492). Special Advisers (SpAds) are political appointees hired to support Ministers. They give party political advice and support that would be inappropriate for the civil service to provide.
37. The FM and dFM are also joint Chairs of the Executive Committee and in accordance with the Ministerial Code (TEO/264 - INQ000147493), are responsible for convening and chairing meetings and for drawing up the agenda for each meeting, taking account of proposals from other Ministers.
38. The Assembly was restored and the First Minister and deputy First Minister nominated to office on 11 January 2020. The Executive Committee was then formed by nominations of seven Ministers from those parties eligible to do so by virtue of their strength in the Assembly and by the election of the Minister of Justice by Assembly vote.
39. On 3 February 2022, the then First Minister, Paul Givan, resigned from office. While this also caused the deputy First Minister to cease to hold her office, she was entitled to continue to exercise the functions of her office, in accordance with the Northern Ireland Act 1998, until the Assembly election on 5 May 2022. However, no decisions requiring the joint agreement of a First Minister and deputy First Minister could be taken.
40. An election to the NI Assembly took place on 5 May 2022. As it cannot fully discharge its functions in the absence of an elected Speaker, an Executive Committee has not been formed. Those Ministers (other than the First and deputy First Ministers and TEO Junior Ministers) appointed in the previous mandate continued in office under the provisions of the Northern Ireland (Ministers, Elections and Petitions of Concern Act) 2022 until 28 October 2022 in the absence of a new Executive Committee being appointed.
41. In the period from March 2020 to February 2022, in addition to chairing meetings of the Executive Committee, First and deputy First Ministers also:
 - Jointly chaired Executive Covid Crisis Management Committee;

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- Attended meetings of the Civil Contingencies Group;
 - Provided written and oral statements to the Assembly;
 - Attended the Assembly Ad Hoc Committee;
 - Undertook ad hoc meetings with the Minister of Health and senior health officials;
 - Attended meetings with UK Government Ministers and members of the Scottish and Welsh Governments and with Irish Government Ministers in various formats including North South Ministerial Council (NSMC) (TEO/265 - INQ000147494) and British Irish Council (BIC) (TEO/266 - INQ000147495) meetings; and
 - Met with stakeholders.
42. TEO Ministers are supported by officials who are employed by the Northern Ireland Civil Service (NICS) which is a separate civil service from the Home Civil Service in GB. Further information about the status of the NICS can be provided if required.

Head of Civil Service and Permanent Secretary in TEO

43. The timeline of HOCS/Permanent Secretary appointments in TEO during the Module 1 period is:
- 2008-2011: Sir Bruce Robinson.
 - 2011–2017: Sir Malcolm McKibbin.
 - 2017–2020: Sir David Sterling.
 - December 2020 – September 2021: Jenny Pyper (Temporary interim Head).
 - July 2021 - Present: Dr Denis McMahon (TEO Permanent Secretary).
 - September 2021 – Present: Dr Jane Brady (Head of the Civil Service).
44. Sir David Sterling was Head of the Civil Service (HOCS) until the end of August 2020 when he retired. At this time the HOCS also fulfilled the role of Permanent Secretary. On Sir David's retirement, Dr Mark Browne continued in his role as Accounting Officer and Karen Pearson continued to have day-to-day senior management of Covid-19 matters, providing advice and guidance to the Executive until Jenny Pyper was appointed as interim HOCS on 1 December 2020. Chris Stewart undertook the Department's Accounting Officer role on an interim basis, from 1 April 2021 to 25 July 2021, following the promotion of Dr Mark Browne to another Department.

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45. Jenny Pyper held the post of interim Head of the Civil Service until 31 August 2021 and as such undertook the role of Permanent Secretary for the Department until 25 July 2021. This role was subsequently divided into two roles, namely: (1) Head of the Civil Service; and (2) Permanent Secretary of The Executive Office (TEO).
46. In June 2021, the NICS created a new Permanent Secretary role within TEO to lead the policy agenda and delivery. I was appointed as Permanent Secretary on 26 July 2021.
47. Dr Jayne Brady was appointed as Head of Civil Service on 1 September 2021.

Permanent Secretary Role

48. As Permanent Secretary, I have responsibility to the First Minister and deputy First Minister for the day-to-day operation of the departmental functions and, as Accounting Officer, for the management and control of the resources used by the Department. This responsibility also includes chairing the Departmental Board.
49. As Accounting Officer, I am responsible for maintaining a sound system of internal governance that supports the achievement of the Department's policies, aims and objectives. I also have responsibility for the propriety and regularity of the public finances voted to the Department and for safeguarding those public funds and departmental assets, in accordance with the responsibilities assigned to me in DFP's (now DoF) guidance Managing Public Money Northern Ireland (MPMNI) (TEO/267 - INQ000147495). In my role as Accounting Officer, I am supported by the Departmental Board ('the Board'). I am responsible for chairing the Board and, through this, ensuring good governance in the Department. This includes scrutinising business issues or risks which have been escalated to Board level. I am also responsible for ensuring that appropriate systems of control are in place to identify risks and issues, and as appropriate to mitigate these.
50. In addition, I am required to combine my Accounting Officer role with my responsibilities to Ministers. These include providing advice to Ministers on Departmental policy, the allocation of departmental resources and the setting of appropriate financial and non-financial performance targets for Arms' Length Bodies.

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TEO Departmental Board

51. During 2020-2021, the Departmental Board was chaired by David Sterling in his capacity as Head of the Northern Ireland Civil Service (HOCS) and Permanent Secretary of TEO until his retirement in August 2020. Jenny Pyper was appointed as Interim HOCS on 1 December 2020 until Jayne Brady was appointed on 1 September 2021. I took over the role of TEO Permanent Secretary from 26 July 2021 and became chair of the Departmental Board.
52. The Board supports the delivery of effective Corporate Governance and operates within best practice guidelines outlined in Corporate Governance in Central Government Departments: Code of Good Practice (Northern Ireland) 2013. It advises on the operational implications and effectiveness of policy proposals and takes an objective long-term view of the business of the department, leading its strategic planning process and supporting corporate governance responsibilities for the department. The Board had no role in decision-making in relation to the public-facing aspects of the pandemic.

Departmental Board Membership

53. During 2021-2022 the Departmental Board comprised the following members:
- Jenny Pyper, Interim HOCS from December 2020 also undertook the role of Permanent Secretary for the Department until 25 July 2021,
 - Dr Denis McMahon, TEO Permanent Secretary and Accounting Officer from 26 July 2021.
 - Denis Power, Independent Board Member.
 - Andrew McCormick, Director General, International Relations Group until 31 August 2021.
 - Chris Stewart, (as Accounting Officer until 25 July 2021).
 - Gareth Johnston, (Acting) Director of Good Relations and Inclusion (formerly Strategic Policy, Equality and Good Relations) from 9 September 2021.
 - Karen Pearson, Director of COVID Recovery, Civil Contingencies and Programme for Government.
 - Tom Reid, Director of EU Exit and International Relations.
 - Alexander Gordon, Head of the Office of the Legislative Counsel.

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- Claire Archbold, Director of Ending Violence Against Women and Girls from 1 December 2021.

54. The Board is supported through the attendance of colleagues to advise on finance, corporate services and human resources.

SUPPORTING THE WORK OF GOVERNMENT

55. One of TEO's key objectives is to ensure the effective operation of the institutions of Government in the delivery of the Executive's Programme for Government.

56. Following the return of a functioning Assembly on 11 January 2020 after an absence of three and half years, an Executive Committee was formed. The new Executive first met on 14 January 2020. Between 3 February 2020 and 27 January 2022, the Executive discussed and agreed its response to the evolving pandemic on 129 occasions.

57. Whilst the business of the Executive Committee was focused substantially on the response to the COVID-19 pandemic, it also took decisions on a range of other legislative and policy issues, including but not limited to Climate Change, Organ Donation, Parental Bereavement Leave, Private Tenancies and the Violence Against Women and Girls Strategy.

EXECUTIVE COMMITTEE

58. The Northern Ireland Executive Committee is the Executive Committee of the Northern Ireland Assembly and exercises executive authority on its behalf. Its functions are set out in s20 Northern Ireland Act 1998 (NIA). The Executive comprises the First Minister and deputy First Minister, who are joint chairs and convene and preside over its meetings, and eight "Northern Ireland Ministers" (Ministers). The procedures for the nomination of a Member of the Legislative Assembly (MLA) to the offices of First Minister and deputy First Minister and Northern Ireland Minister are set out in s16A and s18 NIA respectively. The exception to these procedures is the nomination to the office of the Minister of Justice which is made in accordance with s21A NIA. In the exercise of all their statutory functions, the First Minister and deputy First Minister are required to act jointly.

59. All Executive Ministers (including the First Minister and deputy First Minister) are

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required to take a Pledge of Office before assuming office (s16A(9) and s18(8) NIA). The terms of the Pledge of Office and associated Ministerial Code of Conduct are set out in Schedule 4 NIA. The Pledge includes a commitment to support and act in accordance with all decisions of the Executive Committee and the Assembly.

60. Meetings of the Executive are conducted in accordance with Section 2 of the Ministerial Code which is made in accordance with the requirements specified in 28A of the NIA Act (1998).
61. In accordance with paragraph 24 of the Agreement reached on 10 April 1998 (the 1998 Agreement), each Minister exercises executive authority within their Department but is required under the terms of paragraph 2.4 of the Ministerial Code to refer certain categories of matter to the Executive for agreement. These include:
 - matters which cut across the responsibility of two or more Ministers;
 - significant or controversial matters; and
 - matters which the First Minister and deputy First Minister have determined are significant or controversial and should be considered by the Executive.
62. Ministers seeking the agreement of the Executive to recommendations in respect of a certain policy or proposal will do so through the preparation of a draft Executive paper, which is circulated for comment to all Ministers, and copied to among others the Attorney General, the Departmental Solicitor and First Legislative Counsel (where the matter deals with legislation or has legislative implications). Where necessary, a subsequent draft (or drafts) will be circulated to reflect comments received and any changes proposed.
63. The agenda for Executive Committee meetings is determined by the First Minister and deputy First Minister acting jointly, taking account of the papers which have been submitted by Ministers. Those papers, that the First Minister and deputy First Minister have jointly agreed should be included on the Executive agenda, are then subject to substantive discussion and agreement at an Executive meeting.
64. Following discussion at a meeting of the Executive, the chair will formally put the paper's recommendations to Ministers for agreement.

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65. In accordance with s28A of the NIA and the Ministerial Code, the First Minister and deputy First Minister have a duty as Chairs of the Executive Committee to seek to secure that its decisions are reached by consensus wherever possible. If consensus on a certain issue or recommendation cannot be reached, a vote may be taken, and may take one of two forms – a simple majority vote, or a cross-community vote. A vote may be taken on a cross-community basis if requested by any three Ministers before the vote is taken. Cross-community support has the same meaning as that set out in section 4(5) of the Northern Ireland Act 1998 (i.e. the support of a majority of the members voting, a majority of the designated Nationalists voting and a majority of the designated Unionists voting; or the support of 60 percent of the members voting, 40 percent of the designated Nationalists voting and 40 percent of the designated Unionists voting.)
66. The Ministerial Code also makes provision for the taking of Urgent Decisions. An Urgent Decision may be taken in circumstances where a decision which would normally require Executive agreement needs to be taken before the next scheduled Executive meeting. In this case, the responsible Minister will write to the First Minister, the deputy First Minister and the Secretary to the Executive, copied to Executive colleagues, the Attorney General, the Departmental Solicitor's Office, First Legislative Counsel (where appropriate) and Executive Secretariat, advising them of the decision required, and providing details of the background to the issue, the reason for urgency, the implications of not taking the decision, and as far as possible, the views of other relevant Ministers.
67. The First Minister and deputy First Minister, acting jointly, will consider the matter in consultation with the responsible Minister, and will notify them of the outcome of their consideration, copied to Executive colleagues, the Attorney General, the Departmental Solicitor's Office, First Legislative Counsel (where appropriate) and Executive Secretariat.
68. A matter dealt with in this way is deemed to have been dealt with in accordance with paragraph 2.4 of the Ministerial Code and will be included on the agenda for noting at the next Executive meeting.

Processes for Recording Meetings

69. Executive meetings are minuted by a member of NICS staff (civil servant) from the Executive Secretariat under leadership of the Head of the Civil Service as secretary to the Executive. The minutes of Executive meetings are not verbatim and record the

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following for each agenda item: the recommendations agreed by the Executive; details of any vote taken on those recommendations; the position of individual Ministers on those recommendations or on any other issue where they formally request that this be recorded; and any other agreed conclusions or action points.

70. The draft minutes of each Executive meeting are submitted to the First Minister and deputy First Minister for agreement, following which they are circulated to other Ministers for agreement at the next meeting. Ministers may request amendment of the draft minutes in advance of the meeting or during the meeting itself under the relevant agenda item.

Sources of Information Used to Inform Executive Decision-making on COVID-19 Matters

71. The Chief Medical Officer (CMO) and Chief Scientific Adviser (CSA) accessed a number of sources of information to inform the advice provided to the Executive, including vaccine programme progress, testing regime information and the daily Covid dashboard, all provided by the Department of Health. The Inquiry has asked for information in relation to the sources of information CMO and CSA would have accessed for this purpose. TEO is not in a position to comment on that and would advise the Inquiry to approach DoH for this information.
72. Using this information, papers summarising the latest scientific and medical evidence were provided in advance of Executive meetings for consideration in addition to specialist Executive papers:
- DoH Emergency Response COVID-19 Update Report (first written update provided at TEO/203 - INQ000145773).
 - Weekly R paper (TEO/268 - INQ000183581) from the Department of Health (from 26 May 2020 to 31 May 2022).
 - Mobility reports from the Department of Health (from 20 October 2020 to 13 May 2022) (First paper provided at TEO/204 - INQ000086918).
73. The Executive also received the ECT dashboard, which included health, economic and societal data from 13 April 2021 onwards (first paper provided at TEO/205 – INQ000086920). The first ECT dashboard went to the Executive on 28 April 2021 and the last was provided on 19 January 2022. The dashboards were provided on a weekly basis following

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meetings of the Executive Covid Taskforce until 11 August 2021, after which they were provided on a fortnightly basis.

74. From March 2020 to January 2022, Northern Ireland's Chief Medical Officer regularly attended Executive meetings to brief Ministers and respond to questions. From April 2020 to January 2022, he was accompanied by the Chief Scientific Adviser or his deputy.
75. In addition, the senior officials responsible for the rollout of the vaccination programme and the testing regime here periodically attended Executive meetings to provide an update on progress.
76. During the first wave when the Civil Contingencies Central Operations Room (HUB) was operational Anthony Harbinson, HUB Chief of Staff, supported HOCS at Executive meetings at which he delivered the situation report and reported new developments, as required by business need.
77. This information was used collectively to aid Executive decision-making in light of the nature and spread of COVID-19 in Northern Ireland.

