

Witness Name:  
Statement No.:  
Exhibits:  
Dated:

## **UK COVID-19 INQUIRY**

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### **WITNESS STATEMENT OF DR 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), make this statement to assist the Covid-19 Public Inquiry in response to the Rule 9 letter dated 4 September 2023.
2. It is over 2 years since I left the HOCS post and this statement is intended to outline my role in relation to key events in relation to Covid-19 during the period 1 December 2020 through to 31 August 2021 or “my tenure” as I may refer to it, based on my best recollection and having reviewed a selection of key documents relating to my period in office. I am ready to provide further information, as required, in relation to the matters set out below.
3. At the outset I also want to acknowledge what a challenging time it was for everyone to live and work through, but undoubtedly for some it was life-changing and had a devastating impact on both them and their families. I extend my sympathies to all who suffered in this way. I believe that I and so many of my colleagues in the NI Civil Service did the very best we could at the time to encourage and enable well-informed and compassionate decision making in response to the pandemic, but I also know this Inquiry will draw out many future lessons for the Service and indeed other decision makers.

#### **Appointment Context**

4. I joined the NICS in 1985 from university and was appointed to the Senior Civil Service (SCS) in 2003. I resigned in 2013 after 28 years’ service in order to take up the post of Chief Executive of the Utility Regulator (a non-Ministerial government department). After more than 7 years in that post, in February 2020 and prior to the recognised arrival of Covid-19 in the UK, I announced my intention to take early retirement and step down as CEO before the summer. I then delayed my intended departure from May 2020 until

October 2020 because of the impact of Covid-19 and my desire not to leave the organisation without its senior leader at a time of crisis.

5. Having then retired from full time employment in October 2020 and taken my workplace pension, I was approached, out of the blue, regarding the post of interim HOCS and Secretary to the NI Executive by the Strategic Investment Board (SIB). I declared at the outset that while I was willing to consider the role of HOCS on a short-term basis, I had not previously applied for it, nor was I interested in applying for it at some later stage.
6. I met subsequently on 28 November 2020 with the then First Minister and deputy First Minister, Arlene Foster, and Michelle O'Neill respectively, who set out their desire to re-establish leadership of the NICS at what was still a critical time during the pandemic. They invited me to accept the role and to, amongst other things, establish and chair the NI Executive Covid Taskforce (ECT) and put in place a process to secure the appointment of my permanent successor as HOCS.
7. I spoke to a number of former civil service colleagues and then decided to accept the interim post on the basis that I had no interest in it as a permanent position and on the condition that it would be for a maximum of 8 months from 1 December 2020. This was subsequently extended for a further month to allow facilitate a smooth handover with my successor before she took up the post from 1 September 2021.
8. My primary motivation in agreeing to the appointment was to be of some assistance to former colleagues in the Senior Civil Service (SCS) who were feeling the absence of central leadership following my predecessor's retirement in August 2020, but I also felt that as a public servant of over 35 years, any assistance I could give to the NICS and to the NI Executive as the Covid-19 pandemic continued, was my public duty.
9. The First Minister and deputy First Minister indicated that my key responsibilities during my period of appointment would include:
  - Leadership of the 20,000 civil servants in the NICS across all 9 departments.
  - Secretary to the NI Executive on the response to Covid 19 and all other aspects of Executive business other than EU Exit matters (on which Dr Andrew McCormick would lead).
  - Establishment and chairing of an Executive Covid Taskforce (ECT)

- Development and delivery of a recruitment process for a permanent HOCS
- Membership of the TEO board
- Chair of the Permanent Secretaries Group (PSG) which met weekly for a stocktake (PSS) and the NICS Board (including progression of key aspects of civil service reform, particularly lessons from the RHI).

### **The role of Head of the Civil Service**

10. I cannot comment authoritatively on the challenges for the NICS and the Executive of not having a HOCS for the period from end August 2020 to 1 December 2020 as I was not working in the NICS during this time, but I can imagine what many of the issues were from my previous experience as a member of the Senior Civil Service (SCS).
11. The NI Executive is a 5-party coalition government designed to promote power sharing and inclusivity, with each of the 9 Departments comprising separate legal entities. In general, individual Ministers have responsibility and executive authority for all transferred policy and operational matters in their department without the requirement to demonstrate collective/Cabinet positions other than, as set out in the Ministerial Code (INQ000147493), on cross cutting matters and matters that are considered controversial and outside the scope of the Programme for Government. Clearly the response to the pandemic fell into this latter category and so demanded Executive discussion and decision making but there were still significant policy and work areas where Ministers wanted to retain their individual decision-making powers, particularly as restrictions began to be lifted during 2021.
12. As a result of the very distinct accountability roles held by Departmental Permanent Secretaries (as set out in the TEO Module 2 Corporate Statement paras 22-26) I can imagine that the absence of a HOCS who had collective leadership responsibility for the entire NICS (without having day to day control of any one Department) presented challenges for the management of cross cutting and NICS corporate matters. While the HOCS does not exercise day to day management of the Permanent Secretary cadre, they do have a line management responsibility so can exercise some influence through feedback to Permanent Secretaries on their performance.
13. The HOCS has direct access to First Minister and deputy First Minister as the joint Heads of Government in NI and is able, and indeed required, to take a holistic view of the delivery of support to all Executive Ministers by the NICS. This is in contrast to the other

Departmental Permanent Secretaries who are focused on their own department's remit, vires, resources, etc. and who inevitably must advocate for their own Minister's priorities.

14. It may also be worth making the distinction here between the role of the HOCS in NI and that of the Prime Minister's Principal Private Secretary. The HOCS role is more akin to that of the UKG Cabinet Secretary with a responsibility to all members of the NI Executive in terms of the delivery of services, rather than to a single political master.
15. The lack of visible central leadership at the top of the NICS as a single point of access and overall responsibility was bound to have had an impact on overall co-ordination of NICS work as well as the impact on morale within the NICS of having no HOCS to lead and represent them. The HOCS has considerable convening power both in terms of civil servants and those in the wider public and indeed private sectors and I know that the impression amongst the public at that time may have been negative in terms of a perceived lack of leadership of the NICS at such a critical time in the pandemic.
16. A weekly meeting of the Permanent Secretaries Stocktake (PSS), previously referred to as the Permanent Secretary Group (PSG) chaired by the HOCS was a well-established fixture in the diaries of all the Departmental Permanent Secretaries long before the pandemic struck. An example of a meeting note is provided at Exhibit JP/02 - INQ000391421.
17. In the absence of a HOCS for over 3 months I understand that PSG meetings tended to become less frequent and structured, as individual Permanent Secretaries focused on their own Departmental issues and Ministerial priorities. I immediately re-established these meetings on a weekly basis and PSS met remotely every Friday during my tenure until July 2021 after which meetings were held in person, albeit socially distanced.
18. The PSS agenda during my time was primarily a tour de table focusing on Covid-19 related issues, particularly around resourcing and competing demands from Ministers coupled with ongoing challenges around delivery of public services and managing stakeholder expectations.
19. Once a month the PSS met in NICS Board format with some additional attendees, including the Director of HR, and a more cross cutting NICS-wide agenda including civil service reform, HR planning service-wide, recruitment and promotion priorities and financial planning and budgeting for the Service. As chair of the NICS Board I was able to use these meetings to encourage more holistic thinking and collaborative working on

issues of shared concern and to engender more of an esprit de corps, particularly as the Permanent Secretaries were at the sharp end of handling their own Ministerial demands around responses to the pandemic.

20. The HOCS does also have a clear role to demonstrate and embed best practice in terms of civil service values, culture, and ways of working. It seemed to me that the 5-party mandatory coalition system of government in NI had reinforced Departmental silo working, as had the recurring absence of a fully functioning government which left individual Departmental Permanent Secretaries “in charge” and carrying the burden of implementing policy and managing budgets in the absence of the elected representatives who are publicly accountable for decision making. There is scope therefore for any HOCS to demonstrate an overall collective leadership role to support and encourage the Senior Civil Service (SCS) in these circumstances.
21. As interim HOCS for example, in a desire to acknowledge the workload that the Permanent Secretaries had been carrying, and in an effort to restore the NICS Board sense of collective and collegiate working as we returned to office working and moved out of the pandemic, I initiated team-building work in May 2021, led by the former Scottish Government Permanent Secretary Sir Peter Housden and the Centre for Effective Studies (CES). This was aimed at rebuilding the senior level team ethos, re-establishing trust and confidence and reinforcing shared challenges between the PSS members to help create a stronger platform for the transformation of the NICS which Ministers considered essential. This transformation work is ongoing.
22. In terms of the impact for the Executive of not having a HOCS in place, I saw evidence when I arrived in post that senior officials in TEO continued to provide the supporting role that HOCS would have exercised in relation to coordination of advice and briefing on Covid-19 matters. On a short-term basis, I consider that there would have been little or no diminution of the quality of support to the Executive but as time passed the absence of a HOCS who could provide impartial advice and exercise their authority to lead and pull together joined up and cross cutting responses to the pandemic from across the NICS, would inevitably have placed additional strain on TEO staff and could have led to tensions between senior officials in TEO and their Departmental counterparts.
23. I can see how the absence of a HOCS directly accountable to First Minister and deputy First Minister left them and indeed the Executive as a whole, without an authoritative conduit to maintain focus on matters such as New Decade New Approach (NDNA) (Exhibit JP/03 - INQ000391422) commitments, such as the Independent Fiscal

Commission. While lead responsibility for progressing this lay with DoF, I imagine that a HOCS might have been able to maintain momentum and keep up pressure on that Department during the autumn of 2020 to move matters forward, or at the very least explain to the Executive the reasons for a lack of progress. However, as already explained, the extent to which responsibility is delegated to individual Departments and their Ministers limits the power of HOCS to require and or direct action by civil servants.

