

Tuesday, 30 April 2024

(10.00 am)

**Opening remarks by THE CHAIR**

**LADY HALLETT:** Good morning, everyone, some present here in Belfast and to those of you following us online.

From the beginning of this Inquiry, I hope I've made clear that this is an Inquiry for all four nations of the United Kingdom, which is why we've held hearings, not only in London but in Edinburgh, Cardiff and now here in Belfast.

Today we begin the public hearings for Module 2C, focusing on key political decision-making in response to the pandemic in Northern Ireland.

I am very conscious of the fact that there are many other issues for which people have concerns, for example mental health, health, care homes and the like, on which we are not focusing in this module. But, as I said to the members of bereaved families whom I met last night, those issues will be covered in later modules.

I also explained to them why we cannot call more people who suffered loss during the hearings. We just do not have the time. We have to press on, and I have to publish any recommendations before memories fade and people forget the appalling suffering caused by the pandemic.

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**Opening statement by LEAD COUNSEL TO THE INQUIRY for MODULE 2C**

**MS DOBBIN:** Thank you.

My Lady, I was going to start, if I may, by introducing those who appear before you. I know that some of them are familiar, some of them may be less so.

The Northern Ireland Covid-19 Bereaved Families for Justice are represented by Mr McGarrity, Mr Wilcock King's Counsel and Ms Campbell King's Counsel.

Disability Action Northern Ireland are represented by Mr Dutta, by Mr Friedman King's Counsel and by Mr Stern.

The Trades Union Congress are represented by Mr Stilliard, Mr Jacobs and Ms Peacock.

The Commissioner for Older People is represented by Ms Miller, and also by Ms Monye Anyadike-Dane and Ms Herdman.

The National Police Chiefs' Council is represented by Ms Winfield, Mr Phillips King's Counsel and Ms McKenna.

The Northern Ireland Department of Health is represented by Ms Erwin, by Ms Murnaghan King's Counsel, by Ms Fee King's Counsel, by Mr Kennedy and Ms Jones.

The Executive Office of Northern Ireland is represented by Mr O'Loan, by Mr Coll King's Counsel and

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We will need the support of the public and the media to ensure any recommendations I make are implemented.

To help remind us all of why the Inquiry matters, we start each module with an impact film. Like its predecessors, the impact film for this module is extremely moving, and there will be those who find it too distressing to watch. It lasts 20 minutes. I will pause in a moment to allow those who are in the hearing room who wish to do so to leave for a few minutes, and those who are following online who may wish to press mute or pause the streaming.

After the film has been played, Ms Clair Dobbin King's Counsel, Lead Counsel to the Inquiry for this module, will begin her opening submissions. She will explain in some detail what we shall be examining in this module and what the issues are that need resolution.

So would those who would like to leaving the hearing room or press pause, please do so now.

**(Pause)**

Thank you.

**(Video played)**

**LADY HALLETT:** I don't think anybody did go, so we can start again.

Ms Dobbin.

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by Ms Fee.

The Northern Ireland Department of Finance is represented by Ms McGivern and by Mr Hanna King's Counsel.

Baroness Foster is represented by Mr McBurney, and by Ms Ellison.

Mr Paul Givan is represented by Mr McBurney too, and also by Ms Ellison.

Ms Michelle O'Neill is represented by Mr Ó Muirugh and Ms Quinlivan King's Counsel and Mr Bassett.

Before I begin this opening, may I please thank the Module 2C legal team and also the paralegal team as well. I think I've said this before, my Lady, but they have borne a particular burden in Module 2C in coping with the disclosure and in particular with late disclosure over the past few weeks. They've been absolutely essential to getting to this point, and, in terms of getting to this point today and appearing here before you, as ever it's been a collective effort. The evidence gathered, the questions that will be put, they all represent the combined efforts of all of the teams who appear before you. And again, may I thank them on behalf of the Inquiry for the enormous work and care which has gone into the preparation of evidence, the evidence proposals and the questions which have been

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1 proposed for witnesses as well.  
 2 I'm very conscious too that behind all of the  
 3 counsel and solicitors who sit before you there will be  
 4 many more other people, paralegals and young lawyers,  
 5 behind the scenes, and on behalf of the Inquiry,  
 6 of course, I'd like to thank them too for all of their  
 7 work.

8 Loss and grief are the defining experiences that  
 9 unite all of humanity and from which none can escape.  
 10 So too it is here the grief felt for those who died, for  
 11 the circumstances in which they died, or for the loss of  
 12 precious time with them, that's borne by all people  
 13 across Northern Ireland. The film that we've just seen  
 14 serves to remind us all of the legacy which Covid-19 has  
 15 left, and the more you watch the film I think the  
 16 clearer it becomes that the circumstances in which  
 17 people died has had the most profound effect on those  
 18 who have been left behind.

19 But what of course it speaks to is life lost on  
 20 a huge scale, of lives altered, of people changed by  
 21 what they lived through or what they worked through, of  
 22 consequences which are simply not capable of  
 23 quantification, and of course it's a sober reminder of  
 24 why we are all here before you today and why it matters  
 25 so much.

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1 the United Kingdom to consider their decision-making,  
 2 it's nonetheless such an important part of the  
 3 background to Northern Ireland and to the structures  
 4 which you will in due course consider.

5 In responding to Covid-19, Northern Ireland  
 6 ministers had to negotiate relationships with both  
 7 Westminster and the Republic of Ireland. The sharing of  
 8 a permeable border with the Republic of Ireland meant  
 9 that in terms of epidemiology Northern Ireland and the  
 10 Republic of Ireland were a single epidemiological unit.  
 11 But constitutionally and legally they were not. They  
 12 were accountable to their respective Parliament and  
 13 Assembly, and to their respective electorates.  
 14 The United Kingdom Government, not the Northern Ireland  
 15 Government, was competent to deal with accepted matters,  
 16 including the United Kingdom's border. That appears to  
 17 have caused difficulties in both directions, north and  
 18 south.

19 But if the pandemic did anything, it was to expose  
 20 the frailty of all of the human race, to show that  
 21 existential threats don't exist at some point in  
 22 a distant, far-off future, they can fast become  
 23 a reality to which all must adapt, and it's a reality  
 24 that we may well have to confront again, hence again  
 25 of course the reason for this Inquiry, my Lady.

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1 The opening of Module 2C marks the final chapter of  
 2 Module 2. Module 2 has taken you and the Inquiry  
 3 outside London, as you've noted, to Wales and Scotland,  
 4 and it ends here in Northern Ireland. It might be  
 5 thought fitting that it does, because Northern Ireland  
 6 is so distinct from the rest of the United Kingdom, it's  
 7 geographically disconnected, it shares its land border  
 8 with the Republic of Ireland and therefore the  
 9 European Union. Its population, as Sir David Sterling,  
 10 the former head of the civil service to  
 11 Northern Ireland, notes in his witness statement, at  
 12 around 1.9 million people is smaller than that of the  
 13 population of Greater Manchester.

14 But of course the most profound difference from the  
 15 rest of the United Kingdom lies in Northern Ireland's  
 16 history, in its history of violence, in blood spilt, the  
 17 suffering of ordinary people, and the collective trauma  
 18 that decades of terror and killing brought, and it lies  
 19 in the decision made by its people 26 years ago to  
 20 accept the Good Friday Agreement, and by so doing to  
 21 indicate their desire to leave peacefully and with  
 22 shared structures upon which they would all be governed.

23 Now, my Lady, I know that that might seem like  
 24 an obvious point, but in an Inquiry which has  
 25 deliberately and consciously gone to different parts of

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1 The work of the Inquiry thus far has shown that the  
 2 ability to adapt and to survive in the face of the  
 3 threat of Covid-19 was not universal. The burden did  
 4 not fall equally on people. In Northern Ireland, like  
 5 the rest of the United Kingdom, Covid-19 discriminated  
 6 in that it made seriously ill and killed the vulnerable,  
 7 the disabled and older people in greater numbers.

8 Turning to the political, if I may for a moment,  
 9 it's just hard to escape this in Northern Ireland, but,  
 10 my Lady, as you've observed many times in this Inquiry,  
 11 the lens through which it looks is that of epidemiology  
 12 and common humanity. Its work includes whether  
 13 judgements were made on grounds in terms of what would  
 14 have the best outcome in terms of risk to life, of  
 15 course noting that that calculus is not necessarily  
 16 a straightforward one, or whether decisions were made or  
 17 positions taken for the right reasons in the public  
 18 interest, not in the political interest.

19 In Northern Ireland, the question of whether  
 20 political considerations informed the positions adopted  
 21 by politicians or coloured their approach to  
 22 decision-making is just unavoidable, but it's not  
 23 a carte blanche for a blame game either.

24 It's an invitation to the politicians who will  
 25 appear before you and those who advised them to reflect

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1 upon the role that they played in the extraordinary  
2 circumstances that met them upon the resumption of  
3 power-sharing in 2020.

4 It's an opportunity for candour and the  
5 demonstration of the highest ideals that politicians  
6 share to make things better for the future. The scale  
7 of loss of life and the individual human experience  
8 which sits behind that speaks to the need for such  
9 reflection in Northern Ireland. The latest statistics  
10 show that there were an estimated 4,075 excess deaths  
11 from 1 March 2020 to the end of the year 2022. In the  
12 same period, there were 5,060 Covid-related deaths,  
13 a bleak tally of life lost during the pandemic.

14 But how does that compare to the rest of the  
15 United Kingdom? In his report to the Inquiry,  
16 Professor Hale stated that relative to the spread of the  
17 virus measures came into force in England slower than  
18 Scotland, Wales and Northern Ireland, largely because  
19 the viral spread began first in England. He noted, and  
20 again the emphasis is important, relative to the spread  
21 of the virus, the devolved administrations implemented  
22 stricter policies on school and workplace closures as  
23 well as restrictions on public events before  
24 Westminster, although these measures were adopted on  
25 more or less the same day across the four nations.

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1 save that he noted that Northern Ireland was  
2 particularly slow to impose restrictions on public  
3 transportation, whilst in relation to the  
4 Republic of Ireland it was particularly slow to adopt  
5 international travel restrictions by comparison to other  
6 countries.

7 My Lady, on that, may I then turn to the Inquiry's  
8 consideration of the statistics.

9 According to NISRA, which is the Northern Ireland  
10 statistical agency, excess deaths in Northern Ireland  
11 were highest in April to May 2020 and October 2020 to  
12 January 2021, July 2021 to November 2021, July 2022 and  
13 December 2022.

14 I was going to ask if we may just look at some  
15 slides to put that in a visual format and those are at  
16 INQ000472397.

17 I think that this is slide 1. If we could go to  
18 slide 2.

19 My Lady, this chart shows the number of deaths by  
20 date of death where Covid was mentioned on the death  
21 certificate. So the lighter blue bars that you see  
22 represent the daily deaths, and the dark blue line shows  
23 the seven-day average. I think this point is really  
24 important as we go forward, but obviously you will note  
25 the two peaks.

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1 Overall, relative to the spread of the virus,  
2 Northern Ireland therefore saw measures adopted  
3 relatively early in the spread of the disease, whilst  
4 England had already reached a significant prevalence  
5 before measures came into force.

6 Overall, Professor Hale concluded that in the  
7 three-year period from 2020 to 2022 England experienced  
8 the 19th highest number of Covid deaths per capita on  
9 a global scale, placing it at the 15th position amongst  
10 European nations. Northern Ireland fared relatively  
11 better to England in terms of the pandemic's impact,  
12 holding the 52nd position worldwide and ranking 34th in  
13 Europe. Scotland was at 38th globally and 27th amongst  
14 the European countries. Wales was at the 30th global  
15 rank, and 21st in Europe.

16 Professor Hale also concluded that England and  
17 Northern Ireland tended to have less stringent policies  
18 than Scotland and Wales during the second half of 2020.  
19 For the latter part of 2021, Northern Ireland had the  
20 most stringent measures, whereas England had the least  
21 stringent measures.

22 According to Professor Hale, overall a comparison of  
23 Northern Ireland and the Republic of Ireland did not  
24 demonstrate major differences between the two  
25 jurisdictions during the initial months of the pandemic,

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1 So what the chart shows is that the highest peak in  
2 Covid deaths was actually during the second wave. So at  
3 the peak of the second wave in January 2021, there were  
4 35 deaths in a single day, whereas the number of deaths  
5 per day in the first wave peaked at 25, and again you'll  
6 notice -- and this is important for the evidence that  
7 we'll hear -- you'll see the duration of that wave in  
8 the latter part of 2020 and into January 2021 and into  
9 early spring, and that's likely to be quite an important  
10 focus for Module 2C and why it was that the peak looks  
11 like that in the second, as it were, wave of the  
12 pandemic.

13 If we could go to slide 3, please, this is the slide  
14 which shows you Covid deaths and excess deaths together.

15 My Lady, I know that you're familiar with the  
16 concept of excess deaths, but perhaps for those who  
17 aren't, they're calculated by comparing deaths from all  
18 causes, and that includes non-Covid ones, for a given  
19 period, and you compare it to the average for the same  
20 period in 2015 to 2019. So, for example, comparing  
21 March 2020 to the average for March across 2015 to 2019.

22 Again, what you can see from this chart is the  
23 general link between periods of high numbers of Covid  
24 deaths and periods of high excess deaths. So you can  
25 see, if you look at spring 2020, that the wave of deaths

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1 there, Covid deaths, resulted in an almost identical  
2 spike in excess deaths as well.  
3 But what you can also see then, if you trace the  
4 lines across, is the link between Covid deaths and  
5 excess deaths weakens in Northern Ireland. So although  
6 the second wave of Covid was associated with a period of  
7 significant excess deaths, there were substantially  
8 fewer excess deaths than Covid deaths.

9 We'll obviously explore this with the Chief  
10 Scientific Adviser to Northern Ireland, it may mean that  
11 those who died of Covid at this point may have been  
12 vulnerable to dying from other causes. It may also be  
13 explained by a reduction in death from other causes as  
14 well, due to behavioural changes.

15 So, my Lady, in other words, sadly it may mean that  
16 in the second wave those who were vulnerable to becoming  
17 ill and dying died in that wave, but again as I've said  
18 we'll ask the Chief Scientific Adviser a bit more about  
19 that.

20 If we could go to the next slide, please, this is  
21 the United Kingdom comparisons, and again this seems to  
22 illustrate that point that in the first wave  
23 Northern Ireland experienced much lower levels of  
24 mortality than other UK nations, but that again when it  
25 came to the second wave Northern Ireland had more

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1 what happened during that second wave.

2 Thank you. I think that can be taken down.

3 May I touch then briefly on borders and data as  
4 well. My Lady, as you know, the United Kingdom and the  
5 Republic of Ireland comprise of a Common Travel Area.  
6 That means that British and Irish citizens can move  
7 freely and reside in either jurisdiction. Dr McClean of  
8 the Public Health Agency in Northern Ireland explains in  
9 her statement that statistical analysis of Covid's  
10 genomic sequences indicate that a majority of the  
11 introductions of Covid-19 in Northern Ireland and the  
12 Republic of Ireland until the end of May 2020 were  
13 lineages of viruses that were in circulation in England,  
14 and according to her the same was true for all later  
15 lineages as well. So she states that that indicates the  
16 importance of the Covid-19 situation in England for  
17 Northern Ireland.

18 In addition to that, the fact that the  
19 Republic of Ireland had its own airports, its own  
20 policies in relation to international travel, and again  
21 the fact of the permeable border between it and  
22 Northern Ireland, posed difficulties for  
23 Northern Ireland in terms of its ability to control who  
24 entered.

25 My Lady, as you'll see from the evidence, that was

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1 similar levels of mortality to the rest of the UK. It  
2 was still lower than England and Wales, but higher than  
3 Scotland.

4 Then if we may go to slide 5, please, these are the  
5 age-standardised mortality rates. Again, my Lady,  
6 I know that's a concept that you're familiar with, but  
7 because the risks of Covid differ substantially by age  
8 and Northern Ireland has the youngest population of the  
9 four nations, controlling for differences in the age  
10 profile of the different nations arguably leads to  
11 fairer comparisons.

12 So you can see this chart is based on ONS data  
13 that's controlled for those differences in ages. It  
14 shows deaths added up cumulatively over the course of  
15 the pandemic and compares this to the cumulative total  
16 to the level that would be expected over the same  
17 duration of time historically. Again, this suggests  
18 that for the whole of the period of interest to  
19 the Inquiry, the cumulative excess mortality was lower  
20 than the rest of the United Kingdom, but again the  
21 difference was most pronounced at the peak of the first  
22 wave and the gap reduced thereafter, although overall  
23 the cumulative mortality continued to remain lower than  
24 the rest of the United Kingdom. But again I think it  
25 makes that important point about focusing as well on

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1 a point of difficulty between the Republic of Ireland  
2 and Northern Ireland which took a considerable period of  
3 time to resolve.

4 But if we put the constitutional difficulties to one  
5 side, there are obvious issues as to whether was scope  
6 for greater co-operation with the Republic of Ireland or  
7 whether in the crucible of a pandemic advancing  
8 potentially politically sensitive co-operation is  
9 realistic.

10 To give but one obvious example, data on Covid  
11 deaths was gathered in a sufficiently different way in  
12 the Republic of Ireland to make accurate contemporaneous  
13 comparison difficult. It's unclear to us exactly how  
14 this impacted on modelling and, again, it's a question  
15 about which witnesses will be asked, but in a context  
16 where two parts of an island form an epidemiological  
17 whole, it would appear an obvious disadvantage to both  
18 not to have readily comparable data, and it just doesn't  
19 seem to have been possible to create this capacity  
20 whilst the pandemic was ongoing.

21 In answer to what must be an obvious question, how  
22 did Northern Ireland compare to the Republic of Ireland,  
23 the Inquiry understands that that is not easily answered  
24 because data comparison with the Republic of Ireland  
25 remains caveated.

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1 We understand that international organisations have  
2 more limited data for the Republic of Ireland, and in  
3 part that may reflect inconsistencies in recording and  
4 publication methodologies, and it may also reflect  
5 issues with the timeliness of death certificates in the  
6 Republic of Ireland as well, and that was something that  
7 was noted by Eurostat, one of the European statistical  
8 agencies, when issuing an explanatory note for one of  
9 its datasets in which it stated:

10 "Data from Ireland were not included in the first  
11 phase of the weekly deaths data collection: official  
12 timely data were not available because deaths can be  
13 registered up to three months after the date of death."

14 On 19 March 2021, the Office for National Statistics  
15 was reporting that:

16 "Notably the Republic of Ireland has not submitted  
17 any data to the Eurostat mortality database, so we are  
18 unable to report any measure of excess mortality for  
19 this country."

20 So, again, that just goes back to the point, it  
21 remains very difficult. I think a question for this  
22 Inquiry would be: why is there not more interest in  
23 being able to have that basis for comparison between the  
24 two countries?

25 Can I just go back, then, to what the statistics  
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1 23 March 2020.

2 So, again, we come back to that point, in what was  
3 a single epidemiological unit in terms of how the virus  
4 was behaving, but in two separate states there was  
5 a potentially time critical period where they went in  
6 separate directions on the closure of schools, and you  
7 might want to hear from the Chief Medical Officer to  
8 Northern Ireland, Professor Sir Michael McBride, about  
9 the reasons for not closing schools in Northern Ireland  
10 at that point and any impact that divergence might have  
11 had.

12 But, my Lady, may I make this point, and it's  
13 an important one: the lower rate of deaths in wave 1 by  
14 comparison to other parts of the United Kingdom ought  
15 not to be a source of complacency, again, just because  
16 they were lower than those in the rest of the UK, and  
17 that's particularly having regard to what happened as  
18 the pandemic progressed in Northern Ireland. Certainly  
19 we've noted that on 11 October the Northern Ireland  
20 Chief Medical Officer is noted to have said that if  
21 Northern Ireland was a country its rates would have been  
22 the worst in Europe. And as he set out in his  
23 statement, by 20 January 2021 the number of people in  
24 hospital in Northern Ireland reached the highest levels  
25 at any time during the pandemic.

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1 appear to say, because they do appear to tell two  
2 different stories.

3 The first is that Covid deaths were comparatively --  
4 and again I emphasise comparatively -- lower than the  
5 rest of the UK in the first wave, because it appears  
6 Northern Ireland went into lockdown at an earlier stage  
7 of the development of the pandemic as compared to other  
8 parts of the UK. So again, although it went into  
9 lockdown on the same day as everywhere else, Covid-19  
10 was just not as prevalent in Northern Ireland at that  
11 point.

12 Now, of course, there may be other considerations at  
13 play here, like the population density of  
14 Northern Ireland, which may also have affected that, and  
15 again that may be an issue for the CSA, but nonetheless  
16 that appears to be the position.

17 But the question remains whether or not  
18 Northern Ireland could have done more or introduced more  
19 severe restrictions at an earlier point. After all, the  
20 Republic of Ireland introduced a set of restrictions on  
21 12 March 2020, including the closures of schools, so  
22 schools therefore closed there on 13 March 2020, the  
23 decision to close schools in England, Scotland, Wales  
24 and Northern Ireland was introduced on 18 March, and in  
25 Northern Ireland all schools closed to pupils on

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1 Again, just coming back to that point, the fact that  
2 the total numbers of both Covid deaths and excess deaths  
3 were higher in wave 2 is obviously something of  
4 considerable concern in Northern Ireland and about which  
5 witnesses will be asked.

6 My Lady, those are the statistics. What about the  
7 people they represent, how they lived and how they died?  
8 The film gives us a window into something of what that  
9 means, and you'll hear evidence shortly from Ms Reynolds  
10 about the circumstances in which she lost her  
11 Aunt Marie, and in those two people, Marion and Marie,  
12 we are reminded of the dignity of life lived and the  
13 love had for those who died.

14 In Northern Ireland, like other parts of the  
15 United Kingdom, for many people the loss of someone that  
16 they loved or cared for was compounded by the  
17 circumstances in which they became ill, or, as the film  
18 has shown, the circumstances in which people were before  
19 they died. Besides that, we know that there were people  
20 who were confused and frightened in those circumstances.  
21 We know that there were family and friends who were  
22 desperately worried about whether or not their loved  
23 ones were being looked after properly.

24 Ms Reynolds speaks in her statement to the  
25 experiences of Bridget Halligan and Nuala Scullion in

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1 that regard, and their experiences echo those that we  
2 heard about in the film. Ms Scullion was taken away in  
3 an ambulance and died five weeks later, but her family  
4 didn't get to speak to her again, although they were  
5 permitted to see her by Zoom before she died, but she'd  
6 already lost consciousness. Again, like the experiences  
7 of Sharon and Lizzie, who you heard from in the film,  
8 the sheer awfulness of having to see your loved one  
9 through a phone or through an iPad before they died.

10 And again it comes back to that point, it's those  
11 circumstances which appear to have so profoundly  
12 affected people.

13 And we know that Covid deprived many people of the  
14 love, care and support that they would have had before  
15 they died, regardless of its cause, and of course we  
16 know that it deprived older people, and particularly  
17 those who were living in care homes and people who were  
18 ill, of really precious contact.

19 Again, that's a loss that can't be measured by  
20 reference to the number of people who died. There are  
21 so many other consequences and losses for people,  
22 important and unquantifiable.

23 We know that the position of people who lived in  
24 care homes during Covid-19 is a matter of acute concern  
25 to core participants in Module 2C. Their concerns focus

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1 feeling that their loved ones had been disrespected  
2 because of the way in which their bodies were handled as  
3 well, and that's something that we will also touch on.

4 Just going back to the impact of the lockdowns,  
5 my Lady, I know that through the work thus far  
6 the Inquiry is well aware that there are people for whom  
7 lockdowns and other restrictions exposed them to  
8 violence, to cruelty, addiction, loneliness or caused  
9 their mental health to suffer, amongst other  
10 consequences.

11 As you know, there are very high levels of  
12 disability in Northern Ireland as well. You are going  
13 to hear evidence from Ms Toman of Disability Action  
14 Northern Ireland, but what she says in her statement is  
15 that the figure is one in four people in  
16 Northern Ireland are disabled, and another important  
17 point that she makes is about the prevalence of mental  
18 ill health in Northern Ireland as well, and that it's  
19 the highest in the United Kingdom.

20 I'm really conscious that the term "disability"  
21 connotes a wide range of human experience, and it's  
22 offensive to speak of it as though it refers to a single  
23 one, but it's right that many disabled people would be  
24 particularly adversely affected by Covid-19, whether by  
25 their clinical vulnerability to it or the impacts that

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1 on the standards of care that they were afforded, to the  
2 lack of external scrutiny, their inability to see them,  
3 and the lack of clarity about what was permitted in this  
4 regard. And we know that the number of excess deaths  
5 peaked in Northern Ireland in care homes in April 2020  
6 as well.

