

Thursday, 6 July 2023

1
2 (10.00 am)
3 **LADY HALLETT:** Mr Keith.
4 **MR KEITH:** Good morning, my Lady. The first witness today
5 is Dr McMahon, please.
6 **DR DENIS McMAHON (sworn)**
7 **Questions from LEAD COUNSEL TO THE INQUIRY**
8 **MR KEITH:** Could you give the Inquiry your full name,
9 please.
10 **A.** My full name is Dr Denis Michael McMahon.
11 **Q.** Dr McMahon, whilst you give evidence, could you please
12 remember to keep your voice up so that we may clearly
13 hear you, but also speak as slowly as you can so that
14 our stenographer may record your evidence without too
15 great a labour.
16 If there are any questions which I ask in relation
17 to which you're not clear, then please do ask me to ask
18 again.
19 You have provided assistance to the Inquiry by
20 virtue of the provision of a witness statement
21 INQ000187620 dated 5 May 2023. Is that correct?
22 **A.** That is correct.
23 **Q.** Do we see on the last page, page 80, your signature and
24 the declaration of truth?
25 **A.** That is correct, yes.

1

1 Environment, you were a strategic adviser, you were
2 director of environment in the Department of the
3 Environment in Northern Ireland, director of equality
4 and strategy, permanent secretary in the Department of
5 Culture, Arts and Leisure, deputy secretary for social
6 inclusion, deputy secretary for work and inclusion, and
7 prior to taking up your post as the permanent secretary,
8 which you did on 6 July 2021, were you
9 permanent secretary in the Department of Agriculture,
10 Environment and Rural Affairs?
11 **A.** Yes, that's correct.
12 **Q.** It is obvious, Dr McMahon, that if you took up your post
13 as permanent secretary of the Executive Office on
14 26 July 2021, you did so after the onset of the
15 pandemic?
16 **A.** That is correct.
17 **Q.** Who was the permanent secretary, broadly speaking,
18 between 2020 in the Executive Office?
19 **A.** So prior to my taking up this post there was not
20 a permanent secretary post in the department. The post
21 was -- the highest post in the department was the head
22 of the civil service, and then the decision was taken
23 shortly before I joined, rejoined the department, to
24 split the post into two posts. So we now have a head of
25 the civil service, Jane Brady, and I am the

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1 **Q.** Dr McMahon, you are currently the permanent secretary in
2 the Executive Office of Northern Ireland; is that
3 correct?
4 **A.** That is correct.
5 **Q.** But you have a long and distinguished career in the
6 civil service in Northern Ireland behind you. I think
7 you joined the civil service in April of 1998, when you
8 were director of modernisation and investment in the
9 Department of Health and Social Services; is that
10 correct?
11 **A.** I had a few jobs before that. I started as
12 a statistician, and so was in 1993, but I was in the
13 Department of Health by 1998.
14 **Q.** As it happened, whilst you were director of
15 modernisation and investment, were you in large part
16 responsible for the production of a report in
17 Northern Ireland, a seminal report called "A Healthier
18 Future"?
19 **A.** Yes, a 20-year strategy for health and well-being.
20 **Q.** In Northern Ireland.
21 You were then, variously, principal private
22 secretary to the First Minister in what was then the
23 Office of the First Minister and the Deputy
24 First Minister but is now the Executive Office, director
25 of waste management in the Department of the

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1 permanent secretary.
2 So prior to that, we had David Sterling, who was the
3 former head of the civil service, and we had a temporary
4 appointment for approximately a year, Ms Jenny Pyper.
5 **Q.** All right. Essentially, though, your analogue, if I may
6 put it that way, in the form of your predecessor, was
7 Sir David Sterling?
8 **A.** That is correct.
9 **Q.** He has provided a statement and he, of course, is in
10 a position to be able to say something about the events
11 as they occurred, whereas your statement is
12 a retrospective review, is it not, because you weren't
13 in post at the time of the pandemic?
14 **A.** That is correct. I have tried to speak to as many
15 people as I could to understand what happened at the
16 time as well.
17 **Q.** Have you in effect provided, therefore, a corporate
18 statement on the part of the Executive Office, because
19 you've spoken to your colleagues, you've obviously had
20 the benefit of documents that we've provided you with,
21 and you've no doubt carried out your own researches as
22 well?
23 **A.** That is correct.
24 **Q.** All right.
25 May we start, please, with some examination of the

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1 structures in Northern Ireland, the constitutional
2 position, and the roles of the Northern Irish ministers.

3 It is well known that Northern Ireland has unique
4 constitutional features, in particular the way in which
5 the Northern Ireland Assembly has been constructed, and
6 the way in which ministerial roles in the Executive, as
7 part of which of course you lead the Executive Office,
8 are discharged.

9 Is this the position: that rule or governance in
10 Northern Ireland is determined by the power-sharing
11 agreement, which was born from the Good Friday
12 Agreement, but that since that time that power-sharing
13 agreement has been suspended or collapsed altogether on
14 a number of occasions?

15 **A.** That's correct. I believe it's four years out of the
16 last six we have had without ministers.

17 **Q.** What is known as the fourth Executive ended on
18 16 January 2017 when the late Deputy First Minister,
19 Martin McGuinness, resigned over what is known as the
20 Renewable Heat Incentive scandal. Thereafter, so from
21 16 January 2017, the Executive did not sit, did it?

22 **A.** That's correct, yes.

23 **Q.** And the Executive wasn't reformed again until
24 11 January 2020, on the eve of the pandemic?

25 **A.** Yes.

5

1 permanent secretary?

2 **A.** Yes.

3 **Q.** Do civil servants and do the governance arrangements in
4 the Northern Irish civil service therefore operate under
5 their joint direction and control?

6 **A.** The department operates under their direct control,
7 direction and control. The other departments operate
8 under the direction and control of their specific
9 ministers. So the control of the First Minister and
10 Deputy First Minister over the civil service, if you
11 like, and over the functions of other departments, comes
12 through the operation of the Executive. So it's
13 a complicated -- it complicates government because it
14 means that we have a lot -- we have an Executive Office,
15 we have an Executive, and we have departments operating
16 independently to some extent, and the only time that
17 they formally come together is through -- not the only
18 time that they formally come together but the only time
19 that there's a formal control over them from the
20 First Minister and Deputy First Minister is through the
21 operation of the Executive Committee itself.

22 **Q.** Is the analogous body in UK terms for that committee the
23 Cabinet?

24 **A.** Yes, it would be.

25 **Q.** All right.

7

1 **Q.** It was reformed as a result of a fresh political
2 agreement being reached called the New Decade, New
3 Approach?

4 **A.** Yes.

5 **Q.** Has the Executive sat since then consistently or is it
6 now currently again suspended?

7 **A.** So the Executive has been suspended from the resignation
8 of the First Minister on 3 February 2022.

9 **Q.** Although subsequently there were fresh elections in the
10 Northern Ireland Assembly, due to the inability to
11 select a speaker, has the Executive been unable to sit
12 thereafter?

13 **A.** That's correct.

14 **Q.** All right.

15 The Northern Ireland Executive is chaired by
16 a First Minister and a Deputy First Minister; is that
17 correct?

18 **A.** That's correct.

19 **Q.** Does this unique constitutional structure oblige them to
20 hold office jointly and to a very large extent to act
21 jointly?

22 **A.** Yes, any official decisions need to be taken as joint
23 decisions.

24 **Q.** Are they, therefore, joint heads and seen as joint heads
25 of the Executive Office to which you are the

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1 **A.** Although it has a very different structure.

2 **Q.** Indeed.

3 How many departments, including the Executive
4 Office -- or, perhaps, no, perhaps excluding the
5 Executive Office, are there in the Northern Ireland
6 Executive?

7 **A.** So there are eight departments.

8 **Q.** Agriculture, Environment, Rural Affairs, Communities,
9 Education, Economy, Finance, Health, Infrastructure,
10 each one is headed by a minister. Justice, the head of
11 the Justice Department, is a minister who must be voted
12 upon by the Northern Ireland Assembly itself; is that
13 correct?

14 **A.** That is correct.

15 **Q.** All right.

16 The relevancy of those questions is this,
17 Dr McMahon: the Executive Office has the prime
18 responsibility, does it not, for building contingency
19 planning arrangements in Northern Ireland? That is
20 a function which rests within the Executive Office
21 itself?

22 **A.** That is correct, yes.

23 **Q.** Can you, from your research, tell the Inquiry to what
24 extent or how often did civil contingency matters debate
25 about planning for civil contingencies, and in

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1 particular emergency planning, and particularly, again,
2 in the context of pandemic planning, how often did these
3 issues come before the Executive Office for specific
4 debate?

5 **A.** The overarching group for managing this process is the
6 central contingency group for Northern Ireland, CCG, and
7 it is chaired by the head of the civil service. That
8 group met -- meets and has met regularly, right -- in
9 the decade leading up to the pandemic, and it looks at
10 contingency matters. That group checks that
11 preparedness is in place, is responsible for checking
12 that we're prepared for emergencies, and when
13 emergencies happen it's responsible for responding to
14 those emergencies.

15 So the issues are regularly considered by the
16 Executive Office in support of the central contingency
17 group.

18 **Q.** That is the issue, isn't it? There is a body within the
19 Northern Irish Executive, and we'll look at this in more
20 detail in a moment --

21 **A.** Yes.

22 **Q.** -- the civil contingencies policy board and above that
23 the Civil Contingencies Group. But how often were
24 matters of such significance that they were brought to
25 the Executive Committee of the Executive Office --

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1 **Q.** All right.

2 The Inquiry is aware of the existence of the Civil
3 Contingencies Act 2004, which has now, as is well known,
4 two parts. Part 1 sets up the structure for the
5 existence of Category 1 and Category 2 responders, and
6 imposes on them various legal duties. In
7 Northern Ireland, how many Category 1 responders have
8 been so designated?

9 **A.** Two.

10 **Q.** Are they the Police Service of Northern Ireland and the
11 Maritime and Coastguard Agency?

12 **A.** That's correct, yes.

13 **Q.** So only two?

14 **A.** Yes.

15 **Q.** How many Category 2 responders have been so designated?

16 **A.** One.

17 **Q.** Who is that or what is that?

18 **A.** Telecommunications.

19 **Q.** Telecommunication operators?

20 **A.** Yes -- yes, correct.

21 **Q.** There are, no doubt, a number of documents in existence
22 relating to civil contingencies frameworks, emergency
23 planning arrangements, crisis management arrangements,
24 multi-agency responses and the like. An important one
25 dates back to 2011. Could we have INQ000086932, it's

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1 **A.** Oh, I see.

2 **Q.** -- that is to say, the de facto Cabinet?

3 **A.** Yes, the Northern Ireland Executive, I couldn't give you
4 an exact number, but they would have been regularly
5 brought to the Executive. Actually, there was a lot
6 of -- in between 2010 and 2016, there were a lot of
7 weather events, which tended to lead to quite a few
8 different decisions coming to the Executive Committee.
9 Probably from 2017 to 2020 the main issues that would
10 have been coming to the Executive would have been around
11 Yellowhammer and European -- and planning for EU exit,
12 but I couldn't give you an exact figure as to how many
13 meetings discussed that.

14 **Q.** All right. May we take it from the fact that these were
15 issues that were being debated at the various levels in
16 the Northern Ireland Executive, but including the
17 Executive Committee of the Executive Office --
18 the Executive Committee of the Executive, that civil
19 contingencies are what is known as a transferred matter,
20 that is to say they are matters within the exclusively
21 competence of the Northern Irish Executive?

22 **A.** They are.

23 **Q.** Does the same follow for health and social services as
24 well?

25 **A.** That's correct.

10

1 called the Northern Ireland Civil Contingencies
2 Framework. Are you familiar with this document?

3 **A.** Yes.

4 **Q.** If we may have page 3, please, are these the core
5 principles on which this framework is based as well as
6 being the core principles upon which civil contingencies
7 in Northern Ireland are broadly based?

8 **A.** **(Witness nods)**

9 **Q.** Would you agree with that proposition? The transcript
10 won't pick up a nod. You need to say "yes".

11 **A.** Yes, indeed.

12 **Q.** These principles are of fundamental importance to the
13 operation of civil contingencies in Northern Ireland,
14 are they not?

15 **A.** That's correct, yes.

16 **Q.** "1. Ministers and top management shall provide
17 leadership, direction and support to civil contingencies
18 processes, and shall ensure that appropriate funding and
19 other resources are made available."

20 **A.** Yes.

21 **Q.** "Senior management shall include civil contingencies
22 activities in their normal business planning activities,
23 risk management frameworks and, where appropriate, audit
24 and assurance arrangements."

25 We will be looking at each of the areas in turn,

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1 Dr McMahon. Would you accept, nevertheless, at a broad
2 level and by way of a preliminary skirmish, that the
3 absence of a power-sharing agreement, or rather its
4 suspension, and the absence of ministerial direction in
5 Northern Ireland at the various times that you've
6 described would have had and must have had a direct
7 impact upon whether or not there was the necessary
8 leadership, direction and support for the civil
9 contingency process?

10 **A.** I would fully accept that. Ministers are crucial.
11 I think you'll see this in David Sterling's statement,
12 but it is a unique position in Northern Ireland, and
13 frankly an unacceptable position, not to have ministers.
14 It is so fundamental to the operation of governments --
15 of government. We need the direction and control and we
16 need the legitimacy that democratic accountability
17 brings to decision-making, to make those difficult
18 decisions and to make -- and to meet those priorities or
19 to decide on those priorities that we need to decide on.

20 **Q.** We'll look in greater detail a little later on what the
21 practical impact is, but putting aside the point that
22 you make that suspension in the power-sharing agreement
23 meant that there was an absence of ministerial
24 accountability and, therefore, political accountability,
25 why does the absence of ministerial direction have

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1 not getting, to be straight, the push that they need at
2 times to do things in a certain way.

3 Maybe we'll get a chance to talk about it --

4 **Q.** We will.

5 **A.** -- but I think in the lead-up to 2020 this was
6 particularly important and there were a number of
7 factors that exacerbated that.

8 **Q.** Thank you. Parking that issue of the absence of
9 ministerial direction and leadership, the second broad
10 category or the second broad factor which appears to be
11 of great importance to the proper maintenance of civil
12 contingencies procedures is resources. We'll look again
13 at resources in a moment. But in broad terms, would the
14 absence of proper resourcing, particularly between 2017
15 and 2020, have had a deleterious impact on the proper
16 maintenance of civil contingencies procedures, proper
17 planning?

18 **A.** Absolutely it would. Just to say, in a number of ways,
19 but primarily around staffing.

20 **Q.** Of course.

21 **A.** We lost 4,400 staff between 2014 and 2017. We didn't
22 actually get those staff back, unlike other parts of the
23 UK, and frankly -- and I know we'll come on to
24 Operation Yellowhammer -- but frankly we had to
25 cannibalise our departments to be able to prepare for

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1 a practical consequence in terms of the development and
2 maintenance of civil contingencies processes? Why does
3 the absence of, prosaically, a ministerial meeting or
4 a direction or an agreed submission from a minister make
5 a difference?

6 **A.** I think this is -- this is something that I would
7 probably -- it's a conclusion of mine that's evolved
8 since I even put the statement in, because a lot of the
9 decisions that are required for emergency planning are
10 operational decisions, and can happen without ministers
11 there, and indeed that should be the case.

12 **Q.** Dr McMahon, go a little bit slower, if you can.

13 **A.** Sorry. So ministers won't necessarily be involved in
14 all decisions around emergency planning. However, they
15 provide the level -- they provide a focus. They have
16 an understanding of what's going on on the ground, and
17 they have the legitimacy of being democratically
18 accountable, which means they can choose what to
19 prioritise.

20 So, in practical terms, it's hard to describe --
21 you know, it may not be a case of pointing to specific
22 decisions that could or couldn't have been taken, but in
23 practical terms it means that civil servants to some
24 extent are flying blind, because they're not getting the
25 information from the ground that they need, and they're

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1 EU exit.

2 **Q.** We'll look at that in more detail later.

3 **A.** Yes.

4 **Q.** But that is your general overarching position in
5 relation to resourcing?

6 **A.** Yes.

7 **Q.** There is then also a reference in paragraph 1 to proper
8 audit and assurance arrangements.

9 **A.** Yes.

10 **Q.** If whatever audit arrangements are in place indicate
11 that the system is not working, through lack of
12 ministerial direction or lack of resourcing, then that
13 is not a process upon which one can place reliance for
14 the purposes of saying, well, civil contingencies are
15 being properly maintained.

16 So the audit process may itself indicate a problem
17 with the maintenance of the system; would you agree?

18 **A.** I would agree, and audit is necessary but probably not
19 sufficient. I was really taken by the evidence of
20 Mr Mann, Bruce Mann, and Professor Alexander on this
21 because -- and also Oliver Letwin -- because it is clear
22 that audit is a very important check, and indeed in
23 DAERA -- sorry, the Department of Agriculture,
24 Environment and Rural Affairs -- my Lady, we used audit
25 to actually check our major emergency response plan and

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1 our business continuity plans. However, that provides
 2 a good process check to make sure that the basic
 3 processes are in place. But we probably need to go
 4 further than that in terms of emergency planning. So
 5 some of the sort of proposals around independent
 6 mechanisms for doing specific audit around emergency
 7 planning I think are really important and something that
 8 should be considered.

9 **Q.** There were departmental audit arrangements?
 10 **A.** That's correct.

11 **Q.** But there was no fully developed cross-government audit
 12 arrangement by which the general position of civil
 13 contingencies could be assessed; that is the position,
 14 isn't it? There were departmental audit processes,
 15 there was a risk register, there's a corporate risk
 16 register?

17 **A.** Yes.

18 **Q.** But there was no self-standing audit process that looked
 19 specifically and directly at the state of affairs for
 20 civil contingencies?

21 **A.** I certainly ... I think the one thing I would say --
 22 sorry, maybe if I could start again.

23 I think the answer is there was not a single body
 24 carrying out a single audit every year, so I would very
 25 much agree with that. However, there were programmes of

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1 are -- there were processes in place for ensuring that
 2 resilience plans were being taken forward across
 3 departments. Those were reviewed by CCG, by the central
 4 contingency group, and that would have been a form of
 5 challenge. And particularly in the lead-up to 2020,
 6 through Operation Yellowhammer, there would have been
 7 a big spreadsheet with a lot of the different elements.

8 The reason why I agreed with you earlier is because
 9 that -- the level of scrutiny would have been at the
 10 central contingency group under the head of the
 11 civil service. It would not have been an independent
 12 audit in the sense that -- something like the
 13 Northern Ireland Audit Office carrying out a review, it
 14 wouldn't have given that level of independence that we
 15 had. Elements of it would, as you pointed out, but it
 16 wouldn't have done -- we wouldn't have had an audit,
 17 that I'm aware of, of the whole system in that way.

18 **Q.** Dr McMahon, in addition, though, and you said it
 19 yourself, these were assurance arrangements which were
 20 distributed around departments and they came from the
 21 CCG, the Civil Contingencies Group, Northern Ireland.
 22 There were no specific pandemic-related standards
 23 against which the local bodies, the emergency
 24 preparedness groups, the sub-regional emergency
 25 preparedness groups, could gauge their own performance.

19

1 resilience planning which were taken up -- taken --
 2 which happened across departments, and the check there
 3 would have been really the Executive Office. Yeah,
 4 sorry, actually, sorry, I've talked myself round to
 5 agreeing with you entirely. Sorry, yes.

6 **Q.** You won't find me demurring from that final position,
 7 Dr McMahon.

8 **A.** Yes.

9 **Q.** Assurance arrangements. Assurance means testing or
 10 checking?

11 **A.** Yes. Yes.

12 **Q.** There were also, fourthly, in Northern Ireland, no
 13 self-standing assurance arrangements by way of the
 14 production of national resilience standards of the type
 15 that we have seen produced in London for the
 16 United Kingdom, so there were no sheets of paper dealing
 17 with, for example, pandemic influenza preparedness which
 18 could be given to all the various moving parts in the
 19 civil contingencies system so that each of the bodies,
 20 particularly the local bodies, the emergency
 21 preparedness groups, could say: this is the chart
 22 against which we must gauge our own performance and make
 23 sure that we are producing plans and documents and
 24 working arrangements that are up to scratch?

25 **A.** So the reason why I hesitated previously is that there

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1 These were assurance standards produced for departments
 2 in the Northern Ireland Executive, they weren't
 3 assurance standards for local use; is that not correct?

4 **A.** The -- actually we used the -- the groups would have
 5 used -- my understanding is that the LRF, the local
 6 resilience forums, standards were used by colleagues in
 7 our local government emergency planning groups, so they
 8 helped to inform the work. But -- and of course there
 9 was the pandemic flu preparedness board, which you'll
 10 come back to, and we had local civil servants and
 11 officials on that. So it's not -- I wouldn't want to
 12 say that we weren't connected to those UK standards or
 13 looking at them. We were. But, you know, we did not
 14 have -- well, as the record will show, there were
 15 elements of that that were not taken forward, and we
 16 can -- and no doubt we'll get to discuss that.

17 **Q.** Indeed. All right.

18 Paragraph 3:
 19 "Risk assessments shall be carried out in
 20 a systematic manner, as a basis for prioritising civil
 21 contingencies activities ..."

22 We'll look again at this in detail, but for present
 23 purposes there was a Northern Ireland risk assessment
 24 document produced in 2009, again in 2013, but there were
 25 no updates risk assessments after 2013 before, post

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1 pandemic, the most recent variant was produced in 2021;
2 is that correct?

3 **A.** That's correct, yes.

4 **Q.** So on that approach, with a view to that particular part
5 of the core principles on which the framework in the
6 civil contingencies maintenance is based, that, again,
7 was a process which requires examination because there
8 was a very considerable period of time during which the
9 risk assessments were just not updated?

10 **A.** Yes, I agree.

11 **Q.** "4. All organisations shall develop and maintain civil
12 contingencies plans and other preparations ..."

13 The record shows, does it not, Dr McMahon, that
14 a number of these documents, the Guide to Risk
15 Assessment, the Guide to Plan Preparation, the Guide to
16 Emergency Planning, the protocol to the Northern Ireland
17 Central Crisis Management Arrangements, the protocol for
18 the Escalation of the Multi-Agency Response, and so on
19 and so on, were largely out of date, some of them dated
20 back to January 2010, one of them to March 2002, and the
21 majority had not been updated since 2016; is that
22 correct?

23 **A.** The majority of them had not been updated post 2016,
24 fundamentally. There had been adjustments to -- again
25 this is from talking to colleagues, there had been

21

1 my part would have been that there were about 46 lost
2 North/South Ministerial Council meetings because --

3 **Q.** Lost meetings?

4 **A.** Lost as in they didn't happen. So you would have had
5 institutional meetings, plenary meetings and sectoral
6 meetings, and all of those will not have happened.

7 Now, as I said earlier, work will have been taken
8 forward and was taken forward in terms of operational
9 arrangements, but what that meant was that, if we
10 required specific decisions which involved money or
11 which involved -- the sorts of decisions that would go
12 to a minister normally in a department, then those could
13 not be taken forward.

14 **Q.** Indeed.

15 Could we please have page 9 of this document.
16 I think that may be page --

17 **A.** Page 2, is it?

18 **Q.** Maybe page 2 in hard copy, it's page 9 electronically.
19 Paragraph 4:

20 "The aim of the Framework is to ensure that the
21 people of Northern Ireland receive a level of protection
22 and emergency response which is consistent with that
23 elsewhere in the United Kingdom and which meets their
24 needs and expectations."

25 Would you agree, Dr McMahon, in a general sense that

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1 adjustments to most of those documents at some time or
2 other as a result of a series of exercises and events,
3 and particularly those weather events, prior to 2016.

4 The fundamental principles tend to flow throughout,
5 and I know one of the things you will be looking at is
6 whether the fundamental principles are the right
7 principles, but they tend to follow through in all of
8 the documents.

9 **Q.** Paragraph 5:

10 "In developing and maintaining their own
11 preparedness, organisations shall consult, communicate
12 and co-ordinate with other organisations and shall
13 participate as appropriate in regional, sub-regional and
14 local co-ordination forums."

15 As a result of the collapse in the power-sharing
16 agreement, there were practical problems, were there
17 not, with ministerial communication over the border with
18 the Republic of Ireland, the North/South Ministerial
19 Council, and also, because of the way in which some
20 parts of the system had atrophied, there were problems
21 with the communication or proper communications with
22 the United Kingdom Government in London as well, were
23 there not?

24 **A.** It definitely created problems. In terms of the
25 North/South Ministerial Council, a rough calculation on

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1 on account of those systemic failings which you've
2 broadly identified for us already, that the level of
3 protection and emergency response which the citizens of
4 Northern Ireland received was, therefore, different from
5 elsewhere in the United Kingdom?

6 **A.** I think that was one factor, but I know there will be
7 other factors that you will want to look at as well, and
8 I wouldn't want to be using it as an excuse in its own
9 right. There are other issues.

10 **Q.** No, I'm not inviting you to excuse it or -- simply to
11 ask you whether you agree with the proposition that, on
12 account of the matters which you've quite rightly
13 identified and others which we'll come to, there were,
14 as a result, differing levels of protection and
15 emergency response from the viewpoint of the citizens of
16 Northern Ireland?

17 **A.** There were additional challenges which definitely did
18 not help us to ensure that the level of response was
19 consistent with elsewhere in the UK. It absolutely had
20 an impact.

21 **Q.** Page 10, please, electronically:

22 "The guiding principles [this is paragraph 8] allow
23 for a clearly identifiable set of objectives for the
24 central government response to all emergencies,
25 including multiple incidents where a number of incidents

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1 occur close together in the same area or different parts
 2 of the country. The strategic objectives for the
 3 initial central government response are to:
 4 "- protect human life ...
 5 "- support the continuity of everyday activity ...
 6 "- uphold the rule of law and the democratic
 7 process."

