

Witness Name: Department of Finance

Statement No.: 2

Exhibits:

Dated:

UK COVID-19 INQUIRY

WITNESS STATEMENT OF THE DEPARTMENT OF FINANCE

I, Tony Simpson, will say as follows: -

1. As a senior Civil Servant and Director of Strategic Policy and Reform in the Department of Finance, I have responsibility for the provision of strategic economic, financial and fiscal policy advice to the Finance Minister and Accounting Officer; and leading, supporting and enabling public sector reform. I am also responsible for the delivery of European Structural and Investment Funds.
2. In my first statement for Module 1, I set out the structure of the devolved government and the role and responsibilities of the Department of Finance (DoF) and Finance Minister. The statement also sets out the Department's responsibilities for advising the Northern Ireland Executive and Assembly on the control and management of all public expenditure resources.

Pandemic Planning

3. As I outlined in my first statement, overall civil contingency policy and strategy co-ordination is the responsibility of the Executive Office (TEO) which provides the NI Executive with immediate oversight of cross-cutting civil contingency arrangements for devolved matters. TEO have published a NI Civil Contingency Framework 'Building Resilience Together' which sets out the Northern Ireland arrangements for effective emergency management, identifying the processes involved in preparing for, responding to, and recovering from an emergency. It

cannot be prescriptive in terms of the incidents it outlines but provides generic guidance for all types of emergencies. Given that the policy and strategy has been and continues to be in place, the operational implementation and day to day business of the machinery of Government will proceed as required, whether Ministers are in situ or not.

4. Whilst there was no Executive in place between 2017-2020, this had little effect on civil emergency planning or pandemic preparedness or readiness. TEO have advised that there were no instances of the activation of the Northern Ireland Central Crisis Management Arrangements (NICCMA). However, the Civil Contingency Group (NI) did meet in response to Storm Ophelia in 2017. This was chaired by the then Head of the Civil Service, Sir David Sterling. This would not have been referred to Ministers if they had been in place, as this was a routine operational matter.
5. As outlined, TEO leads on civil contingency policy and they have outlined that the only significant civil contingencies policy matter that arose during that period when there was no Executive in place, was the proposed development of the UK-wide Pandemic Influenza Bill. If Ministers had been in post then the matter of the extension of the scope of the Bill to cover Northern Ireland would have been referred to Ministers and the Executive for consideration by TEO. In addition, the Northern Ireland Assembly would have been invited to approve a Legislative Consent Motion, under the Sewell Convention. Whilst the proposals regarding the scope of the Bill would have been circulated to all Executive Ministers for comments, it is unlikely that DoF would have stepped beyond what was being proposed by the Department responsible for the policy area.
6. It is acknowledged that whilst the policy and strategy were in place, officials would have been unlikely to amend or progress further any work regarding policy and strategy, unless urgently required, as they were matters for Ministers to consider. If that had been the case, in the absence of Ministers, TEO could have sought to deploy the powers under the Executive Formation and Exercise of Function (EFEF) Act 2022 [then 2019]. Emergency Planning is also Westminster-led across the four nations, therefore ultimately, TEO officials could look to Westminster to

lead on any legislation that might have been required in the absence of an Executive, should that need have arose, as they can legislate in a way which is unique to Northern Ireland. TEO have informed DoF that this did not arise in the period from 2017-2020.

7. I understand that TEO has updated the Inquiry on one of the recommendations of Operation Cygnus being the introduction of more legislation and that this prompted the development of the Pandemic Flu Bill in 2017. In response to the recommendations from Operation Cygnus a cross-government Pandemic Flu Preparedness Board (PFRB), attended by TEO representatives, was established in May 2017 to provide oversight for a UK-wide programme to deliver plans and capabilities to manage the wider consequences of pandemic influenza. Therefore, one effect of the absence of Ministers is that they may have been asked, whilst in office, to comment on draft clauses as officials proceeded with the drafting.
8. On the assumption that the draft Bill included clauses specific to NI on transferred matters, I agree that it would certainly have been referred to Ministers (had they been in post) and to the Executive (cross-cutting), not least because a Sewel Convention Legislative Consent Motion ought to have been required. Equally, NI input on reserved or excepted matters would have been put to Executive Ministers for approval. However as previously outlined, DoF would have had limited input into these clauses, given that it was led by TEO.
9. I understand from TEO that the Cabinet Office issued instruction that work on the legislation should be accelerated to transform the Pandemic Flu Bill into a Coronavirus Bill and the Department of Health (DoH) locally lead on this. TEO co-ordinated the remaining departments' legislative responsibilities including DoF relating to the registration of deaths. This entailed the Deputy Registrar General, working with the Office of Legislative Counsel from January 2020 on finalising Section 18 (schedule 13, Part 3) of the Coronavirus Bill and Act. This allowed for provisions to be enacted so that the deceased could be managed throughout the pandemic period with respect and dignity. The provisions included that vital documents relating to death could be transferred electronically rather than in person between stakeholders. It also amended who could sign the Medical

Certificate of Cause of Death however as was previously the position, all unnatural deaths were still reported to the Coroner.