7 We are, of course, cognisant that the focus of  
8 Module 2C is on government decision-making, but we will  
9 also look at the extent to which the Executive Committee  
10 was apprised of the situation or enquired about  
11 care homes as well, or were involved in the decisions  
12 which touched upon them.

13 At these times, often the only comfort that people  
14 had was each other, but we know that the ability to  
15 grieve together was very circumscribed for many people,  
16 and again it was a feature of the film as well. The  
17 accounts of people grieving in isolation during the  
18 pandemic are extremely hard to bear.

19 In Northern Ireland, where many people have a faith  
20 or cleave to important traditions around death, the  
21 restrictions were another source of deep pain, and  
22 I think what the film points to was the sense of loved  
23 ones not being able to give their family members the  
24 remembrance or the funeral that they deserved.

25 What you also heard was that sense of families

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1 restrictions would have on them, and that this must have  
2 been obvious too. We know that every day disabled  
3 people face barriers to the most basic aspects of life  
4 that we take for granted: to move freely, to access  
5 accommodation, to travel, to work, to live  
6 independently, to have autonomy. Many of those with  
7 disabilities were clinically vulnerable to Covid-19, and  
8 you heard from Joanne in the film talking about being  
9 imprisoned in her own home.

10 Ms Toman also speaks to the far greater and higher  
11 rate of death amongst disabled people as well in  
12 Covid-19, and that's besides other considerations like  
13 having their access to routine healthcare interrupted,  
14 and again you heard from Peter in the film in that  
15 regard as well, his inability to access proper care in  
16 respect of his sight.

17 But it went wider than this, it interrupted the  
18 access of disabled people to specialised treatments or  
19 therapies and of course Ms Toman makes the really  
20 important point that families and carers also lost  
21 access to important respite care and support.

22 We know that there are other people whose lives  
23 became harder and more frightening during the pandemic,  
24 the older people, children at risk, families living in  
25 poverty, the low paid whose jobs exposed them to the

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1 risk of Covid-19, and many more, and in Module 2C, like  
2 the modules that have gone before it, the question is  
3 the extent to which politicians were cognisant of those  
4 experiences and took them into account and assessed them  
5 as part of their decision-making.

6 My Lady, can I come back, then, to the political  
7 structures and address you briefly on the role of the  
8 Executive Committee.

9 Whilst peace has endured in Northern Ireland, the  
10 power-sharing agreements provided by the Good Friday  
11 Agreement have not always proved resilient to  
12 circumstance. As the experts in Module 2C explain, this  
13 is Professor Anne-Marie Gray and  
14 Professor Karl O'Connor, those arrangements have in fact  
15 spent more than 40% of their time to date not  
16 functioning, and various agreements have had to be  
17 reached in order to get them on foot again.

18 Critically important to Module 2C is that  
19 power-sharing resumed on only 11 January 2020, thus  
20 coinciding with information about Covid-19 emerging from  
21 China, and they were then again suspended on  
22 4 February 2022.

23 In Northern Ireland government is exercised through  
24 the Executive Committee, it's comprised of the  
25 First Minister, the deputy First Minister and two junior

25

1 certainly with Ministers Mallon and Long the evidence  
2 suggests -- and this doesn't just come from them, it  
3 comes from civil servants as well -- that they were  
4 sometimes marginalised in the process. I think it will  
5 be important, my Lady, to hear from Mr Swann, who again  
6 is the current Health Minister in Northern Ireland, as  
7 to whether his position was made more difficult because  
8 he was not from either main party either.

9 Just going back to the suspension of power-sharing,  
10 it brings constraints upon the powers of civil servants  
11 to implement policy into law and to take controversial  
12 decisions, and you might remember you heard forthright  
13 evidence in Module 1 as to the impact that that had on  
14 civil contingency planning. Obviously Module 2C is not  
15 focused on preparedness: the different issue that arises  
16 is whether or not the suspension of power-sharing  
17 continued to impact into the response to the pandemic  
18 itself.

19 Now, of course you heard from Sir David Sterling  
20 before, but again he has been candid about this, he  
21 reflects that the absence of power-sharing for the  
22 three years leading up to the pandemic led to public  
23 services being in a state of stagnation and decay, and  
24 again the really fundamental issue that arises is  
25 whether or not the inability on the part of civil

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1 ministers and eight other ministers.

2 The positions are allocated to political parties  
3 according to parties' strength in the Assembly using the  
4 D'Hondt system, it is a mathematical formula that  
5 allocates both the number of Executive posts to which  
6 the party is entitled and the order in which they choose  
7 their portfolio as well. So that means that the most  
8 difficult positions are normally taken last in the  
9 process.

10 In terms of the Executive, power-sharing in the  
11 Executive explicitly reflects sectarian divides or  
12 divisions in Northern Ireland, Nationalist and Unionist  
13 parties share power not as a result of any pre-or post  
14 election negotiations but rather because they are  
15 obliged by law to a share a power with each other; the  
16 experts refer to this as a form of coerced coalition.

17 Undoubtedly the role of health minister in  
18 Northern Ireland is one of, if not the, most difficult  
19 ministerial position and as you know after power-sharing  
20 resumed on 11 January 2020, Mr Robin Swann, who is  
21 a member of the Ulster Unionist party, one of the  
22 smaller parties in the Assembly, became Health Minister,  
23 and he, like Ministers Mallon and Long, had no  
24 ministerial colleagues on the Executive Committee.

25 There is evidence that this complicated their positions,

26

1 servants to take forward a programme of radical reform  
2 in health services in Northern Ireland, did that  
3 condition inform the response thereafter? And  
4 Minister Swann certainly indicates that it did. Indeed,  
5 in April 2021 he is noted to have said:

6 "Pre-existing fragilities in our system also  
7 undoubtedly hampered our response to the pandemic."

8 And I've no doubt that you will want to hear more  
9 about that.

10 So, my Lady, power-sharing in Northern Ireland has  
11 proved fragile, and that precariousness forms  
12 an inevitable part of the background to the functioning  
13 of the Executive Committee in January 2020. Obviously  
14 it was just resuming after a long hiatus, ministers were  
15 forming this committee for the first time, and embarking  
16 on all the work that had accrued over the period of  
17 suspension. There may have been other factors at play  
18 too. So, for example, in relation to Brexit, which is  
19 another part of the background, Dr Andrew McCormick, who  
20 is the retired director general, international relations  
21 in the Executive Office, puts it in this way:

22 "The legacy of distrust over and above the distance  
23 between the parties (especially the two largest, the DUP  
24 and Sinn Féin) that is a normal and continuous feature  
25 of our politics. The sharp disagreement between the two

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1 main parties on the EU exit issue itself was both  
 2 visible and significant in exacerbating previous  
 3 tensions."  
 4 He continues in relation to the earlier stages of  
 5 the pandemic:  
 6 "In short, the context was not favourable so it is  
 7 actually remarkable that when the pandemic hit, there  
 8 was not more fractious and difficult behaviour than  
 9 there was. It is impossible to know how events might  
 10 have unfolded had there been an optimum level of trust  
 11 between the parties, and continuity of government in the  
 12 years before the pandemic. But, all things considered,  
 13 my assessment is that the deep tensions over EU exit did  
 14 have some negative impact on relations at Executive  
 15 level."

16 My Lady, that fragility of arrangements impacts on  
 17 the role, of course, of civil servants as well, because,  
 18 different to their counterparts in other parts of the  
 19 United Kingdom, part of their role is the facilitation  
 20 and maintenance of power-sharing, or the mediating of  
 21 political differences between ministers.

22 Again, Sir David Sterling explains this in his  
 23 witness statement, in considering his role as head of  
 24 the Civil Service, and his relationships with the  
 25 First Minister and the deputy First Minister. And in

29

1 British-Irish Council.

2 According to the Northern Ireland experts in  
 3 Module 2C, the lack of collective responsibility can  
 4 lead to a siloing of decision-making and budgets, and,  
 5 my Lady, if you think about it for one moment, you can  
 6 see this: departments that are headed by ministers who  
 7 aren't just from different parties but who are  
 8 oppositional to each other might well encourage  
 9 a tendency towards being departed.

10 The term "siloed" may be close to cliché in a public  
 11 inquiry, and also it's sometimes a convenience as well  
 12 to refer to decision-making being siloed, but there is  
 13 some evidence that that compartmentalised sense of  
 14 departments operating did have some impact.

15 So Ms Sue Gray, who begin will give evidence in  
 16 Module 2C, says this:

17 "... by design, individual departments are not  
 18 generally subject to central control, and ... by law  
 19 civil servants must act under the direction and control  
 20 of their Minister. In those circumstances, it would not  
 21 be consistent to require civil servants to serve the  
 22 government of the day rather than their own Minister,  
 23 and that inevitably led ... to an element of silo  
 24 working."

25 Again, just coming back to Sir David Sterling, what

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1 relation to them he says that there's a:

2 "... need to ensure you enjoy the confidence of both  
 3 sides. Without this it would be almost impossible to  
 4 fulfil the role of head of [Civil Service]."

5 What he speaks to in his evidence is this need for  
 6 compromise and the impact that it has, and he goes on to  
 7 speak of it encouraging a tendency towards the lowest  
 8 common denominator, and again, my Lady, that may be  
 9 an important issue in Module 2C as well. In other  
 10 words, did the need for compromise impact on the sorts  
 11 of decisions that were made in response to the pandemic?

12 So in Northern Ireland, there is no government of  
 13 the day, there is no collective cabinet responsibility.  
 14 Each minister is responsible for their own department  
 15 and each permanent secretary is responsible to their  
 16 departmental committee or as accounting officer to the  
 17 Public Accounts Committee.

18 So, rather, ministers in Northern Ireland must abide  
 19 by a pledge of office. This requires them, amongst  
 20 other things, to discharge in good faith all duties of  
 21 office, to serve all the people in Northern Ireland  
 22 equally, to promote the interests of the whole community  
 23 represented in the Assembly, towards the goal of  
 24 a shared future, to participate fully in the Executive  
 25 Committee, the North South Ministerial Council and the

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1 he says is that ministers are expected by the  
 2 Ministerial Code not to publicly criticise decisions  
 3 lawfully made at the Executive table, but, my Lady,  
 4 I think you will see evidence that ministers do appear  
 5 to have been willing to make public statements critical  
 6 of each other or of the position taken by the Executive  
 7 Committee. And I think another thing that you will see  
 8 reflected in the notes of the Executive Committee  
 9 meetings is the almost constant references to  
 10 information being leaked, and often during Executive  
 11 Committee meetings themselves.

12 Again, this is a matter we're going to turn to in  
 13 evidence as well, because it's really difficult to see  
 14 how that loss of confidentiality in discussions couldn't  
 15 have impacted upon decision-making, still less in the  
 16 relationships between individual ministers.

17 So, my Lady, the resumption of power-sharing in  
 18 Northern Ireland and the emergence of the pandemic  
 19 coincided with each other, as ministers took up their  
 20 briefs and civil servants pivoted towards government  
 21 with ministers, so too was the pandemic gaining momentum  
 22 across the globe and alarms about it being sounded.

23 It is of course no part of this Inquiry's role to  
 24 critique power-sharing structures because they are quite  
 25 simply the basis upon which Northern Ireland is governed

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1 and were voted for by the people in Northern Ireland.  
2 But of course we can focus and we can consider the role  
3 that individuals played with them, and that's where the  
4 focus will be.

5 In relation to the Committee, as a matter of law,  
6 the Executive Committee must consider any matter which  
7 cuts across the responsibilities of two or more  
8 ministers, and if it's significant or controversial or  
9 outside the scope of agreed programme for government.  
10 So, my Lady, what you will see is that in time the  
11 Executive Committee came to play a more prominent role  
12 in making decisions about the response to the pandemic.

13 There are some witnesses who have said that having  
14 the Executive Committee occupy this role made responding  
15 to the pandemic more difficult, simply because it took  
16 longer to get a response because there was a need to  
17 achieve consensus between them. But there is another  
18 side to that as well, which is that because uniquely in  
19 the United Kingdom almost all of the electorate were  
20 represented by a party who comprised the Executive  
21 Committee, so the other side to it is that any decisions  
22 that the Executive Committee did reach and were reached  
23 by consensus may have had a greater confidence amongst  
24 the public, and again that's another issue to which  
25 we'll return.

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1 scale that politicians would cleave all the more to the  
2 requirements of mutual understanding and respect.

3 But perhaps the most serious issue which arises in  
4 Module 2C is to ask whether that was the reality and did  
5 that happen, because the evidence suggests that over  
6 time, but particularly in autumn 2020, decision-making  
7 by ministers had started to fracture and to fracture  
8 along political lines. So a key question in Module 2C  
9 is whether or not there was an imperative for unity and  
10 did it endure, and if it didn't endure, what were the  
11 consequences of that?

12 My Lady, I think that might be a good moment for  
13 a break, if that's convenient to you.

14 **LADY HALLETT:** Very well. Of course. I shall return at  
15 11.30.

16 (11.12 am)

(A short break)

18 (11.30 am)

19 **LADY HALLETT:** Ms Dobbin.

20 **MS DOBBIN:** My Lady.

21 I was going to move on to address you on some of the  
22 facts, if I may. I was extremely conscious in preparing  
23 this opening that there probably wasn't going to be the  
24 time to set out all of the facts in as much detail as  
25 they require, so the Inquiry team has also prepared

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1 I think as well, if I may say, my Lady, it would be  
2 too blunt a tool to look at possible fractures in the  
3 Executive Committee as though they were just Nationalist  
4 or Unionist as well, because I think again, as you will  
5 see, those who comprised the committee had views that  
6 might be regarded as crossing other political lines, so  
7 from left to right, or more libertarian as well, so it's  
8 a more complex picture than quite simply Unionist or  
9 Nationalist.

10 Besides the plurality of political opinion that's  
11 represented on the Executive Committee, it was led by  
12 two women, and at the outset of the pandemic six  
13 ministerial positions were taken by women and four were  
14 taken by men, and it's understood that the ministers do  
15 come from a range of different backgrounds, not just  
16 politically but in their personal circumstances as well.

17 My Lady, entering into power-sharing might represent  
18 the best of political ideals: the willingness to  
19 compromise, the taking of a risk for the betterment of  
20 all people, to see one's opponents as essentially part  
21 of the same struggle as yours, to make life better for  
22 people. It might be thought that in a pandemic, and  
23 indeed the people of Northern Ireland might expect, that  
24 those ideals become even more important, that faced with  
25 a common enemy with the capacity to destroy life at

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1 a written factual document as well that sits alongside  
2 this opening, and that will be made available to  
3 core participants, and I think if I can ask your  
4 permission to publish that on the Inquiry's website in  
5 due course.

6 **LADY HALLETT:** Certainly.

7 **MS DOBBIN:** So, my Lady, these facts are by no means  
8 exhaustive, I'm simply going to try and pick out some of  
9 the things along the way that provide some of the  
10 foundation for the thematic issues, and I may have to  
11 take it at a canter, so please do tell me to slow down  
12 if it's going too fast.

13 So, my Lady, if I can pick up the chronology,  
14 please, on 22 January 2020, an official who was a member  
15 of the pandemic flu subgroup of the Civil Contingencies  
16 Group in Northern Ireland, and you'll hear more about  
17 these various groups, but there was a pandemic flu  
18 subgroup, and this official provided a paper about  
19 sector resilience in the context of a pandemic flu  
20 preparation, and the paper noted that no work had been  
21 commenced on it due to competing priorities and impact  
22 on staff due to the EU exit preparations, and according  
23 to this note this had resulted in Northern Ireland being  
24 more than 18 months behind the rest of the  
25 United Kingdom in terms of ensuring sector resilience to

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1 the pandemic outbreak.

2 A submission was sent to Mr Chris Stewart, and he's  
3 a witness who you will hear evidence from, at the TEO,  
4 who had responsibilities for civil contingencies, and  
5 this too referred to there being a critical lack of  
6 resources in the Civil Contingencies Policy Branch in  
7 Northern Ireland.

8 Now, we know that on 24 January 2020 Minister Swann  
9 attended the first COBR meeting, although it wasn't  
10 until 2 March that the First Minister and the deputy  
11 First Minister started to attend those meetings.

12 You will know from the other parts of the module  
13 that there was an important email on 25 January from  
14 Professor Woolhouse in Scotland, and he had emailed  
15 various people in Westminster to say that, having looked  
16 at some of the figures that were now becoming available,  
17 that if they were put into an epidemiological model for  
18 Scotland and many other countries, that you would likely  
19 predict that in over about a year, at least half of the  
20 population would become infected, the gross mortality  
21 rate would triple, more at the epidemic peak, and that  
22 the health system would become completely overwhelmed,  
23 and that information was passed to the Northern Ireland  
24 CMO.

25 So, my Lady, that goes to the point about the

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1 of her and approved by Mr Stewart, to the First Minister  
2 and the deputy First Minister on 30 January. She says  
3 in her statement that she then received a telephone call  
4 from the Northern Ireland CMO expressing, in her words,  
5 his dissatisfaction that she had prepared and submitted  
6 this submission, and that he stated in an email that  
7 given the professional and technical nature of the  
8 papers that he, as the Chief Medical Officer, would wish  
9 to clear all future executive papers whilst the  
10 Department of Health remained the lead government  
11 department.

12 As you will see, my Lady, Ms Rooney had prepared  
13 another note about the COBR meeting and she referred in  
14 that, for example, to an important CRIP that had been  
15 referred to at COBR that, for example, showed that there  
16 was coronavirus in Germany and France, and in fact  
17 referred to the fact that there could be asymptomatic  
18 transmission as well.

19 In her note, it also referred to the fact that all  
20 departments and DAs should be putting together  
21 a reasonable worst-case scenario plan building on the  
22 work that had been done for the flu pandemic. And  
23 again, my Lady, I make that point in terms of the kind  
24 of information that was coming into the Executive Office  
25 in Northern Ireland at that early point.

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1 exchange of information at the earliest stages of the  
2 pandemic.

3 And in the same chain, the Northern Ireland CMO  
4 thanked Professor Sir Chris Whitty, noting:

5 "As ever you are/will be doing a lot of the heavy  
6 lifting for us and providing much appreciated expert  
7 advice."

8 I think, my Lady, at that stage certainly speaking  
9 perhaps to a reliance upon the Chief Medical Officer at  
10 Westminster in terms of guidance.

11 You will know that there was a further COBR meeting  
12 on 29 January, and again Minister Swann attended that.  
13 There was an official from the Northern Ireland  
14 Executive, Ms Rooney, who was sitting on the COBR  
15 meeting and emailed during it. She noted that the  
16 Health Minister had asked if the First Minister and the  
17 deputy First Minister were being briefed, and her email  
18 also noted that it was anticipated that Covid-19 would  
19 become a global pandemic over the next three weeks, and  
20 in reply Mr Stewart said that this was a stark  
21 assessment and that the First Minister and deputy  
22 First Minister should be briefed about it, and that  
23 a brief on existing flu plans with a focus on the TEO  
24 role would be welcome.

25 Ms Rooney sent a submission, as had been requested

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1 There's another communication or an email exchange  
2 around this time from officials within the  
3 Northern Ireland Government, and in that exchange, this  
4 was between 30 and 31 January, there was reference to  
5 the fact that if the virus caused significant numbers to  
6 become ill and die with associated disruption across  
7 sectors, that that would be a pan flu type incident in  
8 which cross-government co-ordination would be required.

9 Mr Stewart again in reply to that email said that it  
10 accorded with his understanding of the central  
11 contingency arrangements in Northern Ireland, and he  
12 says this:

13 "... I did wonder why it appeared that stand up of  
14 a central operations room was being contemplated at this  
15 stage; so apologies if we formed the wrong impression.  
16 We will do some quiet planning on NICCMA ..."

17 And again, my Lady, those are the central civil  
18 contingency arrangements:

19 "... stand up as a contingency, in the hope that the  
20 need does not arise."

21 So I think that one sees there an issue which we  
22 will explore in more detail about what the role of the  
23 central contingency arrangement actually was in  
24 Northern Ireland in response, but certainly the  
25 indication there that it's understood that it will kick

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1 in as and when Covid-19 arrived in Northern Ireland, and  
2 started to have consequences.

3 Again we see that again on 6 February, there was  
4 an important communication from the director of  
5 population health in the Department of Health in  
6 Northern Ireland, and this stated:

7 "I do not consider it necessary to activate NICCMA  
8 arrangements at this time, unless or until the infection  
9 appears in NI and impacts are experienced here."

10 Now, again, by that stage -- and we'll come back to  
11 this -- Sir Richard Sterling(sic) had certainly attended  
12 a meeting in Westminster and he recalled that it was  
13 being said at that meeting by the UK CMO that the  
14 Chinese Government hadn't got to grips with the pandemic  
15 and that it would certainly become a global pandemic.  
16 So nonetheless, notwithstanding that that information  
17 was emerging, we see the indication from the Department  
18 of Health that the contingency arrangements wouldn't be  
19 set up or wouldn't take, wouldn't kick in until such  
20 time as the coronavirus arrived.

21 **LADY HALLETT:** I think you said Sir Richard. It's  
22 sir David.

23 **MS DOBBIN:** Sir David. I'm sorry, there are a number of  
24 Richards and a number of Davids, but it's Sir David  
25 Sterling.

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1 Northern Ireland.

2 And just turning back to Mr Stewart's paper, it's  
3 conspicuous that he identified one of the areas that  
4 needed consideration as being the role and the  
5 responsibilities of the Executive, and it also noted  
6 that a new relationship in relation to the  
7 Republic of Ireland in relation to civil contingency  
8 arrangements was an area of particular interest.

9 The paper made only passing reference to Covid-19,  
10 and ultimately stated:

11 "The Executive and wider society may not be prepared  
12 for, or have the capacity and capability to deal  
13 effectively with, an emergency situation should a major  
14 contingency present."

15 So, my Lady, if I may just pause there, in terms of  
16 the end of February 2020, it would appear that proposals  
17 were being put forward that central civil contingency  
18 arrangements would need to be reviewed because  
19 Northern Ireland might not have the capacity to cope  
20 should a major emergency present. But of course  
21 throughout that February, that major emergency was being  
22 heralded, because Covid-19 was circulating in the  
23 United Kingdom.

24 But I think the critical issue is this, and the  
25 question that arises in Module 2C is where the Executive

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1 My Lady, as you know, proximate to this on  
2 24 February 2020, the World Health Organisation  
3 published a report on its mission to Wuhan, and it said  
4 that all countries should:

5 "Immediately activate the highest level of national  
6 Response Management protocols to ensure the  
7 all-of-government and all-of-society approach needed to  
8 contain COVID-19 with non-pharmaceutical public health  
9 measures ..."

10 The very next day on 25 February, in a paper that  
11 was sent to the Executive office departmental board by  
12 Mr Stewart, he noted:

13 "Civil contingency arrangements in Northern Ireland  
14 have not been reviewed for over 20 years."

15 He sought agreement to commission a strategic review  
16 of civil contingency arrangements across  
17 Northern Ireland to ensure effective arrangements are in  
18 place, to enable the Executive to support wider citizens  
19 and wider society, in the event of an unforeseen  
20 emergency event or situation.

21 Well, my Lady, you will note the reference to  
22 an unforeseen emergency, and I'll return to that. But  
23 a prompt for that paper had been a report that had been  
24 written in November 2019 that had made some 85  
25 recommendations about civil contingency arrangements in

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1 Committee was located whilst this was unfolding.  
2 There's very little sense at these early stages of the  
3 Executive itself being involved in any of the  
4 decision-making or any of the planning that you might  
5 think was required.

6 So one of the key questions in Module 2C again, and  
7 this is a separate issue that arises, is whether or not  
8 it had the expertise or the resources to take any  
9 sort of different approach at that stage as the one that  
10 was being taken by Westminster.

11 Now, obviously Northern Ireland was in a distinct  
12 position, as a small jurisdiction it doesn't have the  
13 layers of expertise and the sort of responsive  
14 structures that exist within Westminster in order to  
15 respond to this sort of emergency and, as you'll see,  
16 the two individuals who led the provision of expert  
17 advice to the Department of Health and to the Executive  
18 Committee were the Chief Medical Officer and the Chief  
19 Scientific Officer as well, Professor Sir Ian Young.

20 You will see and you'll hear evidence from him that  
21 in fact the Chief Scientific Officer was on leave  
22 because of illness between 12 February 2020 to  
23 23 March 2020. It doesn't appear, although we'll ask  
24 him about this, that he had a role in advising about the  
25 pandemic prior to his having to take leave, but the fact

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1 that there was no Chief Scientific Adviser appears to  
2 have had a number of consequences.