8 Those important, perhaps self-evident strategic
 9 objectives were based upon those guiding principles set
 10 out further above on that page, weren't they: direction,
 11 integration, communication, co-operation and
 12 anticipation?

13 **A.** Yes.

14 **Q.** To the extent that you've identified, the application of
 15 those principles went awry because ministerially,
 16 financially, in terms of planning and assurance and
 17 audit, there were failures in direction, integration,
 18 communication and co-operation; would you agree?

19 **A.** I would agree -- yes, I would agree that there were
 20 systemic failures, and I would agree that if what we are
 21 trying to do is to protect life and to keep society
 22 running, then those failures are important because the
 23 work that we are doing is important, and it's important
 24 that we do it as well as we can for the people that we
 25 serve.

25

1 **Q.** Quite right.

2 If we just scroll through, please, to the contents
 3 page, you will see that it refers to, well, it sets out
 4 a guide for how to make a plan, how to draw up a plan,
 5 how to put a plan together, how you then consult and
 6 publish whatever plan you've brought together.

7 This guide was heavily dependent, wasn't it, on
 8 those conceptual issues which underpin what's known as
 9 the integrated emergency management system?

10 **A.** Yes.

11 **Q.** You'll recall perhaps a semi-arid doctrinal debate about
 12 the planning cycle and when you are expected, when
 13 drawing up a plan, to respond and when you prepare and
 14 when you recover and so on.

15 That planning cycle, which formed the basis of this
 16 document, was the planning cycle which was in general
 17 operation pre-2002, wasn't it?

18 **A.** Yes.

19 **Q.** You've obviously been following the evidence given in
 20 this Inquiry, including the evidence of Mr Mann and
 21 Dr Alexander. This document, therefore, was based upon
 22 a planning cycle and an understanding of integrated
 23 emergency management which is now fundamentally regarded
 24 as being out of date; would you agree?

25 **A.** I would agree that it's been out of date or that it's

27

1 **Q.** That is, if I may say so, a very fair acknowledgement,
 2 Dr McMahon.

3 Could we look then at some of the documents very
 4 briefly in greater detail.

5 INQ000086931.

6 This is a *A Guide to Plan Preparation* from March 2002.
 7 Do you know whether or not this was updated before 2020
 8 at all?

9 **A.** I don't believe it was, but I --

10 **Q.** It probably wasn't because it comes from the Office of
 11 the First Minister and Deputy First Minister, which is
 12 a body which was replaced of course by the Executive
 13 Office. When was that change? When did the Office of
 14 the First Minister and Deputy First Minister end?

15 **A.** Actually that's -- I believe it was in 2016. Apologies,
 16 I should know that, I worked in OFMDFM and in the
 17 Executive Office, but I believe it was 2016.

18 **Q.** It's quite all right. It's therefore self-evident that
 19 it hasn't been updated at least since that date.

20 **A.** Apologies, my only hesitation over that is that
 21 I haven't asked people. It is not impossible that
 22 people updated a statement here or there in the
 23 document. I suspect it wasn't -- it certainly was not
 24 fundamentally updated but I just want to give the whole
 25 truth and make sure I'm not --

26

1 based on a model that is considered to be out of date.
 2 A lot of the same principles apply, but I would agree
 3 with the basic point.

4 **Q.** Another important document is INQ000086925, *A Guide to*
 5 *Risk Assessment in Northern Ireland*. You've described
 6 this as a key document in your own witness statement.

7 **A.** Yes.

8 **Q.** Because it's a guide to how bodies go about assessing
 9 risks.

10 **A.** Yes.

11 **Q.** Was it a document which, like the NSRA in London,
 12 provided an identification or a description of specific
 13 or individual risks, or was it a more generic document
 14 which simply spoke about the relevant principles
 15 involved in how you draw up a risk assessment?

16 **A.** Yes, it's the latter. It is about the principles for
 17 drawing up a risk assessment. I think sometimes one of
 18 the challenges, and I know this is something you've
 19 drawn attention to, is the challenge of jargon, and
 20 I think looking at the -- again at the evidence and
 21 actually the reports that have been produced by Mr Mann
 22 and Professor -- and colleagues, it's clear that we need
 23 to be -- we need to start to think about this in a much
 24 simpler way, that the public can understand, and really
 25 what this is about is about identifying what could go

28

1 wrong, what we can do about it in advance, what we can't
2 do about it and how we go mitigate the effects of the
3 things we can't control, and how to just write that up
4 in a way that people can understand.

5 So that's really what it should be about, and
6 essentially that's -- that was my reading of the
7 document.

8 Unfortunately it does, you know, the challenge with
9 these things is: that's a culture change we're talking
10 about, making these things simpler, and actually it's
11 going to take time to do that because where emergency
12 planning came from was probably a defence and threat
13 sort of type world, which doesn't really operate on the
14 same principles, and therefore there's a lot of the
15 baggage there that we need to think about removing and
16 changing.

17 **Q.** Furthermore, Dr McMahon, this guide to risk assessments
18 in Northern Ireland contains, if one cared to do a word
19 search on the document -- and there is a hint because
20 that search has been done -- it contains no reference to
21 pandemic planning. There are no references to
22 individual risk assessments in this guide. It is
23 a jargon-filled document about the overarching process
24 of how to do a risk assessment. It doesn't provide any
25 detail as to what those risks may be, how they eventuate

29

1 since September 2011. It, despite running to 210 pages,
2 contains only three references to the possibility of
3 a pandemic.

4 So almost no focus at all on the major, the greatest
5 risk, the greatest threat which Northern Ireland faces
6 in terms of its emergency planning arrangements.

7 **A.** I think it's important -- so I'm not disagreeing with
8 the factual points you've just made, but it is really
9 important that we have part of this process that is not
10 tied to specific risks, and it's important then we have
11 part of the process that sets out the specific risks and
12 the specific actions.

13 So I think if you were pointing to an issue where
14 we haven't recorded -- where we haven't recorded the
15 specific risks, I think that's more about not having
16 risk assessments in place rather than not having the
17 right processes in place to enable people to make risk
18 assessments.

19 **Q.** But the risk assessment process -- and I'd already drawn
20 this to your attention --

21 **A.** Yes.

22 **Q.** -- was a process in which the specific individual risks
23 were not updated between 2013 --

24 **A.** Yes.

25 **Q.** -- and 2021?

31

1 and so on.

2 **A.** Yeah, I agree with that. I would say there's
3 an important point in that, because we do need to have
4 a process which does not presuppose particular threats
5 or particular issues. It's important that people start
6 with a blank sheet of paper. And in fact one of the
7 challenges with having so much process around this is
8 that sometimes you need to get past all of the paper,
9 take a step back and say: what is it that we think, in
10 very straightforward terms, can happen?

11 So I would be worried in a way if it was starting to
12 say, "And here are some of the things you need to think
13 of". So that -- including, for example, pandemic --

14 **Q.** Pandemic influenza --

15 **A.** Yes.

16 **Q.** -- is of course recognised to be the Tier 1 -- it's the
17 top risk facing the United Kingdom, including
18 Northern Ireland. The 2011 document, which I read out
19 a few moments ago, *A Guide to Emergency Planning*
20 *Arrangements in Northern Ireland*, described by you in
21 your own statement as another key document --

22 **A.** Yes.

23 **Q.** -- was not itself updated since it was refreshed in
24 September 2011. It's impossible to know when it was
25 first published but it certainly hadn't been refreshed

30

1 **A.** Yes.

2 **Q.** So little recourse can be had to them, because that
3 system cannot rescue the point, it wasn't being updated
4 either?

5 **A.** Yes, so in a way, sorry, apologies, my point was that
6 the criticism is right, the point is that the criticism
7 is pointing in the wrong place, I think it's -- the lack
8 of the risk assessments --

9 **Q.** All right.

10 **A.** -- was the issue.

11 **Q.** But there was, although there is a health and social
12 care influenza pandemic preparedness and response plan
13 2013, no cross-government influenza pandemic or pandemic
14 plan. The sole influenza pandemic plan could be found
15 only within the health and social care ministry; there
16 wasn't an overarching governmental document which
17 identified and discussed and debated the consequences of
18 that single Tier 1 risk; that's correct, isn't it?

19 **A.** That's correct.

20 **Q.** All right.

21 So there was no overarching document dealing with
22 that risk. The risk assessment process which identified
23 individual risks, amongst which one could find this
24 risk, was not itself updated, and the general paperwork,
25 relating to civil contingencies, crisis management, plan

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1 preparation, emergency planning arrangements, paid no
2 regard to pandemic planning whatsoever. That's the sum
3 of it, isn't it?

4 **A.** I think that's the sum of it, but I think that the third
5 point -- the first two points are clearly problems,
6 failings if you want to call them that, but the third
7 point I would say is not necessarily a failing in its
8 own right, because --

9 **Q.** You do need to have general --

10 **A.** You do need to have that. And in fact we need to be
11 more responsive and more -- and to have planning
12 processes that actually make fewer assumptions, so that
13 we don't rule out the big ones that could come and hit
14 us.

15 **Q.** But that general paperwork, for different reasons, needs
16 to have its jargon stripped away from it?

17 **A.** I think the less jargon the better. Sorry, that's
18 a general point in life, but ...

19 **Q.** Well, it's a point that will find favour with my Lady,
20 because it's a point that's been made in the course of
21 evidence.

22 **LADY HALLETT:** It's music to my ears.

23 **A.** I'm not saying I'm not guilty of it, my Lady, but ...

24 **MR KEITH:** In fact, Dr McMahon, the Northern Ireland
25 Executive acknowledged that the general state of

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1 getting about it.

2 **Q.** May we now then turn to some of the bodies in the civil
3 contingencies set-up, and could we have, please, our
4 organogram INQ000204014 on the screen at page 14.

5 Dr McMahon, you will have seen this schematic design
6 already, I'm sure, but it's "Pandemic preparedness and
7 response structures Northern Ireland [circa] 2019".

8 We can see in the middle of the page or towards
9 perhaps the top third of the page but in the middle, in
10 the yellow box, the "Northern Ireland Executive", and
11 the "First Minister and Deputy First Minister", and "The
12 Executive Office", which replaced the Office of the
13 First Minister and Deputy First Minister. So there you
14 are in the middle of that system.

15 On the right-hand bottom corner of that large yellow
16 box we can see "Civil Contingencies Policy Branch". Is
17 that the body to which you referred earlier which is
18 perhaps properly described as being at the centre of the
19 tactical level of civil contingencies response in
20 Northern Ireland? It works alongside but subject to the
21 strategic direction of the "Civil Contingencies Group
22 (Ministerial)" and "(Official)" to the left?

23 **A.** I wouldn't use the word "tactical". It is -- it
24 supports -- it's basically the policy branch that is
25 responsible for civil contingencies within the

35

1 paperwork was in a deleterious position, because in
2 July 2021, belatedly, but nevertheless, it published
3 a new document, *Building Resilience Together*,
4 *Northern Ireland Civil Contingencies Framework*, which
5 replaced and consolidated a number of the former
6 protocols and guidance documents. So you would agree
7 that that was, of course, an acknowledgement that the
8 time had come for a great deal of this paperwork and
9 jargon and guidance documentation to be rewritten
10 wholesale?

11 **A.** I would agree. There are elements of the previous
12 guidance that is incorporated in that.

13 It's probably just worth saying I had the
14 opportunity to attend a major exercise and met a lot of
15 the district council and first responders and others who
16 were involved in it, it was a big exercise held in
17 Belfast Harbour, with 400 people in it, and the phrase
18 that kept coming up time and time again was, "This is
19 a game-changer". People felt that we had, for once --
20 and it's not that it's without jargon, and in fact we
21 need to keep an element of that for a period of time to
22 make sure that people are on board, but the feedback
23 that came back was that this is absolutely ahead of its
24 game and in fact colleagues across the UK could look at
25 this as well. That's the sort of feedback we have been

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1 department. It supports the Civil Contingencies Group,
2 and acts as a secretariat to the group, and therefore
3 the most appropriate way to describe that would be it
4 works at a strategic level. I think the tactical and
5 the operational elements would come in the structure
6 below that.

7 **Q.** So why is there a need -- if this is a policy department
8 or a policy entity, why is there a need for both a Civil
9 Contingencies Group official level and a Civil
10 Contingencies Policy Branch? Is there not a degree of
11 overlap there?

12 **A.** No, I think it's probably important just to clarify
13 this. The Civil Contingencies Group is effectively the
14 head of the civil service and all of the lead officials,
15 the permanent secretaries, across each of the government
16 departments. It meets together -- it can be led by
17 ministers as well, so that's why you've got the
18 reference to ministerial. But effectively it is the top
19 management team operating in emergency mode or in
20 emergency preparation mode.

21 The Civil Contingencies Policy Branch really are
22 middle -- well, I was going to say they're senior civil
23 servants but they're not at the same level. Sorry,
24 there's one senior civil servant who leads it now, and
25 there's a number of civil servants at middle management

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1 level who then support the work of the Civil
2 Contingencies Group.
3 So that's really -- their role is to do the heavy
4 lifting around documents and just supporting the group
5 and making sure it's doing its job.

6 **Q.** That is a part of the department, it's part of the --

7 **A.** Yes.

8 **Q.** -- Executive Office?

9 **A.** That's correct.

10 **Q.** So it's not a committee that sits peripatetically, it is
11 a part of government which routinely and daily carries
12 out its business?

13 **A.** That's correct.

14 **Q.** Whereas the Civil Contingencies Group is a meeting,
15 whether or not it's ministers or officials is less
16 important, but it's a committee or a group that meets --

17 **A.** Yes.

18 **Q.** -- in the event of something happening which requires it
19 to meet?

20 **A.** That's correct.

21 **Q.** All right.

22 **A.** Just to clarify, so -- but in addition to that, the
23 civil contingencies, it's -- the policy branch there,
24 it's now a division. We've increased the -- we've
25 actually put it under the direction of a senior civil

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1 had a former head of the civil service,
2 Dr Malcolm McKibbin --

3 **Q.** Could you go just a bit slower, please, Dr McMahon,
4 you're speeding up again.

5 **A.** Apologies. We had a former head of the civil service,
6 Dr Malcolm McKibbin, who took charge of that and led
7 very significant improvements, and indeed there have
8 been a number of examples of where the Civil
9 Contingencies Group has operated really well, and in my
10 view, as part of that group, because even in the
11 Department of Agriculture, I was getting a sense --
12 sorry, I obviously got to be part of and see the group
13 in operation, and I saw it operating well.

14 However, there is a challenge here, because -- and
15 you've drawn attention to it, that at different times
16 the group might be stronger depending on personal
17 leadership or at times -- and also depending on what
18 happens, and then at other times other priorities might
19 start to push in. And I think -- again, we may get to
20 touch on this, but I do think that's one of the issues
21 around legislation that has been raised so far, and
22 the -- as a more general point across the UK. And
23 that --

24 **Q.** I'm sorry to interrupt. Is that a nod to the evidence
25 which has been given before my Lady about an extension

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1 servant, but that division would have been responsible,
2 for example, for the guidance that you referred to
3 earlier and all of that sort of work with the local
4 government organisations and the first responders and so
5 on.

6 **Q.** Does the Civil Contingencies Group system work well?

7 I ask because, as you know, a review was carried out in
8 2010 which described the future of the CCG(NI), the
9 Civil Contingencies Group, Northern Ireland in this way,
10 that there were problems because of a lack of senior
11 delegates attending CCG meetings, a lack of continuity,
12 a lack of buy-in, staff turnover, budget cuts and lack
13 of regional co-ordination.

14 **A.** So actually overall it has worked well, but there's
15 a really fundamental challenge in the middle of that.
16 So I'll give you some examples. So, for example,
17 Operation Cygnus, which you will probably refer to at
18 a later stage, or Exercise Cygnus, the Civil
19 Contingencies Group was part of that exercise, and as
20 part of that exercise they received feedback, and
21 actually the feedback they received was positive in
22 terms of providing strategic direction.

23 Post the stage that you referred to, we actually
24 have had a -- we had a lot of developments in the group.
25 Actually a lot of that came down to leadership, so we

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1 of the legal obligations arising under part 1 of the
2 Civil Contingencies Act 2004 --

3 **A.** Yes.

4 **Q.** -- and the debate about the imposition of legal duties
5 issues on -- it arose in the context of the United
6 Kingdom government on central government in Whitehall?

7 **A.** Yes.

8 **Q.** Is that an issue which applies analogously to central
9 government, the Northern Ireland Executive, in
10 Northern Ireland?

11 **A.** Part of the problem with having officials without
12 ministers is we can just say what we believe, because
13 there's no official ministerial line, and what I believe
14 is that we do need protections in legislation that
15 ensure that, first of all, we have duties that are
16 clearly set out, and I also do believe that we need to
17 have these functions resourced properly and, again, that
18 needs to be set out in legislation.

19 There are particular complications in
20 Northern Ireland because we have a very sensitive
21 constitutional arrangement which followed a long period
22 of what we call the Troubles, conflict, but
23 nevertheless, these are issues I think that need to be
24 looked at across the UK and in Northern Ireland in terms
25 of legislation.

40

1 **Q.** In essence, are you suggesting that an extension of the
2 legal obligations in the Civil Contingencies Act 2004,
3 which is an Act which applies to Northern Ireland,
4 of course, would circumvent some of the deleterious
5 consequences of the Troubles and the collapses in the
6 power-sharing agreement, because it would impose a legal
7 structure on officials to which they may have recourse
8 when operating in the absence of proper ministerial
9 direction, and operating in an environment where,
10 because of the lack of the power-sharing agreement or
11 ministerial direction, it's very difficult for them to
12 know how to respond, how to prepare, how to manage this
13 system?

14 **A.** I'm probably making a simpler point, which could lead to
15 that place. The simpler point is that we have had --
16 I have seen many, many examples of really good
17 leadership in the central contingencies group and I have
18 to say, during the course of the pandemic itself, my
19 experience was people showed unbelievable leadership at
20 all levels. I just have to be honest.

21 However, we cannot rely on leadership and events to
22 ensure that our plans and processes are in place.
23 I think Professor Whitty made a similar point about this
24 is like an insurance policy, and an insurance policy
25 costs money, and that money is needed for other really

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1 **Q.** All right.

2 Underneath it, there's a link to "Other Governmental
3 Departments Via Departmental Operation Centres". So in
4 addition, do other departments have their own operation
5 centres to the extent that they may be needed? In the
6 context of a health emergency, would, therefore, the
7 health and social care ministry have had its own -- and
8 did it have its own -- departmental operation centre, or
9 was that subsumed into the "HUB" for the purposes of
10 Covid?

11 **A.** No, so the Hub -- so if I could just give a little bit
12 of explanation, the Hub consists of officials from
13 across all of the departments that came together into
14 a room, not unlike this, and the idea was that they were
15 feeding through information which was then passed to the
16 central contingencies group in order to provide
17 direction.

18 In addition to those, we had a -- in each of the
19 departments, as you say, a DOC, a departmental
20 operations centre, and each of those was collecting
21 information from their operational arms.

22 So, for example, if I give you -- give one example,
23 in the Department of Agriculture, Environment and Rural
24 Affairs, we had a DOC which was working very closely
25 with the agrifood industry, finding out what was

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1 important things, which will -- really important
2 imperatives, and in order to do that we need to find
3 a way of protecting the civil contingencies elements.

4 **Q.** All right.

5 Just to identify briefly some of the other bodies in
6 the civil contingencies system, we can see a yellow box,
7 a brighter yellow box in the bottom right-hand corner of
8 the darker yellow box, "Central Operations Room [the]
9 (HUB)". Is that the Northern Irish analogue to the
10 Cabinet Office Briefing Rooms, COBR? Is it a crisis
11 management facility?

12 **A.** I think it's near -- it would be -- it would approximate
13 the support structures for COBR. The nearest we would
14 have to COBR would be the Civil Contingencies Group, but
15 it would really be a support mechanism. I mean,
16 basically what it is, it's a temporary structure that is
17 put in place when it's needed in order to create a much
18 bigger response. And I know we'll touch on this in
19 Yellowhammer --

20 **Q.** So it was the body that was put into place in fact to
21 deal with Operation Yellowhammer, the preparations for
22 a no-deal EU exit?

23 **A.** Yes, and it was then used for the pandemic and I know
24 we'll -- hopefully we'll get to talk about that in a bit
25 more detail.

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1 happening, it was working very closely with the
2 environment people and with rural affairs people
3 about -- in terms of vulnerable people in the community,
4 and it was feeding that information together up through
5 the Hub and into the Civil Contingencies Group. And
6 I do think -- we've talked about some of the problems,
7 but I do think it's important that we get a chance to
8 talk about what worked really well in the Hub and I do
9 believe that there were elements of it that did work
10 really well.

11 **Q.** In terms of the day-to-day response to the Covid
12 pandemic --

13 **A.** Yes.

14 **Q.** -- did that rest within the central operations room, the
15 Hub, or did it rest within the operational centre of the
16 Department of Health and Social Care?

17 **A.** The Department of Health and Social Care -- I would need
18 to double-check this, but my expectation is that they
19 had a DOC just the same as all the other departments, so
20 I don't remember ever looking it up, because I just
21 assumed it was there.

22 **Q.** But do you happen to know whether or not during Covid
23 itself, during the crisis itself, the management was
24 conducted from the Central Operations Room, as opposed
25 to the --

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- 1 **A.** So -- no, the management in the -- so the management of
2 departmental business will have been done, was done,
3 under the minister and the permanent secretary in the
4 department, so some of the decisions they were taking as
5 a department, or proposing to take, would have been fed
6 into their DOC, their departmental operations centre,
7 and that would have been collated together as part of
8 a report --
- 9 **Q.** A sit rep?
- 10 **A.** A sit rep, to use that terminology. That would have
11 gone up to the Hub, it would have been collated together
12 with other information coming from across all the
13 departments, it would have been put together into
14 a pack, and that pack then was sent to us as the Civil
15 Contingencies Group and we then were able to understand
16 what was happening and to be able to then take
17 decisions. But -- so the decisions were taken, there
18 were decisions taken within departments and that's
19 quite -- the right thing to happen, because, you know,
20 when there's an emergency happening you need to make
21 sure that people are able to take decisions as near to
22 the action as possible. But they were also then feeding
23 up decisions which required a cross-government
24 a response.
- 25 **Q.** All right.

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- 1 Northern Ireland Executive, there isn't an analogous
2 fully developed regional strata, because there is no
3 need?
- 4 **A.** The Northern Ireland Emergency Preparedness Group --
5 I mean, actually the diagram -- as you've correctly
6 pointed out, these diagrams look very complicated, but
7 they can be simplified quite significantly.
- 8 The position is that we have 11 councils, we have
9 those councils grouped into three areas, and each area
10 has an emergency preparedness group. Each one of the
11 emergency preparedness groups is led by a lead official,
12 and then the lead official -- who spends their time on
13 community resilience, and the lead officials come
14 together with the first responders in the
15 Northern Ireland Emergency Preparedness Group.
- 16 I've actually -- as part of the preparation for
17 this, I've met with them. One of the both challenges
18 and advantages of Northern Ireland is that everybody
19 knows everybody else, it's a small place, so you can get
20 everybody into the room at the same time. So although
21 these structures, and certainly if these were in
22 a Whitehall context, they would be very complex
23 structures, actually in reality they operate in a -- now
24 they operate in a very straightforward way in that
25 there's basically three groups and we work with those

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- 1 To the bottom left of the "Central Operations Room"
2 is a large purple area which broadly is concerned with
3 local resilience planning preparedness and response
4 structures. From your witness statement, it appears
5 clear that there used to be something called -- I think
6 it was the subgroup, Sub-Regional Civil Emergency
7 Preparedness Groups. It's now called the
8 Northern Ireland Emergency Preparedness Group.
- 9 **A.** Yes.
- 10 **Q.** But you can see a number of bodies. Perhaps the most
11 important ones are towards the left-hand side of the
12 purple box: the "[Northern Ireland] Emergency
13 Preparedness Group", underneath that the "Sub-Regional
14 Civil Emergencies Preparedness Groups", and underneath
15 those the three emergency preparedness groups, which
16 I think are the northern emergency preparedness group,
17 the southern, and then the Belfast emergency
18 preparedness groups.
- 19 Are those the core groups at local level dealing
20 with both planning and response for civil contingencies?
- 21 **A.** Yes, and in particular community resilience.
- 22 **Q.** There is a reference to a "Regional Community Resilience
23 Group" and a "Regional Recovery Forum", but essentially,
24 is this right, Dr McMahon, there are developed bodies at
25 local level and developed bodies within the

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- 1 three groups, and then they come together and we work
2 with them as well in that shared forum.
- 3 **Q.** I'm going to tar you with your own brush, Dr McMahon --
- 4 **A.** Thank you.
- 5 **Q.** -- because the chart is in material regard taken from
6 page 42 of your own statement.
- 7 Could we have a look at that.
- 8 **A.** Yes.
- 9 **Q.** INQ000187620, page 42.
- 10 **A.** I did -- sorry. That's not coming up on mine yet.
11 Sorry, I don't think that's the one from my statement --
12 on my screen anyway. Apologies.
- 13 **Q.** So page 42 of the 80-page statement, INQ000187620.
14 Can we scroll in so that we can read the text. This
15 is your diagram of the schematic of the arrangements,
16 Dr McMahon.
- 17 **A.** Yes.
- 18 **Q.** We can see the rubric on the left-hand side: the "SCEP
19 Sub-Groups", the "SCEP Task and Finish Groups", the
20 "[Civil Contingencies Group] (Northern Ireland) Task and
21 Finish Groups" and the sub-groups and the
22 Northern Ireland groups.
- 23 Will you forgive me if I observe that that is
24 perhaps no less complex a structure?
- 25 **A.** I did acknowledge earlier that I'm guilty sometimes of

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1 jargon as well. What I would say, though, the more
 2 important point around that diagram is that clearly we
 3 wanted to make sure it was -- that it was as complete as
 4 possible.
 5 Some of those groups are more permanent than others.
 6 So if you were looking at the fundamental
 7 infrastructure, it's a fairly straightforward
 8 hierarchy --
 9 **Q.** It is that hierarchy identified --
 10 **A.** Yes, yes.
 11 **Q.** -- the "Sub Regional Civil Emergency Preparedness
 12 Sub Group" --
 13 **A.** Yes.
 14 **Q.** -- the SCEPs, down to the emergency preparedness groups
 15 at the bottom, and we can see the three defined there,
 16 subdivided: northern, Belfast and southern?
 17 **A.** Absolutely.
 18 **Q.** Can I ask you, please, also, however, about some other
 19 bodies to which we've seen reference in the paperwork,
 20 and there might be a lack of clarity as to how they fit
 21 into the Northern Irish structures. These are the
 22 strategic co-ordination groups and the tactical
 23 co-ordination groups.
 24 Could we have, please, page 26 of that statement.
 25 INQ000187620, page 26.

