

Witness Name: Christopher Frederick Stewart
Statement No.: 1
Exhibits: 71
Dated:

UK COVID-19 INQUIRY

WITNESS STATEMENT OF CHRISTOPHER FREDERICK STEWART

I, Christopher Frederick Stewart, will say as follows:

Responsibilities within The Executive Office (TEO)

1. This witness statement has been drafted with the assistance of the Departmental Solicitors Office, and with assistance from other TEO officials (only where strictly necessary) to obtain documents and verify facts.
2. I joined TEO on transfer in October 2018, having served in the Office of the First Minister and deputy First Minister (OFMDFM – the predecessor to TEO) from 2000 to 2006. During the final year of my service in OFMDFM, my responsibilities included civil contingencies matters.
3. In 2018, my responsibilities were as follows:

Executive and Central Advisory Division

4. This Division was responsible for: the Executive Secretariat; Assembly and Legislation Section; Machinery of Government Team; Intergovernmental Relations Team; Information Management and Central Advisory Branch; and the Civil Contingencies Policy Branch.

Executive Information Service (EIS)

5. EIS was responsible for communications policy (external and internal) and for the provision of a full range of media services for Executive Ministers, their Departments, and senior officials.

Programme for Government and NICS of the Future Division

6. This Division was responsible for the Executive's Programme for Government, as required by section 20 of the Northern Ireland Act 1998, and *NICS of the future* – a programme of organizational development and transformation.

Private Offices

7. This part of the role involved line management responsibility for Ministerial Private Offices, and the Private Office of the Head of the Civil Service.
8. In respect of each of the Divisions, my role as Director (Grade 3) was to provide strategic leadership and direction to Heads of Division (Grade 5) who were responsible for the day to day operation of their respective Divisions and their functions. As such the role, which is similar to that of a Director in the UK Civil service, is one of 'oversight' rather than 'hands on'. In that regard, my role in the preparation of Covid-19 legislation (see below) involved a much more direct involvement in the preparation of policy advice and drafting instructions than would normally be the case. This reflected the urgency of the task, which was not a normal part of TEO's responsibilities.

Additional responsibilities

9. From March 2021 until July 2021, my role increased temporarily, to include a range of TEO functions; namely:
 - policy on victims and survivors of the Northern Ireland conflict;
 - Equality, Rights, and Identity policy;
 - the *Urban Villages* and *Communities in Transition* programmes;
 - Good Relations policy and the *Together: Building a United Community* programme;
 - infrastructure (TEO is responsible for infrastructure development at a number of former security sites that were gifted to the devolved administration, notably the former Maze prison, and Ebrington Barracks);
 - Racial Equality policy; and
 - finance and corporate Services.

10. This was a temporary arrangement, pending the substantive filling of the post that normally carried responsibility for these functions.

Change in role during 2020

11. My responsibilities in relation to civil contingencies matters changed substantively in mid-2020. On taking up appointment in 2018, I had overall policy and operational responsibility for all civil contingencies matters. The major focus at that time was preparation for the risks and contingencies that might arise if the UK Government had been unable to reach political agreement on exit from the European Union (a 'no deal' Brexit).
12. Central to this role was the design, preparation, and testing of the Civil Contingencies Hub – the centre for operational co-ordination in the civil contingencies arrangements.
13. Against that background, in early 2020, prior to the pandemic, the key responsibilities of my role that related to or involved civil contingencies matters were:
 - Chief of Staff of the Hub;
 - Director with responsibility for civil contingencies policy;
 - Director, Executive Secretariat; and
 - Director with responsibility for communications.
14. My responsibilities changed shortly before, and then during, the course of the pandemic. In March 2020, in recognition of the potential seriousness of the pandemic, the Head of the Civil Service, Sir David Sterling, discussed the capacity and capability of the civil contingencies team with me. Drawing on recent experience of preparing for a 'no-deal Brexit,' we agreed that it would be prudent to add additional capacity for planning and risk assessment. As a consequence, my colleagues Karen Pearson (Grade 3) and Gail McKibben (Grade 5) and their team joined the work on preparation for the pandemic. This was a very welcome addition, made easier by the fact that our respective civil contingencies and Brexit teams had worked very closely together during preparation for Brexit. Our shared view was that many valuable lessons had been learned during preparation for Brexit that ought to be applied to preparation for the pandemic. In particular, the recognition of the need for capacity for cross-sectoral planning and cumulative risk assessment was the rationale for asking Ms. Pearson and her team to become involved.

15. Sir David also suggested that my colleague Anthony Harbinson (Grade 3) would join TEO on loan from the Department of Justice, to assist with the operation of the Hub, which I welcomed. There is no formal record of these discussions, but exchanges of text messages with Sir David [**Exhibit CS/1 – INQ000308457**] indicate that they took place on Saturday 14 March 2020, and Monday 16 March, respectively.
16. A further complication arose from a change in the medical advice a few days prior to the activation of the Hub. The revised advice was that anyone considered vulnerable as a result of an underlying medical condition ought to work from home.
17. This presented a personal challenge as I fell within that category. Whilst I was not required to '*shield*' at any stage, the need to work from home presented a challenge in providing visible and effective leadership to the office-based Hub team.
18. If the need to work from home had not arisen, Mr. Harbinson and I would probably have split the role, with each covering part of the week. As it transpired, we sought to exercise the role jointly, with me working from home and Mr. Harbinson on site in the Hub. However, within a matter of a few days, we both concluded that this was impractical. The role of Chief of Staff involves the provision of direction and control to a large group of volunteer staff who are taking up a new and unfamiliar role. It also requires the exercise of judgement in rapidly changing circumstances. It quickly became clear that the Chief of Staff role is not easily exercised remotely, nor can it be jointly exercised without the risk of giving conflicting advice and direction to staff.
19. Following discussion with Mr. Harbinson and Ms. Pearson, and with the agreement of Sir David Sterling, it was agreed that the responsibilities of my role would be divided as follows:
 - Chris Stewart – policy, legislation, and line management of CCPB;
 - Karen Pearson – planning and risk assessment for the pandemic;
 - Anthony Harbinson – Chief of Staff for the Hub.
20. This arrangement proved to be a pragmatic and workable compromise. In practice, the focus of my role was almost exclusively on the preparation of legislation, with CCPB staff working to Mr. Harbinson and Ms. Pearson. There was no plan in place to deal with the contingency of the designated Chief of Staff being unable to take up the role. With hindsight, it is clear that there ought to have been such a plan, and its omission was a

regrettable oversight. Nevertheless, the ad hoc substitution of Mr. Harbinson did provide a successful solution.

21. In the event of a future pandemic, a simpler management structure would apply, as Ms. Pearson's role carries responsibility for all civil contingencies matters within TEO. In relation to legislation, specifically, it is likely that an approach similar to the Executive Covid-19 Taskforce would be adopted, with the lead responsibility being taken by Ms. Pearson's role.
22. I led the work on the development of the necessary legislation, namely the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 **[Exhibit CS/2 - INQ000391219]**, working closely with colleagues from the Department of Health. My responsibilities included: the provision of policy advice to Ministers and the Executive; oversight of drafting; support to Ministers in the Assembly; and liaison with key stakeholders (including the Attorney General for Northern Ireland) and enforcement authorities. I also participated in daily meetings of the Civil Contingencies Group (both in 'officials' mode, and with Ministers) and attended meetings of the Executive.
23. The Regulations were made in exercise of the powers conferred by sections 25C (1), (3)(c), (4)(d) and 25F (2) of the Public Health Act (Northern Ireland) 1967 **[Exhibit CS/3 - INQ000391220]** (as amended by the Coronavirus Act 2020) **[Exhibit CS/4 - INQ000391221]**. As such they are formally the responsibility of the Department of Health (DoH). However, it was agreed that TEO would lead on the drafting of the legislation, and that TEO Ministers would lead on debates in the Assembly **[Exhibit CS/5 – INQ000290203]**. The First Minister and deputy First Minister agreed to a request to do so from the Minister of Health, and delegated responsibility to the TEO Junior Ministers. This was in recognition of the importance of demonstrating a cross-Executive approach to responding to the pandemic; and for the pragmatic reason of relieving some of the pressure on colleagues in DoH. However, I do not consider that these arrangements were a formal change to the Lead Government Department role.
24. The role of Lead Government Department (LGD) is described in paragraph 41 of the Northern Ireland Central Crisis Management Arrangements Protocol (NICCMA) **[Exhibit CS/6 - INQ000092739]**. It is a core principle of NICCMA that the response to a crisis ought to be led by the Department, or Departments, with the relevant expertise. Appendices A to D of the Protocol assign the LGD role for various categories of crisis, with responsibility for pandemics assigned to the Department of Health.