3 So, first of all, Northern Ireland had no membership  
4 of SAGE, it's unclear the extent to which anyone from  
5 Northern Ireland attended, certainly those early  
6 meetings of it.

7 Second, Northern Ireland had no modelling capacity  
8 of its own that could be set up in an emergency  
9 situation. It was only when the CSA returned that he  
10 set up such a group.

11 And, third, until it came together for the first  
12 time on 27 April 2020, Northern Ireland didn't have  
13 an independent advisory group, so in other words the  
14 sort of group that could take into account the SAGE  
15 papers and outputs and other academic work and translate  
16 that into advice to the CMO or to other audiences.

17 By 1 March 2020 Northern Ireland had its first  
18 confirmed positive result for Covid-19 in respect of  
19 someone who had travelled from an affected part of  
20 Italy.

21 You will see, my Lady, we have the handwritten notes  
22 of the Executive Committee meetings and they're much  
23 fuller than the formal notes. So from these we can  
24 discern certainly some of the discussion and the things  
25 that people said during it. In respect of the meeting

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1 the nation, and the evidence was that it was out of date  
2 by the time that it was published as well because the  
3 disease had already become established.

4 But again the issue that arises here is: how was  
5 that document perceived in Northern Ireland?

6 On 3 March the Executive Office provided a paper to  
7 the First Minister and the deputy First Minister. It  
8 noted that the focus was still on containment of  
9 Covid-19 but it did note that it was rapidly spreading  
10 to other countries, and explained to the ministers the  
11 concept of the reasonable worst-case scenario as well.

12 It also spoke to the need for increasing the  
13 co-ordination of the wider non-health work, which was  
14 the responsibility of the TEO, and referred to the fact  
15 that a meeting had taken place at the Civil  
16 Contingencies Group on 20 February.

17 My Lady, it's unclear whether or not there had in  
18 fact been any other meeting of that Civil Contingencies  
19 Group in government in Northern Ireland.

20 The paper set out for ministers what the civil  
21 contingencies -- what the arrangements were in  
22 Northern Ireland, and it recommended to them that they  
23 note the escalating position and the need to make  
24 preparation for dealing with a potential outbreak of the  
25 disease in Northern Ireland.

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1 on 2 March -- and we understand that this was the first  
2 substantive discussion that took place at the Executive  
3 Committee -- we can see from the notes that it was said:

4 "... most people -- minor illness -- like cold. 98%  
5 will get better. 5% hospital care ..."

6 It's:

7 "... widespread ... Not inevitable. Need to be  
8 prepared for weeks/months ... 50% ... of population  
9 [could] be affected -- but [a] lot of minor cases [very]  
10 mild."

11 But this:

12 "Need to plan and prepare for all eventualities."

13 So, in other words, my Lady, we're at the start of  
14 March 2020 and there's reference being made at  
15 the Executive Committee for the need to plan.

16 As you know, the UK-wide "Coronavirus: action plan"  
17 was published on 3 March, and it purported to set out  
18 what the UK had done already, what it planned to do, in  
19 order to tackle the outbreak, and I know, my Lady,  
20 you're familiar with the concepts that it set out, and  
21 I won't go back over those, but during Module 2 that  
22 document or that plan was subject to stringent criticism  
23 by some witnesses who thought it resembled more of  
24 a communication plan than a substantive strategy for  
25 responding to a pandemic that might threaten the life of

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1 So, my Lady, just coming back again to that  
2 fundamental point, it was 3 March 2020. Looked at now,  
3 there's an obvious question as to whether or not there  
4 was a significant underestimation of the speed and scale  
5 of what was unfolding. There's very little sense in the  
6 communications of any urgency about the need to plan and  
7 respond within the Executive Committee.

8 My Lady, you'll hear evidence then about a series of  
9 communications that came from Cabinet Office, starting  
10 with 3 March, and this was a commission from the  
11 Cabinet Office asking departments to set out what the  
12 impact of non-pharmaceutical interventions would be, and  
13 departments were asked to fill out a table to outline  
14 the impacts and challenges across intergovernmental  
15 dependencies if various intervention options were taken  
16 forward.

17 It noted that this was work that the Cabinet Office  
18 regarded as likely to have already taken place, so in  
19 other words the Cabinet Office wasn't asking for this  
20 work to be commenced, rather it was asking to draw on  
21 work that it assumed had already been done.

22 Again, Ms Rooney explains in her witness statement  
23 relative to this that she went to a meeting on 4 March  
24 of Northern Ireland cross-departmental working groups,  
25 and which had departmental leads as well who were

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1 involved in civil contingencies, and they are understood  
2 at that meeting to have had a number of concerns about  
3 the fact that aspects of the civil contingencies  
4 arrangements had not been set up, for example that there  
5 was no hub, which is regarded as an important feature of  
6 civil contingencies, having been constituted.

7 Ms Rooney says that she reported this to Mr Stewart,  
8 but that his response was that departmental colleagues  
9 would not welcome the standing up, for example, of the  
10 hub because it would deprive them of their staff.

11 And again part, I think, of what was being said at  
12 that point was that they needed assistance in order to  
13 be able to respond to the central government requests  
14 for this sort of information.

15 Again, on 6 March, Cabinet Office sent another email  
16 to recipients across the United Kingdom, again seeking  
17 information about the impact of non-pharmaceutical  
18 interventions, and it sought a response -- it was  
19 urgent -- by 7 March, so the next day. And again  
20 Ms Rooney made inquiries as to who was going to respond  
21 on behalf of Northern Ireland about that, and it was  
22 suggested to her that this wasn't a matter for the  
23 devolved administrations to respond to, and she didn't  
24 think that was right, it would seem she thought that in  
25 fact they should have been. But it appears that in fact

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1 Or, sorry, he was asked, that's the choice, annoying  
2 the CMO or annoying the Cabinet Office, and his response  
3 was:

4 "If pressed now, my advice would be to annoy [the  
5 Cabinet Office] rather than CMO. And you can hold me to  
6 that."

7 But, my Lady, just drawing back from that, there's  
8 an obvious issue here, because the criticism has been  
9 made, I think, that the devolved administrations felt  
10 cut off, as it were, from central government  
11 decision-making, and we will see that and you will hear  
12 evidence about that, but it's obviously of note that at  
13 this critical juncture then, when information was being  
14 sought by the Cabinet Office about what -- the effect of  
15 non-pharmaceutical interventions and what they would  
16 be -- well, first of all, there's an issue as to whether  
17 Northern Ireland was in a position even to respond to  
18 that. There's obviously a second issue as to whether or  
19 not the planning had gone on in order to be able to  
20 respond to those sorts of queries. And then I think we  
21 see as well, then, that suggestion of Northern Ireland  
22 effectively having to respond but based on what was  
23 happening within England and effectively a response that  
24 was being driven by the United Kingdom as well.

25 There's more important correspondence, I won't go to

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1 the Chief Medical Officer of Northern Ireland had taken  
2 the view that Northern Ireland shouldn't respond to that  
3 particular request, and there's an email from him which  
4 sets out his reasonings for that, and his response  
5 appeared to be predicated in part upon the fact that to  
6 respond would require modelling input, and he says this:

7 "In [Northern Ireland] as you indicate we simply do  
8 not have the modelling [capacity] to replicate and  
9 provide such granularity and have not previously sought  
10 to provide the same. Given the unrealistic timeframes  
11 it is not possible to provide any meaningful analysis.  
12 I am unclear as to why this has now been interpreted and  
13 escalated as a 'must do'. This is a marathon not  
14 a sprint ..."

15 And he referred in that email to the fact that this  
16 was essentially, if I may summarise, being driven by  
17 central government because of the position which had  
18 been reached there, but said that Northern Ireland  
19 effectively wasn't in the same position.

20 When this was queried by officials as to whether or  
21 not they shouldn't be responding, it would appear that  
22 Sir David Sterling in an exchange when asked -- or, said  
23 this:

24 "... my choice is between annoying [the] CMO or  
25 annoying [the] Cabinet Office."

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1 that now, in and around this time about the approach  
2 that was being taken within the Executive Office about  
3 those requests for information, but eventually, I think  
4 some days later, a response was provided to the  
5 Cabinet Office.

6 Just coming back, then, to what was taking place in  
7 Northern Ireland at that point in time, there was  
8 a briefing prepared on 10 March, and this relates to the  
9 approach that was being taken to large events in  
10 Northern Ireland, and it appears from this note that  
11 there was no government advice to cancel large events,  
12 but rather that the organisers of large events, so  
13 for example for St Patrick's Day, and for a football  
14 match which was taking place as well, that the  
15 organisers themselves had taken the decision to cancel  
16 those things themselves.

17 So, my Lady, if it's right that Northern Ireland  
18 avoided large superspreader events at this point in  
19 time, it may be that that's because of the actions that  
20 were taken by organisers, not the Government in  
21 Northern Ireland at this time.

22 My Lady, there was another Executive Committee  
23 meeting on 10 March, and again just looking at the  
24 handwritten notes of that meeting, the First Minister is  
25 noted as saying:

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1 "Civil contingencies -- have we got plans to  
2 handle?"

3 The deputy First Minister is noted as having said:  
4 "[Executive] approach needs to kick in -- all need  
5 to contribute."

6 Other notes that appear on the face of this document  
7 in relation to the Chief Medical Officer being  
8 telephoned by various people from parties "don't abuse",  
9 according to the head of Civil Service that departments  
10 were to do impact assessments, there's a reference to  
11 departments needing advice, there was reference to the:  
12 "Taoiseach's advice [being] different to PM. Our CMO  
13 and [Republic of Ireland CMO on [the] same page."  
14 So again, my Lady, I think the question that arises,  
15 given the late stage reached, why references appear to  
16 be being made there to whether or not, for example,  
17 civil contingencies had been arranged and were ready to  
18 kick in.

19 On 11 March, the Republic of Ireland announced  
20 a package of measures, and this included the closure of  
21 schools as well.

22 On 12 March, this led to a meeting between the head  
23 of Civil Service, Sir David Sterling, the First Minister  
24 and the deputy First Minister. The note of that meeting  
25 states that Sir David Sterling clarified that there were

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1 tracers were in the process of being trained, but it's  
2 far from clear, my Lady, as to whether or not that was  
3 actually the position, and whether and when that ever  
4 eventuated.

5 So, my Lady, just moving forward then in the  
6 chronology, a briefing paper was sent to the  
7 First Minister and the deputy First Minister on  
8 16 March. The purpose of the paper was to facilitate  
9 consideration of the phased activation of the  
10 Northern Ireland crisis management arrangements or  
11 contingency arrangements. So again, my Lady, even at  
12 this date the central contingency arrangements in  
13 Northern Ireland had not been stood up.

14 The notes of the Executive Committee meeting on that  
15 day noted that there were 45 cases in Northern Ireland  
16 and that there was community transmission. And again,  
17 there appears to be a change at this meeting in that the  
18 notes speak of obvious anxiety about what was taking  
19 place.

20 The deputy First Minister is recorded to have said  
21 that they lost control two weeks ago, and that people  
22 were making their own decisions. The Minister for  
23 Communities referred to people being terrified and that  
24 there was a need to show leadership. Minister Long  
25 referred to the Executive parties giving mixed messages.

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1 no medical or scientific evidence to support measures  
2 announced by the Taoiseach. The Health Minister and the  
3 CMO are noted to have joined the meeting, and that the  
4 Health Minister:  
5 "... clarified that that containment measures are  
6 working in [Northern Ireland] and following the  
7 [Republic of Ireland] position would crash the NHS and  
8 create unnecessary panic and fear."

9 We also know that the community testing and tracing  
10 was halted in Northern Ireland on 12 March and again  
11 it's understood that this was because of a lack of  
12 testing capability as well, although again I emphasise  
13 it's an issue for witnesses and something which needs to  
14 be examined more closely, because it's not clear that  
15 testing was taking place on any great scale in  
16 Northern Ireland at that point, and as you've seen it  
17 seems that the focus, or certainly the stage in  
18 Northern Ireland that was still being said to exist, was  
19 that of containment.

20 So it's not quite clear then precisely on what basis  
21 test and trace was halted in Northern Ireland on that  
22 day. And there's also a linked point to this, and again  
23 it's a matter that needs to be explored with the CSA, it  
24 appears that information was provided to him at some  
25 point by the Public Health Agency that over 500 contact

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1 There were references to ministers not being shouted  
2 down. The Health Minister is recorded to have said  
3 "We've been preparing for [the] past seven weeks",  
4 whereas the Justice Minister is recorded to have said  
5 the "Executive always seems to be reacting, not  
6 leading". The Infrastructure Minister is recorded to  
7 have said "We are mismanaging".

8 My Lady, I wonder if at that meeting one sees on the  
9 part of the Department of Health their position that  
10 they had been preparing for the past seven weeks, but  
11 perhaps the suggestion that in terms of the wider  
12 context of departments, or certainly the Executive  
13 Committee, that that was not felt to be the position.

14 Similarly, the notes of that meeting suggest  
15 departments can prepare their own plans but they have to  
16 join up, and I think again that goes to the question of  
17 whether or not, before that point in time, whether or  
18 not there had been that cross-departmental approach that  
19 might have been expected by this stage of events.

20 There's a message, a WhatsApp message, from  
21 Sir David Sterling about that meeting, and he said:  
22 "The Executive meeting yet was excruciating, no  
23 leadership on display at all ..."

24 There was a further message from Dr Andrew McCormick  
25 who noted:

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1 "The [First Minister] and [deputy First Minister]  
2 could surely decide and state that all Covid-19 response  
3 and planning is cross-cutting and subject to a CCG NI."  
4 So in other words the Civil Contingencies Group.  
5 Sir David said:  
6 "That would be the sensible approach and I will push  
7 [for that] tomorrow."  
8 Again on 17 March Sir David observed in a WhatsApp  
9 message that it should never be underestimated how  
10 difficult it was "to get the simplest things agreed  
11 here" and said:  
12 "Even in a crisis they are keener in scoring points  
13 off each other than helping the citizen."  
14 So, again, my Lady, that might speak at this point  
15 to some disarray perhaps on the part of the Executive  
16 Committee as to what precisely the position was, and as  
17 I've said I think that goes to the really important  
18 point as to the extent to which the committee had been  
19 involved up and until that point, because it's only then  
20 on 18 March 2020 that the Executive Office actually  
21 activated the Northern Ireland hub; so in other words  
22 the operation centre of the contingency arrangements.  
23 The first person to die from Covid-19 in  
24 Northern Ireland did so on 19 March, and in a meeting of  
25 that day the deputy First Minister is noted to have

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1 As I've already said, there's a serious issue as to  
2 what exactly the Executive Committee's role had been and  
3 was up until that point. Was it because ministers were  
4 blinkered into seeing Covid-19 as a health issue and  
5 simply didn't give thought to the need for a muscular  
6 ministerially sponsored cross-departmental approach at  
7 a very early stage?  
8 Mr Ovens, who was a special adviser to  
9 Minister Swann, makes this observation in his statement:  
10 "Looking back to the period of January to March 2020  
11 I do not believe there was clear Executive strategy in  
12 place. There wasn't a sufficient 'whole-Government'  
13 approach -- many Departments looked to the Department of  
14 Health and its Minister for action and direction, whilst  
15 at the same time failing to place enough emphasis on  
16 what they themselves could or should have been preparing  
17 for."  
18 He also says:  
19 "... I also believe the Executive failed to come  
20 together as a single collective voice in that initial  
21 period. I do believe overall that the response in  
22 Northern Ireland was sufficiently rapid, but we were  
23 also significantly aided by the fact that the trajectory  
24 of the virus in Northern Ireland was behind that in  
25 other parts of the United Kingdom. Had that not been the

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1 observed it's a:  
2 "... huge burden on [the Department of Health] --  
3 Robin shouldn't be handling [this] by himself ... we  
4 need to pull out all the stops and work together."  
5 Minister Poots is noted to have said:  
6 "... as an executive we are behind the curve, we  
7 need to get ahead."  
8 My Lady, again, the question arises as to why these  
9 sentiments were being expressed on 19 March 2020, well  
10 after Covid-19 had seeded in Northern Ireland and after  
11 the first death.  
12 Can I just point at this point in time  
13 Minister Swann made a plea to his ministerial colleagues  
14 that "talk at this table is not public comment", that's  
15 noted in the records and again it's a reference to  
16 leaking, but as you will see that plea was largely  
17 ignored, it appears from the records, over the course of  
18 the following Executive Committee meetings.  
19 So, my Lady, if I may just draw all that together,  
20 the same issue arises as has done in other parts of the  
21 UK, whether steps could and should have been taken  
22 earlier, Northern Ireland may have been behind in terms  
23 of the trajectory of Covid-19, but there's a serious  
24 issue as to why its central contingency arrangements  
25 were activated so late in the day.

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1 case, I would have likely had concerns at the pace in  
2 which we were able to proceed."  
3 My Lady, doesn't that seem like a really important  
4 point, that Northern Ireland was fortunate that it had  
5 been behind, but there's certainly no suggestion that  
6 there was any push or advice being given when we get to  
7 18 March that Northern Ireland should in its own stead  
8 be locking down and releasing (inaudible).  
9 So, my Lady, I have set out in the written note what  
10 happened thereafter. If I may just pick up on a few  
11 other things, and I'm going to go through the chronology  
12 very quickly, but in terms of some of the thematic  
13 issues, there was a Northern Ireland situation report of  
14 3 April 2020 which noted that the deputy First Minister  
15 had criticised the health minister's handling of the  
16 outbreak. She had spoken to the BBC, and said that:  
17 "Slavishly following the Boris Johnson model, which  
18 had been too slow to act, means that we're not as  
19 prepared as we could be".  
20 Now, my Lady, I flag that up because I think for you  
21 it may be important to see what that absence of  
22 collective cabinet responsibility actually looks like,  
23 that you can be a member of the same committee and come  
24 out and say that, but I think there's also a question as  
25 to whether or not that sort of criticism was fair in any

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1 event, in other words was Minister Swann acting on the  
2 advice of the Northern Ireland CMO. And additionally,  
3 and perhaps more important, is it really fair that  
4 anyone should have been blaming Minister Swann that  
5 Northern Ireland wasn't as prepared as it could have  
6 been? Why, for example, were the deputy First Minister  
7 and the First Minister not also responsible for this?  
8 I think again, my Lady, that's an issue to be explored  
9 in evidence.

10 Another theme that emerges at this point and which  
11 we'll revisit is whether or not there was an issue about  
12 enforcement in Northern Ireland as well, because there's  
13 certainly some evidence at the time, in fact there's  
14 a letter from Simon Byrne, who was then Chief Constable  
15 of Northern Ireland, who wrote seeking clarity about the  
16 regulations, and appears to have raised the question of  
17 whether or not it was really right that the police  
18 should be involved in enforcement of public health  
19 measures in Northern Ireland.

20 I think, my Lady, you will see as we go on and look  
21 at what happened in autumn, similarly issues were being  
22 raised as to whether or not the regulations were being  
23 enforced quite as robustly as they could and should have  
24 been.

25 Another issue which arises is the fact that on

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1 an important one across all of the work of Module 2, but  
2 I think that it also raises issues or questions as to  
3 whether or not -- or the extent to which -- damage was  
4 done in terms of relations in the Executive Committee,  
5 the perception obviously of bereaved people in  
6 Northern Ireland having regard to the funeral as well,  
7 and, third, whether or not damage was done to public  
8 confidence in Northern Ireland as well.

9 My Lady, I'm going to move on again quite  
10 significantly in the chronology.

11 By late summer -- so Northern Ireland, like  
12 everywhere else, embarked on a strategy so that it could  
13 start lifting the restrictions, but by late summer in  
14 Northern Ireland Covid rates were in fact starting to go  
15 up, so Northern Ireland had to reconcile the reopening  
16 of society but in the face of rising Covid rates, and  
17 had to deal with all of the complexity that that brought  
18 with it, and the Executive Committee was again heavily  
19 involved in that.

20 My Lady, you will hear evidence, then, about the  
21 various steps that were taken in Northern Ireland to try  
22 and arrest what was happening in terms of the rates.

23 So local restrictions were brought in in September,  
24 but by the time it got to October 2020 the situation was  
25 really, really serious in Northern Ireland, and,

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1 30 June 2020 the deputy First Minister and the Minister  
2 for the Department of Finance attended a funeral, of  
3 a Mr Storey. We understand that the TEO hasn't been  
4 able to find the notes of the Executive Committee  
5 meeting that took place after that. The typed minutes  
6 simply note that the deputy First Minister discussed the  
7 circumstances in which she attended the funeral, but it  
8 appears that that incident of itself was to prove  
9 damaging to Executive Committee relations, and that's  
10 something that Sir David Sterling comments upon.

11 Now, there's been an independent review into the  
12 circumstances of the policing of that funeral, there has  
13 been a police investigation into it, as to whether any  
14 individuals breached Covid regulations by virtue of  
15 their attendance, and there's also been a decision by  
16 the prosecutor in Northern Ireland not to bring any  
17 prosecutions, and it's no part of the work of this  
18 Inquiry to go behind that either, but it does raise,  
19 obviously, some relevant issues, and one sees that the  
20 decision not to prosecute was based on the lack of  
21 clarity in the regulations and the policing approach  
22 which had been taken in the lead-up to the funeral as  
23 well.

24 And obviously that issue, as to whether the  
25 regulations were so unclear as to not be enforceable, is

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1 for example, there is reference in some of the meeting  
2 notes to the Chief Medical Officer saying that he had  
3 never been more concerned as CMO than he was at that  
4 point, and seemingly urging upon the Executive Committee  
5 that they only had a short window of opportunity to take  
6 action, and that intervention now was required in order  
7 to avoid the situation becoming much worse in two or  
8 three weeks.

9 My Lady, we can see really at this point in time,  
10 then, the sorts of tensions that I alluded to earlier in  
11 the opening and you will see some of the references to  
12 some ministers querying the scientific basis for the  
13 advice that was being taken, and the concern obviously  
14 about the economic consequences of further restrictions  
15 or the effect that those restrictions might have in  
16 terms of health and mental health as well.

17 Really, it reached the point where what was being  
18 recommended -- and this was by 13 October -- that there  
19 should be a six-week period of significant restrictions,  
20 and again one can see in the Committee meetings that  
21 there was opposition to this, and we'll explore that in  
22 more detail with the meetings.

23 But there was a short or a circuit-breaker type  
24 lockdown introduced, and the critical point came when  
25 there needed to be a decision as to whether or not that

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1 should be extended. So there had been a four-week  
2 circuit-breaker and the issue that arose was whether or  
3 not it should be extended for a further two weeks, so  
4 quite a modest proposal.

5 My Lady, that led to a series of meetings over 9,  
6 10, 11 and 12 November 2020, and I think it's really  
7 here that we see perhaps the most difficult point in  
8 Executive Committee decision-making in response to the  
9 pandemic.

10 So at the meeting it's noted that Minister Dodds is  
11 recorded to have said that ministers were not having  
12 an honest discussion, that she was distraught with the  
13 tone. Comments that are recorded in the notes include:

14 "... this is about theatrics -- [it was] leaked last  
15 night, leaking in live time ..."

16 Reference to Sam McBride, who I think is  
17 a journalist.

18 "... you want to embarrass us"; "failure of  
19 leadership"; "DUP blocked all proposals -- put lives of  
20 citizens in danger"; "Only Covid deaths matter to the  
21 SDLP. All deaths matter to me"; "Mid-December --  
22 hospitals [will be] overrun -- will they take comfort  
23 from [the] DUP position?"

24 And it seems at this point Minister Long intervened  
25 to say that the meeting needed to adjourn or damage

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1 precluded it, and he also states or makes clear the  
2 tensions in that meeting, and the tensions caused by the  
3 outcome being leaked to the press immediately. And in  
4 fact we've noted in the notes of the meeting Minister  
5 Dodds was congratulating journalists for live tweeting  
6 the proceedings.

7 So, again, at this most sensitive point, when  
8 relations were at their most difficult, we see the  
9 leaking of what was going on, not even the outcome, what  
10 was going on at the minutes.

11 Mr Ovens, the adviser to Minister Swann, says this:

12 "Throughout my time as a Special Adviser, the  
13 Executive meeting held on 9 November 2020 stands out for  
14 being the most detrimental to political and ministerial  
15 relations. The meeting was tense, both because key  
16 elements of it were being leaked to the media but also  
17 because I believe the then largest Executive Party were  
18 struggling to grasp the need for action to be taken.  
19 That Party was also acutely aware that it had a number  
20 of senior non-Executive elected representatives that  
21 would have almost certainly criticised the Party for  
22 decisions it was being asked to take."

23 So, in other words, certainly the hint there, but  
24 something to be explored by witnesses of the political  
25 considerations that might have been at play.