FINANCIAL POSITION

78. The Assembly passed the Budget Act (Northern Ireland) 2021 (TEO/269 - INQ000147499) in March 2021 which authorised the cash and use of resources for all departments for the 2020-21 year, based on the Executive's final expenditure plans for the year. The Budget Act (Northern Ireland) 2021 also authorised a Vote on Account to authorise departments' access to cash and use of resources for the early months of the 2021-22 financial year. The Budget (No. 2) Act (Northern Ireland) 2021 which received Royal Assent on 4 August 2021 authorises the cash and resource balance to complete for the remainder of the 2021-22 financial year based on the Executive's 2021-22 Final Budget.
79. The Assembly passed the Budget Act (Northern Ireland) 2022 (TEO/270 - INQ000147500) in March 2022 which authorised the cash and use of resources for all departments for the 2021-22 year, based on the Executive's final expenditure plans for the year. The Budget Act (Northern Ireland) 2022 also included a Vote on Account which authorised departments' access to cash and use of resources for the early

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months of the 2022-23 financial year. The cash and resource balance to complete for the remainder of 2022-23 was authorised by the Northern Ireland Budget Act 2023, which received Royal Assent on 8 February 2023. (Had this been delayed, the powers available to the Permanent Secretary of the Department of Finance (DoF) under Section 59 of the Northern Ireland Act 1998 and Section 7 of the Government Resources and Accounts Act (Northern Ireland) 2001 (TEO/271 - INQ000147501) would have been used to authorise the cash, and the use of resources during the intervening period.)

80. Following the resignation of the First Minister and the subsequent lack of an Executive, a Budget for 2022-23 could not be finalised. The Finance Minister wrote to departments to set out a way forward in the absence of an Executive to agree a Budget. This process involved DoF issuing departments with contingency planning envelopes for the 2022-23 financial year. These envelopes provided departments with an assessment of the minimum funding they could reasonably expect for 2022-23 and allowed departments to plan expenditure until such times as a Budget could be agreed.

INTERGOVERNMENTAL RELATIONS

North South Ministerial Council

81. Established in 1999 under the terms of the Belfast/Good Friday Agreement, the North South Ministerial Council (NSMC) brings together Ministers from the Northern Ireland Executive and the Irish Government to develop consultation, co-operation, and action on matters of mutual interest. The NSMC is supported by a Joint Secretariat (JS), based in Armagh and staffed by civil servants from TEO and the Irish Civil Service.
82. The functions of the Joint Secretariat include arranging the schedule of Council meetings in different formats; securing prior political agreement to agendas for meetings of the Council; preparing or commissioning papers for meetings of the Council, including in relation to its work programme; drafting Joint Communiqués and Records of Decisions of the Council; communicating decisions of the Council and monitoring their implementation; drafting an annual report on the proceedings of the Council; acting as a channel of communication with the six North South Implementation Bodies; and carrying out such other tasks as the Council may direct.
83. During the period between the restoration of devolution following the St Andrews Agreement in mid-2007 and the end of 2017 NSMC met on 218 occasions. On average

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each year NSMC there were approximately 20 Ministerial meetings.

84. No ministerial NSMC meetings took place between 2017 and 2020.
85. The Joint Secretariat north (TEO officials) hosted a number of North South Coordinator Meetings during the 2017-2020 suspension in February, June and October 2017; May 2018; and February and September 2019. Coordinator's and policy officials from across NICS Departments were in attendance. A record of the February 2017 meeting is available (TEO/272 - INQ000214129). A further Coordinator's Meeting was held in February 2020, just after restoration but prior to the resumption of NSMC Meetings. A copy of the note of that meeting is exhibited at TEO/273 - INQ000214130 to give a flavour of discussion.
86. Additionally during this time the Joint Secretariat maintained regular engagement with NICS Sponsor Departments, co-ordinators and policy officials, Irish Government officials and North South Body officials. They attended Body-specific events, engaged with a wide cadre of stakeholders and engaged with Finance Departments on a range of issues. These included the revised template for Financial Memoranda and Corporate Governance issues, including Business Planning, documents/contingency budget arrangements, Human Resources issues in North-South Bodies. They also responded to a number of challenges and issues requiring NSMC decisions under legislative requirements (for example, Board Member and CEO vacancies). The Joint Secretariat engaged with relevant contacts on options and mitigations. This included liaison with British Irish Intergovernmental Group/Northern Ireland Office. The Secretariat engaged in Cross-border Mobility issues and dealt with Brexit related matters, including liaising with UK Government on a major Mapping Exercise. The Secretariat also contributed to various TEO exercises on Brexit preparedness and contingency planning.
87. One of the agreed NSMC Areas of Co-operation is the Health sector. The NSMC Health work programme includes Accident & Emergency Planning and Planning for major emergencies.
88. TEO officials in the Joint Secretariat lead on engagement with the Irish Government, ensuring that the North/South Ministerial Council is supported in its work, and that North/South engagement is managed in a holistic way. Executive priorities are represented in engagement with the Irish Government, while specific policy discussions within the sector are led by officials in the Department of Health. The Joint Secretariat

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works to deliver a full schedule of NSMC meetings, across all agreed sectors, ensuring that Executive positions/priorities in relation to key policy areas, including Health related areas are represented and that mutually agreed actions are advanced.

89. The outline work programme for the Health Area for Co-operation was agreed at the inaugural Plenary Meeting of the NSMC held on 13 December 1999 and adopted at the first Health and Food Safety Sectoral meeting on 4 February 2000. Since this adoption the initial work programmes for each of the Areas of Co-operation have remained largely unchanged, with the exception of the NSMC Health Area of Co-operation where Child Protection was added in 2008.
90. In 2016, prior to suspension, it was agreed by Ministers that the health work programme was still relevant and enabled practical and effective co-operation for mutual benefit in the Health Sector. At the October 2020 NSMC Health meeting, with the passage of time, it was considered prudent to recommence this process taking into account current priorities and the changing health environment.
91. In light of the continuing challenges posed by COVID-19, it was also proposed that the potential for cross-border collaboration in the provision of critical care services should be examined. Specifically, given the Covid-19, context the risk of critical care capacity being fully utilised at any given time in either jurisdiction could not be ruled out. Therefore, the possibility of developing contingency pathways to facilitate cross-border transfers of patients to areas experiencing less local pressure merited further consideration.
92. A further NSMC Meeting in this sector in October 2021 noted that the Departments of Health in both jurisdictions continued to engage on the work programme and had identified additional areas which had potential for further development and collaboration between the health authorities in both jurisdictions. Ministers noted that the work programme, reflecting the priorities of each Administration, would continue; and that a further draft revised work programme would be presented for consideration at a future NSMC Health sectoral meeting. Given that there have been no Ministers in post since February 2022, there have been no subsequent meetings in this sector.

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PART 2 - CIVIL CONTINGENCIES ARRANGEMENTS

EXTENT OF DEVOLUTION

93. The Civil Contingencies Act 2004 applies partially to Northern Ireland, as it does to the two other Devolved Administrations, and the Coronavirus Act 2020 included specific Northern Ireland Provisions. Generally, however, civil contingencies policy, legislation, and the delivery of functions are devolved matters. For example, the Coronavirus Act 2020 amended the Public Health Act (Northern Ireland) 1967, adding provisions to allow health protection regulations to be made by the Northern Ireland Department of Health, subject to the approval of the Northern Ireland Assembly.

Overview of roles and functions

94. TEO is the Northern Ireland Department with policy responsibility for civil contingencies matters. During the Module 1 period, the Civil Contingencies Policy Branch was part of Executive and Central Advisory Division, within the Executive Support, Programme for Government and NICS of the Future Directorate. An organization chart for January 2020 is provided (TEO/206 – INQ000086921). It should be emphasised that the TEO role is one of co-ordination across Northern Ireland Departments, but this does not extend to directing or controlling other Departments (or their agencies) in the exercise of their functions.

95. The Rule 9 notice refers to the current Northern Ireland Civil Contingencies Framework. However, the Framework postdates the Module 1 period. Building Resilience Together, NI Civil Contingencies Framework (TEO/207 – INQ000086922) published in July 2021 replaced and consolidated a number of former protocols and guidance documents that were in operation during the module 1 period. These are:

- (i) Protocol for the Northern Ireland Central Crisis Management Arrangements - September 2016 (NICCMA) (TEO/208 – INQ000086924).
- (ii) A Guide to Risk Assessment in Northern Ireland - January 2010 (TEO/209 – INQ000086925).
- (iii) Protocol for the Escalation of the Multi-Agency Response - September 2016 (TEO/210 – INQ000086926).

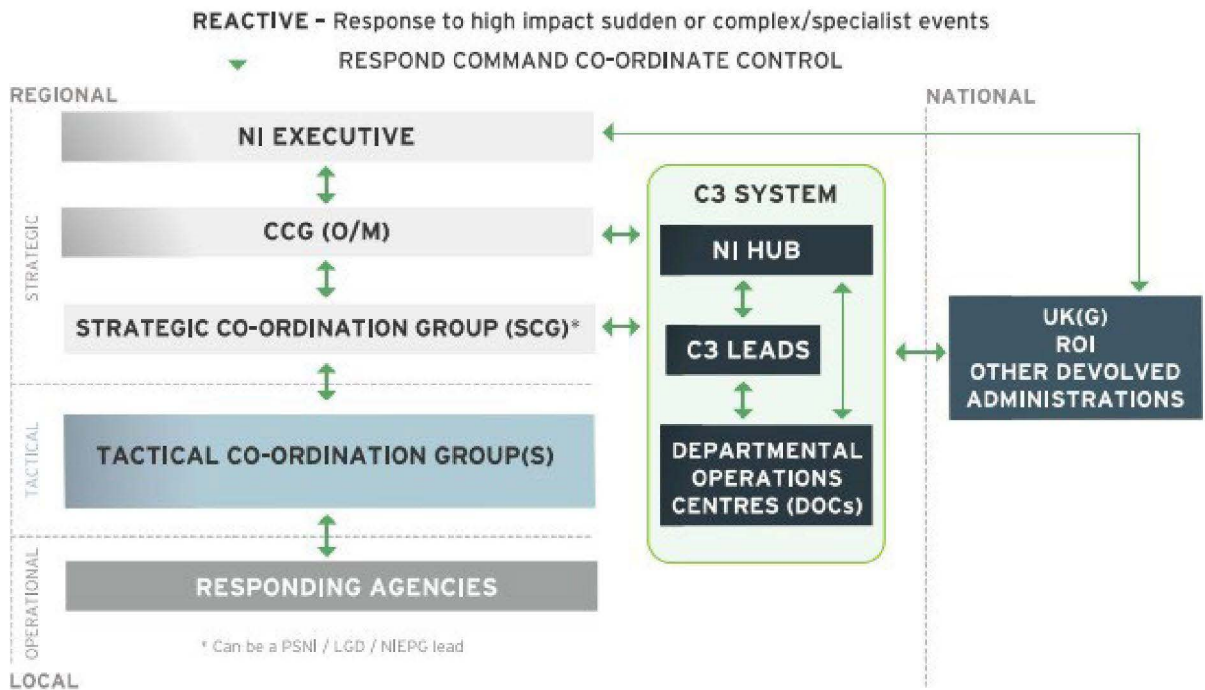
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- (iv) Protocol for Multi-Agency Co-ordination of Local Level Response and Recovery - September 2016 Update (TEO/211– INQ000086927).
 - (v) CCG Vulnerable People Protocol - Update September 2016 (Final) (TEO/212 – INQ000086928).
 - (vi) CCG Protocol - Collaborative Communications Protocol Final - September 2016 Update (FINAL) (TEO/213 – INQ000086929).
 - (vii) A Guide to Emergency Planning Arrangements in Northern Ireland - Refreshed September 2011 (TEO/214 – INQ000086930)
 - (viii) A Guide to Plan Preparation - March 2002 (TEO/215 – INQ000086931).
 - (ix) NI Civil Contingencies Framework - Refreshed September 2011 (TEO/216 – INQ000086932).
96. The key documents are the Guide to Emergency Planning (TEO/214 – INQ000086930), the Protocol for the Northern Ireland Central Crisis Management Arrangements (NICCMA) (TEO/208 – INQ000086924), and the Guide to Risk Assessment (TEO/209 – INQ000086925). The core principles of civil contingencies functions, and key responsibilities of participating organizations are consistent between the current and former guidance.
97. NI representatives participate in UK co-ordination arrangements. The NI Central Crisis Management structure usually feeds directly into COBR, but in the case of Northern Ireland terrorist inspired incidents NIO takes the NI lead. The NI Departments, individually or collectively as part of the central crisis management structure, provide input to NIO on the consequence management and recovery aspects.
98. The NICCMA arrangements were summarised in a paper submitted to the Executive on 16 March 2020 (TEO/217 – INQ000086933). Annex A of that paper provides an organogram setting out the key organizational roles and governance arrangements that would be in operation during the 'respond phase of a contingency'⁴. The key components are outlined briefly below.

⁴ The arrangements during a 'prepare' phase would have been similar to those set out in the summary on page 18 of the current framework.

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99. The diagram below shows the NICCMA structures for the Response phase:



100. The NI Executive is responsible for high level decision making when a particular emergency manifests.

Civil Contingencies Group (CCG)

101. The Civil Contingencies Group (Northern Ireland) (CCG(NI)) is the principal strategic emergency preparedness body for the public sector in Northern Ireland and was in existence prior to 2009. CCG (NI) Terms of Reference (TEO/274 - INQ000183582)]

102. A discussion paper on 22 October 2010 proposed a review on the future of the CCG (NI) (TEO/275 - **INQ000201684**) This was required because of a lack of senior delegates attending CCG meetings, lack of continuity, lack of buy-in, staff turnover, budget cuts, lack of regional co-ordination. In this, the review was described as focusing on “filling in policy detail and developing Northern Ireland level strategic guidance for application at regional, sub-regional and/or local levels.”

103. These proposals were subsequently agreed and resulted in significant changes to the arrangements for CCG(NI), particularly regarding leadership, capability and governance,

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being implemented so that it could effectively discharge its role in delivering the following core functions:

- To provide strategic leadership to civil contingencies preparedness by agreeing policy and strategy on cross cutting issues.
- To exercise a corporate governance function for civil contingencies preparedness at regional level.
- To oversee delivery of an agreed CCG (NI) Work Programme to enhance resilience in NI.
- To maintain a membership of key civil contingencies stakeholders that has both the knowledge and authority fully to address civil contingencies issues referred to CCG (NI).
- To commission work/information to support the development of civil contingencies policy and arrangements, establishing sub-groups as necessary.
- To share key information on civil contingencies risks and preparedness.
- To participate in the effective delivery of the NI Central Crisis Management Arrangements (NICCMA) as necessary during an emergency. (Membership will be selected on an as needs basis pertinent to the circumstances of the emergency).
- To report to Ministers as appropriate on the core functions listed above.

104. Under the revised arrangements, CCG(NI) was chaired by the then Head of the Civil Service (HOCS), Sir Malcolm McKibben. Briefing to HOCS in advance of the inaugural meeting on 26 March 2013 of the reconstituted CCG outlined that this group would now function as the principle strategic emergency preparedness body for Northern Ireland. I have been advised that the meeting on 26 March 2013 did not proceed because there was an emergency response to a Spring Blizzard (see below).
105. The Chair outlined the key points from CCG(NI) Paper 1/2012 (TEO/300 - INQ000183628) that had been discussed at the CCG(NI) meeting on 27 November 2012 and, as outlined at the 'decisions required' section, invited members to:
- (i) commit to the effective implementation of the new arrangements; and
 - (ii) agree Terms of Reference along the lines of the draft provided.