25. However, the concept of LGD does not imply sole responsibility for responding to a crisis, and it is recognized that other Departments and agencies will have key responsibilities. For example, the influenza pandemic plan assigns responsibility for sectoral resilience to TEO, and responsibility for excess deaths to the Department of Justice, with overall LGD responsibility falling to DoH.
26. The central co-ordination arrangements set out in NICCMA recognize the need for co-ordination across Departments and agencies. However, the activation of these arrangements does not, in itself, signify a change in LGD responsibility (see paragraph 23 of the NICCMA Protocol).
27. There was, from time to time, discussion in Executive meetings as to whether Minister Swann was making regulations in exercise of his individual authority or, as he tended to characterize it, 'acting on behalf of the Executive'. (TEO colleagues have examined the minutes of Executive meetings and their handwritten notes. They advise that the minutes of Executive meetings do not record the conversation to this level of detail, but I recall his using those words on a number of occasions). I regarded that as a moot point. I was in no doubt that Minister Swann was exercising his own Ministerial authority. The Executive does not exercise Ministerial authority collectively. Rather, its role is to consider (and agree a position on) cross-cutting matters prior to the exercise of Ministerial authority, which remains vested in individual Ministers. Equally, I did not regard the pragmatic provision of assistance to DoH colleagues as constituting a formal change to the Lead Government Department role of that Department. In overseeing the drafting and making of the Regulations I was, in effect, working for Minister Swann at the same time as working for the First Minister and deputy First Minister.
28. The recommendation that TEO would lead on the preparation of the regulations was made by me [Exhibit CS/5 - INQ000290203] and accepted by Ministers. It was a pragmatic suggestion, reflecting the pressure on DoH colleagues, and the absence on annual leave of the DoH Director of Population health (Liz Redmond), who would normally have expected to lead. I had no clear view at that point as to how long the arrangement would need to last. However, my working assumption was that it was likely to be relatively short term. This reflected the nature of the regulations, which were to include a requirement for frequent reviews, and the prompt removal of any restriction that was no longer strictly necessary, both of which suggested to me (wrongly as it transpired) that the regulations would have a short lifespan.

29. DoH took back the lead role in relation to the Regulations at the time of the second review in May 2020. There was no formally recorded decision to do so that I am aware of, and little, if any, discussion that I recall before the change happened. My recollection is that, by the time of the second review, the DoH Director of Population Health, Liz Redmond, had returned from annual leave. Not unnaturally, she assumed responsibility for the review and the subsequent preparation of advice to Ministers. I did not view this as a matter of dispute or disagreement, but merely the natural drawing to an end of a pragmatic arrangement as circumstances permitted. I do not recall any planning, around that time, for a second wave of the pandemic, nor any particular consideration being given to how the process of making legislation might operate in such circumstances.
30. Shortly thereafter, a further change to my responsibilities arose as an unforeseen consequence of an unconnected matter. Sir David Sterling had been closely monitoring resources and capacity within TEO. At this juncture, he concluded that it would be prudent to add further senior leadership capacity at Permanent Secretary level, and asked Peter May (Permanent Secretary, Department of Justice) to take up that role. This context was the belief at that time that the course of the pandemic would peak in the near future, the need for legislative restrictions would diminish, and attention would turn to planning for recovery. In those circumstances, significant changes to Grade 3 responsibilities were envisaged. It was thought likely that the Hub would be deactivated (with Mr. Harbinson returning to his normal role). The remaining work on legislation would have been done largely within DoH. Work on recovery planning would have been apportioned to Ms. Pearson and me, reporting to Mr. May who was to have oversight of all Covid-related work within TEO. Other than that general context, I was not aware of Sir David's specific reasons for the additional Permanent Secretary role, or for his choice of Mr. May for that role.
31. However, at around the same time, I was subject to formal disciplinary proceedings (on an unconnected matter), for which Mr. May was appointed as a member of the decision panel. This meant that he would have been, simultaneously, a decision maker in relation to the disciplinary process, and my *de facto* line manager. I discussed the matter with Sir David Sterling, and we agreed that I would step back from my role in civil contingencies until conclusion of the disciplinary process, although I was not formally required to do so.
32. I am not aware of any consideration having been given to replacing Mr. May on the panel (which might have allowed me to continue in my role). The arrangements for the

disciplinary process were a matter for the NICS Board. Sir David normally chaired the Board, and I was an *ex officio* member by virtue of my role as the Director responsible for the Programme for Government. I withdrew from all Board discussions of the disciplinary process (before any charges were brought) to avoid any potential conflict of interest. Similarly, Sir David withdrew from consideration of that matter and asked another Board member, Derek Baker, to chair Board meetings at which the matter was discussed. (Mr. Baker, who has since retired, was the Permanent Secretary for the Department for Education). The Board's decisions on the matter would have been informed by advice from the then Permanent Secretary at the Department of Finance, Ms. Sue Gray. I understand that Ms. Gray is no longer a civil servant.

33. In the event, matters did not unfold as expected, and the transition to a recovery phase took a great deal longer than originally thought. I understand that, during the period when I had stepped back, DoH sought further assistance with the work on legislation. I understand that TEO, in the person of Ms. Pearson, in my absence, took on a leading role in relation to legislation. This development had not been expected. Unfortunately, my non-involvement in Covid-19 matter during that period means that I am unable to shed any more light on the specific reasons for the pressure.
34. For reasons of continuity, Ms. Pearson continued in this role even after the conclusion of the disciplinary proceedings in July 2020. The change was formalised with the establishment of the Executive Covid-19 Task Force (headed at Grade 3 by Ms. Pearson) by Mrs. Jenny Pyper (Interim Head of the Civil Service) in December 2020. Under those arrangements Ms. Pearson led the work withing TEO in relation to Covid-19 legislation. (I was not a member of the taskforce or any similar group). I am not aware of whether this was presented as a formal change to the DoH Lead Government Department role. However, it was a *de facto* change, with overall lead responsibility for pandemic matters being becoming an Executive matter.
35. The apparent contrast between the importance of continuity in Ms. Pearson's role, and the acceptance of discontinuity in my role may appear incongruous. However, the interruption to my role, whilst undesirable, was the unavoidable (at least for me) consequence of decisions that had been taken by the NICS Board. The significance may also have been seen as being limited at the time, given that the TEO role in Covid-19 legislation was thought (at that time) to be ending. By contrast, my re-introduction in July 2020 would have been an avoidable disruption, at a time when Ms. Pearson had become familiar with the role, and was a familiar and trusted source of advice to

Ministers. In those circumstances I did not question the decision for the lead role to remain with Ms. Pearson.

36. In light of the subsequent progression of the pandemic, and the workload on Ms. Pearson and her team, I indicated a willingness to take back some Covid-19 related work in October 2020 in a conversation with Dr Andrew McCormick, Ms. Pearson's line manager [**Exhibit CS/7 - INQ000325135**]. It did not prove necessary to take up the offer.
37. Overall, the circumstances of the truncation of my role in relation to the pandemic were extremely disappointing to me personally. However, given that I was replaced by an experienced and highly effective colleague, I do not think that the change had any material effect on the Executive's management of the pandemic.
38. The outcome was that my substantive role in relation to the pandemic was effectively in abeyance from May to July 2020. I played no material role in Covid-related matters during that period. From July 2020, I remained responsible for civil contingencies policy and the formal line management of the Civil Contingencies Policy Branch. However, in practice colleagues in the Branch were mainly engaged in operational matters, reporting (through the Grade 5, Mrs. Bernie Rooney) day to day to Ms. Pearson or Mr. Harbinson. I continued to have oversight of the preparation of the daily situation report after deactivation of the Hub, and to support Ministers during Assembly debates on subsequent sets of Regulations. Aside from that, my role in relation to legislation was limited to substituting for Ms. Pearson during a brief absence (annual leave), for the purposes of a meeting of the Executive to consider the draft Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020. During the period from July 2020 to September 2021, I had no substantive involvement in any review of the handling of the Covid-19 pandemic, or in planning for a future pandemic.
39. Within TEO, my role in relation to civil contingencies matters ended fully in September 2021. At that time responsibility for civil contingencies policy and operations transferred formally to Ms. Pearson as a consequence of a more general re-organisation of roles and responsibilities initiated by Mrs. Jenny Pyper in March 2021 [**Exhibit CS/8a - INQ000391234 and Exhibit CS/8b - INQ000391235**]. However, from December 2021 to January 2022, I provided assistance on loan to the Department of Health team that was working on legislation on the wearing of face coverings. This role, which was relatively minor and of short duration, included co-ordination of the 'surge team' arrangements for the provision of assistance to DoH from other Departments, and light

touch oversight of the preparation of amending regulations, during the absence on annual leave of the Director of Population Health.

40. In summary:

- My role in January 2020 included responsibility for all policy and operational civil contingencies matters within TEO;
- My role narrowed substantively to focus on legislation in March 2020;
- My role was in abeyance from May 2020 to July 2020; and
- From July 2020 until September 2021, I had minimal involvement with Covid-19 related matters, and no role within TEO on civil contingencies matters thereafter.

The ability of TEO to respond to a large-scale civil contingency in March 2020

41. It may be helpful to describe the state of preparedness of TEO in March 2020 under the headings of plans and procedures; roles and responsibilities; and resources and capability, beginning with some background.