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1 **A.** It's just quite useful because it summarises it in one
 2 place.
 3 **Q.** Do you call that an improvement, Dr McMahon?
 4 **A.** The -- it looks -- it does look -- it does look complex,
 5 but I think the important point here is that it makes
 6 the point that there are different structures for
 7 preparing, for responding, and recovering, and --
 8 **Q.** This was an issue which --
 9 **A.** Yes.
 10 **Q.** -- has been put to a number of witnesses in the civil
 11 contingencies field.
 12 **A.** Yes.
 13 **Q.** On the face of it, Dr McMahon, having separate bodies,
 14 whether or not there is a degree of overlap and whether
 15 or not they're staffed by the same personnel in reality,
 16 to deal separately with preparedness, response and
 17 recovery, would, on its face, appear to be
 18 an unnecessary duplication, particularly in the context
 19 of Northern Ireland, where there isn't really -- well,
 20 there is no call at all for a developed structure
 21 between CCG Northern Ireland Executive level and local
 22 EPG level. Why have a profusion of separate bodies in
 23 this way?
 24 **A.** So I think it's -- I think it's a fair point, but it's
 25 probably worth looking in a little bit more detail at

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1 This is an extract from a document called NICCMA,
 2 it's the Northern Ireland Central Crisis Management
 3 Arrangements document. This is an extract from a page
 4 within that material. You can see that the wording,
 5 "REACTIVE - Response to high impact sudden or
 6 complex/specialist events, RESPOND COMMAND CO-ORDINATE
 7 CONTROL". Those are the C3 system.
 8 The left-hand side of the diagram shows that there
 9 is a link down from the Northern Ireland Executive
 10 through the Civil Contingencies Group, to which you've
 11 referred, to the Strategic Co-ordination Group and the
 12 Tactical Co-ordination Group.
 13 Are these the response bodies as opposed to the
 14 planning and preparedness bodies to which we were
 15 looking at a little earlier?
 16 **A.** Yes, and I suppose if -- another diagram, I mean, that's
 17 probably worth looking at at some point is on page 18 of
 18 the current guidance, because it includes this, and it
 19 also includes the preparation and the recovery phases.
 20 But yes, that's correct.
 21 **Q.** Is that the 2021 July framework?
 22 **A.** Yes, yes.
 23 **Q.** We'll have INQ000086922, then, please., at page 21.
 24 **A.** I think it's page 18 in the ...
 25 **Q.** I'm sorry, page 18.

50

1 how to -- how a response would work. If you think about
 2 it, particularly when we're talking about large-scale
 3 emergencies and the largest scale emergencies, we've got
 4 to co-ordinate 200,000 public sector workers. We've got
 5 to work with the community and voluntary sector, I know
 6 that's something you may want to touch on, we've got to
 7 work with businesses, and that's a very, very large set
 8 of organisations.
 9 So when we're doing a response, there's a couple of
 10 things that are really important. There needs to be
 11 strategic leadership at the top, and that's why CCG
 12 appears in each of those. There also needs to be
 13 a situation where departments kick into place and
 14 organisations kick into place a set of structures that
 15 they just understand, they understand how these
 16 structures work. So, for example, in any department,
 17 when an emergency happens, there will be a strategic
 18 level response, in other words making the big decisions
 19 on the basis of the big picture, there will be
 20 a tactical level response about how we then specifically
 21 do take forward particular actions, and then there will
 22 be the involvement of the first responders and others to
 23 ensure that the actual work happens on the ground. That
 24 will happen across each of the different sectors, and in
 25 fact that was what happened.

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1 So if you look at the "Respond" and the "Recover",
2 they're actually quite -- each of those columns are not
3 that complex in their own right, because you've got the
4 strategic level, you've got a co-ordination group, and
5 then you've got tactical co-ordination groups just to
6 make sure that different elements of the work are being
7 taken forward right across this large organisational
8 structure.

9 The C3 system on the side, if I can put it this way,
10 is a temporary organisation of up to 1,000 people that
11 is brought in to deal with those sorts of emergencies
12 which we just do not have -- which we could not have
13 a standing structure to tackle. So the pandemic is
14 a good example of that.

15 The "Prepare" group, on the left-hand side, is also
16 a bit more complicated, and the reason for the prepare
17 structure being a little bit more complicated is because
18 the nature of that work has to be more dispersed, and in
19 fact in some ways it's not complicated enough, because
20 I would like to see the community and voluntary sector
21 in the middle of this. I'd like to see structures that
22 involve the people who are affected by emergencies.

23 In fact, just on that, I've called together
24 a meeting for late August with all of the equality
25 groups across Northern Ireland to actually ask their

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1 one of the advantages of people looking independently at
2 these things is they can help you to see the complexity
3 of maybe what's there. The only thing I would say
4 that's important to understand about this is that, in
5 the respond -- particularly in the respond phase, there
6 is going to be a different set of people, or at least
7 the same people but doing very, very different things.

8 So, for example, in the response phase, for most
9 emergencies the first responders, the fire, the
10 ambulance, the police, will be right in the middle of
11 it, and there won't be necessarily a direct -- there
12 will be an indirect role for our emergency planning
13 groups for things like recovery centres and so on,
14 whereas in the community -- whereas in the planning
15 phase, in the prepare phase, there should be -- there is
16 and there should be a much greater emphasis on the
17 community-based work to understand what's needed, and
18 then -- you know, so there's -- there is a different
19 emphasis.

20 So I'm not disagreeing with the fundamental point
21 that we could and should simplify our diagrams --

22 **Q.** You can just tell, with respect, the people what to do
23 when they need to respond as opposed to prepare, rather
24 than setting up another group, with additional complex
25 nomenclature, in order to give them a group to be part

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1 views and the views of the people they represent as to
2 how we need to be starting to create a more
3 person-centred approach, and that's come directly from
4 the work of this Inquiry.

5 **Q.** One further question before the break, if I may.

6 The reality in Northern Ireland is that the
7 preparedness and the response, the preparedness for and
8 response to a major emergency will consist of a body,
9 a cadre of civil servants from the CCG -- CCG,
10 Northern Ireland -- and in the Hub, liaising with
11 emergency response services?

12 **A.** Yes.

13 **Q.** Police Service of Northern Ireland, the blue light
14 services, telecom operators, the Category 1 and 2
15 responders, with officials at local authority level and
16 the voluntary and community sector.

17 They are the same people in reality who will be
18 called upon in the event of any non-local emergency or
19 perhaps even a local emergency. To have to assign them
20 to this profusion of different bodies and different
21 structures and different levels of regional, local body,
22 and tactical and strategic and co-ordination,
23 preparedness, does appear to be an unnecessary
24 complication.

25 **A.** I think -- I absolutely accept the point, and actually

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1 of. That's the essential point.

2 **A.** Well, I think it's really important, and this is why we
3 just need to be careful about this, because when the
4 emergency arrangements -- I mean, you'll be looking at
5 this obviously in the next module -- and whatever went
6 well or whatever didn't go well, what I can say is
7 people understood the concept of gold, silver and bronze
8 commands, as they call it. Apologies for using the
9 jargon, you've heard it before. But people in the
10 emergency planning business understand that, and in
11 departments we kick those -- I mean, in DAERA,
12 I activated the emergency plan in 2019, because of
13 Yellowhammer, because of EU exit, and so -- and we
14 understood what we were doing and we understood how to
15 put those structures in place, and we didn't have to do
16 a big long explanation as to who needs to go where and
17 what they need to do.

18 So I'm not disagreeing fundamentally with the point
19 about simplification, I just think we have to be careful
20 not to do that in a way which undoes some of the years
21 of conditioning that people working in emergency
22 planning have taken on board.

23 **Q.** You're inviting my Lady not to throw out the baby with
24 the bath water?

25 **A.** I think that would have been a better summary.

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1 **MR KEITH:** My Lady, is that a convenient moment?

2 **LADY HALLETT:** I will return at 11.35.

3 (11.20 am)

4 (A short break)

5 (11.35 am)

6 **MR KEITH:** May we have our organogram back up on the screen,
7 please, at page 14.

8 On the far right-hand side of the schematic diagram,
9 Dr McMahon, there's a "Cross-Border Emergency Management
10 Group", and next to it the "North/South Ministerial
11 Council". Are they the two bodies you referred to
12 earlier in your evidence?

13 **A.** We were primarily talking about the North/South
14 Ministerial Council but I probably did reference
15 operational arrangements which happen at the Cross
16 Border Emergency Management Group level.

17 **Q.** So that's the difference, the left-hand body is the
18 operational side, the right-hand one is the ministerial?

19 **A.** Yes, and actually -- obviously they're related because
20 they're both north/south, but they're actually not
21 directly -- they're not directly related. The Cross
22 Border Emergency Management Group is really where the
23 operational and tactical -- basically the people doing
24 the work on the ground get together to discuss how
25 they're going to deal with emergencies in border areas.

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1 **Q.** -- the suspension of the power-sharing agreement?

2 **A.** That would be my expectation. That's not to say,
3 again -- for example, if the -- under the North/South
4 Ministerial Council if there was an agreement by the
5 governments, as there has been at different points in
6 time, to purchase equipment that could help with the
7 cross-border management, that then would benefit the
8 Cross Border Emergency Management Group. That's where
9 the linkage would be. But it doesn't require the
10 North/South Ministerial Council to operate in order for
11 it to operate.

12 **Q.** All right. Did the Executive Office generally attend
13 the CBEMG meetings?

14 **A.** It would have attended most of them over the years. At
15 a period of time, and we will probably talk about this,
16 there were resource issues and it did not attend
17 a number of those meetings. I'm happy to talk about
18 that. What I would say, it is an important point here,
19 that the Cross Border Emergency Management Group, as
20 a tactical group, it's good to have the Executive Office
21 there, it's good to have our Irish counterparts there,
22 but actually you wouldn't want too much, because you do
23 not want a situation where the operational discussion
24 starts to get too high level and strategic. It has to
25 be something that's operationally focused.

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1 The North/South Ministerial Council is a much bigger
2 structure that was brought in following the Good Friday
3 Agreement, and it is to cover a whole range of different
4 areas, which you set out earlier.

5 The link would come under the North/South
6 Ministerial Council, where there is an emergency
7 planning group as part of that, as part of actually the
8 health subgroup.

9 **Q.** We will come to health in a moment.

10 **A.** Yes, yes.

11 **Q.** How often, pre-pandemic, did the Cross Border Emergency
12 Management Group meet? It was established in 2014, we
13 understand, or around then, and it was required -- and
14 I think you say in your statement it was required to
15 meet a minimum of two times a year. But in practice how
16 often did it meet between 2017 to 2020?

17 **A.** I'm sorry, I don't have the number off the top of my
18 head. What I would say is my expect -- and part of the
19 reason why I don't have the number is because my
20 expectation is that it kept meeting during that period.
21 This is something that has been in place for a long
22 time.

23 **Q.** It therefore operated and was effective
24 notwithstanding --

25 **A.** Yes.

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1 **Q.** All right.

2 In summary, the North/South Ministerial Council did
3 not operate between 2017 and 2020 because obviously --

4 **A.** Yes, yes.

5 **Q.** -- there were no ministers on the Northern Irish side?

6 **A.** Yes.

7 **Q.** In relation to the Cross Border Emergency Management
8 Group, in an ideal world the Executive Office would have
9 wished to have attended that group --

10 **A.** Correct.

11 **Q.** -- but did not do so because of resourcing issues?

12 **A.** That's correct.

13 **Q.** All right.

14 Health sector co-operation, you've just referred to
15 this, is health sector co-operation relevant, because
16 one of the sub-groups under the Cross Border Emergency
17 Management Group structure or perhaps the North/South
18 Ministerial Council structure --

19 **A.** Yes.

20 **Q.** -- is concerned with, specifically, health sector
21 co-operation, so cross-border relations in relation to
22 the health and social care of persons around the border
23 area.

24 **A.** So I think it's important to tease this out a little
25 bit. So the North/South Ministerial Council is a formal

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1 structure under the Good -- that followed on from the
 2 Good Friday Agreement. Outside of that structure there
 3 are arrangements between departments and their
 4 counterparts in the south, Northern Ireland departments
 5 and their counterparts in the south. For example,
 6 you know, there would have been co-operation between the
 7 Department of Health in Northern Ireland and its
 8 counterpart around things like child services and
 9 cardiac surgery, I believe. So there's -- the
 10 North/South Ministerial Council is there. It would be
 11 important to say that not all of the cross-border
 12 co-operation happens under that umbrella.

13 **Q.** All right. Cross-border co-operation in the context of
 14 health took place regardless of the position at group or
 15 ministerial level, and it was concerned, was it not,
 16 with A&E and such matters?

17 **A.** Yes. So at a operational level there always has been,
 18 actually, right back to World War II there's examples of
 19 fire engines coming across the border during the Blitz,
 20 and that -- those structures have been in place and,
 21 again, they've operated in different ways at different
 22 times but they've tended to operate pretty consistently,
 23 and then, in addition to that, we will have -- ministers
 24 in departments will strike up agreements with colleagues
 25 in the south to do particular -- to take forward

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1 strategic flaw, which has been identified in evidence
 2 before my Lady, that the United Kingdom risk assessments
 3 suffered, namely that there was a focus on pandemic
 4 influenza and, although there was reference of course as
 5 a separate self-standing risk of a high-consequence
 6 infectious disease or a new and emerging infectious
 7 disease, the focus on pandemic influenza tended to bring
 8 about too great a focus upon the consequences of
 9 a catastrophic influenza pandemic as opposed to trying
 10 to stop those catastrophic consequences ensuing; is that
 11 correct?

12 **A.** It is correct that the risk assessments or the risk
 13 registers followed the national UK risk assessment, and
 14 indeed the more recent one as well will have had, in
 15 fact did have, input, a lot of input --

16 **Q.** From the United Kingdom?

17 **A.** -- from the United Kingdom, and that is absolutely
 18 appropriate because we need to make sure -- a lot of the
 19 issues that we're talking about cross jurisdictional
 20 boundaries, but yes, fundamentally we followed the
 21 UK approach.

22 Again, Department of Health colleagues will be able
 23 to probably put that in a little bit more detailed
 24 context, but that's my reading of the record and from
 25 what I've talked to people about, they've confirmed

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1 particular work, and that happens. Then there will be
 2 a formal element under the North/South Ministerial
 3 Council in addition to that, one element of which within
 4 health is emergency planning.

5 **Q.** Now turning to a completely separate topic, please, the
 6 risk assessment process. I promised you that we would
 7 come back and look at this issue in greater detail.

8 You've acknowledged that there were in 2009 and 2013
 9 a national Ireland risk assessment document.

10 **A.** Northern Ireland, sorry, just to --

11 **Q.** Did I say Northern Irish?

12 **A.** You said national Ireland.

13 **Q.** Oh, I'm so sorry.

14 **A.** Sorry, apologies, maybe it was my --

15 **Q.** No, no, no, quite, Northern Ireland risk assessment.

16 So there were documents in 2009 and 2013, but none
 17 again after that until 2021.

18 The Northern Ireland risk assessments in 2009 and
 19 2013 doctrinally were reflective, were they not, of the
 20 United Kingdom approach --

21 **A.** Yes, that's --

22 **Q.** -- to the identification of influenza pandemic-related
 23 risks?

24 **A.** Yes, that's correct.

25 **Q.** So does it follow that they suffered from the same

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1 that.

2 **Q.** We've just received the latest version, it's dated 2021.
 3 Is that a document to which you contributed or to which
 4 you have contributed or not?

5 **A.** The Northern Ireland Risk Register 20 --

6 **Q.** Yes.

7 **A.** Absolutely. This was put together -- co-ordinated by
 8 the central contingencies policy division, and they
 9 worked -- I mean, they had something like 87 meetings
 10 with both Cabinet Office, people on the ground,
 11 particularly emergency planning groups, first
 12 responders. So this has actually been a very intense
 13 process of engagement and -- sorry to use the jargon --
 14 basically talking to people and listening to what they
 15 have to say about this.

16 **Q.** All right.

17 That document is INQ000217257. Could we have that
 18 up, please.

19 That first page shows pandemics -- no longer limited
 20 to influenza pandemics, but pandemics -- in the top row,
 21 for "Catastrophic(5)", and in terms of column, "Medium
 22 [likelihood] (3)". Is that correct?

23 **A.** That's correct, yes.

24 **Q.** All right. If we could have page 18, we will see some
 25 more detail about that particular risk, which is

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1 identified as HH1, which I think is human health risk 1,
2 it's the top risk, pandemic, there we can see it again,
3 catastrophic row, medium column.

4 Over the page to 19, the same rubric as the
5 United Kingdom risk assessment structure:

6 "Reasonable Worst Case Scenario: A novel influenza
7 style pandemic ..."

8 So plainly a nod there, Dr McMahon, to the broader
9 range of scenarios which was absent from the earlier
10 variant of the risk assessment:

11 "... [breaking] out on a worldwide scale ...
12 sustained human to human transmission and a short-notice
13 incubation period ... fatalities and casualties in
14 a largely unvaccinated population."

15 There are key capabilities set out there: the
16 contingencies framework, the critical national
17 infrastructure, cross-border protocols, plans, plans and
18 places. All to do with, well, I suppose, the generic
19 response, and then a reference, on the right, to
20 "Capability Gaps": severe stress on trusts, transport of
21 patients to the UK mainland, requirement for enhanced
22 morgue/temporary resting place facilities.

23 Then the "Linked Impacts": excess casualties,
24 post mortem, failure of social care provision, economic
25 and social costs, and so on.

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1 pigeon-holing that was there before, where there was
2 a reference to influenza pandemic and then to a much
3 more limited HCID, has gone. There is now a broader
4 recognition of the wider possibility, the range of
5 scenarios, which could eventuate?

6 **A.** Yes, that's correct.

7 **Q.** All right.

8 Could we now turn, please, to look in detail at what
9 you have said in your witness statement and what
10 Sir David Sterling has said in his witness statement
11 about the impact of the political disruption in
12 Northern Ireland upon the civil service.

13 Could we have, please, INQ000185350 on the screen,
14 paragraph 22.

15 So this is the statement of Sir David Sterling, who
16 was the permanent secretary, and then, because the roles
17 were joined, head of the civil service in
18 Northern Ireland.

19 Page 6 is paragraph 22, thank you. He says at
20 paragraph 22:

21 "This political disruption had two major effects on
22 the [Northern Ireland Civil Service]. Firstly, the
23 political processes consumed a considerable amount of
24 'bandwidth' for me, permanent secretaries and senior
25 staff. Secondly, and perhaps more profoundly, the

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1 So there is, now, a greater identification of the
2 consequences, but there is still not much by way of
3 a detailed analysis of the possible countermeasures, so,
4 for example, testing, contact tracing, and those sorts
5 of things, all the things which have been in issue in
6 this Inquiry.

7 Is that because it was thought that the risk
8 assessment should focus on the risk and the likelihood
9 and impact of the risk rather than developing a plan for
10 how to meet that risk?

11 **A.** Yes. It's -- there will be a lot of work that needs to
12 come on the back of this. This is about assessing where
13 we are against the risk, what we need to do, the
14 capability gaps, and it's about really an early warning
15 to say: here are some of the things you need to think
16 about in terms of links, how this links to other areas.

17 There will of course be more detailed plans in the
18 Department of Health, but the key thing at this level is
19 to make sure that we've recorded the main elements of
20 the response that will be required to be put in place.

21 **Q.** Yes. The absolutely essential point from this document,
22 Dr McMahon, is the fact that the HH1, human health risk
23 tier 1 risk in Northern Ireland, now identifies the risk
24 of a non-influenza -- or, rather, a novel
25 influenza-style pandemic. That is to say, the

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1 three-year period from 2017 to 2020 left the
2 Northern Ireland Departments without the ministerial
3 direction and control that is a prerequisite of our
4 democratic constitution ... The absence of this
5 political direction left public services in ... what
6 I described publicly at the time, [as] 'decay and
7 stagnation' ..."

8 Would you demur from any of that --

9 **A.** No.

10 **Q.** -- Dr McMahon?

11 At the same time, in paragraph 23,
12 Sir David Sterling goes on to say:

13 "The Stormont House agreement ... committed
14 the Executive to a comprehensive programme of reform and
15 restructuring. This included measures to reduce pay
16 bill costs and reduce the size of the [Northern Ireland
17 Civil Service] and the wider public sector ..."

18 If we could go over the page to paragraphs 24 and
19 25, he provides two charts showing, in the top chart,
20 the reduction or the contraction by 18% of all staff in
21 the Northern Ireland Civil Service, and although
22 latterly the numbers have started to go back up
23 above 21,000, to 21,758, they came down from a peak of
24 25,369, around about 2014.

25 The lower chart shows the number of civil servants

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1 employed across the United Kingdom, in Scotland,
2 Northern Ireland, Wales.

3 If we can scroll in, we'll be able to see --

4 thank you. I think "HCS" must be high --

5 **A.** I think that's the Home Civil Service.

6 **Q.** Thank you. We can see that, particularly by reference
7 to -- or by comparison to the Scottish Government
8 numbers, that the Northern Ireland Civil Service fared
9 particularly badly between 2016 through to January 2022.

10 **A.** That's correct. If you wouldn't mind a moment, I could
11 talk about --

12 **Q.** Please.

13 **A.** -- how that links with the EU exit, and I know you'll
14 probably want to talk about that later, but I think the
15 impacts can't really be separated, because what we had
16 during that period -- we had a period of time where one
17 in five civil servants basically had left the
18 civil service, more or less. We had a situation then
19 where we had this unique, uniquely contentious political
20 situation to deal with, without ministers. That
21 situation meant that we had to cannibalise staff from
22 other areas of the department.

23 I'll give you one specific --

24 **Q.** Slow down, please, Dr McMahon.

25 **A.** Apologies. I'll give you one --

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1 By the way, just to say, I use none of this as an
2 excuse, there are issues that we could have done
3 differently, but I just think it is an important point
4 of context that needs to be brought out.

5 **Q.** The reason that I ask you, of course, Dr McMahon, is
6 that in your witness statement at paragraph 224 you
7 assert that the benefits that were derived from
8 Operation Yellowhammer, that is to say the benefits
9 derived having in place and having to put into place
10 arrangements, in a civil contingencies context, for
11 dealing with the possible consequences of a no-deal EU
12 exit were "immeasurable".

13 On reflection, would you still wish to advance that
14 proposition?

15 **A.** I -- there is an important point that I've made there
16 which I would want to reinforce, but I would definitely
17 put it a different way. So if I could just explain,
18 what I mean by that is, whatever the view of the Inquiry
19 is as to how we performed, it would have been
20 immeasurably worse had we not had those arrangements.
21 We had a model -- we had a model of -- a model that
22 allowed us to put in place a temporary organisation
23 which -- for an emergency, which is effectively
24 societal, it's across the whole of society. We had put
25 that in place and we were able to reactivate that again.

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1 **Q.** You had to cannibalise?

2 **A.** Departments in order to move people out of areas of work
3 and into preparations for EU exit.

4 The reason why that's important is because it meant
5 that we were preparing -- unlike other parts of the UK,
6 we were preparing for the potential impacts of new
7 border arrangements. We have a land border with the EU
8 which is different from any other part of the UK. That
9 was actually at the centre of the negotiations, and the
10 negotiations carried on right up until the end of 2021,
11 in fact.

12 I mean, I know it seems odd that we had left the EU
13 but there was a transition period, and actually that was
14 one of our busiest periods of time in terms of EU exit.
15 In my department, the Department of Agriculture, I was
16 responsible for putting in place the checks, which are
17 highly contentious and were a huge challenge, and
18 actually we had just about increased our department from
19 3,000 by about 50 staff and at the same time
20 I understand that our sister department in Whitehall had
21 increased by 2,000. They actually started off smaller
22 than us. So it gives you a sense of the difference
23 between what we were dealing with and the resources that
24 we had to deal with, to be able to deal with those
25 issues, versus what was going on in the UK.

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1 Not without challenges.

2 But just to give you a sense, in terms of EU exit,
3 we were looking at a scenario, for example, in the
4 Department of Agriculture, huge reductions in exports,
5 we were looking at putting in 1.9 million export health
6 certificates in order to transfer food across the
7 border, and that was going to have a huge impact on
8 a £5 billion industry. We knew that a lot of small
9 businesses could potentially, in the event of a no-deal
10 EU exit, actually go out of business, overnight. We
11 knew that there was going to be mental health issues, we
12 knew that there was going to be problems with food
13 supply and medicines in the event of a no-deal exit, and
14 actually there were a number of different dates --
15 apologies, I'll slow down a little bit.

16 There were a number of different dates that we had
17 to prepare for in addition to the final dates when we
18 left and when we had to have our operational
19 arrangements in place.

