

- a. Witness Name: Sir David Sterling
- b. Statement No.:
- c. Exhibits:
- d. Dated:

UK COVID-19 INQUIRY

WITNESS STATEMENT OF SIR DAVID STERLING

I, David Sterling, will say as follows: -

Personal History

2. I joined the Northern Ireland Civil Service (NICS) in February 1978. I served in a variety of grades and roles from then until March 1996 in the Police Authority for Northern Ireland (PANI) and the Northern Ireland Office (NIO). I was promoted into the Senior Civil Service (SCS) in 1996 working in PANI, the Department of Finance and Personnel (DFP), the Department of Regional Development (DRD) and the Department of Enterprise, Trade and Investment (DETI) before being promoted to Permanent Secretary (Grade 2) in DETI in October 2009 where I served until 30 June 2014.
3. On 1 July 2014 I was transferred to the post of Permanent Secretary DFP, (now known as the Department of Finance (DoF)). I was appointed Head of the Northern Ireland Civil Service (HOCS) on 14 June 2017 following a competition held in autumn 2016. The appointment was initially on an interim basis following the collapse of the NI Executive in January 2017. The appointment was confirmed as substantive by the First and deputy First Ministers following the return of the Executive in 2020. I announced my intention to retire on 6 January 2019 and subsequently retired from the NICS on 31 August 2020.

My Role as Head of the Northern Ireland Civil Service and the Permanent Secretary of the Executive Office between 2017 and 2020

4. As HOCS I fulfilled three broad functions as:

- a. Secretary to the Northern Ireland Executive in which role I was principal advisor to the First Minister and deputy First Minister across the full range of Executive functions;
 - b. Head of the Executive Office (TEO) in which role I chaired the TEO Departmental Board. In this role I was responsible for the management of the Department in support of ministers and their objectives including the management of all civil servants in the department (however, for historical reasons, I was not the Accounting Officer for the Department. That role was discharged by Mark Browne (see below); and
 - c. Head of the Northern Ireland Civil Service (NICS) in which role I chaired the NICS Board which met monthly.

5. In my departmental role I was supported by several staff who reported to me. In January 2020 these were:
 - a. Andrew McCormick: who was Director General (Grade 2) of International Relations and Exit from the EU;
 - b. Brenda King: who was First Legislative Counsel and head of the Office of the Legislative Counsel;
 - c. Mark Browne (Grade 3): who was head of Good Relations and Inclusion. Mark was the Accounting Officer for TEO;
 - d. Karen Pearson (Grade 3): who was responsible for Brexit preparations; and
 - e. Chris Stewart (Grade 3) who was responsible for Executive Support which included the Executive Secretariat, Executive Information Services, Programme for Government preparations and Civil Contingency Policy Branch (CCPB).

6. I was the First Minister and deputy First Minister's principal advisor with ultimate responsibility for all advice provided by the Department. I discharged that responsibility by ensuring that processes and internal controls were in place for officials to provide appropriate advice on my behalf. On any given issue I sought to ensure that it was clear to the Ministers that there was a lead official who would be responsible for providing advice on the relevant issue. The lead official would normally be the head of the relevant division or business area and almost always a member of the SCS.

7. The lead official would normally be supported by an appropriate team including specialist advice if this is considered necessary. It was then the role of the lead official to take responsibility for the advice provided to the Minister. This did not diminish my ultimate personal responsibility however I only became personally involved when:
 - a. Officials consulted me to seek my views on any particular matter before advice was finalised;
 - b. I chose to become directly involved in the development of advice on any matter for example if I considered it to be a sensitive or contentious issue which, perhaps, cuts across the work of another department or was of central concern to a Minister; and/or
 - c. Ministers asked for my personal advice or requested that I take a particular interest in an issue because of its sensitivity or priority.
8. This was the broad approach I took in my role as a Permanent Secretary from October 2009 until June 2017 and in my role as HOCS from June 2017 until my retirement in August 2020.