Background

42. As noted above, on joining TEO in October 2018, I reassumed the responsibility for civil contingencies matters that I had previously held in 2005/2006. My impression, on return, was that the role of CCPB had not changed substantively in the intervening period. New plans and procedures had been developed since my previous tenure, but these had been largely unchanged since 2011. There had been little change to the staff team either in terms of numbers or capability, and the degree of staff turnover had been much lower than I would have expected in a comparable policy branch. The line management arrangements appeared somewhat incongruous, with CCPB reporting through the Grade 5 Head of Executive Secretariat. I viewed this as sub-optimal, as civil contingency work is somewhat specialized, and not easily combined with the unrelated challenge of providing the secretariat to the Executive (which itself is a specialized area of work).

43. Against that background, I formed the view that there would be merit in a fundamental review of the role, capacity, and capability of CCPB. I invited Mrs. Bernie Rooney to join CCPB in August 2019 to undertake the review. Mrs. Rooney was familiar with TEO, having worked there previously, and had a proven track record of successful organisational reviews.

44. My view on the need for a review was reinforced by experience during Operation Yellowhammer (preparation for a no-deal Brexit). The CCPB team performed admirably in developing and testing new arrangements (notably the Hub) for *responding* to the Brexit risks. The Hub, as the centerpiece of the civil contingencies arrangements was a new feature. It was developed specifically for the purposes of Brexit, but was retained as a core part of the civil contingencies arrangements thereafter.
45. The civil contingencies arrangements had always included a small central operational control room, staffed by the core CCPB team. However, the Hub was a significant enhancement to the concept, with increased capacity, specialized roles (planning, communications, legal advice, etc.), and a team of embedded Departmental liaison officers with links to individual Departmental Operations Centres. As a result of the development and testing in 2019, the Hub would have been capable of activation in February 2020, if required.
46. However, my conclusion was that we needed a greater focus on *preparation*, particularly in relation to cumulative planning and risk assessment, to complement the team's proven ability to manage individual contingencies such as adverse weather events.
47. I asked for the review to examine the need to enlarge and enhance the capacity of the CCPB team. The team was composed mainly of mainstream career civil servants. Whilst many team members had developed considerable experience and expertise, only one member of the team came from a relevant professional background. With that in mind, I suggested that the review should examine the scope for a cadre of posts to be filled on a rolling secondment basis from the emergency services and the environmental health profession (the key civil contingencies profession in local government). This would have the advantages of enhancing the team's professional capacity in areas such as risk assessment and management, as well as providing development opportunities for relevant professional colleagues at the centre of government.
48. The agreement of the Departmental Board to the review was sought in February 2020 [Exhibit CS/9 - INQ000391222] by which time the pandemic was imminent. In the event, the need to focus on the pandemic meant that the review did not take place during my tenure but was carried out subsequently led by Ms. Pearson. Against that background, my assessment of the state of readiness in TEO in January 2020 is as follows.

Plans and procedures

49. The Inquiry has received the suite of planning and procedural documents in use at that time in the Module One statement of evidence from TEO [Exhibit CS/10 - INQ000187620]. The key documents were the Influenza Pandemic Plan [Exhibit CS/11 - INQ000145787, Exhibit CS/12 - INQ000145788, Exhibit CS/13 - INQ000145789, Exhibit CS/14 - INQ000092712, Exhibit CS/15 - INQ000092757] and the NICCMA protocol [Exhibit CS/6 – INQ000092739]. In January 2020 the scientific and medical advice received by TEO was that the influenza pandemic plan should be used to prepare for the Covid-19 pandemic. This remained the case until the 25 March 2020 [Exhibit CS/16 - INQ000254880, Exhibit CS/17 - INQ000290205]. I am not aware of any consideration within TEO at that time on the need to adopt a different approach, nor of advice from any source on the need to do so.
50. [Exhibit CS/14 - INQ000092712], a note from the Grade 7 Head of CCPB to me dated 20 January 2020, contains the following statement:
- “EU exit preparations meant that Northern Ireland being more than 18 months behind the rest of the UK in terms of ensuring sector resilience to any Pandemic flu outbreak.”*
51. I regret that I have no clear recollection of the document, and enquiries have been unable to provide much by way of explanation. I understand that the document was sent following a meeting of the inter-departmental group on influenza planning which is chaired by Department of Health (DoH) colleagues. Unfortunately, DoH has been unable to provide a note of the meeting which might have provided more insight into the concerns expressed.
52. I do not recall being made aware of such concerns prior to receipt of the document. It is clear that the concern related to TEO’s specific responsibility for sectoral resilience, that is; the co-ordination of action to support key public services, key economic sectors, and the functioning of society generally. The concern did not relate to the specific role of DoH in directly managing an influenza pandemic. I have no reason to doubt the validity of the concern expressed, or the explanation offered (Brexit preparation). Nevertheless, the rapid pace of developments around that time meant that the focus shifted rapidly thereafter from the development of a more general plan onto a small number of discrete tasks, namely:

- coordinating Northern Ireland input to the development of the Coronavirus Act 2020;
 - ensuring readiness to activate the NICCMA protocol; and
 - preparing for the activation of the civil contingencies Hub.
53. In the run-up to the pandemic, I was satisfied that the work on the Coronavirus Act was on course, that the CCPB team was familiar with and ready for the activation of the NICCMA protocol, and that the Hub could be successfully brought into operation. My residual concerns related to our ability to maintain the operation of the arrangements beyond a period of one to two months, given the pressure on staff and the resource intensive nature of the Hub in particular.
54. I do not consider that the 18-month delay had a material effect on TEO's state of readiness for the Covid-19 pandemic for two reasons. Firstly, as described above the key immediate requirements were met. Secondly, as it subsequently transpired, the influenza pandemic plan was of limited utility in relation to the Covid-19 pandemic, which presented a wholly different challenge in relation to sectoral resilience and required a substantially different response.
55. To illustrate: the sectoral resilience response to an influenza pandemic would focus on an assumed morbidity rate of some 80% over the course of the pandemic, with up to 20% of the population being affected at any given time. The sectoral resilience challenge would, therefore, have centered on the need to maintain key public services and the economy in the face of a 20% absence rate.
56. By contrast, the sectoral resilience challenge from Covid-19 stemmed as much (if not more so) from the necessary lockdown measures than the disease itself, and focused not only on the maintenance of public services, but also on alleviation of the economic and social consequences of lockdown.
57. I understand that in February 2020, Public Health England carried out Exercise Nimbus, the purposes of which were described as:
- To expose the potential scale and range of impacts arising during the reasonable worst case scenario for a pandemic.
 - To work through some of the most difficult decisions that would need to be made by Ministers at key points during a pandemic.

- To rehearse strategic decision making.

58. I regret that I have no personal knowledge of Exercise Nimbus, and do not recall any involvement by TEO in the matter.

Role and functions of CCPB

59. As noted above, the established role of CCPB was focused on the co-ordination of the response to civil contingencies. In light of experience of preparation for Brexit, I had already formed the view that there needed to be a greater focus within CCPB on preparation for civil contingencies, particularly in relation to cumulative risk assessment. There had not been sufficient time between the end of Brexit preparations (November 2019) and the onset of the pandemic for any significant change in that regard. Fortunately, it was possible to address this by involving the Brexit team (which was skilled and experienced in planning and risk assessment) in the preparation for the pandemic.

Resources and capability

60. In relation to resources, it may assist the Inquiry to separate and describe four different dimensions of the resource question that arose during the relevant period, namely:
- I. the resources needed by the Civil Contingencies Policy Branch for '*business as usual*' – the day to day discharge of its roles and responsibilities at that time;
 - II. the resources needed for a more enhanced future role that I envisaged for CCPB, reflecting on the experience of preparing for a no-deal Brexit;
 - III. the additional resources required to activate and maintain the civil contingencies Hub; and
 - IV. any additional resources needed urgently within the core team as a direct consequence of the pandemic.

Normal or business as usual resources

61. By January 2020, reflecting on the experience of 2019 on Brexit, I already had a number of concerns about resources and capability within CCPB. I aimed to address these by means of the planned review, and a number of more immediate actions, some of which were already in train by January 2020. These concerns were similarly reflected in Mrs.

Bernie Rooney's submission of February 2020 [**Exhibit CS/18 - INQ000183555**]. The focus of the submission was on the required staffing for the fully effective operation of the Civil Contingencies Policy Branch in its normal role. The submission was never intended to address any acute need for additional staffing arising from the pandemic, for which a clear picture had yet to emerge. (As such needs became clear in March 2020, they were addressed by immediate management decisions - see paragraph 81 below).