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1 would be done to working relationships, and she explains  
2 in her witness statements that the original  
3 circuit-breaker had been brought in with reluctance on  
4 the part of some ministers, and it had been communicated  
5 to the public that it would end within the period set,  
6 and she notes in particular that there was an increasing  
7 level of resistance within the DUP to agree any further  
8 lockdown or extension.

9 Dr Andrew McCormick explains more about the meeting,  
10 he was there, he says it's the most difficult Executive  
11 meeting that he ever witnessed. And, my Lady, it also  
12 involved two cross-community votes as well, and he  
13 explains what a cross-community vote is. It was added  
14 to the checks and balances to protect the interests of  
15 minorities through the St Andrews Agreement. I don't  
16 have time to explain it now, we'll explore it with  
17 witnesses, but effectively it enables a veto over  
18 certain decisions.

19 That cross-community vote was used at the meeting,  
20 and Dr McCormick has pointed out in his statement what  
21 he describes as the extreme incongruity of DUP ministers  
22 claiming to have a concern based on the interests of the  
23 Unionist community when the proposal was coming from  
24 another Unionist minister, the Minister for Health,  
25 although Dr McCormick did not think that the rules

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1 My Lady, it might be thought difficult, but  
2 obviously witnesses will speak to this, as to why anyone  
3 thought that voting on a cross-community basis in  
4 relation to important public health measures was  
5 a sensible way to proceed at this juncture.  
6 Minister Long describes the meeting as febrile and  
7 ill-tempered, and again one wonders in that sort of  
8 context whether it was the right thing to do, but  
9 witnesses will, as I've said, give evidence about that.  
10 But it will be an important issue in this Inquiry, as to  
11 that course being taken.

12 My Lady, that led almost immediately on, then, to  
13 the plans being made for Christmas, they almost  
14 completely collided with each other, so those important  
15 decisions being made, but plans being needed in order  
16 that people could come together at Christmas as well.  
17 And you'll hear evidence, then, about the emergence of  
18 the Alpha variant, but you'll also hear, and I think  
19 this is important as well, Minister Swann will give  
20 evidence as to how he certainly felt constrained about  
21 making recommendations about what should happen because  
22 of what had happened over the course of the meetings,  
23 and he being fearful that a cross community vote could  
24 once again be used in relation to those sorts of issues.

25 So, my Lady, that would really take us back then to

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1 the position in January 2021 and, as I referred to at  
2 the very outset, that issue about the extent to which  
3 there was a peak in January 2021 and the number of  
4 people who died in that period, and obviously the really  
5 critical issue which you may wish to explore and  
6 consider is really the extent to which what happened in  
7 autumn and winter of 2020, whether that bore upon or  
8 affected, or whether what played out in January 2021 is  
9 related to that.

10 My Lady, in that very, very short chronology, and as  
11 I've said I'm only trying to pick certain things, but  
12 there are a number of thematic issues that arise as  
13 well.

14 I'm just going to check how we're doing for time.

15 I'll come back to those thematic issues at the very  
16 end, because it's probably important that I also touch  
17 on WhatsApps before I do.

18 Can I say at the outset, my Lady, we in Module 2C  
19 have approached WhatsApp on the basis that many people  
20 will have sent messages at points of extreme tiredness  
21 or pressure. Many of those people who preserved their  
22 WhatsApps would just not have dreamed that they might be  
23 featuring in a public inquiry, and we know that many  
24 people **in extremis** will have said things that they  
25 wouldn't have said in person to someone and, as I've

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1 the Inquiry was destroyed.

2 Baroness Foster resigned on 14 June 2021. We  
3 understand that she returned her Northern Ireland Civil  
4 Service issued mobile phone but kept her iPad, but  
5 subsequently both were reset by the Northern Ireland  
6 Civil Service IT department, I'll refer to that as  
7 "IT Assist", which had the effect of deleting all of the  
8 data stored on them.

9 I think she suggests, and we will ask her about  
10 this, that in any event she periodically deleted  
11 WhatsApp messages when she was First Minister and upon  
12 leaving office, deleted any remaining messages.

13 Later on 16 September 2021, Ms Jayne Brady, who was  
14 by then head of Civil Service, wrote to all  
15 permanent secretaries setting out the documentation that  
16 might be relevant to the Inquiry, and this included  
17 guidance that it would include electronic documents  
18 including text messages and WhatsApps.

19 Then subsequent to this, in January 2022, Mr Connah,  
20 who is secretary to this Inquiry, wrote to Mr Tierney  
21 again asking that the message about retention be  
22 reiterated across departments and again Mr Connah drew  
23 attention to material as including emails, texts,  
24 WhatsApp and other communications, and again Mr Tierney  
25 wrote to all permanent secretaries including in devolved

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1 said, that they might have said -- that they otherwise  
2 wouldn't have said had they not been under the pressure  
3 that they were under.

4 We're also really conscious that the people who  
5 preserved their WhatsApps are in this position and that  
6 other people haven't preserved their WhatsApps. As  
7 we've said all along in Module 2C, the forensic value of  
8 them is that quite often they do just capture and they  
9 are important because they do convey what people felt  
10 and what they felt able to say in an unvarnished way,  
11 and that's important because either they've forgotten  
12 many years later that it was quite as bad as it was or  
13 perhaps they're not willing to commit in a witness  
14 statement to how bad it was. So they do have a value  
15 and that's why they've been carefully considered by us.

16 So it was for that reason that this Inquiry, quite  
17 early on, sought the preservation of WhatsApps. So,  
18 first of all, in June 2021, when the Prime Minister  
19 confirmed that there would be a statutory Inquiry, the  
20 Director General in the Cabinet Office,  
21 permanent secretaries responsible for each devolved  
22 administration asking them to take steps to ensure that  
23 they'd be ready to meet their obligations when  
24 the Inquiry was set up, and departments were asked to  
25 ensure that no material of potential relevance to

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1 administrations reiterating that message.

2 So then when it came to Module 2C, in  
3 September 2022, it sent a Rule 9 request to TEO asking  
4 to be provided with information concerning the extent to  
5 which there was informal communication and requests were  
6 made to the Department of Health and the Public Health  
7 Agency and the CMO in this regard. So in relation to  
8 the TEO, Module 2C sought at an early stage to  
9 understand whether and to what extent informal channels  
10 of communication had been used in Northern Ireland in  
11 terms of the government response, and we sought that at  
12 an early stage as a foundation for further Rule 9  
13 requests, so that they could be sent on a more informed  
14 basis.

15 It now appears that in May 2023 a senior civil  
16 servant, the director of Covid strategy, within the TEO  
17 was made aware that there might be a problem with the  
18 wiping of ministerial phones, and we understand that on  
19 9 May one of her team emailed the principal private  
20 secretaries to the First Minister and the deputy  
21 First Minister noting her understanding that their and  
22 their special advisers' devices had been reset and  
23 requesting confirmation as to who had provided the  
24 instructions to do so. The questions included who had  
25 instructed and completed the stripping of these devices?

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1 Did ministers and advisers return iPads and phones  
2 reset? And the email noted:  
3 "We will need to inform the UK Covid Inquiry team of  
4 the status of these if wiped and why that exercise was  
5 carried out."

6 I think the position reached in terms of the deputy  
7 First Minister's office is that it was confirmed that  
8 their devices had been reset but that they had been  
9 returned to their offices reset, and the  
10 First Minister's office explained that they had been  
11 returned some time ago and reset, as I've said, by  
12 IT Assist.

13 Slightly different in respect of the Health  
14 Minister, Mr Swann. We understand that in fact the  
15 Department of Health kept his laptop and that it was  
16 held in a secure cabinet in case it was needed for any  
17 inquiries. In other words, the message did appear to at  
18 least have gotten through to his office that his devices  
19 ought to be kept.

20 My Lady, we now know that there was a meeting on  
21 11 May 2023 within TEO of its compliance and assurance  
22 group, and its members included the director of Covid  
23 strategy. We don't know the exact circumstances of that  
24 meeting and indeed they're disputed amongst the  
25 attendees, and it's important for reasons of fairness to

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1 decision taken by the director of Covid strategy.

2 May I make two points about it. There is obviously  
3 an issue as to why that took place at all, but in  
4 addition the original draft of the note rightly made  
5 reference to the need to tell the Inquiry that that was  
6 the position, but this didn't happen for some time, and  
7 that was despite that the Inquiry had already asked for  
8 evidence about the use of informal communications.

9 The Module 2 legal team met TEO officials on  
10 1 June 2023 in Belfast and informal communications were  
11 discussed, but there was no mention, again, that  
12 ministerial phones had been wiped or that TEO was  
13 looking into the possibility that they had been.

14 On 31 July the Inquiry wrote to TEO requesting  
15 detailed information about the use of WhatsApps, and  
16 that request was subsequently provided by TEO to all  
17 Northern Ireland Government departments and the Inquiry  
18 team had another meeting with TEO officials on 31 July  
19 and WhatsApps were discussed but it wasn't mentioned  
20 again that ministerial devices had been wiped or might  
21 have been. And we understand that on 4 August Ms Brady  
22 the head of the Civil Service was advised of the data  
23 loss issue; and it was only on 11 August 2023 that TEO  
24 notified Module 2C of the potential data loss.

25 So standing back from all of this, the Inquiry lost

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1 point out that evidence provided recently by the TEO  
2 demonstrates that a lawyer who was present at that  
3 meeting doesn't accept that they were informed of the  
4 deletion at the meeting.

5 But putting to one side that dispute and exactly  
6 what was discussed and in whose presence, from  
7 the Inquiry's perspective, what's important is that the  
8 problem with the wiping of devices was clearly known  
9 about in early May 2023 and certainly by a number of  
10 attendees at the meeting.

11 There was an original note of that meeting that  
12 said:

13 "Noted that WhatsApp messages from Former Ministers  
14 phones have been wiped as the phones have been returned  
15 to a factory reset position. [M] is discussing this  
16 issue so that we can inform the Inquiry that all  
17 reasonable steps have been taken in relation to this  
18 information."

19 My Lady, that minute was, though, revised a number  
20 of times so that in its final version, 13, it just said  
21 this:

22 "The meeting noted the position of TEO former  
23 ministers and SpAd phones."

24 So we understand that that amendment to omit  
25 reference to the wiping of the devices was a deliberate

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1 many valuable months, having asked questions in  
2 September 2022 about informal messaging. It then took  
3 a further four months from TEO's initial statement of  
4 their intention to conduct an investigation about the  
5 matter for it to provide an investigation report about  
6 the wiping of devices, and that report didn't provide  
7 the level of detail that might have been expected.  
8 That's no criticism of the author of it, but the Inquiry  
9 had to ask Ms Brady for a further witness statement in  
10 order to understand exactly what had happened.

11 But just turning to the issues that arise, I think  
12 fundamentally why did some ministers wipe their devices,  
13 given that there was a clear instruction from  
14 Cabinet Office and instructions given internally within  
15 Northern Ireland Government and by the head of the Civil  
16 Service to retain data and information? That raises  
17 questions for ministers and Ms Jayne Brady as well.

18 Fundamentally, how was it possible that other  
19 ministers' devices were wiped by the government's own IT  
20 department against the background of the instruction?  
21 Why did TEO not know before May 2023 what happened to  
22 the devices? And why did it fail to inform the Inquiry  
23 for three months that this was the position? Why were  
24 the minutes of the meeting altered so as to preclude the  
25 clear reference to this?

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1 I think again, my Lady, there's obviously an issue  
2 which has arisen in the other jurisdictions as well  
3 about the extent to which and just the use of informal  
4 messaging as well.

5 So, my Lady, I think that takes us to the end of my  
6 opening. I'm very conscious that my learned friends  
7 need to get on, and I haven't addressed you about the  
8 thematic issues that arise, but I think you'll become  
9 familiar with those in the course of the next  
10 three weeks when we hear from all the witnesses.

11 So unless I can assist you further, I think I had  
12 best sit down and pass you over to my learned friends.

13 **LADY HALLETT:** Thank you very much indeed, Ms Dobbin.  
14 Mr Wilcock.

15 **Submissions on behalf of the Northern Ireland Covid-19**  
16 **Bereaved Families for Justice by MR WILCOCK KC**

17 **MR WILCOCK:** My Lady, I appear on behalf of the  
18 Northern Irish Covid Bereaved Families for Justice,  
19 together with Brenda Campbell, King's Counsel and  
20 Conal McGarrity from our instructing solicitors,  
21 PA Duffy & Co.

22 My Lady, you may have thought that the similarities  
23 between Northern Ireland in April 2024 and March 2020  
24 are obvious. Now, as then, we have a fledgling  
25 Executive, formed after years of politicians using their

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1 civil servant in the Executive Office, or TEO, as  
2 I shall subsequently refer to it. Her assessment was  
3 that work on the Civil Contingencies Policy Branch in  
4 Northern Ireland, otherwise known as CCPB(NI), had been,  
5 and I quote, "put on hold" due to post Brexit EU  
6 planning and that:

7 "The overall position is dire, There has been  
8 systemic failure to invest funding and resources in  
9 CCPB(NI) over a number of years and the current position  
10 is that at a time of focus, the lack of investment  
11 I regret to have to advise you has left it not fit for  
12 purpose ..."

13 My Lady, a well known footballer from this island is  
14 fond of saying "Fail to prepare, prepare to fail" and  
15 you will have to decide whether that is precisely what  
16 happened when it came to pre-Covid contingency planning  
17 in Northern Ireland.

18 Topic 2, why was there no forceful and immediate  
19 emergency response, as we've just heard, by the  
20 administrative and political decision-making bodies in  
21 Northern Ireland until late March 2020? The 2021 report  
22 from the Independent Panel for Pandemic Preparedness and  
23 Response established by the World Health Organisation  
24 described February 2020 as a "lost month", when steps  
25 could and should have been taken to curtail the

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1 responsibilities to run the country as a bargaining tool  
2 to further their own agenda.

3 Now, as then, the fledgling Executive must deal with  
4 the continuing after-effects of the resultant government  
5 inertia in terms of the damage it has done to our health  
6 and other public services and the ever-fragile political  
7 trust within our community.

8 And now, as then, we hope that this part of the  
9 world can put its troubled past behind it and be run  
10 like a modern 21st century European country where the  
11 government always and universally realises that its  
12 first responsibility in a democratic society is to  
13 protect, safeguard the lives of its citizens.

14 Did the decision-making by the government in  
15 Northern Ireland in response to the Covid pandemic from  
16 early 2020 always meet this fundamental objective?  
17 Sadly, we suggest the Inquiry may very well feel that it  
18 did not.

19 Time does not permit me to exhaustively list the  
20 many examples of this failure that the Inquiry will hear  
21 about over the next 12 days, so at this stage can  
22 I confine myself to dealing with four topics.

23 Topic 1, was Northern Ireland's contingency planning  
24 fit for purpose in January 2020? Well, not according to  
25 an internal email sent by a Bernie Rooney, a senior

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1 pandemic.

2 They noted that their declaration of a public health  
3 emergency of international concern as early as  
4 30 January 2020 was the loudest alarm the World Health  
5 Organisation could sound, and should have put  
6 governments around the world on notice that such  
7 a "forceful and immediate response" was required, given  
8 the "mounting evidence that a highly contagious new  
9 pathogen was spreading around the world".

10 Why was it that Northern Ireland joined the list of  
11 countries who failed to heed this warning and take  
12 advantage of the delayed arrival of Covid into the  
13 island of Ireland and the fact that the first positive  
14 test here was one month after the rest of the UK?

15 My Lady, you will hear detailed evidence about the  
16 Civil Service and political arrangements that have  
17 evolved in Northern Ireland since the  
18 Belfast/Good Friday Agreement of 1998. For present  
19 purposes, it suffices to say that you will hear evidence  
20 about administrative tensions between the Ministry of  
21 Health, which was the initial lead department in  
22 relation to the initial Covid response, and the  
23 Executive Office as the department best placed to  
24 co-ordinate the cross-cutting measures across the  
25 government departments you may think a response to the

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1 pandemic inevitably required.  
 2 My Lady, we anticipate that you will hear evidence  
 3 that although there was a recognition by the Department  
 4 of Health as early as 6 February 2020 that the framework  
 5 to co-ordinate and manage emergency responses within  
 6 Northern Ireland, known as NICCMA, would need to be  
 7 activated at least when Covid arrived in  
 8 Northern Ireland. When this happened on 27 February,  
 9 there followed a number of potential missed  
 10 opportunities, by both the Department of Health and the  
 11 Executive Office, to make any meaningful effort to stand  
 12 up with a civil contingency response to the pandemic  
 13 until the weekend of 14 March 2020.

14 My Lady, you will forgive me if I say no more about  
 15 this, given the time presently available and the helpful  
 16 chronology my learned friend Ms Dobbin has already given  
 17 you about these issues.

18 Topic 3, political dysfunction.

19 My Lady, on 17 March 2020, Northern Ireland's hugely  
 20 experienced Chief Medical Officer sent a text message to  
 21 the head of the Northern Ireland Civil Service, reading:

22 "It was deeply frustrating that some, including some  
 23 of our politicians, really haven't been getting this."

24 Now, my Lady, we do not say that any individual from  
 25 whom or about whom you will hear evidence never did

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1 whether we should follow London or Dublin, or whether  
 2 British scientific advice was inevitably preferable to  
 3 Irish scientific advice or vice versa.

4 My Lady, we say that there were many examples of  
 5 political dysfunction in the political response to the  
 6 pandemic. In this context, you will hear evidence of  
 7 outrageous and scientifically baseless assertions by  
 8 senior politicians, senior ministers that there was  
 9 a meaningful difference in transmission between  
 10 Nationalist and Unionist areas.

11 We suggest that the nadir of this dysfunction came  
 12 during the meetings you've heard about, the acrimonious  
 13 and late night meetings of the Executive between 9 and  
 14 12 of ... 2020 when the Democratic Unionist Party  
 15 thought it appropriate to insist on a cross-community  
 16 vote on public health measures, which affected every  
 17 community equally.

18 So they could effectively exercise a veto over the  
 19 continuation of coronavirus restrictions, supported, as  
 20 Ms Dobbin has just observed, by the Northern Ireland CMO  
 21 and other political parties from all communities,  
 22 including the Ulster Unionist Minister of Health.

23 My Lady, this action created the clear impression  
 24 amongst many of those that I represent, and not for the  
 25 first time or exclusively by the biggest Unionist party,

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1 their best to act in the public interest in what we all  
 2 recognise were extremely challenging times for everyone  
 3 involved, and Northern Ireland is in many ways  
 4 a prisoner of its past and huge efforts have been made  
 5 in many quarters in many years to escape that legacy.  
 6 Unfortunately you will have to decide whether, even in  
 7 the midst of the deadliest and longest public health  
 8 emergency in living memory, some -- not all -- of our  
 9 politicians behaved in ways which were inevitably and  
 10 unnecessarily divisive and at times lost sight of the  
 11 fact that a united response to combat a virus which  
 12 affected everyone equally, no matter what their  
 13 background or what their views on the national question,  
 14 was required.

15 My Lady, this is not a criticism of any individual  
 16 person, political party or community. Sadly, it applies  
 17 to a number of people who should have known better, from  
 18 a number of political parties, and to representatives of  
 19 both communities. You will have to consider whether  
 20 this criticism could be applied to the insistence that  
 21 the difficult and vexed question of whether to shut  
 22 schools in March 2020 could be decided not on the  
 23 grounds of science, not on the grounds of the admittedly  
 24 difficult question of the balance of undeniably complex  
 25 competing interests, but by the simple question of

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1 that even with eight months' experience of the terrible  
 2 dangers of Covid, party politics mattered more to some  
 3 senior politicians than following the science. And as  
 4 if to demonstrate the DUP were not alone, the following  
 5 month the deputy First Minister seemingly refused to  
 6 sign off a four nations joint statement in advance of  
 7 Christmas 2020, in what looked to some like a fit of  
 8 pique after a proposal by her party to implement travel  
 9 restrictions from GB, where a new variant was in  
 10 circulation, failed.

11 Now, my Lady, there is no doubt that these times  
 12 were stressful for everyone involved, and that may well  
 13 be why, in the autumn of 2020, Northern Ireland's Chief  
 14 Medical Officer, Dr McBride, used uncharacteristically  
 15 coarse language in exchanges with the Minister of Health  
 16 when he wrote:

17 "Dysfunctional bastards. How will we ever get  
 18 through this with an enemy within? I have a good mind  
 19 to walk off and leave them to it, as no doubt do you.  
 20 But then those that really matter, those whom they seem  
 21 to have forgotten they represent, are really depending  
 22 on us."

23 Now, my Lady, whilst this stress or frustration may  
 24 explain the choice of language, it does not explain away  
 25 the sentiment. Dr McBride, in the forensically

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1 revealing text messages we've seen, had been using the  
2 word "dysfunctional" about members of the Executive  
3 since at least May 2020, and you heard a flavour of some  
4 of the quotes this morning.

5 You may think it may have been used on many  
6 occasions appropriately thereafter, including the  
7 hurtful and premeditated decision of senior Sinn Féin  
8 members of the Executive to attend a large-scale funeral  
9 gathering at a time when people across Northern Ireland  
10 were being denied that basic and emotive right by  
11 executive decisions they had been at the heart of  
12 making.

13 But, my Lady, this decision was more than just  
14 distressing to those who lost loved ones or were unable  
15 to do the same during this pandemic. It was also  
16 a decision by those who attended Mr Storey's funeral to  
17 prioritise their friendships or leadership roles within  
18 their political tradition at the expense of their  
19 leadership roles in relation to a large-scale public  
20 health emergency affecting all political traditions and  
21 affecting the whole community.

22 An immediate consequence of these events was the  
23 cessation of joint press conferences between the First  
24 and deputy Ministers. Another was the very predictable  
25 breakdown of trust that was going to become increasingly

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1 second wave hit in 2021 was all the more unforgivable,  
2 given what you've heard this morning about the  
3 disproportionate impact that the second wave in 2021 had  
4 on Northern Ireland.

5 Dr McBride's words also highlight that at the heart  
6 of all this decision-making you will be considering in  
7 this module lie very human stories of love and loss.  
8 The Inquiry may conclude that there were a number of  
9 serious adverse consequences to the way  
10 Northern Ireland's government response to Covid  
11 developed, including the fact that not only was  
12 appropriate action which might have saved life not taken  
13 early enough, but also that repeated delays led to  
14 longer lockdowns and ensured that their associated  
15 detrimental effects were intensified.

16 We have set out in our written submissions the  
17 various ways in which many members of the organisation  
18 I represent are concerned that, in the perhaps  
19 inevitable confusion that followed the spread of the  
20 pandemic and the delayed government response, their  
21 relatives, including people in care homes, older people  
22 and the disabled, were, they feel, effectively given up  
23 on.

24 My Lady, not least because of the powerful and  
25 courageous accounts captured in the impact video we saw

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1 necessary the longer the public was to be asked to  
2 observe restrictions on their behaviour as part of  
3 public health measures, and which, although we will  
4 listen to the results of the investigations ordered by  
5 this Inquiry with interest, frankly still permeates the  
6 sorry revelations that we've just heard about that not  
7 all potential evidence of informal communications was  
8 retained by important participants in these events, as  
9 it should have been.

10 My Lady, in November 2020 the Chief Medical Officer  
11 sent a message to the Chief Scientific Officer, reading:

12 "Disgraceful. They should hang their heads in  
13 shame. How will history tell this story to the wife and  
14 two boys of a 49-year old who said goodbye to their  
15 father on Facebook as he lay in the ICU for the sake of  
16 two weeks' more effort?"

17 We suggest that although this message was written in  
18 the context of the political impasse in November 2020  
19 leading to the use of the cross-community vote, it could  
20 have been used at any one of a number of occasions of  
21 the political dysfunction you will hear about  
22 thereafter.

23 We suggest that, when you look at it in the round,  
24 it applied at times to both of the biggest parties, and  
25 that that failure to learn from past mistakes as the

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1 earlier this morning, you know only too well that every  
2 single one of those relatives mattered, every single one  
3 was mourned, and every single one continues to be  
4 missed.

5 As Ms Dobbin told you earlier, you will hear this  
6 afternoon from Marion Reynolds, who mourns the death of  
7 her aunt, Marie Reynolds, who contracted Covid during  
8 a hospital admission after being discharged back to  
9 a care home with a package that did not meet her needs  
10 as an older person who was also deaf and who relied  
11 heavily on human contact.

12 There are far, far too many experiences for me to  
13 ever list adequately. There are examples I would like  
14 you to listen to of Agnes McCusker(?), believing that  
15 her mother, Bridget Halligan, went downhill after visits  
16 to her care home were stopped on 18 March. Her family  
17 had visited her every day up until this point. Bridget  
18 had tested positive for Covid on around 7 April 2020,  
19 and passed away, like so many others, alone on  
20 12 April 2020.

