

UK COVID INQUIRY:

MODULE 2C HEARINGS APRIL-MAY 2024

OPENING STATEMENT ON BEHALF OF THE EXECUTIVE OFFICE

INTRODUCTION:

1. The Executive Office (“TEO”) welcomes the work of the Inquiry, in particular as it turns its focus to this Module, looking at governmental decision-making in Northern Ireland relating to the Covid-19 pandemic between early January 2020 to March 2022 when Covid-19 restrictions were removed.
2. At the outset of this Module TEO wishes to again acknowledge the impact the pandemic and the management of the pandemic had, and continues to have, on the people of Northern Ireland. TEO offers its sincere and heartfelt condolences to the family and friends of all those who died in the pandemic, often in terrible circumstances, and its sympathies to all those who were affected by Covid-19 and the measures introduced to address the public health risks it brought to our community. TEO recognises the very real impact those measures had on very many in Northern Irish society, on how they were able to engage in the normal interactions of life, the isolation and loneliness experienced by many, and the widespread enduring impact continuing to be felt today by our community, particularly our elderly and vulnerable people.
3. TEO understands the importance of the Inquiry’s work in examining the decision-making during the pandemic. It wishes to carefully consider all the evidence that the Inquiry will see and hear and to identify the lessons that will come from that in order to learn and do things better in the future.
4. TEO has disclosed thousands of documents. Senior Officials have provided detailed witness statements addressing the Inquiry’s queries and some of them of course have been called to give oral evidence to the Inquiry over the course of this Module.

CONTEXT:

5. It is not the intention by way of this opening statement to enter into detailed submissions, nor indeed at this stage to put forward any contentions or argument as to what the evidence to the Inquiry demonstrates in respect of TEO’s role in the

decision-making relevant to the issues in this Module. It is however apt to take the opportunity to set out some essential aspects of the surrounding context.

6. The provisional outline of scope for Module 2c from August 2022 set the basis from which the Core Participants (including TEO) began their engagement with this Module. Ultimately, in terms, the scope is about people and what happened to them. It provides as follows:

This module will look at, and make recommendations about, the decision-making by the government in Northern Ireland in relation to the Covid-19 pandemic between early January 2020 until Covid-19 restrictions were lifted in Northern Ireland in March 2022. It will examine the decision-making of key groups and individuals within the government in Northern Ireland including the First Minister, deputy First Minister and other Ministers, in particular between early January and late March 2020 when the first national lockdown was imposed. More detailed consideration of a number of key areas and the impact of the pandemic on those areas in Northern Ireland will be undertaken later in the Inquiry.

Module 2C will examine:

1. The structures and bodies concerned with the response to the pandemic in Northern Ireland and their relationships and communications with the UK Government, other devolved administrations and local authorities within Northern Ireland.
2. The government in Northern Ireland's initial understanding of, and response to, the nature and spread of Covid-19 in Northern Ireland in the period between January and March 2020 in light of information and advice received from the UK Government and other relevant international and national bodies, advice from scientific, medical and other advisers and the response of other countries.
3. Decision-making by the government in Northern Ireland relating to the imposition or non-imposition of non-pharmaceutical interventions (NPIs) including lockdowns, local restrictions, working from home, reduction of person to person contact, social distancing, the use of face coverings and border controls in Northern Ireland; the degree of and rationale behind differences in approach between the government

in Northern Ireland and other governments in the UK; the timeliness and reasonableness of such NPIs, including the likely effects had decisions to intervene been taken earlier or differently; the development of the approach to NPIs in light of the government in Northern Ireland's understanding of their impact on transmission, infection and death; the identification of at risk and other vulnerable groups in Northern Ireland and the assessment of the likely impact of the contemplated NPIs on such groups in light of existing inequalities; the impact of the absence of Ministers and the Executive in Northern Ireland from early 2017 to 11 January 2020; the extent to which decisions were informed by the response of the government of the Republic of Ireland; and the impact, if any, of the funding of the Northern Ireland pandemic response on such decision-making, including funding received from the UK Government.

4. Access to and use in decision-making of medical and scientific expertise, data collection and modelling relating to the spread of the virus in Northern Ireland; the measuring and understanding of transmission, infection, mutation, re-infection and death rates in Northern Ireland; and the relationship between and operation of relevant systems for the collection, modelling and dissemination of data.
5. Public health communications in Northern Ireland in relation to the steps being taken to control the spread of the virus; transparency of messaging; the use of behavioural management and the maintenance of public confidence in the government in Northern Ireland, including the impact of any alleged breaches of rules and standards by Ministers, officials and advisers.
6. The public health and coronavirus legislation and regulations that were proposed and enacted: their proportionality and enforcement in Northern Ireland.
7. Module 2C comes at the end of a series of modules in respect of governance and decision-making across the different parts of the United Kingdom. As appears from the outline of scope, the Inquiry will wish to carefully consider and take account of the bespoke arrangements of Government in Northern Ireland. Those arrangements

have been endorsed by the people of Northern Ireland to reflect the need to ensure broad cross-community support and participation in the structures of government here in a post-conflict society. Put simply, Northern Ireland is different and unique. It is hoped that the statements from TEO witnesses, and particularly the TEO corporate statement, have been of assistance to the Inquiry in that regard.