62. Noting the concerns raised by team members and line management, I indicated a willingness to consider a business case for additional resources in the short-term, without waiting for the review [**Exhibit CS/19 - INQ000183632**].
63. In relation to leadership capacity, CCPB was grouped under a single Grade 5 colleague with Executive and Central Advisory Directorate. I viewed this as sub-optimal, as civil contingencies policy is specialized, and not easily combined with the provision of a secretariat to the Executive (which, itself, is a specialized and very demanding role). My intention was to address this through the planned review by splitting the role. In practice, given that the review did not take place, Mrs. Bernie Rooney assumed a *de facto* role as the dedicated Grade 5 leading CCPB.
64. At Grade 7 there was a long-standing temporary promotion arrangement in place, due to a supply shortage at that grade. Subsequently, when it became possible to fill the posts substantively (25 September 2019), I retained the temporary promotion arrangement to provide additional supernumerary capacity at this key grade.
65. Notwithstanding the concerns and actions described above, it was (and remains) my view that CCPB had adequate (but far from optimal) resources for the activation of the NICCMA protocol and the activation of the Hub in February 2020. This reflected the successful and extensive testing of the Hub in preparation for a no-deal Brexit in 2019.

Resources for an enhanced role

66. The consideration of the resources required for an enhanced role for CCPB after a strategic review should be viewed separately from the immediate resource needs in the context of the pandemic. In that regard, on 25 February 2020, I sent a paper to the TEO Departmental Board about "a strategic review of civil contingency arrangements across Northern Ireland". In making the case for the review, the paper argued that without it:

“the Executive and wider society may not be prepared for, or have the capacity and capability to deal effectively with an emergency situation should a major contingency present.” [Exhibit CS/20 - INQ000205712].

67. The case for a review was expressed in strong terms, reflecting my view of the need for strategic change. However, the use of the quoted phrase should not be taken to mean that CCPB was incapable of discharging its responsibilities at that time. On 25 February 2020 I was, and remain, of the view that the civil contingencies structures within TEO were capable of dealing with the predicted global pandemic. Specifically, CCPB was capable of discharging its assigned responsibilities of activating the NICCMA protocol and the Civil Contingencies Hub. The key improvement since 2019 was that the Hub had been designed, developed and successfully tested. This was a considerable enhancement of the former ‘operations room’ arrangement, which relied solely on CCPB staff.
68. The need for the review, as I saw it, stemmed from the need to develop the role of CCPB further, in three main ways:
- to place more emphasis on planning, preparation and cumulative risk assessment, with the aim of CCPB becoming a centre of excellence on risk assessment;
 - to prepare for new and emerging risks, such as threats to cyber-security; and
 - to develop additional capacity and capability in areas such as behavioural science and data analytics, reducing the reliance on external consultancy.
69. These strategic considerations are entirely separate from the acute resource requirements stemming from the pandemic in early 2020. If it appears incongruous that a strategic review was being considered when a pandemic was imminent, that merely reflects the fact that in February, the normal business of the Departmental Board continued to be transacted, in parallel with preparations for the pandemic.
70. The business case [Exhibit CS/21 - INQ000208748] does not relate to the ‘business as usual’ capacity of CCPB in early 2020, or the activation of the HUB; nor did it stem from concerns about the immediate pressures arising from the pandemic in early 2020. Rather, it is the outworking of the planned review of CCPB (described above), which was not able to be taken forward by Mrs. Bernie Rooney as planned (due to Brexit and the pandemic) but was carried out by her successor, Mr. Andrew Cole.

71. As noted in the business case, it drew from a '*lessons learned*' report prepared by PWC Ltd, [Exhibit CS/22 - INQ000092723] reflecting on experience of the design, and testing of the Hub in preparation for Brexit, and on experience of operating the Hub in the early phase of the pandemic. It identified, inter alia:
- i. the need for additional staffing, both for the core role of CCPB, and to reduce the dependency on volunteers during periods of activation of the Hub;
 - ii. the need to revise and update Northern Ireland's strategic risk assessment;
 - iii. the need to revise the core suite of civil contingencies policy and planning documents;
 - iv. the need for capacity to update civil contingencies legislation if the Executive decided to do so; and
 - v. the need for capacity for a programme of testing of civil contingencies arrangements.
72. I understand that Items ii. to v. above were the matters for which Northern Ireland arrangements were considered to lag behind those in other jurisdictions.
73. As noted above, the review was delayed by preparation for Brexit and, subsequently, by the pandemic. It is difficult, at this juncture, to draw any firm conclusions on what might have been different if it had been feasible to complete the review and implement its recommendations during 2019, as originally planned. However, it seems clear that earlier implementation of the changes sought in the business case (most of which have now been completed) would have better equipped and positioned CCPB to respond to the pandemic when it occurred, reducing the need for ad hoc action. None of these matters were the subject of advice or briefing to Ministers by me, as they are operational in nature.
74. It is my understanding that the recommendations in Mr. Cole's review have been implemented. However, as I am no longer involved in civil contingencies matters, I regret that I cannot advise the Inquiry in any detail on the steps taken to address the perceived structural weaknesses identified in February 2020. The related question of whether (or at what time) the Executive had the capacity and capability to deal with a pandemic is a very broad one, which perhaps only the Inquiry itself can answer in due course. For my part, as noted above, I remain, of the view that the civil contingencies

structures within TEO were capable of performing their designated role in dealing with the predicted global pandemic.

Resources for the activation of the HUB

75. The Civil Contingencies Hub is not staffed by a ‘*standing army*’. The staffing operational model comprises the core CCPB team, plus a cadre of volunteers drawn from other Departments, trained for specific roles within the Hub, and redeployed to the Hub when it is activated. The costs of redeploying the volunteers must be met by TEO.
76. When the need to activate the Hub materialized in 2020, the operational decision to do so was taken promptly [Exhibit CS/23 - INQ000183592] on the basis that the consequent financial management and governance action would, of necessity, follow in due course – it was a case of ‘activate first, secure funding later’.
77. Securing funding required the preparation of a business case to provide assurance on the affordability, regularity, and value for money of the expenditure on the operation of the Hub. [Exhibit CS/24 - INQ000207849] is that business case for the expenditure to cover the additional cohorts of the redeployed volunteers. It does not relate to the core costs of CCPB, and does not address the adequacy or otherwise of the core CCPB staff complement.
78. The business case contains the statement:

“Due to the nature of this emergency and its anticipated sustained period, the existing TEO civil contingencies planning branch staffing complement is totally insufficient to manage the escalation in planning and response requirements.”
79. It may assist the Inquiry to provide a detailed explanation of the meaning of this statement. In short, it means that the staffing of CCPB alone would be insufficient to operate the Hub, and it would be necessary to deploy a cadre of volunteers, in line with the established operating model for the Hub. It was never intended or envisaged that the core staff complement of CCPB would be sufficient to operate the Hub. The statement does not mean that the staffing of CCPB was inadequate for its normal role, or for its role (as opposed to the role of the larger cadre of volunteers) during periods of activation of the Hub.
80. The standard practice for the preparation of business cases involves the presentation of one or more ‘*do something*’ options (including a preferred option if there is more than

one), alongside a '*do nothing*' option for comparative purposes (to demonstrate the need for action.) The quoted statement is in the description of the '*do nothing*' option. It was intended to convey the meaning that the core staffing of CCPB alone would be "*totally insufficient*" to operate the Hub, thus necessitating the call up of significant numbers of volunteers. This reflects the operating model for the Hub at that time, which was based on its operation by a core CCPB staff group, supplemented by volunteers. The very significant level of expenditure set out in the business case reflects the level of concern about the seriousness and potential duration of the pandemic, and the consequent need for significant numbers of volunteers over a prolonged period.

Resources urgently needed for the response to the pandemic

81. In March 2020, the magnitude of the risk of the pandemic suggested that additional resource would be required for CCPB, over and above the extant '*business as usual*' need. Given the urgency, the normal processes of submitting a business case for additional staffing, and recruiting by means of trawls, interest circulars or promotion competitions would not have produced a solution in a timely manner. In those circumstances, the short-term measure that I instigated was the standing down of the Programme for Government and NICS of the future Division on the 19 March 2020 [Exhibit CS/25 – INQ000279352], and their temporary reassignment to work on Covid-19 preparation.
82. In summary, in January 2020, the plans and procedures, role and functions, and capacity and capability of CCPB were clearly sub-optimal. Nevertheless, with the addition of the resource described above, I considered that TEO was ready and capable of activating the NICCMA protocol and the civil contingencies Hub, and thereby discharging its role in response to the pandemic. My key concern at that time related to the resilience of the arrangements beyond the short-term, particularly in relation to the pressure on the core CCPB team and maintaining the numbers of volunteers necessary to operate the Hub at full capacity. This assessment had not changed materially by the end of February 2020. The need for a fundamental review of capacity and capability remained extant at that time. However, as noted above, the need to prioritise immediate action to respond to the pandemic meant that the review did not take place.
83. The above matters were entirely operational and, in keeping with established practice, were not referred to Ministers for decision. However, my recollection is that I advised Ministers verbally of the decision to reassign the Programme for Government and NICS of the Future Division.