20 So we were genuinely scared of the consequences of
21 a no-deal exit, and that meant that all of our attention
22 was focused on it. Again, I don't say that to make
23 an excuse, but it's just to give a sense of what we were
24 dealing with and how that affected the administration.

25 **Q.** If I may be permitted to draw the threads together --

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1 **A.** Yes.

2 **Q.** -- Dr McMahon, is this the position: the potential
3 consequences of a no-deal EU exit were likely to be felt
4 the worst, they were likely to be the greatest adverse
5 consequences, for Northern Ireland? It was a terrible
6 prospect in terms of the impact upon the population and
7 upon the businesses, as well as the obvious issues such
8 as supply chains and qualifications and so on.

9 You therefore stood up -- to use a terrible piece of
10 jargon -- the body, the Hub, which we looked at earlier,
11 to deal with Operation Yellowhammer, the operational
12 side of dealing with the potential adverse consequences
13 of a no-deal EU exit, and you had to resource the Hub
14 and you had to get it going and it operated day in, day
15 out in Operation Yellowhammer. Then, although it was
16 stood down when it became plain that there would be no,
17 no-deal, which I think was on 28 October 2019, when
18 Covid struck you were able to get the benefit of having
19 that Hub operate for about 12 to 18 months beforehand?

20 **A.** Yes.

21 **Q.** Is that the nub of it?

22 **A.** That is the nub of it. There's two qualifications that
23 I would just add to that. Sorry, I've forgotten what
24 the first one was, but the second qualification I would
25 want to say, just so that I'm not misleading you, there

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1 was one of the conclusions -- I mean, again, the facts
2 that I presented were factually correct, however, some
3 of the conclusions I reached now that I've listened to
4 the Inquiry -- I was here on Day 1 and I heard the
5 impact statements by the families, in particular, and
6 I also heard your own opening statements, and that has
7 influenced my thinking around this, and I just -- if
8 you'll forgive me, I just would like to, if I could,
9 give my condolences to the families. The impact
10 statements were -- you couldn't fail but be moved by
11 them. So I just wanted to add that.

12 **Q.** Those benefits were qualified, though, were they not,
13 they were tempered by, and you've just referred to them,
14 the problems that you had which never went away, in
15 terms of the overall resourcing, we can see the problems
16 on the chart, and in fact the deployment or required
17 deployment of staff to the Hub and the DOCs. So whilst
18 there was undoubtedly a benefit, the benefits were
19 themselves mitigated or weakened or reduced by the
20 problems that you continued to have in relation to
21 practically operating the Hub.

22 Firstly, your statement makes plain that because
23 there was no mechanism to direct the redeployment of
24 staff to provide a full staff complement for the Hub,
25 you had to rely on people voluntarily redeploying

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1 were issues in terms of -- it wasn't a simple process of
2 activating the Hub. The second time -- you know, during
3 the pandemic it wasn't the case of it's all in a box and
4 we just take it out of the box. But the model was there
5 and we set up a temporary organisation -- because you
6 mentioned the Hub, and that was my other qualification.

7 It's not just the Hub. The Hub and the DOC, the
8 DOCs, need to be thought of as a whole --

9 **Q.** Do you mean the departmental operational centres?

10 **A.** Departmental -- sorry, apologies -- departmental
11 operational centres. Together those were like
12 an alternative nervous system, if you like, for the
13 whole of the administration. So this was something that
14 was going to increase the flow of information from the
15 front line right into the centre, where decisions could
16 be made, and indeed that's what it ended up doing.

17 **Q.** So the position is that, contrary to what you asserted
18 in your statement, it's not that the benefits from
19 Operation Yellowhammer were immeasurable in terms of
20 reaching an objective level of benefit, it is that had
21 you not had to go through Operation Yellowhammer and put
22 into place the arrangements for dealing with a no-deal
23 EU exit, you would have been far, far worse off than you
24 were?

25 **A.** That is absolutely correct, and I would just say this

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1 themselves to the Hub, and therefore it couldn't always
2 be relied upon; correct?

3 **A.** Correct. Although, in reality, in terms of the Hub, we
4 were looking for 57 or actually less by that stage,
5 because one of the things we learned was the need to
6 stand it up gradually and move it down gradually. But
7 we actually had -- I mean, it was a problem, but it was
8 a better quality of a problem in a way -- we had queues
9 of volunteers coming to join the Hub when the pandemic
10 hit, to the point where it was actually a challenge
11 training all the people who wanted to be there, and some
12 of them who had been in the previous Hub we had to
13 retrain in order to be able to respond to the new
14 situation.

15 **Q.** Secondly, you were starting from a position of
16 considerable weakness, were you not, because in
17 December 2018 a grade 5 in the Department of Health had
18 to be brought into the Executive Office or the Hub
19 because senior levels assessed "there was a risk that
20 Northern Ireland was falling behind the rest of the
21 United Kingdom in terms of progress"? Was that
22 a reference to progress in terms of getting on with the
23 paperwork, the development of the guidance, and the
24 staffing of the civil contingencies Northern Ireland
25 Executive structure?

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1 A. There was a -- there were delays in a number of areas of
2 the work, but there was a particular delay which was
3 referenced to -- 18 months, and it was referenced on the
4 opening day of the Inquiry. The 18 months referred to
5 sectoral resilience, from talking to people who were
6 there at that meeting and at the -- the paper was
7 included in the pack, and that --

8 Q. I was going to --

9 A. Sorry, yes.

10 Q. -- suggest to you that's a reference, isn't it, to
11 a letter from the head of the Civil Contingencies Policy
12 Branch dated January 2020, 22 January 2020, so just on
13 the eve of the pandemic hitting with full force?

14 "The Civil Contingencies Policy Branch was allocated
15 responsibility for taking forward the sector resilience
16 element ..."

17 That is to say ensuring that sectors in the
18 Northern Irish population are -- and -- in the country
19 are sufficiently prepared and ready.

20 "... taking forward the sector resilience element of
21 pandemic flu preparations a few years ago, however no
22 work commenced on it due to competing priorities and
23 then the impact of staff resources due to EU exit
24 preparations. This has resulted in Northern Ireland
25 being more than 18 months behind the rest of the

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1 give you that little bit of additional information is,
2 number one, it is of great concern that we did not have
3 that sectoral resilience work done, but I think there's
4 also an issue about the fact that we need to recognise
5 that a lot of the work that we were doing as part of
6 Operation Yellowhammer, by coincidence, not by plan
7 necessarily, but actually did cover that sectoral
8 resilience work. So, for example, we were looking at
9 agriculture and -- but it doesn't take away from the
10 fundamental point. The fundamental point was it was
11 a huge problem, but I just wanted to explain what it
12 meant in practice.

13 Q. Indeed.

14 Could we have INQ000183555 on the screen, please,
15 page 3.

16 This is a briefing note addressed to the
17 departmental board, so the --

18 A. Yes.

19 Q. -- overarching supervising board for the Executive
20 Office in Northern Ireland. It shows the staffing
21 reductions in the Civil Contingencies Policy Branch
22 since 2001, and we can see that throughout the years --
23 well, plainly the numbers of particular levels of
24 executive officer and civil service officer and so on
25 have varied, but for 2020 we can see that under the

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1 United Kingdom in terms of assuring sector resilience to
2 any pandemic flu outbreak."

3 So if that was being stated the head of the Civil
4 Contingencies Policy Branch as at 22 January 2020, that
5 falling behind must still, is this not correct, have
6 been regarded as a problem? It wasn't a problem which
7 had been mitigated or solved, otherwise they wouldn't
8 have been bringing this to your attention.

9 A. So that is absolutely correct, this was a huge problem.
10 So I wanted to check what this was, and it's probably
11 worth giving you just a little bit of detail.

12 The sectoral resilience was not referring to the
13 health elements of the response. It was referring to
14 a piece of work that was taken forward, and I think --
15 I think some of the other witnesses may have referred to
16 it indirectly. It was a piece of work where each
17 department would look at the resilience of its own
18 sector. So, for example, the Department for the Economy
19 would have looked at business, Department of Agriculture
20 would have looked at agrifood, and the idea was that
21 this was to be taken forward through a number of
22 assessments, and that would involve, in the first
23 instance, questionnaires, but then departments coming
24 back on that and a process of discussion around that.

25 The reason why I give you that slight -- I wanted to

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1 level or heading of "[Executive Officer] 2", two of the,
2 then, I think, six members of the Civil Contingencies
3 Policy Branch were actually part-time; is that correct?

4 A. Yes, that's correct.

5 Q. Because in your statement you say that the headcount in
6 that department has ranged from nine substantive staff
7 in 2001 to six staff in 2020, but that failed to take
8 account of the fact that, of the six, two were actually
9 part-time; is that correct?

10 A. Headcount -- sorry, in civil service terms headcount
11 typically refers to the number of people. But it is
12 correct that in terms of whole time equivalent posts it
13 is less because they are part-time.

14 Having said that, we have two people now who are
15 working part-time who are more value in a part-time mode
16 than several others because of the actual experience
17 that they have in real terms. So I wouldn't want to
18 understate the role of those part-time people in what
19 they can bring to this, because actually you're getting
20 people with real experience, say in policing or military
21 spheres, and that adds something to it.

22 Q. The use of the word "headcount" tends to obscure whether
23 or not that employee is full or part-time, does it not?

24 A. I absolutely -- yes, it does, it does.

25 Q. Right.

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1 A. Sorry, "obscure", not -- that was not an intentional --
 2 Q. No, I didn't suggest it was deliberate, it just tends to
 3 obscure the reality that they may be full or
 4 part-time --
 5 A. Yes, we use some really awful jargon, "full-time
 6 equivalent" or FTE, if you wish to ...
 7 Q. May we have page 1 of this document, please.
 8 That chart comes from a wider document dated
 9 February 2019 which sought approval for an increase in
 10 baseline for staff and the issue was identified as this:
 11 "[There are] Insufficient staff in [the policy
 12 branch] to carry out all work required to ensure that
 13 Northern Ireland is prepared for and can respond to any
 14 civil contingency on any scale."
 15 In paragraphs 2, 3 and 4, the detail of how the
 16 department is insufficiently resourced to be able to
 17 carry out its core duty of making sure Northern Ireland
 18 is prepared are set out.
 19 So would you agree, then, with the proposition that
 20 going into and during Operation Yellowhammer there were
 21 very significant structural concerns about the ability
 22 of the very body designed to prepare Northern Ireland to
 23 carry out its core functions?
 24 A. I would agree with that and I'd go further, if I could,
 25 because I think there are other issues in this as well

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1 it and that's what we needed to do. But the net result
 2 of that is it's not just the number, it's the number of
 3 people, it's the morale which then goes, hits rock
 4 bottom. Then in addition to that you have all of these
 5 different events happening outside of it which creates
 6 confusion as well.
 7 Q. It goes further, does it not, Dr McMahon, because
 8 document INQ000187620, which is your statement, at
 9 page 76, says this:
 10 "In November 2019 a member of staff in [the policy
 11 branch] provided the Head of Branch with a list of work
 12 having to be set aside because of staffing ...
 13 constraints ..."
 14 A. That's right.
 15 Q. So it descended to the operational, there was work was
 16 identified as being necessary which was simply not being
 17 done.
 18 Perhaps if we could have 183 -- I'm so sorry, we're
 19 now moving on at speed, INQ000183627 -- the email of
 20 15 November 2019. It lists the numbers, the areas of
 21 work which were simply not being progressed.
 22 So INQ000183627.
 23 Towards the bottom of the page:
 24 "Liaison with [the Cabinet Office]
 25 "[Devolved administrations] liaison with Scots Gov

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1 which I think is worth bringing out.
 2 The issue of resourcing was absolutely central to
 3 this, and I think also the fact that the branch really
 4 was designed for a very different purpose, and actually
 5 for a lot of those events -- I talked about weather
 6 events and the sorts of things we've dealt with prior to
 7 this -- they were a good structure, worked well, and
 8 I want to pay credit to them and all of the people
 9 involved because they've absolutely worked themselves to
 10 the bone.
 11 The -- there is an issue that goes beyond staffing,
 12 goes beyond structure, which is when you -- sorry, which
 13 goes beyond funding. When you have any organisation,
 14 and I've seen this a number of different times, that has
 15 fulfilled a role in a particular way, and particularly
 16 where you've got people with such expertise, that's
 17 a great advantage, but it can also be a disadvantage
 18 because people get into a rut and teams get into a rut.
 19 Actually then what happens is teams find themselves in
 20 this incredibly difficult, complex situation, and
 21 things -- they can't cope. Then what happens is we all
 22 come in and we review them. And we had three or four
 23 different reviews, you'll have seen all of that, and to
 24 the credit of everybody involved those reviews were hard
 25 hitting and they were open and we opened ourselves up to

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1 and Scottish Office
 2 "DA liaison ...
 3 "Liaison with ..."
 4 The particular department in the Republic of Ireland
 5 concerned with civil contingencies.
 6 Then over the page:
 7 "List of work being set aside ...
 8 "- ... New methodology ...
 9 "- Cross Border ... Management Group ..."
 10 It's not been engaging with the CCPB.
 11 "- LRF Chairs Conference Confirms ...
 12 "Review of [the] ... Resilience Standards ..."
 13 I asked you about resilience standards earlier for
 14 that reason.
 15 "- Review of Lessons Learned from Major
 16 Emergencies ...
 17 "- Review of Depts Major Emergency Plans ..."
 18 So it was a long and significant list, was it not?
 19 A. Yes, that's correct.
 20 Q. That's dated November 2019. At the end, in fact, after
 21 the Hub had been stood up for the purposes of
 22 Operation Yellowhammer and then stood down on
 23 28 October. So the problems had continued
 24 notwithstanding whatever benefits --
 25 A. Yes.

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1 Q. -- had accrued from Operation Yellowhammer?
 2 A. Yes, in that team -- and so -- so if that team had been
 3 working perfectly and had been resourced perfectly we
 4 would still have needed the C3 arrangements.
 5 I think that what I was trying to say earlier was
 6 this could not be just fixed by getting additional
 7 people in. This was a fundamental change in how this
 8 organise -- how this team would operate and how it
 9 needed to operate, and that is cultural change. I'm
 10 sorry to use that word, but it is.
 11 Actually I'm glad to say not only are the vast
 12 majority of those actions completed today, but in
 13 addition to that the team is operating in a totally
 14 different way. People are on board, they're absolutely
 15 motivated. I've seen it first-hand. The reason that
 16 has happened is because (a) we had to have honest
 17 conversations, starting with all of those reviews, and
 18 (b) we had leadership that came in and helped the team
 19 to find their way.
 20 I am incredibly proud of them today in terms of what
 21 they're doing on that basis.
 22 Q. INQ000183597 is an email sent to, I think, the grade 5
 23 civil servant who was brought in to assist with the
 24 running of the hub, Mr Stewart. It's an email dated
 25 20 November 2019:

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1 In essence that structure was not fit for purpose,
 2 notwithstanding the benefits of Operation Yellowhammer
 3 on the eve of the pandemic?
 4 A. Yes, that's correct, and I think the C3 arrangements
 5 were -- the C3 arrangements were really what we depended
 6 on.
 7 Q. I'm so sorry to interrupt, C3 is not something we've
 8 discussed. Do you mean control --
 9 A. Command --
 10 Q. -- control and co-ordination?
 11 A. -- control and communication?
 12 Q. Communication.
 13 A. And -- and, sorry, and those -- that's the Hub together
 14 with the --
 15 Q. Right.
 16 A. -- departmental --
 17 Q. All right.
 18 A. -- operation centres, yes.
 19 Q. So, standing back, obviously this problem and these
 20 systemic problems were reflected in work programmes
 21 produced by the policy branch and in the policy branch's
 22 own risk registers. Would you accept from me, please,
 23 Dr McMahon, that the work programme for December 2019
 24 for the Civil Contingencies Policy Branch and the risk
 25 registers for 2018/19 and 2019/20 flashed up red or

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1 "The work being driven at national level to ensure
 2 [no-deal EU exit preparations] has exposed the actual
 3 situation and highlighted the backlog of work, lack of
 4 resources and lack of staff ...
 5 "Considerable invest has been made to address the
 6 establishment of [the Hub] ..."
 7 That's the setting up of the Hub, the room that
 8 you've described, isn't it?
 9 "... however this only addresses part of the
 10 infrastructure issues. The operations room is of
 11 limited value without the appropriate support structures
 12 in place ...
 13 "- staff with the appropriate skills and experience;
 14 "- a stable and viable [policy branch] ...
 15 "... there is a significant deficit between where we
 16 are now, where we should be and where we want to get to.
 17 "There is a critical [lack of] staff resources,
 18 experience and skills deficit ..."
 19 Then, towards the bottom of the page:
 20 "There is absolutely, without doubt insufficient
 21 resources and skills to address the overall challenge
 22 and despite exhaustive efforts ... the [Northern Ireland
 23 Civil Service] systems and processes do not make it
 24 possible for me to put together ... the necessary team
 25 to start to address the many issues before March 2020."

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1 amber in terms --
 2 A. Yes.
 3 Q. -- of lack of resources, a failure to provide
 4 strategically-led arrangements in the event of a serious
 5 civil emergency, red across the board for lack of
 6 resources, failure to maintain a suite of protocols,
 7 failure to be ready?
 8 A. I haven't got the documents in front of me. I would
 9 accept -- I mean, I recall from reading them that
 10 resources were absolutely at the centre of them, and if
 11 you wish me to have a look at the documents I'm happy to
 12 do so, and I wouldn't -- I wouldn't disagree with the
 13 analysis and the analysis in the note. Obviously
 14 I wasn't there at the time and --
 15 Q. No.
 16 A. -- as I've said in the evidence, there are different
 17 people who would have different views about it. But
 18 fundamentally the issues cannot be -- you know, you
 19 can't really -- I must acknowledge that these issues
 20 were there and they were presented very clearly in this
 21 note.
 22 I would also -- just if it's helpful to you, to --
 23 go further, that that was one of the reasons why I said
 24 a couple of times earlier that the C3 arrangements, to
 25 use that terminology again -- it was not a smooth

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1 transition necessarily into the new C3 arrangements,
 2 because it wasn't as if you had somebody there from the
 3 team who'd been part of those arrangements who could
 4 then make sure that they all -- you know, that all of
 5 the various documentation was just taken out of
 6 a cupboard and, "Here you are". So the reason why -- so
 7 I think -- I think that this is where this did have
 8 an impact.

9 Now, having said that, the fact that we set up an
 10 organisation of 1,000 people working across departments
 11 and it came together within days, and that will be more
 12 for Module 2, again I would say if you could imagine
 13 trying to set up a business of that size and get it
 14 operating from two days in, it would be pretty good
 15 going.

16 **Q.** The fact remains --

17 **A.** I don't disagree with it.

18 **Q.** -- that -- yes -- in terms of preparedness, the system
 19 for civil contingencies in Northern Ireland in the
 20 central part of the government, that is to say --

21 **A.** Yes.

22 **Q.** -- within the Northern Ireland Executive, was not fit
 23 for purpose?

24 **A.** I accept that.

25 **Q.** Just finally, please, just some, a handful of very brief

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1 because there were live negotiations going on between
 2 the UK and the EU, but that's just one example of where
 3 the information wasn't going two ways.

4 **Q.** All right.

5 Exercises. There were no Northern Ireland-specific
 6 pandemic or general preparedness exercises, MERS or
 7 influenza or coronavirus-related, but obviously
 8 Northern Ireland took part in United Kingdom exercises?

9 **A.** Yes.

10 **Q.** Do your researches show that there were -- there is no
 11 record of the Executive Office being invited to
 12 participate in exercises, although it's obvious that
 13 Northern Ireland did participate to a greater or lesser
 14 extent in the exercises? And do your researches also
 15 show that one of the important outcomes of
 16 Exercise Cygnus as far as Northern Ireland was concerned
 17 was the recommendation that there be a more formalised
 18 structure for the meetings of four health ministers,
 19 that never came to pass for a variety of different
 20 reasons; is that correct?

21 **A.** That's my understanding, I think it's worth saying that,
 22 in terms of Operation Cygnus, we were obviously
 23 participants --

24 **Q.** Yes?

25 **A.** -- in that. There were others where we were not. And

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1 areas.

2 Communications with the United Kingdom Government.
 3 There is in your witness statement and in the evidence
 4 of Michelle O'Neill, the former Deputy First Minister,
 5 references to the fact that relations and communications
 6 with the United Kingdom Government did not always work
 7 smoothly or according to plan, not least because of the
 8 impression often given that decisions were not really
 9 collaborative but had already been taken by the
 10 United Kingdom Government when it came to discussing
 11 them with them. Is that a fair summary?

12 **A.** I think it's fair. It's a fair part of the summary. We
 13 had -- I mean, we had examples of really good
 14 co-operation at different times, so for example in
 15 Yellowhammer -- or actually not even in Yellowhammer,
 16 during the EU exit work later on we had fantastic
 17 relationships between Department of Agriculture and our
 18 colleagues in Whitehall, really worked -- really good.
 19 However, there are also examples of where it really did
 20 not work, and that characterisation on certain issues of
 21 not being informed is not -- it is definitely there's
 22 a truth in that. Because, for example, on
 23 Operation Yellowhammer we were giving all of the
 24 information, saying: here's how we're preparing. But
 25 there was very little coming in return. Understandable

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1 there were some -- and we've actually trawled through
 2 various sources including the internet to check what, as
 3 a result of FOIs -- freedom of information, sorry,
 4 apologies, requests -- we've trawled through the
 5 internet and we've found several reports from different
 6 exercises where either the information has been redacted
 7 or we have no information as to whether Northern Ireland
 8 was invited.

9 So, again, I think one of the things that would be
 10 really helpful to come out of this is to ensure -- and,
 11 I'm sorry, there is one other example which is probably
 12 worth -- Operation Blackthorn, which I was involved in
 13 because I was part of Agriculture, which is
 14 foot-and-mouth disease, and in Operation Blackthorn we
 15 were involved as a department but we don't have any
 16 record of the Executive Office being involved, and
 17 whenever I was in Department of Agriculture I just
 18 assumed, because the Cabinet Office was involved, that
 19 the Executive Office would be involved. So I think that
 20 assumption -- we need to make sure that from here on
 21 that everything, every exercise, is communicated down to
 22 the devolved administrations in line with, say, what the
 23 Hine review was talking about, and we need to make sure
 24 that, within Northern Ireland, we are communicating with
 25 each other so that if somebody accidentally gets an -- or

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1 doesn't get an invite, for whatever reason, that we're
 2 all informed about it.

3 **Q.** Dr McMahon, to use my Lady's words, it is not
 4 a promising start for an examination of whether or not
 5 recommendations from exercises have been properly
 6 implemented if the very department or the government
 7 which is obliged to implement them cannot even find out
 8 what the outcome of those exercises were.

9 **A.** Well, we -- that's correct, that there are a number of
 10 exercises that we had to find. I think -- I think
 11 there's an issue here which we need to look at, and
 12 I think the Mann -- the evidence from Mr Mann and
 13 Professor Alexander again comes back to this, and the
 14 report, which is we need to find ways of making this
 15 much more open, and just assume that everybody needs to
 16 know unless there are occasions when there's something
 17 of national security that we can't do that.

18 **Q.** The Chief Scientific Adviser, or at one time the Chief
 19 Scientific Adviser, Professor Ian Young has provided
 20 a statement which makes plain that the CSA structure in
 21 Northern Ireland does not provide formally or does not
 22 oblige the Northern Ireland Executive to have recourse
 23 to and to seek advice regularly from the Chief
 24 Scientific Adviser. It appears that in the context of
 25 health emergencies, whether or not the CSA is invited to

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1 something that needs to happen.

2 **Q.** So standing back, Dr McMahon, you would appear to
 3 accept, therefore, although of course not personally,
 4 because you were not the permanent secretary at the
 5 relevant time, that civil contingencies in
 6 Northern Ireland were, over the relevant period, poorly
 7 resourced and the problem got no better by the time of
 8 the pandemic because of the demands of civil service
 9 cuts and the inability of standing up the arrangements
 10 for Operation Yellowhammer to repair the damage which
 11 had been done over many years to the civil contingencies
 12 structure in Northern Ireland. The Northern Ireland
 13 Executive had fallen behind its pandemic preparations
 14 even further than the other governments of the
 15 United Kingdom.

16 The power vacuum led to a stagnancy across the board
 17 in terms of civil service preparedness, the absence of
 18 ministerial direction meant that some of the important
 19 lines of communication atrophied, and with particular
 20 regard to the guidance and the structures for the policy
 21 branch, guidance and important documents were never
 22 updated as they should have been, and there were very
 23 significant concerns with the operation of the policy
 24 branch because of the lack of resource and the failure,
 25 therefore, to carry out important workstreams.

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1 provide advice -- well, it appears to be a somewhat
 2 random process.

3 Is the structure of the Chief Scientific Adviser in
 4 Northern Ireland something that is currently under
 5 review, yes or no?

6 **A.** Yes, and --

7 **Q.** It is.

8 **A.** -- we have actually sought to appoint last year a Chief
 9 Scientific Adviser. The competition wasn't successful
 10 in securing an appointment and we're looking at other
 11 options now for trying to get a person into that role.
 12 But in the meantime -- but in terms of your fundamental
 13 point, it is clear from all of the evidence that I've
 14 seen and heard that we need to have -- devolved
 15 administrations need to be in those groups and need to
 16 be participating in those groups, because actually, as
 17 we've said several times, these kind of pandemics cross
 18 boundaries.

19 **Q.** When you say "groups", do you mean, therefore, the
 20 United Kingdom Chief Scientific Adviser group?

21 **A.** Yes.

22 **Q.** Does that also apply to SAGE, in relation to which there
 23 was no automatic representation of Northern Ireland?

24 **A.** Yes, I was particularly referring to SAGE, where I think
 25 that -- I think people would acknowledge that it's

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1 Is that a fair summary?