The Systems, Processes and Structures for Pandemic Preparedness in Northern Ireland

9. The TEO Module 1 Corporate statement provides a comprehensive description of the systems, processes and structures for pandemic preparedness in Northern Ireland during the period under consideration within Module 1 of the Public Inquiry. The evidence provided is consistent with my own recollection of the NICS's state of preparedness for a pandemic at the time.
10. Civil contingency planning processes were devolved to Northern Ireland, however my recollection was that custom and practice in Northern Ireland's was to remain in broad alignment with GB policy and best practice. Hence my recollection was that our broad aim was to ensure that the systems, processes and structures for pandemic preparedness in Northern Ireland were aligned with those operating in GB. I also understood that, to this end, there was regular liaison between relevant NICS departments and their counterparts in Whitehall and Scotland and Wales. Within TEO my expectation was that there would be effective cooperation with the Cabinet Office civil contingencies teams.
11. The TEO Corporate Statement provides a description of how the NICS

Northern Ireland Civil Central Crisis Management Arrangements (NICCMA (TEO/208 – INQ000086924)) engage with the GB civil contingencies governance arrangements, including the linkages to the Northern Ireland Office Briefing Room (NIOBR) and the Cabinet Office Briefing Room (COBR). The description of these arrangements set out in detail in Part 2 of the TEO Corporate Statement accords with my understanding of how these relationships were meant to operate in practice.

12. I was familiar with the NICCMA protocol and arrangements. These were not brought into operation during the period from 2017 to 2020 when the Executive was absent although I did activate CCG (NI) in October 2017 in response to a severe weather event known as Storm Ophelia. I chaired CCG (NI) on a routine basis several times a year, for example, to test winter preparations and readiness. I was also aware of NICCMA arrangements being applied in limited circumstances in response to localised flooding events which had become increasingly common over the past 15-20 years.
13. I was aware of UK-wide exercises (e.g., Exercise Cygnus to test pandemic flu readiness) and local exercises (Operation Pharos to test readiness for severe winter weather in Northern Ireland), which had been arranged to test operational readiness for various contingencies. I do not recall being advised that CCPB staff had not attended such exercises on every occasion.
14. My general understanding was that exercises of this type were designed to identify lessons to be learned which would improve operational readiness. My expectation was that, wherever any such lessons were appropriate in Northern Ireland, these would be applied by the relevant Departments through the Civil Contingency processes applicable at the time. The way this operated is set out in paragraphs 192 - 194 of the TEO Corporate Statement. I would not personally have been over the detail of the extent to which lessons learned from specific exercises were applied in Northern Ireland during the Module 1 period.
15. Although there were no specific Northern Ireland pandemic exercises during the Module 1 period, Command, Control and Co-ordination (C3) approaches were developed and applied in response to the risk that the UK might leave the EU on a “No Deal” basis in 2018 and 2019. At the UK level this had been codenamed Operation Yellowhammer by the UK Government (UKG). In Northern Ireland the preparations were jointly

managed by the Northern Ireland Office (NIO) and NICS. I co-chaired the planning arrangements with the Permanent Secretary of the NIO, Sir Jonathan Stephens. The detailed arrangements, which were put in place in Northern Ireland, are described in paragraphs 208 – 229 of the TEO Corporate Statement.

16. Operation Yellowhammer was the UK government's contingency planning response to the most severe anticipated short-term disruption which it was assessed might occur under a "No Deal" Brexit – known as its 'reasonable worst case' scenario. It covered 12 key areas of risk, including food and water supplies, healthcare services, trade in goods and transport systems. UK Government departments and the NICS were required to set up 24-hour operational centres to co-ordinate responses to issues as they arose.
17. Operation Yellowhammer saw the creation of a NI Hub to coordinate the contingency planning arrangements and the application of a risk-based management approach which helped identify and prioritise the various risks that would have arisen in the event of the UK leaving the EU without agreement at the end of October 2019
18. The NI Hub and the risk management approaches, which were tested and used in Operation Yellowhammer, proved valuable tools in the early stages of dealing with the Covid 19 pandemic. It was also helpful that over 800 staff across almost all departments in the NICS and the NIO were mobilised and trained, thereby gaining practical experience of the operation of C3 processes.
19. Nonetheless, resourcing issues were a major challenge in CCPB and across the NICS during my time as HOCS with all departments facing difficulties in ensuring their teams had appropriate capacity and capability. At an NICS-wide level a number of factors contributed to the challenge.