24. I cannot comment in detail on why there was no immediate successor to David Sterling or why it took so long to make an interim appointment after his departure, but I am aware that there had been a competition earlier in 2020 that had failed to yield an agreed candidate to take over the HOCS role. I imagine that First Minister and deputy First Minister may have considered the suitability of a number of recently retired Permanent Secretaries for the interim role before approaching me but am not party to what transpired before my appointment. The TEO Module 2C Corporate Statement makes some further reference to these matters.
25. My understanding of the 8-month term of my appointment was that part of my role as interim HOCS was to oversee a new HOCS competition that would lead to a permanent successor being in place as soon as possible. Allowing time to advertise, receive applications, interview candidates, and select a new HOCS who might then need to give a minimum of 3 months' notice (if external to the NICS), was estimated to take at least 6 -8 months. In the event I served 9 months in order to facilitate a phased transition into the HOCS role by the successful candidate, Jayne Brady.
26. During the period mid-June – end August 2021, Jayne spent a considerable amount of time shadowing me to ensure a smooth handover. In addition to having sight of briefing papers, including those for Executive meetings, she joined me in an observer capacity at both internal and external meetings and I introduced her to key stakeholders so that she had a good awareness of who and on what she needed to her focus attention in the early weeks of taking over the HOCS role. This included TEO staff, particularly the team working on Covid-19 matters.
27. My successor was able to join not only Zoom/Teams meetings but also to meet with me and others face to face as restrictions had been eased by summer 2021. This facilitated direct and timely conversations about issues, which seemed more effective than the provision of what would have been a very lengthy handover note. In addition to Covid matters and the ongoing work of the ECT, I also took her through the other "live" issues on my desk such as the establishment of a working group to develop a strategy for tackling

violence against women and girls. She also joined me at several PSG and NICS Board meetings.

28. As interim HOCS I undertook the role of Secretary to the Executive and principal advisor to the First Minister and deputy First Minister across all Executive functions, including the overall response to the Covid pandemic and oversight of the CCG, but excluding responsibility for EU Exit matters on which Andrew McCormick served as Secretary to the Executive as well as leading operationally within TEO. I also acted as Permanent Secretary of TEO from 1 December 2020 until 25 July 2021 (after which Denis McMahon undertook that role) (Exhibit JP/04 - INQ000391423) and was therefore responsible for overall management of the Department in support of Ministers and their objectives.
29. These 2 roles (HOCS and TEO Permanent Secretary) were also held concurrently by my predecessor, David Sterling, and as was the case during his tenure, the role of Accounting Officer (AO) for TEO was fulfilled by the departmental personnel and finance director (PEFO), Mark Browne. This was an unusual and unique arrangement as in every other NICS Department the Permanent Secretary is also the Accounting Officer. However, in practice this AO responsibility meant that Mark exercised significant leadership and operational responsibility for all aspects of TEO policy development, monitoring, and implementation, leaving me free to focus on the response to the pandemic.
30. I did however retain oversight of issues relating to staffing and budgets in TEO, the Executive Information Service, chairing the Departmental Board and reporting to the TEO Committee of the NI Assembly. I also exercised leadership of significant strategic initiatives such as Tackling Paramilitarism, the Independent Reporting Commission (IRC), review of the AGNI role, the High Street Task force, and Victims Payments. Thus, when I was called to give evidence to the NI Assembly Committee charged with oversight of TEO, I reported on issues of policy and strategy and Mark Browne would have dealt with budgetary matters.
31. As Head of the NICS I chaired the NICS Board (example at Exhibit JP/05 - INQ000391450) and weekly meetings with all the Departmental Permanent Secretaries (PSG) and had leadership responsibility for matters such as the NICS LGBTQ and Diversity Network, regular liaison with the main trades' union, NIPSA and Senior Civil Service recruitment and promotion exercises.
32. In practical terms the remit of the role made very significant demands and placed competing pressures on me – for most of my tenure the role demanded 10+ hours/day, 7

days/week working. However, the fact of everyone working from home for most of my time and conducting almost all meetings by Zoom, coupled with the absence of travel time between appointments, representative work (such as attendance at business sector dinners, Whitehall meetings in person) or overseas travel, made this possible and sustainable in the medium term. However, exercising these wide-ranging responsibilities given the demands of the pandemic was very challenging and would in my view have been almost impossible if I had also had responsibility for Future Relations/EU Exit matters, given the demands of that agenda.

## **Structures**

33. The TEO Module 1 and Module 2C Corporate statements provide a comprehensive description of the central systems, processes, and structures in place for responding to the pandemic in December 2020 and accords with my recollection of what was in place when I took up post as interim HOCS in December 2020. My sense is that by then the NI Executive had already begun to decouple its approach from what had previously been a closer alignment with systems in place elsewhere in the UK during earlier phases of the pandemic.
34. In practice, in addition to the work of the Executive Committee, all 9 government Departments had a role in responding to the pandemic in terms of policy development and implementation but DoH and TEO played the lead roles in directly ensuring that the Executive Committee was provided with data and advice on which to make decisions about the pandemic. Of the other Departments, TEO, DfE, DoF and DfC were the most involved in direct policy and operational responses, not least through the development and delivery of sectoral grant support schemes. As a result, there was a role for both the Permanent Secretaries Group (PSG) and the NICS Board in monitoring the individual and collective impact on Departments and the NICS as a whole.
35. The cross Departmental NI Hub delivered support through the Civil Contingencies Group (CCG) led by the Head of the Northern Ireland Civil Service. During earlier stages of the pandemic, it operated as the focal point for Northern Ireland's emergency response, facilitating engagement and shared situational awareness with the UK Government, Devolved Administrations, Ireland, NICS Departments, and partner agencies.
36. Following a request from Ministers written briefing was provided on 23 September from Andy Cole then Director of Civil Contingencies to First Minister and deputy First Minister on activation of the NI Hub in the context of rising COVID-19 cases as Exhibited at Exhibit



JP/06 - INQ000391461 On 18 October submission to First Minister and deputy First Minister advised that NICCMA and CCG would be activated INQ000289778.

37. In practice this entailed a weekly meeting of the CCG at official level, (an example of a CCG meeting note is provided at INQ000291364), chaired by a Senior Civil Servant (including Derek Baker, Karen Pearson and Andy Cole) in the absence of a HOCS and the production of a weekly SitRep from 27 October 2020 onwards. The weekly SitRep (Exhibit JP/07 - INQ000391424) was shared around all departments and responding bodies and was briefed to the First and deputy First Minister's offices. The re-establishment of the NI Hub was invoked in October 2020 due to concerns from DoH around the doubling rate of infection, availability of ICU beds and overall hospital admissions.
38. As the winter of 2020 progressed, the weekly meeting of CCG and the SitRep considered the broader concurrency of other non-COVID potential impacts on NI society over the winter of 2020-2021, those being potential disruption at the end of the EU transition period and winter events under the UK-wide C3 D20 arrangements.
39. The wider consideration of non-COVID matters across NI by CCG paved the way for the establishment of the Executive Covid Taskforce (INQ000048501, INQ000212987 and INQ000148174) after my appointment as interim HOCS in December 2020. The NI Hub arrangements were subsequently ended in February 2021.
40. Within DoH, I am aware that the Chief Medical Officer (CMO) and DoH Chief Scientific Adviser (CSA) accessed a number of sources of information to inform the advice provided to the Executive, including vaccine programme progress, testing regime information and the daily Covid dashboard, all provided by the Department of Health. During my tenure, the information used by the Executive to inform decisions was all NI-specific, including data from the five NI Health and Social Care Trusts.
41. In summary, during the autumn of 2020, the Executive had been meeting remotely at least every Tuesday to consider issues related to Covid-19 but also EU Exit matters. The UK Cabinet Office was also convening a remote meeting of all UK-wide departmental Permanent Secretaries every Wednesday to share progress at official level. The focus of the Executive's response to the pandemic during 2020 was on the public health response. However, given the extent and scale of the restrictions and the pressure on the NI health service, the need for a broader plan for 2021 was recognised by Ministers to outline the

Executive's overall approach to managing the pandemic and which would include how restrictions would be implemented and reviewed through 2021.

42. Prior to my arrival, separate "sessions" of the Executive Committee were generally held consecutively on the same day, usually Tuesdays. I immediately sought to establish a clear separation of Executive Committee meetings to focus on Covid matters and those where EU Exit issues would be discussed – the latter were held on Tuesdays and the Covid meetings tended to be on Thursdays. This separation helped to compartmentalise consideration of the politically more difficult Brexit agenda and allowed Ministers and officials to focus more clearly on dealing with the pandemic.
43. In reality however, most Executive Committee meetings during my time included consideration not only of papers relating to the Covid-19 response, but also more normal cross-Departmental matters such as the Budget and the legislative programme, initiatives like the response to the Grenfell Tower disaster and consideration of difficult "legacy issues", such as the introduction of abortion services and support for victims of violence. So, while during December 2020 and January/February 2021, the majority of Thursday Executive Committee meetings focused solely on the pandemic response, as 2021 progressed more papers on this "business as usual" activity came forward for Executive consideration.
44. The overall process for Executive consideration of such non-COVID issues and subsequent decision-making was via Executive papers circulated in advance of Executive Committee meetings at which decisions were taken on any recommendations. Any matters which Departmental Ministers wished to table for discussion had to be agreed by both First and deputy First Minister as joint chairs of the Committee before being included on the agenda for any Executive Committee meeting. Securing agreement on the agenda often involved a degree of political negotiation or "brokerage" between First and deputy First Minister to which neither I nor any officials were party. This political dialogue was a consequence of the joint DUP-Sinn Féin authority within the Executive and was aimed at trying to ensure a balanced consideration of issues which had a party-political dimension within the mandatory coalition government. In practice, however, this joint authority mechanism often impacted on the timely circulation of Committee agendas and related non-COVID papers to all members of the Executive. This in turn caused frequent delays and changes to the planned starting time of Committee meetings and engendered frustration and at times suspicion amongst Ministers who were not from the two main parties – the DUP and Sinn Féin. Examples of such papers included those relating to the

Irish Language Act or to Abortion Services where there were political differences of opinion on the timing and or content of proposals.