21 Cousins Christine Tomlinson(?) and Ingrid  
22 Johnson(?), who each lost their fathers, James  
23 Gallagher(?) and Robert Gallagher(?), two brothers who,  
24 in June 2020, caught Covid in the care home in which  
25 they resided. Both Ms Tomlinson and Ms Johnson share

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1 concerns about the spread of Covid in care homes, about  
2 medications prescribed, about feelings that their  
3 fathers were given up on, about a lack of access to  
4 information about their fathers and about their rights  
5 as carers and about denials of funeral rights.

6 Members of the organisation I represent, my Lady,  
7 have listened to your assurance that, whether it be in  
8 this module or by the end of the process of this  
9 Inquiry, you will do your best to deal with all of those  
10 issues. But as far as this module is concerned, can  
11 I echo the words of Catriona Myles in her evidence for  
12 Module 2 in London, that she and so many others hope  
13 that today you will remember every mother, father,  
14 brother, sister, husband, wife, all who have suffered  
15 and lost. Ultimately they are now telling their loved  
16 ones' stories because those who died are not here to  
17 tell it and those left behind want to know why.

18 Northern Ireland Covid Bereaved Families for Justice  
19 believe that considered as a whole, the combined  
20 responses of the Northern Ireland and UK Government in  
21 relation to the Covid-19 pandemic failed to protect the  
22 most vulnerable in society, with a lack of preparedness  
23 and delayed response, leading to last minute  
24 decision-making, exacerbated by unnecessary party  
25 infighting which contributed to a greater loss of life

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1 mental impairments, both visible and non-visible, that  
2 arise in the ordinary diversity of human existence, but  
3 disabled people in Northern Ireland are also disabled  
4 due to the harm caused by its still recent history of  
5 conflict.

6 Despite the integral relevance of disabled people to  
7 the fabric of society, Northern Ireland relied on the UK  
8 to count the deaths of its disabled people during the  
9 Covid-19 pandemic, as it lacked real-time data on the  
10 subject. In England, mortality figures for disabled  
11 people were published in June 2020. Northern Ireland  
12 had to wait until December 2021; only then did it  
13 discover that between March and September 2020 disabled  
14 people were 40% more likely to die of non-Covid causes,  
15 and 48% more likely to die of Covid, than non-disabled  
16 peers.

17 5,000 people died in Northern Ireland over some  
18 20 months of the pandemic. That is a shattering loss to  
19 a society of only 1.8 million people, especially where  
20 available funding and infrastructure should have enabled  
21 a better level of population surveillance and service  
22 delivery, but it is also shattering because those deaths  
23 occurred in a place in these isles where the injustice  
24 of preventable lost lives bears very profound  
25 importance.

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1 than was necessary, in circumstances which have caused  
2 lasting trauma to many, many people in our society.

3 We urge the Inquiry to fearlessly investigate these  
4 issues, as we know you will, establish the truth of what  
5 occurred and to make recommendations which ensure, as  
6 far as possible, that any failings identified are never,  
7 ever repeated again.

8 My Lady, I could say more, but I have a limited  
9 amount of time, and I think I've now used it up.

10 **LADY HALLETT:** How much longer do you want to go on for?

11 **MR WILCOCK:** No, I'll stop while the going's good.

12 **LADY HALLETT:** Thank you very much indeed, that's very  
13 helpful.

14 Right, we shall return at 1.45, please.

15 **(12.50 pm)**

**(The short adjournment)**

17 **(1.45 pm)**

18 **LADY HALLETT:** Right, Mr Friedman.

19 **Submissions on behalf of Disability Action Northern Ireland**  
20 **by MR FRIEDMAN KC**

21 **MR FRIEDMAN:** We act for Disability Action Northern Ireland,  
22 which is a disabled people's organisation, or DPO, run  
23 by and for disabled people.

24 My Lady, disabled people in Northern Ireland make up  
25 one in four of the population. They have physical and

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1 If people are disabled, not by physical or mental  
2 impairments, but by the social attitude and barriers  
3 they face in consequence of those impairments, then the  
4 politics of Northern Ireland, still too much defined by  
5 sectarian identity, is a socially disabling attitude and  
6 barrier in its own right. It does not allow for the  
7 human rights and equality of disabled people to be  
8 accounted for as much as they should be. It does not  
9 allow disabled people's perspective to be heard and seen  
10 as much as it must.

11 In an Inquiry module concerned with political and  
12 administrative decision-making, in a polity that because  
13 of its history and constitutional arrangements can find  
14 decision-making difficult, our client is here to say  
15 that in Northern Ireland disabled people count too.

16 Starting with context, we make five points.

17 First, even in normal times, let alone pandemic  
18 emergency, government was unstable. In fact, nearly 45%  
19 of the period since 1998, the people of Northern Ireland  
20 had not been politically governed by democratically  
21 accountable politicians; instead, they have been  
22 administratively governed by reluctant civil servants,  
23 whose powers are limited to maintaining services and  
24 institutions and not evolving them.

25 Second, and as a consequence, governance was

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1 damaged. Brenda Doherty of the Covid Bereaved Families,  
2 has rightly pointed to a vacuum in governance. For  
3 disabled people, the vacuum meant that various  
4 initiatives to achieve greater equality in human rights  
5 have remained stuck, with each collapse of government  
6 effectively requiring the work to be started again.

7 Third, resilience was compromised. In May 2020 the  
8 Health Minister, Robin Swann, made a speech reflecting  
9 that the political system in Northern Ireland had to  
10 look with humility at how it had undermined state  
11 capacity to cope with the pandemic. If there is soul  
12 searching to do, then the terrible exposure of the  
13 health and care system is where the searching must  
14 start. These are weaknesses that that have been  
15 factored into resilience planning but were not. For  
16 disabled people, they underscore that the system of  
17 government was vulnerable and not them.

18 Fourth, disabled people were peripheral, by which we  
19 mean that in Northern Ireland, as across the UK,  
20 disabled people faced pre-pandemic structural  
21 discrimination from both state and wider society, but we  
22 are saying more, that the 1998 settlement has frustrated  
23 the civil rights of disabled people, that in a very real  
24 sense they are not seen and not heard because other  
25 networks and communities enjoy a special political

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1 problem is that this is not a system of government  
2 capable of delivering anything other than lowest common  
3 denominator policies and decisions. That is because  
4 a five party forced coalition of ministers determined  
5 and dominated by Unionist/Republican divisions cannot  
6 agree on anything else.

7 For all the bureaucratic challenges that the Inquiry  
8 has seen elsewhere, in Belfast you will study a Civil  
9 Service that at the best of times acts as a broker and  
10 mediator rather than a policy builder and which was  
11 found by the Renewable Heat Incentive Inquiry Report in  
12 March 2020 to be seriously incompetent at delivering  
13 "novel, technically complex and potentially volatile"  
14 projects, not least due to "lack of resources and of  
15 people with the specialist skills to ensure that the  
16 scheme was robustly designed and monitored".

17 Those findings are relevant to this Inquiry, because  
18 where such shortcomings really mattered was in complex  
19 projects of emergency response, and we know from the  
20 disclosure, for instance, that the civil contingency  
21 arrangements had not been properly renewed for 20 years.

22 All of this led to a failure of surge preparedness  
23 across all public authorities. Until well into  
24 March 2020 the virus was treated as a public health  
25 threat with work essentially limited to the Department

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1 status, and if disabled people cannot use those  
2 networks, their issues do not count as others do.

3 Fifth, in this context, human rights are essential,  
4 but it is important to underscore the contradictions.  
5 On the one hand, human rights are integral to the peace  
6 process, they are written into the Good Friday  
7 Agreement, the Northern Ireland Act and the  
8 Northern Ireland Protocol. On the other hand,  
9 Northern Ireland does not enjoy a progressive human  
10 rights culture. Disabled people are not protected as  
11 they would be under the Equality Act 2010. The  
12 United Nations Convention on the Rights of Persons with  
13 Disabilities is hardly recognised or implemented in  
14 Northern Ireland at all. The social model of  
15 disability, ascribing disability to social forces rather  
16 than individual medical deficits, forms no part of  
17 policy. The state's discharge of positive obligations  
18 of consultation, data collection and emergency planning  
19 in accordance with the rights of disabled people is  
20 minimal.

21 Turning then to pandemic decision-making, it is  
22 undeniable that renewed ministerial government after  
23 three years of no governing and with many novice  
24 ministers was not sufficiently robust or integrated to  
25 deal with a crisis of this kind. The deeper structural

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1 of Health. This confinement of the crisis to the health  
2 portfolio was all the more problematic because  
3 Northern Ireland has a department led machinery of  
4 government, there is no Cabinet government, it is  
5 silosation by design.

6 Those constitutional arrangements had direct  
7 implications for disabled people, because there was  
8 insufficient planning, structures or expertise to  
9 consider the disabling effects of the virus and its  
10 countermeasures. The Department of Health emergency  
11 response strategy of 30 March had no workstream on  
12 social vulnerability. Its strategic aim 7 was titled  
13 "Wider health/economic impact of control measures", but  
14 there was no mention of anything to do with disabled  
15 people. The Executive Office's six workstreams had only  
16 a broad heading of "3. Societal and community  
17 wellbeing". As far as we can see, there was never  
18 a dedicated ministerial meeting on disabled people, the  
19 Department for Communities' awaited disability strategy  
20 promised for 2021 remained and remains unpublished.

21 Both of the government's experts say that  
22 non-medical issues were not looked at as much as health  
23 related ones, no minister properly led on disabled  
24 people's issues, the Executive Office that had  
25 responsibility for equality as well as ministers in

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1 other departments all agree that there was never the  
2 sufficient focus on vulnerable groups that there should  
3 have been.

4 The result is that disabled people ended up being  
5 lost in pandemic decision-making, including the expert  
6 advice it relied upon. It was grounded in a standard  
7 medical model, to which other public authorities in the  
8 system were apt to adhere.

9 That is what Disability Action described as the  
10 tension in the approach of protecting vulnerable people  
11 during the Covid-19 crisis whilst at the same time  
12 removing services for vulnerable people which had  
13 a detrimental impact upon their physical and mental  
14 health.

15 They add, on the basis of their pandemic survey of  
16 some 1,700 people and connection to 300 local DPOs in  
17 Northern Ireland, that what became very clear was the  
18 feeling of many disabled people that their voices were  
19 being lost in the noise or, worse, simply ignored in the  
20 confusion and panic that was unfolding.

21 This isolation of disabled people was compounded by  
22 being denied very basic participation in government  
23 decision-making. It cannot be emphasised enough how  
24 tokenistic the engagement with disabled people was in  
25 its own right and when compared to the rest of the UK,

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1 analysis is characterised by the Northern Ireland  
2 Equality Commission as of itself a fundamental issue of  
3 equality. It is a post conflict enigma that the  
4 Northern Irish state should be so disinterested in this  
5 issue.

6 The consequence of siloed health department  
7 government, lack of meaningful engagement and poverty of  
8 data is that protection of disabled people during the  
9 pandemic was flawed. That was especially so with regard  
10 to shielding letters, access to food, inclusive  
11 communication, and with failure at executive level to  
12 render the issuing of DNR notices the withdrawing of  
13 social care sufficiently accountable.

14 The incapacity of Northern Irish government to  
15 properly take into account disabled people extended to  
16 Covid economics. Yes, funds were released from  
17 April 2020 to assist delivery of services and support to  
18 individuals at grassroots level. However, the criteria  
19 and method of redistribution are unclear. Without the  
20 proper funding of DPO to ensure co-production of policy  
21 and pandemic preparation, and without the involvement of  
22 disabled people in economic planning, any emergency  
23 financial response was bound to be reactive and protect  
24 the status quo. That was the case across the UK. But  
25 in Northern Ireland the situation was aggravated by DPO

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1 especially the smaller nations.

2 In Northern Ireland, co-production and co-design are  
3 just words. The anomaly here is that in politics and  
4 related religious and cultural identity,  
5 Northern Ireland is a place of extensive community  
6 networks which in their interaction with the state have  
7 ultimately delivered and maintained peace. However, the  
8 monopoly of those networks is such that they block other  
9 networks and voices. The outcome is that the dignity  
10 and wellbeing of disabled people and other minorities  
11 cannot yet enjoy equal acknowledgement and participation  
12 in the post conflict political landscape.

13 The anomaly continues when it comes to data. For  
14 a nation blighted by profound structural discrimination  
15 in its recent past, Northern Ireland is unacceptably bad  
16 at collecting and using data. There were fundamental  
17 gaps in health and social care data, deaths were not  
18 properly counted in real time. There was inability to  
19 disaggregate data by all nine of the equality  
20 categories. There were then, as now, no published  
21 statistics detailing the number of disabled people  
22 resident in care homes. There has been no specific  
23 government piece of research investigating the impact of  
24 the pandemic on those living with disabilities.

25 Improvement in data collection, distribution and

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1 not being sufficiently mainstreamed into the community  
2 pipelines to which such funding was released.

3 My Lady, going into the last of your government  
4 modules, the DPO are compelled to tell you that this is  
5 the place in the UK where, in many ways, disabled people  
6 are the most marginalised. There was no effective  
7 social partnership between the state and disabled  
8 people. Policy drives that take years to gain traction  
9 with any government have necessarily run aground  
10 incessantly.

11 Geraldine McGahey, the chief equality commissioner,  
12 said in 2021 that equality protection in  
13 Northern Ireland is in the "dark ages", in part because  
14 sectarian disputes have continued to dominate all else.

15 Like others, we do not come to these hearings to  
16 criticise what power-sharing has done to end violence,  
17 but it has not yet led to genuine pluralist politics or  
18 effective government. When the state's deep lack of  
19 resilience was exposed in a pandemic, it ended up  
20 violating the lives and wellbeing of disabled people.  
21 Not for the first time in British or Irish history, the  
22 failures of state therefore raise fundamental issues of  
23 humanity. In the unique and evolving context of  
24 post-conflict politics, it is important to ensure that  
25 the vulnerability of the Northern Ireland system is made

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1 sufficiently accountable and understood, and that the  
2 Inquiry plays its part in exploring the possibilities of  
3 greater resilience and wellbeing of all of the people of  
4 this place into their futures.

5 Thank you, my Lady.

6 **LADY HALLETT:** Very grateful, Mr Friedman, thank you very  
7 much.

8 Mr Jacobs, are you next?

9 **Submissions on behalf of the Trades Union Congress and  
10 Northern Ireland Committee of the Irish Congress of Trade  
11 Unions by MR JACOBS**

12 **MR JACOBS:** Good afternoon, my Lady, this is the opening  
13 statement of the Trades Union Congress (the TUC), and  
14 the Northern Ireland Committee of the Irish Congress of  
15 Trade Unions, or ICTU for short.

16 The TUC and ICTU are separate organisations but with  
17 shared aims and values. ICTU is the largest civil  
18 society organisation on the island of Ireland, with  
19 44 affiliated unions north and south of the border.

20 The Northern Ireland Committee of ICTU is the  
21 representative body for 34 trade unions, with over  
22 200,000 members across Northern Ireland.

23 I will refer in this opening submission to ICTU, but  
24 in doing so I will be referring specifically to the work  
25 of the Northern Ireland Committee.

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1 So we join those who, in the written evidence, have  
2 expressed a debt of gratitude for the role played by the  
3 great many, across a variety of sectors, who kept  
4 Northern Ireland going during the pandemic.

5 Of course, the real world impacts of a pandemic upon  
6 public services are impossible to divorce from their  
7 state going into the pandemic. The context for this  
8 module is both austerity and the absence of a properly  
9 functioning government in the years prior. The need for  
10 reform of the health and social care system had been  
11 widely recognised, but any progress towards meaningful  
12 public sector reform was stalled by the collapse of the  
13 Executive in 2017. The Inquiry has already heard  
14 evidence as to the monumental healthcare waiting lists  
15 in Northern Ireland before the pandemic even began.

16 Before this Inquiry Robin Swann gives a damning but  
17 accurate picture of the state of affairs going into the  
18 pandemic. He describes a period of healthcare surviving  
19 hand to mouth, resulting in short-term decisions instead  
20 of longer-term planning, and vital services being  
21 underfunded. He describes, again accurately, that  
22 social care was particularly neglected, with a lack of  
23 proper pay and career structures leaving our care homes  
24 exposed.

25 One means for a government to try to support the

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1 This opening submission will highlight the unequal  
2 impact of Covid-19 in the workplace and address in  
3 outline some of the headline points as to some aspects  
4 of the government response to the pandemic which  
5 contributed to those workplace impacts.

6 But first the unequal impacts. It was a feature of  
7 the pandemic that many in frontline and essential roles  
8 who could not work from home were also in lower paid  
9 roles. They already suffered the structural health  
10 disadvantages associated with lower paid and insecure  
11 work. That included, of course, most visibly, many who  
12 worked in health and social care, but it also included  
13 those who kept transport systems going, who cleaned our  
14 public spaces, who worked in food processing, in  
15 manufacturing and in many other roles.

16 In respect of deaths from the virus in those of  
17 working age, the highest proportion in Northern Ireland,  
18 as elsewhere in the UK, was amongst process plant and  
19 machine operatives. The impact is reflected not just in  
20 the numbers of working age people who lost their lives  
21 to the virus, but also the consequences for the virus  
22 being seeded in the communities in which they lived.  
23 Deaths in the most deprived areas in Northern Ireland  
24 were significantly higher than those in the least  
25 deprived.

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1 position of those at work is via social partnership.  
2 That is an approach in which the government seeks to  
3 work collaboratively with stakeholder organisations such  
4 as unions, other sectoral representative organisations  
5 and employers.

6 In Northern Ireland the approach to social  
7 partnership in the pandemic was mixed. ICTU's attempts  
8 to meet with the joint office holders of the First and  
9 deputy Minister often fell on deaf ears. With other  
10 ministers, such as of the Minister of and senior  
11 officials within the Department of Health, there was  
12 much positive and constructive engagement. However,  
13 piecemeal social partnership was not sufficient to  
14 address the all-encompassing nature of the pandemic.

15 The Executive did engage via what was called the  
16 strategic engagement forum, formed at the outset of the  
17 pandemic and which brought together employers, trade  
18 unions, and statutory bodies, including the Public  
19 Health Agency and the Health and Safety Executive for  
20 Northern Ireland.

21 It first met on 30 March 2020, and had as its core  
22 purpose to advise and support the Executive in its  
23 commitment to containing the Covid-19 virus as it  
24 applied to the Northern Ireland economy and labour  
25 market.

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1 It was effective in that it prepared a list of  
 2 key workers and essential businesses, established  
 3 an emergency code of practice to assist businesses in  
 4 complying with Covid-19 guidance, produced workplace  
 5 safety guidance and so on. The former deputy  
 6 First Minister describes it as one of the success  
 7 stories of the pandemic. In a sense it was. The  
 8 difficulty is the impression that after that initial and  
 9 early engagement, it was largely ignored.

10 We turn to enforcement of workplace safety.

11 From early in the pandemic, Northern Ireland saw  
 12 concerning mass outbreaks in workplaces amidst a picture  
 13 of poor safety practices. There was significant concern  
 14 as to the practical ability of the Health and Safety  
 15 Executive for Northern Ireland, further to issues of  
 16 capacity and resource, to monitor and enforce workplace  
 17 safety. Unions called for unannounced inspections.  
 18 Evidence has been provided to the Inquiry by  
 19 Louis Burns, the deputy chief executive of Health and  
 20 Safety Executive for Northern Ireland, but the picture  
 21 is one of that organisation being reactive to concerns  
 22 raised by others, with limited follow-up action.

23 Its response was limited to verbal and written  
 24 communications, although it has no data system to record  
 25 how many such communications were given. It is stated

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1 socioeconomic and health disadvantages.

2 It is now evident in material obtained by this  
 3 Inquiry that the Chief Medical Officer was raising the  
 4 very same issue internally within government. Some  
 5 analysis of the internal government machinations is  
 6 within our lengthy written submission, but the picture  
 7 generally is one of a lack of any determined action or  
 8 even ownership of the issue.

9 My Lady, it is critical that in a future pandemic  
 10 plans are in place to properly support those required to  
 11 self-isolate.

12 Our final topic is the social care sector. Detailed  
 13 consideration is, as you say, my Lady, for a later  
 14 module, but this module will no doubt touch on the  
 15 political decision-making in respect of social care.

16 In other modules there has been a tendency of  
 17 decision-makers, in defending the history of events  
 18 around discharge from hospital to social care, and the  
 19 terrible death rates in care homes, to point to the role  
 20 of transmission between and from staff in care homes  
 21 being a relevant or even key factor.

22 Inevitably, many working in social care, working  
 23 under the most challenging and distressing of  
 24 circumstances, contracted and passed the virus. They  
 25 were working in a high risk role, putting themselves and

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1 in terms that it would typically be for the complainant  
 2 or a union rep to confirm when the advised measures had  
 3 been implemented. It was, realistically, left to unions  
 4 or individual complainants to both raise concerns with  
 5 the Health and Safety Executive for Northern Ireland and  
 6 to follow up on whether any action had been taken.

7 If there really is an interest in the unequal impact  
 8 of the pandemic in the workplace, there must also be  
 9 an interest in workplace safety. It may be a prosaic  
 10 part of the solution, but it is ultimately  
 11 a fundamentally important one.

12 Another part of the solution is adequate financial  
 13 support for those needing to self-isolate. Whilst many  
 14 quite rightly benefitted from job retention schemes,  
 15 many lower paid workers in higher-risk roles faced  
 16 losing pay whilst needing to self-isolate. As stated by  
 17 ICTU on 18 March 2020:

18 "The UK's ... statutory sick pay arrangements of £94  
 19 per week are totally insufficient and do not approach  
 20 the financial reality of family life in the UK".

21 It was not just a matter of hardship. The lack of  
 22 adequate financial support for self-isolation was  
 23 a powerful disincentive to it, and will have placed  
 24 an upward pressure on the spread of the virus, again  
 25 particularly on communities already suffering

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1 their families at risk. Of course, with a virus capable  
 2 of asymptomatic transmission, staff unknowingly carrying  
 3 the virus was both inevitable and foreseeable. In those  
 4 circumstances, the key question is not whether staff  
 5 carried the virus, but what steps were taken to address  
 6 that issue in terms of effective infection prevention  
 7 and control measures in the sector, practical steps to  
 8 alleviate the need for workers to move between different  
 9 care settings, and steps to ensure that workers were not  
 10 in any way penalised by such measures.

11 In conclusion, my Lady, in considering and seeking  
 12 to improve the effectiveness of the response to the next  
 13 pandemic, there are structural problems which need to be  
 14 addressed. There needs to be, quite basically,  
 15 a functioning Executive, and the long called for reforms  
 16 to health and social care need to be translated into  
 17 action.

18 It is important for this Inquiry to lay bare the  
 19 impact of these matters on the Covid-19 pandemic,  
 20 thereby, it is hoped, prompting action. It is the heavy  
 21 responsibility of the Northern Ireland Government and  
 22 civil society to take these matters forward.

23 Building upon those foundations, pandemic  
 24 preparedness and response needs to be focused on  
 25 ameliorating the burden faced by those in low paid,

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1 public-facing roles who, almost inevitably in  
2 a pandemic, face higher risks of contracting the virus,  
3 against a background of poorer pre-existing health  
4 outcomes. That should include better consultation with  
5 stakeholders that bring knowledge to the government on  
6 these issues, better workplace safety contributed to by  
7 better enforcement and better support for  
8 self-isolation.

9 My Lady, those are my submissions.

10 **LADY HALLETT:** Thank you very much indeed, Mr Jacobs.

11 Ms Anyadike-Danes.

12 **Submissions on behalf of the Commissioner for Older People**  
13 **for Northern Ireland by MS ANYADIKE-DANES**

14 **LADY HALLETT:** Are you switched on? You need a green light.

15 **MS ANYADIKE-DANES:** I am now. Thank you very much indeed,  
16 my Lady, and for giving me the opportunity to make these  
17 opening submissions.

18 Your Ladyship will remember that we made opening  
19 submissions right at the start of this module, and we've  
20 provided written submissions, and we have indeed  
21 provided written submissions too on this occasion. So  
22 I'm not going to repeat any of that, because I don't see  
23 how that could be helpful to your Ladyship.

24 The written submissions, the longer version that we  
25 did provide, dealt with some very specific concerns that

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1 So on the numbers, the Commissioner would like to  
2 highlight the disproportionate adverse impact of  
3 Covid-19 on the population of older people. It's  
4 generally accepted that the pandemic was devastating for  
5 older people, and the Minister for Health Robin Swann's  
6 acknowledgement of that is commonly cited. The Covid-19  
7 pandemic has had a huge impact on older people. 90% of  
8 Covid-19 deaths in the first wave of the pandemic were  
9 in people aged over 65, and around half of Covid-19  
10 deaths in Northern Ireland occurred in a care home.