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106. Members agreed to both recommendations subject to the addition of a reference to upward reporting to Ministers being added to the Terms of Reference. Sir Malcolm McKibben wrote to Permanent Secretaries on 4 October 2012 (TEO/301 – INQ000183629) advising them of the changes to the ToR. Revised CCG(NI) Terms of Reference are available (TEO/302-INQ000183630).
107. On 4 July 2012, the DARD Minister wrote to ministerial colleagues in relation to the flooding event on 27-28 June 2012 (TEO/276 – INQ000183583). On 5 July 2012, the Executive commissioned a review by the former Department of Finance and Personnel's Performance and Efficiency Delivery Unit (PEDU) (TEO/277-INQ000183584) because of the flooding incident in June 2012. The report (TEO/278 - INQ000183585) was published in September 2012 and considered by the Executive on 7 November 2012 (TEO/279 - INQ000183586). Richard Pengelly in Department of Finance and Personnel (DFP) wrote to colleagues in the relevant departments (Department of Agriculture and Rural Development (DARD), Department for Regional Development (DRD), Office of the First Minister and deputy First Minister (OFMdfM) and DFP on 12 November 2012 advising them that the Executive had noted the report and made comments that should be considered when developing the action plan (TEO/280 - INQ000183587).
108. Most of the recommendations contained in the Report were for other departments, however the one for consideration by the then Office of the First Minister and deputy First Minister concerned formalisation of local government's role in civil contingencies matters where this included consideration of extending local civil contingencies structures across the region.
109. Following consideration of the PEDU recommendation to formalise local government's role in civil contingencies matters by OFMDFM, the department obtained Executive approval on 27 February 2014 (TEO/281 - INQ000183588) for a number of measures to enhance civil contingencies arrangements at local level.
110. This outcome was communicated to CCG(NI) members in a letter from the Head of the Civil Contingencies Branch in OFMdfM on 13 March 2014 (TEO/255 - INQ000183576). The enhanced arrangements provide for:
- Establishment of four additional Sub-Regional Civil Emergencies Preparedness Groups (SCEPGs) which between them cover the rest of NI outside of Belfast.

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Belfast Resilience already provided this function for the Belfast area. Terms of Reference for the SCEPGs are provided at Annex 2 of TEO/255 - INQ000183576.

- Establishment of a CCG Sub-Group to oversee the work of the SCEPGs.
 - Establishment of a CCG workstream to identify the need to formalise the district council civil contingencies role and to consider how this could be done. This work will include consideration of the need for wider civil contingencies legislation.
 - Presentation of a draft Memorandum of Understanding to the Local Government Emergency Management Group and CCG for agreement which sets out how district councils should discharge their civil contingencies role at sub-regional level and how CCG member organisations should support councils in the execution of that role.
111. The letter dated 13 March 2014 led to multi agency working to establish the groups set out above. This multi-agency working aligns with the joint emergency services interoperability principles (JESIP) ethos.
112. Following the Review of Public Administration (RPA) in 2015, the CCG (NI) Terms of Reference were updated in September 2016 (TEO/310 – INQ000183642) to reflect the new Departments. The RPA saw the replacement of the twenty-six districts created in 1973 with a smaller number of "super districts". Responsibilities within departments were also changed and this resulted in a change in Lead Government Department responsibility, for example, the Rivers Agency moved from DARD to DfI, and hence flooding emergencies.
113. A further exercise took place update the CCG (NI) Terms of Reference in November 2017 to check that the remit of Members was accurately reflected. For example, the Department for Communities asked that the Social Security Agency be removed from the 2017 Terms of Reference (TEO/312 – INQ000145806)

CCG Responsibilities and Operations

114. The Civil Contingencies Group (CCG) is responsible for:
- directing and co-ordinating the efforts of NI departments in responding to the emergency;

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- assessing the wider impacts of events and decisions on infrastructure, systems and people;
 - identifying (from the start of the response) the key issues for consequence management and long-term recovery;
 - deciding on the relative priorities to be attached to the management of the various elements of the overarching response;
 - establishing the strategic direction of the co-ordinated media and public information policies;
 - identifying the priorities and interdependencies to be addressed and the actions required by member organisations; and
 - establishing working groups to deal with interdependencies or cross-cutting issues.
115. CCG is normally chaired by a Senior Official and may be officials only (CCG officials or CCGO). Alternatively, it may be chaired by the First Minister and the deputy First Minister acting jointly (CCG Ministerial or CCGM) or, where appropriate, another Minister nominated jointly by the First Minister and deputy First Minister. This can be the Minister for the Lead Government Department, depending on the nature of the incident.
116. Membership comprises senior officials from relevant NI departments, again depending on the nature of the incident; the Executive Information Service; the Northern Ireland Office; the emergency services; district councils and other key organisations as appropriate. Whilst participating in CCG, members will have access to a small support team from their own departments and organisations.
117. The Central Operations Room (HUB) controls the flow of information into and out of CCG. Its role is to:
- commission situation reports from the Lead Government Department, Tactical Co-ordination Group, PSNI led Multi-agency GOLD; other NI departments and key organisations as appropriate and pass these to CCG;
 - provide reports and assessments on behalf of CCG; and
 - facilitate liaison between responders on specific issues as required.

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118. The HUB function is discharged by Civil Contingencies Policy Branch (CCPB) staff, augmented as necessary with other staff from TEO or other Departments. Further information is provided on the HUB below.
119. Departments participate in CCG via Departmental Operations Centres (DOCs) to ensure a co-ordinated response across government. However, Departments remain responsible for their own particular policy areas and delivery of their functions and are accountable to Ministers for the effective delivery of their functions. Each Department will have individual emergency management / response groups working to deliver their own specific functions and to keep their Minister and partners apprised of the situation. Once NICCMA is invoked DOCs will be requested to feed information to the NI HUB in terms of a Departmental Situational Report (SitRep).
120. Strategic Co-ordination Group (SCG) - the SCG discharges strategic coordination in response to an emergency, takes overall responsibility for the multi-agency management of an incident and establishes a strategic framework for all levels of Command, Control and Co-Ordination (C3). Its objectives are to:
- Protect and preserve life.
 - Contain the incident – mitigate and minimise impacts.
 - Create conditions for recovery.
121. The SCG is chaired by PSNI if there is a risk to life; the Lead Government Department in the event that the issues or impacts fall to that policy area; or the Northern Ireland Emergency Preparedness Group (NIEPG) when a community response is necessary. Membership of an SCG is tailored according to the nature of the emergency.
122. Tactical Coordination Groups (TCGs) – the purpose of Tactical Co-ordination Groups is to ensure that actions taken at the operational level are coordinated, coherent and integrated to maximise effectiveness and efficiency. The TCG is the forum at which the tactical plan is agreed and implemented, with a common aim and objectives. During a spontaneous incident this group may often physically locate itself close to the incident. In Northern Ireland, a TCG is largely based on the membership of the EPG with additional partners brought into the forum as required. If more than one TCG is operational it is likely that an SCG would be established to co-ordinate the response.

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Relationships with partner organisations

123. For strategic planning purposes, a number of agencies and arm's length bodies are members of CCG and participate in its activities during the '*prepare*' and '*respond*' phases of a civil contingency. Participating organisations include:

- Police Service of Northern Ireland;
- Fire Service of Northern Ireland;
- Northern Ireland Ambulance Service;
- Public Health Agency;
- Meteorological Office;
- Maritime and Coastguard Agency;
- Department for Infrastructure Rivers;
- Food Standards Agency;
- Local Government;
- Northern Ireland Office.

124. At an operational level, the involvement of agencies and arm's length bodies is largely via their parent or lead Department, or through participation in Tactical Co-ordination Groups or the Strategic Co-ordination Group (see "Overview of Roles and Functions" above). For example, the Northern Ireland Housing Executive (the regional housing authority) works closely with the Department for Communities, whilst the Public Health Agency and Health and Social Care Trusts co-ordinate their operational activity with the Department of Health. TEO's own arm's length organisations have no substantive role in civil contingencies arrangements.

Expert advice

125. Paragraph 25 of NICCMA (TEO/208 – INQ000086924) describes the arrangements for the provision of scientific and technical advice to CCG (and the Executive). In emergencies involving hazards or threats that require specialist analysis and advice, CCG may establish a Scientific and Technical Advice Cell (STAC) to advise the local level response on chemical, biological or radiological emergencies. It will also provide advice to CCG at the strategic level.

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126. In circumstances where a STAC has not been convened but CCG requires scientific/technical advice it shall call experts from relative departments, agencies, NDPBs and other stakeholder organisations together to provide this. In relation to the Covid pandemic, the principal advisers included the Chief Medical Officer, Professor Sir Michael McBride, and the Chief Scientific Advisor, Professor Ian Young (both Department of Health).

Private sector partners

127. Private Sector partners have had limited formal involvement in civil contingencies arrangements. However, relevant Departments maintain relationships with key stakeholder organisations in relation to vulnerable customers and sectoral resilience. This includes energy companies, telephone companies and the agri-food industry.
128. Whilst it post-dated the Module 1 period, the Department for the Economy and TEO established a forum of business and trade union representatives, for the purposes of providing advice on sectoral resilience in the economy, and the co-design of guidance for businesses and employees on Covid prophylaxis.
129. TEO also carried out extensive engagement with specific sectors directly affected by the response to the pandemic. This included retail, hospitality, sporting bodies and faith leaders amongst others as required. This engagement, some of which was led by our former Ministers, directly influenced Executive decision-making. Recognising the benefits of this, engagement with stakeholders is a practice we would like to embed. The learning from this engagement will be considered in future civil contingencies planning. As such, further detail will be provided on the TEO corporate statement for Module 2C.

Community and voluntary sector partners

130. Community and voluntary sector partners were not formally involved in the central planning and co-ordination arrangements during the Module 1 period but are key operational delivery partners of the Department for Communities and local government in relation to housing related contingencies, or contingencies involving vulnerable people or groups.

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International partners

131. This is not a feature of the Northern Ireland Civil Contingencies arrangements.

Relationship with the Irish Government

132. As detailed in section 5, there is policy engagement at Ministerial level through the North South Ministerial Council and via bilateral Ministerial engagement. Senior officials in relevant Departments have regular working relationships, notably between the respective Chief Medical Officers, and the respective civil contingencies policy teams. The civil contingencies arrangements provide for liaison between CCG and Ireland's National Emergency Co-ordination Group. Operationally, emergency services in Ireland and Northern Ireland have long-standing arrangements for mutual aid.
133. There is evidence of contact between CCPB and the Office of Emergency Planning (OEP) in the Department of Defence in Dublin from September 2011 onwards.
134. In March 2016, plans for OEP staff to visit CCPB were put back due to additional pressure within CCPB.
135. In April 2018, the OEP provided details of a Cross Border Workshop on Activation Protocols. In that email, a member of the OEP advised that he would 'mention that the OEP has regular contacts with the NI Executive through your Office and with the Cabinet Office in the UK on Civil Contingency matters'.
136. In September 2019, plans for CCPB staff to visit the National Emergency Coordination Centre in Dublin alongside colleagues from Ministry of Defence did not materialise due to the Branch not having any capacity to support the visit at that time.
137. In February 2020, plans for the Head of CCPB to visit the OEP were put back due to Covid-19.
138. During the Covid-19 response the NI HUB regularly received DUBLIN: Coronavirus - Economic & Business Roundup and CRISIS WATCH SITREP; CORONAVIRUS: IRELAND from the British Embassy in Dublin.

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139. Since 2022 there has been increased contact and relationship building with colleagues in OEP starting with a visit to Dublin in September 2022 to visit their National Emergency Coordination Centre and provide and receive briefing on the respective civil contingencies arrangements.
140. In October 2022, CCPB attended the planning meeting for the All-Island Disaster Risk Reduction Conference.
141. In November 2022, representatives from TEO attended the Office of Emergency Planning All Island Disaster Risk Reduction Conference in Dundalk; at I, and the Deputy Secretary for Programme for Government, Covid Recovery and Civil Contingencies, Karen Pearson both presented. Three other members of CCPB attended the conference as did members of local government and a member from the Public Health Agency in Northern Ireland. I presented at that Conference.
142. In January 2023, CCPB provided a briefing to the OEP on the rollout of the new Emergency Alerts System which was tested in April 2023. Regular contact and briefings took place from January to April to ensure that OEP were fully up to date with the proposals and could brief their stakeholders accordingly so that, in the event of any 'bleed across' the border with the Emergency Alert, colleagues in ROI would be in an informed position and have plans in place to communicate more widely.
143. A further visit to OEP took place on 20 February 2022 where CCPB presented on the NI Civil Contingencies Risk Register. There were also wider discussions on matters of mutual interest including the Emergency Alerts system.
144. To further relationships with colleagues in the OEP, CCPB have invited them to Belfast on 22 May 2023 where one of the items under discussion will be the next All Ireland Disaster Risk Reduction conference.

Relationship with other jurisdictions

145. Sections 30 to 38 of NICCMA (TEO/208 – INQ000086924) refer. There is regular policy engagement with civil contingencies counterparts in other jurisdictions. Within the civil contingencies arrangements set out in NICCMA, the key interfaces are with the NIO Briefing Room (NIOBR), and with the UK arrangements co-ordinated by the Cabinet Office, namely the Cabinet Office Briefing Room (COBR). NIOBR arrangements provide

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for a representative of TEO to attend NIOBR to report on any consequence management issues. A representative of NIO sits on CCG.

146. NICCMA is an integral part of the UK arrangements, and NI representatives participate in UK co-ordination arrangements. The NI Central Crisis Management structure usually feeds directly into COBR.
147. The circumstances where there is a requirement to co-ordinate with the UK government are:
- when additional support, assets and skills are required;
 - on reserved or excepted matters; or
 - where the emergency has implications for the UK as a whole.
148. In recognition of the need to engage at policy development stage, considerable engagement now takes place on a 4 Nations basis covering all Resilience matters.

Relationship with local government

149. There is no regional tier of government between the Executive and local government. Responsibility for the formal funding and accountability relationship with local government falls to the Department for Communities. In relation to civil contingencies arrangements, the relationship is one of co-ordination and partnership rather than formal accountability. As noted above, local government representatives are part of CCG; local government participates in tactical co-ordination groups and the strategic co-ordination group (leading the latter when the emergency does not involve threat to life).
150. CCPB is now regularly represented at meetings of the CBEMG and has been since September 2020. In addition, local government are members of the TEO led CCG (NI) and C3 meetings. In line with its policy position to work in partnership with other stakeholders engaged in emergency response and to deliver on matters arising TEO attend meetings of the overarching Northern Ireland Emergency Preparedness Group (NIEPG) which is a subgroup of CCG (NI). The purpose of NIEPG is to ensure that work at local level is in line with strategic direction provided by CCG (NI). It provides direction to the work of the Northern, Southern and Belfast Emergency Preparedness Groups (EPGs), facilitates cohesion between these

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groups, and ensures effective communication between the EPGs, regional working groups and CCG (NI). Building on this partnership, CCPB also attends the separate EPG meetings. The relationships with local government colleagues are well established and productive.

Northern Ireland Civil Contingencies Framework

151. The Inquiry has asked for an overview of the structures and principles in the Northern Ireland Civil Contingencies Framework (the Framework), as at January 2020. However, the current framework did not exist at that time (or at any time during the Module 1 period). The current Framework (TEO/207 – INQ000086922) was introduced in July 2021, replacing and consolidating an earlier suite of documents listed at paragraph 7.2.
152. The structures and principles set out in the earlier documentation are broadly similar to those in the current framework, Building Resilience Together, NI Civil Contingencies Framework (published July 2021) (TEO/207 – INQ000086922). In addressing the Inquiry's specific requests, any material differences will be highlighted.

Hierarchy of Framework

153. During the Module 1 period a '*hierarchy of framework*' existed that was analogous to that described in Figure 1 of the Civil Contingencies Framework (page 8), although that terminology was not used.
154. The Civil Contingencies Act (CCA) delivers a single framework for civil protection in the United Kingdom. CCA applied as described in section 4.1 of the current framework (TEO/207 – INQ000086922), with '*regional clarity*' being provided through the NICCMA protocol (TEO/208 – INQ000086924) and associated guidance. Finally, '*subsidiarity*' was reflected in individual Departmental and local authority emergency plans.
155. In relation to the CCA, the key points to emphasise are:
 - Part 1 of the Act establishes a clear set of roles and responsibilities for those involved in emergency preparation and response at the local level. Category 1 responders are those organisations at the core of emergency response. Category 1 responders are subject to the full set of civil protection duties. In Northern Ireland

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only the Police Service of Northern Ireland (PSNI) and the Maritime and Coastguard Agency (MCA) are named as Category 1 responders, with the Department of Justice responsible for oversight of the PSNI's delivery of its duties in relation to the CCA.