Political Instability

20. The St Andrews agreement of 2007 (TEO/260 - INQ000183579) saw a resumption of the Executive in May that year after nearly five years of Direct Rule from Westminster. This led to a period of relative political stability until 2013/14 when disagreements within the Executive over several issues, including the UK Government's Welfare Reform

Programme, led to a lengthy period of “Political Talks” which culminated in the Stormont House Agreement of December 2014. This, however, did not deliver a durable settlement and further political talks were needed in 2015, leading to the “Fresh Start Agreement” published in November 2015.

21. Disagreement between the First Minister and deputy First Minister over a number of issues including the Renewable Heat Incentive (RHI) scheme then led to the collapse of the Assembly and the Executive in January 2017. Extended, but unsuccessful, Political Talks took place throughout 2017 and into early 2018. These were resumed in May 2019 and led ultimately to the New Decade, New Approach (NDNA) political deal of January 2020 and the resumption of the Assembly and the Executive on 11 January 2020.
22. This political disruption had two major effects on the NICS. Firstly, the political processes consumed a considerable amount of “bandwidth” for me, permanent secretaries and senior staff. Secondly, and perhaps more profoundly, the three-year period from 2017 to 2020 left the Northern Ireland Departments without the ministerial direction and control that is a prerequisite of our democratic constitution. It is a well-established convention that “officials advise and ministers decide”. The absence of this political direction left public services in a state of, what I described publicly at the time, “decay and stagnation” due to the absence of ministerial direction on matters of strategy, policy and the prioritisation of resource allocation. It is a matter of record that a Programme for Government (PfG) has not been agreed by an Executive since March 2012 (which ran for four years until 2016) and a multi-year Budget has not been agreed since 2011. I shall return to this issue later in my Statement.

Workforce Constraints

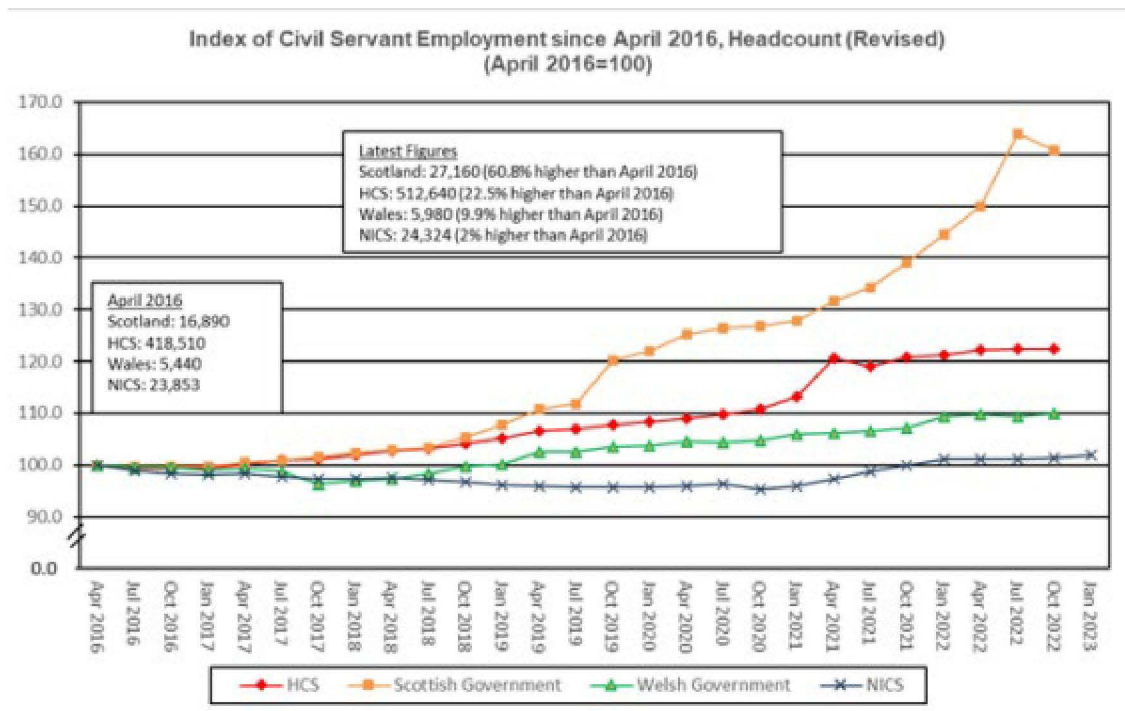
23. The Stormont House Agreement of 2014 committed the Executive to a comprehensive programme of reform and restructuring. This included measures to reduce pay bill costs and reduce the size of the NICS and the wider public sector in the face of significant budget constraints. The Stormont House Agreement and the implementation plan within the Fresh Start Agreement provided the flexibility to use capital borrowing to fund voluntary exit (VE) schemes over the four-year period to 2018-19. A combination of the VE scheme and an extended recruitment freeze saw

the NICS contract by around 18% during the period from 2014 to 2020.