11 The fact that it is often recited doesn't stop it  
12 from being a nonetheless shocking statistic, and  
13 your Ladyship will be aware that we're dealing with  
14 those over the age of 65. If one was to take that to  
15 those over the age of 60, that of course increases. And  
16 there will be those either in this room or following the  
17 proceedings whose loved ones form a part of that awful  
18 statistic, and that also is simply a reference to the  
19 first wave, so we all know it didn't end there.

20 The statistics show that from 19 March 2020 to  
21 14 October 2022, which is roughly the period covered by  
22 this module, there were 4,892 Covid-19 related deaths in  
23 Northern Ireland, and most of them were amongst older  
24 people or involved older people.

25 Furthermore, by 19 February 2021 alone, about

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1 the Commissioner has, including the contradiction in the  
2 government's response, the failures in communications,  
3 ageism and discrimination. And the Commissioner comes  
4 to that as Commissioner for Older People in  
5 Northern Ireland with an office established by the  
6 Commissioner for Older People's Act in 2011, with the  
7 principal aim of safeguarding and promoting the  
8 interests of older people in Northern Ireland, and that  
9 is a group which as at the last census in 2021  
10 represents approximately 23% of the total population and  
11 for those purposes that is older people being aged 60  
12 and upwards. That group is not only projected to rise  
13 but to rise at a higher rate of the overall population  
14 of Northern Ireland.

15 My Lady, out of those specific concerns which  
16 the Commissioner raised in his written submission,  
17 I want to just highlight a few matters without repeating  
18 what is said in those written submissions, and those  
19 are, firstly, the issue of numbers, which some have  
20 already addressed in their opening submissions;  
21 secondly, the issue of planning and decision-making,  
22 another issue featuring in others' opening submissions;  
23 and then, thirdly, making the most of the knowledge  
24 base, before going into the Commissioner's hopes for  
25 this part of the Inquiry.

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1 a third of the way through that period, there had been  
2 983 deaths of care home residents, and the overwhelming  
3 majority of them died in the care home itself and not in  
4 hospital.

5 Not only are those truly awful statistics, but they  
6 may not portray the full extent of the pandemic's  
7 impact, and this is due to the way in which the figures  
8 were collected, the criteria that applied to a Covid-19  
9 death, coupled with the approach to testing during the  
10 pandemic, so that whether you actually knew whether you  
11 were dealing with a Covid-19 death, and the recording of  
12 deaths in care homes. The upshot of all of that is it  
13 remains still unclear how many older people died of  
14 Covid-19 during the pandemic, and it's also unclear how  
15 many older people died of conditions for which they were  
16 unable to obtain treatment due to the focus of the  
17 scarce NHS resources on dealing with the pandemic, or  
18 saw their conditions considerably worsen.

19 From the outset, the Commissioner advocated for  
20 accurate recording and publication of Covid-19 related  
21 deaths and he hopes that this is a matter that can be  
22 addressed during this Inquiry, because it's obvious, if  
23 you don't have accurate and relevant information, you  
24 can't plan effectively, and that's the next point that  
25 the Commissioner would like to highlight.

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1 Planning and decision-making. Detailed information  
 2 on the need for structural reform in Northern Ireland  
 3 for the delivery of health and social care services was  
 4 available to the government before the pandemic, and  
 5 your Ladyship will be aware of the 2016 Bengoa report  
 6 and COPNI itself, which is the Commissioner's office,  
 7 provided three reports: one in 2014, "*Changing the*  
 8 *culture of care provision in Northern Ireland*"; then  
 9 another, the following year, 2015, "*Prepared to Care?*  
 10 *Modernising Adult Social Care in Northern Ireland*"; and  
 11 then a third in 2017, "*The CMA Care Homes Market Study*".  
 12 So the need for reform was well known before the  
 13 pandemic.

14 It was also well known that the reform did not take  
 15 place, or at least not sufficiently, and it might be  
 16 reasonable to consider that in those circumstances there  
 17 should have been some level of planning about how  
 18 Northern Ireland would respond to a pandemic with its  
 19 structures in an as yet unreformed state. It might be  
 20 reasonable to consider that the structural issues and  
 21 resource deficits should have been factored into  
 22 decision-making and informed the extent to which  
 23 responses to the pandemic from other UK jurisdictions  
 24 with different structures would be appropriate to follow  
 25 in Northern Ireland, more particularly from the

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1 policies were being formed.

2 The Commissioner does not believe that government  
 3 properly appreciated the impact on older people and  
 4 a real fear was allowed to develop amongst older people  
 5 and their families that age was being used as  
 6 a criterion for making those decisions rather than  
 7 a clinical requirement such as a person's capacity to  
 8 benefit from admission and treatment, and all of this  
 9 might have been anticipated and better steps taken to  
 10 address those fears, especially when the media began to  
 11 report about older people being pressurised into signing  
 12 "Do not attempt CPR" forms. How all of this may have  
 13 translated into the high mortality and morbidity rates  
 14 for older people is a matter that may well emerge in the  
 15 hearing and it will be a matter for the Inquiry to  
 16 determine whether there is any evidence of direct or  
 17 indirect age discrimination in the government's response  
 18 to the pandemic in Northern Ireland, but it is certainly  
 19 a concern amongst the older people that the Commissioner  
 20 represents.

21 Then to the making the most of the knowledge base,  
 22 the final issue that the Commissioner would like to  
 23 raise is the extent to which the government failed to  
 24 tap into the knowledge and expertise of stakeholders to  
 25 inform the development of policy and assist with the

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1 perspective of older people the known reliance on  
 2 largely privately owned care homes contracted to the  
 3 health and social care trusts to deliver social care to  
 4 older people through placement packages should have  
 5 informed decision-making on the pandemic, and  
 6 the Commissioner is concerned that this was not  
 7 reflected into critical decisions about hospital  
 8 discharge, testing, vaccinating and especially in the  
 9 context of lockdowns that would necessarily create  
 10 a closed vulnerable community of older people.

11 The Commissioner is concerned about the possibility  
 12 of the decision-making that impacted most adversely on  
 13 older people was not just the result of poor planning  
 14 and a failure to engage with the realities of the  
 15 structures and resources as they existed at the time,  
 16 but betrayed a degree of ageist prejudices. The type of  
 17 view subsequently revealed in Sir Patrick Vallance's  
 18 diaries with reference to Prime Minister Boris Johnson  
 19 that "older people should be accepting their fate, and  
 20 letting younger people get on with their lives during  
 21 the pandemic", and that "Covid's just nature's way of  
 22 dealing with old people and I'm not entirely sure  
 23 I disagree with them", that sort of thinking is a real  
 24 concern, the extent to which maybe not at those extreme  
 25 levels but did nonetheless influence the way the

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1 formulation of effective guidance. This was  
 2 particularly regrettable in relation to older people who  
 3 were known to be a vulnerable group and where there were  
 4 those who could have provided constructive and informed  
 5 commentary on the likely difficulties with  
 6 implementation or even possible unintended consequences  
 7 of the government's plans, and one example may make the  
 8 point.

9 There are some 473 residential care homes catering  
 10 for older people in Northern Ireland through about  
 11 11,400 care packages, not including those for  
 12 domiciliary care which simply increase that and the  
 13 significance of this service sector to the formulation  
 14 and implementation of guidance to control the impact of  
 15 the pandemic on older people should have been obvious to  
 16 the government from the outset, yet in many instances  
 17 there was an inexplicable failure to engage with it, to  
 18 harness its expertise and improve the formulation of  
 19 policy as well as to explain how the new regulations  
 20 were intended to operate to maximise their  
 21 effectiveness.

22 So, my Lady, just to conclude on the objectives that  
 23 the Commissioner has for the Inquiry, what he hopes is  
 24 for the results -- what he hopes from these oral  
 25 hearings is that those sheer numbers of people who

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1 suffered or died, that there can be some proper  
2 examination and explanation of how on earth that could  
3 have happened.

4 He would like for everybody a clear understanding of  
5 what went wrong and why it did, and the extent to which,  
6 with better planning, something like that in the future  
7 might be avoided. He is strongly of the view that  
8 despite the experience from Exercise Cygnus to assess  
9 the UK's preparedness and response to a flu pandemic  
10 outbreak and all the modelling talent and  
11 epidemiological expertise available to the government,  
12 it failed in its most basic task, to ensure that the  
13 people would be as safe as possible from the impact of  
14 a pandemic, and a high price was paid for that failure  
15 by older people and those professionals and family who  
16 cared for them. Many older people who did not die  
17 during the pandemic nonetheless suffered considerably  
18 during lockdown and the repeated periods of isolation  
19 imposed by their care homes or the need to shield in  
20 their own homes. Residents in care homes were  
21 frequently restricted to their own room, denied the  
22 opportunity to socialise with other residents who lived  
23 under the same roof, and this lack of social contact  
24 frequently led to a deterioration in physical health and  
25 often brought about a decline in mental health, and for

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1 in Modules 1, 2, 2A and 2B, and it's worked to assist  
2 the Inquiry at each stage of its proceedings.

3 In Module 2C the NPCC represents the interests of  
4 the Police Service of Northern Ireland, the PSNI. The  
5 PSNI, along with police services throughout the UK, were  
6 one of the frontline services dealing with the  
7 day-to-day impacts of the pandemic on members of the  
8 public and on local communities. They undertook that  
9 work whilst of course also dealing with the impact of  
10 the pandemic on the police workforce and on normal  
11 policing activity, as well as on their own families and  
12 households.

13 My Lady, in Module 2 you heard evidence from  
14 Martin Hewitt, who was the chair of the NPCC throughout  
15 the pandemic. In this module, you'll hear from former  
16 Assistant Chief Constable Alan Todd. Mr Todd, who  
17 retired last summer, led the policing response to the  
18 pandemic in Northern Ireland, and that was itself part  
19 of the national policing response led by the NPCC,  
20 Operation Talla.

21 As with the Module 2, 2A and 2B hearings, it's clear  
22 that the principal focus of these hearings will be on  
23 high level decision-making and political governance in  
24 Northern Ireland, and again, in the list of issues for  
25 this module, there is understandably very little

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1 some of those whose mental powers were already in  
2 decline, the opportunity to have any appreciable contact  
3 with someone they recognised was lost before that  
4 contact could be reinstated, and for others who were in  
5 the end stage of their lives the absence of their family  
6 and friends and limited physical interaction with care  
7 staff meant that this precious end of life period  
8 frequently had very little quality.

9 The Commissioner sincerely hopes that this Inquiry,  
10 having laid bare what happened and made recommendations  
11 as to how to minimise the likelihood of that happening  
12 again, that there is a positive response from government  
13 to that. He is aware that many older people fear that  
14 if there were to be another pandemic in the next few  
15 years, as could happen, not enough will have changed to  
16 ensure that there is a much better outcome for them.

17 Thank you, my Lady.

18 **LADY HALLETT:** Thank you very much indeed for your help.

19 Mr Phillips, I think you're next.

20 **Submissions on behalf of the National Police Chiefs' Council**  
21 **by MR PHILLIPS KC**

22 **MR PHILLIPS:** My Lady, as you know, I appear on behalf of  
23 the National Police Chiefs' Council, which is a national  
24 co-ordinating body representing all UK police forces.

25 The NPCC is also a core participant, again you know,  
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1 concerning police work. The Inquiry's focus in that  
2 area seems to be once more on the question of the  
3 enforcement of the Covid regulations.

4 Well, my Lady, as you heard in Module 2,  
5 Operation Talla co-ordinated a far broader range of work  
6 over the course of the pandemic than just enforcing the  
7 restrictions. The many portfolios of Operation Talla  
8 here in Northern Ireland included the critical task of  
9 maintaining a workforce, providing core policing  
10 functions, supporting the criminal justice system,  
11 liaising with government, establishing procedures for  
12 the collation and analysis of Covid-19 data, procuring  
13 PPE, and delivering and training staff in its use.

14 As you know, my Lady, the pandemic created  
15 challenges in every aspect of public and private life.  
16 Police officers and their leaders had to adjust to novel  
17 conditions without any idea of how long they would last  
18 or how long police resources would be diminished through  
19 isolation or infection.

20 PSNI officers, like other police officers in the UK,  
21 did what they could to continue to discharge their usual  
22 duties and functions while paying proper regard to the  
23 safety and welfare of their own staff and officers.

24 However, my Lady, this is perhaps the right moment  
25 to acknowledge that, of course, policing in

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1 Northern Ireland is different, the context is different,  
2 the historical background is different. I don't want to  
3 labour the point, nor spend any time now setting out the  
4 history or the detail. I shall take it as well  
5 understood by you and by the Inquiry. That context,  
6 however, obviously added another layer of complexity to  
7 the difficult business of police work during the  
8 pandemic.

9 My Lady, you've heard evidence about the central  
10 importance of the NPCC's Four Es guidance for achieving  
11 compliance with the guidance: engage, explain,  
12 encourage, enforce. Northern Ireland, along with the  
13 rest of the UK, adopted this policing approach in  
14 March 2020, and throughout the pandemic the consistent  
15 messaging both to the public and within the PSNI was  
16 that enforcement remained the last resort, to be used  
17 only when the first three Es had been exhausted.

18 The task faced by the police here, as in the rest of  
19 the UK, was to encourage the public to comply with  
20 regulations which were judged by government to be in  
21 everyone's best interests and had been designed for  
22 their protection, whilst at the same time maintaining  
23 public safety and, above all, public confidence. That  
24 was a formidable assignment throughout the UK and, for  
25 the reasons I've mentioned, an even more difficult

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1 issuing the fixed penalty notices directly to members of  
2 the public.

3 However, recognising the importance of ensuring  
4 consistency and fairness in their approach, the PSNI  
5 added an extra layer of authorisation to the enforcement  
6 procedures for FPNs issued under the Covid regulations,  
7 and that required officers to seek approval from  
8 a silver commander in the strategic co-ordination centre  
9 before issuing an FPN.

10 Each FPN issued was then recorded centrally, along  
11 with the other disposal methods, such as, for example,  
12 community resolution notices.

13 Mr Todd analysed this data every day to ensure  
14 a consistent and fair approach. He provided summaries  
15 to government officials, to ministers and to the Chief  
16 Medical Officer to assist with their understanding of  
17 compliance and to inform decision-making.

18 More generally, the PSNI worked closely with the  
19 government in Northern Ireland throughout the pandemic.  
20 It was a collaborative and constructive relationship,  
21 with frank exchanges when there were, for example,  
22 concerns about the clarity and enforceability of the  
23 rules.

24 My Lady, I'd like, finally, to stress that  
25 throughout the pandemic the PSNI shared with

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1 challenge here.

2 In Module 2, Martin Hewitt explained to you that it  
3 was compliance and not enforcement that was the true  
4 measure of success in respect of police engagement with  
5 the public and, as he noted, in a public health context  
6 it's compliance which prevents transmission and keeps  
7 the community and, indeed, the police safe.

8 In my closing submissions for Module 2, I made the  
9 point to you -- with, with respect, I repeat now -- that  
10 when it comes to the enforcement of the Covid  
11 regulations, the police response to the pandemic cannot  
12 fairly be assessed solely by reference to the number of  
13 fixed penalty notices issued, because that omits all the  
14 encounters which successfully achieved compliance short  
15 of that fourth E.

16 So it is I hope worth reminding you that the  
17 overwhelming majority of police engagements began and  
18 ended with the first three Es.

19 My Lady, on the question of the fourth E,  
20 enforcement, the PSNI has provided the Inquiry with the  
21 full data as to the number, the level of fines issued to  
22 members of the public during the pandemic. In  
23 Northern Ireland the PSNI were the enforcing authority  
24 for the Covid-19 regulations, but also, unlike police  
25 forces in England and Wales, were responsible for

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1 the Executive the same aims, namely to prevent  
2 transmission and to keep the public safe.

3 Thank you.

4 **LADY HALLETT:** Thank you very much, Mr Phillips.

5 Ms Murnaghan.

6 **Submissions on behalf of the Department of Health Northern  
7 Ireland by MS MURNAGHAN KC**

8 **MS MURNAGHAN:** My Lady, I appear on behalf of the Department  
9 of Health in Northern Ireland.

10 By this opening statement, the department again  
11 wishes to take the opportunity to express its profound  
12 condolences to the families and friends of everyone who  
13 died due to Covid-19.

14 It should be understood that at all times during  
15 the pandemic the department's overriding priority was to  
16 minimise the loss of life. The loss of life and the  
17 individuals and the families involved must remain at the  
18 forefront of everyone's thoughts throughout this  
19 Inquiry. This is also an opportune moment to again  
20 praise the bravery, commitment and professionalism of  
21 health and social care workers across Northern Ireland.

22 Quite properly, much, my Lady, has been made of the  
23 unprecedented challenges that Covid-19 brought to bear  
24 on governments and on policymakers. However, it must  
25 not be forgotten that the most acute pressures were

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1 experienced on the frontline. That has been said  
2 before, my Lady, but it bears repetition.  
3 This opening statement will confine itself to some  
4 overarching comments about the department's response to  
5 Covid-19, given that in this module the Inquiry will  
6 focus on vital decisions which were made at pace during  
7 the biggest public health crisis of all of our  
8 lifetimes.

9 The examination by this Inquiry can be expected to  
10 bring to light tensions which will inevitably have  
11 developed over the best approach that should have been  
12 taken. The department is, of course, fully supportive  
13 of the Inquiry process and stands ready to learn any  
14 lessons whatsoever, however painful these may be.

15 It must also be said that Covid-19 brought  
16 unparalleled pressures for governments across the world.  
17 The Inquiry will be mindful that the pandemic  
18 represented a baptism of fire for our fledgling  
19 five-party coalition which was heading a devolved  
20 administration in a relatively small part of the UK.

21 My Lady, you will be well aware of the limitations  
22 faced by all policymakers at this time, with immediate  
23 decisions that had to be made in an environment of  
24 severe global uncertainty and incomplete information.

25 The department would also emphasise that all too  
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1 conclusion that Northern Ireland's response to Covid-19  
2 was an outlier in UK Government terms or indeed was the  
3 sick man of the Kingdom. In that respect, the  
4 department concurs with the analysis of Professor Hale  
5 in his report, as referenced this morning by Counsel to  
6 the Inquiry in her opening statement.

7 As my Lady will be aware, Professor Hale was  
8 instructed by the Inquiry to analyse the effectiveness  
9 of decision-making in the UK and of each devolved  
10 administration in respect of the Covid-19 pandemic in  
11 comparison with other countries.

12 In the course of his detailed assessment,  
13 Professor Hale noted that in comparison Northern Ireland  
14 fared better than all other parts of the UK in terms of  
15 the pandemic's impact, in that its deaths were ranked  
16 34th in Europe.

17 Of course, the department also acknowledges that  
18 there will be multiple and complex causal factors behind  
19 these statistics, and that simplistic interpretations  
20 must be avoided. We also, I would say, guard against  
21 any complacency.

22 Additionally, it is essential of course to be  
23 constantly reminded that behind every single Covid  
24 fatality statistic, it is an individual whose life was  
25 cut short, who has left behind grief-stricken relatives  
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1 often the task was not to make the right decision, but  
2 to make the least wrong one. Near impossible choices  
3 were required.

4 Throughout the pandemic, the department has been  
5 very mindful of the consequences, including the health  
6 consequences, of decisions made on issues such as school  
7 closures and the shutdown of large swathes of the  
8 economy.

9 This department remains convinced, however, given  
10 the prevailing circumstances, that the lockdown and the  
11 other non-pharmaceutical interventions were the best  
12 available option at key junctures. But it also  
13 acknowledges that these measures came at a heavy cost  
14 and that all decision-makers had to grapple with truly  
15 awful dilemmas.

16 The Inquiry has quite properly been examining the  
17 impact of political instability in Northern Ireland in  
18 relation to pandemic preparedness. It was, of course,  
19 far from ideal, to say the least, that Northern Ireland  
20 had been without an Executive for some three years prior  
21 to 2020. Moreover, Northern Ireland's health service  
22 was, in many key respects, the most fragile of the four  
23 UK nations at the time when Covid-19 arrived on our  
24 shores.

25 However, this should not lead inexorably to the  
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1 and friends.

2 I would also draw the Inquiry's attention to the  
3 report it commissioned from Professor Anne-Marie Gray  
4 and Professor Karl O'Connor. That report included the  
5 telling observation that during the pandemic too much  
6 pressure was placed on one department, that of health.  
7 It may be that history is now inevitably repeating  
8 itself in that regard.

9 Northern Ireland was tested as never before by  
10 Covid-19. The virus could have been a public health  
11 crisis too far for a new administration and the society  
12 that it serves. The Department of Health maintains that  
13 the local community and, not least, the health service  
14 and other public servants, met the challenges of the  
15 pandemic with resolve, dexterity, compassion and  
16 solidarity. There are, of course, key questions to  
17 answer, inevitable shortcomings to be examined, and  
18 multiple what ifs. That is why we are all here.

19 However, the scale of the Covid response which was  
20 deployed should be recognised along with the countless  
21 hours of work and the all too many agonising dilemmas  
22 which were forced upon those making decisions.

23 The department has already today paid tribute to our  
24 health and social care workers, but we would also wish  
25 to praise the wider community across Northern Ireland  
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1 and its response to the pandemic. The unparalleled  
2 sacrifices that were made across society should not go  
3 unheralded. Lives were put on hold for extended periods  
4 to protect the vulnerable and safeguard the health  
5 service, and for that, my Lady, the department wishes to  
6 thank them all.

7 Thank you.

8 **LADY HALLETT:** Thank you very much indeed, Ms Murnaghan.

9 Mr Coll.

10 **Submissions on behalf of the Executive Office Northern**  
11 **Ireland by MR COLL KC**

12 **MR COLL:** Thank you, my Lady.

13 My Lady, I appear on behalf of the Executive Office.  
14 It is also known by its short form as TEO.

15 So the TEO welcomes the work of the Inquiry and in  
16 particular, as the Inquiry turns its focus to this  
17 module, looking at governmental decision-making in  
18 Northern Ireland relating to the Covid-19 pandemic  
19 between early January 2020 and March 2022.

20 At the outset of this module, TEO wishes to again  
21 acknowledge the impact the pandemic and the management  
22 of the pandemic had and continues to have on the people  
23 of Northern Ireland. TEO offers its sincere and  
24 heartfelt condolences to the family and friends of all  
25 those who died in the pandemic, often in terrible

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1 statement to enter into detailed submissions, nor  
2 indeed, at this stage, to put forward any contentions or  
3 arguments as to what the evidence to the Inquiry  
4 demonstrates in respect of TEO's role in the  
5 decision-making relevant to the issues in this module.  
6 It is, however, apt to take the opportunity to set out  
7 perhaps some essential aspects in brief detail of the  
8 surrounding context.

9 Module 2C comes at the end, obviously, of a series  
10 of modules in respect of governance and decision-making  
11 processes across different parts of the United Kingdom.  
12 As appears from the outline of scope, the Inquiry will  
13 wish to carefully consider and take account of the  
14 bespoke arrangements of government in Northern Ireland,  
15 and indeed that was obvious from my learned friend  
16 Ms Dobbin's opening to you earlier today.

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

25 As referenced already, this opening statement is not

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1 circumstances, and its sympathies to all of those who  
2 were affected by Covid-19 and the measures introduced to  
3 address the public health risks that it brought to our  
4 community.

5 TEO recognises the very real impact that those  
6 measures had on very many in Northern Irish society, on  
7 how they were able to engage in the normal interactions  
8 of life, the isolation and loneliness experienced by  
9 many, and the widespread enduring impact continuing to  
10 be felt today by our community, particularly by our  
11 elderly and vulnerable groups.

12 Can I say, my Lady, that in relation to the  
13 experience video that we saw today, nobody watching that  
14 video could be otherwise than deeply and genuinely  
15 affected by the stories of loss, devastation, isolation  
16 that they describe.

17 One is mindful also that that video is but  
18 a snapshot or a vignette of a much wider widespread  
19 reality still being experienced in Northern Ireland  
20 today.

21 It goes very starkly to underline the significance  
22 of the work of the Inquiry, and indeed the importance of  
23 the participation of those so terribly affected by the  
24 pandemic in the work of the Inquiry.

25 It is not the intention, by the way, of this opening

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1 the appropriate means to engage on this issue in full  
2 detail. It is perhaps suffice for the moment to note  
3 the following: the constitution at arrangements in  
4 Northern Ireland stem from the Good Friday Agreement.  
5 For current purposes, possibly the most significant  
6 difference between Northern Ireland and the other parts  
7 of the United Kingdom in terms of governance is the  
8 particular construction of the Northern Ireland  
9 Executive Committee, operating as a mandatory coalition.