8. As referenced above, this opening statement is not the appropriate means to engage on this issue in full detail. It is suffice to note the following:
 - a. The constitutional arrangements in Northern Ireland stem from the Belfast/Good Friday Agreement, supplemented by subsequent agreements and underpinning legislation, primarily the Northern Ireland Act 1998. For current purposes possibly the most significant difference between Northern Ireland and the other parts of the United Kingdom is the construction of the Northern Ireland Executive Committee, operating as a mandatory *coalition* (consisting at the relevant time of five separate political parties broadly from across the political divide here, with their strength in the Executive based on respective electoral mandates).
 - b. The Executive is made up of ten Ministers across nine Departments. The First Minister and the deputy First Minister hold *joint* office. Each Minister, in general terms, has executive authority to determine policy and operational matters within their department, subject to the requirement that certain matters (in summary, cross-cutting/significant or controversial) be referred to the Executive for decision. Collective cabinet responsibility does not exist in Northern Ireland in the same fashion as in the Westminster/Whitehall model.
 - c. Those particular *high-level* constitutional arrangements have resonant implications for the structure and operation of the Northern Ireland Civil Service ("NICS") (which is itself an entirely distinct organisation from the Home Civil Service in Great Britain.) The NICS must therefore operate at all times within the constitutional arrangements in place.
 - d. Each of the departments is a separate legal entity. The Minister is the head of each department, and the department is subject to his/her direction and control. The Permanent Secretary in each department is accountable to that department's Minister.

- e. Consequently, the NICS does not operate in a hierarchical, *command and control* fashion, as might be the experience elsewhere. TEO and the Head of the Civil Service (“HOCS”) do not exercise day to day management or control of the other departments. Under this arrangement, HOCS does not have the power to direct the Permanent Secretaries of other Departments in the exercise of their functions. HOCS is not an Accounting Officer, whereas Permanent Secretaries are.
- f. Essentially the role of HOCS is:
- Principal policy adviser to the First Minister and deputy First Minister
 - Secretary to the Executive
 - Head of the NICS of some 23,000 staff led by Permanent Secretaries.
- g. The Inquiry will note that the NI Public Accounts Committee (PAC) Report on Major Capital Projects (published June 2021) recommended that the role of the Northern Ireland HOCS should be revised to mirror the role in Scotland and Wales; and that changes should be made to powers or structures to ensure a stronger *centre* to Government in Northern Ireland, with the power to compel departments, breaking down any *silo mentality*, and enabling a more joined-up and efficient public sector.

TEO and the Department of Finance noted the recommendation, stating that “Scotland and Wales operate under a different constitutional position in that they have collective Ministers and no separate departmental corporations. The arrangement proposed by the Committee would not sit easily within the current constitutional position here, and it may be that it could only be achieved through significant changes to legislation. In addition, the question of what authority a Head of the Civil Service (HOCS) could exert over departments that are separate legal entities under the direction of their own Ministers, themselves accountable to the Assembly, would remain.”

CONCLUSION:

9. It must of course be recognised that front line staff in both the public and private sector providing essential services to the public were dealing with the most difficult and unprecedented of circumstances. Alongside this, TEO also recognises that, as part of the surrounding context for this Module, those involved in the development of

policy and the decision-making processes were doing so in testing and pressurised conditions in an unprecedented and highly complex situation. Northern Ireland is a relatively small jurisdiction, and NICS has to operate in a complex political environment with constant financial pressures. People were doing their best, with the intention of serving the interests of the people of Northern Ireland.

10. TEO, like other government departments across the UK, was operating in an unprecedented situation, responding to a global pandemic, and often required to provide advice and guidance to Ministers at pace. In addition, it is notable that TEO was dealing with the implications in Northern Ireland of the UK leaving the EU.

11. Ministers returned on the reforming of the Executive in January 2020 and that inevitably brought forward a number of other ministerial priorities.

12. It is anticipated that among the issues the Inquiry will be particularly interesting in examining will be:

- Impact of the absence of Ministers for three years. It will be noted that the period under examination in this Module is bookended by periods with no Executive in place (January 2017 to January 2020, and February 2022 to February 2024).
- Equality considerations.
- Resourcing levels in civil contingencies.
- Delayed pandemic flu planning.
- Informal communications and retention of information.

13. It is acknowledged by TEO that in its preparedness for and its addressing of the pandemic, there will have been matters that could have been done differently and should have been done better. TEO welcomes the important work of the Inquiry in identifying those areas. TEO acknowledges that the pandemic continues to have a profound impact on the people of Northern Ireland. Throughout the Inquiry and in previous modules, TEO have listened and will continue to listen in order to learn from the work of the Inquiry and to do things better in the future.

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