Figure 2: All Industrial and Non-Industrial NICS Staff (FTE), 2013 to 2022



24. It is worth noting that this contraction was greater than in the civil service in GB and that numbers did not begin to increase until late 2020.



25. The NISRA chart shows that NICS staff numbers have been rising since October 2020 and are now 2% higher than in April 2016. However, by way of contrast, Scotland's staff numbers are currently 60.8% higher than in April 2016. For Great Britain as a whole, staff numbers have increased

gradually and are currently 22.5% higher than in April 2016. This slow growth in Northern Ireland has been due to a number of factors including budgetary constraints. The absence of ministers also meant there was no mechanism in place for civil servants to adjust or skew spending priorities. It would have been inappropriate for the NICS to determine new spending priorities, for example by making significant increases in civil service numbers. As a result, during the period from 2017 to 2020, spending patterns remained largely as they were before the collapse of the institutions despite the change in context and circumstances over that period. In my view this resource constraint limited the capacity of the NICS to deal with a wide range of issues optimally, with resource pressure being felt in all areas.

Brexit

26. The UK's decision to leave the European Union has in the view of many commentators resulted in the biggest change of policy direction by a UK Government in the past 40 years. It is beyond argument that no significant planning had been done before the 2016 referendum to determine how the UK should go about exiting the EU.
27. During my time as HOCS between 2017 and 2020 I was left in no doubt by the NIO and the Cabinet Office that "getting Brexit done" was the UKG's top priority and, in the absence of ministers, the NICS was expected to fully to support UKG in its efforts to this end.
28. The challenge facing Northern Ireland, which was the only part of the EU to have a land border with the EU, was particularly difficult and remains a contentious and divisive issue to this day. At the time of writing, the Northern Ireland Assembly and Executive have not been functioning for over 15 months because of the DUP's opposition to the Ireland/Northern Ireland Protocol and the Windsor Framework.
29. This is not the place for a full analysis of the past seven years; however, it is sufficient to note that dealing with Brexit required significant resource reallocation across almost all departments in the NICS. This was particularly acute for TEO which took the lead on Brexit policy. Between 2016 and 2020 the staff complement within TEO which dealt with EU issues had to be increased substantially to deal with the many issues arising from Brexit. And across the NICS my recollection is that several hundred staff had to be deployed to deal with Brexit issues in other

departments.

30. These three challenges of persistent political instability, resource pressures and Brexit were significant issues in their own right. Together, they combined to create a complex and difficult context and significant resource pressures on the NICS (and the wider public sector).
31. These pressures had knock on effects in all areas of the NICS and TEO including the Civil Contingencies Policy Branch (CCPB). I was aware of concerns about resourcing levels in CCPB during my time as HOCS. The difficulties are described in detail in a way that accords with my recollections in paragraphs 290 – 339 of the TEO Corporate Statement. My personal recollection is that the overall pressure on civil service numbers made it difficult to fill vacancies in CCPB. I also had a perception, based more on anecdote than hard evidence, that an additional factor was that other areas of the Department were more attractive to many staff than a posting in CCPB.
32. Paragraph 303 notes that in December 2018 a Grade 5 (Chris Matthews) was brought in to provide additional capacity to address the demands of Operation Yellowhammer. I had been instrumental in securing Chris's release from the Department of Health for this purpose.
33. Chris Matthews reported to Chris Stewart, the responsible Grade 3, and I took assurance that, together, they were managing the resourcing difficulties to the best of their ability within the severe resource constraints which we faced at the time. Chris Stewart and I would have discussed the management issues within CCPB on a regular basis.
34. However, I have no recollection of being asked at any stage to intervene personally to address any specific issues, though I recall helping to secure additional Senior Civil Service resources for the NI Hub following the outbreak of the Covid Pandemic in March 2020.
35. I note from the TEO Corporate Statement that PWC had produced two reports on CCPB in 2019 (TEO/288 – INQ000183591 and TEO/289 – INQ000183647)
36. I recall the second Report identified areas for improvement and made a range of recommendations for remedial action. My recollection is that Chris Stewart and Bernie Rooney, who had joined CCPB in August 2019

at Grade 5 level (to take forward C3 Legacy and CCPB transformation) were taking forward the proposed implementation arrangements (TEO/315 – INQ000183646)