10 The Executive, as you have heard, is made up of ten  
11 ministers across nine departments, the First and deputy  
12 First Minister holding joint office. Each minister in  
13 general terms has executive authority to determine  
14 policy and operational matters within their department,  
15 subject to the requirement that certain matters -- in  
16 summary, for current purposes, cross-cutting or  
17 significant or controversial -- will be referred to the  
18 Executive for decision.

19 Those particular high-level constitutional  
20 arrangements have resonant implications for the  
21 structure and operation of the Northern Ireland Civil  
22 Service, which of course, it must be remembered, is  
23 an entirely distinct operation from the Home Civil  
24 Service in Great Britain.

25 Each of the departments in the Northern Ireland

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1 Civil Service is a separate legal entity. The minister  
2 in each department is the head of that department, and  
3 the department is subject to his or her direction and  
4 control.

5 The permanent secretary in each department is  
6 accountable to that department's minister. As  
7 a consequence, the Civil Service here does not operate  
8 in what might be described as a hierarchical or "command  
9 and control" type fashion. That might be the experience  
10 elsewhere but it is not the fit here.

11 TEO and, indeed, the head of the Civil Service here,  
12 do not exercise day-to-day management and control of the  
13 other departments, and under the arrangements in place  
14 the head of the Civil Service does not have the power to  
15 direct the permanent secretaries of other departments in  
16 the exercise of their functions.

17 Essentially the role of the head of the Civil  
18 Service is three-fold: principal policy adviser to the  
19 First Minister and the deputy First Minister; secretary  
20 to the Executive Committee; and head of the Civil  
21 Service and of the some 23,000 civil servants in  
22 Northern Ireland led by individual permanent  
23 secretaries.

24 It must, of course, be recognised that frontline  
25 staff in both the public and private sectors, providing

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1 interested in examining in this module will be the  
2 impact of the absence of ministers for the three years  
3 prior to January 2020, and of course it will be noted  
4 that the period under examination in this module is  
5 effectively book-ended by periods of no Executive being  
6 in place from January 2017 to January 2020 and then from  
7 February 2022 to February 2024, this year.

8 It's also anticipated that the Inquiry will look  
9 carefully at equality considerations, resourcing levels  
10 in the civil contingencies function, delayed pandemic  
11 flu planning, and of course informal communications and  
12 retention of information.

13 It is acknowledged by TEO that in its preparedness  
14 for and in its addressing of the pandemic, there will  
15 have been matters that could have been done differently  
16 and should have been done better. TEO welcomes the  
17 important work of the Inquiry in identifying those areas  
18 and acknowledges that, alongside this, the pandemic  
19 continues to have a profound impact on the people of  
20 Northern Ireland. Throughout the Inquiry, and as will  
21 continue in this module, TEO have listened in order to  
22 learn from the work of the Inquiry and to do things  
23 better in the future.

24 Those are my submissions for the moment, my Lady.  
25 Thank you.

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1 essential services to the public were dealing during the  
2 pandemic with the most difficult and unprecedented of  
3 circumstances. Alongside this, TEO recognises that as  
4 part of the surrounding context for this module those  
5 involved in the development of policy, and indeed in the  
6 decision-making processes, were doing so in testing and  
7 pressurised conditions, again in an unprecedented and  
8 highly complex situation.

9 Northern Ireland is, as you've heard, and as you  
10 know, a relatively small jurisdiction. The Civil  
11 Service has to operate within a complex political  
12 environment, and with ongoing and constant financial  
13 pressures. It's the TEO's position that people were  
14 doing their best, with the intention of serving the  
15 interests of the people of Northern Ireland. TEO, like  
16 other government departments across the UK, and wider  
17 afield, was operating in this unprecedented situation,  
18 responding to a global pandemic, and often required to  
19 provide advice and guidance to ministers at pace.

20 In addition, it will not have escaped the Inquiry's  
21 attention that TEO was dealing with other issues, not  
22 least the implication to Northern Ireland of the  
23 United Kingdom leaving the European Union.

24 It's anticipated from the TEO's perspective that  
25 among the issues that the Inquiry will be particularly

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1 **LADY HALLETT:** Thank you very much indeed, Mr Coll.

2 I think that completes the oral opening submissions.  
3 I'm very grateful to everyone for not only the quality  
4 of their submissions but also the timeliness.

5 I think we have two witnesses to start this  
6 afternoon, Ms Dobbin.

7 **MS DOBBIN:** I think we're going to have a break first,  
8 though, for ten minutes.

9 **LADY HALLETT:** We are. So I shall return at 3.10 and we  
10 will begin hearing the evidence. Thank you.

11 (2.53 pm)

(A short break)

13 (3.09 pm)

14 **LADY HALLETT:** Are we a little early? I'm just thinking  
15 about people online, that's all. We can do the oath.

16 **MS DOBBIN:** Thank you.

17 My Lady, may I call the first witness, please, in  
18 Module 2C.

**MS MARION REYNOLDS (sworn)**

20 **Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2C**

21 **LADY HALLETT:** I hope you haven't felt you've had to wait  
22 a long time to get to this stage.

23 **MS DOBBIN:** Can I ask you to give your full name to  
24 the Inquiry, please.

25 **A.** My name's Marion Reynolds.

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1 Q. Thank you for providing a witness statement to  
2 the Inquiry. I think you have that in front of you,  
3 don't you?  
4 A. I have.  
5 Q. And I think if you just look at the very back of it,  
6 I think you signed it on 26 February 2024. Is that  
7 right?  
8 A. That's correct.  
9 Q. Are you happy for that evidence to stand as your  
10 evidence in this Inquiry?  
11 A. I am, my Lady.  
12 Q. And is it true to the best of your knowledge and belief?  
13 A. It is.  
14 Q. Okay.  
15 Now, I think you've already sent a message saying  
16 that I need to keep my voice up, so I'll do my best to  
17 do that, but if at any point you can't hear me, please  
18 just say; okay?  
19 I think it's right, Ms Reynolds, that you're here to  
20 give evidence on behalf of the Northern Ireland Covid  
21 Bereaved Families for Justice, and also in your own  
22 right as well to talk about your experiences. Is that  
23 correct?  
24 A. That's correct.  
25 Q. All right.

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1 didn't really make any difference to my ability to  
2 effect change or to get the sort of service for my aunt  
3 that I thought she needed.  
4 Q. All right. And do you think that your background meant  
5 that you approached the care of your aunt with a degree  
6 of realism or an understanding of how systems work in  
7 reality, in terms of care and --  
8 A. Well, I would have been -- I'm a bit of a pragmatist  
9 anyway, and I knew what my aunt's needs were, and up  
10 until she fractured her hip, she lived independently in  
11 the community, she required some support and that was  
12 provided through a lady that we'd bought private care  
13 from, and also myself going down twice a week. So  
14 I knew her situation very well, I knew her personality,  
15 I knew what she liked and what she didn't like and  
16 I knew what she would do and what she wouldn't do, and  
17 when my aunt didn't want to do something, she wouldn't  
18 do it, simple as that. Five foot nothing and a will of  
19 steel, and that was her. And she had, because she was  
20 profoundly deaf, and she lip-read, and she was very  
21 proficient at that, and so when she went -- when Covid  
22 started and she had carers coming in after she fractured  
23 her hip and they were wearing masks, she couldn't  
24 lip-read, and she kept saying to them "take the mask  
25 off, take the mask off" and of course they couldn't

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1 I'm just going to ask you maybe a bit about yourself  
2 before I move on to do that.  
3 Could you tell the Inquiry a little bit about your  
4 professional experience? I think you had a long career  
5 in social care; is that right?  
6 A. That's correct.  
7 My Lady, I started life off as a family and  
8 childcare social worker and moved through that into  
9 management, and then in 1992 I moved to the Department  
10 of Health as a Social Services inspector inspecting  
11 children's facilities and also providing policy advice  
12 on children's social services.  
13 I left the department in December 2005 to join the  
14 Eastern Board as the deputy director of family and  
15 childcare services and I remained there until September  
16 of 2009 when I left because of the review of public  
17 administration and for 13 years after that I worked as  
18 an independent social work consultant.  
19 Q. Ms Reynolds, do you think that that background was  
20 helpful to you, as it were, in navigating the care of  
21 your aunt, which we'll come to very shortly?  
22 A. Well, technically it should have, in the sense that  
23 I knew the system very well, and not only did I know the  
24 system but I knew a lot of the people personally that I  
25 had worked with them over my professional life, but it

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1 because they were required to wear the mask.  
2 So then when she went into hospital --  
3 Q. Ms Reynolds, sorry, forgive me, I am just going to stop  
4 you there because you've jumped ahead a wee bit in time  
5 and I just wanted to make sure I'd introduced this  
6 properly, just about what happened to Marion. I hope  
7 you don't mind, is it all right to call her Marion when  
8 I ask the questions?  
9 A. Yes.  
10 Q. So I think it's right and I think as you've just said in  
11 March 2020 she hurt her hip and she ended up in  
12 hospital. And I think as you've said, there were  
13 concerns then about her ability to communicate with  
14 people, because of the fact of wearing masks, and the  
15 lack of mitigation around that. Is that right?  
16 A. Yes. I think at that stage we were allowed to visit, so  
17 it wasn't so bad, because we were able to go in and out.  
18 Q. Yes.  
19 A. And it was just over time the visiting became more  
20 curtailed, and that just became a problem, because my  
21 aunt had a long-standing eating problem. Now, this is  
22 not a problem of old age, this was the whole way through  
23 her life. She needed to know who made the food, who  
24 handled the food. And so when we were able to get in  
25 every day, we were able to bring food and to make sure

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1 she had nourishment.  
 2 As the Covid pandemic continued, the amount of  
 3 contact we were allowed reduced from daily to once  
 4 a week, and then stopped completely. So we had no  
 5 mechanism to go in and to make sure she got nourishment  
 6 or that she was getting liquids, and that was a source  
 7 of concern. And when we phoned either the hospital or  
 8 the care home, they all told us that they couldn't get  
 9 her to eat, they couldn't get her to take her tablets,  
 10 and I kept saying "Well, look, I'm happy to go down and  
 11 she will eat with encouragement if we're there" because  
 12 I would have been bringing food and she would have been  
 13 happy about that. But that was never accepted as a --  
 14 you know, as a possibility.  
 15 **Q.** I'm just going to stop you there, because I think it's  
 16 right that Marion, after she was in hospital, did she go  
 17 home for a bit?  
 18 **A.** She did. She was in the hospital, she had her hip  
 19 fracture repaired, then she went for rehabilitation and  
 20 she got home. And when she got home she was on  
 21 a package of carers four times a day and my brother and  
 22 I took turns to stay overnight with her, really to try  
 23 and get her back into living independently in the  
 24 community, and the lady that we had previously paid to  
 25 go in to help, she augmented that. So we were quite  
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1 and she said "It's all right, we'll get a locksmith and  
 2 open the house up to discharge her to it" and I said "My  
 3 auntie's house is my house, I bought it for her when she  
 4 wanted to move to Bangor, so you can't change the locks"  
 5 and she said "Well, are you prepared to tell your aunt  
 6 that you won't let her go home?" And I said "I am more  
 7 than happy to do that" because my aunt would know  
 8 I wouldn't do anything that wasn't for her good.  
 9 So at that stage --  
 10 **Q.** Just take your time.  
 11 **A.** The social worker then backed down, and if I hadn't been  
 12 ill I would have reported her to NISCC because I thought  
 13 her attitude was uncaring, she wasn't putting my aunt's  
 14 needs first, I thought it was really quite cruel and she  
 15 told me that this other elderly gentleman in the same  
 16 position as my aunt had been discharged and I said  
 17 "Well, he's not my responsibility but my aunt is".  
 18 So that night, now, it was a winter's night, it was  
 19 raining, it was bitterly cold, and they transferred my  
 20 aunt from the Ulster Hospital to the Downe Hospital.  
 21 Now, whether or not I'm right or not, I don't know,  
 22 I thought it was punitive in the sense that I had stood  
 23 up to them and said "She's not going home and that's the  
 24 end of it". This could be me just being absolutely  
 25 paranoid and I accept that, but to transfer an elderly  
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1 satisfied that she was getting the level of care that  
 2 she needed. So unfortunately she then took pneumonia in  
 3 September.  
 4 **Q.** Yes.  
 5 **A.** And the GP had her admitted to hospital, and then when  
 6 she was in hospital at that stage a few days, or maybe  
 7 five days after she was admitted, they phoned me to say  
 8 she'd tested positive for Covid.  
 9 **Q.** Yes.  
 10 **A.** Now, she hadn't Covid when she was admitted, but she did  
 11 have pneumonia. She recovered from that, and then -- do  
 12 you want me to go on with this story?  
 13 **Q.** So I think the next thing that happened then to Marion  
 14 was that the hospital wanted to discharge her home; is  
 15 that right?  
 16 **A.** Yeah.  
 17 **Q.** Although she was in quite a weak condition?  
 18 **A.** Yeah. Well, I got a phone call from the senior social  
 19 worker saying to me they were going to discharge auntie  
 20 Marie that day. Now, at that time I myself had Covid  
 21 and I really wasn't very well, and I said "No, she can't  
 22 go home because I'm not there to augment the care and  
 23 the carers four times a day would be insufficient to  
 24 manage her needs", and the social worker was insistent  
 25 and I said "Well, look, I have the keys of her house",  
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1 lady late into the night, if not into the early hours of  
 2 the morning, on a cold, wet winter's night I thought was  
 3 unnecessary, unkind, and really said very little about  
 4 the compassion that was given to my aunt.  
 5 **Q.** I think it's right that after that Marion went to  
 6 another hospital and then she was transferred to  
 7 a care home, wasn't she?  
 8 **A.** Yes. She -- I was never allowed to see her in that  
 9 hospital at all, and I did go down and talk to the  
 10 social worker and we were trying to get her into --  
 11 because she needed some rehabilitation more than could  
 12 be provided at home, so we were trying to get her into  
 13 a care home which was a very small care home that we  
 14 would have been happy with for a short period of time.  
 15 So what happened was she then phoned me and said "Your  
 16 aunt isn't being discharged to that care home, she has  
 17 to be discharged to Comber Care Home because she tested  
 18 positive for Covid within 28 days" and I said "It must  
 19 be very close on the 28 days" and she said "It's 27  
 20 days", so she was transferred to this care home that had  
 21 a wing for Covid patients, and I wasn't allowed to see  
 22 her there either, despite my best efforts.  
 23 Now, when my aunt was in hospital, I was making  
 24 phone calls to different people to try and see her. It  
 25 wasn't that I only started when she went into the  
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1 care home. But when she was in the Downe Hospital,  
2 I was trying. So when she went to the Comber Care Home,  
3 we phoned every day, and every day we got the message  
4 "She's not eating and she's not taking her tablets" and  
5 every day we were saying "Look, one of us is happy to go  
6 down and help", but we were never allowed.

7 **Q.** I think, Ms Reynolds, you said that at some stage you  
8 realised that maybe other people were being allowed  
9 visits but you couldn't quite understand why that  
10 wouldn't apply to you?

11 **A.** One day when I was going by and there was a lady -- just  
12 as I parked my car, this lady got out and she walked  
13 into the front door of the home. Now, we weren't  
14 allowed to go through the front door of the home, we had  
15 to go round to the window and do window visits, so one  
16 of the staff was coming out and I heard her greet the  
17 lady by her name, and she said to her "Oh, just go on  
18 up". So I thought she must be allowed a visit, why am  
19 I not allowed a visit? Well, coincidentally with that  
20 one of the staff at the Down Lisburn Trust had told me  
21 about Care Partners and that was the first I'd heard of  
22 that. Now, Care Partners came out in the September.  
23 I was always entitled to see my aunt in that care home,  
24 and they never informed me of my right. Now, that meant  
25 that for the last number of weeks of my aunt's life,

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1 **Q.** I think is it right that you did eventually get to see  
2 her at some point?

3 **A.** Yeah.

4 **Q.** You were allowed in. Can you just tell us then how you  
5 found her, Ms Reynolds, when you did get to see her?

6 **A.** Well, when I got in to see her, she was lying in bed  
7 with clothes on that weren't her clothes. Now, my aunt  
8 was a very snappy, fussy dresser, and, and these clothes  
9 that she was wearing didn't even fit. But anyhow, her  
10 clothes were in a cupboard in the plastic bags that  
11 she'd been discharged from hospital with. She was very  
12 dehydrated. I had brought a flask of tea and some  
13 sandwiches with me, and when she drank -- she wouldn't  
14 talk to me when I first arrived but once I gave her the  
15 tea she was hydrated and we had a conversation, and she  
16 wasn't prepared to eat anything, and -- but in the  
17 corner of the room, if you imagine a long narrow room,  
18 the bed's at the top, just beside the door, and at the  
19 bottom of the room where the window is that we could see  
20 her in through, there was a wash hand basin with a side  
21 drainer and on the side drainer were -- my aunt liked  
22 pastries, and I had brought pastries and bottles of  
23 lemonade every time I had gone down, so there were all  
24 these 3-litre bottles of lemonade, and stacked high all  
25 the boxes of pastries, some of them now out of date.

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1 there could have been a family visit, and she never was  
2 given it.

3 **Q.** So I think what you've said in your statement,  
4 Ms Reynolds, was that you could see your aunt Marie  
5 through the window but you weren't allowed --

6 **A.** No, and one of the -- the Department of Health provided  
7 additional funding to care homes to enable them to make  
8 provision for families to visit.

9 Now, my aunt's younger sister, who was 86, I would  
10 have taken her with me sometimes to visit, and we had to  
11 go to a window to visit, and outside they hadn't even  
12 put a paving stone down; we had to stand on wet grass.  
13 Now, for me a paving stone is a minimal cost, they were  
14 provided with significant resources to facilitate family  
15 visits, and they weren't chased. And auntie Marie, when  
16 we would be at the window visit, she was in the bed  
17 which is at the opposite side of the room, she could see  
18 us, she couldn't hear what we were saying and she kept  
19 waving to us to come in, and we were busy saying "We're  
20 not allowed, we're not allowed" and in fact we would  
21 have been allowed if they had implemented the guidance.  
22 And I'm sure she couldn't understand, why are this pair  
23 out in this window in November, and not getting in, and,  
24 I mean, why, when there was guidance that would have let  
25 us in?

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1 I'd also left Bacofoil little packets of sandwiches for  
2 her. Some of those were still in front of her hospital  
3 tray, some of them open, some of them not open, but some  
4 of them were out of date. So I was really terribly  
5 dissatisfied with what I saw, and so I went to see the  
6 officer in charge, and I expressed my alarm, that nobody  
7 even told me to stop bringing things because they were  
8 just piling up, that her clothes hadn't been emptied,  
9 and in my opinion she was actually dying, I said "She's  
10 dying before my eyes", and the officer in charge said  
11 "Well, the doctor doesn't say that". So I said "Well,  
12 in my view, she's dying before my eyes". Very stupidly  
13 I didn't say "When did the doctor see her?" because  
14 I don't believe -- her own GP I don't think saw her when  
15 she was admitted to hospital in the September with  
16 pneumonia, and I don't think any doctor had seen her  
17 since she was discharged from the Downe Hospital.

18 But anyway, I was convinced she was nearing death,  
19 so between my brother, my sister-in-law, my nephew, we  
20 just took a rota, and for the next three days we just  
21 took turns. Now, we could get in and out of that wing  
22 that they had for Covid patients without going anywhere  
23 near the rest of the home. So there never would have  
24 been a reason why we couldn't have got in anyway.

25 So three days later she died.

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1 Q. Yes.

2 A. And, I mean, in my opinion, I wouldn't have seen many  
3 people die, to be honest with you, but people working in  
4 care homes would have. They must have been in a better  
5 position than I ever would have been to judge that my  
6 aunt was nearing the end of her life, and I just felt  
7 the care -- it had become -- individuals were treated as  
8 objects of concern rather than as people with needs, as  
9 individuals with their own unique way of living, and  
10 I felt that was lost.

11 Q. And I think, Ms Reynolds, what you say in your statement  
12 is that after your aunt Marie died there was a number of  
13 other concerns that you had and one of those was around  
14 the certification of her death; is that correct?

15 A. Yes, so when my aunt died, I phoned -- my aunt had  
16 already arranged much of her funeral herself, she had  
17 told me which undertaker she had wanted to go to, she  
18 had prepared a funeral service, the only thing that  
19 needed to be filled in was her date of death, and she  
20 told me "If you tell them my date of birth, I'll come  
21 back and haunt you", she would never tell anyone her  
22 age, so she had -- just had to put in her date of death.  
23 When I phoned the undertaker he said "Now, you'll need  
24 to get her death certificate". So when my parents died,  
25 I know the undertaker did all these sort of things, so

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1 an excellent GP, I have confidence in him, he would know  
2 I wouldn't mislead him, but I don't know that every  
3 family would have had that sort of relationship with the  
4 GP or would have been in a trust relationship with the  
5 GP.

6 Q. I think if I can just come back to this, then,  
7 Ms Reynolds, I know that obviously you're speaking on  
8 behalf of bereaved families as well.

9 A. Yes.

10 Q. To what extent does your experience also reflect some of  
11 the broader experiences of the people within the  
12 bereaved families group?

13 A. Well, I think the sort of issues, I mean, really were  
14 quite systemic in that, I mean, the difficulties that  
15 people had in seeing their relatives, the difficulties  
16 they had in being confident that the care the relatives  
17 were receiving was of a standard that was appropriate,  
18 the fact that there was no -- there were no safeguards  
19 in place in terms of other agencies going into the  
20 homes, RQIA inspectors, podiatrists were stopped, OTs,  
21 all of these people in a way, although they're providing  
22 a service, they're also a safeguard. Those services  
23 once they're withdrawn meant that the homes really were  
24 acting as little fiefdoms of their own. And the  
25 difficulty, I mean, I wasn't told of Care Partners, but

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1 anyway I thought, well.

2 So I phoned the GP who is a terribly nice man and  
3 I have every confidence in, so I let him know that my  
4 aunt had died and he said "Well, what do you think she  
5 died of, Marion?" And I said well, really fragility of  
6 old age, then she had the hip fracture and then she had  
7 the Covid, then she had pneumonia. So I said those  
8 sorts of things probably all contributed to her death.

9 So I got the death certificate and it said  
10 "Fragility of old age, fractured hip, pneumonia, Covid".  
11 So I thought, well, that's what I told the doctor, but  
12 I don't think fragility of old age is a cause of death,  
13 but I just took -- and then I thought, you know, the  
14 reason why you have the certification of death is  
15 a safeguard for people, you know, and I just felt if  
16 we're in a situation where -- and I would have liked the  
17 doctor to have seen my aunt, because my aunt was  
18 emaciated, it wasn't just in the care home that she had  
19 lost all that weight, she lost weight in hospitals too.

20 Q. Yes.

21 A. I would have liked a medical practitioner to have seen  
22 just how much she had really withered away.

23 Q. Just in terms of certification, then, I think it's right  
24 he went by your word effectively, to --

25 A. Yes, I'm not casting any negative views on the GP, he's

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1 neither were other people, and other people also had  
2 difficulty, even with that guidance, getting into homes.  
3 So those were issues that were common through all of us.

4 Q. I think --

5 A. Some of our members also were very concerned that their  
6 relatives were given sedative type medication, which  
7 probably hastened their demise, and I was asked by the  
8 home after I got in to sign a non-resuscitation, and  
9 I wouldn't -- I would have signed that, because the  
10 idea -- I have done CPR and I would not have put my aunt  
11 through CPR because it would have been a total  
12 unkindness, but I know from our group that other  
13 people's relatives had those in place without them  
14 knowing about it or having had it discussed with them,  
15 and that's obviously a concern.

16 Q. Just in terms of you've also set out in your witness  
17 statement just some of the broader concerns as well, so  
18 not the concerns about how people were cared for, but  
19 the broader concerns as well about the way that the  
20 response to the pandemic was managed by government in  
21 Northern Ireland; is that right?

22 A. Well, yes. I think some of our members were very  
23 concerned that the Executive had been down for  
24 three years, was re-established in January of 2020, and  
25 they were concerned -- a lot of our members were

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1 concerned that we had a new minister who hadn't  
2 experience and came straight into a worldwide pandemic.

3 Now, I probably wouldn't share that concern to the  
4 same degree, because having worked in a department,  
5 government ministers change, they all get their first  
6 day briefings, they all rely on their advisers, and,  
7 you know, they very quickly read into the situation. So  
8 I probably don't share the same anxiety that a lot of  
9 our group do. But those people who had that anxiety, it  
10 caused them anxiety because they then didn't have  
11 reliance on the system, and that's an issue, you know,  
12 if you can't rely on the system you're concerned about  
13 how the science is being used, how we're learning, how  
14 we're making changes over time.