45. In relation to Covid-19 matters, the primary sources of information to the Executive regarding the state of the pandemic at that time were provided by the Department of Health by means of Executive papers setting out transmission rates, daily cases, patient numbers, deaths etc. These papers included the Covid-19 Update Report (example at Exhibit JP/08 - INQ000391425), the Weekly R paper (example at Exhibit JP/09 - INQ000391426) and Mobility reports (example at Exhibit JP/10 - INQ000391428). Both the CMO and Chief Scientific Advisor (CSA) supported the Executive with additional verbal briefings particularly in relation to the vaccination and testing regimes and they clearly had access to other sources of information from the NI Public Health Agency, SAGE, and WHO. The Attorney General (AGNI) would also attend Executive meetings on occasions to offer a legal view on key issues.
46. After the establishment of the Executive Covid Taskforce (ECT), Ministers also received a weekly ECT dashboard which built on the raw data reports being provided by the DoH with additional metrics and analysis (example provided at INQ000190746).
47. Each Departmental Minister would in addition be being provided with advice and briefing on the impact of the pandemic on individual Departmental remits, particularly as it related to the economy and services such as social security benefits.
48. When I took up post in December 2020, I was aware of a number of reviews of civil contingencies arrangements, including that conducted by EY in June 2020, which had considered early experience of responding to the pandemic and made recommendations on improvements. It is my understanding that these recommendations were implemented in terms of the NI Hub arrangements including the establishment of weekly CCG (O) meetings and separate CCG (M) briefings and were considered to have had a positive impact on the timeliness and flexibility of response.
49. In addition, TEO had convened three cross Departmental workshops to consider lessons learned and strategies from other jurisdictions to ensure that the NI arrangements were aligned to GB policy and best practice. This concluded that more granular, joined up and interlinked decisions about principles, actions and impacts needed to be made alongside simpler communications to the public. A broader range of information was needed on which to base recommendations to Ministers – health, community, and economic trends. In addition, a gradual approach to lifting restrictions was needed, based on a more flexible

risk-based approach not tied to specific dates but driven by prevailing conditions. This formed the basis of the ECT approach and the Pathway out of Restrictions document (INQ000104467).

50. Part 4 of the TEO Module 2C Corporate Statement refers to key lessons learned from responding to the pandemic in NI.
51. A paper detailing the strategic reset of civil contingency arrangements was presented to the NICS Board in March 2021 (Exhibit JP/11 - INQ000391429) reflecting on lessons learned from responding not only to the Covid pandemic but also to EU Exit No Deal planning and following extensive engagement across all the NI Departments, Local Government, the joint emergency services, and other key stakeholders.
52. In July 2020 the NICS Board considered a further paper on NI Civil Contingencies Framework Exhibit JP/12 - INQ000391430 seeking the board's approval to adopt the framework across the NICS.
53. On 3 August 2021 Exhibit JP/13 - INQ000391431 Andy Cole advised me that all members of the NICS Board had agreed to the new framework.
54. One of my last official duties as interim HOCS was to launch the new NI Civil Contingencies Framework in August 2021 (INQ000274305) which set out a structured Prepare-Respond Recover approach for all in the resilience community.

#### **The situation in December 2020**

55. Prior to my taking up the interim HOCS post on 3 December, my view of the pandemic at that stage was that while the situation had improved sufficiently during the early Autumn to allow the relaxation of many restrictions. It seemed inevitable that NI would follow the pattern already evident in England of rising numbers of Covid cases – the second wave – and would need to reintroduce restrictions and limit movement and mixing of people as we approached Christmas. The growing pressure on the NHS from “normal” winter health issues combined with Covid cases was being widely discussed in the media. I was also aware of the public sense of anxiety that any hope of a “normal” Christmas was in jeopardy and that there were widespread fears about the need for a second lockdown.
56. I am aware, but only through sight of papers provided as part of my Rule 9 request to provide evidence to the Covid Inquiry, that at a CDL meeting (attended by First Minister, deputy First Minister, Scotland First Minister, Wales First Minister, Secretary of State for

NI and Michael Gove as Chancellor of the Duchy of Lancaster) on 9 November 2020 (INQ000091435) there was some discussion of my appointment and my consideration of “contingencies for rapid spread alongside winter pressures on the NHS.”

57. I was not party to this discussion and so do not know what was meant by considering “contingencies” so can only assume that it may have been a reference to setting up the NI Executive Covid Taskforce. First Minister and deputy First Minister made it clear to me that this was my first priority on taking up the interim HOCS role.
58. My main challenges in my first week in post were to get up to speed with the structures, processes and people who were leading the response to the pandemic. While I had an awareness of some of this, and knew many of the key senior civil servants, I had been out of the NICS for over 7 years and needed to quickly re-establish contacts and re-familiarise myself with the machinery of government, particularly the workings of the Executive. This was not easy given that everyone was still working remotely with limited attendance in socially distanced settings within government offices. In practice the only way to do this was by total immersion – I did not have the luxury of time to read my way into the role or spend time meeting people (albeit online) or observing meetings. I relied heavily on the team within TEO to ensure I saw the necessary Executive papers and give me additional verbal briefings, as necessary. The fact that I had worked in the NICS for 28 years and knew the system and had experience of leading a complex organisation (the NI Authority for Utility Regulation) that was governed by statute, reported to a board and was ultimately accountable to the NI Assembly, helped me to establish myself relatively quickly.
59. In terms of the actual status of the pandemic in December 2020, according to the DoH papers provided for the 3 December Executive meeting (my first such meeting) the general situation was as summarised below (Exhibit JP/14 - INQ000391453, and Exhibit JP/15 - INQ000391455).
60. Over the previous week DoH noted that overall, the number of cases had reduced, including in the over 60s with a decline in admissions and ICU occupancy. Hospital inpatients numbers had fallen more slowly than admissions and remained at a relatively high level. In-hospital deaths had declined somewhat from peak levels seen in October. Overall NI continued to have a lower incidence than England and Wales, though all indicators in NI remained high compared with ROI.

61. The Executive had previously determined that its policy was to keep Rt at or below 1.0. The Rt value means the effective reproduction number of Covid-19. An Rt of less than 1.0 means the infection is not spreading. An Rt value above 1.0 means the virus is spreading.
62. At 1 December the Rt was below 1 for hospital admissions but had risen for cases over the past few days and was now around 1. DoH officials commented that this was likely to reflect behaviours and interactions in the previous week while cafes and close contact services were open.
63. The key numbers, which were published by the DoH in the form of a Dashboard (example provided at Exhibit JP/16 - INQ000391456) on a daily basis were also provided to the Executive Committee. The Dashboards had been produced by DoH since the 5 May 2020 and were used to provide briefing for Ministers and Senior Civil Servants. The key numbers provided to the Executive Committee were as follows: -
- Current estimate of Rt (new positive tests): 0.9 – 1.1 (around 1)
  - Current estimate of Rt (hospital admissions): 0.7 – 0.9 (below 1)
  - Current estimate of Rt (ICU patients): 0.8 – 1.1 (around 1)
  - Average number of new positive tests per day last 7 days: 358 (down from 462)
  - Number of new positive tests in over 60s in last 7 days – 660 (down from 816)
  - Proportion total positive tests occurring in over 60s - 26.5% (unchanged from 26.7%)
  - First COVID +ve hospital admission in last week – 151 (down from 193)
  - COVID +ve ICU patients – 38 (unchanged from 37)
64. The DoH paper including the R paper noted that:

“Given the current restrictions, we anticipate that numbers will decline slightly or remain stable until shortly before Christmas when they will begin to rise again. The rate of increase will depend on how much Rt increases following the 11th December. If Rt can be maintained at 1.6 or below, then intervention would not be required until the end of

December / beginning January. However, if  $R_t$  were to rise as high as 1.8 then intervention would be required a few days earlier than this.”

65. First Minister had indicated at a CDL meeting on 9 November a general hope that restrictions could be eased during December to help the hospitality and non-essential retail sectors.
66. The 3 December Executive Committee considered a TEO paper (INQ000065642) and proposals for restriction changes from 11 December.
67. The CMO/CSA advice within this paper noted that to have a reasonable chance of achieving the Executive’s objective of keeping  $R_t$  at or below 1, it would be necessary to keep the hospitality sector and close contact services (or non-essential retail) shut if other sectors were to open. Any reduction in restrictions beyond this was highly likely to lead to  $R_t$  rising to above 1.
68. They added that recent modelling suggested that after 11 December,  $R_t$  would need to stay below 1.6, and preferably below 1.4, in order to ensure that no further restrictions were required before the end of December. If  $R_t$  were to rise as high as 1.8 then additional restrictions would be required around Christmas.
69. The overall advice was that:
70. “In light of the above observations, if the primary objective of the Executive is to suppress the epidemic by maintaining  $R_t$  at less than 1, no relaxations should be permitted after 11 December and the current restrictions should be extended. If Executive is minded to allow  $R_t$  to rise for economic and societal reasons, then the restrictions in place before 15 October would be associated with  $R_t$  of 1.4 -1.6 if behaviours were similar to those at that time. In practice, we believe that interactions are likely to increase in the run up to Christmas. Therefore, as a minimum we recommend that wet pubs should remain closed, as has been decided for higher incidence areas across the UK and in ROI and in many parts of Europe.”
71. In terms of the hospitality and non-essential retail sectors the Executive agreed with the minimum recommendation from CMO and CSA but made a number of amendments to the TEO proposals outlined in Annex A relating to non-essential businesses and a number of hospitality providers including hotels and guesthouses, pubs and private members clubs, restaurants, and cafes. As noted in the Executive Minutes from 3 December 2020 (INQ000048501).