Recognition of the risks, and timing of intervention

84. My recollection is that, in January 2020, the potential pandemic was viewed as a matter of grave concern by Ministers and senior officials. I did not observe any downplaying of either the likelihood or magnitude of the risks involved. At the end of January 2020, as described above, I was satisfied that the civil contingencies structures within TEO were capable of responding to a global pandemic that might arise within three weeks. As noted in [Exhibit CS/26 - INQ000201813], the action that I took was to seek a verbal briefing from the CCPB team, to further assure myself that the team was familiar with its role and ready to discharge it. Whilst I cannot be certain of the date, my recollection is that the verbal briefing was given, and that it provided the assurance that I had sought.
85. I had no conversations with the Minister of Health at this time, and I am not in a position to comment on his understanding of how serious the situation was or might become. My recollection of conversations around this time (and earlier in January) with the CMO is that he was fully aware of the seriousness of the matter, and that this was reflected in the tenor of his advice. I recall one conversation in particular, which I believe to have been in early or mid-January, when CMO expressed the clear view that a pandemic was *'more likely than not'* to occur. This was prescient, as my recollection is that the official advice at the time the conversation took place was that it remained uncertain whether a pandemic would occur.
86. It would have been a matter for DOH, as the Lead Government Department for Pandemics generally, to consider the significance of the differences between Coronavirus-19 and influenza. This was not a matter for TEO, and I am not aware of any consideration being given within TEO to it. Similarly, the question of whether influenza pandemic plans would be effective against a coronavirus, or to whether they could be adapted to meet the different challenges that a coronavirus pandemic might present was matter for DoH in the first instance, and not TEO. I was not aware of any consideration being given within TEO as to whether such plans would be an effective response to Covid-19 or would need to be altered or replaced, or of any advice from DoH in that regard. My recollection is that the official advice from the UK Government was that preparation for a Covid-19 pandemic ought to be on the basis of the extant influenza plan; and that this remained the advice until sometime in March 2020.
87. The First Minister and deputy First Minister were not briefed by me on 29 or 30 January 2020. No matters requiring Ministerial action within TEO had arisen at that stage, and

the developing situation would have been regarded as a public health matter, for which DoH was the lead Department.

88. The Executive meeting on 3 February **[Exhibit CS/27 - INQ000048442]** was the first occasion on which the Executive discussed Covid-19, when the Minister for Health briefed the Executive on Covid-19 developments following his attendance at a COBR meeting on 29 January 2020 **[Exhibit CS/28 – INQ000391226]**.
89. Minister Swann, sometimes accompanied by the Chief Medical Officer, further briefed the Executive on 10 **[Exhibit CS/29 - INQ000236740]** 17 **[Exhibit CS/30 - INQ000236739]** and 24 February **[Exhibit CS/31 - INQ000207205]** and 2 **[Exhibit CS/32 - INQ000048441]** and 10 March **[Exhibit CS/33 - INQ000048446]** on the emerging pandemic.
90. On 3 March, the acting Grade 7, Civil Contingencies Policy Branch, provided a written briefing to Ministers on civil contingencies arrangements **[Exhibit CS/34 - INQ000145786]**. The briefing included information on:
 - the position in relation to Covid -19 and the need to make preparation for dealing with a potential outbreak of the disease;
 - the Lead Government Department role of the Department of Health and the role of the Executive Office to co-ordinate the wider non-health preparedness and response;
 - the role of Ministers within the strategic emergency response arrangements; the role of the Civil Contingencies Group (CCG) as the principal strategic co-ordination body and the function of the NI Hub; and
 - the outline plans for activation of the NI Hub.
91. The briefing invited Ministers to note the information presented but did not recommend any specific action or seek any decision.
92. The First Minister and deputy First Minister were involved in the COBR meeting on 9 March 2020 **[Exhibit CS/35 – INQ000391227]**. On 10 March 2020, The First Minister and deputy First Minister cancelled their planned trip to Washington for the St Patrick's celebrations to allow them to participate in the ongoing contingency planning meetings.

93. On 16 March 2020 [Exhibit CS/36 - INQ000147485], the Minister of Health provided a briefing on the latest developments in relation to Covid-19. Paul Bedding of the Office of Legislative Counsel also briefed the Executive on the powers contained in the Westminster Coronavirus Bill, which extended to all parts of the UK.
94. By mid-March it was recognized that the need to invoke the NICCMA protocol and stand up the civil contingencies 'Command Control and Co-ordination' (C3) arrangements was drawing near. Therefore, at the Executive meeting of 16 March, I presented a paper entitled 'Emergency Response to COVID-19' [Exhibit CS/37 - INQ000086933], [Exhibit CS/38 - INQ000023225], [Exhibit CS/39 - INQ000023226].
95. Following discussion, the Executive:
- agreed the phased activation of the NI Central Crisis Management Arrangements to deal with the impacts of Covid-19;
 - noted the wide ranging and protracted non health sectoral impacts and associated mitigations arising from Covid -19; and
 - agreed to monitor these impacts and associated mitigations to ensure the cumulative risks arising were managed.
96. [Exhibit CS/40 - INQ000201498] and [Exhibit CS/41 - INQ000201713] are exchanges of correspondence with Liz Redmond, the Director of Population Health on the timing of the activation of the NICCMA protocol in January and February. On 31 January 2020 my view was that we had not yet reached the point at which the NICCMA protocol needed to be activated. Nevertheless, I asked for some planning and preparation to be done 'quietly,' that is to say, informally; avoiding giving rise to any unnecessary concerns, and avoiding the risk of any miscommunication as to whether the protocol had actually been activated.
97. I subsequently agreed with the Director of Population Health's view of 6 February 2020 [Exhibit CS/42 - INQ000218470] that the protocol ought not to be activated:
- "Unless or until the infection appears in NI and impacts are experienced here."*
98. This was an entirely rational view. The NICCMA protocol is a response mechanism. Its activation in the 'prepare' phase of a pandemic would offer no material benefit and might have had the negative effect of diverting scarce resources away from key planning and preparation tasks. At the peak of the Hub operations in Wave 1 of the pandemic there

were in the region of 390 volunteers from CCPB, the wider TEO, other departments (including Local Government, Police Service for NI and Foods Standards Agency) and the Strategic Investment Board. This number includes volunteers in the Departmental Operating Centres (DOCs) that had been established as recommended by TEO but number does not include additional support and capacity provided at various stages by consultancy firms and the NI Statistics and Research Agency (NISRA).

99. The likely effect on Departments would have been threefold. Firstly, the cadre of volunteers would have been drawn from a range of business areas across Departments. This could have adversely affected the ability of Departments to ensure delivery of some public services. Secondly, the Hub includes liaison officers from each Department and a number of public agencies. These colleagues, in particular, were likely to have been directly involved in planning and preparation for the pandemic within their own Departments and agencies. This would have been particularly challenging for DoH colleagues. Thirdly, the activation of the Hub would have necessitated the activation of Departmental Operations Centres (DOCs) in each Department. As DOCs are also temporary arrangements that must be staffed by redeployment, this would have diverted a further group of staff from the provision of public services and / or preparation for the pandemic.
100. The Director's suggestion (in the same letter) of an inter-departmental meeting to test preparedness was taken up on 20 February 2020. A note of the meeting is attached as **[Exhibit CS/43 - INQ000023220]**.
101. I did not interpret the advice from the Director of Population Health as meaning that no steps were being taken or considered to control or prevent the spread of Covid-19 in Northern Ireland. However, as that was a matter for DoH, colleagues there would be better placed to advise the Inquiry on the measures under consideration.
102. The approach taken to the activation of the Hub does not imply that it was not considered inevitable that Covid- 19 would spread to Northern Ireland. It was not the role of TEO to speculate on the probability of a pandemic, for which the responsibility for providing advice would fall to DoH. I did not interpret the letter from the Director of Population Health as conveying any advice on the probability of a pandemic reaching Northern Ireland. In any case, the role of TEO at that time was to ensure that central civil contingencies arrangements were ready to be activated, regardless of the particular assessment of probability at that time.

103. A similar rationale is reflected in my response [**Exhibit CS/44 - INQ000218484**] to Ms. Karen Pearson on 4 March in relation to a suggestion from other Departments that TEO ought to activate the civil contingencies Hub. That would not have been an appropriate action at that point. It is important to bear in mind that the Hub is an operational response mechanism that comes into its own during a pandemic rather than before it. It is not a permanent arrangement, but rather a temporary mechanism that requires the voluntary redeployment of significant numbers of staff. Careful judgment is required in relation to the timing of activation. Delayed activation would impair the co-ordination of an effective response, but premature activation risks diverting resources from other key tasks in the 'prepare' phase of a pandemic. A key learning point from Brexit preparation was that effective management of civil contingencies depends as much (if not more) on effective planning and risk assessment before an event as it does on the ability to respond after the event takes place.
104. In addition, the Hub is resource intensive, and there was a recognized risk that it might prove difficult to retain the Hub at full capacity for a long period. For those reasons I took the view that, on 4 March, activation was not merited. Notwithstanding the concern about resilience, it was not the case that a lack of resources prevented or delayed the activation of the Hub. If by 6 February 2020 or 4 March 2020, DoH had requested it, then the NICCMA protocol would have been activated and, as Chief of Staff, I would have directed the immediate activation of the Hub.
105. [**Exhibit CS/45 - INQ000211277**] is a communication from Mrs. Bernie Rooney on 21 March 2020, expressing concern about the arrangements for activating the Hub. I do not think that Mrs. Rooney intended her use of the phrase "*At the minute I am a one person Hub*" to be taken literally. Rather, I surmise that she was indicating that the numbers of available volunteers (beyond her own CCPB team) had not yet been confirmed. The arrangements for the Hub include lists of volunteers that are periodically revalidated. However, in any arrangement based on volunteers, a rate of attrition is to be expected, and last-minute exigencies or other pressures can also have an effect on available numbers. Therefore, until there is confirmation and volunteers begin to take up post, a degree of uncertainty, and a risk to continuity of hub operations remains. The successful activation of the Hub on 26 March 2020 suggests that the valid concern expressed was, nonetheless, resolved relatively quickly. I remain of the view that the timing of activation of the Hub was correct in the prevailing circumstances and was determined solely by the need for it to be in operation. Activation was not delayed by a lack of resources.