15 I think at the very beginning one could see the need  
16 for what I would say was quite draconian measures, but  
17 as time went on, we learnt more about the pandemic and  
18 we learnt who were vulnerable and we learnt more about  
19 how it was spread.

20 There wasn't really the approach to moving forward  
21 based on acquired knowledge. It seemed, especially for  
22 people in care homes, and this is one reason why  
23 I stayed involved with the group after my aunt died,  
24 care homes still weren't opening up, people were still  
25 being deprived of their family, their friends, their

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(A short break)

(3.43 pm)

1 LADY HALLETT: Mr Scott.

2 MR SCOTT: Good afternoon, my Lady. Please may the Inquiry  
3 call Nuala Toman.

4 MS NUALA TOMAN (affirmed)

5 Questions from COUNSEL TO THE INQUIRY

6 MR SCOTT: Good afternoon.

7 LADY HALLETT: Thank you for waiting until the end of the  
8 day. Sorry about that.9 MR SCOTT: Good afternoon, Ms Toman, would you please  
10 provide your full name for the Inquiry.

11 A. Nuala Toman.

12 Q. Thank you for your assistance to the Inquiry.

13 If I can just ask you to keep your voice up, speak  
14 into the microphone, and also not to speak too quickly,  
15 although I may be more guilty of that than you. I may  
16 ask you to repeat some or all of your answers, if it's  
17 not clear what you've said; and if you need a break at  
18 any point, please just say.19 You have provided the Inquiry with a witness  
20 statement dated 19 January 2024. I take it you're  
21 familiar with the contents of that statement?

22 A. (Witness nods)

23 Q. At page 27, there's your signature and a statement of

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1 clergy, and I just thought this was wrong.

2 Q. Thank you, and I think one of the other concerns that  
3 you've pointed out in your statement is just the effect  
4 that having an absence of ministers had in the three  
5 years running up to the pandemic as well; is that right?6 A. Well, I think one of the things that that would have  
7 impacted would have been legislative change, there was  
8 a huge amount(?) of legislation, if the pandemic  
9 required legislative change there really wouldn't have  
10 been a time in the legislative timetable to do that, so  
11 that would have been a concern and I would share that  
12 concern.

13 MS DOBBIN: Ms Reynolds, those are all my questions.

14 Let me see just see if the Chair has any.

15 LADY HALLETT: I don't have any questions. I don't think  
16 anybody has asked to ask any questions.17 Thank you very much, Ms Reynolds. I can see why you  
18 were so fond of your aunt, she sounds quite a character.

19 THE WITNESS: Oh, she was.

20 LADY HALLETT: Thank you very much for your help.

21 THE WITNESS: Thank you.

22 (The witness withdrew)

23 LADY HALLETT: I think I have to leave because of managing  
24 the next witness's entrance. Okay, two minutes.

25 (3.38 pm)

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1 truth. Please can you confirm that the contents of that  
2 statement are true?

3 A. Yes.

4 Q. And are you content to rely on that statement in  
5 evidence to the Inquiry?

6 A. Yes.

7 MR SCOTT: My Lady, we request permission for that witness  
8 statement to be published?

9 LADY HALLETT: Certainly. That will be the default setting.

10 MR SCOTT: Thank you, my Lady.

11 Ms Toman, you are the head of Innovation and Impact  
12 at Disability Action Northern Ireland, and that the role  
13 and work of Disability Action can be summarised in the  
14 following way: it's the largest pan-disability  
15 organisation in Northern Ireland, represents more than  
16 300 organisations, it works with people with various  
17 disabilities, you advocate for the rights of deaf and  
18 disabled people and provide them with services, and  
19 those services reach about 100,000 people per year?

20 A. That's correct.

21 Q. As you do in your statement, you encapsulate deaf and  
22 disabled people with just the term "disabled people" and  
23 I'll do the same for these questions.24 Would you please be able to provide just some brief  
25 examples of what life is like in Northern Ireland for

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1 people with disabilities and in particular those who  
 2 rely upon day centres, provision of personal care,  
 3 assisted housing, residential homes?  
 4 **A.** Is this during the pandemic or in general?  
 5 **Q.** Yes.  
 6 **A.** During the pandemic.  
 7 Disabled people during the pandemic were isolated,  
 8 lonely, social care had collapsed, and disabled people  
 9 faced challenges accessing food and medicine, with many  
 10 disabled people going hungry. Added to that, we were  
 11 largely invisible amongst public decision-making  
 12 processes, and our voices went unheard. In terms of  
 13 housing, the lack of socially adapted homes meant that  
 14 many disabled people were living in unsafe and  
 15 unsanitary conditions, and without access to social care  
 16 had to live on the ground floor of their homes without  
 17 access to proper toileting or bedroom facilities.

18 **Q.** Thank you.

19 If I can just take you back a little earlier in  
 20 time, at paragraph 15 of your witness statement you say  
 21 that:

22 "In Disability Action's experience, disability  
 23 inequality is pervasive within Northern Ireland.  
 24 Disabled people in Northern Ireland are not afforded the  
 25 same level of equality and protections in comparison

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1 response planning, and disabled people and disabled  
 2 children were largely invisible, meaning that they had  
 3 no access to food or medicine. Parents of disabled  
 4 children had no access to respite facilities. This was  
 5 combined with an absence of bespoke housing, leading --

6 **Q.** Sorry just to cut across you there. There's a number of  
 7 those aspects that you set out that sound like they have  
 8 roots prior to the pandemic, so they're not situations  
 9 that necessarily arose in the very early stages.

10 Is it right that there is a history of inequality in  
 11 Northern Ireland that arose prior to the pandemic?

12 **A.** There's no doubt that Northern Ireland as a society has  
 13 been characterised by historical inequality and  
 14 discrimination, that is reflected in our -- with our  
 15 recent and past history. That said, the approach to  
 16 decision-making in the pandemic greatly increased the  
 17 challenges facing disabled people by rendering us  
 18 invisible, isolated, unheard, and in many cases uncared  
 19 for.

20 **Q.** Because you say in paragraph 28 of your statement that  
 21 one of the effects of the absence of power-sharing was  
 22 that there were no ministers to engage with so no one in  
 23 place to address inequalities that are there. Are you  
 24 saying that, was the situation any better when ministers  
 25 were back in their posts in 2020?

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1 with their counterparts in the rest of the  
 2 United Kingdom and in Ireland."

3 Could you please provide some specific day-to-day  
 4 examples relating to the pandemic that show how disabled  
 5 people in Northern Ireland were at a disadvantage  
 6 compared to those in the rest of the United Kingdom and  
 7 the Republic of Ireland?

8 **A.** The legacy of underinvestment in our public services is  
 9 so severe that, as I've outlined, disabled people faced  
 10 a number of significant challenges. Firstly, social  
 11 isolation and the collapse of social care. Those who  
 12 did have access to social care reported significant  
 13 challenges with respect to the provision of PPE for  
 14 people who were providing them with support and care.  
 15 There was, added to this, a lack of infrastructure  
 16 through which to identify and provide essential services  
 17 to disabled people. This is largely characterised by  
 18 the lack of cross-departmental co-operation that has  
 19 been evidenced by other people, for example the  
 20 Department for Communities led the emergency food  
 21 response whilst organisations supporting disabled people  
 22 and disabled children were funded by the Department of  
 23 Health. As a result of this, disabled people's  
 24 organisations and organisations representing disabled  
 25 children were not involved in the food emergency

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1 **A.** The political infrastructure within Northern Ireland is  
 2 complex, so in the absence of a functioning government  
 3 decisions were being made by unelected civil servants,  
 4 and at that time disabled people told us that they felt  
 5 like they were living under a dictatorship. The  
 6 reinvigoration of the Executive was of course welcome.  
 7 That said, the reinstatement of ministers did little to  
 8 improve the position of disabled people. The emphasis  
 9 placed upon decision-making on addressing the larger  
 10 political issues and the challenges presented by  
 11 cross-departmental working through the enforced  
 12 five-party coalition were such that disabled people fell  
 13 through the cracks and were largely unaddressed and  
 14 unacknowledged within decision-making processes. That's  
 15 exemplified through the absence of data, the absence of  
 16 reference to disabled people in strategies that were  
 17 published during Covid.

18 **Q.** If I can just jump in there, because there are a couple  
 19 of elements in there, data and engagement, that I'd like  
 20 to come back to. If I could just deal with the data  
 21 point now, you set out in -- if I can just take you to,  
 22 it's INQ000396793, which is an Assembly's all party  
 23 group on learning disability from May 2018, which will  
 24 just come up on your screen. It's in the box on the  
 25 left-hand side marked number 3:

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1 "While it is vital to have a clear picture about the  
2 numbers of people with a learning disability in order to  
3 appropriately target resources and improve outcomes,  
4 there is a general lack of disaggregated data in  
5 Northern Ireland for this population."

6 So that was 2018. Had the situation improved by the  
7 time that the pandemic commenced?

8 **A.** No, and there continues to be a lack of available data  
9 regarding disabled people in Northern Ireland.

10 **Q.** Well, yes, you say that you're not aware of any  
11 statistics available detailing the number of disabled  
12 people resident in care homes in Northern Ireland. Is  
13 that still the case?

14 **A.** To my knowledge, yes.

15 **Q.** And how is it, to your knowledge, that you were able to  
16 identify and then meet the needs of disabled people in  
17 Northern Ireland if you don't actually have any  
18 sufficient data about disabled people themselves?

19 **A.** From the public services perspective?

20 **Q.** And from your perspective as a charity that represents  
21 them.

22 **A.** So, from our perspective, we are a disabled persons-led  
23 organisation who have developed services for disabled  
24 people delivered by disabled people. We have a large  
25 network of organisations that we work with collectively,

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1 There is a line that people will remember from the  
2 course of the pandemic in the context of "the virus does  
3 not discriminate". As far as disabled people are  
4 concerned, does that line paint the whole picture?

5 **A.** No, and I think we need to acknowledge that in the  
6 context of the pandemic that real-time data regarding  
7 the number of disabled people who died due to Covid-19  
8 was not available, it was continually sought after, and  
9 when it became available in late 2021 that data showed  
10 that disabled people, the number of deaths from Covid-19  
11 accounted for a disproportionate amount of disabled  
12 people. So in that respect, disabled people were more  
13 likely to die from the virus than other groups.

14 **Q.** Yes.

15 **A.** Sorry, and by the time this data was published, we were  
16 well into the pandemic, and it's important to recognise  
17 that at the outset every single message in the early  
18 days of the pandemic pointed towards the additional  
19 vulnerability of both older people and disabled people  
20 to Covid-19.

21 **Q.** Yes, you say in your statement that disabled people were  
22 42% more likely to die of Covid-19 than non-disabled  
23 people. Is that your understanding?

24 **A.** Yes.

25 **Q.** Yes. And when you were talking about the data that was

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1 and on the basis of our service delivery we are  
2 connected to disabled people throughout the region.  
3 For example, we deliver transport on a regional basis  
4 and our membership extends across every county in  
5 Northern Ireland. We deliver employment services, and  
6 again we deliver those services across the whole of  
7 Northern Ireland. And I suppose it shouldn't be left to  
8 us as a charity to identify disabled people on behalf of  
9 government, but by working together and the networks  
10 that we have, you know, we do the best that we can and  
11 we do deliver services for more than 100,000 disabled  
12 people annually.

13 **Q.** So does your knowledge of the disabled people who use  
14 your services come from the interaction that you have  
15 rather than any kind of objective sources of information  
16 that you may gather separately?

17 **A.** So we also, as an organisation, conduct research and  
18 regularly survey disabled people about their views on  
19 service provision in Northern Ireland, and we collect  
20 data regularly throughout the year. For example,  
21 a survey that we conducted in partnership with the  
22 Equality Commission identified that nine out of ten  
23 disabled people do not feel that housing and other  
24 services are accessible to them.

25 **Q.** Thank you.

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1 produced, was that December 2021?

2 **A.** Yes.

3 **Q.** That came from NISRA. Would it have been of assistance  
4 for that data to have been provided, if it was possible  
5 to do so, prior to the second wave, for example?

6 **A.** I think it would have been essential, particularly in  
7 a region whereby there are statutory obligations through  
8 which to both identify and mitigate the impact of policy  
9 and practice on disabled people and other section 75  
10 groups, and those statutory functions cannot be  
11 effectively completed in the absence of data.

12 **Q.** Yes. In terms of that section 75 function, I think one  
13 of the points you seek to make is that there's the duty  
14 to mitigate as part of that function. Do you feel, as  
15 far as disabled people in Northern Ireland are  
16 concerned, that sufficient was made of that duty to  
17 mitigate?

18 **A.** There's no available evidence at this time to indicate  
19 that there were particular mitigations put in place for  
20 disabled people, and that's apparent from the lack of  
21 engagement, the lack of visibility, and the absence of  
22 a targeted response towards disabled people during the  
23 pandemic.

24 **Q.** One of the aspects that you touched upon earlier on  
25 today is the cessation or reduction of care in services.

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1 Do you have any view on the reason why those  
2 services in particular were reduced or ceased to  
3 function?

4 **A.** I think there were particular concerns around the  
5 transmission of Covid-19, and we have referred to that  
6 as the tension between trying to protect disabled people  
7 against the spread of the virus, but also leaving  
8 disabled people without access to care and support, and  
9 that extended to food and medicine, therefore  
10 effectively creating worsening conditions for disabled  
11 people, and breaching their human rights.

12 **Q.** Yes.

13 We heard the very powerful accounts this morning in  
14 the video from Joanne and then Jim and Peter about the  
15 impact of people who weren't receiving care or those who  
16 didn't have any family and nobody to speak for them.  
17 Would you be able to describe the risk of either  
18 significant harm or the risk caused by loneliness, and  
19 particularly for those with intellectual or psychosocial  
20 disabilities, of the reduction or cessation of those  
21 kind of services during the pandemic.

22 **A.** So the research that we conducted throughout April 2020  
23 demonstrated that the collapse of social care led to  
24 declining physical and mental health.

25 We also have case study accounts from disabled  
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1 have told us that they were left alone and isolated.

2 **Q.** You have given some examples there. How pervasive were  
3 those experiences amongst disabled people in  
4 Northern Ireland? Did it apply to a small number,  
5 a large number? Are you able to give any kind of rough  
6 indication of the scale of the impact?

7 **A.** So in the context of Northern Ireland, one in four  
8 disabled -- you know, one in four people are disabled  
9 people. The challenges that I'm outlining, certainly  
10 for disabled children who were pupils in special  
11 educational needs schools, those experiences are uniform  
12 across that particular group of children.

13 **Q.** Sorry, do you know roughly how many that is, or is there  
14 lacking data on that as well?

15 **A.** There will be data around the exact number of children  
16 enrolled in special educational needs schools, I just  
17 don't have it to hand at this particular instance, but  
18 we can provide you with that if you require it.

19 Added to that, I mean, disabled people are --  
20 represent an incredibly diverse population, but if you  
21 look at the survey that we conducted, we had  
22 1,700 responses of which something like 65% reported  
23 a decline in physical and mental health, and a further  
24 37% reported challenges in terms of accessing food and  
25 medicine. So for us, if you attribute that to the wider  
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1 people who describe being left dirty, lying in their  
2 beds, unable to go to the toilet, feeling hungry and not  
3 having access to food. We have had accounts from  
4 disabled people that are harrowing, of a young disabled  
5 man who, with access to care, could access his  
6 day-to-day employment but without access to personal  
7 care assistance, he was left in his home trying to  
8 access his toilet by crawling up the stairs.

9 **Q.** And I think you set out in your statement difficulties  
10 with access to transport and food and medicines, so  
11 I won't ask you about that now. But did disabled  
12 children and their families face any particular  
13 difficulties in relation to school closures or changes  
14 to daycare centres, for example?

15 **A.** So during the first wave, special educational needs  
16 schools closed, disabled children and their families  
17 reported significant challenges in terms of having  
18 access to the necessary equipment to undertake  
19 educational activities at home. Disabled children and  
20 families were left alone and isolated. Parents didn't  
21 have access to support to allow them to continue to  
22 develop their children's cognitive needs.

23 Added to that, parents were experiencing emotional  
24 distress and mental distress as a result of having  
25 an absence of a wider support network around them, and  
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1 population of disabled people, what you see is an extent  
2 of experience that impacts upon a large majority of  
3 disabled people.

4 The people that we work with experienced everything  
5 from fear of going into hospital, wondering who would  
6 feed them, through to inability to access health  
7 appointments, to people who were blind and visually  
8 impaired being unable to access their doctors because  
9 they were being asked to take photographs of, you know,  
10 injuries and rashes and being unable to do so without  
11 assistance.

12 **Q.** Thank you, Ms Toman, I don't want to push you any  
13 further in terms of any examples have been provided.

14 I want to move on now to another topic in terms of  
15 the mortality differences and communications.

16 You say in your statements:

17 "Disability Action's view that mortality differences  
18 between disabled people and non-disabled people must be  
19 understood in the context of the failure to consider  
20 communication needs of disabled people when providing  
21 public health information."

22 You go on to say that there are usually two main  
23 factors in relation to disabled people accessing  
24 information: disabled people are less likely to be able  
25 to access the information than the general population;  
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1 and, depending on conditions and impairments, they're  
2 less likely to be able to understand and/or follow it  
3 without appropriate adjustments.

4 This leaves disabled people more vulnerable to  
5 infection and illness and more likely to further the  
6 transmission of the virus.

7 As far as you're concerned, did public health  
8 messaging fall short of recognising those issues?

9 **A.** Yes, and for example if you're blind or visually  
10 impaired, if you receive a letter in a form of  
11 communication, you may require someone else to read that  
12 to you. If you're socially isolating and don't have  
13 someone to do that, then you have no access or  
14 information.

15 **Q.** Sorry, in terms of any specific examples you could give  
16 about how the messaging just wasn't fitting what you  
17 described as what disabled people need in order to make  
18 sure they're keeping themselves safe?

19 **A.** So the messaging was inaccessible in the format that it  
20 was delivered, particularly information that was  
21 delivered by letter. The public health information that  
22 was made available through TV communications was  
23 inaccessible because it wasn't tailored towards people  
24 with learning disability.

25 There was an absence of information available via  
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1 **Q.** What was the level of engagement generally with you as  
2 a representative organisation from the government in  
3 terms of the impact of the pandemic upon disabled people  
4 in Northern Ireland?

5 **A.** So we had one meeting with an ethics forum in response  
6 to a letter written to Minister Swann. We also had some  
7 very limited engagement around the disability strategy  
8 which did not at all focus on Covid-19. We had  
9 a commitment to meet with both the First and deputy  
10 First Minister, which didn't happen because the  
11 political institutions then collapsed. There was  
12 absolutely no strategic approach to engaging with  
13 disabled people throughout the pandemic, to such  
14 an extent that we had to work with MLAs to establish  
15 an ad hoc review of the impact of Covid-19 on disabled  
16 people, so we literally had to work together to create  
17 a forum for disabled people to share their experiences  
18 and to try to have these placed on public record.

19 **Q.** You used the word "forum" there. The Inquiry will hear  
20 evidence about other organisations and groups that were  
21 created in certain different sectors. What benefit do  
22 you consider that there would have been if there had  
23 been a forum or an organisation which would have been  
24 engaging with the government in Northern Ireland about  
25 the impact of the pandemic upon disabled people in  
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1 BSL or ISL vlogs, beyond some of the news reporting  
2 which was interpreted. There was an absence of  
3 Easy Read information. And in the context of changes to  
4 how people accessed services, including, you know, going  
5 to the supermarket, there were no audio descriptions to  
6 explain or raise awareness of the need to socially  
7 isolate or even to alert people who were blind or  
8 visually impaired to the fact that they had to queue  
9 outside a shop, and we know that some blind and visually  
10 impaired people actually walked into the doors of the  
11 supermarket because they were completely unaware in the  
12 early days of the pandemic that the way in which people  
13 were accessing supermarkets had completely changed.

14 **Q.** Thank you.

15 We know that those communication difficulties were  
16 known about very near the start of the pandemic, if not  
17 before the pandemic; these weren't matters that were  
18 discovered during the course of the pandemic, were they?

19 **A.** No.

20 **Q.** Did anybody from the government engage with you as  
21 a disability organisation in terms of how such messaging  
22 would be able to most effectively reach disabled people?

23 **A.** We had very limited engagement with any public officials  
24 or politicians throughout the pandemic. No one reached  
25 out to us to ask for advice on accessible communication.  
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1 Northern Ireland?

2 **A.** I think what we need is to ensure that disabled people  
3 are at the heart of decision-making by creating  
4 structures that allow the voices of disabled people to  
5 be heard, then our requirements are built in from the  
6 outset, and mitigations and approaches can be developed  
7 to ensure that the requirements of disabled people are  
8 met. For example, something very, very simple,  
9 communication, better communication between the  
10 Department for Communities and the Department of Health  
11 could have ensured that Disability Action, or a similar  
12 organisation, all children in Northern Ireland were  
13 represented on the emergency response group, and in  
14 doing that, an access pipeline to disabled children and  
15 disabled people would have been there from the outset,  
16 meaning that disabled people and disabled children would  
17 have had access to food and medicine on an equal basis  
18 with others.

19 **Q.** And finally from me, Ms Toman, at paragraph 114 of your  
20 statement, you say:

21 "The safety of d/Deaf and Disabled people should be  
22 a core consideration and their emotional and social  
23 well-being prioritised in the planning of services."

24 Do you feel like that happened in response to the  
25 Covid-19 pandemic in Northern Ireland?  
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1 **A.** No, unfortunately disabled people were neglected,  
 2 forgotten, left behind, not taken into account in terms  
 3 of the processes of decision-making, and it's very sad  
 4 to say that the legacy of political dysfunction and all  
 5 of the challenges that were outlined today in terms of  
 6 decision-making meant that we simply didn't have  
 7 a voice, that our needs were so low on the agenda that  
 8 we simply were not heard. And unfortunately in this  
 9 jurisdiction there are statutory obligations in place  
 10 that if they were upheld would have, you know, would  
 11 have changed the story entirely. It's a legal  
 12 requirement to consider disabled people from the outset  
 13 in terms of policy development and unfortunately that  
 14 didn't -- didn't happen, but the framework is there.  
 15 **MR SCOTT:** Thank you, Ms Toman. Those are all the questions  
 16 that I have.  
 17 My Lady, as I understand it, there are no live  
 18 Rule 10 requests.  
 19 **LADY HALLETT:** I think there's some -- Mr Wilcock has some.  
 20 Oh, it's Ms Campbell.  
 21 **MS CAMPBELL:** We did have some questions which we were  
 22 permitted to ask, but in fact given the clarity and the  
 23 content of the evidence that we've just heard from  
 24 Ms Toman, in fact everything's been covered and we're  
 25 very grateful.

1 **LADY HALLETT:** Thank you, Ms Campbell.  
 2 **MS CAMPBELL:** Thank you.  
 3 **LADY HALLETT:** I should have trusted you, Mr Scott.  
 4 Thank you very much indeed for coming to assist  
 5 the Inquiry, I'm very grateful to you, and I'm sorry you  
 6 had such a sad story to tell --  
 7 **THE WITNESS:** Thank you.  
 8 **LADY HALLETT:** -- about the way people are treated.  
 9 **(The witness withdrew)**  
 10 **LADY HALLETT:** Very well. I think that completes the  
 11 evidence for today?  
 12 **MR SCOTT:** Yes, my Lady.  
 13 **LADY HALLETT:** 10 o'clock tomorrow morning?  
 14 **MR SCOTT:** Yes, my Lady.  
 15 **LADY HALLETT:** Thank you all very much.  
 16 **(4.13 pm)**

**(The hearing adjourned until 10 am  
 on Wednesday, 1 May 2024)**

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<p><b>1</b>  <b>1 June 2023 [1]</b>  75/10  <b>1 March 2020 [2]</b>  9/11 45/17  <b>1 May 2024 [1]</b>  174/18  <b>1,700 [1]</b> 97/16  <b>1,700 responses [1]</b>  167/22  <b>1.45 [1]</b> 90/14  <b>1.45 pm [1]</b> 90/17  <b>1.8 million [1]</b> 91/19  <b>1.9 million [1]</b> 6/12  <b>10 [2]</b> 65/6 173/18  <b>10 am [1]</b> 174/17</p>	<p><b>5</b>  <b>5,000 [1]</b> 91/17  <b>5,060 [1]</b> 9/12  <b>50 [1]</b> 46/8  <b>500 [1]</b> 54/25  <b>52nd [1]</b> 10/12</p>			
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