72. Arrangements for Christmas were also discussed at the 3 December meeting based on an options paper from TEO which included CMO/CSA advice.
73. That paper set out existing household bubble arrangements in NI and noted that UKG had taken a decision and announced that up to 3 households may form a Christmas bubble over the period 23 to 27 December. It updated Ministers on the evolving position in the other DA's and Ireland viz:
- England: Their current support bubbles are for two households, where one household is a single occupancy. They plan to allow bubbles to count as one household (i.e., meaning that there could be up to 6 houses within their Christmas bubble);
  - Scotland: Likely to allow a Christmas bubble of 3 households, where one household can bring their existing support bubble with them and still considering an upper number limit of 8 people who could meet indoors at any one time from within the Christmas bubble (i.e., up to 4 houses involved with a number limit);
  - Wales: Likely to be a 3-household model where one household can bring their bubble into the Christmas arrangements (i.e., up to 4 houses involved);
  - Ireland: Announced arrangements for December which start with a longer timeframe over which people can meet in domestic settings, between 18 December and 2 January. There will be a 3-household model.
74. The Executive accepted the CMO/CSA recommendation for one bubble and 2 other households, i.e., 3 households may form a Christmas bubble, and one may bring their bubble household with them. This resulted in bubbles of up to 4 households. The NI-specific communications approach to Christmas arrangements was also considered as part of this discussion.
75. I cannot speak authoritatively about any debate prior to my arrival in post as to why the NI Executive did not sign up to the UKG statement but it seems likely that there was a concern about considerable public confusion given the different existing (i.e., pre-Christmas) support bubble arrangements in England from those already in place in NI. In addition, given the multi-party nature of the Executive, and its devolved status, its preference was to make its own decisions and to demonstrate that it was working in the best interests of NI, rather than simply following the England-centric approach of UKG.



76. The Executive Committee meeting on 17 December 2020 (INQ000048504) considered a paper from DoH (INQ000065641) which included rising Rt estimates for hospital admissions and new cases (both over Rt 1) coupled with rising 7 and 14 day incidence and a small increase in positive tests. The paper anticipated case numbers continuing to rise in the run-up to Christmas and modelled Rt numbers between 1.4 and 1.8 within the next 2 weeks (CMO and CMA had previously warned that Rt would need to stay below 1.6, and preferably below 1.4, in order to ensure that no further restrictions were required before the end of December). It also set out in some detail the current position in the health and social care sector and the extent of concerns about sustained rising pressures.
77. Options to respond to this pattern or increased transmission were set out and a package of restrictions proposed to prevent the hospital system becoming overwhelmed and to reverse the upward trend.
78. The Health Minister recommended a number of additional restrictions from 26 December 2020 to be in place for 6 weeks but with a review after 4 weeks (INQ000065641). These included closure of all but non-essential retail, hospitality, and close contact services. He noted that the arguments for their introduction with effect from 19 December rather than 26 December 2020 were, in the professional judgement of CMO and CSA, finely balanced.
79. In addition, due to concerns about increased social mixing over the Christmas and New Year period (particularly house parties and traditional Boxing Day sporting gatherings) leading to a very high risk of increased transmission rates, he recommended a week of more stringent restrictions (curfew type arrangements but not enshrined via regulations, in law) between 26 December 2020 and 2 January 2021.
80. I believe that the Executive accepted the recommendations based on CMO and CSA advice given the seriousness of the potential impact on the health sector, hospitals in particular and the dangers of even more rapid increases in transmission rates.
81. Having announced the Christmas bubbling arrangements and a range of relaxations after the 3 December 2020 meeting, it seems to me that there was a concern amongst Ministers about the impact on public morale (noting the negative impact on mental health and overall wellbeing that isolation was known to cause) and that in addition to further detrimental impacts on the hospitality and non-essential retail sectors, it would simply be impossible to enforce re-introduction of restrictions on 18 December 2020 and maintain adherence. Adherence to the Covid restrictions required public understanding, consent,

and co-operation. Breaches of regulations were enforceable only by means of PSNI Fixed Penalty Notices and if necessary, by summary prosecution thereafter.

82. It is noteworthy that in an ECT paper on enforcement and adherence that I put to the 22 December 2020 Executive meeting (INQ000208790) setting out the arrangements including additional communications activity, for the post 26 December period, feedback from PSNI was included. PSNI said that while they would enforce whatever law was agreed, enforcing the curfew arrangements as regulations would in the words of the then Chief Constable, “involve policing intervening in the private lives of citizens to an unparalleled extent” and could have a detrimental long-term impact on how policing would be viewed by the public. Ministers undoubtedly weighed these sorts of considerations in light of NI’s history of civil unrest.
83. An Executive meeting was then called on Sunday 20 December 2020 at the request of the Health Minister (INQ000022460) to consider the fast-developing situation with a new variant of the Covid virus which was already demonstrating that it was more easily transmitted than the main variant already in circulation. Ministers accepted that this shifted the balance of risk, accepted CMO and CSA advice in relation to restrictions and so amended the 3 December Christmas bubbling arrangements to reduce the permitted period from 5 days to 1 day with flexibility on which day between 23 and 27 December 2020 people could come together to accommodate those working on Christmas Day. The aim was to halt the rising Rt rate and see it start to come down closer to 1 again.
84. Ministers also began consideration of travel restrictions including a possible travel ban between GB to NI and from Ireland to NI. Other nations had also begun to consider travel bans in light of the higher transmission rate of the new variant, such was the level of concern.
85. In commenting on the impact of the approach adopted over Christmas 2020 I do not have any clinical understanding or expertise to make a full assessment of its success or otherwise. However, looking at the DoH numbers provided to the Executive there is no question that during the first week of January 2021 (INQ000065633) all key indicators had risen – and some such as the Rt numbers, new positive tests, and hospital admissions – significantly so. Health officials commented at the time that this reflected pre-Christmas relaxation and mixing but that some downward pressure could be expected for the following week.

86. The R paper to the Executive on 12 January 2021 (Exhibit JP/17 - INQ000391432) then noted that the number of cases had decreased reflecting the impact of the restrictions in place since 26 December although hospital admissions and bed occupancy had not yet begun to fall. The following week's R report (19 January) (Exhibit JP/18 - INQ000391434) reported R rates back below 1 (in the range 0.65-0.85) with daily hospital admissions having just begun to fall. Bed occupancy was considered to have peaked.
87. These latter two reports drew a direct link between falling Rt rates (new positive tests) and the 26 December restrictions, suggesting that the Executive's decisions to tighten restrictions in the immediate post-Christmas period had impacted positively on limiting the spread of the virus.

### **The Executive Covid Taskforce (ECT)**

88. I understand that following an Executive planning day on 22 July 2020, a cross Departmental group of officials, (the Recovery Working Group), chaired by Karen Pearson, a senior official in TEO, was established in summer 2020 to coordinate discussions on the removal of restrictions in line with the Executives agreed Covid Strategy and Plan and principles of decision making viz;
- Controlling transmission;
  - Protecting healthcare capacity;
  - Necessity;
  - Proportionality; and
  - Reliance on Evidence.
89. The resulted in the Executive's recovery framework being published in September 2020 – "Moving from Response to Recovery – a framework for effective cross departmental collaboration." (Exhibit JP/19 - INQ000391435). This identified 5 workstreams and the lead Departments responsible for identifying issues, providing data, and progressing actions: –
- Health and Wellbeing
  - Inclusive Economic Recovery

- Public Services
- Skills Development and
- Sustainable Natural and Built Environment

90. A Covid Strategy and Recovery Division (CSRD) was then established in TEO to lead on the coordination and delivery of the Executives strategy response to recovery. The intention was that the HOCS would then assume responsibility for chairing the Recovery Working Group and reporting back to the Executive on a monthly basis, however by this stage David Sterling had retired and no successor had been appointed.
91. My appointment as interim HOCS was announced publicly on 27 November 2020 (**INQ000214875**). On 26 November 2020 First Minister and deputy First Minister informed Executive colleagues and proposed the establishment of a Taskforce under my leadership to enable a clearer and more collective Executive position on strategic and practical pandemic response matters to be developed and publicised. While NI was facing a second wave of the pandemic (which had already manifested itself elsewhere in the UK), there was a recognition that we were moving from what Simon Case, the UKG Cabinet Secretary has described as an “acute crisis into a new chronic paradigm for all of government.” Thus, the ECT recognised the critical ongoing role of the DoH but asserted the TEO responsibility for civil contingency matters as the underpinning rationale for an enhanced partnership approach driven by the centre and looking ahead more strategically to what recovery from the pandemic might look like.
92. I met with First Minister and deputy First Minister on my first day as interim HOCS on 1 December 2020 on to discuss their thinking around the establishment of an Executive Covid Taskforce (**Exhibit JP/01 - INQ000391436**). They expressed concerns about the ability of CSRD to lead and drive a joined-up approach to the pandemic in the absence of a HOCS. Particular frustrations about the timeliness of advice from DoH to the Executive and an apparent lack of willingness to share data with both of them in particular were evident. While accepting the primacy of health issues, they and several Ministerial colleagues felt that insufficient consideration was being given to wider societal factors including implications for the business community.
93. It was clear to me at the outset that the structure of the Executive Departments with individual Ministerial control and Permanent Secretaries fully accountable to their

Ministers (and in turn the Public Accounts Committee of the NI Assembly), encouraged silo-based thinking and working, despite the cross-cutting nature of the pandemic.