2 **A.** I think there are probably one or two areas that I would
 3 just really -- I wouldn't be able to sign up to, but
 4 overall it's a fair summary. I think the guidance, the
 5 point that -- you used the term guidance was "never
 6 updated". I don't think that -- I couldn't stand over
 7 that, but I could say that it wasn't fundamentally
 8 updated. And it's not -- I'm not nit-picking, I'm just
 9 trying to make sure that I'm not signing up to something
 10 that's not right.

11 I think that the summary doesn't take into account
 12 the huge efforts that went into preparing for
 13 Yellowhammer and the potential benefits of that, and
 14 I do believe that even as we are now moving to a better
 15 situation, although we're still not fully resourced --
 16 and by the way we have worse resourcing issues now than
 17 we had before, because of -- and I won't take
 18 the Inquiry's time up now with that, but we are actually
 19 making huge reductions in public services as we speak.

20 That -- so I think I would say that the arrangements
 21 that were put in place were important and would be
 22 required even if we had all of those problems fixed in
 23 terms of our central contingency planning arrangements.

24 Sorry, I hope that's helpful.

25 **MR KEITH:** Thank you, Dr McMahon.

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1 My Lady, permission has been granted to Covid-19
2 Bereaved Families for Justice Northern Ireland to ask
3 some specific questions, but I should say that
4 permission was granted to them to refer by-the-by to
5 a particular document, but that document, on further
6 research, appears to come from a different module and
7 it's not a document within our INQ system.

8 **LADY HALLETT:** Mr Lavery?

9 **MR KEITH:** Oh, INQ000874074.

10 **Questions from MR LAVERY KC**

11 **MR LAVERY:** I won't be referring to that particular
12 document, so that --

13 **LADY HALLETT:** There are some of the questions, just looking
14 at them, that you may think have been covered, so please
15 use your discretion.

16 **MR LAVERY:** I was going to do that, my Lady, and I'll be
17 briefer, I think, than --

18 **LADY HALLETT:** But there are one or two of the questions
19 where I didn't give permission -- use your discretion.

20 **MR LAVERY:** I will, and hopefully I won't be so long as the
21 time allocated either, my Lady.

22 Dr McMahon, my name is Lavery, and I represent the
23 Northern Ireland Covid-19 Bereaved Families for Justice,
24 and as you've gathered her Ladyship has permitted me to
25 ask a couple of questions.

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1 **Q.** Then I want to ask you about Peter May. In his
2 statement at paragraph 101 he says that the department
3 commenced work on proposals for new public health
4 primary legislation. I think that may relate to
5 a public health Act and a pandemic flu legislation.

6 Now, there seems to have been initial approval for
7 that, for a dedicated resource to lead this work, but
8 there was, despite that, a diversion of resources to
9 other priority areas, including emergency planning and
10 development of a UK and Northern Ireland antimicrobial
11 resistance action plan, which meant that work was paused
12 in 2017, and I think that was following a request from
13 the Chief Medical Officer at that time. Were you aware
14 of that?

15 **A.** I wasn't aware of that, and I wouldn't -- I wouldn't
16 necessarily be aware of the -- I mean, well, obviously
17 I wasn't there because I wasn't at the time, but even
18 today there will be priority changes within Health that
19 might not involve the Executive Office in the
20 decision-making process because, as I explained earlier
21 and as you'll be aware, there are individual departments
22 operating individually. But I am indirectly aware of
23 the work that was taken forward by the Department of
24 Agriculture, vets, and the Chief Medical Officer under
25 the One Health programme, which I think is an important

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1 The first question I wanted to ask you was: there
2 was a letter in 2015 from Jeremy Hunt to David Cameron
3 where he wrote -- and David Cameron was the
4 Prime Minister at that stage, and Jeremy Hunt was
5 Secretary of State for Health -- he says:

6 "As I set out in my last letter we have developed
7 contingency legislation which would allow us to mandate
8 screening at the border and detain, quarantine or
9 isolate travellers where necessary for public health
10 reasons."

11 Were you aware of, or was the -- were you aware of
12 whether the Executive Office was involved in formulating
13 or producing any such legislation around that time?

14 **A.** Sorry, I'm not.

15 **Q.** Because part of that seems to be -- relate to features
16 of UK legislation in terms of detention and screening,
17 et cetera, at ports, which we in Northern Ireland didn't
18 have, which were introduced by way of the 2020
19 Coronavirus Act.

20 If the Executive Office wasn't involved, do you
21 think that it's the sort of legislation that the
22 Executive Office ought to have been involved in?

23 **A.** Absolutely, yes. And again, just to clarify, it may be
24 just in my preparation I have missed this, but I'm not
25 aware of that. Apologies.

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1 point and may relate to what you're talking about, where
2 they were looking at the whole gamut of health issues
3 from the point of view of, you know, not just human
4 health issues but recognising how they connect with --
5 human and animal health connects.

6 I know that in terms of antimicrobial resistance
7 this was a key part of that work programme, and indeed,
8 you know, it's a huge concern, actually, in terms of
9 cattle, for example, where, at one stage, our animals
10 were being fed drugs, antibiotics, and there's a danger
11 then that that can build up human resistance to
12 antibiotics. So these are the sorts of issues that
13 they're trying to deal with.

14 I don't know if that's helpful.

15 **Q.** Well, what I'm really coming to here is that there were,
16 first of all, in 2015, an identification of a need for
17 legislation which really wasn't brought in until the
18 2020 Act, and then there was legislation which was
19 paused in 2017, and Mr Keith earlier asked you about the
20 civil contingencies legislation, and when he was, he was
21 clarifying how large parts of that legislation don't
22 apply to Northern Ireland, and I think -- and, I hope,
23 I'm not -- you're nodding your head a little bit in
24 despair at that stage at how little of it actually
25 applied to Northern Ireland?

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1 **A.** I wouldn't characterise it as nodding my head in
2 despair. I think I was, you know, accepting the fact
3 that the legislation does not include all of the first
4 responders, which I think is a basic thing that it would
5 need -- need to have -- and, again, sorry for -- I'm
6 falling into jargon mode, but fire and ambulance in
7 particular. So I think that's one issue.

8 I also think there's an issue which has been
9 discussed more widely, which is about the -- whether it
10 should apply to departments, and my view is that it
11 should. I think that there are particular -- I made the
12 point that there are particular complexities with the
13 constitutional set-up in Northern Ireland that means
14 that legislation like that would be a challenge, but
15 nonetheless I think we need to have a legislative base
16 that prioritises emergency planning and the resourcing
17 of it.

18 **Q.** When you were asked about that and why it was important,
19 because there's an inconsistency in terms of
20 Northern Ireland and the rest of the UK in terms of
21 these being legal obligations, and put on a statutory
22 footing, and I think what you said in that regard was
23 that if these were put on a statutory footing, if they
24 were legal obligations, that they were -- that, first of
25 all, the duties would be clearly set out, and, secondly,

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1 **A.** I think at an operational level people were -- would
2 have been and were aware of their requirements, so
3 I wouldn't want to give the impression that they
4 weren't. But again I think the -- particularly in
5 relation to resourcing, I think having ministers there
6 is a big benefit, because ministers just see things from
7 the point of view of the person on the ground.

8 Again, by the way, there will be different views
9 about, you know, the extent to which ministers should be
10 involved in, for example, operational arrangements. But
11 in my experience ministers bring a reality to things,
12 they bring a sense of purpose, because they just connect
13 us back to the community.

14 That's not that we can't do that ourselves but
15 I think that that's -- and I think that's the big
16 problem with not having ministers in place.

17 **Q.** Lastly, then, the paradox of this is that the reason
18 a lot of the civil contingencies legislation didn't
19 apply to Northern Ireland was because the legislation
20 was brought forward in 2004 and there was a suspension
21 of the Assembly at that stage and a lot of these
22 measures were hoped would be dealt with in an Assembly
23 when it got up and running again?

24 **A.** That was definitely a factor. I would say, though, the
25 other element which is important to think about is if we

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1 that the functions of the various organisations would be
2 resourced properly?

3 **A.** Yes, I think it's not -- I mean, I should say that --
4 I should say that it is very unlikely that we would ever
5 to have use legislation to call an organisation --
6 a first responder organisation in particular, to call it
7 to account and say, "Here's something you need to do
8 differently". You know, my experience and I suppose
9 everybody's experience is that people who are in the
10 emergency services just naturally want to do what they
11 need to do to protect the population. That's their
12 whole reason for being. However, I think -- I also said
13 that we can't just rely on good leadership, we need to
14 have legislative safeguards to make sure that that
15 leadership is supported, and that in the event that,
16 you know, something happens where that leadership isn't
17 there, we've got the legislative safeguards to make sure
18 that we're protected and the population is protected.

19 **Q.** The third area then was, again this was put to you by
20 Mr Keith so I'm not going to spend any detail on it,
21 that during times of suspension of the Executive at
22 Stormont people would know what their obligations were;
23 during those hiatus periods would you agree with that
24 that this would be another benefit to this being put on
25 a legislative footing?

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1 were designing legislation to fulfil those requirements
2 today, if you think back to what -- the fundamental
3 elements of that legislation include requirements to
4 fulfil certain duties and they also include powers of
5 typically central departments to give instructions to
6 other departments.

7 The challenge with that is that we have a government
8 structure which is based on inclusion, for good reasons,
9 and that means that it just -- some of those elements of
10 legislation would be very difficult to put into that
11 constitutional arrangement.

12 I'm not saying it's not a reason not to do it, I'm
13 just saying it is an issue and I know that those issues
14 were being considered at that stage by officials. But
15 I wouldn't disagree with you. Fundamentally I don't
16 disagree with the point.

17 **Q.** I know I said that was my last point, my Lady.

18 But in terms of local government, did the lack of
19 a legislative structure lead to relative inaction in
20 terms of what local government's duties and
21 responsibilities were?

22 **A.** By local government do you mean devolved
23 administrations --

24 **Q.** Councils.

25 **A.** Councils? Well, my understanding of the councils is

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1 that the councils have continued to work on resilience.
 2 In fact they've strengthened. As we came up to the end
 3 of 2019 and we have now got a structure there that works
 4 across the councils, it seems to be working well.
 5 **Q.** But if everybody knew what they had to do then --
 6 **A.** Yes.
 7 **Q.** -- from a legislative point of view, that relative
 8 inaction, I think that Alison Allen talks about in her
 9 statement, could be avoided?
 10 **A.** Maybe just if you -- sorry, so that I'm not answering
 11 the wrong question, what was the -- what was the --
 12 **Q.** It's just another feature of why everything should be
 13 put on a statutory footing, that obligations should be
 14 clear?
 15 **A.** I think it should. The only point I would make about
 16 that is that if we have legislation that is too
 17 structured the danger is it's not flexible enough, it
 18 could actually get in the way. So that's just another
 19 consideration. But fundamentally, having a solid
 20 legislative base is a good starting point for being able
 21 to prepare for and deal with emergencies.
 22 **Q.** Do you think then that the civil contingencies and the
 23 lack of an obligation in statute did lead to
 24 Northern Ireland being in an overall more vulnerable
 25 position than other parts of the UK?

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1 **MR KEITH:** My Lady, I've done grievous damage to
 2 Ms Blackwell's timetable for the afternoon, I'm afraid.
 3 I was wondering whether or not I could take the burden
 4 of asking you to sit a bit earlier and have
 5 a shortened --
 6 **LADY HALLETT:** I'm certainly prepared to. I'm just
 7 wondering --
 8 **MR KEITH:** -- so we can try to catch up.
 9 **LADY HALLETT:** What are we talking about, my returning at
 10 half past?
 11 **MR KEITH:** Yes, please.
 12 **LADY HALLETT:** I'll say yes, but if I get a message from
 13 a certain person, then I'll reconsider.
 14 **MR KEITH:** Quite so. Thank you, my Lady.

15 (12.48 pm)

16 (The short adjournment)

17 (1.30 pm)

18 **MS BLACKWELL:** My Lady, good afternoon. May I call
 19 Reginald Kilpatrick, please.

20 **MR REGINALD KILPATRICK (affirmed)**21 **Questions from COUNSEL TO THE INQUIRY**

22 **MS BLACKWELL:** Thank you. Is your full name
 23 Reginald Kilpatrick?

24 **A.** It is.25 **Q.** Mr Kilpatrick, thank you very much for the assistance

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1 **A.** I think that that was not the primary issue, honestly,
 2 because some of the legislation wasn't actually used.
 3 I mean, the CCA part 2 wasn't actually used during the
 4 emergencies. However, I do think it's a factor.
 5 I wouldn't disagree that it's a factor.
 6 **Q.** I'm just asking about planning and preparedness,
 7 obviously.
 8 **A.** Sorry. Oh, definitely. Sorry, definitely. I think
 9 that was a factor, because, for the best of reasons,
 10 people were so focused in the run-up to 2020 on
 11 Yellowhammer and on EU exit, that having a legislative
 12 requirement that said, "Look, you must, you know, keep
 13 an element of your resource in reserve, you must (a)
 14 have an acceptable resource and (b) have an element of
 15 that resource in reserve, to look at the top priorities
 16 in your risk register", I definitely think that kind of
 17 a legislative base would help -- would have helped.

18 **MR LAVERY:** Dr McMahon, thank you.19 **LADY HALLETT:** Thank you, Mr Lavery.

20 Thank you very much, Dr McMahon, you have obviously
 21 given the issues we're dealing with a great deal of
 22 thought and we're very grateful.

23 **THE WITNESS:** Thank you, my Lady.

24 (The witness withdrew)

25 **LADY HALLETT:** 1.45.

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1 that you have so far given to the Inquiry. I know that
 2 you have produced a witness statement, which we can see
 3 at INQ000190662.

4 If we go to the final page, which is page 31, we can
 5 see that you signed it on 5 May of this year.

6 Is that true to the best of your knowledge and
 7 belief?

8 **A.** That is true.

9 **Q.** Thank you very much. During your evidence,
 10 Mr Kilpatrick, please keep your voice up and speak into
 11 the microphone so that the stenographer can hear you for
 12 the transcript. Please speak slowly and clearly, and if
 13 I ask a question which you don't understand, please just
 14 say so and I will repeat it or try to rephrase it. If
 15 at any time you need a break, again, just say so, and we
 16 will break for your convenience.

17 You began working in the Welsh Government in 1989
 18 and by 2003 you'd moved into the senior civil service as
 19 director or deputy director for the budget, planning and
 20 management division. You then, in 2007, moved across to
 21 become deputy director of the local government policy
 22 division, and then from 2011 until September of 2020 you
 23 were the director of the local government directorate.

24 From that date until the present time you have held
 25 the role of director general for Covid co-ordination and

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1 director of local government directorate. Is that
2 right?
3 **A.** That's correct.
4 **Q.** Thank you very much.
5 I want to begin by establishing with you some facts
6 about civil contingencies as a devolved matter in Wales.
7 The Inquiry has heard this week from Mr Drakeford on
8 this topic, but I want to discuss it in outline with you
9 because it's fundamental to your role that you held
10 between 2011 and 2020 as the director of the local
11 government directorate.

12 Civil contingencies was not a devolved function
13 under the Government of Wales Act of 1998, was it?

14 **A.** No, it wasn't.

15 **Q.** But the Civil Contingencies Act of 2004 set a single
16 framework for England and Wales, as did statutory and
17 non-statutory guidance produced by the United Kingdom
18 Government. There was a concordat signed between the
19 United Kingdom Government and the Welsh Assembly
20 government that was published in February of 2011, and
21 within that concordat it established that the emphasis
22 will be firmly upon co-operation and consultation
23 between the United Kingdom Government and the
24 Welsh Assembly government at both the planning and
25 response stages with the views of Assembly ministers

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1 Welsh Government is unclear and there are opportunities
2 for increased efficiency in local delivery."

3 Over the page, please, at number 3, thank you:

4 "The approaches taken by Category One responders to
5 implement the Civil Contingencies Act 2004 are
6 inconsistent and responders are not effectively
7 monitoring their activities."

8 Can we go to page 8, please, and look at paragraph 8
9 on that page. On the right-hand side, just below the
10 mid-line, thank you very much:

11 "The Welsh Government's role in civil contingencies
12 is complicated. As Wales does not have devolved powers
13 for civil contingencies, the Welsh Government is not
14 accountable for implementing or enforcing the Civil
15 Contingencies Act 2004. However, the Welsh Government
16 does have a role, through its Resilience Team, in:

17 "a. supporting local resilience forum activities;

18 "b. leading on all-Wales co-ordination;

19 "c. acting as a link between local resilience

20 forums; and

21 "d. linking with the Cabinet Office and other

22 United Kingdom Government departments."

23 If we can go over the page, please, to paragraph 13,
24 thank you:

25 "Complex leadership arrangements have not prevented

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1 being taken into account in all phases of the
2 decision-making process; is that right?

3 **A.** That is correct.

4 **Q.** You tell us in your witness statement that there were
5 three reports on civil contingencies that ultimately led
6 to the Welsh Government seeking additional powers in
7 respect of civil contingencies; is that right?

8 **A.** That is correct.

9 **Q.** Just so that those are on record, they were the Wales
10 audit office *Civil Emergencies in Wales* report of
11 December 2012, which we're going to come to in a moment,
12 and in addition to that, the National Assembly for Wales
13 Public Accounts Committee civil contingencies in Wales
14 report of July 2013, and the Commission on Devolution in
15 Wales, the Silk Commission, *Empowerment and*
16 *Responsibility* of March of 2014.

17 But coming back to the first of those, the report
18 from the Wales audit office in 2012, I'd like to take
19 a look at that, please, because it helps us to focus on
20 the development of the transfer of functions.

21 Thank you for putting up the first page. If we can
22 go to page 4, please, thank you, we can see in the first
23 main paragraph there:

24 "Many of the arrangements to deliver the Civil
25 Contingencies Act 2004 work well but the role of the

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1 the Welsh Government from providing effective support
2 for the partners delivering the Civil Contingencies Act
3 2004. The different challenges of some recent major
4 emergencies have demonstrated the ability of the
5 Welsh Government and its partner organisations to
6 provide an effective response. However,
7 the United Kingdom Government has not devolved civil
8 contingencies legislation to Wales, and does not
9 categorise the Welsh Government as a Category One
10 responder organisation with accountability for
11 delivering the Civil Contingencies Act 2004. Whilst
12 guidance from the Cabinet Office appears to set out that
13 it is not the Welsh Government's role to provide
14 leadership of routine resilience activity, we consider
15 the Welsh Government to be providing some of this
16 function. The nature of the devolution settlement for
17 Wales means that the Welsh Government's role in civil
18 contingencies is complicated."

19 So that sentiment expressed again.

20 "We have concluded, and the Welsh Government agrees,
21 that its role for civil contingencies is complex. The
22 Welsh Government's partners differently interpret the
23 leadership and co-ordination role that it has developed,
24 a situation that has led to a lack of clarity about the
25 remit of the Welsh Government."

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1 Then to page 10, please, and paragraph 17,
2 thank you:

3 "Too many emergency planning groups and unclear
4 accountabilities add inefficiency to the already complex
5 resilience framework. The current resilience structure
6 is similar to the structure in England, with local
7 resilience forums based on police force boundaries and
8 with each Category One responder having its own
9 emergency planning capability. We consider that the
10 current structure is leading to inefficiencies at
11 a local level, unnecessary complexity and unclear
12 accountabilities, and is an ineffective framework for
13 resilience in Wales. We also agree with the Simpson
14 Review, that there is an urgent need for a fundamental
15 review of local authority emergency planning services."

16 To page 12, please, and paragraph 26, thank you:

17 "The absence of a national overview of the
18 effectiveness of physical assets for an emergency
19 response means their availability, maintenance or
20 operation cannot be guaranteed."

21 Then finally, please, to page 15 and
22 recommendation 1, thank you, top right-hand corner:

23 "We recommend that the Welsh Government works with
24 the Cabinet Office to agree how to strengthen strategic
25 oversight of the delivery of civil contingencies

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1 provided; is that right?

2 **A.** That is correct.

3 **Q.** Did the absence of those powers in 2017 hold you back in
4 any way in terms of the level of preparation that you
5 could engage with?

6 **A.** I think going back to the genesis of the report --

7 **Q.** Yes.

8 **A.** -- and our First Minister at the time, and subsequent
9 First Ministers as well, there is a very clear
10 responsibility -- or they feel a very clear
11 responsibility and accountability to the people of Wales
12 to make sure that devolved organisations, and those
13 would be Category 1 responders like Health, like local
14 government, like the fire service and the ambulance
15 service, are fully equipped and understand their role in
16 the emergency planning, resilience and response field.
17 And that is why they and we have taken this role very
18 seriously. That is regardless of the fact that some of
19 the issues raised in the audit report relating to the
20 testing and the performance of local resilience fora
21 remained, until 2018, the responsibility of the
22 Cabinet Office rather than us.

23 **Q.** All right. I mean, you clearly took things seriously,
24 and the absence of the transfer of powers did not
25 prevent you from planning and getting ready to respond,

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1 legislation in Wales. This should encompass:

2 "- assessing the delivery of resilience planning
3 under the Civil Contingencies Act 2004, with the
4 objective of bringing improved efficiency, consistency
5 and quality;

6 "- the monitoring of national competence standards
7 for emergency planning officers;

8 "- reassuring the public of Wales on the effective
9 preparation for, management of and recovery from, civil
10 contingencies; and

11 "- continuing to: improve access to information for
12 responders; promote the sharing and use of good practice
13 and the specialist skills required to delivery civil
14 contingencies legislation; and organise and coordinate
15 training, exercises and research."

16 Now, we can take that down, please.

17 You say in your statement, Mr Kilpatrick, that
18 following on from this audit, the Welsh Government
19 actively sought additional powers under the Civil
20 Contingencies Act 2004 from the United Kingdom
21 Government, but despite those attempts, by 2017, the
22 government had not agreed to devolve these powers and
23 you continued to build capability and resilience in
24 order to plan for and respond to civil emergencies
25 despite the fact that those powers had not been

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1 but why was it so imperative, in your view, in your
2 position, to continue to campaign for the transfer
3 order, which we will come to shortly, being made?

4 **A.** Okay. It was very important to us because the part 1 of
5 the Civil Contingencies Act gives us a number of
6 statutory powers by which we -- can use to put duties on
7 to local resilience fora or to Category 1 responders,
8 and together they would enable us to develop our own
9 approach to a civil contingency response, to
10 an emergency planning response and recovery, that would
11 suit Wales.

12 So we have a slightly different system, which is
13 flatter, and I believe more agile as a consequence, but
14 in order to put in a regulatory system that would enable
15 us to oversee that and have a degree of accountability,
16 we needed the transfer of functions from that part of
17 the Act.

18 **Q.** Ultimately the position did change with the passing of
19 the Transfer of Functions Order, didn't it?

20 **A.** It did.

21 **Q.** In 2018?

22 **A.** Yes.

23 **Q.** From that time you would say, I imagine, that Welsh
24 ministers have had a greater control in terms of
25 policymaking, in the field of civil contingencies, and

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1 exercising a range of different functions under the
2 Civil Contingencies Act?
3 **A.** We have the opportunity now that the Transfer of
4 Functions Order is complete.
5 **Q.** All right, thank you very much.
6 I want to discuss for a moment the Wales Resilience
7 Forum and a meeting that took place in October of 2018.
8 We'll come in detail to the forum shortly, but at
9 a meeting of that organisation, the then
10 Cabinet Secretary for Local Government and Public
11 Services agreed to support a review of the emergency
12 planning governance and structures that were then
13 present in Wales, in order to ensure that they remained
14 fit for purpose?
15 **A.** Yes, correct.
16 **Q.** That comprehensive review was set in train, but, as we
17 understand it, that review was not completed for
18 five years and, indeed, not finally completed until this
19 year; is that right?
20 **A.** That is correct.
21 **Q.** For what reason?
22 **A.** The reason being -- first of all, may I say we thought
23 the review was a very important piece of work.
24 **Q.** Yes.
25 **A.** Ministers were very committed to it and, as officials,

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1 **Q.** Right.
2 **A.** That was when we closed down, finally, our Covid
3 mobilisation programme.
4 **Q.** What did the review throw up?
5 **A.** The review threw up a number of very important things as
6 far as I'm concerned. There was inevitably some echo of
7 the audit reports that we had seen before.
8 **Q.** Yes.
9 **A.** The review also said, very pleasingly, that our
10 governance structures and accountability structures were
11 fit for purpose and worked. So that was quite good,
12 that we didn't -- we weren't beginning from a sense of
13 failure, we were beginning from a sense of strength.
14 **Q.** Yes.
15 **A.** Nonetheless there were 15 recommendations, some of which
16 were very closely aligned with the findings of the
17 Professors Mann and Alexander report, which I know
18 the Inquiry has seen, and I would agree with virtually
19 all of them. I think they are exactly the sort of
20 things we were looking for. How do we increase the
21 capacity and capability of our function? How do we
22 bring a degree of consistency and understanding and
23 clarity to the systems that we are aiming to put in
24 place across Wales?
25 **Q.** Well, we'll turn to look at three of those

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1 we saw this as a real opportunity to look at how we
2 might use our new powers and duties under the transfer
3 of functions in a way that would enable us to improve
4 and potentially simplify the system.
5 Almost immediately that we had agreed the review
6 should begin, the preparations for leaving -- the exit
7 without a deal, with no deal, began, so
8 Operation Yellowhammer was sort of in its early days in
9 the beginning of 2019, and certainly we were engaged
10 with that around the end of 2018.
11 As a consequence of that, we had to prioritise the
12 resources that we did have and therefore we focused on
13 undertaking those Operation Yellowhammer preparations
14 and delayed the review. We thought that was going to be
15 for three months to six months. Unfortunately it proved
16 to be a lot longer.
17 **Q.** It turned out to be a considerable --
18 **A.** Yes.
19 **Q.** -- period of time.
20 Is it your evidence, then, Mr Kilpatrick, that no
21 work took place on the review until relatively recently
22 or was the work started back in October of 2018 and then
23 paused?
24 **A.** No work began on the review until probably about
25 15 months ago.