Concerns about the number of volunteers were keenly felt but, for my part, related more to the resilience of Hub operations over time than to the capacity for initial activation.

106. Taking all of the above into account, consideration might be given as to whether, with hindsight, it would have been beneficial to have activated the Hub even a few days earlier than was the case. This might have offered the benefit of additional time for staff to familiarize themselves with Hub operations before the point of going live, and time to resolve any shortfall in volunteer numbers. However, in my view the more significant and fundamental factor influencing the effectiveness of the Hub was the extent to which it relied on volunteer staffing rather than permanent staff. This has been recognized and addressed through additional staffing in the Civil Contingencies Policy Branch since then.

Response to the pandemic: June 2020 to December 2020

107. There are a number of aspects of the response to the pandemic during the period from June 2020 to December 2020 on which I regret that I am unable to assist the Inquiry fully. The reason, as set out above, is that I no longer had substantive direct involvement in matters relating to the pandemic. Ms. Karen Pearson is the person best placed to provide evidence on those matters. However, I may be able to assist the Inquiry on some matters, drawing on my experience of attending relevant meetings of the Executive. (This was in an observer capacity, in my role as the Director responsible for the Executive Secretariat).
108. As might be expected in a coalition of five political parties (and perhaps also in a cabinet drawn from a single party) Ministers held a range of views on aspects of the response that were keenly discussed.
109. My experience of Executive meetings (many of which I attended) was that Ministers devoted considerable time to consideration and discussion of advice from officials. That advice included medical and scientific advice from the Chief Medical Officer and Chief Scientific Advisor (both written and in-person), as well as comparative analyses of the position and approach taken in other jurisdictions, and the known views of enforcement authorities and economic and societal stakeholders.
110. The advice was given thorough and careful consideration, including appropriate probing and testing. My observation was that Executive decisions (whether by consensus or by vote) reflected the discussion and debate of that advice. I did not observe anything to

suggest that unrelated political considerations played any material part in the Executive's deliberations or decisions.

Effectiveness of NI Hub

111. As noted above, my evidence on this matter focusses on the period until May 2020, after which I had limited substantive involvement with CCG or the Hub.

112. The personal circumstances described above meant that I was not able to take up my designated role as Chief of Staff of the Hub. However, in so far as I could observe the work of the Hub during its period of operation, I am satisfied that it was able to meet its objective [Exhibit CS/35 - INQ000145786], namely:

“To support the Executive and the Civil Contingencies Group to make timely and informed decisions in response to the strategic management of any Covid -19 outbreak here...”

113. I am most grateful to the many colleagues who worked tirelessly in the Hub during that period, and to my former colleague Anthony Harbinson for his leadership of the Hub in very challenging circumstances.

Effectiveness of CCG

114. [Exhibit CS/46 - INQ000287144] is the 'C3 Covid-19 Response: Lessons Learned Review and Future Roadmap'. From the period of my direct involvement with CCG, I must respectfully disagree, in part, with the view attributed to the above report that CCG was:

“Not an effective forum for debate and decision making and also that it did not use the SitRep as a basis for its decision-making.”

115. As with any mechanism, the operation of CCG was not without challenges, and its operation improved over time. However, I would not describe it as ineffective. In relation to the SitRep, it is my recollection that it featured prominently in decision-making. However, concerns were expressed from time to time by the SitRep team on the timeliness and comprehensiveness of data received from some Departments, leading to the view that some Departments were prioritizing their own internal information needs and systems. The SitRep, as a mechanism, improved over the course of the pandemic, in response to feedback from CCG members and Departments.

116. [Exhibit CS/47 - INQ000212654] contains the following comment from me to Sir David Sterling in relation to CCG:

“Overall (and this is challenging) we need to start to transition the meetings into their proper role – strategic advice and decision making, and away from photo opportunities and broader policy discussion.”

117. The comment was made in the context of providing feedback on the earliest meetings of CCG at the beginning of the pandemic period. Whilst, in my view, CCG was performing its role of providing strategic advice and decision-making, there was one aspect on which room for improvement was apparent. CCG meetings are intended to be short, sharp, and action focused. This reflects its role, and the pragmatic consideration that attendance includes the senior leadership group of key organisations, who faced many competing pressures on their time. A number of the early meetings involved all Executive Ministers and a large number of officials. As a consequence, there was a tendency for the meetings to be lengthy, and to drift into broader policy discussions that were more suited to Executive meetings, with a dilution of the focus on strategic advice and decision-making.

118. One such meeting was delayed by some 45 minutes, as some Ministers had been delayed at a previous meeting, and by the desire for a photocall at the beginning of the meeting involving Ministers and senior officials. Whilst recognising the importance of visible leadership, that did not strike me as the most efficient and effective use of senior colleagues’ time or, indeed, that of Ministers.

119. Subsequently, Ministers agreed to a suggestion from Sir David Sterling to change the format of CCG meetings, with officials meeting each morning (as CCG (O)), complemented by less frequent meetings involving Ministers. This considerably improved the effectiveness of CCG and the service provided to Ministers.

Relationship between my role and Head of the Civil Service (“HOCS”)

120. There was a gap between the retirement of Sir David Sterling in August 2020, and the appointment of Mrs. Jenny Pyper as interim HOCS in December 2020.

121. The gap (and the need for an interim appointment) arose because the competition to appoint Sir David’s successor was unsuccessful; something that he could not have anticipated at the point of his retirement, for which he had given lengthy notice. This was a very serious matter. The role of HOCS encompasses the position of Secretary to the

Executive, and that of principal policy advisor to the First and deputy First Ministers, and the Executive. It is difficult to speculate on the precise effect of the gap on the Executive's response to the pandemic. However, it is clear that a longer than envisaged vacancy in such a key role could not conceivably have occurred at a worse time.

122. The loss of Sir David's experience and expertise would have presented a significant challenge in any circumstances. However, I am confident that he would agree that the prolonged vacancy in the role, rather than the loss of the individual, was the greater concern.

Drafting Covid-19 related legislation

123. I was involved in two aspects of the making of Covid-19 related legislation, namely: coordinating input from a number of Northern Ireland Departments for the instructions to draft the Westminster Coronavirus Bill (subsequently enacted as the Coronavirus Act 2020); and overseeing the making of the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020, up to the point of the first formal review of the Regulations on 15 April 2020 [Exhibit CS/48 - INQ000065643], [Exhibit CS/49 - INQ000048455], and the subsequent making of amendment regulations on 24 April 2020 [Exhibit CS/50 - INQ000065645], [Exhibit CS/51 - INQ000065484], [Exhibit CS/52 - INQ000065575], [Exhibit CS/53 - INQ000048459 and Exhibit CS/54 - INQ000365892]. My substantive role in relation to Covid-19 related legislation ended around the time of the second formal review of the Regulations in May 2020, for the reasons set out above.

124. The overall approach to legislation reflected the aim of having a consistent '4 nations' approach across the UK jurisdictions but recognizing the need to take account of the approach taken in Ireland.

125. The key provisions of the Coronavirus Act 2020 included:

- powers for TEO to issue directions to close or regulate the use of premises, and to prohibit mass gatherings (Part 5 of Schedule 22 to the Act); and
- powers for DoH to make regulations for the protection of public health (Section 48, and Schedule 18 to the Act).

126. There was a degree of overlap between the two sets of powers – the TEO powers were a duplicate subset of the broader DoH powers, albeit using a different mechanism

(direction rather than regulations). This was deliberate, and a common feature of the Act across the various jurisdictions. It was to allow for rapid deployment of directions to deal with the most pressing issues, followed by the more considered development of regulations, to deal with ongoing issues.