94. Each Minister guarded their own policy responsibilities and any data and evidence relating to their Departments carefully. This was particularly the case in DoH where the Minister and his officials wanted time for analysis before sharing material more widely with Ministers on the basis of a “follow the science” approach which I understand was in place before I was appointed. The Health Minister and his officials, including the CMO and CSO, were closest to the scientific work being done and the data being gathered across the UK and in Ireland. Other Executive Ministers looked to him and his team to explain the scientific thinking as the starting point for Executive decision making. So, while information and policy thinking in individual Departments could be, and indeed was, shared with Executive colleagues in the form of papers for Executive consideration, it left First Minister and deputy First Minister having to wait for these papers before they could assess the overall position and they felt blind-sided or on the back foot at times in the face of media and other public requests for information. Their desire was to present a united Executive position that considered wider social and economic issues rather than just a DOH assessment or proposal - and the absence of a HOCS undoubtedly exacerbated the silo mentality.
95. It seemed to me, therefore, that a higher profile mechanism was needed to minimise gaps as well as duplication of effort across the 9 Departments and offer better alignment of delivery and coordination of strategic interventions with Ministerial and Departmental responsibilities under the aegis of HOCS authority and accountability to First Minister and deputy First Minister.
96. The overall intention of the ECT, which I was tasked with developing and chairing, was to provide a high-level umbrella structure for coordinating the programme of activities involved in managing the response to and recovery from the pandemic. This was achieved by improving NICS leadership and establishing greater mission clarity, providing the Executive with a coherent and comprehensive response to the delivery of its interventions that would offer a more complete picture of how the pandemic was being managed and thus enable improved delivery of services and better communication with the NI public.
97. The draft Terms of Reference (ToR) for the Executive Covid Taskforce (ECT) was submitted to the Executive on 3 December 2020 (Exhibit JP/20 - INQ000391437).

98. I am not aware of the precise extent to which the ECT was modelled on the UKG Covid Taskforce which had been established over the course of summer 2020 as I have not seen the latter's terms of reference.
99. What I do know is that TEO officials sought throughout the pandemic to align, broadly, the development of the various Executive Committee response plans with those published by UKG for England in terms of timing and overall content – but tailored to NI circumstances.
100. In the same vein, the ECT's broad purpose (similar to that of the UKG Taskforce) was to serve as a unit at the centre of the NI government which coordinated analysis and strategy with all the NI Departments so as to lead and drive more joined-up delivery.
101. I cannot comment on the workings of the arrangements that predated my appointment but there were clearly some reservations in the Executive about creating another structure which might involve additional reporting and governance requirements within already stretched Senior Civil Service teams.
102. The Minister for Health could see some value in an enhanced TEO role in certain areas such as compliance with Covid regulations and public communications but considered that the interim HOCS would have other issues on which to focus, particularly around EU Exit (lead responsibility for Brexit matters lay with Andrew McCormick, however, so freeing me up to focus on Covid matters as well as oversight of other aspects of the TEO portfolio and the leadership of the NICS). Minister Swann may have felt that the ECT being driven by TEO and led by HOCS was too close to First Minister and deputy First Minister and could have threatened his lead role as Minister of Health.
103. The DfE Minister welcomed the formation of the ECT but had concerns about duplication of effort and stressed the need for it to build on existing arrangements and complement Departmental efforts. Again, she may have felt that it could have undermined the primacy of her role as Economy Minister.
104. I saw these concerns as reflective of Ministers' desire to retain accountability and control of their own Department's activity. I noted that the Economy Minister referred to the "TEO Recovery Framework" which was in fact intended to be the Executive's Recovery Framework and the Health Minister identified discrete areas where he felt TEO as a Department should lead but I was aware that he was concerned about any dilution of his Department's role. Their concerns suggested that not all Ministers had fully bought in to

the need for a strong collective effort led by TEO not just accountable to First Minister and deputy First Minister but on behalf of the entire Executive. However, as the newly appointed interim HOCS, I could see the urgent need to factor in not just DOH considerations but also the priorities and policies of all Departments and the impact on their various “customer” groups across NI and knew this had to be at the forefront of the rationale and modus operandi of the ECT so as to reflect the needs of and impact on NI citizens as a whole.

105. On 17 December 2020, I convened a group of senior officials from TEO along with the Permanent Secretaries of the key Departments (DoH, DfE, DfC and DoJ) initially as an oversight group to develop the TOR, ways of working and governance arrangements for the ECT (**Exhibit JP/21 - INQ000391438**).

106. We agreed on 4 cross cutting workstreams: -

- Adherence – mainly looking at behavioral insights relating to compliance and led by DoJ.
- Protect – a focus on support for mass testing, vaccination and residual restrictions led by DoH .
- Recovery – coordination of economic and wider societal recovery issues and alignment with the Executive PfG, led by DfE and DfC.
- Strategic Communications – aligning communication within and across the NICS to ensure greater clarity and consistency of often complex messaging about restrictions and guidance, led by the Executive Information Service (EIS).

107. It was also agreed that the Taskforce should oversee the TEO-led Cross Departmental Working Group (CDWG) involving officials at Grades 3 and 5 and that a key focus for the CDWG should be to consider the impact of any Executive proposals for relaxation of restrictions in a joined up context (i.e., not simply through the public health lens) and to update on other cross-cutting Covid related issues, including stakeholder engagement and the position in other jurisdictions.

108. It was further agreed that the CDWG should continue to meet weekly, and that the Taskforce should meet fortnightly and report formally on a monthly basis to the Executive. Workstream leads would remain accountable to their Ministers for overall delivery governance and accountability of all their activities. The potential need for external

support was acknowledged and existing expertise from SIB and EY was also available. Ministers agreed to the ToR and forward work programme of the ECT on 11 February 2021, (INQ000048515) although in practice officials had been working on the 4 workstreams since early January 2021.

109. I believe that the Taskforce did improve the practical coordination and alignment of the Executive's response to the pandemic. It helped to pull together work already underway across the NI Departments and their agencies in addition to the health and scientific evidence to present a more holistic picture to the Executive of the impact of the pandemic, particularly as NPI restrictions were relaxed. One of its strengths was the fact that the four key Permanent Secretaries all attended – there was no scope given to send a deputy. I chaired the ECT fortnightly on 14 occasions during my time as interim HOCS and understand that it continued to meet until May 2022.
110. The four individual workstreams progressed consideration with Departmental stakeholders as well as external parties such as Local Government and PSNI, as necessary. The TEO Corporate Statement outlines some examples of the specific added utility these workstreams provided.
111. The Taskforce became the driving force behind the publication on 2 March 2021 of the Executive's "Moving Forward - Pathway Out of Restrictions" document. The structured approach outlined in the Pathway document established greater clarity and discipline around Executive decision making around easements in NPI restrictions.
112. The ECT set up a 4-weekly rhythm for Executive review and consideration of NPI restrictions which was informed not only by the existing DoH data sources but also information from the other Departments, which was presented to the Executive meetings in the form of a briefing paper and an ECT Dashboard that provided health, economic and societal data in a single format. The use of system-wide evidence enabled monitoring of health, economic and community trends and allowed for potential relaxation proposals to be viewed and considered in a joined-up way. Given that the Executive met remotely via Zoom for the entirety of my tenure, it was important that all members had access to a core suite of information in advance of Executive Committee meetings where decisions regarding changes to the Covid restrictions were being proposed.
113. I would note here that feedback from CCG confirmed that local government and PSNI used the ECT Dashboard in their respective organisations to supplement their own



internal briefings and help ensure there was broader understanding of not just health impacts but also wider trends.

114. Under the ECT's oversight, the CDWG agreed Departmental proposals for possible relaxations including consideration of possible consequences across the various sectors in NI ahead of the Executive review so that Ministers had reassurance on cross cutting implications as well as the public health position. I provided a verbal update at Executive meetings on key areas of progress by the Taskforce and took responsibility for any further actions identified by the Executive during meetings, such as inclusion of the work of the DfC-led High Street Taskforce. This helped build Ministerial confidence that HOCS was leading the work across the NICS in support of the Executive as a whole. It was also a tangible demonstration to officials in all Departments that the need for collective working was being driven from the top – something that had not been evident in the months prior to my arrival.

115. I believe that the ECT enabled and improved the Executive response to the pandemic not least by facilitating cross-cutting Ministerial dialogue, enabling checks and balances of possible actions to be considered and weighed, including broader discussion of possible mitigations to the impact of gradually relaxing certain restrictions. The Taskforce facilitated a structured, integrated means whereby the Executive was able to identify and indicate publicly likely timescales for the lifting of certain NPI restrictions which could then be ratified - if the public health data allowed. This provided sectors, especially the business community, with a better sense of when to expect changes in the regulations (enforceable) and guidance (advisory only). The ECT also facilitated regular and more joined up public statements on behalf of the Executive by First Minister and deputy First Minister following Executive meetings, rather than the sometimes-ad hoc approach which had gone before where individual Ministers frequently made their own press statements.

116. The main limitation to its effectiveness was, in my view, the reluctance/inability of DoH officials to share emerging health data until it had been discussed with their Minister. The DOH Permanent Secretary indicated, for example, that while his Minister saw the value of the ECT in providing a forum for consideration of issues in sectors other than health and social care, he wanted to manage expectations about what was possible and was anxious about First Minister and deputy First Minister “going for soundbites” if they had access to health data before it was socialised within DoH. This restricted the ability of the ECT to develop thinking around communications and likely options for easing restrictions until after such information had been provided to the Executive Committee. Other

Ministers then started to table Departmental papers with their own proposals at the eleventh hour. This, in turn, frequently led to the planned start of Executive meetings being pushed back to allow time for Ministers and officials to read and digest last-minute briefings and recommendations. Departmental Ministers found this frustrating and inefficient.