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1 recommendations in detail towards the end of your
2 evidence, but before we do that I'd like to ask you
3 about ministerial responsibility. The First Minister
4 has overall responsibility for civil contingencies and
5 resilience within the Welsh Government; is that right?
6 **A.** That's correct.
7 **Q.** What is the scope of the ministerial resilience
8 portfolio?
9 **A.** That would cover I think probably two things. That
10 would cover our planning and preparedness. So the
11 First Minister chairs the Wales Resilience Forum --
12 **Q.** Yes.
13 **A.** -- which we may talk about more -- and that is, to me,
14 a very important statement of the Welsh Government
15 leadership to our civil contingencies community across
16 Wales and to the Category 1 and 2 responders.
17 The second role is around their role as a minister
18 in terms of setting policy, in terms of taking necessary
19 decisions, which you would expect through that normal
20 policy process. So we've discussed the report with him
21 and we will continue to discuss the report with him, as
22 we would any sort of normal policy minister. So that's
23 the second role.
24 Sorry, did I say two? I think there is a third role
25 as well, which I think is really critical, and that is

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1 the role of the First Minister in response, and we've
2 had a number of instances over the last -- certainly
3 with Covid and with Brexit, but a number of other
4 mobilisations across Wales, and the First Minister
5 brings a degree of credibility but also the highest
6 level of decision-making that we need if we have to move
7 quite quickly to make regulatory changes or other such
8 measures.

9 **Q.** So would your view, Mr Kilpatrick, be that it's vital
10 that the First Minister remains involved in his position
11 with matters of resilience?

12 **A.** Yes.

13 **Q.** Yes. You may be aware that Sir Oliver Letwin has given
14 evidence to this Inquiry what seems like a long time ago
15 now, but I think it was only a matter of a week or so,
16 and he told my Lady that in his view the system would
17 benefit, certainly in the United Kingdom, from having
18 a senior Cabinet-led minister solely devoted, full-time,
19 to a resilience portfolio. John Swinney was also
20 receptive to that idea within the Scottish Government.
21 What is your view as to whether or not that would work
22 in Wales?

23 **A.** It is certainly a benefit to us of having the
24 First Minister leading resilience, and certainly, from
25 my point of view, resilience and preparedness is

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1 **A.** Yes.

2 **MS BLACKWELL:** Thank you.

3 I want to move on now to deal with some of the
4 groups and teams which sit within resilience in Wales,
5 starting with the Welsh Government Resilience Team,
6 which you tell us in your witness statement is a crucial
7 group in co-ordinating other groups and bodies.

8 It supports the Wales Resilience Forum; is that
9 right?

10 **A.** That's correct.

11 **Q.** And it co-ordinates resilience activity at an all-Wales
12 level, establishing links between local responders and
13 Whitehall, and it facilitates cross-departmental
14 planning and response within the Welsh Government; is
15 that right?

16 **A.** Yes.

17 **Q.** Does it sit within the Community Safety division under
18 the human resources group?

19 **A.** The resilience team -- there are two teams, there's the
20 Wales Resilience Partnership Team, which is that sort of
21 supporting group for the Wales Resilience Forum, and it
22 is secretariat by the Wales Resilience Team, which
23 sits within my directorate, which is -- it used to be in
24 the HR department, it is now in the civil contingencies
25 and national security division.

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1 an absolutely critical part of government. I would have
2 no objection, certainly, if the First Minister was to
3 make a new post which would lead on resilience. It
4 would potentially make my job a lot easier. But these
5 are decisions, I think, for the First Minister rather
6 than me, but there are -- there would clearly be
7 advantages in doing that.

8 **LADY HALLETT:** Arguably you're coming down in Wales if
9 I were to make that recommendation, because the point
10 was to have somebody dedicated to it who had the ear of
11 the Prime Minister and, in Wales' case, the
12 First Minister, but if you've already got the
13 First Minister's ear because he's the man leading it ...

14 **A.** Yes, my Lady, I think there's a balance between the
15 amount of time and energy that a First Minister can
16 dedicate to the emergency planning and response agenda,
17 and we have been lucky, I think, over the last few years
18 with First Ministers in Wales, and the other side of the
19 balance is the seniority with which that function and
20 that role is being pushed forward. At the moment we are
21 very lucky to have a very senior minister, but equally
22 a dedicated minister could provide us with a greater
23 impetus in some of our day-to-day work.

24 **LADY HALLETT:** Given the extent of the First Minister's
25 responsibilities?

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1 **Q.** Right. Now, you've mentioned there the Wales Resilience
2 Partnership Team. You may be aware that Dr Goodall was
3 asked by Mr Keith this week whether or not that needs to
4 sit separately from the Wales Resilience Forum or
5 whether or not those two bodies could effectively be
6 called under the same name.

7 Do you agree, Mr Kilpatrick, using that by way of
8 an example, that the structures around resilience appear
9 to be rather complicated?

10 **A.** If you take all of the resilience functions and all of
11 the response functions and all of the planning
12 functions, it is a very complicated structure --

13 **Q.** Could it be simplified?

14 **A.** It could be simplified. As somebody who works in this
15 area, if one looks at the -- if you like, the functional
16 unit, so if one looks at preparedness, as that would sit
17 under the Wales Resilience Forum, that is a fairly
18 simple structure, I would suggest. There are quite
19 a lot of working groups but nonetheless it is a fairly
20 straightforward structure. If we look at the Pan-Wales
21 Response Plan and the structures that sit under that
22 that we would use to respond to an emergency, again they
23 are quite simple.

24 We may come back to talking about how these things
25 relate to one another later, but there is a degree of

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1 complexity, however I think there is also a degree of
 2 simplicity when one begins to break that model down.
 3 **Q.** Right, okay.
 4 Moving back to the Welsh Government Resilience Team,
 5 numbers have swelled, haven't they, within that team
 6 over more recent times? I think it started off with six
 7 or so --
 8 **A.** Yes.
 9 **Q.** -- officers and then the permanent secretary identified
 10 resources to double that, and now are there about
 11 25 full-time staff members within the team?
 12 **A.** There are. They do undertake other duties, like cyber
 13 resilience, for example, but there is a team of
 14 around 25, and a new -- a completely new director post
 15 looking after that team.
 16 **Q.** Does that work well? Is that enough by way of resource
 17 for what they need to do?
 18 **A.** At the moment I think it is sufficient for the task that
 19 we are facing. Clearly, once we have been through the
 20 review process, there may be recommendations that come
 21 out of that which we would want to revisit the
 22 structures, but currently I think we are adequately
 23 staffed for the task at hand.
 24 **Q.** You sit on the Wales Resilience Forum, don't you?
 25 **A.** I do.

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1 according to timetable.
 2 There were some elements that we did talk about in
 3 detail as part of that business planning process, but
 4 the overall approach to pandemic flu planning was taken
 5 forward by the Health department.
 6 **Q.** Right. Within that forum, do you think the correct
 7 balance was struck between short-term risks and the
 8 necessity to deal with those and looking beyond that to
 9 long-term risks?
 10 **A.** We could have focused on the National Risk Register more
 11 than we did, and I think that is a legitimate point
 12 that's been made earlier on in colleagues' evidence --
 13 **Q.** Yes.
 14 **A.** -- and it is something that we have turned our minds
 15 very closely to over the last year or so and will
 16 continue to do so.
 17 **Q.** The final group I want to touch upon is the Joint
 18 Emergency Services Group, which you tell us in your
 19 witness statement is in existence:
 20 "... to promote inter-operable working between
 21 services, working with the [local resilience fora] to
 22 develop preparedness and provide strategic oversight for
 23 the capture and implementation of lessons identified
 24 from public inquiries and other legal processes."
 25 Do you think that that group adds value to what is

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1 **Q.** We've already established that the First Minister sits
 2 on that group as well. What's your role within that
 3 forum?
 4 **A.** I represent the -- if you like, the Welsh Government
 5 emergency planning and response function. I also have
 6 a leadership role across the emergency planning
 7 function, I think for the rest of the public service,
 8 and I provide advice to the First Minister in his role
 9 as chair.
 10 **Q.** Whilst sitting within that forum, you would have been
 11 aware that pandemic flu had been assessed as and
 12 remained the highest risk within the National Risk
 13 Register; is that right?
 14 **A.** That is correct.
 15 **Q.** How much of the forum's time was devoted to preparing
 16 for a future pandemic?
 17 **A.** The forum has a wide range of issues that it has to deal
 18 with, which are articulated through a five-year and
 19 an annual business plan. Pandemic flu as a principal
 20 risk would have featured as part of that plan, but it
 21 would have been an element of that rather than a focus.
 22 The reason for that would be our colleagues in the
 23 Health and social care department were leading on that
 24 particular piece of work, and we would, as a forum,
 25 assume that that was all going according to plan and

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1 already in train?
 2 **A.** The group plays no formal part in our civil contingency
 3 or emergency planning and response structures.
 4 Nonetheless, I believe it adds significant value, and
 5 it's been demonstrated to add significant value during
 6 Brexit and certainly during our response to Covid. It
 7 brings together the chief officers of the emergency
 8 services along with the military, coastguard and others,
 9 and provides us with an opportunity to really understand
 10 what those Category 1 responders' issues are.
 11 I think more importantly than us understanding, it
 12 provides probably the only forum in the UK for the
 13 emergency services to get together to understand how to
 14 work better collaboratively, but also how to pool their
 15 resources and develop very strong personal collaborative
 16 working relations. Just one example, if I may, on your
 17 last point about how the Joint Emergency Services Group
 18 is used, it has decided to oversee the Wales response to
 19 the Manchester Arena Inquiry recommendations, so that is
 20 taking a set of lessons identified, 154 I think, and
 21 making sure that they are implemented through a proper
 22 set of accountability and project management
 23 arrangements.
 24 **Q.** What does the group do, though, in the hiatus that might
 25 exist between a public inquiry making its

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1 recommendations or having to respond to any sort of
 2 legal issue that arises? Does it remain as a group that
 3 regularly meets or is it stood down?
 4 **A.** It regularly meets and it will deal with a range of
 5 issues that the members themselves might bring forward.
 6 So, for example, we've been discussing the sort of
 7 terrible problem of violence against the emergency
 8 services and what can they do together to address some
 9 of that, and equally, as the Welsh Government
 10 representative and our director general for health sits
 11 on that group, what can we bring either from a policy or
 12 a practical perspective to that group to help them
 13 address some of these really key issues.
 14 **Q.** So you would say that this group is important because it
 15 also, from time to time, has the space to look at other
 16 legal issues as they touch civil contingencies?
 17 **A.** Yes, absolutely, and they work very -- there is a --
 18 sorry for the jargon, but the chair of the local
 19 resilience fora chairs group will attend that meeting,
 20 so they have a direct line into the four local
 21 resilience chair people.
 22 **Q.** All right, thank you.
 23 I want to move on now to cover the issue of risk.
 24 In your witness statement you make it clear that you
 25 understood through your time in the relevant post that

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1 colleagues who were in charge of particular sectors,
 2 like water or transport, what their view of the risk and
 3 preparedness was for each of those sectors, and we
 4 compiled one report and one set of ministerial advice.
 5 But again, unfortunately, we were unable to prioritise
 6 that work going forward because we had to turn our
 7 attention and our resources to Brexit.
 8 **Q.** Well, I'd like to look at INQ000187580, please, which is
 9 the 2023 review of the civil contingencies in Wales
 10 report, and go to page 33, please, which I think --
 11 thank you very much.
 12 Under the heading "Risk":
 13 "[Welsh Government] and [local resilience forums]
 14 should work in partnership to interpret the UK National
 15 Risk Register and adapt UK level risks to Wales, working
 16 together to identify upcoming and potential risks that
 17 would significantly impact Wales, eg led by a Wales
 18 Resilience Board ... detailed in [another section of the
 19 report]."
 20 Has that recommendation been progressed?
 21 **A.** Not as yet, no. I agree with the recommendation,
 22 I think it's a very sensible thing. As I say, we'd been
 23 thinking along these lines for some time.
 24 We are still considering the recommendations of this
 25 report and will clearly make a judgement on how we take

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1 the United Kingdom National Risk Register had been the
 2 basis of risk assessment in Wales, in fact since 2005.
 3 But we know from the audit report that we looked at
 4 at the beginning of your evidence that, certainly
 5 by 2012, the Welsh Government and the Wales Resilience
 6 Forum had decided not to compile a national risk
 7 register for Wales.

8 You may be aware that a Scottish Risk Assessment was
 9 established in 2018, and of course that timescale fits
 10 in with the Transfer of Functions Order to Wales. What
 11 I want to ask you is this: at that time, when the
 12 Transfer of Functions Order had been made, was there any
 13 additional thought given to whether or not Wales should
 14 have its own risk assessment?

15 **A.** We were beginning to think that. I think we had been
 16 aware since 2010/2011 that there was a National Risk
 17 Register and how did that relate to Wales. Of course
 18 there are four local community risk registers developed
 19 and held by local resilience fora, so we had some idea
 20 of the risks, and those local risk registers equally
 21 were based on an assessment of the national security
 22 risk register, so we weren't without risk.
 23 We undertook the first year of sector security
 24 resilience planning, which was, to begin with,
 25 an internal Welsh Government exercise to ask my policy

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1 them forward, but my -- I think my priority at the
 2 moment is to understand what may be coming out of this
 3 module, and certainly to understand some of the Mann and
 4 Alexander recommendations and how they can fit in.
 5 Nonetheless, we are -- we do have a risk and
 6 preparedness group which has begun to do precisely this.
 7 We just have to move it out to the local resilience fora
 8 shortly.

9 **Q.** So is there a prospect then, once this recommendation is
 10 progressed further, that Wales might have its own risk
 11 assessment?

12 **A.** I think there is a very strong prospect, if not
 13 a certainty.

14 **Q.** All right, thank you very much. We can take that down,
 15 please.

16 Sources of advice for pandemic planning and
 17 preparedness. A great deal of scientific medical and
 18 technical support is provided by the United Kingdom
 19 Government and this Inquiry has heard about various
 20 bodies and organisations, SAGE, NERVTAG, the JCVI.

21 In Wales, is it right, Mr Kilpatrick, that Wales did
 22 not provide advice, as in scientific advice, for civil
 23 contingency and emergency health planning?

24 **A.** We drew our advice from our internal experts -- so we've
 25 heard about the Chief Scientific Adviser, the CMO, the

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1 Chief Scientific Adviser for Health -- to the extent
2 that we needed that. There were arrangements that were
3 put in place relating to a STAC, a science technology
4 advisory group, I think.

5 **Q.** Yes.

6 **A.** Basically that was part of our response arrangement, so
7 should something happen where we needed very detailed
8 specialised technical advice, our response plans would
9 establish a STAC and that would draw in the necessary
10 individuals or expertise, and that could be from
11 anywhere across the UK, if, for example, they had
12 a particular interest or a need to understand
13 particulates in smoke or something.

14 **Q.** Let's have a look at this, please, and the arrangement
15 between a STAC and a Welsh STAC and the United Kingdom
16 Government.

17 If we look at INQ000107125, please. Thank you very
18 much, page 7.

19 This is headed "Default STAC/Wales STAC, SAGE
20 interaction model (information flows)", and if we take
21 a moment to orientate ourselves we can see on the
22 left-hand side we've got "Welsh Government", in the main
23 box is "COBR" and "SAGE", going down and up to the
24 "STAC/Wales STAC" in the middle, and then on the
25 left-hand side, down and up to the "Strategic

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1 The Pan-Wales Response Plan. When you became
2 director for the civil contingencies function of local
3 government, you assumed responsibility for the Pan-Wales
4 Response Plan, didn't you?

5 **A.** I did.

6 **Q.** Can we put it up, please, on the screen, it's
7 INQ000107119.

8 Now, you explain in your witness statement that the
9 plan had been approved by the Wales Resilience Forum
10 since September of 2005. We can see from this document,
11 bottom right-hand corner, that this version appears to
12 have been revised in 2019.

13 Did the Welsh Government undertake any formal
14 evaluations of the resource capability of the local
15 resilience fora and partners as part of readiness under
16 the Pan-Wales Response Plan?

17 **A.** We did not. The plan sets out the structures, the
18 processes, the roles and responsibilities and the
19 criteria for moving or for escalating action through
20 those structures. We would not consider the resource
21 requirements for other organisations as part of the
22 review.

23 **Q.** To what extent is there a level of harmonisation between
24 this plan and other planning for communicable diseases,
25 perhaps UK-wide plans such as the strategy of 2011 about

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1 Co-ordinating Group(s)", and on the right-hand side,
2 down and up and across horizontally to the "Recovery
3 Co-ordinating Group(s)".

4 Now, it is apparent from this diagram that there is
5 no direct link between the STAC, and indeed the Wales
6 STAC and the Welsh Government. Why would that be? Why
7 would there be no direct link between the Welsh STAC and
8 the Welsh Government?

9 **A.** This is not a picture that I would recognise.

10 **Q.** Right.

11 **A.** I would suggest that unless there was a -- well, even if
12 there was a national incident that would demand the
13 establishment of COBR and SAGE, if a strategic
14 co-ordinating group in Wales convened a STAC, then that
15 would report in to the Welsh Government and, to the
16 extent that it needed to report in to the United Kingdom
17 Government, it would be at least after consultation with
18 Welsh ministers, if not by Welsh ministers themselves.

19 **Q.** Right, so that makes perfect logic, doesn't it, that the
20 Welsh STAC would have a direct link in to the
21 Welsh Government? Do you think that this diagram needs
22 amending?

23 **A.** Yes, I would say so.

24 **Q.** All right. Thank you.

25 We can take that down, please.

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1 which my Lady has heard so much already, and the
2 Cabinet Office guidance, and do you think that there
3 could be an improvement in terms of the borders that
4 exist between the various plans?

5 **A.** There are undoubtedly many plans in this area, and
6 I have a high regard for all of them in a sense, they've
7 been very carefully thought out, most have been very
8 thoroughly tested, the Pan-Wales Response Plan has been
9 exceptionally thoroughly tested.

10 I think the issue for me around the plans is not
11 necessarily the number of plans or whether they are
12 initially effective. There is a more fundamental point
13 about how they relate to one another and how
14 an escalation through a set of plans, and for example
15 some plans in our health and social care colleagues,
16 would actually then relate to a mobilisation of the
17 pan-Wales plan, and I think there is more work that we
18 need to do to understand those borders between plans
19 but, more importantly, the thresholds at which they
20 become activated, and also the accountability around the
21 activation. So we know who is taking the decisions and
22 why and at what point.

23 For me, a lot of the -- a lot of learning is still
24 to be done about how we make sure that system works
25 together as a coherent whole rather than as a set of

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1 plans.

2 **Q.** Because, as you've just highlighted, clarity around
3 accountability is crucial, isn't it --

4 **A.** Yes.

5 **Q.** -- in this area? Yes, all right, thank you very much.
6 We can take that down.

7 Before we turn to look at the three aspects of
8 the 2023 review that I want to take you through, I just
9 want to pause for a moment and ask you about
10 inequalities, because it's an important aspect of this
11 Inquiry, and the extent to which health inequalities and
12 other health determinants, including vaccine uptake,
13 were considered in pandemic planning.

14 I want to just look for a moment, please, at the
15 Wales debrief report on Exercise Cygnus, which is dated
16 October 2016 and is at INQ000128979. Thank you.

17 If we look at the final recommendation here, and
18 of course reminding ourselves that this is the Welsh
19 debrief report, we can see that the Welsh Government and
20 the local resilience fora are:

21 "... to consider options for identifying people at
22 risk during a flu pandemic and how resources from public
23 services, voluntary sector, communities and individuals
24 can be best used to provide targeted support."

25 Now, that was set out in those terms in
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1 help and assistance and local knowledge from voluntary
2 organisations.

3 We have the chief executive of the Welsh Council for
4 Voluntary Action on the Wales Resilience Forum and
5 sitting around any response table that we had.

6 So through Brexit we worked very closely again with
7 the Welsh Council for Voluntary Action chief executive
8 and her members.

9 There are also the faith and communities group,
10 which is chaired by a minister within Welsh Government,
11 which enables us to understand some of the particular
12 issues around faith and faith communities.

13 So we have done, I would say, quite a lot. There is
14 a good deal more to do, it's a large area to work with,
15 but we certainly have responded to that recommendation.

16 **Q.** Do you agree that this is a really important aspect of
17 planning?

18 **A.** Yes, I do. I think it is a really important aspect.

19 **Q.** Can you confirm, Mr Kilpatrick, that going forwards this
20 will be a priority in terms of ensuring that those who
21 are likely to be the heaviest affected by any sort of
22 civil contingency emergency will be considered?

23 **A.** I think to the extent that we can include, identify and
24 work with vulnerable people, we most certainly will.

25 **Q.** Thank you.

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1 October of 2016. What has been done between that date
2 and today to put that recommendation into action?

3 **A.** There are a number of things that I can explain. First
4 of all, the Welsh Government is acutely aware of the
5 need to identify vulnerable people, and our initial
6 response to this was to develop an IT system which we
7 are able to use to draw data from a number of different
8 Category 1 responders and Category 2 responders, and
9 identify particular households where we believe there
10 are vulnerable people. That might be people with
11 mobility issues, or mental health problems or other
12 issues. That system works very well, we use it on
13 a very regular basis if there are potential flooding
14 incidents or other civil contingency incidents where we
15 need our local resilience fora or strategic
16 co-ordinating groups to understand where vulnerable
17 people are so they can plan to help them.

18 That also provided a really useful overlay when we
19 were writing out the shielding letters at the beginning
20 of Covid, so we could sort of cross-check and validate
21 that we were actually picking everybody up through the
22 hospital data and this other so-called jigsaw data.

23 We worked with the LRFs so that they would engage
24 much more formally and much more regularly with the
25 voluntary sector in order to draw in the great wealth of
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1 Then, finally, bringing ourselves up to date with
2 the 2023 *Review of Civil Contingencies in Wales*, at
3 INQ000187580, we're going to look first at page 27 and
4 paragraph 6.1 which is a critical recommendation.
5 I think it's the previous page, thank you. Governance
6 and assurance:

7 "The conclusion of the review is that the governance
8 arrangements which encompass civil contingencies and
9 emergency planning in Wales are fundamentally sound.
10 However, the frequency of the relevant meetings, such as
11 the Wales Resilience Forum, should be reviewed to ensure
12 strategic decision-making is made in a timely manner.
13 Modifications and changes will be necessary over time to
14 accommodate national priorities and the nature of risks,
15 but the view of stakeholders is that an emphasis on
16 evolution rather than revolution should be the approach
17 adopted.

18 "There was a strong view amongst stakeholders that
19 [local resilience forums] performed well and discharged
20 their responsibilities under the Act effectively. It
21 was conceded however that this statement is anecdotal
22 rather than evidence-based, and no formal measurement of
23 performance occurs or benchmarks for acceptability
24 established. A strong view was expressed, especially
25 during the workshops, that an assurance framework would
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1 support the sharing of best practice and drive
2 organisational learning and development."

3 Are there plans to create an assurance framework?

4 **A.** Yes, there are. I strongly support this recommendation.

5 I also note that it was part of the Mann and Alexander
6 recommendations as well, and I think there is a demand
7 for this, as you can see, amongst the resilience
8 community. It is something that, had we been able to
9 undertake the review in 2018 --

10 **Q.** When it was first established, yes.

11 **A.** When it was first done -- sorry, when we first had the
12 transfer of functions -- we would have delivered this as
13 a priority.

14 **Q.** Right, so this is going to go ahead?

15 **A.** Yes.

16 **Q.** Thank you.

17 Second, then, you tell us in your witness statement
18 that training in your view is a fundamental part of
19 pandemic preparedness. Let's look, please, at page 35
20 of this report and at paragraph 15. Thank you.

21 "The development of a centrally managed training and
22 exercise regime should be considered."

23 We there have set out in the series of bullet points
24 the scope and functions of what should be included in
25 that training and exercise regime.

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1 with colleagues who might be affected by that.
2 We haven't yet spoken to either the Wales Resilience
3 Forum or the Wales Resilience Partnership. I think your
4 point about complexity is a really important one.
5 I don't want to do anything that is going to make
6 an already complex system more complex, I want to do
7 something that is going to make it simpler and more
8 streamlined. Therefore I need a good deal more
9 consideration of this recommendation and what the group
10 is trying to achieve, because that's the most important
11 thing.

12 **Q.** Yes.

13 **A.** It isn't the group, it is what the objectives and the
14 aims of -- what the objectives and aims are that really
15 matter to me.

16 **Q.** Only if those objectives and aims demand that another
17 board or another group be created should that be done?

18 **A.** I need to consider this in a good deal more detail.

19 **Q.** All right.

20 **A.** Because I'm not sure that those aims and objectives
21 could not be done as effectively if not more effectively
22 by existing structures.

23 **Q.** Thank you.

24 Finally, Mr Kilpatrick, could we look at your
25 witness statement, which we have at INQ000190662, and if

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1 Is this also something which you support?

2 **A.** I'm very supportive of this. We are -- we already have
3 a -- I think quite a positive training offer, certainly
4 for the first point here, the gold/silver/bronze
5 commanders, which we need to widen out. I think there's
6 an issue about colleagues across the public sector
7 stepping forward into this space, which is not always
8 easy for people to take on --

9 **Q.** But being trained makes a difference, perhaps, to
10 somebody's decision-making, doesn't it?

11 **A.** Absolutely. The offer that we can provide of training
12 and support is critical, I think, to widening that
13 capability that we're looking for.