- Category 2 responders have a lesser set of duties and are usually only involved in incidents that are heavily involved within their sector. Only telecommunications operators are named as Category 2 responders within the Northern Ireland part of the CCA. The CCA requires Category 2 responders to co-operate with Category 1 responders and share information.
- These organisations cannot effectively discharge their statutory duties without co-operation from Northern Ireland public service organisations. Therefore, all organisations co-operate with the PSNI and MCA in the preparation and maintenance of risk assessments and emergency plans. They also share information and co-operate as necessary with the PSNI, the MCA and telecommunications operators to enable them to discharge their other duties under the Act, including communication with the public.
- In addition to the organisations mentioned above, there are a number of other organisations which operate in Northern Ireland but are organised on a UK-wide basis and/or deal with non-devolved matters. These include the Northern Ireland Office and the Meteorological Office. Northern Ireland public service organisations should consult and co-operate with such organisations as necessary.

Local, regional and national model

156. The equivalent classification of emergencies is set out in paragraphs 9 to 15 of the NICCMA protocol (TEO/208 – INQ000086924). This reflects the local and regional classifications but does not refer explicitly to a '*national*' level. The current framework is considered to be easier to understand. Nevertheless, the earlier documentation also reflects the core principle of subsidiarity that is commonly found in civil contingencies arrangements, that is: "*decisions should be taken at the lowest appropriate level with co-ordination at the highest necessary level*" (Paragraph 2 NICCMA protocol).

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Prepare phase

157. The Guide to Emergency Planning and NICCMA protocol do not refer specifically to a 'prepare' phase of civil contingencies arrangements as explicitly as the current Framework. Nevertheless, similar principles applied. The analogous guidance during the Module 1 period was contained in the:

- Guide to Emergency Planning Arrangements in Northern Ireland (refreshed September 2011) (TEO/214 – INQ000086930) which refers to 'assessment', 'prevention' and 'preparedness'.
- A Guide to Risk Assessment in Northern Ireland (TEO/209 – INQ000086925). That document did not use the terminology of '*prepare phase*'. Nevertheless, the principles and approach set out in the document are broadly similar to those in the current Framework. For example, the structures and arrangements described under "Overview of roles and functions" above, and in the document (TEO/209 – INQ000086925) operated in a manner similar to that described in the current Framework, with CCG meeting several times per year, and the organisations comprising Tactical Co-Ordination Groups (in a respond phase) meeting as Emergency Response Groups.

158. Furthermore, as part of civil contingency preparedness, a resilience programme of work reflecting civil contingencies priorities was maintained on behalf of CCG(NI) (example provided at TEO/218 – INQ000145774).

Regional Resilience Structures

159. Regional resilience structures are described above. Within those arrangements, the Lead Government Department (LGD) is determined by the nature of the emergency. This is described in paragraph 41 of NICCMA. Appendix A to Annex D of the Guide to Emergency Planning Arrangements in NI September 2011 (TEO/214 – INQ000086930) provides guidance on the designation of lead government department for particular types of emergencies.

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Local resilience structures

160. As with the regional resilience structures, the local structures operated in '*prepare*' mode during the Module 1 period (without using that particular terminology).

Integrated Emergency Management (IEM)

161. The key principles of IEM are included in Chapter 2 of the Guide to Emergency Planning Arrangements in Northern Ireland 2011 (TEO/214 – INQ000086930). They are:

- the principal emphasis in the development of any plan must be on the response to the incident and not the cause of the incident;
- emergency management arrangements should be integrated into an organisation's everyday working and management structure.
- Emergency plans should build on routine arrangements;
- the activities of different departments within an organisation should be integrated;
- emergency arrangements need to be co-ordinated with other responding organisations; and
- plans should include the capacity to extend the level of response.

162. Broadly similar concepts and principles are set out in NICCMA (TEO/208 – INQ000086924) and A Guide to Risk Management Assessment in Northern Ireland (TEO/209 – INQ000086925). This terminology was not used in the guidance documents in use during the Module 1 period.

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PART 3- PANDEMIC PREPAREDNESS AND READINESS FOR COVID-19

OVERARCHING RESPONSIBILITY

163. TEO is the overall lead policy Department in Northern Ireland for civil contingencies matters.

Key decision makers

164. It is assumed that the Inquiry's request relates to organisational responsibilities, rather than individual responsibilities. As noted in paragraph 3 of NICCMA (TEO/208 – INQ000086924), the First Minister and deputy First Minister or TEO may activate NICCMA following a request to do so from the Executive; the Lead Government Department; a senior representative from the NIO Briefing Room (NIOBR); a senior member of PSNI involved in the Police led multi-agency GOLD group; the local level coordinator; or in the absence of any such requests, whenever TEO judges it appropriate to do so.

165. In addition, the Protocol for the Escalation of the Multi-Agency Response (TEO/210 – INQ000086926) sets out the arrangements whereby an anticipated or actual emergency may be escalated from the local to the strategic level.

Organisational roles and responsibilities

166. TEO's role is one of liaison and co-ordination (with UK and Northern Ireland Departments) rather than one of direction.

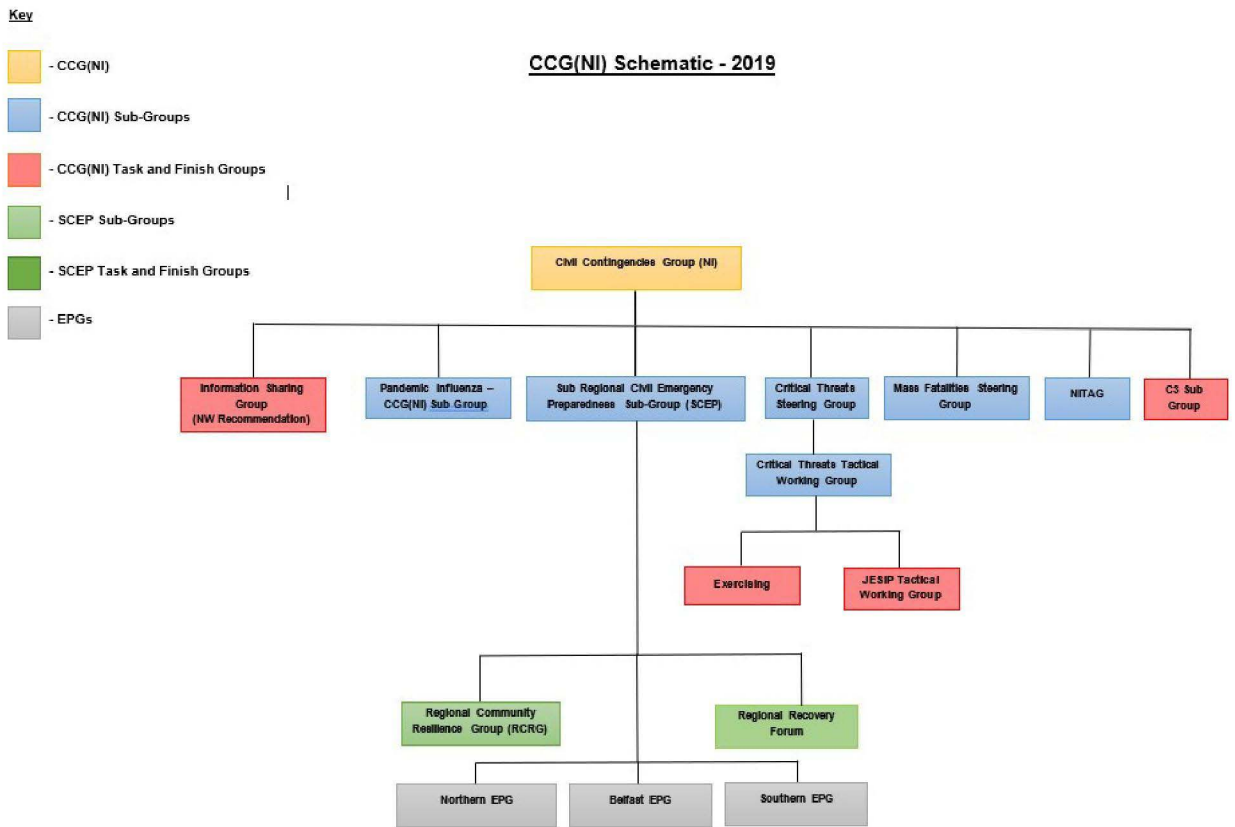
167. The Civil Contingencies Policy Branch (CCPB) in TEO provided the secretariat function to CCG(NI). The meeting arrangements for CCG (NI) under normal arrangements is to meet three times a year in March, June and November. The November meeting focuses on Winter Preparation and Readiness; the other two CCG (NI) Meetings were not themed.

168. Exceptional CCG (NI) meetings could be convened as required. For example, a meeting was convened in September 2019 at HOCS' request to facilitate an early Autumn/ Winter

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forward look (agenda and note of meeting at TEO/219a – INQ000145775 and TEO/219b – INQ000145776).

169. The diagram below provides a schematic of CCG(NI) arrangements in 2019:



170. I regret that I cannot provide the Inquiry with a detailed description of the roles and responsibilities of other Departments and agencies, as TEO does not hold such information. As previously advised at section 7, the Lead Government Department (LGD) is determined by the nature of the emergency. This is described in paragraph 41 of NICCMA (TEO/208 – INQ000086924).

171. Appendix A to Annex D of the Guide to Emergency Planning Arrangements in NI, September 2011 (TEO/214– INQ000086930) provides guidance on the designation of lead government department for particular types of emergencies.

172. The Northern Ireland Influenza Pandemic: Non-Health Preparedness and Response Guidance 2012 (TEO/220 – INQ000092700) advises that:

'At both UK and NI levels, the primary response would fall to the health services, whose

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objectives would be to minimise the potential health impacts of a future pandemic; to minimise the potential impact on society and the economy; and to instil and maintain trust and confidence through effective communication.

The non-health organisations have a key role to play in enabling these objectives to be met, particularly in relation to maintenance of services and effective communication. Therefore, in planning and preparing for an influenza pandemic the Northern Ireland non-health strategic objectives are to:

- *prepare proportionately and flexibly in relation to the risk;*
- *support the continuity of essential services and protect important infrastructure as far as possible;*
- *promote infection control good practice in the workplace;*
- *support the continuation of everyday activities as far as practicable;*
- *cope with the possibility of significant numbers of additional deaths;*
- *uphold the rule of law and the democratic process;*
- *instil and maintain trust and confidence by ensuring that the public and the media are engaged and well informed in advance of and throughout the pandemic period; and*
- *promote a return to normality and the restoration of disrupted services at the earliest opportunity.'*

173. The NI Framework for Managing Excess (Pandemic) Deaths (TEO/221 – INQ000092703) sets out:

- the roles and responsibilities of the key organisations at central and local government, as well as from the private sector involved in managing the deaths process during an influenza pandemic;
- the planning assumptions associated with managing pandemic related deaths;
- the different ways of working which are envisaged and how they would be implemented;
- how the implementation of different ways of working would be managed and coordinated; and
- the legislation governing parts of the deaths process which may need to be amended or relaxed.

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174. In April 2018 a Pandemic Flu Sub-Group was established by the Civil Contingencies Group (NI), in its role as the principal strategic emergency preparedness body for the public sector in Northern Ireland.
175. The Pandemic Flu Sub-Group was chaired by the Director of Population Health in DOH and included core membership of representatives from DoH, DoJ, and TEO. Its aim was to provide oversight for a programme of work to deliver the plans and capabilities to manage the health and wider consequences of pandemic flu in Northern Ireland; working collaboratively with Northern Ireland and UK partners (the latter under the auspices of the UK-wide Pandemic Flu Readiness Board), to oversee the delivery of work aimed at improving Northern Ireland's resilience in four key areas:
1. Health and community care;
 2. Excess deaths;
 3. Sector resilience;
 4. Cross-cutting enablers (legislation, communication, moral and ethical issues).
176. See TEO/222 – INQ000145777 for the Terms of Reference of the Pandemic Flu Sub-Group.

Overview of risk assessment

177. The Northern Ireland Risk Assessment is informed by the National Risk Assessment. Copies of the Northern Ireland Risk Assessments prepared in 2009 and 2013 have been provided (TEO/223 – INQ000092706 and TEO/224 – INQ000092710). In both instances the major identified risk to human health was that of an influenza pandemic. This is consistent with the National Risk Assessment held by Cabinet Office.
178. The Northern Ireland Risk Assessment is drawn up by a subgroup of CCG. It is communicated to each organization or group within the civil contingencies arrangements and reflected in assessments and plans prepared by Departments and agencies, and emergency planning groups.
179. The NI 2013 Risk Assessment (TEO/224 – INQ000092710) referred to an influenza pandemic as follows:

“Each Pandemic is different and the nature of the virus and its impacts cannot be known

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in advance. Previous pandemics have led to different outcomes. Based on understanding of previous pandemics, a pandemic is likely to occur in one or more waves, possibly weeks or months apart. Each wave may last around 15 weeks. Up to half of the population could be affected. High number of cases and consultations could overwhelm health and other critical services and adversely affect business and the economy.”

180. A NI Regional risk assessment in September 2009 (TEO/225 – INQ000092782) referred to the potential for an outbreak of SARS CoV. TEO is not aware of any risk assessment relating to MERS or Covid-19 during the relevant period.

181. A NI Regional risk assessment in November 2009 of a potential influenza pandemic (TEO/226 – INQ000092781) stated the following:

“Unlike ordinary seasonal influenza that occurs every winter in the UK, pandemic flu can occur at any time of the year. A pandemic occurs roughly every 40 years. A flu pandemic occurs when a new influenza virus emerges for which people have little or no immunity, and for which there is no vaccine. The disease spreads easily from person to person, causes serious illness and can sweep across the country and around the world in a very short time. This was the situation during the influenza pandemic of 1918-19, when a completely new influenza virus subtype (influenza A/H1N1) emerged and spread around the globe in around four to six months. Several waves of infection occurred over two years, killing an estimated 40-50 million people. Since then there have been two subsequent influenza pandemics, in 1957 and 1968. The current A(H1N1) pandemic has caused over 4000 deaths worldwide to date. We cannot rule out mutations in the virus resulting in a more severe pandemic or indeed an avian flu pandemic.

Current planning assumptions within the UK for a pandemic influenza are based on a worst case scenario of a clinical attack rate of 50% and a case fatality of 2.5%.”

182. Following publication of the civil contingencies framework ‘Building Resilience Together’ in 2021 development of a comprehensive civil contingencies risk register commenced. This was led by CCPB and numerous workshops were conducted with key stakeholders to score the risks for NI. The Risk Register is now in place and continues to evolve as further risks are identified or there are changes to the current risks, mitigations or capabilities which necessitate rescoring.

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Overview of government forecasts

183. TEO does not hold information on government forecasts in relation to influenza, MERS or Covid pandemics. It is respectfully suggested that the Northern Ireland Department of Health may be better placed to assist the Inquiry in relation to this matter.

