

Witness Name: Jenny Pyper

Statement No.: 2

Exhibits: 3

Dated: 28 March 2024

## UK COVID-19 INQUIRY

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### WITNESS STATEMENT OF JENNY PYPER

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I, Jenny Pyper, will say as follows: -

1. I, Jenny Pyper, former interim Head of the Northern Ireland Civil Service (HOCS) for the period 1 December 2020 to 31 August 2021 make this additional statement to assist the Covid-19 Public Inquiry by way of further response to the Rule 9 letter dated 4 September 2023. A number of questions were posed in Annex B (37 to 43) requesting information about informal decision making.
2. Having reflected on additional material supplied to me in February 2024 and the content of my Rule 9 response, I wish to clarify and explain the content of paragraph 212 of my previous Rule 9 statement to the Inquiry submitted on 17 January 2024.
3. In that paragraph I stated:

*“ On the day of my departure from the interim HOCS role on 3 September 2021, I returned my NICS mobile phone and laptop and have had no access to either device since. I had deleted nothing from them and had no informal messages on any other personal device as I made it my practice not to use these for communication about any work-related matters during my time as interim HOCS. At the time of writing, I cannot comment on whether material on my NICS devices was retained or deleted, and I have since been informed that the devices cannot be located.”*

4. I have been provided with some messages between myself and Dr McCormick and realise that the above response, made in the context of enquiries about Covid-19 messaging, has

the potential to be overly generalised and misleading. As this was not my intention, I wish to provide additional information in this regard. Having sight of the messages has reminded me of events and actions that I did not immediately recall when making my statement.

5. I wish to provide information in relation to three areas namely the use of my personal phone, deletion of messages and, of particular relevance to the Inquiry, whether any messages were deleted regarding how the government in Northern Ireland approached the response to the pandemic.
6. At the time of writing my original Rule 9 statement in Autumn 2023, I believed that the information contained in paragraph 212 was factually correct in relation to both my NICS and personal devices. I now realise that two aspects of paragraph 212 require clarification relating to:
  - Use of my personal phone for informal work-related messages; and
  - Deletion of material from my work and personal devices.

I will deal with each in turn. However, it may be useful to provide some background information before moving to the substantive issues.

### **Background Information**

7. I returned to the NICS in December 2020 after a break of 7 years. I retired as CEO of the Utility Regulator in October of 2020 and my return to NICS as interim HOCS was very unexpected. This was a time of crisis, at the height of the Covid pandemic, with remote working the primary means of doing business. I was not able to operate in a “normal” office environment in Stormont Castle as almost everyone was working from home. Paragraph 55 of my original statement makes reference to this. Although I was a former civil servant, it was a steep learning curve.
8. For the first few days of my tenure, I had no access to an NICS mobile phone. When preparing my Rule 9 statement, I did not recall that there was a period when I had no alternative but to use my personal mobile if I needed to contact colleagues. IT Assist has confirmed that it provided me with a phone on 7 December 2020. Once I was issued with a “government” mobile phone my office instructed the Permanent Secretary group and senior TEO colleagues not to use any other number for contacting me about work matters. This was the context to my previous assertion that I made it my practice not to use my personal mobile for work matters. However, colleagues that I had contacted before I had my NICS phone would have had my personal mobile number.

9. When I began working on my Rule 9 statement back in September 2023, and when responding to the questions posed by the Inquiry, I had no access to any materials or sources of information pertaining to my tenure other than my personal notebooks, all of which have been provided to the Inquiry.
10. I had therefore to request access to documents (such as the agendas, papers and minutes of Executive meetings, papers for the Executive Covid Taskforce and for PSS and NICS Board meetings) which, based on my best recollection, would help me to reconstruct the circumstances during my tenure and properly inform my Rule 9 responses.

#### **Use of my personal mobile phone**

11. I am now aware that some twenty WhatsApp strings and text exchanges involving both my work mobile and my personal phone have been provided to the Inquiry. Of these 20 exchanges, 16 involve my work phone to which I have had no access since leaving the NICS and 4 involve my personal phone.
12. In addition, having now done a comprehensive search of my personal phone, I have discovered a further 3 short WhatsApp exchanges between me and the former Deputy First Minister Michelle O'Neill, the then Permanent Secretary of the Department for Infrastructure, Katrina Godfrey and my HOCS Private Secretary Roisin Coleman. I attach these as (Exhibit JP/1 INQ00042174). I do not believe that any of these exchanges have any direct bearing on the scope of the Inquiry but are provided for completeness.
13. All 7 WhatsApp messages or text exchanges involving my personal phone are with the most senior officials in TEO with whom I interacted as interim HOCS, as well as the dFM and Ms Godfrey. My personal phone number must have been made available at the very start of my tenure when I had no other mobile device as outlined in paragraph 5 above. Some of the messages commenced prior to my appointment and prior to having a NICS work phone. When providing my Rule 9 response, I did not recall these exchanges occurring on my personal phone otherwise they would have been reflected within the response.
14. Having seen the exchanges (1 WhatsApp and 1 text exchange) between me and Dr Andrew McCormick, I acknowledge and accept there was contact between us on my personal phone. During my tenure Dr McCormick was Director General of International Relations Group but, as the next most senior official in TEO, he was *de facto* my deputy and there was significant communication between us on an ongoing basis which included the use of text and WhatsApp. I had two phones, after being provided with an NICS phone.