117. Ahead of my successor taking up post, I wrote to Executive Ministers reviewing the processes and protocols for Executive papers in an attempt to reinstitute some discipline into the circulation of papers (**Exhibit JP/22 - INQ000391439** and **Exhibit JP/23 - INQ000391440**).

### **Plans for Recovery – Pathway out of Restrictions**

118. The Executive's view was that lifting Covid restrictions was the essential first step towards recovery from the pandemic.

119. The risk-based approach to recovery outlined in "Moving Forward" (INQ000104467) was one which offered a more structured and balanced process than had been operating prior to the establishment of the ECT, with enhanced socio-economic evidence and indicators sitting alongside the public health data in order to inform Executive decision making about the scope, timing, and likely impact of lifting Covid restrictions.

120. It facilitated improved consideration of economic and societal/community interdependencies in addition to health implications and established a more transparent process led by TEO that still allowed for individual Departmental policy initiatives to be progressed in tandem.

121. It also set out the 4 overarching principles that guided the Executives decision making:

- Evidence-based
- Necessary
- Proportionate
- Sustainable

alongside 9 Pathways, each with 5 phases through which the Executive planned to reduce and remove the suite of restrictions: -

- Home and Community
- Education and Young People

- Culture, Heritage, and Entertainment
- Sport and Leisure activities
- Worship and Ceremonies
- Travel and Tourism
- Work
- Retail and Services
- Hospitality.

122. In the published document, the 5 phases – Lockdown Restrictions, Cautious First Steps, Gradual Easing, Further Easing, Preparing for the Future – all had indicators of changes that might be expected at each stage and examples of what the lifting of restrictions timetable might mean for citizens.

123. Given the pace of the pandemic and the need to make steady and demonstrable progress with the easing of restrictions it was not possible to conduct an equality screening of “Moving Forward” and the likely policy changes as we might have wanted. For example, a full EQIA (equality impact assessment) would have required a 12-week public consultation exercise and even a shortened version could not have been conducted in less than 8 weeks).

124. The Executive Committee did recognise that the pandemic had impacted disproportionately on particular groups of people in the community and so undertook extensive stakeholder engagement at Ministerial (particularly via the Junior Ministers sectoral engagement work) and official level via members of the ECT, including with the faiths group and representatives from the third sector. This engagement had begun prior to my appointment and continued throughout my tenure. Indeed, it helped inform the “Moving Forward” strategy. The Committee also relied heavily on intelligence and evidence from individual Departments, particularly DfC and DE, in relation to likely impacts on different sectoral and community groups. Feedback from organisations such as the NI Council for Voluntary Action (NICVA) was positive, noting that one of the benefits of remote working was that Zoom had made getting both access to senior civil servants and convening cross sectoral meetings quickly, very much easier.

125. Such evidence informed the ECT work and was included for Ministers' consideration in the ECT Dashboard reports to the Executive. On reflection, however, it seems to me that it was those in the business community who "shouted loudest" and most often, particularly in the media, received Ministers' attention. This included those in the tourism and hospitality sectors who became very vocal once restrictions began to be lifted during 2021.
126. Over most of the period of my tenure as interim HOCS I consider that the framework outlined in "Moving Forward" was generally adhered to and that the 4-weekly monitor-assess-propose rhythm worked well for officials trying to co-ordinate activities and for Ministers seeking to develop Departmental policies and strategies. However, as the overall strain of the prolonged pandemic on the public, Ministers, and civil servants, coupled with growing understanding of the impacts of the first lockdown in particular as well as second wave in Winter 2020/21 progressed, the debate about responses became ever more complex, decisions more difficult and choices increasingly politicised. This was not unique to NI.
127. Almost inevitably, as 2021 progressed, however, with the success of the vaccination programme, falling R rates and progressive easing of restrictions, pressures emerged from sectoral groups, particularly those in the business community, to move more rapidly through the phases.
128. This was a challenge for the Executive as there were some Ministers who wanted to wait for evidence and health advice from CMO and CSA and stick to the 4 weekly review cycle and those who wanted to leapfrog through the phases for certain stakeholder groups. The latter tended to be from the same political party (the DUP) and their desire for more rapid progress coupled with greater public comment and speculation about rifts within the party, did expose wider political differences and tensions, not least those relating to EU Exit and the NI Protocol.

### **NICS Resourcing**

129. The 9 May 2023 statement from David Sterling to the Inquiry sets out some details around the workforce constraints that had been imposed on the NICS following the 2014 Stormont House Agreement (**Exhibit JP/24 - INQ000391441**). It is a fact that the NICS contracted by around 18% between 2014 and 2020 with numbers only starting to increase in late 2020 – in stark contrast to other parts of the UK. The absence of Ministers between January 2017 and January 2020 contributed significantly to this, as without Ministers to

set budgets and spending priorities, the NICS could not determine new spending patterns such as Increasing civil service numbers. This led to resource constraints across all Departments.

130. The political instability from 2013 onwards (and the absence of an Executive from 2017) also meant that there was no comprehensive legislative programme being progressed or implemented and so many policy makers in the NICS did not gain experience in developing legislative proposals and/or amending existing legislation that would have previously been a normal part of civil service activity.

131. In addition, I am aware that the Voluntary Exit (VE) schemes that had been put in place following the Stormont House, 2014 and Fresh Start agreements, 2015 resulted in the loss of a significant number of older more experienced civil servants many of whom did have legislative experience – the sort of experience that would have been valuable during the pandemic both as lockdown restrictions were imposed but more particularly as they began to be eased.

132. Overall, I consider that the NICS responded exceptionally well to the pandemic, continuing to deliver public services as well as introducing new services, such as the various grant support schemes, from scratch. Civil servants were subject to all the same issues and challenges as the rest of the population in terms of the risks of the disease itself to them and their families, the lockdown restrictions on all aspects of their lives and the impact on their work.

133. The NICS moved from almost 100% working in government offices to working from home within weeks of the start of the pandemic in the UK, mobilising new remote working arrangements that we are now fully accustomed to, such as use of Zoom and advanced telephony, to facilitate phone conferencing from peoples' homes. I was constantly struck throughout my tenure by the commitment, resilience, and professionalism of so many right across the NICS in adopting new working practices and in responding to Ministerial expectations and demands.

134. By December 2020, these remote working arrangements were well embedded in the NICS, however it would be wrong to imagine that the NICS was operating at full efficiency, particularly when it had been pared back so severely over the preceding years. In very practical terms, many civil servants simply did not have a suitable home working environment in terms of a room in which to set up a laptop and phone. For example, using

the kitchen table or bedroom dressing table, especially when children were at home due to schools being closed, was suboptimal on many levels.

135. Inevitably the burden of work fell disproportionately on a small number of civil servants, particularly those in the Senior Civil Service, who represented the more experienced decision makers with backgrounds in policy and finance. Many of my senior colleagues at the time were working very long hours and juggling competing demands – as I was, but they had been working under such pressures for much longer than me. Ministers were not only demanding information on the impact of the pandemic and briefing to aid them in making collective decisions about responses to Covid but, as Autumn 2020 progressed, were also expecting “normal” civil service activities to be carried out against Departmental objectives. This took up a huge amount of NICS resources.

136. For example, there was no letup in the volume of other “machinery of government” business such as NI Assembly business and committees, Ministerial invitation and correspondence cases, and Treat Official cases. Treat Official cases consist of letters or emails from members of the public or organisations that are replied to by officials rather than Ministers. Indeed, the number of queries in the form of Assembly Questions along with letters from MLAs asking about individual companies, care homes, benefit recipients, etc. increased exponentially. For example, during the period of December 2020 to August 2021, the Department received in excess of 190 AQs related to Covid-19.

137. It seemed to me that elected representatives made little or no concession to the fact that the NICS was being severely stretched to respond to the urgent and competing demands of the pandemic. I do think that such “normal” business should have been suspended during what was a time of national crisis but suspect that there was an unwillingness to do this given that the NI Executive had only been restored in January 2020.

138. There were very high levels of stress and I saw a number of colleagues on the brink of collapse at times, often in sheer frustration at what was being demanded of them. I felt that the expectations of Ministers and other elected representatives were at times unfair and unreasonable. Such was my level of concern at what I found on arrival in post in December 2020 that I wrote to First Minister and deputy First Minister on 22 December following a particularly fraught few days in the run up to Christmas (**Exhibit JP/25 - INQ000391442**).

139. While Executive Ministers did acknowledge the work of their officials on occasion, they were at times frustrated that the Civil Service could not simply upskill and redeploy officials

from across all 9 Departments to work on key aspects of the Covid response such as drafting/amending regulations and delivering grant schemes at pace. They expected that the HOCS could direct the use of civil servants across Departments despite the very clear arrangements which limit this.

140. In an attempt to flag some of the issues with Ministers collectively and seek agreement on prioritising Covid actions ahead of other Departmental issues, I wrote on behalf of the NICS Board to First Minister and deputy First Minister on 15 February 2021 (**Exhibit JP/26 - INQ000391443**). Ministers acknowledged the need to prioritise Covid-19 actions collectively. This helped inform budget considerations and prioritisation in advance of the workshop with Ministers in relation to recovery on 10 March 2021.

141. It was also my experience that Ministers and their Permanent Secretaries were very reluctant to share or transfer resources to other Departments, including TEO at the centre, because they needed to maintain delivery of existing services in their own Departments. Indeed, the demands of developing new programmes and services to respond to the pandemic were testing the skills base of many Departments. –The development and delivery of grant schemes, for example, requires knowledge and experience of how to manage and protect the use of public funding and Ministerial demands to get additional financial support out to groups on the ground without time for all the usual evidence gathering, consultation and business case scrutiny. This placed huge pressures on civil servants and especially on Permanent Secretaries who were accountable for the stewardship of public monies.