Overview of emergency planning, training and exercising

184. Northern Ireland participated in Exercise Cygnus in 2016. A Copy of the exercise evaluation has been provided (TEO/227 – INQ000086938). The key findings were:

“The Evaluation Report concluded that CCG(NI) had successfully met its objectives as outlined above and had been a well executed strategic meeting. Good practice was demonstrated in terms of a clearly articulated strategic aim; a clearly defined agenda; strong shared situational awareness; the identification of key issues and decision points; and the identification of key messaging. The report also noted that consideration should be given in future to the MACA arrangements and the use of MOD assets and while valuable, the time taken on ensuring a shared situational awareness impinged somewhat on the time available for decision making around the unfolding situation. That said, the report concluded that strategic decision making had been strong, although a timeframe for delivery was not agreed on all occasions.

In addition to the importance placed on media/public messaging, the evaluation also endorsed the particular relevance of two of the other agenda items considered by CCG(NI), namely the management of excess deaths and the impacts of the projected pandemic on essential service delivery. The management of excess deaths proved during the course of the exercise to be a particularly challenging issue for responders across the UK, an outcome that serves to underscore the importance of the current CCG(NI) workstream led by DoJ and DfC (supported by DoH) on the development of guidance and plans on this issue.

The need for robust business continuity arrangements to support the ongoing delivery of essential services was also considered by CCG(NI) to be a key issue, a view that was reflected prominently in post-exercise questionnaires.”

185. There were no specific Northern Ireland pandemic exercises during the Module 1 period. However, it is worthwhile noting that an official level UKG cross-Government Pandemic

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Flu Readiness Board was established in May 2017 to develop and manage a new work programme to improve the UK's preparedness in light of the lessons from Exercise Cygnus. The work plan taken forward reflects the preliminary lessons learnt from Exercise Cygnus and subsequent Ministerial views. It had the following work streams:

- a. Health Care – further improve the plans of the health sector to flex systems and resources to expand beyond normal capacity levels.
- b. Community Care - to understand and expand social care and community healthcare capability and capacity to respond to increased demand.
- c. Excess Deaths – to develop a capability to ensure sufficient capacity to manage the volume of deaths in a respectful and acceptable manner.
- d. Sector Resilience – to ensure that critical sectors have adequate resilience to [address] anticipated levels of employee absence.
- e. Cross Cutting Enablers / Coordination – to (i) develop a legislative vehicle for pandemic response measures (including a draft pandemic influenza bill); (ii) develop a more sophisticated understanding of moral, ethical and public expectations and reactions to a pandemic; and (iii) ensure effective communications arrangements are in place. Given the nature of pandemic influenza, it is important to work collaboratively across the UK. At official level there has been interaction and engagement across the four nations, to ensure there is sufficient preparedness and share best practice.

186. I understand now that Cabinet Office in their capacity as lead of the four nations on civil contingencies, held an exercise in 2016 to test resilience to Middle East Respiratory Syndrome coronavirus (MERS). As lead Department, it is expected that Cabinet Office would have advised TEO that this exercise was taking place and of the lessons learned from it. TEO had been, and continues to be, invited to UK-wide exercises. On this occasion, however, we do not have a record of TEO being invited.

187. I also understand that Exercise Blackthorn was conducted in 2016 / 2017 to test the four UK governments' contingency plans for a UK-wide, medium to large outbreak of foot and mouth disease. It tested the new APHA outbreak model, response structures, disease confirmation and control processes, internal communications, cross-government collaboration, engagement with stakeholders, and outbreak recovery. A report on Operation Blackthorn published on 9 October 2018. DAERA attended on behalf of Northern Ireland. Whilst TEO was made aware by the Ministry of Defence that this exercise was taking place, there is no evidence that TEO was present at the exercise.

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188. There is no single Northern Ireland approach to training and exercising for civil contingencies matters, with a tailored approach taken to particular contingencies. For example, in 2011, the Office of the First Minister and deputy First Minister (the former name of TEO) organised Exercise Operation Pharos (TEO/228 – INQ000086939), as a single tabletop exercise to test responses to severe winter weather. Northern Ireland’s participation in Exercise Cygnus as mentioned above.
189. During 2019, as part of Operation Yellowhammer which was driven by Cabinet Office, TEO organised, and/or participated in a series of regional and national inductions, training events, and exercises to ensure Full Operational Capability of the Civil Contingencies Operations Room (the Northern Ireland HUB), and associated systems and processes in preparation for exit from the EU. Individual Departments and agencies also undertook their own exercises from time to time. Further information on developing the HUB is provided above under “CCG responsibilities”.
190. To the best of my knowledge, this reflects the extent of training/exercising for civil contingencies within the module 1 timeframe in which TEO participated.
191. Subsequently a learning and development strategy was developed and was approved at CCG (NI) in November 2022. Further information on this will be included in the lessons learned statement for Module 2.

Overview of Lessons Learned from Emergencies Prior to the Pandemic

192. The Inquiry asked for an overview of lessons learned from previous emergencies, relevant to pandemic preparedness including the central register of all Northern Ireland exercises referred to at p23 of the Framework. Although the Framework was not in operation during the Module 1 period, CCG(NI) had endorsed a recommendation from the 2011 North West Flooding Review regarding the development of an Emergency Exercise Register for Northern Ireland (TEO/229 – INQ000092704). The purpose of this Register was to ensure stakeholders were aware of the exercises being planned to allow for early consideration and participation where possible and also to ensure that duplication of scarce resources was avoided, while reducing pressure on partners to attend multiple exercises on the same theme.

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193. In line with established best practice a multi-agency debrief is held following an emergency response or test exercise. Examples of lessons learned from previous emergencies (though not directly relevant to pandemic preparedness) include:

- **Flooding in Fermanagh in 2009** - the Office of the First Minister and deputy First Minister (OFMDFM) established a cross-departmental flooding taskforce to investigate the causes of recent flooding in Fermanagh, identify lessons learned and consider measures required to mitigate the impact of any future flooding. The subsequent report can be found at TEO/230 – INQ000145778.
 - **2010 – freeze/thaw** – The Executive agreed that the regulator and Independent investigators should carry out an investigation into Northern Ireland Water’s handling of the water supply situation. Subsequently OFMDFM developed a number of protocols: covering escalation of the Multi-Agency Response, *Multi-Agency Co-ordination of Local level Response and Recovery (TEO/211 – INQ000086927)*; *Vulnerable People (TEO/212 – INQ000086928)*; and *Collaborative Communications. (TEO/213 - INQ000086929)*.
 - **June 2012 flooding** - the Executive commissioned the Performance and Efficiency Delivery Unit (PEDU) to carry out a thorough review of the response to the June 2012 flooding and to make recommendations. The full PEDU Report dated is exhibited at TEO/280-INQ000183585.
 - **Spring Blizzard of 2013** - after the Spring Blizzard OFMDFM hosted a debrief involving all CCG member organisations to capture learning from the emergency. This learning has since been used to improve and strengthen existing emergency arrangements and protocols.
- January 2014 coastal flooding emergency** - the NI Central Crisis Management Arrangements, used for the most serious types of emergency and led by OFMDFM, were invoked.
- **North West Flooding of August 2017** - In March 2018, the Department for Infrastructure (DfI), The Executive Office (TEO) and Derry City and Strabane District Council (DCSDC) conducted a review to examine the local tactical

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response and regional strategic response to the North West Flooding of 22 and 23 August 2017 (TEO/283 - INQ000145778).

- **The Ex-Hurricane Ophelia Multi-Agency Structured Debrief Report** (TEO/284 - INQ000145779) produced in August 2018 aimed to reflect on lessons identified and

notable practice, specifically:

- To identify personal experience relative to the running of the multi-agency response.
- To share and discuss these views to establish:
 - (a) Aspects of the response where difficulties were encountered, specifically within the areas of preparation, co-ordination, response, communications, recovery and other.
 - (b) Aspects of the response/recovery which went well; specifically, within the areas of preparation, co-ordination, response, communications, recovery and other.
 - (c) Learning points to further improve the multi-agency preparedness for such emergencies. was produced on behalf of CCG(NI) and its sub-group Sub-Regional Emergency Preparedness.

194. I am not aware of any other lessons learned exercises or reports on foot of actual emergencies.

Cross Border Emergency Management Group

195. As referenced above, arrangements for co-ordinating preparedness for and the response to incidents at or near the border are in place at local/sub-regional level by the emergency services and others through the establishment of SCEPGs leading to the establishment of the Cross Border Emergency Management Group (CBEMG), which focuses on co-ordination of emergency response along the border corridor. Terms of reference for the SCEPGs (Annex 2 of TEO/255 - INQ000183576) include a requirement to:

“liaise and co-ordinate with neighbouring SCEPGs, and where relevant with emergency planning arrangements and structures in the border counties in Ireland.”

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196. The CBEMG boundaries can be seen at TEO/257 - INQ000183577. CBEMG was established in 2014 and as per its Terms of Reference (TEO/256 - INQ000092731) it meets a minimum of 2 times per year, however more meetings may be called if required. It is an operationally focused group that looks at cross border operational preparedness and response, with specific focus on cross border communication and liaison between statutory agencies in the event of an emergency and the provision of joint training and exercising. It also considers cross border projects which would improve sustainable cross border emergency management. The groups standing membership across the two jurisdictions reflects this operational focus, see Terms of Reference as previously referred. CBEMG is a sub-group of the NI Emergency Preparedness Group (NIEPG) and is therefore a local government group with no formal standing representation or membership at a government level from either Northern Ireland or Republic of Ireland. TEO Civil Contingencies has attended on occasion by invite from the NIEPG to participate in specific agenda items. Other organisations, including NICS departments, may be invited to attend if it deemed appropriate by the co-chairs members of the group.
197. An Operational Plan was developed in consultation with the CBEMG members, the first of which spanned from the period 2015-2018. The most current Operational Plan is at TEO/285 - INQ000183589. This inaugural plan focused on four strategic priorities, concentrating on consolidating the work of the CBEMG and implementing a number of border emergency management initiatives. Training and information sharing were strategic priorities as was ensuring the continual improvement of the group to further develop a sustainable support network between all stakeholders. The CBEMG developed a cross border risk assessment which will help to identify future priorities for the group. A multi-agency cross border activation protocol (TEO/286 - INQ000183590) was also developed. It is acknowledged that during the 2015-2020 period significant reform of the multi-agency structures in Northern Ireland occurred. Whilst this presented challenges, it resulted in a more streamlined structure for the delivery of emergency management preparedness and response arrangements in Northern Ireland. In the Republic of Ireland (ROI) a review of the Major Emergency Management Framework (MEM) 2006 was carried out by the National Directorate for Fire and Emergency Management (NDFEM). It was agreed that the purpose of this strategy should be to provide a framework to guide the further development of emergency management on a cross border basis over the next three years, building on the good work achieved in fulfilling the strategic priorities outlined in the first Operational Plan (2015-2018).

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198. It will be noted that there were CBEMG meetings on 26 November 2019 and 27 February 2020. I am advised by colleagues that TEO, although invited, did not attend these meetings. The next relevant meeting was 24 September 2020 was attended by TEO officials. Minutes for the meeting held on 27 February 2020 can be found at TEO/299 – **INQ000214131** These meetings are now regularly attended by TEO officials.
199. Whilst TEO Civil Contingencies is not a member of the Group, they are routinely invited to the meetings and attend regularly.

Equality and Vulnerable Groups

200. The consideration of vulnerability for civil contingencies purposes tends to start with the vulnerability itself, rather than any specific equality dimension. The civil contingency function exists to protect our people, particularly those who are vulnerable. This is not just considered when there is an emergency but is kept under review all year round. Consideration of vulnerable groups is inherent in civil contingency planning.
201. Section 75 of the Northern Ireland Act (1998) sets out a number of categories of persons to whom the duties on the promotion of equality of opportunity, and the promotion of good relations relate. Those categories are typically used as a basis for assessing whether a particular policy, strategy, service provision or other action would have a differential effect on persons within the various categories. The groups referred to in section 75 were not considered specifically in pandemic or other emergency planning other than where persons within those groups were vulnerable due to age, disability or gender.
202. We are always conscious of the need to comply with our statutory equality duties. Responding effectively to an emergency does not however always afford Civil Contingency Teams the benefit of the time to carry out formal Equality Screening or Equality Impact Assessments. Our aim is, however, to achieve an effective response to the emergency which has arisen. In doing so, we take into account the specific needs of vulnerable groups. Given the nature of this emergency, Covid-19 meant that the vulnerable groups were immediately apparent and their needs taken into account.
203. The planning documents at exhibits TEO/208 – INQ000086922 to TEO/216 – INQ000086932 were not subject to equality screening. This is because, as operational planning documents, they were not considered to fall within the scope of the duties in section 75. On reconsideration, contingency planning should have been, and should be,

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subject to section 75 in the same way that other policy decisions are. Accordingly, TEO is reviewing its approach in the context of its new Equality Scheme.

Funding and economic readiness

204. The legislative provisions for the Northern Ireland Budget are contained in sections 63 to 67 of the Northern Ireland Act 1998. The main sources of funding for the budget are the Northern Ireland Block Grant, the regional rate, and receipts. None of these include a hypothecated element for civil contingencies. If a specific budget allocation were made to a UK Government Department in respect of civil contingencies measures in England, then Northern Ireland would receive a population-weighted proportional allocation of 3% of the amount for England. This is known as a Barnett consequential allocation. However, such allocations are not hypothecated, and it would be for the Northern Ireland Executive to determine how they would be used.
205. The Northern Ireland budget process does not involve regular hypothecated allocations for civil contingencies matters. Individual Departments may bid for additional allocations for civil contingencies purposes during the budget process conducted periodically by the Department of Finance. Similarly, District Councils may bid for additional allocations to the Department for Communities or raise additional revenue through district rates. Whilst it would be open to the Executive to make a hypothecated budget allocation for civil contingencies purposes, the Executive has not, to date, done so. The Inquiry may find it helpful to refer to 'The public finances in NI: a comprehensive guide (November 2021, TEO/287 – INQ000147505).
206. The Department of Finance prepares a draft budget for consideration and approval by the Executive and, thereafter, by the Assembly.
207. Regrettably, TEO is not in a position to provide an assessment of the economic readiness of Northern Ireland for a pandemic. It is respectfully suggested that the Department for the Economy may be better placed to assist the Inquiry with this matter.

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Exit from the European Union

208. The decision by the UK Government to exit from the European Union had an effect on TEO's role in civil contingencies matters but the extent to which it did is for others to conclude based on the following conditions which I can advise prevailed at that time. In common with other jurisdictions, it slowed down (but did not prevent) the development of a draft pandemic influenza Bill. A fuller explanation is provided below.
209. An indirect benefit of Brexit arose from the fact that TEO developed and enhanced its central civil contingencies coordination 'Hub' in response to an assessment of the risks arising from EU exit. This meant that the Hub arrangements had been developed and tested by the time of the Covid-19 pandemic and were able to be deployed rapidly.
210. The 2016 United Kingdom European Union membership referendum, commonly referred to as the EU referendum or the Brexit referendum, took place on 23 June 2016. Given that Northern Ireland is the only part of the UK to have a land border with another EU country, this outcome created significant work across the NICS.
211. The Prime Minister formally triggered Article 50 and began the two-year countdown to the UK formally leaving the EU. The UK expected to leave the European Union on 29 March 2019. However, extensions were sought and the UK and EU27 agreed to extend Article 50 until 31 October 2019.
212. The UK Government set the requirement for the development of a response capability to deal with wide-ranging, long-term issues that may arise as a consequence of a 'no-deal' EU Exit. The arrangements to provide this capability are known as Command, Control and Co-ordination (C3). C3 arrangements for NI have been developed to fully integrate with the national structures and arrangements.
213. The NI C3 are founded on the established and tested civil contingency arrangements in Northern Ireland covered in the extant Northern Ireland Central Crisis Management Arrangements (NICCMA). It was recognised, however, that there would be benefit in enhancing the C3 to have the capacity to deal with the expected complexity, scale, and duration of the 'reasonable worst case scenario' (RWCS) of a 'no-deal' exit.
214. Operation Yellowhammer was the designation given to the programme of cross-

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governmental civil contingencies planning for the prospect of the UK leaving the EU without a withdrawal agreement.