14 **Q.** Thank you. Finally in this report, could we go to
15 page 29 and look at recommendation 4. Top of the page,
16 thank you:

17 "Welsh Government should establish an executive
18 board (Wales Resilience Board) reporting to the Wales
19 Resilience Forum ... and supported by the Wales
20 Resilience Partnership Team ... with the terms of
21 reference for the WRPT adjusted accordingly."

22 Now, at risk of promoting the creation of yet
23 another organisational board, do you agree with this
24 recommendation and, if so, why?

25 **A.** I'm still considering this and I'm still considering it

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1 we go to page 26, and paragraph 89, I think it's the
2 previous page, thank you.

3 You say this:

4 "In future, learning from Brexit and particularly
5 Covid-19, it is necessary that a clear and deliverable
6 corporate approach to these resourcing challenges is put
7 in place that will identify colleagues, train them, and
8 ensure that when required they will be made available to
9 the response effort. That work is urgent and while some
10 progress has been made on a 'reservist model' there is
11 still some way to go before the approach is fully
12 developed and embedded across the organisation."

13 How can the aim and the desire to identify
14 colleagues and train them in the way that you set out in
15 this paragraph be established practically? And you
16 describe the work as urgent; have minds been put to how
17 this aim can be achieved in an urgent way?

18 **A.** This relates to the Welsh Government itself, just to be
19 clear, it doesn't relate to the wider system. So it is
20 a corporate issue for me and my senior colleagues.

21 **Q.** Yes.

22 **A.** I can assure you that work has been undertaken and minds
23 are continually put to this. I don't allow people to
24 forget that, in order to run a sustained mobilisation of
25 our emergency planning structures, we need people.

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1 I believe it is not always an easy place to work but it
2 is a very rewarding job to do, and it is certainly at
3 the forefront of the government priorities. So I will
4 continue to work with colleagues in our HR department
5 but also with other director generals to identify
6 individuals and to identify the means by which we can
7 really develop that cadre of people and, most
8 importantly, that when something happens, get that cadre
9 of people into place quickly and in a sustained way.

10 **Q.** Thank you very much.

11 **A.** Thank you.

12 **MS BLACKWELL:** My Lady, that completes my questioning of
13 this witness. I understand that you have provisionally
14 provided permission to Covid Bereaved Families for
15 Justice Cymru to ask questions on a particular topic.

16 **LADY HALLETT:** I have, and I confirm they have permission.

17 **MS BLACKWELL:** Thank you.

18 **Questions from MS GOWMAN**

19 **MS GOWMAN:** Thank you, my Lady.

20 Mr Kilpatrick, my name is Nia Gowman and I ask
21 questions on behalf of Covid Bereaved Families for
22 Justice Cymru. I'm going to ask you about concerns that
23 you held in respect of the Welsh Government's engagement
24 with the UK pandemic influenza review and workstreams
25 and for context the Inquiry has heard evidence that in

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1 correct? Were those your concerns?

2 **A.** My -- yes.

3 **Q.** We can also see from that email that you appeared to
4 express particular concern in respect of the approach of
5 the Welsh Government, namely that the Welsh Government
6 waits until the Department of Health has produced its
7 own material before revising its own.

8 In simple terms, were you concerned that the
9 Welsh Government were being reactive as opposed to
10 proactive in respect of those guidance documents?

11 **A.** I think my views on -- the sentiments I was expressing
12 in this email were -- reflected a desire for Wales to
13 play its part in what is clearly a very important part
14 of UK Government pandemic planning. My first issue
15 I think was around the Pandemic Flu Bill, and that we
16 played a full part in that, and the reason for that is
17 quite simple, because there are a number of things which
18 I know the Inquiry has heard about this week relating to
19 excess deaths planning, and other provisions which the
20 Pandemic Flu Bill was actually going to bring
21 a conclusion to. So some of those things that weren't
22 actually delivered would have been delivered by the
23 Bill. And as I work very closely with Katharine Hammond
24 in the Cabinet Office, we were both quite concerned that
25 Wales needed to be doing as much as it could in order to

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1 June 2018 there was a senior officials meeting between
2 the UK and Welsh Governments to discuss pandemic
3 influenza preparedness, and the Inquiry has also heard
4 that following that meeting there was an email
5 disagreement between you and Mr David Goulding, the head
6 of HEPU, in respect of feedback that should be relayed
7 to Vaughan Gething as Welsh Minister for Health. With
8 this in mind, can we please bring up
9 exhibit INQ000108484, and specifically page 5, please.
10 Thank you.

11 Mr Kilpatrick, do you have that document in front of
12 you?

13 **A.** I do.

14 **Q.** You should recognise this, I hope, as an email that you
15 sent on 6 July in response to Mr Goulding's summary of
16 the meeting that I've referred to. Is that correct?

17 **A.** That is correct.

18 **Q.** We can see from that email that you were concerned that
19 the Welsh Government had not been adequately engaging or
20 providing a reasonable level of practical support and
21 resource to the UK pandemic influenza review or the
22 workstreams required to progress the necessary and
23 important updates to pandemic guidance, such as the UK
24 influenza preparedness strategy of 2011, and local
25 resilience forum pandemic flu guidance 2013. Is that

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1 bring that wider set of actions to a conclusion.

2 Also, I think we have a great advantage in Wales in
3 that we can draw resource and expertise in much more
4 easily from across, in this case, our NHS planners and,
5 to some extent, from our local resilience planners in
6 local government and so forth, and we shouldn't miss the
7 opportunity to use that expertise in order to do our
8 work and, in this case, to do the work alongside
9 the United Kingdom Government as well.

10 **Q.** Because the risk if that does not happen is that, one,
11 the broader guidance cannot benefit from the Welsh
12 expertise, but also that guidance isn't then framed in
13 a way that is fit for purpose for the Welsh population
14 and Welsh issues; is that fair?

15 **A.** Of course we would want to make sure that any guidance
16 that was produced at a UK level reflected the conditions
17 in Wales and our concerns, because Wales is
18 socio-demographically quite different to parts of
19 England and the UK. So, yes, I think you're right.

20 **Q.** In terms then of the approach that had been evident up
21 until that point when you were raising your concerns,
22 did you have concerns that that suggested an attitude of
23 apathy or complacency in respect of certain departments
24 within Welsh Government?

25 **A.** No, I wouldn't agree that it was apathy or complacency.

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1 I know that the colleagues who were copied in to this
 2 email are extremely diligent and hard working and
 3 understand the breadth and importance of their work.
 4 I think this was an issue that emerged from a particular
 5 meeting and was dealt with in the way that it was,
 6 through the email exchange.

7 **Q.** We can see in terms of the conclusion of that email
 8 exchange that, notwithstanding the concerns that you
 9 raised in respect of resource in particular, the
 10 conclusion was simply to reflect to the Minister for
 11 Health that there was considerable work remaining, no
 12 reference to resource issues. Do you agree?

13 **A.** I agree that's what the email says, but if I might add
 14 that the work on the Pandemic Flu Bill so far as I'm
 15 aware was completed on time to enable the legislation to
 16 be brought into force when it needed to be.

17 **Q.** But insofar as the plans and guidance are concerned,
 18 it's correct, isn't it, that the 2011 strategy was not
 19 updated and neither was the guidance, the 2013 guidance
 20 for local resilience forum pandemic flu updated either,
 21 that didn't happen?

22 **A.** So far as I know, that is correct.

23 **Q.** Despite you having raised concerns about resource, no
 24 further resource was committed to planning for
 25 a pandemic of any kind after you raising those concerns;

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1 **A.** I wouldn't disagree with the Chief Medical Officer on
 2 this point.

3 **Q.** And by continuation of that point, the plans were wholly
 4 inadequate for the pandemic that we then faced?

5 **A.** I think the plans would have been different had we been
 6 working on a different set of assumptions.

7 **MS GOWMAN:** Thank you, Mr Kilpatrick.
 8 Thank you, my Lady.

9 **LADY HALLETT:** Thank you very much.
 10 Thank you very much, Mr Kilpatrick. You are now
 11 free to go. Thank you for your help.

12 **THE WITNESS:** Thank you.
 13 **(The witness withdrew)**

14 **LADY HALLETT:** I'll be back at quarter to.

15 **MS BLACKWELL:** Thank you, my Lady.
 16 **(2.35 pm)**
 17 **(A short break)**
 18 **(2.45 pm)**

19 **LADY HALLETT:** Ms Blackwell.

20 **MS BLACKWELL:** My Lady, please may I call Robin Swann.
 21 **MR ROBIN SWANN (sworn)**
 22 **Questions from COUNSEL TO THE INQUIRY**

23 **MS BLACKWELL:** Mr Swann, thank you for the assistance you
 24 have given to the Inquiry so far. We know you have made
 25 a witness statement which is at INQ000192270, and if we

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1 is that correct?

2 **A.** I'm sorry, I cannot answer that, those would have been
 3 decisions taken in the health and social care department
 4 and I have no knowledge as to how they've subsequently
 5 managed their people or their resources.

6 **Q.** Given that those plans and guidances weren't updated, do
 7 you accept that that contributed to Wales being
 8 inadequately prepared for the Covid pandemic when it
 9 hit?

10 **A.** I think we would have been in a better position had the
 11 plans been updated, I think we would have had a better
 12 understanding of the risks as they currently were at
 13 that time, but ultimately we were working on a set of
 14 assumptions and those plans would have been based on
 15 those assumptions.

16 **Q.** One final question, Mr Kilpatrick. Sir Frank Atherton
 17 within his witness statement to this Inquiry, and this
 18 is at INQ000184902, at page 13, paragraph 55, set out
 19 his view in respect of the plans that did exist in
 20 Wales, and at paragraph 55 we can see that in essence he
 21 set out that the plans were "predicated on a short,
 22 sharp shock; something that would disrupt the normal
 23 functioning of society for days or weeks". Do you agree
 24 that that was the presumption upon which Wales was
 25 operating?

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1 go to page 17, please, we can see that you signed this
 2 on 24 May of this year. Is that true to the best of
 3 your knowledge and belief.

4 **A.** That's correct, yes.

5 **Q.** Thank you, we can take that down, please. And thank you
 6 for coming to give evidence today. Please keep your
 7 voice up, speak slowly into the microphone so that the
 8 stenographer can hear you for the transcript. If you
 9 would like a break at any time, please just say so.

10 **A.** Okay, thank you.
 11 Could I make a brief opening statement, please?

12 **Q.** Yes, please do.

13 **A.** My Lady, thank you.
 14 I just would like to place on record -- as, I think,
 15 the first Northern Ireland politician and former
 16 minister to attend this Inquiry -- to place on record my
 17 condolences to all who were bereaved during the
 18 pandemic, but also to express my thanks and gratitude to
 19 the members of the health service in Northern Ireland
 20 who stood up and helped us during a very trying time.

21 **Q.** Thank you, Mr Swann.
 22 You were leader of the Ulster Unionist Party from
 23 April of 2017 to November of 2019, and you became
 24 Minister of Health at the Department of Health
 25 Northern Ireland on 11 January 2020, just as Covid was

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1 getting a grip across the world.
 2 Before we turn to look at your first day briefing,
 3 I'd just like to establish, please, an overview of the
 4 Northern Ireland Department of Health structures and
 5 roles.
 6 You will know that this morning my Lady heard from
 7 Dr McMahon, the permanent secretary of the
 8 Executive Office, who gave an overview of the
 9 Northern Ireland civil contingencies structures and
 10 guided us through the duties and responsibilities of the
 11 Executive Office, and its various groups in that regard.
 12 But in terms of health, the Department of Health is
 13 the lead government department for pandemic planning and
 14 preparedness, isn't it?
 15 **A.** That's correct, yeah.
 16 **Q.** The department's wider statutory responsibilities sit
 17 under the 2009 Health and Social Care Reform Act,
 18 Northern Ireland, and they include promoting
 19 an integrated system of health and social care,
 20 improving physical and mental health of the people of
 21 Northern Ireland, improving the prevention, diagnosis
 22 and treatment of illness, and improving the social
 23 wellbeing of the people of Northern Ireland.
 24 Thank you.
 25 Is it right, Mr Swann, that the Department of Health

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1 a responsibility for management and policy oversight at
 2 the population health directorate and in improving
 3 public health, didn't they?
 4 **A.** They do, yes.
 5 **Q.** All right, thank you, so that is one of the main
 6 arm's length body groups but there were of course
 7 others, the Northern Ireland pandemic flu oversight
 8 group, the task and finish group, the health emergency
 9 planning forum, the critical threats preparedness
 10 steering group, the joint emergency planning board, and
 11 the joint emergency planning team.
 12 Now, I don't suppose that you got to grips with all
 13 of those on your first day in office. As I've asked
 14 with other witnesses to the Inquiry, is it your view,
 15 having been minister of the department, that there are
 16 too many groups, is there an overlap between the work
 17 that they do, is there a need for simplification?
 18 **A.** I think just to clarify, those aren't arm's length
 19 groups, but they would be bodies within the Department
 20 of Health. Just to clarify that.
 21 **Q.** Right.
 22 **A.** In regards to the number of those groups, I do believe
 23 they provide different functions at different points in
 24 time --
 25 **Q.** All right.

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1 discharges those responsibilities, directly through the
 2 department's own action and also through a series of
 3 arm's length bodies?
 4 **A.** That would be correct, yes.
 5 **Q.** Thank you. One of which, in fact the main arm's length
 6 body I'm going to suggest, is the group of the Chief
 7 Medical Officer, known as the CMO group?
 8 **A.** Yeah.
 9 **Q.** That, since 2006, has been led by
 10 Professor Sir Michael McBride, who my Lady knows is
 11 coming to give evidence to the Inquiry next week.
 12 At the time that the pandemic emerged, in January of
 13 2020, there was a CMO, two deputy CMOs, and three
 14 directorates, the population health directorate, the
 15 quality safety and improvement directorate, and the
 16 pharmacy directorate; is that right?
 17 **A.** That would be correct, yes.
 18 **Q.** Thank you. Did the CMO have a central role in pandemic
 19 EPRR planning in Northern Ireland?
 20 **A.** They would have had -- the Chief Medical Officer is also
 21 a policy lead I think of the directorates that you've
 22 already listed as well but he also has a policy remit
 23 and advice to the Minister of Health but also
 24 the Executive as well and public health issues too.
 25 **Q.** The Deputy Chief Medical Officers also had

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1 **A.** -- due to the scale of Northern Ireland they may contain
 2 the same personnel but wearing different hats at
 3 different opportunities.
 4 **Q.** Did you during your time as minister ever find the
 5 situation confusing or was it always obvious which group
 6 you needed to perhaps approach for a particular --
 7 **A.** In regards to the operation in Northern Ireland because
 8 of, I suppose, the size of the department it was always
 9 clear to me where the advice and guidance were -- was
 10 coming from. If it wasn't, it was just a matter of
 11 asking someone to point me in the right direction to
 12 provide that.
 13 **Q.** The two bodies which bear principal responsibility for
 14 pandemic planning in Northern Ireland are the
 15 CCG (Northern Ireland), which we heard about this
 16 morning, that sits within the Executive Office and, as
 17 we've established, the CMO group which sits, as you've
 18 said, within the Department of Health.
 19 Were you aware when you came into office that the
 20 Department of Health had a responsibility to maintain
 21 and review and update EPRR plans, and also to test and
 22 exercise those plans?
 23 **A.** I wouldn't be aware of it on the first day, but it was
 24 contained in my first day brief, so it was something
 25 that was greatly expanded in -- I suppose in the period

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1 of time since being appointed to actually the pandemic
2 occurring in Northern Ireland, it was something that was
3 brought very sharply into focus.

4 **Q.** Well, let's look, please, Mr Swann, at your first day
5 brief. It's at INQ000188802. If we look at
6 paragraph 3.1, under "Emergency planning":

7 "Under the Northern Ireland Civil Contingencies
8 Framework 2011 the department has been identified as the
9 lead government department for responding to the health
10 and social care consequences of emergencies arising
11 from:

12 "Chemical, biological, radiological and nuclear
13 incidents, disruptions to the medical supply chain,
14 human infectious diseases, [for example] pandemic
15 influenza, and mass casualties.

16 "This requires the department to not only develop
17 and maintain appropriate emergency plans and response
18 arrangements to manage its own response to an emergency,
19 and that of its associated agencies and NDPBs, but also
20 to co-ordinate the interagency aspects of civil
21 protection for those emergencies for which it has been
22 designated lead. In such circumstances the minister
23 would be required to lead, direct and co-ordinate the
24 response for NI, reporting as necessary to the Executive
25 under the Northern Ireland Central Crisis Management

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1 "It is so fundamental to the operation of
2 governments ... We need the direction and control and
3 need the legitimacy that democratic accountability
4 brings to decision-making ..."

5 He went on to say:

6 "... ministers ... see things from the point of view
7 of the person on the ground."

8 Do you agree with his view?

9 **A.** Both politically and personally, yes, I do. I believe
10 firmly in devolution in Northern Ireland, and it's also
11 unfortunate that we're back in that situation again
12 where we don't have a functioning Executive or even
13 a Minister of Health at this point in time.

14 **Q.** So at the time that you became minister you were aware
15 that there had been no ministerial oversight in the
16 preceding three years, and an aspect of that, and this
17 is set out within your witness statement, is that during
18 that period there was undoubtedly a delay of what you
19 describe as "much-needed progress", and that the same
20 could be said, in your view, to have caused a delay in
21 the reform of adult social care; is that right?

22 **A.** That would be correct. Not even just specifically the
23 reform of adult social care, but in 2016 we had a report
24 produced by Professor Rafael Bengoa which set out the
25 direction of transformation that would have been

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1 Arrangements ..."

2 At the time that you were given this briefing, were
3 you provided with any documentation or guidance to
4 expand upon what we see here?

5 **A.** I wasn't at that point. At the time I took up post in
6 January 2011, we were already in the middle of
7 an industrial dispute in Northern Ireland. So our
8 nurses and health workers actually had taken industrial
9 action at the end of 2019. So my first responsibility
10 in the first day brief was actually getting to grips
11 with that and getting that sorted. So in regards to how
12 the rest of the briefings in the first day brief, they
13 expanded over time.

14 **Q.** All right.

15 Another important aspect of you coming into the role
16 of Minister of Health at the Department of Health
17 Northern Ireland at this time is that it ended
18 a three-year hiatus during which time no ministers sat,
19 and one aspect of Dr McMahon's evidence to my Lady this
20 morning was about the absence of ministers over that
21 three-year period of time, and what he told my Lady was
22 that, in his opinion, ministers are crucial and it is
23 a unique position of Northern Ireland, and
24 an unacceptable position, not to have ministers. He
25 went on to say:

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1 possible within our health service, and through those
2 three years, I believe, and I'm a firm believer that
3 there were opportunities that were firmly missed in
4 regards to that period.

5 We also, my Lady, experienced from 2015/2016 through
6 to the present day an ability to be able to look at
7 recurrent budgets. The budget that was set for the
8 Department of Health in Northern Ireland was on
9 a one-year recurring budget, so a lot of the finances
10 that would actually be needed to do that transformation
11 piece within Health and within our health service was
12 lost because of that absence of a functioning Executive
13 or Department of Finance, Minister of Finance or
14 a recurrent budget in Northern Ireland.

15 **LADY HALLETT:** I didn't get the name of the professor, and
16 I don't think the stenographer did either.

17 **A.** Apologies. Rafael Bengoa.

18 **LADY HALLETT:** Bengoa?

19 **A.** Bengoa, yeah.

20 **MS BLACKWELL:** I think it's B-E-N-G-O-A, isn't it? Yes.

21 Thank you, my Lady.

22 So a lack of reform of health and social care, lack
23 of strategic direction, and indeed a lack of long-term
24 planning over that three-year period?

25 **A.** Yeah.

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1 Q. You will have become aware at some point, I would
2 suspect, soon after you appeared in post, of the
3 existence of the 2019 emergency response plan.

4 Let's have a look at it, please, it's at
5 INQ000184662. We can see at the bottom in red the
6 Department of Health emergency response plan version 4
7 updated January 2019. Thank you.

8 This plan is modular, so it is capable of being
9 flexible and scalable, and it's capable of escalation
10 and de-escalation. Do you agree with that?

11 A. I would, yes.

12 Q. It describes the key processes and disciplines necessary
13 in planning for and responding to health crises, and
14 it's based on the principle of preparation, response and
15 recovery with which the Inquiry is familiar.

16 Its range is from short-term emergencies, which are
17 sudden and unexpected, to longer term, they're described
18 I think as rising tide events, such as pandemic
19 influenza.

20 It's underpinned firstly by the Office of
21 First Minister and Deputy First Minister, which is now
22 the Executive Office, and the emergency operations
23 centre standard operation procedures, which are known as
24 SOPs, and *A Guide to Emergency Planning Arrangements in*
25 *Northern Ireland*, and of course the

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1 There we can see the signatures of the two office
2 holders that you've just set out during the course of
3 your evidence. So it was capable of being stood up by
4 either of them.

5 A. Yeah. Because it was an operational plan, so it was
6 allowed -- well, it progressed even during the absence
7 of ministers.

8 Q. Well, indeed, we can see that it was updated to the
9 fourth version in 2019, yes. Let's have a look, please,
10 at page 10. I hope this is the right page reference.
11 Yes.

12 We can see that it follows the integrated emergency
13 management system, which we see at paragraph 1.7. The
14 aims and objectives -- in fact I'm going to go on to the
15 next paragraph, please, at 1.8 -- are:

16 "To deploy and operate an effective and resilient
17 response [thank you] for any emergency that it has been
18 designated the lead government department ...

19 And over the page, please, thank you.

20 "To provide strategic health and social care policy
21 advice or direction in support of the efforts of others,
22 where another department or its arm's length body is in
23 the lead."

24 Thank you.

25 We can see under paragraph 1.9, again this is

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1 CCG (Northern Ireland).

2 Is this the plan that was ready to be activated in
3 Northern Ireland when the Covid-19 pandemic struck?

4 A. This would be the plan that sat within the Department of
5 Health as to how we would respond, and I think
6 an outboarding(?) of it would've actually been when our
7 emergency operations centre was set up on 27 January, so
8 it already shows where sections within this plan were
9 activated quite early and that refers to -- and the plan
10 refers to how our gold, silver and bronze structures
11 actually operate as well. So this was the document.

12 It's a public-facing document, but I think also
13 contained within it, my Lady, is a reference that it can
14 be activated and implemented by the permanent secretary
15 of the Department of Health and the Chief Medical
16 Officer. So it gives that opportunity, because it is
17 an operational plan that it can be operated with the
18 absence of ministers.

19 Q. Well, let's have a look, please, because indeed at
20 page 5 we can see that it's signed by Mr Pengelly, the
21 permanent secretary, and also Professor McBride, the
22 Chief Medical Officer. In fact, that might be on the
23 previous page. No. Is the contents at page 2, perhaps?
24 Or it might be beyond at page 5. There we are, thank
25 you very much, page 6 in fact.

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1 a repetition of what we've just already set out, at the
2 third bullet point there it's an effective and resilient
3 response to any human infectious disease including, we
4 can see there, pandemic influenza. We've confirmed it
5 has scalability and the structure of the document.

6 Can we go to page 32, please. Thank you.

7 Now, we can see at paragraph 4.5 that:

8 "Within the arrangements the ministerial-led CMG,
9 with the authority of the executive to which it reports,
10 as the power to direct the response and commit resources
11 across the Northern Ireland Civil Service. The Civil
12 Contingencies Group Northern Ireland, a multi-agency
13 forum for the development, discussion and agreement of
14 civil protection policy, will support the CMG to
15 co-ordinate the emergency response across the
16 Northern Ireland departments and other public sector
17 organisations."

18 It then says that the CMG's strategic
19 decision-making role includes: directing and
20 co-ordinating the efforts, assessing the wider impacts
21 of events and decisions, identifying the key issues for
22 consequent management and long-term recovery, deciding
23 on the relative priorities to be attached to the
24 management of the various elements, and establishing the
25 strategic direction of the co-ordinated public

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1 information policy.

2 Was all of this in place at the time that the
3 pandemic struck?

4 **A.** In the detail that's described there, I wasn't aware of
5 it, when the pandemic struck, but it was the operation
6 of the entirety of the Executive. We were a newly
7 established body in regards to the Executive being set
8 up in January 2011, so we did operate as a corporate
9 function rather than going into the ministerial-led CMG
10 at that point, so it was more about a co-ordinated
11 response across Executive.

12 **Q.** All right.

13 It goes without saying -- and other witnesses have
14 been asked similar questions about their plans across
15 the four nations -- one of the obvious drawbacks to this
16 plan was the fact that it only related to pandemic
17 influenza in terms of the mention of any pandemic across
18 the course of the whole of the document, and knowing
19 what we do know and looking at that, as we are doing
20 during the course of this Inquiry, it would have been
21 more effective and more comprehensive had it covered
22 other types of pandemic?

23 **A.** I think in regards to what I have been advised the most
24 likely at that point when these plans were being
25 developed was pandemic influenza, so that's where a lot

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1 it's not something that I'd be able to answer at this
2 point, my Lady, but in regards to where that come --
3 there may be somebody who comes.

4 **Q.** All right, we'll ask one of the witnesses next week
5 about that.

6 Can we go to page 24 of the document, please. If we
7 look and familiarise ourselves with this document, we
8 can see along the left-hand column the identifier is
9 DR6. At the top of the page we can see:

10 "The department has a responsibility to ensure the
11 adequate health and social care provision is available
12 to citizens of Northern Ireland in the event of any
13 emergency. The Department of Health is also the lead
14 government department for responding to the health and
15 social care consequences of emergencies from the
16 following categories."

17 Then the penultimate bullet point:

18 "Human infectious diseases."

19 If we go down to the table itself, and look at the
20 second column along, which is headed "Risk", we can see:

21 "The health and social care sector may be unable to
22 respond to the health and social care consequences of
23 any emergency including those for which the Department
24 of Health is the lead government department."