127. The powers to make regulations for the protection of public health were added to the Public Health (Northern Ireland) Act 1967 by the provisions in the Coronavirus Act 2020. As such, they were, from the outset, exercisable by DoH.
128. However, the question of whether to vest the powers to close premises in TEO or DoH was considered by Ministers [Exhibit CS/5 - INQ000290203]. I am advised by TEO colleagues that there has not been a waiver of privilege in relation to professional legal advice on that matter. Nevertheless, the Inquiry will be aware from the exhibit that the view of lawyers was that either option was possible, but that, on balance, the new powers would sit best with DoH, alongside the complementary powers in the Public Health (Northern Ireland) Act 1967. The rationale for that view, as I understand it, was that the proposed new legal powers could be viewed as either a civil contingencies measure (for which TEO would be the lead Department) or a public health measure (for which DoH would be the lead Department). The conclusion was that, as the specific purpose of the powers was the control of the transmission and spread of disease, and as they complemented (indeed, overlapped with) proposed powers for DoH, the powers would sit best with DoH.
129. Minister Swann and the Chief Medical Officer (Professor Sir Michael McBride) felt strongly that, in view of the “*significant implications and cross cutting nature*” of the powers, they ought to reside in TEO [Exhibit CS/5 – INQ000290203]. I was not persuaded by that rationale, as it appeared to reflect a common misunderstanding of how ‘*cross-cutting*’ matters must be dealt with. The requirement is that ‘cross-cutting’ (and significant or controversial) matters must first be considered by the Executive before the exercise of the relevant functions by the relevant Department. The fact that many cross-cutting matters are functions of TEO sometimes gives rise to the misconception that all cross-cutting matters fall automatically to TEO to take forward. However, given the value of demonstrating leadership by the entire Executive, and for the pragmatic reason of relieving a little of the pressure on DoH colleagues, I recommended that the powers ought to be vested in TEO. This was agreed by Ministers and reflected in the Coronavirus Act 2020. I did not consider this to be a change to the formal DoH role as Lead Government Department for the pandemic.

130. At that juncture, following discussion with lawyers and my DoH colleague, Nigel McMahon, my (and his) broad working assumption was that TEO would deal with premises; whilst DoH would deal with citizen behaviour. The approach that we would have taken had not been thought out in detail. In general, it was thought that the DOH Regulations would focus on all citizens, with measures such as enforced social distancing. The TEO power of direction (with its more significant penalties) was thought to be more likely to be used in respect of mass gatherings or particular premises, where effective action could be targeted on organisers or proprietors, rather than individual citizens. However, that assumption was complicated by the emergence of a set of draft English regulations on 25 March [**Exhibit CS/55 – INQ000396859 and Exhibit CS/56 - INQ000391420**], replacing a much simpler set issued the previous week. The new regulations were complex and comprehensive – covering the full gamut of measures focusing on premises and citizens.
131. I am advised by TEO colleagues that there has not been a waiver of privilege in relation to professional legal advice on this matter. However, I am permitted by TEO to state that legal colleagues advised that the Executive could be more certain of achieving a similar outcome through a set of Regulations containing all of the necessary restrictions, rather than leaving some matters for direction. They advised that a single set of Northern Ireland regulations (with no directions) would be the better, and quicker route.
132. Legal colleagues had also flagged concerns about the potential for legal challenge on the grounds of unlawful interference with human rights. They considered that the use of direction, as an administrative mechanism, might be more vulnerable in that regard than Regulations, as the latter would enjoy the legitimacy of having been subject to approval by the Assembly.
133. In those circumstances I initially concluded that a single set of regulations ought to be made formally by DoH (TEO having no power to do so). However, DoH colleagues were under enormous pressure, resources were fully stretched, and there was other legislative work to be done there. Therefore, my formal recommendation [**Exhibit CS/17 - INQ000290205**] was that TEO officials (guided by DSO and assisted by the Department of Justice in relation to offences and penalties) should take on the drafting work in totality and deliver a set of '*ready made*' regulations for DoH to make. This reflected my view that the pragmatic need to have the necessary legislation made as quickly as possible was more important than the maintenance of a separation between

the roles of TEO and DoH. The Executive took a similarly pragmatic view and accepted the recommendation.

134. The recommendations were accepted by Ministers on 26 March 2020 which constituted formal approval to draft the necessary instructions, with the policy aim of replicating the English Regulations (with consideration of similar Regulations made for Wales). I recognized that the Northern Ireland Regulations would need to be tailored to reflect local administrative differences in relation to matters such as offences and penalties, and the roles of enforcement authorities etc. Other than that, the drafting of Regulations closely followed those in England. There was no consideration given to tailoring the Regulations to reflect the particular course of the pandemic in Northern Ireland. Given the urgency, there was no further engagement with Ministers until their consideration of the draft Regulations on 27 March 2020.
135. The work was subsequently taken forward at pace. In Northern Ireland, subordinate legislation is normally drafted by policy officials, with advice and quality assurance provided by lawyers. However, given the short timescales, and the risk that drafting errors might have rendered the regulations unenforceable, it was agreed that the drafting would be done by senior lawyers, with policy and drafting instructions provided by me, working closely with a senior DoH colleague, Mr. Nigel McMahon, the Chief Environmental Health Officer for Northern Ireland.
136. Draft Regulations were submitted to the First Minister, deputy First Minister and Minister Swann on 27 March 2020 **[Exhibit CS/57 - INQ000290207]**. They were accepted; made and brought into operation on 28 March, as the Health Protection (Coronavirus, Restrictions) (Northern Ireland) Regulations 2020.
137. The making of the Regulations was a cross-cutting matter requiring consideration by the Executive. However, in view of the urgency, the First Minister and deputy First Minister acceded to a request from Minister Swann for a decision to be taken by him under the urgent procedure in paragraph 2.14 of the Ministerial Code **[Exhibit CS/58 - INQ000213698]**, **[Exhibit CS/59 - INQ000213697]**. The Regulations were subsequently considered and retrospectively agreed by the Executive at its meeting of 30 March **[Exhibit CS/60 - INQ000048450]**.
138. As agreed by the Executive, the Regulations closely followed the English Regulations (The Health Protection (Coronavirus, Restrictions) Regulations (England) 2020), with the necessary changes to reflect differences in administrative and enforcement

arrangements. The Regulations also reflected a number of specific policy decisions by Ministers on workplace canteens, off-licences; and supermarkets [**Exhibit CS/61 - INQ000147487 and Exhibit CS/62 - INQ000391229**].

139. On 29 March, Ministers were provided with a high-level analysis of the equivalent Irish legislation [**Exhibit CS/63 – INQ000391230**]. The analysis noted that, whilst the specific measures in Irish legislation differed somewhat from those in the Northern Ireland Regulations, the intended effect was broadly similar. No changes to the Northern Ireland Regulations were recommended.
140. Joint working with DoH colleagues continued, and the first formal review of the Regulations was considered by the Executive on 15 April 2020 [Exhibit CS/49 - INQ000048455]. It must be acknowledged that the first review was somewhat ad hoc. The primary focus was on whether the Regulations, in their entirety, were still needed. There was little, if any, focus on adjusting the Regulations in response to the progress of the pandemic. A number of changes were proposed by Nigel McMahon and me [Exhibit CS/49 - INQ000048455]. My recollection is that these were drawn from: our own reflections on the Regulations; further changes in England and Wales; representations made to us by stakeholders and enforcement authorities (notably the Police Service of Northern Ireland); the views of the Attorney General for Northern Ireland; and the known views of Ministers (expressed verbally). In relation to the latter, I have no personal knowledge of how Ministers identified the changes that they proposed, but surmise that it reflected their own analysis, and representations made by stakeholders.
141. The draft advice prepared by Mr. McMahon and me was shared with the CMO and CSA for their advice and endorsement before being put to the Executive.
142. The amending regulations made a number of relatively minor changes.. The scope of the policy decisions reflected in the amendments included:
- access to churches for solitary prayer;
 - access to burial grounds other than for funerals;
 - holiday accommodation – preparing for recovery;
 - opening of livestock markets;
 - garden centres;

- enforcement of 2 metre social distancing; and
- recycling centres.

143. In each case, the policy recommendation reflected medical and scientific advice from the CMO and CSA, legal advice, the views of policy colleagues and enforcement authorities, and the known views of stakeholders.
144. By the time of the second review of the Regulations on 7 May 2020 [**Exhibit CS/64 - INQ000065566**], colleagues in DoH were, for a time, able to assume the lead responsibility, and my input was negligible. By the time of the second review, the effectiveness of the Regulations was better understood, and there was a clearer picture of the views of stakeholders. Against that background the second review was more systematic and structured than the first [**Exhibit CS/65 - INQ000065585**]. A second set of amending regulations was subsequently made on 15 May 2020 [**Exhibit CS/66 - INQ000048466**], [**Exhibit CS/67 - INQ000365891**], and [**Exhibit CS/68 - INQ000365893**].
145. I was not directly involved in the second review or subsequent reviews but was aware of them from attendance at Executive meetings (and sight of Executive papers). In comparison to the first review, subsequent reviews were increasingly sophisticated and strategic. They were informed by improved information on the progress of the pandemic (and modelling of its potential course), analysis of the rate of transmission (R), advice from CMO and CSA of the risks of removing or relaxing particular restrictions, assessment of the broader economic and social impacts of removing or retaining restrictions, and a more systematic analysis of the views of stakeholders.
146. For the reasons set out above, my substantive involvement in Covid-19 related legislation matters ended around the time of the second review of the Regulations. Specifically, I was not involved with the Executive Covid-19 Taskforce, which took the leading role for subsequent legislative developments. To summarise in relation to the changes to lead responsibility for preparing the Regulations: the role rested with me until May 2020, at which point it was taken back briefly by DoH, before transferring back to TEO (in the person of Ms. Pearson) later in the summer of 2020 (I am not aware of the exact date).
147. The medical and scientific advice that informed the drafting of Covid-19 legislation was provided by the CMO and CSA. I should explain that I had no direct contact or

engagement with SAGE, with all medical and scientific advice provided by CMO and CSA. I commend the work of both colleagues in that regard, who were extremely helpful and supportive to me and TEO colleagues. They worked tirelessly under very considerable pressure. Their advice was always clear, comprehensive, and authoritative, and presented with great clarity to the Executive, where it was highly effective in informing and shaping the Executive's response to the pandemic.