215. From September 2018 until 11 April 2019 a joint team from NICS and NIO designed and built a C3 operations centre known as the NI Hub, secured a staffing cadre to deliver the response from the NI Hub, trained the staffing cadre in their C3 roles, exercised the C3, mobilised for potential Exit on 12 April 2019.
216. In late 2018, as a result of Operation Yellowhammer, the NIO and NICS jointly instructed PwC to assist with contingency plans and the building of a bespoke response structure for EU Exit. PwC compiled two reports, one in May 2019 and one in November 2019 which included a number of recommendations. These recommendations and those from reviews carried out in the first stand up of the HUB from March to June 2020 were addressed through the strategic review of CCPB that has led to the structures now in place.
217. In December 2018, Chris Matthews, a Grade 5 in the Department of Health, was brought into TEO to provide additional capacity to address the demands of Yellowhammer, and to ensure that Northern Ireland was prepared for the risks which would emerge from a no-deal exit while participating in the national civil contingencies architecture being established under Op Yellowhammer. Chris was brought in as the assessment at senior levels was that there was a risk that Northern Ireland was falling behind the rest of the UK in terms of progress and that additional staffing resource would be needed to manage this risk.
218. Following the extension of Article 50 to 31 October 2019 the C3 response capability was reviewed to identify learning from earlier work and is being updated to take account of improvements required. Following significant attrition in the staffing cadre further volunteers were sought and a full programme of training, induction and test exercising was required to ensure the NI C3 was maintained at readiness to support mobilisation in line with a further extension of Article 50 to 31 January 2020. This required an uplift in resources.
219. Contingency planning is subject to political direction from Cabinet Office and is required to respond to Ministerial direction.

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220. The Northern Ireland HUB centrally coordinates information during an emergency response, across all NI Departments and key partners, providing situational awareness to enhance decision making at all levels, primarily the Civil Contingencies Group (O) and the NI Executive. The HUB is generic in design, can deal with single or concurrent issues and provides one single source of cross Departmental, cross regional impact to CCG(O). The NI HUB is designed to maximise information flow into and out of Northern Ireland, it is not a decision-making body. The HUB was founded on well-established and tested civil contingency arrangements in Northern Ireland covered in the extant Northern Ireland Central Crisis Management Arrangements (NICCMA); though enhanced to have the capacity to deal with the predicted complexity, scale, and duration of the Reasonable Worst Case Scenario (RWCS).
221. From October 2018 to November 2019 the NI HUB was designed, built, staffed, exercised, stood up (March 2019), reviewed, redesigned, staffed and exercised again and stood up (October 2019) under the Operation Yellowhammer project delivered by a joint team from the Northern Ireland Civil Service (NICS) and the Northern Ireland Office (NIO), supported by consultants from Price Waterhouse Coopers (PWC).
222. The first stand up in March 2019 was on a reduced capacity in anticipation of exiting the EU at the end of March. This was put back to April 2019 and then agreement was secured to push back to October 2019. Once this agreement was reached, the HUB was stood down.
223. Within the Operation Yellowhammer project over 800 NI C3 staff were mobilised, trained and exercised across NIO and NICS, at readiness for the EU Exit response, or available to augment the Civil Contingencies Policy Branch (CCPB) for other civil contingency responses (depending on the scale, direction and complexity).
224. The benefits of the outputs from the Operation Yellowhammer project were immeasurable; and coupled with the recommendations arising from lessons identified reviews in May 2019 (TEO/288 – INQ00083591) and November 2019 (TEO/289 – INQ000092723) the NICS had a tried and tested emergency response model, though whilst not perfect, was capable of standing up and functioning at short notice.

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225. The design and activation of the HUB has been subject to regular reviews which have resulted in the scaling back of roles required for delivering operational response and the introduction of a HUB activation plan for the first wave of Covid-19 (TEO/290 – INQ000183592) and a Graduated Escalation and De-escalation of the Northern Ireland Central Government Emergency Response Arrangements (TEO/291A and B - INQ000183593)
226. During Operation Yellowhammer the HUB was designed to be staffed by approximately 55 staff during each shift and to be able to operate on a 24/7 basis for at least 6 months. This represented staffing levels for a Reasonable Worst Case Scenario (RWCS). To build in resilience, Cabinet Office recommendations were to have a 1:8 staffing ratio, i.e., 8 individuals for each post. The NI HUB, however, was only able to acquire a 1:5 ratio at any given time based on the NICS volunteer pool to the HUB.
227. As part of future preparedness work following the stand-down of Operation Yellowhammer in January 2020, CCPB undertook a review of the roles to be staffed in the NI HUB; and recommended a reduction to 27 roles for each shift in the event that stand up was required.
228. The HUB is operated by TEO, with additional volunteer staffing drawn from across the NICS, and liaison officers from other NI Departments and agencies, the emergency services, and the NIO. A Concept of Operations (CONOPS) was in place describing how the NI C3 would operate during the EU exit response period, so as to manage EU impacts and civil contingencies (TEO/232 – INQ000145781). The CONOPS was subsequently updated in April 2020 and again October 2021 in response to the Covid-19 pandemic (TEO/233– INQ000145782).
229. A Northern Ireland Command, Control and Coordination (C3) EU Exit Response Period Standard Operating Procedures (SOPs) (TEO/234 – INQ000145784) was in place to provide guidance to TEO and NI departmental staff in the Northern Ireland Hub on day-to-day operating procedures in order to effectively support CCG(NI) to mitigate and manage the impacts of EU exit. This SOP covered the NI Hub and its interactions with the CCG(NI), departments, the Strategic Coordination Centre (SCC)/Strategic Coordination Group (SCG), and the London-based Impact Groups. Where applicable, this SOP also provided guidance to assist Departmental Operations Centres (DOCs) in drafting their own SOPs

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and reporting to the NI Hub. The SOPS was subsequently updated in May 2020 in response to the Covid-19 pandemic (TEO/235 – INQ000145785).

Absence of the Executive

230. There were no instances of the activation of the arrangements in NICCMA being brought into operation during 2017 to 2020 when the Executive was absent. However, CCG was called in response to Storm Ophelia in 2017, chaired by the Head of the Civil Service, Sir David Sterling.
231. Two civil contingency policy matters arose during that period. These were the proposed development of the UK-wide Pandemic Influenza Bill, as described above, and preparing for a no deal exit.
232. If Ministers had been in post, then the matter of the extension of the scope of the Pandemic Influenza Bill to cover Northern Ireland would have been referred to Ministers and the Executive for consideration. In addition, the Northern Ireland Assembly would have been invited to approve a Legislative Consent Motion, under the Sewell Convention.
233. As noted above, in the absence of Ministers, officials concluded that provisions covering Northern Ireland ought to be included in the Bill. It is understood that, even if Northern Ireland officials had concluded that they could not assist with the preparation of the Bill, the UK Government would, in any case, have included Northern Ireland in its scope.
234. Speculation as to whether Northern Ireland Ministers (had they been in post) might have decided on a different course of action is unlikely to assist the Inquiry. However, it is the case that the input to the pandemic influenza Bill was shaped by professional legal, scientific, and medical advice – the same advice that would have been put to Ministers. It may also be observed that Northern Ireland Ministers subsequently agreed to the inclusion in the Coronavirus Act 2020 of provisions applying to Northern Ireland, and that the Act drew heavily on the previous Pandemic Influenza Bill.
235. It is also true that matters pertaining to EU Exit, including the workstream to develop the infrastructure to respond effectively to a No Deal EU Exit, would have been brought to the Executive. With no Ministers in place, NSMC meetings were unable to proceed. Officials from both jurisdictions, however, continued to meet to progress the already agreed programme of work but no new initiatives could be started.

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236. The Inquiry has asked for an explanation of the effect '*generally*' of the absence of Ministers and an Executive during this period. The following explanation should be read in conjunction with the section "Ministers" above. The key points to bear in mind are that Northern Ireland Departments, in exercising their functions, must do so under the direction and control of Ministers; and that Ministerial authority is subject to the requirement for certain matters to be referred to the Executive for consideration.
237. In the absence of a functioning Assembly, it was not possible for Departments to bring forward primary legislation, although it was possible to make some subordinate legislation⁵.
238. In relation to the exercise of other functions, the determining factors were the '*Buick*' and JR80 (TEO/292 – INQ000147506 judgments in the High Court and the Court of Appeal; and the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 (the 'EFEF Act') TEO/293 - INQ000147507).
239. The '*Buick*' judgment was in relation to a challenge to the exercise of a planning function performed by the Department for Infrastructure in absence of its Minister. The Courts ruled against the Department at first instance, and on appeal.
240. There were two issues on which the '*Buick*' challenge was decided:
- the '*vires* ground' (i.e. invalidity by reason of having been being taken by a senior officer of the Department in absence of a Minister); and
 - the 's20 ground' (i.e. invalidity by reason of not having been referred to the Executive).
241. The *vires* ground was the basis of the High Court judgment and was commented on by the Court of Appeal (*obiter dicta*). The matter was further considered in the High Court and the Court of Appeal in a later case, JR80.

⁵ Subordinate legislation could be made if the enabling provision provided for Regulations to be made and to come into operation unless a negative resolution was passed in the Assembly. This was used, for example, to make regular subordinate legislation such as Regulations to update welfare payments to maintain parity with Great Britain.

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242. The Courts decided that the correct interpretation of Article 4 of the Departments (Northern Ireland) Order 1999, was that there were ‘*limited powers*’ available to Departments in the absence of ministers. However, constraint was clearly set out in paragraph 56 of the JR 80 judgement:

“[55] We are reinforced in these views by our recognition of the constitutional position of civil servants. That role is to advise Ministers and be accountable to them. The appellant’s submissions would effectively turn civil servants into Ministers. Such a remarkable constitutional change would require the clearest wording

*[56] That is sufficient to deal with the appeal. We have not in this appeal heard argument on the precise limits of any power of the departments to take decisions but it follows from our analysis of the constitutional position of civil servants that **any decision which as a matter of convention or otherwise would normally go before the Minister for approval lies beyond the competence of a senior civil servant in the absence of a Minister**” (emphasis added).*

243. The s20 ground was the basis for the appeal judgment in *Buick*. The Court of Appeal concluded that a senior departmental official making decisions in the absence of ministerial direction and control could not have a greater power to make decisions on cross-cutting, significant or controversial matters than a Minister in charge of their department would. This meant that a range of important decisions could not be made by departmental officials in the absence of a functioning Executive. In light of the above, the position during the period from 2017 until the coming into operation of the Northern Ireland (Executive Functions, etc) Act 2018 can be summarized as follows. In the absence of a Minister and Executive:

- the functions of a Department can be exercised by a senior officer as per Article 4 of the Departments (Northern Ireland) Order 1999. However:
 - any decision which as a matter of convention or otherwise would normally go before the Minister for approval lies beyond the competence of the Department; and
 - a senior officer cannot have a greater power to make decisions on matters requiring referral to the Executive than would a Minister in charge of the Department.

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244. This means that such matters cannot be dealt with by Departments in the absence of a functioning Executive. The EFEF Act, which came into operation on 1 November 2018 clarified the position on the exercise of functions in two ways.
- (i) Firstly, section 3(1) of the Act provided for the exercise of functions by Departments in the absence of Ministers, where it was in the public interest to do so. Section 3(2) required the Secretary of State for Northern Ireland to publish guidance about the exercise of functions in reliance on subsection (1), including guidance as to the principles to be taken into account in deciding whether or not to exercise a function. Section 3(3) required senior officer of Departments to have regard to such guidance.
 - (ii) Secondly, section 3(5) of the Act removed the constraint arising from the absence of an Executive.
245. The net effect of the EFEF Act was to reduce (but not eliminate) the constraints arising from the Buick and JR80 judgements, and to provide for the greater exercise of functions by Departments. Each decision on whether to exercise a function was decided on its own merits by the relevant Department, having had regard to the Secretary of State's guidance. However, the effect of the EFEF Act in general terms was to provide clarity on the exercise of a range of **operational** functions by Department. It did not provide for the exercise of functions that were specifically vested in Ministers (as opposed to Departments) by statute, nor did it provide for Departments to bring forward primary legislation, or major new (or altered) policies, strategies, programmes, or projects.
246. With the exception of the matters referred to above, the absence of Ministers had no other effect on civil contingencies planning; and this was not changed by either the Buick and JR80 judgements, or the EFEF Act. The reason, as stated above, is that no civil contingencies planning matter that '**as a matter of convention or otherwise would normally go before the Minister for approval**' arose during this period.
247. The operation of civil contingencies planning functions continued to operate during this period. For example, the official's Civil Contingencies Group (CCGO) continued to meet regularly, and to consider and update plans for managing significant risks and contingencies, such as winter weather. No civil contingency matter occurred that would

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have required the ministerial Civil Contingencies Group (CCGM) to meet during the period when Ministers were absent.

248. The Inquiry has asked whether the Executive Office's view is that had there been a functioning Executive in place this would not have made a difference to the preparation (and response) to Covid-19. Whilst mindful of the obligation to assist the Inquiry, I am also mindful of the need to avoid speculation beyond the evidence provided in this section.
249. However, a number of further observations can be made.
250. Firstly, the civil contingencies planning arrangements that were in place immediately before the pandemic (including the structures, policies, procedures and guidance) had been developed and put in place by 2016, (i.e. when Ministers were in office).
251. Secondly, the testing of those arrangements during operation Cygnus had not suggested any matters requiring ministerial intervention. In common with many functions across government, Ministers would not normally become involved in the day-to-day activity of civil contingencies planning, which is delegated to officials. Ministerial involvement would tend to be in matters of legislation, policy or strategy; or where decision-making or a particular function is reserved for Ministers in law; or where the custom and practice (or Ministers' express direction) is that a particular matter is to be referred to Ministers. For example, as detailed above, the Executive commissioned the Performance and Efficiency Delivery Unit to carry out a review of civil contingencies arrangements following the June 2012 flooding incident and in February 2014 considered and approved measures to enhance civil contingencies arrangements at local level. It follows that, in the absence of Ministers, the exercise of day-to-day civil contingencies planning functions continues uninterrupted. However, for seismic events such as pandemic flu planning and preparing for a no deal exit from the EU, Ministers would have been briefed and their views sought. Most likely Ministers would have provided direction on these matters had they been in office.
252. Thirdly, if any civil contingencies planning matter had arisen during the period in question that could not have been addressed in the absence of Ministers, this would have been drawn to the attention of the UK Government, via the Northern Ireland Office. As noted above, input was provided to the development of the pandemic influenza Bill.