37. A summary of the findings of these reports and the action which ensued up to the time I retired is set out in detail in paragraphs 314 to 327. This explanation accords with my recollection of the sequence of events although I would not have been aware of the detail of all the various staffing moves at that time.
38. I note that a revised version of the NI Civil Contingencies Framework was introduced in July 2021 (TEO/207 – INQ000086922). This replaced and consolidated an earlier suite of documents as set out in the TEO Corporate Statement. This consolidation was necessary, although I cannot comment on its efficacy as it followed my retirement in August 2020.
39. As it is now more than two and a half years since I retired, I do not consider I am familiar enough with the current systems, processes and structures for pandemic preparedness in Northern Ireland to offer meaningful advice on how they might be improved. I am also reluctant to pre-empt the conclusions of the Public Inquiry other than to recognise that an effective Civil Contingencies regime requires certain fundamental features. These include ensuring that:
- a. C3 arrangements are properly resourced with competent, capable people and sufficient finance;
 - b. key staff are properly trained on a planned and regular basis;
 - c. procedures and processes are regularly reviewed (ideally by independent, expert practitioners);
 - d. simulation exercises are regularly carried out and lessons learned are put into practice;
 - e. modern technology is used to the optimum effect; and
 - f. the importance of C3 is championed by public sector leaders (both at official and political level).
40. Turning to the question of whether any key decisions on the systems and structures of public services should have been taken differently in Northern Ireland so that we are best prepared for a whole system civil emergency, my starting point is that political stability is of vital importance. The current system of government and the structure of public services in

Northern Ireland have been the result of political negotiations involving the UK and Irish governments and the main local political parties going back 25 years to the Belfast/Good Friday Agreement (TEO/259 - INQ000183578). The Agreement as enshrined in the Northern Ireland Act 1998 (TEO/258 - INQ00000000), has defined the system of government here since then.

41. The arrangements have been amended legally and administratively on several occasions since then, usually in response to political upheaval (for example: the St Andrews agreement in 2007; the Hillsborough Agreement in 2010; the Stormont House Agreement in 2014; the Fresh Start Agreement in 2015; and the New Decade, New Approach Agreement in 2020).
42. It is a matter of record that the Assembly and the Executive have not been fully functional for nearly 40% of the time since the Agreement in 1998. This is evidence that, despite the major achievements of 25 years ago, politics in Northern Ireland remain complex, difficult and subject to regular crises.
43. The structure of the multi-party Executive which has often included at least two, and often as many as five, Parties has meant it has often been difficult to reach agreement on contested or unpopular issues with the result that it sometimes feels that only “lowest common denominator” issues are easily agreed. This has inhibited the development and maintenance of effective, sustainable government and has meant that many public services are less efficient and effective than they could and should be.
44. Throughout the period from 2017-2020, as HOCS, I said publicly that it was unacceptable that civil servants should be left with the responsibility of running departments in the absence of ministers. Article 4 of the Departments (NI) Order 1999 (TEO/313 - INQ000183644) requires that the functions of a department shall at all times be exercised subject to the direction and control of the minister. My view was, and remains, that it is unacceptable to expect civil servants to run departments in the absence of such ministerial direction and control.
45. This view was confirmed in the Courts. In 2018, a planning decision taken by the Permanent Secretary in the Department for Infrastructure was challenged in a judicial review. In what became known as the Buick Case,

the Court of Appeal (TEO/292 – INQ0000) confirmed this, ruling that any matter that would normally go to a Minister should not be actioned by a civil servant in the absence of a Minister, including anything that was significant, controversial, or cross-cutting.

46. To address this, the Secretary of State for Northern Ireland (SOSNI) introduced the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 (TEO/293 - INQ0000). The purpose of this Act was to facilitate the formation of an Executive in Northern Ireland by extending the time for making Ministerial appointments following the election of the Northern Ireland Assembly on 2 March 2017; and to make provision about the exercise of governmental functions in, or in relation to, Northern Ireland in the absence of Northern Ireland Ministers. Essentially this gave civil servants the power to do things that would otherwise not have been possible in the absence of ministers, if it was considered to be in the public interest to do so. This left civil servants in the invidious position of having to make judgements about competing public interests. This issue is described in detail in the TEO Corporate Statement in paragraphs 230 – 256.