Strategic Intelligence Group (SIG)

148. In April 2020, I understand that the Department of Health's CSA convened a 'COVID-19 Strategic Intelligence Group' (SIG), reporting to the CMO. The role of SIG was to consider the scientific and technical concepts and processes that were key to understanding the evolving Covid-19 situation and potential impacts in Northern Ireland and mitigating these.

149. I had no personal knowledge of, or involvement with SIG. My understanding is that the Group's role was to apply the advice from various sources of evidence and information to inform the CMO and the Minister of Health to aid with decision making in Northern Ireland during the pandemic. The detailed terms of reference stated the Group will support CMO and the Department of Health to:

- interpret SAGE, SPI-M and SPI-B outputs and other emerging scientific and epidemiological evidence in the context of Northern Ireland;
- provide information to support decision making regarding stepdown of social distancing measures and/or other interventions as the evidence evolves;
- provide a two-way flow of relevant information and questions between the Department of Health and SAGE/SPI-M/SPI-B/others; and
- advise the Modelling cell, and Data Analysis and Insights workstream on strategic approach to identifying, accessing, and using data to support our understanding and response to COVID-19 in Northern Ireland.

150. The group was not highly visible to the Executive, and I do not have sufficient information to comment on whether SIG's advice formally recorded and disseminated across the government in Northern Ireland or on the extent to which the composition and the work of this group was understood both inside and outside of the government. These and

other questions about how effective the SIG was as part of the Northern Ireland response to the pandemic would be better answered by DoH.

Ministerial understanding and grip

151. My observation of Executive meetings was that all Ministers, from the outset, were seized of the need for '*grip*' in order to provide an effective response to the pandemic. Advice was considered carefully, probed, and tested appropriately to ensure clarity, and discussed and debated at considerable length. Nothing that I observed suggested that Ministers or senior officials lacked a sufficient scientific mindset and grasp of the scientific, medical, and mathematical concepts in order to understand the advice provided.
152. The doctrine of '*collective responsibility*' does not feature as strongly in the governance arrangements for Northern Ireland as it does in other '*cabinet*' based arrangements. Nevertheless, my observation was that, for the most part, the Executive was successful in making decisions in relation to the pandemic for which there was a strong sense of collective responsibility.
153. An exception that occurred from time to time stemmed from parties engaging in media briefing prior to Executive meetings, to promote individual party positions before there had been any collective discussion and decision. This was compounded by frequent leaks of Executive papers, a failure to observe the confidentiality of Executive meetings, and competitive media briefing after meetings. These behaviours (which were a source of frustration to Ministers and officials alike) had the potential to undermine the effectiveness of the Executive's communications strategy, and confidence in its decision-making. **[Exhibit CS/69a – INQ000396863, Exhibit CS/69b - INQ000396864, Exhibit CS/69c - INQ000396865, Exhibit CS/69d - INQ000396866, Exhibit CS/69e - INQ000396867, Exhibit CS/69f - INQ000396868, Exhibit CS/69g - INQ000396869 Exhibit CS/69h - INQ000396870, Exhibit CS/69i - INQ000396871, Exhibit CS/69j - INQ000396872, Exhibit CS/69k - INQ000396873, Exhibit CS/69l - INQ000396874]** are extracts from media reports which demonstrate this.
154. I have been involved in the provision of advice to Executives (of varying political composition) for some 23 years. By nature, the process of advising a coalition government can be more challenging than is the case with a Ministerial team drawn from a single party (which I have also experienced under direct rule). It can take longer to reach decisions, with outcomes sometimes characterized by sub-optimal compromise

between policy positions that are in tension. Whilst this can be difficult (and at times frustrating) the range of political views within an Executive does not change the fundamental role of a civil servant of speaking '*truth to power.*' The NICS Code of Ethics [Exhibit CS/70 - INQ000400030] requires civil servants to act with integrity, honesty, objectivity, and impartiality. The provision of effective, evidence-based advice in relation to the pandemic required political understanding and sensitivity to party positions. However, I did not experience or observe any pressure to compromise the core values of the Code of Ethics, particularly in relation to the objectivity of advice.

155. Within the Executive, the aim is to reach decisions by consensus where possible. However, from time to time, decision by formal vote is required. There is also a specific cross-community voting mechanism. The procedure for a cross-community vote is set out in section 28A of the Northern Ireland Act 1998 [Exhibit CS/71 – INQ000147489]. I understand that the procedure was used on three occasions in relation to Covid-19 matters. On each occasion, the procedure in section 28A of the Act was applied correctly. The provisions of the Act are silent on what constitutes an appropriate use of the mechanism. In these circumstances, I trust that the Inquiry will recognize that it would not be appropriate for me to offer a subjective value judgement on a matter that the legislation leaves open to political discretion.
156. Within the Executive, it was frequently the case that there was a range of views on the matters put forward for decision. For example, in the early stage of the pandemic, there were differences in emphasis between Ministers from Unionist and Nationalist / Republican parties on the relative priority to be afforded to a '*four nations*' approach within the UK, and an '*all-island*' approach on the island of Ireland; and on the timing of the closure of schools. Later, there were differences of view on matters such as the relative priority to be given to economic harm versus health and wellbeing, or the between the public health benefits of closing schools versus the harm to children and young people of interrupted education and social isolation. These differences of view led to extensive debate and discussion but, ultimately, did not prevent decision-making.
157. As noted above, governing by means of a five-party coalition can be an extremely difficult and challenging experience for officials and Ministers alike. During the pandemic there were, from time to time, difficulties, disagreements, tensions, and frustrations, some of which may well have been exacerbated by the particular features of the system of governance in Northern Ireland. Nevertheless, the overall process and quality of decision making by the Executive in relation to the pandemic, whilst imperfect, was as

effective as any that I have experienced during my career. The extent to which the Minister of Health was adequately supported by other members of the Executive would be a matter of subjective judgement that perhaps only the Minister himself could address. I trust that the Inquiry will appreciate that my offering a subjective opinion on that matter might be perceived as a breach of the Code of Ethics.

Specific Issues with the Gathering of Data in Northern Ireland.

158. I was not directly involved in the operation of the Hub and therefore had limited sight of any potential issues including the production of reliable data. I am therefore not able to say if any data issues may have impacted on the role of the NI Hub in supporting the Executive and the Civil Contingencies Group to make timely and informed decisions in response to the strategic management of Covid-19.

Summary of Remaining Rule 9 Questions

159. From July 2020 onwards, my role focused on Executive and Central Advisory Division, the Executive Information Service, and Ministerial Private Office. In that regard, my experience of Covid-19 matters is limited to knowledge gained through attendance at Executive meetings, rather than active participation in policy advice or delivery. In these circumstances I regret that I am unable to assist the Inquiry with the matters referred to below, as they deal with matters with which I had no substantive involvement:

- The role of the NI Hub after October 2020 including the groups within the government in Northern Ireland who replaced the work of the NI Hub or provided the day-to-day strategic response between June and October 2020.
- Concerns about the management of the pandemic during the second wave.
- Reset of the Executive's approach to the management of the Covid-19 pandemic in October 2020.
- The suggestion that modelling work had significantly underestimated the development of the pandemic in Northern Ireland (15 October 2020).
- The decision to implement the circuit breaker (as made in October 2020).
- The management of the response to the pandemic in the autumn of 2020.

- Decision making in relation to Christmas 2020 and the reasons why this diverged from the approach taken by UKG.
- The Executive’s approach in relation to the indication and publication of provisional dates for the relaxation of restrictions from May to August 2020 and in relation to the Pathway out of Restrictions in 2021.
- Operationalizing the Pathway.
- Whether the Minister of Health, the First and Deputy First Ministers and other core decision-makers (for example senior civil servants) have a sufficient scientific mindset and grasp of the scientific, medical, and mathematical concepts in order to understand the advice provided to them.

Statement of Truth

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

Signed:

Personal Data

Dated: 4 February 2024