142. The pace of response needed in, for example, DoH meant that it was impossible to quickly move officials who had no background in that Department or familiarity with its legislation and indeed Permanent Secretaries did not want people without the knowledge and skillsets they needed or those who could “easily” be released from their parent Department (as that suggested they were perhaps not of the calibre needed to work long hours and under pressure).

143. Despite this, through the NICS Board, moves for a number of key staff were secured whose redeployment to areas of high demand from the Executive eased some of the pressure. A number of recently retired civil servants were brought back to provide further support in DoH in particular and my own team in TEO took on some areas of workload which ordinarily would have fallen to other Departments, most notably amendment of some health regulations such as on Managed Quarantine arrangements (**INQ000023207**) and development of the Travel Agents Support Scheme (**INQ000212953**).

144. The agenda of the NICS Board during my tenure focused heavily on resource matters and always received a report on HR matters including absence rates, recruitment activity and strategic workforce planning and the Civil Service Transformation Programme (the civil service reform initiative led by DoF).
145. It is notable that in July 2021 the Board was advised that in the period November 2020 to June 2021 some 2500 civil service posts had been filled but over 2100 new vacancies had been notified to NICS HR giving a total of almost 4000 unfilled vacancies remaining in June 2021 (**Exhibit JP/27 - INQ000391444**). Work had begun by that stage on rolling out the New Ways of Working initiative by DoF to facilitate enduring hybrid, hub, and home working by civil servants.
146. My experience of the reluctance of Ministers and their Departments to share resources and the inability of a HOCS to demand/impose flexibility was part of the reason for splitting my successor's role and creating a separate Permanent Secretary head of TEO, leaving the HOCS to focus on the role as lead advisor/Secretary to the Executive and overall leadership of the NICS.
147. The overall intention here was that the HOCS should be more like a Chief Executive Officer with the separate TEO Permanent Secretary akin to a Chief Operating Officer, better able to manage and prioritise resources within their own Department in support of the HOCS, First Minister and deputy First Minister and able to flex those resources as cross-cutting initiatives were agreed by Executive Ministers. A HOCS who was also Head of TEO was more conflicted when it came to discussions with other Permanent Secretaries about staffing levels and initiatives such as the post Grenfell Building Safety programme.
148. Reflecting on the performance of the NICS as a whole, I feel it is worth recording here that during my tenure I was not party to any in-fighting or unprofessional behaviours between Ministers or their SpAds and senior civil servants, nor did I observe, either directly or in written communications, the use of pejorative or vulgar language about Ministers or senior civil servants. I had no sense of a "toxic culture" in TEO or indeed in any of the other NI Departments. Finally, I was not made aware of any breaches of the Covid regulations by any NI civil servants, (nor indeed by Ministers or their SpAds) during my time. All this seems in stark contrast to what emerged in Whitehall.



## Executive Recovery Plan

149. As Executive consideration of the restrictions which had been put in place during the pandemic progressed early in 2021, the ECT supported by officials in TEO, recognised the need to develop a comprehensive and structured plan for recovery which could serve pave the way towards a new Executive strategic plan or Programme for Government (PfG), rather than allowing individual Ministers to progress separate and uncoordinated Departmental strategies. In order to try and develop as much consensus as possible on Executive-wide recovery priorities, I secured agreement from First Minister and deputy First Minister for an Executive workshop to be led by EY. EY had provided support to TEO on the previous strategy – ‘Moving Forward: The Executive’s Pathway Out of Restrictions’ (published on 2 March 2021) and were helping with some of the cross Departmental facilitation, but heretofore had not engaged directly with Ministers.
150. The workshop held on 10 March 2021 (**Exhibit JP/28 - INQ000391451** and **INQ000148198**) was led by the senior EY team of Colm Devine, Julie Browne, and Professor Neil Gibson (now Permanent Secretary in DoF), supported by me and senior TEO colleagues. We co-designed the workshop with EY and then handed over control to them on the day, something which had not been done before with this Executive Committee. My hope in allowing the consultants to run the workshop and talk directly with Ministers, answering queries, challenging views, and exploring alternatives, was that the Committee would display more collegiality in the presence of external attendees than if First and deputy First Minister, or indeed I had facilitated the dialogue.
151. The workshop produced a high degree of consensus and alignment with the work of the ECT with all Ministers seeking to establish common ground on what citizens needed over the next 6-9 months. It exceeded my expectations and those of my team and demonstrated how powerful the Executive could be when it acted in unison. The output from the workshop established a platform and framework on which the overall recovery plan could then be built.
152. The “Building Forward Covid Recovery Plan” (**Exhibit JP/29 - INQ000391445**) was thus designed in the context of the draft PfG Outcomes Framework (**Exhibit JP/30 - INQ000391463**), which had been the subject of extensive consultation between 25 January and 22 March 2021. The draft Framework contained nine strategic Outcomes which, taken together, were intended to set a clear direction of travel for the NI Executive and provide a vision for the future of all citizens.

153. It was envisaged that the workstreams within Building Forward would help inform the priorities in any new Executive Programme for Government (PfG) – essentially the government's strategic corporate plan – and thus help to pave the way from the pandemic response period, beyond recovery and into normality.
154. The 83 cross-cutting interventions in the Recovery Plan were a range of short-, medium- and longer-term actions aimed at driving recovery in:
- Sustainable Economic Development;
  - Green Growth and Sustainability;
  - Tackling Inequalities; and
  - Health of the Population.
155. They were designed to be implemented over a 24-month period to address immediate priorities as well as initiating longer-term interventions that would require time to plan and develop. It was intended that the overarching ECT supported both by a specific Covid Recovery Taskforce led by TEO and the CDWG would oversee implementation of the Building Forward Plan and its integration in due course into a new Executive PfG. The Recovery Taskforce was expected to report to the ECT and thereby to the Executive.
156. Each of the 83 interventions had identified a lead Department and supporting Departments and implementation/delivery, monitoring and assessment was to be progressed by means of established Outcomes Based Accountability methodology with Senior Responsible Officer (SRO) arrangements to focus on delivery and impact and not just activity – in the same way as the NICS Outcomes Delivery Plan (**Exhibit JP/31 - INQ000391457**) was implemented prior to the pandemic under the oversight and co-ordination of TEO. This system maintained Ministerial accountabilities in line with each Department's remit but ensured central co-ordination and Executive reporting and allowed for consideration of the cumulative impact of measures.
157. The Recovery Plan was subject to engagement with approximately 160 stakeholders including representatives of vulnerable groups and those who were likely to have been most negatively impacted by the pandemic, including women and children's groups and those representing people with disabilities. In addition, formal equality screening (EQIA) was carried out, but this was not completed until I had left HOCS office.

158. I have since been informed that the equality screening procedure was criticised by the Committee for the Administration of Justice (CAJ) and the Women's Policy Network (WPN) and complaints were submitted to the Equality Commissioner for NI but that the Equality Commission did not proceed with investigations as the procedural discrepancy had been resolved (see Part 3 of TEO corporate Module 2C statement).

#### **Availability and use of expertise**

159. Each Department has always had its own expert civil servants within it – health professionals, statisticians, economists, engineers, lawyers etc., in addition to access to budget provision to procure specialists or consultancy support, as necessary. During the pandemic TEO was, for example, able to draw on support from EY and the Strategic Investment Board and in leading the Adherence strand of the Taskforce, DoJ secured expertise on behavioural analysis to help inform the Executive's response. Such analysis was presented as part of the ECT Dashboard, as for example on 25 August 2021 when feedback on lifestyle changes as a result of Covid-19 and parental concerns about normal reopening of schools in September was considered (INQ000190820).

160. At no stage during my tenure was I aware of any deficit in relation to NI-specific expertise available to the Executive around any decision-making aspect of the pandemic response. Individual Departments had their own experts or were able to procure these, as necessary. By the time I was appointed it seemed to me that the CMO and CSA had access to any external support they might have needed to supplement their own professional expertise (and that of their deputies and wider teams such as the testing and vaccinations teams, as well as the Chief Nursing Officer and PHA).

161. The weekly PSS meeting would have offered an opportunity for Permanent Secretaries to flag the need for external sources of advice, but the main deficiency was around shortages of suitable civil servants to support DoH in amending its legislation/regulations or DfE in relation to the administration of financial assistance schemes.

162. In terms of health expertise, there was an undoubted reliance on the CMO and CSA to source and analyse the best NI data available at the time, which was then used by the Executive in making decisions about the pandemic response. It seemed to me that they had well established sources of evidence from across the health service in NI and that the information and modelling they provided was NI specific rather than extrapolated material from SAGE, for example.

163. It was clear from discussions at ECT and in the Executive Committee that the CMO's advice, for example, was not simply the opinion of an individual health professional but reflected the work of a team working in DoH and that any recommendations from him had been discussed and challenged prior to presentation in Executive papers. For example, the CMO referred to conversations with DoH and PHA colleagues, including the Chief Nursing Officer and colleagues in the Health Trusts. The DoH Permanent Secretary also made reference at ECT meetings to the fact that health colleagues were still considering and discussing data with the CMO and CSO. In addition, Executive Ministers themselves challenged the figures and conclusions at times – this was evident, for example, in the discussion on the Health Minister's paper to the Executive dated 3 December 2020 where a number of NPI options were considered and discussed and the CMO's preferred position on a number of restrictions and relaxations was modified.
164. Overall, it seemed to me that sufficient expertise was available and that there were checks and balances in place to limit any individual view dominating decision making.
165. I would not feel confident in commenting on matters relating to SAGE and its interaction with the CMO and CSO in NI as I had no direct dealings with SAGE myself during my tenure.
166. I had no concerns, nor were any raised with me during my time as interim HOCS, about the extent of the responsibilities held by the NI CMO or CSA.
167. I was not made aware of any issues regarding the role of the PHA and its role in responding to the pandemic, nor were any raised with me as interim HOCS. As an agency of the DoH it would have been for the Health Minister and his Permanent Secretary to manage this.
168. I cannot comment on any issues that occurred before my appointment as interim HOCS. I am aware, however, that there were difficulties in respect of the reporting of daily death figures as well as the numbers of patients in hospital or on ventilators because NI collected data on a slightly different basis to GB counterparts. GB collected and reported their data on a midnight-to-midnight basis whereas NI collected data on an 8am until 8am basis and did not produce data over the weekends - this meant that there would be higher figures in Northern Ireland at the start of each week when whatever happened over the weekends was factored in.