I do not know precisely how or when he obtained my personal phone number but it is clear that he initiated contact prior to my appointment but after it was known that I had accepted the position. I only knew Dr McCormick through work, not socially or personally.

15. While it may seem obvious now, I have no recollection of Dr McCormick messaging me interchangeably on 2 different phones. I do recall that he messaged frequently, very often to share Twitter links or social media memes which may have been important to him but were largely irrelevant to my primary focus on the response to the pandemic. This is evident in both the WhatsApp and text (SMS) exchanges with him. I should have been more careful to ring fence all work related communication to work devices. I appreciate now that I did not.
16. I knew at the time that Dr McCormick was under a great deal of scrutiny and work related pressure and was extremely stressed about going through a disciplinary process related to the NICS internal inquiry into civil servants' handling of the Renewable Heat Incentive scheme. Many of the informal exchanges with Dr McCormick often took place late in the evening and were perhaps at times a way of him letting off steam and reflecting on the days' events, which I facilitated.
17. It is perhaps important to reflect upon and appreciate that the environment in which I and NICS colleagues were working, for all but the final weeks of my tenure, was hectic and at times chaotic. It was not a normal working environment based around being in the office and having face to face meetings and informal conversations. I was at home in my dining room for most of my tenure and all 45 Executive meetings in which I was involved took place remotely. It was an isolating and at times surreal experience which is hard to convey now that we have largely returned to normality at work.

#### **Deletion of material**

18. A reference on 17 May 2021 in the WhatsApp string on my personal phone which runs from 3 December 2020 to 7 July 2021 with Dr McCormick suggests that, contrary to what I stated in paragraph 212 of my Rule 9 statement, I did delete material from my work and personal devices. When I made my original Rule 9 response, I had no record or recollection of the exchange, much of which includes sharing of Twitter links on EU Exit matters which, frankly, I rarely opened such was their frequency.
19. I am however clear, on reading the exchange now, that the subject matter of our exchanges between 12 May 2021 and 17 May 2021 was unrelated to Covid matters or the response to the pandemic. Rather it related to the 2019/20 internal NICS inquiry into the conduct of

civil servants in handling the Renewable Heat Incentive (RHI) Scheme and the role of the former DoF Permanent Secretary, Sue Gray. The processes and outcome of that internal inquiry had been challenged by a number of senior civil servants including Dr McCormick, and there was some limited dialogue with the Cabinet Office on the matter during my tenure. This issue was, and remains, highly sensitive, not least to the individuals who were named in the internal inquiry which was conducted several years before my tenure.

20. As best I can, I have reconstructed the circumstances around this exchange to provide context and meaning for the Inquiry. At the start of May 2021, in addition to the ongoing work of the ECT and the Executive's focus on pandemic recovery measures, I was required to deal with the HOCS recruitment process, the DUP leadership challenge (which resulted in Edwin Poots succeeding Arlene Foster as Party Leader) and its possible implications for the Executive (including the machinery of government processes that might need to be implemented to manage the appointment of a new First Minister). The wider political situation was also difficult with Brexit related protests at the ports of Larne and Belfast and growing tensions and civil disorder linked to the building of Twelfth of July bonfires.
21. Around this time, Sue Gray returned to Cabinet Office on 14 May 2021 and left behind a number of difficult matters that I and several of my Permanent Secretary colleagues had to deal with. I recall and accept being quite angry about her behaviour in the aftermath of her departure. On a personal basis, around this time, I was also dealing with news that one of my closest friends had been given a terminal cancer diagnosis and had 3-4 months to live. I recall this was a very emotional and stressful time.
22. With the passage of time, I cannot now speak with absolute confidence about the precise nature of my message on 17 May 2021 which refers to "*advice from Jill*" and my then having "*cleared out all my WhatsApp and Messages on this and my work phone*". The reference is to Jill Minne who was Director of NICS Human Resources. However, without engaging in speculation, I will provide as much context and detail as I can about this.
23. I have been able to access a copy of my electronic diary for week commencing 17 May 2020 and can confirm that I had one of my regular weekly Zoom meetings on 17 May with Jill.
24. I have also reviewed my personal notebook entries for that date and can see that I recorded discussion of a number of issues with Jill, including the NICS Board, Arms Length Body (ALB) review and the Centre for Effective Studies (CES) review. The notebook, previously provided to the Inquiry, also records that we spoke about Mark McLaughlin, and