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253. Finally, within TEO, civil contingencies preparation and planning for the Covid-19 pandemic did not begin until January 2020, by which time Ministers had taken up office. As in other devolved administrations, this reflected national policy and guidance, and centered on the development of the provisions in the Coronavirus Act. The Northern Ireland input to the development of that Act was provided under the direction and control of ministers, notwithstanding that they had only taken up post relatively recently. Clauses for inclusion in the Coronavirus Act were discussed by the Executive on a number of occasions through the urgent decision process at Executive meetings on the NI Clauses for submission to the UK-wide draft Coronavirus Bill on 17 February 2020 (TEO/1003 – INQ000147484); 16 March 2020 (TEO/1006 – INQ000147485); 19 March 2020 (TEO/1007 – INQ000147486) and 26 March 2020 (TEO/1008 – INQ000147487). The Office of Legislative Counsel briefed the Executive on 16 March 2020 (TEO/1006 – INQ000147485) on the powers contained within the Westminster Coronavirus Bill.
254. Whilst it is for the Inquiry to conclude whether the Executive's actions were effective, it is the case that the Executive's decision-making resulted in Northern Ireland being part of a common UK-wide approach to legislation to deal with the pandemic.
255. The Executive's approach was characterised by close co-operation between Departments, notably between TEO and the Department of Health. This was reflected in agreement to provisions giving the Department of Health the responsibility for making public health regulations, whilst giving TEO powers to regulate mass gatherings. This was a pragmatic apportioning of responsibilities, done with the aim of spreading the workload across Departments, and underpinning co-operation.
256. Advice to Ministers on C3 arrangements for the response to the pandemic, including the operation of the HUB and their responsibilities was provided on 3 March 2020 (TEO/236 – INQ000183558).

State of readiness

257. In common with other jurisdictions, Northern Ireland was prepared for an influenza pandemic. The risks and contingencies for such a pandemic were well understood, plans were in place, and the arrangements had been tested successfully. I understand, however, that the one recommendation arising from Exercise Cygnus was the tightening of legislative provisions in the event of such an emergency.

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258. In response to the recommendations from Exercise Cygnus in 2016, a cross- Government Pandemic Flu Preparedness Board (PFRB) was established in May 2017 to provide oversight for a UK-wide program to deliver plans and capabilities to manage the wider consequences of pandemic influenza, which at that time was the highest risk on the risk assessment. The Board was co-chaired by the Department of Health and Social Care (DHSC) and Cabinet Office (CO). The PFRB programme was divided into five workstreams, aimed at improving resilience in healthcare, community care, and critical sector resilience, as well as managing excess deaths, and developing cross-cutting enablers such as legislation, and appropriate communications.
259. In March 2018, this work was added to the CCG(NI) Resilience Programme and taken forward locally by a CCG(NI) Pandemic Flu sub-group made up of officials from DoH, DoJ and TEO.
260. The Pandemic Influenza Bill (and later the Coronavirus Act) are considered to be much more situation specific than the Civil Contingencies Act 2004 could ever provide for.
261. Whilst Civil Contingencies lies with TEO, the subject matter of the emergency which this Bill anticipated, was by necessity, properly within the remit of Department of Health (DoH), Department for the Economy (DfE) and Department of Justice (DoJ). Specifically, to decide what powers that officials believed they needed to take under such legislation with their unique knowledge of their particular business area.
262. DoH took the lead locally on the Bill and we had a full-time representative from DoJ on Justice provisions which formed a significant part of the legislation. TEO's primary role was to coordinate the remaining Departments legislative tasks. An additional dedicated, experienced member of staff was identified to specifically fulfil this function.
263. In January 2020 TEO noted that the Pandemic Influenza sector resilience workstream was previously put on hold due to competing priorities including EU Exit preparations but that the intention was to move this work forward asap and anticipated that the work would be completed in the next 3 – 6 months. This was overtaken by the onset of the pandemic.
264. Our understanding in TEO is that it had been the intention to progress one composite UK-wide Bill. However, the nature of this pandemic was not that which was anticipated by any of the UK's Four nations. Accordingly, the Coronavirus Act (CA) 2020 had to be brought forward instead. Large passages of the Pandemic Influenza Bill were capable of

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being lifted into the CA, and therefore the work on drafting the CA Bill had some utility. (It was always the intention at the instigation of Westminster who led on this matter, to keep the PF Bill in draft form to adapt and utilize on the outbreak of such a pandemic.)

265. In summary, therefore, to answer the Inquiry's question "...whether the Executive Office's view is that, had there been a functioning Executive in place this would not have made a difference to the preparation and response to Covid -19," it is a fact that Westminster led on the development of the main legislative vehicle to respond to a pandemic.
266. As above, it was always the intention to progress one composite UK-Wide Bill. In terms of seeking local agreement both from Executive and NI Assembly, the intention was to use the normal legislative Consent procedure. In the potential absence of an Executive and Assembly, however, the Government could always have proceeded and legislated on NI's behalf if it so wished.
267. Further, it is the case that all of the documents, policies, risk registers and day to day high volume work falling within the definition of 'emergency planning' had been produced by TEO before the collapse of the Executive in 2017. In the period between 2017 and 2020 no issues arose which were either significant, cross-cutting or controversial that would have necessitated referral to the Executive Committee for decision. It is also the case that the Team encountered no decision which could not be taken by the Head of Department under the EFEF Act 2018.
268. However, during the Covid-19 pandemic it was clear from a very early point that the challenges and risks presented by such a pandemic are materially different, and our influenza plans were of limited utility. In essence, the scenario envisaged for an influenza pandemic is one in which morbidity and mortality can be managed with little risk of the health or social care systems being overwhelmed; and where the risks to sectoral resilience across civil society are manageable. Both sets of risks are expected to be of a relatively short duration, with only manageable proportion of society affected at any particular juncture.
269. By contrast, the risk of the health and social care systems being overwhelmed was the dominant consideration in the early part of the Covid-19 pandemic. This required a major departure from influenza planning, with the introduction of society-wide lockdown measures. This, in turn, meant that the major short-term risks to sectoral resilience across

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civic society arose not so much from the disease itself, but from the lockdown measures introduced to control it.

270. Prior to the Covid-19 pandemic, contingency planning in Northern Ireland had not envisaged intervention of the nature, scale or duration involved in lockdown, nor the subsequent need for unprecedented economic intervention to address the consequences of lockdown. Equally, the multi-dimensional and long-term societal harm that occurred as a consequence of the control measures required did not feature in any contingency planning scenario.
271. Beyond this, further opinion on any other effect that the absence of Ministers may have had in this period is not possible. Civil Servants are only able to properly comment on what is within their lawful remit and on what they actually did.

Draft Pandemic Influenza Bill

272. An important element of the Pandemic Flu Preparedness Board (PFPB) programme was the development of a UK wide free-standing draft Pandemic Influenza Bill containing a range of options for both relaxing standing legislative requirements, and for taking additional powers which would come into effect during an Influenza Pandemic in order to support the response to the emergency.
273. The intention was that in the event of a severe pandemic, the Bill, which could be fast-tracked through Parliament, would provide temporary legislation (which would lapse once the pandemic was over) and create the opportunity to build UK-wide consensus around the response. The Bill would not be enacted until needed to enable Government to respond flexibly. However, should specific circumstances at the time mean it is not possible or appropriate to take the Bill through Parliament, the understanding was that these clauses could easily be converted into Emergency Regulations made under Part 2 of the Civil Contingencies Act (CCA), which extends to Northern Ireland.
274. It is TEO's understanding there was official level consensus across the Four Nations that a single UK-wide Bill was a pragmatic way forward with Legislative Consent Motions used at the appropriate time to signal Devolved Administration's consent if legislating on areas of devolved competence. The intention, as of June 2018, was that all measures, both primary and secondary legislation, and those relating to both reserved and devolved powers, would be contained in a single Bill for expediency. Had NI not contributed to the

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UK Bill, the intention of DHSC/Cabinet Office was to proceed with the Bill anyway. Had Departments agreed to be included, in the absence of Ministers, this decision could have been revisited when Ministers were appointed or at the time of enactment.

Potential Legislative Changes

275. By June 2018, an exercise had been carried out across Whitehall Departments, led by the DHSC and Cabinet Office, to scope potential additional legal powers and relaxations that might be needed in the event of a severe influenza pandemic, while non-legislative means have been identified wherever possible. This exercise was subsequently extended to Devolved Administrations to indicate whether or not they were content with the measures already identified for inclusion in the Bill, and to identify any further specific legislative requirements (“legislative asks”) they may have with regard to their respective jurisdictions.
276. This programme of work was initiated during an Executive and Assembly hiatus in NI and as such legal advice was sought as to NICS ability to participate in such significant policy and decision making in the absence of Ministers. Departments concluded that the interests in proceeding immediately, albeit with the inherent risk of challenge, outweighed the very real potential negative impact on services, patients and general public safety of a decision not to proceed at this time.
277. In addition, the Chief Medical Officer, Professor Sir Michael McBride, advised that it would be prudent for NI to contribute to the UK Bill as this would allow a proactive approach to addressing potential issues such as registration of nursing staff and dealing with excess deaths which arose during the last pandemic in 2009.
278. The relevant paper issued on 18 June 2018 by the DOH Perm Sec, Richard Pengelly, to the NICS Board for its consideration (TEO/237 – INQ000145787). Annex A of this NICS Board Paper sets out the collated responses from policy areas across NI Departments identifying legislative asks and seeking a view on whether each matter was devolved or reserved; and, for a policy view on the desirability of each.
279. A follow-up letter from Liz Redmond to NI Perm Secs seeking agreement to the proposals as outlined in the Paper is at TEO/238 – INQ000145788.

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280. A letter from the Chair of CCG(NI) Pandemic Flu Sub-group, Liz Redmond, dated 23 July 2018, confirmed to NR in Cabinet Office, that in the absence of Ministers, NI Permanent Secretaries approval to proceed had been sought and confirmed (TEO/239–INQ000145789). An assessment of contemporaneous legislative asks pertaining to NI to be incorporated into the proposed UK Pandemic Influenza Bill is set out at Annex A of this correspondence.
281. Cabinet Office initial deadline for the completion of this drafting work was 31 August 2018; however, the work was more involved than anticipated and in the event that deadline was not achieved. A PFRB Work Programme Forward Look document dated 27 November 2019 (TEO/240 – INQ000183559) confirms that the Pandemic Flu Readiness Board (PFRB) had not met since November 2018 due to reprioritisation in 2019 to plan for a potential no-deal EU Exit.
282. While work on NI's contribution to the Bill had continued throughout this time the attention departments devoted to it appeared to reduce because it been deprioritised at a UK level; and Departments were simultaneously and necessarily focused on preparing for a no-deal EU Exit. There is, however, no evidence to suggest that redeployment of resources in NI to focus on preparing for a no-deal EU Exit directly delayed progress in developing the Pandemic Influenza Bill or on producing the Coronavirus Act 2020.
283. The email dated 17 November 2019 in the email thread at TEO/241 – INQ000183560 shows that the Pandemic Flu Readiness Board was reconvened on 29 October 2019 and DAs were subsequently asked to share with the Board the timetable for finalising for the Bill.
284. *A Draft Pandemic Influenza Bill – High Level Stakeholder Engagement & Handling Plan* was circulated to the Devolved Administrations (DAs) by the Cabinet Office (on 11 June 2019) outlining progress up to that date (TEO/242—INQ000145792).
285. An email from Cabinet Office to DAs sets out the contemporaneous state of play as at 9 December 2019 (see last email in chain at TEO/241—INQ000183560). The email contains a table (TEO/243—INQ000145793) which details Devolved Administrations' progress on clauses contained within the Pandemic Flu Bill at that time.
286. Correspondence from Cabinet Office and circulated by CCPB in January 2020 (TEO/244 – INQ000145794) shows that departments were being asked to provide updates on

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where the Pandemic Flu Bill was and a work plan for a 6 month forward look basis.

287. Cabinet Office (CO) on 10 January 2020 sought updates on progress of the Pandemic Flu Preparedness Programme (including legislation) from DAs. Notably the table illustrates that at that time, CO was working on a 6 month forward look basis. At this stage the emphasis appeared to be on forward planning, rather than respond.
288. Work to further develop and refine the Pandemic Flu legislation so that it met the requirements that could deal with the Coronavirus Pandemic began in earnest in mid-February 2020. This work continued, in close liaison with colleagues in Cabinet Office and the other Devolved Administrations, at a fast and intense pace until drafting of the composite UK-wide Bill was complete.
289. Given the urgency of the situation, and that the Coronavirus Bill was introduced in Parliament within days of the draft Bill's completion, there was insufficient time for the Health Minister, Robin Swann, to follow the established Legislative Consent Motion processes in NI. To overcome this issue, TEO worked closely with NI Assembly officials in the Assembly's Business Office and Bill Office to develop and agree a novel process which circumvented the usual well-established procedures whereby Assembly Committees would be given a minimum period to consider the legislation and produce a report before Legislative Consent Motions are brought to the House for debate and vote. TEO also facilitated this work-around by working closely with DOH colleagues to ensure they were apprised and in a position to provide the requisite advice to the Health Minister to allow him to expedite both the requirement to achieve Executive agreement, and also the usual requirements, time-lines and processes necessary, to table and present the Legislative Consent Motion in the NI Assembly.

Civil Contingency Resourcing (2001 to 2015)

290. The issue of resourcing in Civil Contingencies has been difficult for more than a decade and within the time period about which the Inquiry wishes to investigate. At that time, in keeping with all NICS departments, staff resources in TEO (and its predecessor Department, OFMdfM) were depleted. This was due to budget reductions introduced in Westminster which had a consequential effect, in financial terms, as a result of reductions in Barnett consequential funding to Northern Ireland. (Some of the documentation below refers to these as "austerity measures"). In keeping with other NICS Departments staff resources in TEO, including the Civil Contingencies team, had been reduced to live within

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budgets. This was exacerbated by additional pressures arising from the UK's exit from the EU.

291. A useful document was produced in 2020 which illustrates the history of staffing of Civil Contingencies Policy Branch (CCPB) from 2001 to 2020; this is provided at TEO/231 - INQ000183555, as part of a draft note to the TEO Departmental Board. (System metadata, confirms the date of the paper, and it includes data from 2020, although it is dated as February 2019 on the front cover). We have searched extensively and can find no evidence that this paper was actually submitted to the Board; however, it is relevant to the resourcing issue and informs this section of the statement. The paper is referred to again below.
292. In relation to concerns about resources, it is acknowledged that the Civil Contingencies Policy Branch was a relatively small team that experienced periods of intense pressure from significant workloads. Such pressure was not unique to that team and, indeed, was a common phenomenon throughout TEO at that time.
293. Since 2001, the CCPB headcount has ranged from 9 substantive staff in 2001 to 6 staff in 2020 (see table in TEO/231 – INQ000183555). However, particularly during the Operation Yellowhammer project, the staffing complement in CCPB was augmented as required.
294. In November 2009, the Delivery and Innovation Division within the Business Consultancy Service (BCS) undertook a review of CCPB. One of the findings of the Review Team was that the current organisation structure had placed restrictions on the overall capability of the Branch to deliver policy projects.
295. At that time the BCS Review Team considered an organisational structure for CCPB of 1x G7, 3 x DP, 3 x SO, 2 x EO(2) and 1 x AA; and noted they noted that there was considerable merit in re-organising the overall structures of the Branch Restructuring recommendations of either brigading the corporate business functions or pooling of resources were proposed. Neither of these recommendations recommended an increase in headcount.
296. Also, the BCS Review Team commented upon the need for a review of the CCG (NI) and how CCPB would need to be structured to provide a Programme Management Office support to that group. In that regard a review of CCG(NI) was undertaken and in October

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2012 Terms of Reference including new leadership, governance and capability arrangements were presented to Permanent Secretaries (TEO/301 – INQ000183629) and endorsed at the CCG(NI) meeting held in November 2012 (TEO/300 – INQ000183628).