47. The absence of ministers during this period led to paralysis in policy making and blunted the effective delivery of public services, especially where cross-cutting, collaborative action was needed. The blunt truth is that we endured nearly three years of sub-optimal government during this period. I raised my concerns about this detrimental impact at very senior levels within UKG on a number of occasions. By way of illustration, I have attached several letters which I sent during that time:

- Letter to Sir Jonathan Stephens NIO Permanent Secretary 11 July 2017 re budgetary implications (Exhibit DS/1 - INQ000185058)
- Letter to Sir Jeremy Heywood, Cabinet Secretary 13 December 2017 re impact of the absence of NI ministers (Exhibit DS/2 - INQ000185059)
- Letter to Sir Jonathan Stephens 1 February 2018 re contingency planning for the resumption of the NI Executive (Exhibit DS/3 - INQ000185060)
- Letter to Sir Jonathan Stephens 31 August 2018 re implications of proposed Executive Formation legislation (Exhibit DS/4 -

INQ000185061)

- Letter to Sir Mark Sedwill, Cabinet Secretary 21 January 2019 re decision-making in a “No Deal” Brexit scenario (Exhibit DS/5 - INQ000185062)
- Letter to Sir Mark Sedwill, Cabinet Secretary 7 June 2019 re planning for a “No Deal” Brexit scenario (Exhibit DS/6 - INQ000185063)
- Letter to Rt Hon Julian Smith CBE MP, Secretary of State for NI re. implications of a No-Deal exit for the NI economy (Exhibit DS/7 - INQ000185064)

48. I have noted the comments in paragraphs 248 – 256 of the TEO Corporate Statement, which describe the impact of the absence of ministers on civil contingencies planning. I agree with the broad assessment set out in this section. In my own words, and having looked objectively at all the evidence, I would say that while the position the NICS was in between 2017 and 2020 was totally unacceptable, I cannot point to any firm evidence that the absence of the power-sharing Executive between 2017 and 2020 had a material impact on, or inhibited, whole-system civil emergency planning, preparedness and resilience.

49. I cannot of course be definitive about this as, without the benefit of hindsight, it is not possible to say what ministers would have done had they been in place during that period. I must also add the caveat that while I want to assist the Inquiry, I also wish to avoid speculation beyond the available evidence.

50. It is also worth considering the impact of the absence of the North South Ministerial Council (NSMC) machinery which was a direct consequence of the collapse of the Executive. During the 2017 – 2020 period there were no NSMC Plenary or Sectoral meetings due to the absence of NI Executive ministers. Contact between NSMC officials North and South did continue, though on a much-reduced basis. While wishing to avoid speculation, it seems reasonable to conclude that this led to less frequent contact between the Health ministers North and South, however I have no evidence that there was any detriment to North/South pandemic planning as a consequence. Other forms of engagement between the respective Health departments during this period may have bridged the gap left by the absence of the NSMC. However, I have no evidence of this and

hence it is a question that would need to be addressed by the Department of Health.

51. It would be inappropriate for me to offer solutions to the political dysfunction which has bedeviled Northern Ireland's governance for much of the past 25 years other than to note that the stable and effective operation of the institutions depends fundamentally on strong, principled political leadership.
52. Looking back, my view is that the NICS, and TEO, were making the best possible endeavours to maintain public services in the difficult context we were operating in at the time. Being left to deliver public services without ministerial direction was unprecedented and, in my view, fundamentally undemocratic and unconstitutional.
53. I said at the time, and I remain convinced that such circumstances would not have been allowed to prevail anywhere else in the UK.
54. The TEO Corporate Statement sets out in detail the practical steps which were taken to prepare for a range of contingencies, including pandemics. There are of course things which could have been done differently and for the better. In that context I look forward to the Public Inquiry's conclusions and although I have now retired, I expect the NICS will be diligent in implementing the recommendations which flow from the Inquiry to ensure that contingency planning practice will be as effective as possible in the future.

Statement of Truth

55. 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.

Signed: Personal Data

Dated: 9 May 2023