25 Then we can see in the fourth column that the senior

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1 of our structures and responses were based to. I think,
2 knowing what we know now, compared to what we knew then,
3 there would have been a different approach.

4 **Q.** Thank you, we can take that down, please.

5 Moving on to risk assessments and in particular the
6 2019 United Kingdom NSRA, we've seen what I'm going to
7 describe as faults with that, and the focus on
8 particular aspects of pandemic influenza rather than
9 an acceptance that it could be an emerging infectious
10 disease that hit in a pandemic type of situation.

11 But in terms of how that National Security Risk
12 Assessment affected Northern Ireland and was
13 incorporated into Northern Irish plans, could we have
14 a look, please, at INQ000185379, which is the Department
15 of Health departmental risk register for 2018 to 2019.

16 Could we scroll out, please, because one aspect that
17 I want to ask about -- in fact it's not on this version,
18 but on another version of this document that we have on
19 the system, the date in the bottom right-hand corner
20 appears to be September of 2011.

21 Is that because that was the date at which this
22 document was first produced and then recreated as it was
23 reacting to the risk assessments being produced by the
24 United Kingdom?

25 **A.** Unfortunately, without having sight of that document,

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1 responsibility officer is Mr McBride, and we can see
2 that the risk appetite is open, and then there are two
3 columns where we can see the assessment of residual
4 risk: the current risk at the time that this document
5 was produced, as being high, with impact set at 4 and
6 likelihood at 3, but the target risk is 9, which is
7 assessed as being medium, with an impact score of 3 and
8 a likelihood of 3.

9 In the next column along, number 8, we can see the
10 action that's explained, the target date for that
11 action, and the owner of the action, and there are two
12 bullets here. The first is to:

13 "Develop and review strategic frameworks on
14 emergency preparedness and response policies in line
15 with emerging UK policy and best practice."

16 The target date for that is 31 December 2018, the
17 owner of that action being the CMO group.

18 Then the second bullet point is to:

19 "Review and develop pan flu preparedness in
20 Northern Ireland by participating in the UK Pandemic Flu
21 Readiness Board and leading the CCG Northern Ireland
22 subgroup on pandemic flu in Northern Ireland in order
23 to ..."

24 We need to go over on to the next page, please.

25 Contribute to a UK Bill by -- here's the target date --

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1 31 December 2018, CMO group to oversee development of
 2 pan flu guidance for Northern Ireland incorporating
 3 primary, secondary and social care by June of 2019 --
 4 that's for the CMO group in partnership with the policy
 5 G5s across the Department of Health -- to deliver a work
 6 programme to include training, testing and exercising to
 7 ensure clear understanding of roles and responsibilities
 8 of key responders and familiarisation with key
 9 activities and processes -- that's again for the CMO
 10 group to complete by 31 March 2019 -- and:

11 "The management of health countermeasures stock
 12 exchange including replenishment, storage and
 13 distribution arrangements following NHS BSA
 14 cycling/procurement changes."

15 So a series of actions that were planned for, in the
 16 main, the CMO group and other aspects of the Department
 17 of Health and varying dates.

18 Were the actions that were listed here to be
 19 completed by March of 2018 in place and completed at the
 20 time that you came to office?

21 **A.** Would it be helpful if I spoke to maybe some of them
 22 individually --

23 **Q.** Yes, please.

24 **A.** -- in regards to where I have --

25 **Q.** Yes, and if you want to go back to the previous page --

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1 **Q.** In terms of the second bullet point and a contribution
 2 to the UK Bill by 31 December, your evidence is that --

3 **A.** I'm unsure of that being completed by that date, but I'm
 4 aware there was work completed in regards to preparing
 5 for a UK-wide influenza pandemic Bill, that we did use
 6 at a later stage.

7 **Q.** Right. What about the overseeing of a development of
 8 pan flu guidance for Northern Ireland incorporating
 9 various levels of social care?

10 **A.** I believe that was commissioned by the Chief Medical
 11 Officer to be performed by the Public Health Agency and
 12 the Health and Social Care Board. I think that wasn't
 13 actually completed, but there was work commenced in
 14 regards to that. But, again, the CMO could speak to
 15 that with more authority.

16 **Q.** Right, we can ask him about that next week. Again,
 17 delivery of a work programme of training, testing and
 18 exercising?

19 **A.** I'd be unsure if that was completed with that time date.

20 **Q.** Then we will hold that in abeyance until next week.

21 What about the final bullet there, the management of
 22 health countermeasures stockpiles?

23 **A.** I wouldn't be aware of that.

24 **Q.** All right.

25 Were you aware of this risk register when you came

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1 **A.** To scroll back, that would be useful, yeah.

2 **Q.** Yes, that might help. If we can go to page 24, please.
 3 Thank you.

4 **A.** So in regards to the first point, the emergency response
 5 plan was produced and updated in 2019, so if that's what
 6 that point refers to, that piece of work was completed.

7 To review and develop our flu plan preparedness in NI,
 8 by -- again if we can scroll down just to the date. No,
 9 again, by the -- working with the UK, or contribute to
 10 a UK Bill.

11 I'm aware, in regards to the contributions to the
 12 Pandemic Influenza Bill, that that work -- although
 13 there was work conducted in Northern Ireland, that piece
 14 of legislation wasn't completed on a UK-wide basis. No,
 15 the completion of overseeing the development for pan flu
 16 guidance for Northern Ireland including primary care,
 17 from a health point of view, that word again was
 18 included, I believe, to be in our emergency response
 19 plan --

20 **LADY HALLETT:** Could you speak a little slower, Mr Swann?
 21 I'm really sorry.

22 **A.** Apologies. Apologies.

23 **MS BLACKWELL:** So the first bullet point had been completed,
 24 and we've seen the date on the plan.

25 **A.** Yeah.

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1 into office?

2 **A.** I wasn't, no, and nor was it part of my first day brief.

3 **Q.** No. Did you become aware of it during your time in
 4 office?

5 **A.** Not in that detail, no.

6 **Q.** Right. All right.

7 Would you have expected to, now that you know what
 8 it includes, or would you only expect to have been
 9 briefed on the matters that were arising during the
 10 course of your place as minister?

11 **A.** I think it would be for the appropriate official to
 12 brief me in regards to the risks that were associated
 13 but also what actions had been taken. The Chief Medical
 14 Officer is the owner of the risk, for us, the corporate
 15 responsibility sits with --

16 **Q.** Yes.

17 **A.** We have an audit and risk committee within the
 18 department's board in regards -- which the risk
 19 assessment finally goes to, I believe.

20 **Q.** Were you ever briefed about any of the issues that we've
 21 just discussed?

22 **A.** In regards to the specific issues, I'm aware of them
 23 being completed, in regards to the first ones I was able
 24 to speak to in this evidence session, as to an update in
 25 my role as minister. But in regards to the other ones,

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1 the specific fact they're on this risk register was
2 never brought to me to say, "Look, this is where they
3 come from", but it was more about the actions that we
4 were taking --

5 **Q.** Right.

6 **A.** -- in regards to pandemic.

7 **Q.** All right.

8 Did you become aware during your time in office of
9 the United Kingdom preparedness strategy from 2011?

10 **A.** I was made aware of it, but not prior to the pandemic
11 actually kicking off because, as I think has been made
12 clear, I only came into office in January 2020.

13 **Q.** Were you also aware that that strategy had been adapted
14 for Northern Ireland in the HSE pandemic influenza
15 preparedness and response guidance?

16 **A.** I am now because, like many documents or strategies that
17 commence with a UK structure, there are certain
18 intricacies in regards to the Northern Ireland health
19 and social care structure that they do have to be
20 tailored to meet our specific needs and our specific
21 structures, and that's what I believe the 2013 document
22 to be.

23 **Q.** Let's have a brief look at it, please, it's
24 INQ000188767. If we can go to page 6, please, when we
25 see the document on the screen. Thank you. Page 6,

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1 Elsewhere and before today, Mr Swann, you've
2 expressed a view that Stormont had let down the NHS in
3 Northern Ireland because it had not looked after health
4 and social care services as well as it could, and that,
5 in your view, vital services had been underfunded,
6 short-term decisions were preferred over long-term
7 planning, difficult choices were ducked and staff were
8 left to feel unappreciated with social care being
9 particularly neglected.

10 Do you stand by that view?

11 **A.** I do, and that's actually a direct quote from my
12 statement, and I still believe that.

13 **Q.** Right. In what sense do you believe that vital services
14 had been underfunded and adult social care had been
15 neglected?

16 **A.** In regards -- it goes back to the earlier point I made:
17 we were working with a single year budget from
18 2015/2016, up until today we've had numerous reviews in
19 regards to different aspects of our health and social
20 care service across Northern Ireland that have been --
21 failed to be enacted, again, part of the challenge being
22 the recurrent budget that allows us to do the
23 transformation pieces that we actually need.

24 So ... and again going back to the Bengoa report
25 of 2016, it referenced about how we needed transitional

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1 please. Thank you.

2 We can see in the top third, about a quarter of the
3 way down, the UK strategy outlines -- thank you -- three
4 main principles that must underpin planning and
5 response: precautionary, proportionality and
6 flexibility; and, in terms of flexibility, plan for the
7 capacity to adapt to Northern Ireland circumstances that
8 may be different from the overall UK picture, for
9 instance in hotspot areas.

10 Now, as Health Minister, were you aware that,
11 certainly so far as civil contingencies and planning for
12 any risks or threats or hazards that might arise, and
13 indeed for those that came within the Department of
14 Health as lead government department, that it was
15 appropriate and necessary to take whatever was present
16 in the United Kingdom-wide guidance and adapt it to the
17 particular circumstances as they might appear to be in
18 Northern Ireland?

19 **A.** Yes, because as part of a devolved administration and as
20 a devolved health minister, that's what I believe our
21 role was, was to take that overall UK guidance but make
22 sure that it was usable, that it was adaptable, and it
23 was actually relevant to the structures within
24 Northern Ireland.

25 **Q.** Thank you, we can take that down now.

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1 funding to be able not just to run the health service
2 that we had, but also to make those changes of health
3 service and health service delivery that needed to be
4 done, still needs to be done. But the challenge came
5 back to the fact that we were continually working with
6 the single year non-recurrent budget.

7 **Q.** When you said that short-term decisions were preferred
8 over long-term planning, could we interpret that as
9 including the fact that pandemic planning, as an example
10 of long-term planning, was something that was being
11 overlooked in preference to short-term decisions?

12 **A.** I don't think so, in regards to what I've seen from the
13 response from officials, and I think that's evidenced
14 once again in our emergency response plan, as to how it
15 actually indicates that decisions can be taken and taken
16 forward in regards to decisions taken by the Chief
17 Medical Officer, by the permanent secretary, in the
18 absence of a minister. So in regards to those pieces of
19 work which were operational, I don't think that had
20 a direct effect.

21 **Q.** Did you hear the evidence or read the evidence of
22 Dr McMahon this morning when he was asked to consider
23 what Mr Keith described to him as failures within the
24 civil contingencies system and which prompted Dr McMahon
25 to say, "I would agree that there were system failures,

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1 I would agree that if what we were trying to do is to
 2 protect life and to keep society running, then those
 3 failures are important because the work that we are
 4 doing is important and it's important that we do it as
 5 well as we can for the people that we serve"?

6 **A.** Well, our responsibility is to serve the people of
 7 Northern Ireland, that was my role as Minister of Health
 8 for Northern Ireland in regards to that. But maybe
 9 going back to my previous answer, where we were ready
 10 for some of the aspects of pandemic planning, I think
 11 the aspects where we'd actually failed to invest and
 12 reform our health service had an adverse effect on how
 13 we responded, as a Department of Health and as
 14 a society, in regards to those additional supports that
 15 we had.

16 So when I came into office in 2020, in January 2020,
 17 we had the worst waiting lists across the
 18 United Kingdom; we still have the worst waiting lists.
 19 So in regards to the adverse health effects on the
 20 people of Northern Ireland, there were those decisions
 21 that were ducked, that were missed, that could have been
 22 taken should we had a functioning Assembly.

23 **Q.** So putting the planning to one side, your evidence is
 24 that the state of the health service at the time that
 25 Covid hit meant that it couldn't be described as being

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1 Health England, Department of Health] and
 2 Cabinet Office) caused difficulties. For example papers
 3 for Cabinet Office Briefing Room meetings were not
 4 received in advance of the meeting; timescales for
 5 clearing papers were unrealistic; unnecessary requests
 6 for information copied to Northern Ireland; and there
 7 were decisions made on a [United Kingdom] basis where no
 8 communications appear to have taken place."

9 Do you recognise this complaint?

10 **A.** I don't, following from Operation Cygnus, it's not
 11 something that has been brought to my attention, but it
 12 would be -- it would be timely and also recognised in
 13 some of the meetings that we did have during the
 14 pandemic as well in regards to what was expected from us
 15 as a Department of Health in Northern Ireland in
 16 responding to Cabinet Office briefing requests --

17 **Q.** Right.

18 **A.** -- in regards to the scale or the depth of response, in
 19 regards of the size of the team that we were actually
 20 working with.

21 **Q.** Were the concerns that we see expressed in this
 22 paragraph brought to the attention of the Cabinet Office
 23 or those who were responsible for making what are
 24 described as unrealistic and unnecessary requests?

25 **A.** As -- I think as you said, this was following

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1 fit to undertake the necessary additional surge capacity
 2 that was required for the pandemic to be fought on any
 3 proper footing?

4 **A.** No, our surge capacity came from re-directing and
 5 standing down some other services because we did not
 6 have additionality --

7 **Q.** Yes.

8 **A.** -- within the health service and that's why we had,
 9 again, the waiting list challenges that we already had.
 10 In regards to our staff, as I said earlier, we'd already
 11 seen industrial action taken by the nurses in
 12 Northern Ireland, the first industrial action that they
 13 had ever taken, and that was back 2019/2020, my Lady.
 14 So it looks back to that point about the challenges that
 15 the health services -- or health service in
 16 Northern Ireland was actually under, and it was
 17 preceding and due to that three-year political hiatus.

18 **Q.** I want to look at, please, the Northern Ireland reaction
 19 to Exercise Cygnus, and we can see the lessons learned
 20 report from the Department of Health Northern Ireland at
 21 INQ000188775. Thank you. If we can go to page 8 --
 22 we're there, thank you very much, you're ahead of me --
 23 paragraph 2.2.4:

24 "A number of participants commented that
 25 communications with colleagues in England ([Public

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1 Operation Cygnus, I can't speak to that --

2 **Q.** All right.

3 **A.** -- I'm unaware if they were or not, but --

4 **Q.** But from --

5 **A.** -- I would assume they would have been.

6 **Q.** All right. But from your experience, is that something
 7 that you, firstly, recognise and, if you do recognise
 8 it, is it something that you brought to the attention of
 9 your colleagues in Whitehall?

10 **A.** Yeah, it would have been something that would have been
 11 raised during our meetings. We met often as the four
 12 health ministers from across the United Kingdom, which
 13 were actually good and productive meetings at that time,
 14 where they expanded to other areas --

15 **LADY HALLETT:** But we have moved to the response now,
 16 haven't we? We've moved to the pandemic.

17 **A.** I apologise.

18 **MS BLACKWELL:** Okay.

19 I suppose I'm trying to reflect back from the time
 20 that you were in office. Were you aware that these
 21 problems existed, that there were concerns about the
 22 unrealistic nature of what was being asked back in 2016?

23 **A.** I was not --

24 **Q.** All right.

25 **A.** (Inaudible)

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1 Q. Okay. Well, then I won't ask you any further on that
2 topic.
3 I want to ask you about the task and finish group
4 that was established in the Department of Health. What
5 was the aim? I think it was established in 2019. Was
6 it established for a particular purpose? I appreciate
7 it's before you came into office, but it must have been
8 established at the time that you took over as minister.
9 A. That was in regards to the flu --
10 Q. Yes.
11 A. -- preparedness task and finish --
12 Q. Yes.
13 A. I think it was just to make -- following the emergency
14 response planning and setting that out, it was how we
15 were able to react to what was recommended in that point
16 of view, so it was a very -- our task and finish is
17 a short, sharp piece of work, I believe it was
18 commissioned by the Chief Medical Officer at that time.
19 So 2019 was also, you know, in regards to the emergency
20 response plan, but my time as minister as well.
21 Q. All right. Are you aware from the time that you were in
22 office of whether or not it completed its task and
23 finished?
24 A. I'm not --
25 Q. All right.

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1 A. I do, but I should also point out that in regards to
2 some of the responses we already have that corroboration
3 on a Northern Ireland/Republic of Ireland relationship
4 in regards at a professional level but also at
5 operational level --
6 Q. Right.
7 A. -- in regards to how our fire service interact, how our
8 ambulance service interact, we have a number of
9 all-island health provisions, we've a cancer centre in
10 the northwest that is positioned actually in Londonderry
11 within Northern Ireland, that covers people from the
12 northwest of the Republic of Ireland, our all-island
13 children's cardiac surgery is performed in Dublin for
14 all the children born on the island.
15 So we have a number of responses there. In regards
16 to -- and I think that touches on, you know, that
17 emergency response, my Lady -- in regards to: there was
18 an incident in Creeslough where a petrol station
19 actually blew up by accident, and the first
20 responders -- some of the first responders were actually
21 fire brigade and ambulance service from
22 Northern Ireland, such as they'd already cross-border
23 working in regards to that.
24 In regards to how we take the next step in response
25 to a greater pandemic response, there is -- and I think

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1 A. -- in regards to --
2 Q. Then we'll ask that question of other witnesses who are
3 due to come next week.
4 The final matter which I want to seek your views on,
5 please, Mr Swann, is something that we see in the
6 witness statement of Professor McBride. It's at
7 INQ000203352, and if we can go to page 7, and
8 paragraph 20. Thank you, it's at the bottom of the
9 page. He says:
10 "I also believe there would be significant benefit
11 in conducting such testing of emergency response plans
12 and joint exercises on a North/South basis involving
13 respective Northern Ireland and [Republic of Ireland]
14 health departments, expert advisory arrangements and
15 other relevant government departments. While a matter
16 for respective Ministers, given the cross jurisdictional
17 dimensions, the experience of the Covid-19 pandemic
18 would suggest that consideration should be given to
19 testing such arrangements at a [United Kingdom]/Ireland
20 level."
21 We will indeed ask Mr McBride when he comes
22 next week to expand upon what he says there but, either
23 in a personal capacity or in your time as minister, do
24 you see there being a benefit of what is being suggested
25 there by Professor McBride?

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1 it's in Dr McBride's statement there -- at a UK/Ireland
2 level there will be, I think, a need that that should be
3 at a governmental level, so both with UK Government and
4 government in Dublin in regards to how we respond as two
5 nations.
6 That interaction was requested -- and I know I'm
7 diverging, my Lady, and I apologise -- but there was
8 correspondence between the First Minister and Deputy
9 First Minister at a point actually to establish the
10 British-Irish Council as to see how we could come
11 together as these islands in response to where we were
12 actually during the pandemic.
13 MS BLACKWELL: Right. Thank you very much.
14 My Lady, that concludes my questioning. I think
15 you've provisionally provided permission for Covid
16 Bereaved Families for Justice Northern Ireland to ask on
17 a topic. I'm not going to suggest that I know how long,
18 but I suggest it might be five or --
19 LADY HALLETT: I do.
20 MS BLACKWELL: Okay, well, then that's all that matters.
21 LADY HALLETT: Mr Lavery does as well, don't worry.
22 Thank you, Mr Lavery.
23 Questions from MR LAVERY KC
24 MR LAVERY: Thank you, my Lady.
25 Mr Swann, my name is Lavery, and I represent the

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1 Northern Ireland Covid-19 Bereaved Families for Justice,
2 and her Ladyship has permitted me to ask you a couple of
3 questions about the scientific input into your
4 ministerial role.

5 Now, I understand that in paragraph 14 of your
6 statement -- well, first of all, you didn't come into
7 the role until January 2020, and you say that it's
8 difficult for you to comment on the efficacy of the
9 systems, processes and structure that were put in place,
10 but you do reference the Chief Medical Officer and his
11 experience with H1N1, and you say that that helped you
12 with the Covid responses, his experience of that, so
13 I want to ask you a couple of questions about that.

14 You don't -- in the absence of any substantial
15 reference to scientific input, in your statement, do you
16 accept that there was a worrying lack of scientific
17 input into the approach to pandemic preparedness for
18 Northern Ireland?

19 **A.** Not in regards to what I've seen in regards to the input
20 from our Chief Medical Officer and how he interacted
21 with colleagues across the United Kingdom in regards to
22 the papers that did come back. I think there is
23 a deficit, my Lady, in regards to when SAGE was
24 initially stood up, that Northern Ireland didn't have
25 direct representation on that, and I think that is

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1 participate at a level playing field in regards to the
2 rest of the devolved administrations and indeed our
3 government in Whitehall.

4 **Q.** Because this must have had an impact on the flow of
5 information coming from a UK level, and in fact the
6 Inquiry heard evidence about horizon scanning from
7 witnesses earlier on in this module. Are you aware of
8 horizon scanning as a concept, and whether or not that
9 took place in Northern Ireland prior to the pandemic?

10 **A.** In regards to horizon scanning, I am aware of the
11 premise. In regards to where it took part or who took
12 part in it, in regards to Northern Ireland, in regards
13 to pandemic, I can't speak to that at this point in
14 time, and again the Chief Medical Officer I think would
15 be better placed to that.

16 **Q.** Because, again being more specific, Sir Patrick Vallance
17 spoke about this in his evidence to the Inquiry on
18 22 June and said about horizon scanning:

19 "... I don't think it's just to give the science
20 advice that's been requested, it's also the science
21 advice that needs to be given, because if you just wait
22 to be asked it again goes to the paradigm that assumes
23 that the people asking know what the science advice
24 needs to be."

25 In that context, Professor Young was the Chief

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1 something in regards to future iterations of that body
2 that Northern Ireland and indeed all the devolved
3 administrations should have automatic representation on
4 that body.

5 **Q.** I was going to ask you about SAGE, and in fact
6 Northern Ireland had no right to representation on SAGE
7 prior to 29 March 2020, and in fact the Chief Scientific
8 Adviser, Professor Young, was denied membership of the
9 CSA UK network; the Senior Medical Officer for NI only
10 had observer status, with no speaking rights, at the
11 Joint Committee on Vaccination and Immunisation; and
12 Northern Ireland only had observer status at the
13 Advisory Committee on Dangerous Pathogens meetings.

14 Do you think, then, that Northern Ireland -- I think
15 you were suggesting this -- was at a distinct
16 disadvantage then in terms of planning and preparedness
17 when it came to the rest of the UK because of absences
18 from these organisations?

19 **A.** I think I would want to caveat in regards to the advice
20 that came from those organisations were disseminated
21 through our Chief Medical Officer and Chief Scientific
22 Adviser and analysed at that point, but do I think
23 should they had an automatic speaking right, attendance
24 rights? Yes, I do, because I think it's important that
25 the devolved administrations have the ability to

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1 Scientific Adviser from 2015, and he said in his
2 evidence -- I don't know whether you have had
3 an opportunity to consider his statement?

4 **A.** I've read his statement, yes.

5 **Q.** He said in that that he did not provide any scientific
6 advice to any government official in the five years
7 prior to the pandemic, and the reason he gave for that
8 was that nobody had asked him.

9 **A.** I can't speak to what was before my time, but I do know
10 that Professor Young was a key member of the team that
11 provided me advice during my time as Minister. He was
12 also attendant and attended a number of Executive
13 meetings and gave advice and guidance to the Executive
14 directly in regards --

15 **Q.** But, as her Ladyship will point out, we're dealing with
16 the period prior to that, the preparedness period, and
17 you came in then as Minister just a few months before
18 the pandemic arrived. Do you consider that to be
19 an acceptable position, that no scientific advice had
20 been given from 2015?

21 **A.** Well -- and I think, as you've pointed out, I came into
22 office in January 2020 -- so I think that our Chief
23 Scientific Adviser, as I've said earlier, should be
24 involved in those conversations automatically as right,
25 and Northern Ireland should be an equal partner in

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1 regards to what advice, guidance or information can be
 2 sought.
 3 **Q.** But would you be happy about that as the incoming
 4 Minister?
 5 **A.** No, in regards -- in 2015 I was unaware that he hadn't
 6 been asked for that for five years. Certainly, as
 7 I say, in my role, since I took up office in
 8 January 2020, Professor Young as our Chief Scientific
 9 Adviser and indeed his deputy actually provided advice
 10 and guidance, not just to me as Health Minister but also
 11 to the Executive as a whole.
 12 **Q.** Talking about before?
 13 **A.** Yeah.
 14 **Q.** And now that you know it?
 15 **A.** No, it wasn't acceptable that he wasn't involved at that
 16 stage because he was a key -- as I'm saying, he was
 17 a key part to my team and how I responded and did my
 18 job.
 19 **MR LAVERY:** Yes. Thank you.
 20 **LADY HALLETT:** Thank you very much, Mr Lavery.
 21 **MS BLACKWELL:** My Lady, that completes Mr Swann's evidence.
 22 **LADY HALLETT:** Thank you very much indeed for your help,
 23 Mr Swann. We may, I suspect, meet again, but next time
 24 it will be in Northern Ireland.
 25 **THE WITNESS:** Thank you, my Lady.

1 **LADY HALLETT:** Thank you.
 2 **THE WITNESS:** Thank you.
 3 **(The witness withdrew)**
 4 **MS BLACKWELL:** Thank you, my Lady, that completes the
 5 evidence for this week.
 6 **LADY HALLETT:** Thank you very much, everyone. I shall sit
 7 again at 10.30 on Monday.
 8 **MS BLACKWELL:** Thank you.
 9 **(3.38 pm)**
 10 **(The hearing adjourned until 10.30 am**
 11 **on Monday, 10 July 2023)**
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