I have noted a personal action point that says “delete”. A copy of the relevant page is attached as (Exhibit JP/2 INQ000421748

25. A review of all of this material has been of assistance to me and has prompted my recollection that Jill reported to me a conversation she had with Mark McLaughlin where he spoke about some concerns regarding Sue Gray's exit from DoF the previous week, including issues he had to deal with relating to her clearing her office and returning her IT equipment, as well as learning that she had given a fairly controversial unauthorised interview to the BBC.
26. This feedback, coupled with issues that had been brought to my attention regarding the internal processes in the NICS RHI inquiry, caused me considerable annoyance at the time. I believe that Jill would have cautioned me about sharing any frustrations on informal channels or discussing the matter with colleagues and likely would have reminded me of good practice. The conversation with Jill would have reminded me, and I believe did remind me, about the inadvisability of someone in my position commenting informally on Sue Gray's behaviour and on individuals involved in the internal NICS RHI process. Jill did not give me advice, formal or otherwise, to delete messages. Her advice was much more general and concerned appropriate and acceptable behaviour. This was advice that I reacted to.
27. I believe that the only person with whom I had allowed communication to drift towards the inappropriate in this way was Dr McCormick. Some of the offhand exchanges with him, upon review, were ill-considered and unprofessional and we should not have been sharing such views, informally or otherwise. Looking back now, it was only between myself and Dr McCormick that this occurred. With the closeness of our working relationship, I should have managed professional boundaries better.
28. The advice from Jill undoubtedly prompted me to reflect on the nature of my contact with Dr McCormick and led me to restrict, going forward, such informal communication and remove such informal conversations. While I do not specifically remember removing any conversation with Dr McCormick, I entirely accept that this has occurred. I have identified on my personal phone, the tail end of the WhatsApp string between myself and Dr McCormick which overlaps with that which he disclosed to the Inquiry - it starts on 24 June 2021 and is attached as (Exhibit JP/3 INQ0004217 and does not include the exchange between 12 and 17 May 2021.
29. I do not now remember whether I consciously considered whether I needed to retain this information. I understand that NICS now has a formal policy in this regard.

30. I can also say that I did not receive any advice to remove informal WhatsApp or other messages relating to Covid-19 on 17 May 2021, or at any time.
31. I regret now removing the conversations as this could generate an incorrect perception that I, or others within NICS, tried to delete information relevant to the functioning of Government or the NICS. That was certainly not my intention.
32. When I left the position of Interim HOCS on 3 September 2021, I returned my NICS devices, a mobile phone and a laptop. I had fully expected that my NICS devices would have been retained securely and that the material on them would have been backed up, not least in anticipation of the Covid Inquiry. It was a considerable surprise to learn that this was not the case, and that IT Assist had no record of my work mobile even having been returned. It would have been helpful to me as well as to the Inquiry to have had access to the contents of this phone.
33. It is entirely possible that I removed inappropriate informal messages with Dr McCormick from my work phone, although I cannot now recall whether this occurred. It is for this reason that the failure by NICS to retain either the phone or a download of the device is frustrating. This is, unfortunately, beyond my control. I can say that I did not re-set the work phone when it was returned and my expectation was that the information contained on it would have been securely retained.

### **Concluding Comments**

34. In relation to the attribution of phone numbers, I can confirm that the phone number ending 128 was my work phone. The number ending 768 was a temporary number I was given for the same phone on 7th December 2020, which then became the 128 number. I do not know why there are separate message threads for these numbers as the 128 number became the permanent work phone number after, from what I can recall, a short space of time. My personal number ended with 407.
35. The WhatsApp and text messages effectively took the place of conversations that I would have had with Dr McCormick had we been working together in person. They did not supplant or undermine collective and proper decision making and rarely if ever transgressed into the Covid management arena. No substantive material was informally shared or discussed concerning the Covid-19 response.
36. In response to question 42(c), I can re-iterate the point that I endeavoured to make in my initial Rule 9 statement that, to the best of my knowledge and belief, no messages were

deleted by me, or on my behalf, regarding how the government in Northern Ireland approached the response to the pandemic.

37. Looking at paragraph 212 of my Rule 9 response, I should have considered more carefully my position and the language that I used. I provided the information to the best of my recollection at the time. I did not recall, at the time of writing the Rule 9 statement, some of the matters dealt with in this additional statement and unfortunately did not have access to all relevant material. May I apologise to this Inquiry for my lack of due care and diligence in this regard. It was not my intention to do anything but provide full and comprehensive answers to the questions asked. I hope this further statement provides a full level of clarification and deals with all matters relevant to the remit of the Inquiry.



### **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: 28 March 2024