

Submissions on behalf of The Executive Office of Northern Ireland

The Executive Office watched closely the evidence of all the witnesses in Module 2 and makes the following brief observations, trusting that these matters will be the subject of consideration during Module 2C in Belfast in April. Firstly, in relation to the extent of the involvement of the devolved administrations, in particular Northern Ireland, in decision-making by the UK Government, the Executive Office has some misgivings in relation to the impression that has been given by some witnesses to this module as to the extent of that participation. The Executive Office noted, for example, the evidence of Lord Lister, who said that he had regular meetings with the devolved administrations and undertook liaison with the Republic of Ireland, and therefore the Executive Office would seek clarity upon with whom Lord Lister is to have met, how the meetings were recorded, and the means by which the Northern Ireland Executive were apprised of those interactions, including with the Republic of Ireland.

The Executive Office heard evidence from Sir Mark Sedwill that decisions were taken within COBR together with the devolved administrations and that he ensured that formal decisions were taken within the Ministerial Implementation Groups. However, he also said that Northern Ireland and the other devolved administrations were not at the MIGs as of right and were not always invited to attend. Across all First Ministers of the devolved administrations, frustrations have been expressed with their role at COBR, which was viewed as a mere formality, in circumstances where decisions already made in Number 10 were announced, some already being announced beforehand. When attendance at COBR was replaced with CDL calls, the devolved administrations viewed those as perhaps more of an information sharing forum than a means by which they could properly participate in decision-making, which would impact all of the UK, or set a context for devolved decision-making.

The Executive Office heard the evidence that the Devolved Administrations apparently participated fully in the Covid Action Plan prepared by Cabinet Office at the start of March 2020. The Inquiry also heard evidence from Matt Hancock, who asserted that whilst the Covid Action plan was being worked up by his department throughout February no one actually saw the Covid Action Plan before 7pm on 27 February 2020. The Devolved Administrations were required to provide their input by 10 am the

following day. Clarity is therefore sought on the true extent of that input and involvement.

Secondly, in relation to the extent of Northern Ireland's involvement in the expert and scientific groups, the Executive Office might echo some of the submissions of Ms Campbell KC for the Northern Ireland Bereaved Families but perhaps from a slightly different slant.

Sir Patrick Vallance gave evidence that he had regular meetings with the Chief Scientific Advisers from the devolved administrations, but that he had no contact with Northern Ireland's Chief Scientific Adviser. It is a point to note that the Northern Ireland Executive does not have a Chief Scientific Adviser, albeit the Chief Scientific Adviser for Northern Ireland's Department of Health was at SAGE from 7 April 2020 and did attend Executive meetings from an early stage, alongside the Northern Ireland CMO.

Graham Medley from SPI-M gave evidence that he did not have any contact with Northern Ireland's Chief Medical Officer, which he regretted, but for which he could give no reason.

Professor Sir Chris Whitty gave evidence that on issues of personal protective equipment, they were agreed on a four nations basis whereas this statement must clearly be explored in future modules.

The Executive Office heard the evidence that SAGE was the vehicle to get data to COBR, and apparently all government departments could and did attend SAGE to hear all the views. Professor Sir Chris Whitty also said there were other sources of scientific advice to inform decision-making, and clarification is therefore sought on what were those sources and how were they shared with the devolved administrations.

Professor Chris Whitty gave evidence that each of the four chief medical officers in each of the four nations advised their ministers to enter lockdown.

However, the Executive Office says this is contrary to other and conflicting sources of evidence, revealing that the collective view was that lockdown was needed was arrived at between 12 and 14 March, and the decision was then taken within Number 10 on Sunday 22 March and announced at COBR on 23 March.

There was no evidence about how the devolved administrations were alleged to have been involved or consulted upon that decision. Therefore, a precise timeline must be established.

In relation to SAGE itself, Northern Ireland was not in attendance until 7 April 2020, and SAGE secretariat incorrectly recorded Ian Young as Northern Ireland's Chief Medical Officer throughout. The Executive Office were not party to the SAGE papers or the debates or discussions until 7 April 2020 and as only those sanitised minutes went to COBR and were not subject to any further challenge. The Executive Office notes that Northern Ireland must have been placed at a distinct disadvantage as regards participation in and digestion of matters discussed at SAGE.

The result must have included lack of awareness of information; for example, about human-to-human transmission, which was being discussed on 28 January 2020, references perhaps to Professor Ferguson's email to Number 10 on 10 March 2020 seeking faster paced measures, or updates to Number 10 on 10 March 2020 confirming an 8% mortality rate in Italy.