297. The Review Team commented that the achievement of the working group set-up to develop capability on pandemic flu was highlighted as an effective model of cross-departmental working. CCPB is regarded as performing a central role in the success in developing readiness.
298. A Voluntary Exit Scheme of staff was introduced in 2015. The purpose of this NICS-wide Scheme was to address significant budget pressures facing Departments by delivering an NICS paybill reduction. Whilst there is no evidence that any CCPB staff left through VES, I have been advised by a Grade 7 official who was in post at the time that staff were pulled from CCPB into other higher priority posts. CCPB posts were not backfilled.

Civil Contingencies and EU Exit (2016 to November 2019)

299. In addition to the resourcing pressures due to budget reductions outlined above, Civil Contingencies Policy Branch was also tasked with developing the NICS wide infrastructure required to deal with a No deal EU Exit.
300. The 2016 United Kingdom European Union membership referendum, commonly referred to as the EU Referendum (leading to the UK's exit from the EU) took place on 23 June 2016. Given that Northern Ireland is the only part of the UK to have a land border with another EU country, this outcome created significant challenges across the NICS.
301. The Prime Minister formally triggered Article 50 on 29 March 2017 to begin the two-year countdown to the UK formally leaving the EU in March 2019. However, extensions were sought and in April 2019 the UK and EU27 agreed to extend Article 50 until 31 October 2019.
302. Operation Yellowhammer was the designation given to the programme of cross-governmental civil contingencies planning for the prospect of the UK leaving the EU without a withdrawal agreement.
303. In December 2018, Chris Matthews, a Grade 5 in the Department of Health, was brought into TEO to provide additional capacity to address the demands of Yellowhammer, and

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to ensure that Northern Ireland was prepared for the risks which would emerge from a no-deal exit while participating in the national civil contingencies architecture being established under Operation Yellowhammer. Mr Matthews was brought in as the assessment at senior levels was that there was a risk that Northern Ireland was falling behind the rest of the UK in terms of progress and that additional staffing resource would be needed to manage this risk.

304. His judgement at the time was that the two main issues were:
- (i) The capacity of Civil Contingency Policy Branch (CCPB) to deliver the requirements under Yellowhammer to establish local civil contingency architecture which connected into the national system.
 - (ii) The analysis and preparation in individual departments, lead by CCPB, and the lack of visibility in some departments of the risks posed by a no deal exit.
305. To address the capacity gap, with the leadership and support of senior management CCPB was bolstered with a number of additional TEO staff, primarily from the Programme for Government (PfG) team.
306. The Team was also supported by a team of consultants from PWC who provided both civil contingencies expertise and a link into the national programme to build the civil contingencies infrastructure.
307. In this way, the capacity required to deliver against the needs of Yellowhammer with established.
308. I am informed that Chris Matthew's view is that CCPB would have not been able to meet the needs of Yellowhammer, had TEO not taken action to bolster capacity. MrMatthew's judgement is also that the lack of capability in CCPB had given rise to uncertainty within the wider Northern Ireland Civil Service (NICS). This can be interpreted as Departments not having been provided with the leadership, support and guidance to identify and the assess the risks associated with a "no-deal" exit.
309. In view of the scale of the risks, complexity of the issues and the then unprecedented levels of uncertainty in the system, there was a clear need for a strong center to lead departments through the process and to ensure robust and consistent strategic and local

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plans could be developed. Until TEO took action to provide additional capacity, at the expense of other business areas, CCPB was not equipped to provide this.

310. With the additional capacity in place, TEO was able to bring Northern Ireland up to operational readiness, establishing a cross-departmental civil contingencies hub and completing all of the necessary planning and infrastructure in time to participate successfully in the national test exercise. This was a hugely challenging period for all of those involved.
311. In April 2019, before Chris Matthews left TEO to return to DoH, he wrote a short paper for Chris Stewart (TEO/297 – INQ000183595) and TEO senior management, outlining his thoughts on how to address the issues which then emerged in CCPB during the pandemic. On learning that another Grade 5 was appointed to oversee CCPB and to address issues within the team, I understand Mr Matthews took this as an indication that action was being taken.
312. Chris Matthew's assessment of whether or not the work under Operation Yellowhammer left TEO and the wider NICS in a better position to manage the demands of the pandemic is that it did. He has cited several reasons for this:
- (i) Through Yellowhammer Northern Ireland's civil contingencies infrastructure was significantly improved, to deal with multiple complex issues at scale, in particular through the establishment of the civil contingencies hub.
 - (ii) NICS awareness of civil contingencies planning and disciplines was improved and increased knowledge and experience in all departments across the system.
 - (iii) TEO's central leadership was improved, through the experience of supporting departments through the process of planning for a "no-deal" exit. and
 - (iv) The NICS at large participated in a national contingencies exercise both testing our systems and developing valuable skills and experience as a result.
313. In May 2019, a paper was prepared for an Exit Preparedness Meeting providing an update on Northern Ireland Contingency Plans and Command Control and Coordination (C3).

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314. The document Northern Ireland Civil Contingencies and EU Exit Planning – ‘Initial Legacy Report’ of May 2019 (TEO/288 – INQ000183591) identified areas for improvement; and assigned CCPB sole or joint lead for the majority of them. The report noted that: “Staffing numbers and experience within CCPB are currently well below those required to manage existing civil contingencies and future commitments...”
315. In August 2019, a Grade 5 (Bernie Rooney) was engaged to work with CCPB to take forward C3 Legacy and CCPB transformation. Efforts were made to fill vacancies and in October 2019 the vacant Head of Branch (Grade 7) post in CCPB was filled. A business case to upgrade an Administrative Assistant post to an Administrative Officer in CCPB was approved. This post was subsequently filled in February 2020. During October and November 2019 there was correspondence between Senior Civil Servants regarding funding and resourcing issues in the branch. These are exhibited at TEO/298A - AF – INQ000183596 – INQ000183627.

Preparedness in the lead up to Covid-19 (November 2019 to present)

316. A ‘Northern Ireland Civil Contingencies Future Recommendations Report’ of November 2019 (Exhibit TEO/289 – INQ000092723) there were 75 recommendations across 3 core themes of Standardisation, Professionalisation and Shared situational awareness. Again TEO (CCPB) was to provide a focal point for preparing for and managing civil contingencies across Northern Ireland, providing a coordination function to support Departments and agencies in delivering their own civil contingency responsibilities, docked into UK-wide structures.
317. This report concluded that CCPB was not currently structured or staffed to deliver its business-as-usual role, nor to support EU exit planning and operations. In addition, it found that the core skills and experience were only held in the key posts with no resilience, which is a risk against the branch’s ability to plan and run operations in the future.
318. It recommended that work was required to redefine the future role and structure of CCPB, including to:
- Determine the role and functions of CCPB in the overall NI civil contingencies structures;
 - Determine the staff roles, structures and skills required to deliver CCPB’s confirmed role;

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- Identify the core competencies and skills required for those working in CCPB and align staff to these roles, through retraining and recruitment. Skills may include risk management, business continuity planning, emergency planning and project management;
 - Conduct a review of CCPB ways of working once a new structure has been established, including the consideration of agile methodologies;
 - Confirm CCPB's potential role in business continuity planning (BCP). If CCPB is to become an interface with NI departments for BCP, additional resource may be required.
319. Following the November 2019 Northern Ireland Civil Contingencies Future Recommendations Report the Director of Civil Contingencies Division wrote to the Deputy Secretary of Executive Support Directorate in December 2019 (TEO/309 – INQ000183639) to advise of the PWC report, recommendations, and next steps including to:
- note the design, build and completion of the NI C3 arrangements which include having trained and tested a cadre of staff operating from the strategic co-ordination civil contingencies operations room, known as The NI Hub;
 - note that the NI C3 has been tested and secured Full Operating Capability (FOC) aligned to Civil Contingencies Secretariat guidance;
 - note the PwC reports of May (TEO/288 – INQ000183591) and November 2019 (TEO/289 – INQ000092723) and the 75 recommendations TEO/315 – INQ000183646);
 - agree that a programme should be put in place to assess and implement as necessary the PwC recommendations, to embed a centre of excellence for civil contingencies and emergency planning for NICS and the wider public services; and
 - consider the proposed draft Terms of Reference (TOR) (TEO/314 – INQ000183645) for a strategic review of CCPB(NI) which could be a distinct project within the programme of work recommended at (iv) above.
320. The Deputy Secretary of Executive Support Directorate responded noting the points in the attached submission and agreed to the proposed implementation arrangements for the PWC report, and the suggested terms of reference for the proposed review (subject to endorsement by the NICS Board) (TEO/316 – INQ000183647).

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321. In November 2019, a member of staff in CCPB provided the Head of Branch with a list of work having to be set aside because of staffing resource constraints (TEO/298Z – INQ000183627). In the same month the lack of staffing resource in CCPB was formally raised as a Red risk in the Branch Risk Register; with planned actions at that time to include the drafting of staffing business cases and seeking additional staff from within the NICS or the public sector. Bernie Rooney wrote to all CCPB staff on 16 December 2019 (TEO/311– INQ000183643) providing an update work to reorganize the Branch in light of the November 2019 PwC report.
322. In January 2020, Bernie Rooney provided the paper at TEO/231 – INQ000183555 referred to above, as part of a draft note to the TEO Departmental Board. (Again, system metadata, confirms the date of the paper, and it includes data from 2020, although it is dated as February 2019 on the front cover – there is no record of this paper having gone to the Departmental Board). Draft Terms of reference for the review dated February 2020 are available at TEO/296-INQ000183594.
323. In January 2020, the Head of CCPB wrote to the Director of Civil Contingencies Division to advise that the CCPB work programme and business plan had been assessed considering the already stretched resources coupled with a Staff Officer resource in CCPB moving to Private Office in preparation for a return of Ministers (Exhibit TEO/246 – INQ000183562).
324. In February 2020, CCPB staff were advised that the Head of CCPB had left her post; that a Deputy Principal would be joining; that a business case to fund posts at DP and SO level had been submitted; and that interest circulars for staff at Grade 7, DP and SO grades were with NICS HR (TEO/305 – INQ000183633).
325. In March 2020, CCPB secured the services of 2 Administrative Officers on temporary placement from a recruitment agency; a Staff Officer on loan from the Department of Finance; and the recruitment of a Deputy Principal.

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326. In June 2020, agreement was reached for a Grade 6 resource from the Department of Education to remain with CCPB, having previously been a volunteer in the NI HUB.
327. In August 2020, a business case for increasing the CCPB headcount from 7 staff to 14 staff was prepared and approved in December 2020 (Exhibit TEO/303 – INQ000183631).
328. In order to fill the Executive Officer (level 1) post proposed in the business case a grading review was required. This was commissioned in May 2021; and a decision issued in July 2021. The post was not filled until April 2023 due to a lack of available and suitable candidates.
329. In September 2021 the Head of CCPB (Grade 7) left on promotion. Due to a lack of supply of Grade 7s within the NICS this post has not been substantively filled since then. However, since August 2022 it has been filled on a temporary promotion basis.
330. The Director of Civil Contingencies moved to another role in the Foods Standards Agency (FSA) via an interchange opportunity on the 8 October 2021 and the Grade 6 left on promotion in November 2021. A new temporary Director was appointed in December 2021 and is still in post.
331. In December 2021, a business case was approved for the short-term recruitment of two part time staff to ensure that the NI HUB could be mobilised over the Winter 2021 period if necessary and to drive forward the production of a NI Risk Register and specialist civil contingencies training. Both staff remain in post. Current staffing structure exhibited TEO/308 - INQ000183638.
332. It should be noted that CCPB continues to be under resourced and resourcing is still recorded as a Red risk in the Risk Register and TEO Assurance Statements. Staffing is a Red risk across TEO due to the high number of vacancies that the Department continues to carry. This is due to lack of supply and insufficient funding to meet all the Department's demands.

Implications of the Timeline

333. The timeline set out above clearly illustrates the pressures on Civil Contingencies Policy Branch in the context of TEO and wider NICS pressures during a turbulent period. It is

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clear from this that critical work had to be prioritised and that some work streams were put on hold.

334. The Inquiry has received submissions dating from January 2020 (TEO/246 – INQ000183562 and TEO/304 – INQ000183632) from the Grade 7 Head of the Civil Contingencies Policy Branch, and the Grade 5 Deputy Director respectively, expressing concern that Northern Ireland input to the proposed Pandemic Influenza Bill was behind schedule; and that the branch was not sufficiently resourced.
335. It is clear that resourcing was an issue in CCPB. It is also worth noting that an experienced dedicated resource was identified to coordinate cross-departmental input to the Pandemic Flu Bill to address resourcing concerns raised in 2018 (TEO/306 - INQ000183637). There is evidence that the NICS Departments involved were slightly behind other jurisdictions in drafting clauses for the Pandemic Influenza Bill. Based on the evidence available, it seems unlikely that this was the sole cause of delays in the Coronavirus Bill. Clauses already drafted for that Bill were capable of being dropped into the subsequent Coronavirus Act and in that sense had sufficient utility and efficacy.
336. Ultimately, however, it is fully acknowledged that the Civil Contingencies Policy Branch was a small team which experienced intense pressure from significant workloads. This was not an uncommon phenomenon throughout TEO or the wider NICS. While it is difficult to understand all of the nuances of the evidence in hindsight, it appears that the pressure caused tensions within the CCPB team and differences of opinion outside the team.
337. The draft paper created in January 2020 (TEO/231 – INQ000183555) states that due to budget pressures, staffing within CCPB has greatly reduced over the last 10 years with 2 DP posts and one SO being suppressed due to budget cuts. These staffing reductions resulted in certain areas of work ceasing or not being carried out to the extent that they should have been.
338. The successful delivery of the Branch's functions is testament to the dedication and goodwill of colleagues in the team, both in the preparatory phase and subsequently during the pandemic itself. It is worth noting the submission dated 23 January 2020 (TEO/304 – INQ000183632) from the Deputy Director which recommended the prioritisation of tasks considering available resources and indicated that there was little risk in doing so. This

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was a helpful approach and prescient, recognising the pressures that subsequently emerged from the pandemic.

339. At the time of writing, CCPB continues to be under resourced because of staff leaving, shortages of staff supply at the right grades, budget reductions and the need to find people who have the appropriate competencies for this work. Urgent efforts are underway to fill these vacant priority posts.

Other overarching issues

340. The relatively small scale of the NICS compared to the Home Civil Service presented a considerable challenge. As noted above, most civil contingencies matters are devolved, and the Northern Ireland Executive carries similar responsibilities to those in other jurisdictions. However, the small size of the NICS means that it cannot replicate the scale or degree of specialization of the Cabinet Office Civil Contingencies Secretariat (CCS). The rapid expansion of CCS during the early part of the pandemic exacerbated this, and it proved very challenging for the small NI Civil Contingencies Policy Branch to interface effectively with the rapidly evolving structure and many new teams established. This presented a significant acute risk of breakdowns in communication, as well as the more chronic challenge of building good working relationships and a depth of mutual understanding of the local and national positions.

341. Within Northern Ireland, the constitutional and governance arrangements of the NICS are inherently less flexible than, for example, those of the Scottish Government. Northern Ireland has 9 separate Government Departments compared to Scotland's single Department. This has presented challenges in terms of effective prioritisation and deployment of resources. For example, there was no mechanism to direct the redeployment of staff to provide a full staff complement for the civil contingencies HUB. Staffing the HUB relied on - and was achieved through - voluntary redeployment. Although this was successful during the Covid-19 pandemic, it was not a failsafe arrangement.

Current position

342. As has been mentioned already there has subsequently been considerable work to transform the civil contingencies arrangements in NI resulting in the new framework document, a new NI civil contingencies risk register and a learning and development

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strategy. All of these will be covered in more detail in the lessons learned statement for Module 2.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Personal Data

Signed: _____

Dated: 2 May 2023