10. TEO have informed DoF that it was always the intention of the four Nations to progress one composite UK-wide Bill. In terms of seeking local agreement (both Executive and NI Assembly), TEO have updated that the intention was to use the normal Legislative Consent procedure. In the potential absence of an Executive and Assembly, this would not necessarily have stopped the legislative process, as the UK Government could have proceeded to legislate on behalf of Northern Ireland if it so wished.
11. DoH have updated that in the end, circumstances dictated that there simply was not enough time to wait for the Health Minister to go through the normal LCM procedures. The Bill passed through UK Parliament (19 -22 March 2020) before the NI Health Minister had a chance to bring the motion to the NI Assembly (24 March 2020) seeking its agreement to the NI Clauses being included in the UK-wide Coronavirus Bill.
12. The Inquiry is also keen to understand whether there would have been a difference in preparation for Covid-19 if a functioning Executive had been in place. This is difficult to assess as there is no evidence to suggest that things would or would not have been carried out. However as outlined in paragraph 7, Ministers may have wished to comment or provide input into the Pandemic Flu Bill.

UK Departure from the European Union (EU)

13. As previously advised in my first statement, in the preceding period to EU Exit, to ensure preparedness, a strategic level response was developed by TEO, namely C3 Contingency structures. DoF provided input to the TEO-led C3 Contingency Programme (C3). The Department set up its own Department Operation Centre (DOC) and developed Standard Operating procedures aimed at providing guidance to DoF DOC staff to effectively support the NI Hub and CCG(NI) to mitigate and manage the impacts of EU exit from a DoF perspective. As part of the operation of the DOC, a regular situation report was provided to the TEO central

DOC in line with the required reporting schedule as with other departments. DoF and all other NI Departments put in place contingency structures and undertook training. This enabled effective coordination and responsiveness by the Department in obtaining direct line information to and from business areas, and similarly to enable the flow of information, through the situation reports, between DoF and the central contingency group and TEO.

14. The impact of this within the Department was the need to identify staff resource to support the structures and to ensure agreement with management that staff would be released from their current posts. However this was advantageous to the Department, as it meant that a range of grades of staff were trained in dealing with emergency responses. This created resilience in the teams and a transferable skill for future posts.
15. These C3 structures were similarly adopted at the start of the COVID pandemic and used on a similar basis as with BREXIT. Staff involved in the C3 Contingency Programme Training were able to staff the DoF COVID-19 Departmental Operational Centre (DOC). These contingency structures were then used in response to the Covid Pandemic including the use of situation reports meeting any required schedule of reporting.

Relationship with Republic of Ireland (RoI) and other bodies

16. The Department did not and does not carry out collaborative work in relation to pandemic planning and preparedness with the Republic of Ireland. These arrangements are managed by TEO and DoH who lead on this and any cross-border working.
17. I understand the Inquiry are interested in the Department's role regarding the North South Ministerial Council (NSMC). You may be aware that this was established under the Belfast/Good Friday Agreement (1998) and develops consultation, co-operation and action within the island of Ireland. There are a number of sectoral meetings which take place, one of which is Health and Food Safety. This is attended by the Health Minister with a supporting Minister to meet cross

community requirements. The Finance Minister does not attend the Health and Food Safety meetings. NSMC meetings do not take place when the NI Executive is not in place.

18. The Inquiry will be aware that in 1998 the Belfast or Good Friday Agreement established the British-Irish Council (BIC). The Council's objectives are wide-ranging, but in general it was to further promote positive, practical relationships among the people of the islands; and to provide a forum for consultation and co-operation. Attendance at these meetings is coordinated by TEO on behalf of the NI Executive. An individual Minister of the Executive only considers attending if there is a matter for which they are responsible for on the agenda. During the period outlined in the scope of this Module, the Finance Minister did not attend a Council meeting, and so was not involved in any health-related work or discussion. During the suspension of the Assembly, and in the absence of Executive Ministers, DoF officials were not asked by TEO to attend any meetings of the British Irish Council.

Learning Lessons

19. The Inquiry have also asked the Department to consider the effect of the Ministers being absent on lessons learned regarding pandemic planning. As TEO are the strategic lead for this area of work, any assessment or evaluation would have been brought forward by them and circulated to Departments. An example of this was provided in my first statement, paragraph 21, when TEO carried out a review following the Swine Flu pandemic in 2009. On that basis, there would have been no effect of having no Finance Minister in place on learning lessons or implementing changes regarding pandemic planning and preparedness.

Statement of Truth

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

Personal Data

Signed:

Dated: 17 April 2023