Could the SAGE minutes and the actions of UK Government -- for example, on how safe it was for sports events to proceed, such as Cheltenham or that Liverpool match -- be viewed as creating a different and unwarranted impression for devolved administrations who were not party to the debate within SAGE and around SAGE at that time, and who sought those assurances?

In relation to SAGE subgroups, Northern Ireland was represented at four of 39 SPI-M-O meetings, that is about 10%. In relation to NERVTAG, Northern Ireland was not represented until January 2021, when Professor Stuart Elborn of Queen's University Belfast attended.

In relation to the extraordinary NERVTAG SPI-M, no devolved administrations attended on 26 April 2020. Wales did attend eight of the 11 bird table meetings but never Northern Ireland. No devolved administrations were at the 12 clinical risk subgroup meetings, nor the four therapeutic subcommittee meetings.

On the available evidence as to attendees, Northern Ireland attended 49 of 81 Ministerial Implementation Group meetings. Clarity is therefore sought on how

Northern Ireland was informed of or invited to such important meetings. It might be reasonable to say that Northern Ireland was not adequately represented at scientific or expert group meetings, or at least they could have been better included. Northern Ireland's Chief Medical Officer has provided evidence that Northern Ireland does not have the capability to replicate those UK based groups, but it would also seem that Northern Ireland was not properly represented at them either. Sir Patrick Vallance's witness statement at Para 661 **INQ000238826** asserted without further explanation, that SAGE is not a representative body and this statement was recently adopted in the witness statement of Dr Edward Hayden dated 20 December 2023 **INQ000274125**. However, Sir Patrick stated that he is the UK-wide GCSA. Sir Patrick also accepted that there is a good case for Devolved Administrations to be invited to SAGE discussions that concern their countries from the first meeting. This did not take place. Sir Patrick's statement at Para 661 states that SAGE is constituted to bring together the requisite scientific expertise that is needed to provide advice. In relation to Northern Ireland and its land border with the Republic of Ireland and therefore the European Union, it is queried whether the requisite scientific expertise was secured at SAGE to ensure consideration of and advice as regards Northern Ireland's unique characteristics.

This issue will undoubtedly be considered in detail in Module 2C, including the mechanism by which a Northern Ireland Department or the Northern Ireland Government representation is *secured* at those groups. The Inquiry has previously heard how there was no Northern Ireland representative at Exercise Alice in 2016. The mode of communication to the Northern Ireland Government may also be worthy of some consideration, in particular in the situation where there might be no ministers in place for considerable periods in Northern Ireland.

Turning to consideration of Northern Ireland and Republic of Ireland as a single epidemiological unit, Professor Sir Chris Whitty said the differing epidemiology of Northern Ireland was not a matter for SAGE. The Executive Office seeks clarification as to why it was not a matter for SAGE, given SAGE's role as a UK-wide science adviser to COBR and Sir Patrick's role as the UK wide GCSA. If it wasn't a matter for SAGE, who should have been considering the issue? The Executive Office asks the

Inquiry to consider whether a positive decision was taken to exclude the issue from SAGE's remit, or whether insufficient or no consideration was given to this issue at all.

Related to that is the issue of consideration of Northern Ireland's border. The Executive Office is live to the border issues as particular concern for the Bereaved Families and those affected from Northern Ireland. The Executive Office seeks clarity on the position the UK Government took on matters engaging the border, the Common Travel Area, and other matters within its competence.

On 28 January 2020 SAGE wrote to Number 10 asking them to move to escalate this as a major issue across government, not just as previously within technical agencies housed within the Department of Health. At that time, the priority was to prevent the spread of the virus in the UK. SAGE recommended a change in the UK Government's approach once triggers were reached. When pressed on 21 November 2023 by Mr Keith King's Counsel as to what Professor Sir Chris Whitty meant UK Government should have been doing at that time, he replied (page 147 Transcript of evidence):

"Well, the earliest things that would have to be considered -- and they are not easy and we should really talk about them either seriously or not at all - - are border measures which require a lot of thinking. They've got implications for trade, they've got implications for diplomacy, they've got implications for the economy, they've got implications for consular, et cetera, but that's because one of your earliest things is to reduce the risk of importation."

The issue for clarification for Northern Ireland is to what extent the particularities of Northern Ireland and the Republic of Ireland and the border in Northern Ireland were considered by the UK Government during this early phase so as to reduce the risk of importation, particularly given the Northern Ireland/Republic of Ireland border, which is the only land border the UK has with the European Union. If international borders were recommended for discussion, what consideration if any was given to the Northern Ireland border?