169. I am aware that the Strategic Intelligence Group (SIG) within DoH was established in April 2020 as part of the wider DoH efforts to address the impacts of the pandemic. It was convened and coordinated by the Department's Chief Scientific Advisor and reported to the Chief Medical Officer.
170. Its role 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 mitigation thereof. The group aimed to apply the advice coming to the Four Nations from appropriate 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.
171. I cannot comment on any issues that occurred before my appointment as interim HOCS and in addition, as a DoH initiative, advice from the SIG was available to the Health Minister and his team and not disseminated directly to the Executive. I would assume that SIG information was incorporated into DoH papers to the Executive as appropriate, however I had no direct engagement with the group during my tenure and do not feel competent to reflect on its operation or effectiveness.

#### **The Role of HOCS in Decision Making.**

172. In terms of Executive Committee decision-making, my role was that of principal policy advisor – Secretary to the Executive. The established civil service convention is that officials advise, and Ministers decide, so all decisions relating to the Executive's response to the pandemic were made by Ministers based on data, evidence, and advice from civil servants, including me. In general, the sort of advice I would have provided would have related to interpretation of the Ministerial code, issues of NICS protocol, process, timing or who was best placed to take a piece of work forward. I would also however have had a duty to ensure that their decision-making was as robust as possible and so, if I felt that there were other considerations that they needed to factor in, such as when there were late factual changes (as did sometimes emerge during the fast-paced environment of the pandemic), then I would have alerted them. For example, I might have advised them of any feedback I had received from dialogue with my counterparts in Scotland, Wales or Ireland but I have no evidence to suggest that this was material to their decision-making.
173. The Executive Committee was chaired alternately by First Minister and deputy First Minister. As previously outlined, the Executive met on Tuesdays on EU Exit matters (supported by Andrew McCormick as Secretary) and on Thursdays to consider Covid matters where I led.

174. Papers from TEO to the Executive Committee would come directly from me or one of the senior team and drafts would generally have been cleared by me if time permitted and if there was a pre-brief with the joint Chairs this allowed me to offer views or advice. A steering brief to guide the chairing of Committee meetings was always provided by TEO to First Minister and deputy First Minister and this offered another opportunity for me to offer advice on, for example, ensuring that particular Departmental concerns were aired or proposing a way of handling a contentious item. I then attended Executive meetings and could answer queries from Ministers on process as well as on the substance of such papers, if invited to do so. Individual Departmental papers to the Executive would not usually be circulated to me in advance – rather these would be cleared by the relevant Minister.
175. I chaired the ECT and commissioned work on the 4 workstreams and then reported progress both through an Executive paper and a verbal update at Executive Committee meetings.
176. Once the 4-weekly review of restrictions rhythm was established in early 2021, I put in place a pre-meeting between the First Minister, deputy First Minister, Minister for Health accompanied by the CMO and CSO as well as myself and one of my senior team. The purpose of these meetings was to enable First Minister and deputy First Minister to get a “heads up” on the latest health data so as to help them steer discussion and facilitate decision making at the Executive Committee itself. These meetings were generally about handling of the Executive discussions and did not involve decision-making. Examples of notes of meetings are exhibited at **Exhibit JP/32 - INQ000391464** and **Exhibit JP/33 - INQ000391465**. These meetings did, in my view, help First Minister, deputy First Minister, and the Health Minister agree parameters and identify key aspects where views diverged in advance of the Executive meetings, to enable more focused discussion and more timely decision-making. So, for example we might have discussed whether a PowerPoint presentation by the CNO on the vaccination roll-out might have been more useful than a paper to Ministerial colleagues.
177. I chaired most of the weekly CCG (O) meetings between December 2020 and March 2021 during activation of the D20 Hub arrangements referred to in paragraph 37 above, which resulted in a SitRep being provided to the Executive Committee as part of the TEO briefing material. I also convened and chaired a number of meetings with key stakeholders, such as the NI Chamber of Commerce and Industry, the Institute of Directors and the Chief Executives Forum. Feedback from such meetings was then provided to Ministers as part

of the ECT updates. In addition, during my tenure, I was called upon to give evidence to the Concurrent Committee of the Committee for the Executive Office, Committee for Finance and Committee for the Economy on one occasion on 16 June 2021 (**Exhibit JP/34 - INQ000391462**).

178. TEO advice to the Executive was provided to First Minister and deputy First Minister, as joint chairs of the Executive Committee, in advance of Executive meetings. Time constraints driven by the cycle of data available from DOH generally meant that this advice was only provided the evening or morning prior to the Executive meeting itself. Papers could only then be circulated to other Executive Ministers once both First Minister and deputy First Minister had cleared them. If either sought a meeting with me, I only attended if both were present as per the Ministerial Code (**INQ000104470**).

179. Immediately after my appointment in December 2020, I met separately with each of the Departmental Ministers along with their Permanent Secretaries to introduce myself and get a sense of their issues and priorities. However, I did not meet with any of them on pandemic matters subsequently in the absence of First Minister and deputy First Minister. Given my overall accountability, it would have been difficult to do so without appearing to undermine my impartiality and responsibilities to the *Executive* as a whole. At no time did I attend a meeting of Ministers in their party-political groupings, and it would have been inappropriate for me to do so.

180. I generally met with First Minister and deputy First Minister jointly at least weekly (example note provided at **Exhibit JP/35 - INQ000391446**) for a stocktake on both Covid matters and other Executive priorities such as NDNA matters including the Irish Language and Ulster Scots legislation and Victims Payments. These meetings were also the main opportunity for me to brief them on progress with the process and competition to appoint my successor as they had asked me to personally lead this work, supported by SIB and DoF.

181. Any expert advice commissioned by TEO and the ECT would have been shared with me, but advice commissioned by or provided to individual Departments would not have been, unless it was included within papers to the Executive. This included all sources of advice available to the DoH. The CMO and CSA were actively involved in the provision of their professional advice to the Executive and did meet on occasions with the CDWG and ECT. The lines of dialogue with them were open and both the CDWG chair (Karen Pearson) and I met with and talked to them, the CMO in particular, at various stages during my tenure in my capacity as ECT chair. As officials of the DoH, however, their primary

responsibility was to their Minister and advising him before sharing information with other Departments.

### **Special Advisors**

182. The role of Special Advisors is set out in Civil Services (Special Advisers Act (Northern Ireland) 2013 (**INQ000147492**)).

183. I met with both the First Minister and deputy First Minister and their senior SpAds weekly (generally on a Friday morning after PSS) to review issues that had arisen that week as well as ongoing cross cutting matters. This was a valuable opportunity for me to hear where there were political tensions and differences which were almost always about non-COVID matters such as the progress (or lack thereof) being made on legacy issues or on Brexit/NI Protocol implementation. Most of those political issues remain unresolved at the point of my writing. Overall, I had a good experience working with them.

184. During my time I did not consider that the SpAds played a noticeably prominent role – in contrast to some of my experiences when I was a senior civil servant in the Department for the Economy and Department for Social Development (now the Department for Communities) where SpAds were more involved in seeking to influence policy on behalf of their Ministers. I saw no evidence of this in TEO – indeed both senior SpAds behaved in a responsible and generally collaborative way, despite political differences, which facilitated dialogue and understanding of differing positions. They worked together well and sought to minimise disharmony between their principals and showed a good understanding of how to work productively with civil servants. I was able to speak frankly to them about any issues of concern.

### **The political context**

185. In general, I consider that during most of my time Executive Ministers worked hard and diligently to understand what was happening with the pandemic in health terms as well as grappling with the many and varied impacts on NI society and the economy. Executive meetings were frequent, especially during December 2020 and through to February 2021. Discussions were often long and regularly reconvened several times to allow time for officials to bring forward additional data and evidence. Ministers challenged the evidence and tested proposals before making decisions – there was no nodding through recommendations without debate.



186. The reality was, however, that the Executive was not functioning effectively in many ways. It had only been in place in January 2020 after an almost 3-year absence and had never really established ways of working on “normal” business before the pandemic hit. Diametrically opposing views on EU Exit and the NI Protocol were never far from the surface as well as fundamental differences on many of the legacy issues that remained unresolved from as far back as the Belfast Good Friday Agreement in 1998. The system of joint authority between the DUP First Minister and the Sinn Féin deputy First Minister left the smaller parties feeling marginalised at times and this fostered discontent. If the Executive had been more mature as a system of government, it might have been able to function more effectively during the pandemic, even with the challenges of Brexit.
187. The touchpoint for Covid decision-making was always the health position but during 2021 Ministers became more confident in challenging the totally science and health driven approach to relaxation of regulations. Their overall appetite for risk moved from “risk averse” to what might be described as a “cautious” risk-based approach which could secure collective Executive endorsement. I saw this as a not unhealthy approach as it did encourage discussions about alternative options on restrictions including consideration of the differential impact of these (and their easing) on a range of groups across NI. There was an increasing complexity of data and other evidence about the impact of the lockdowns across the UK and Ireland on different sectors and groups within society and this made debate more convoluted at times and decisions more contested within the Executive.
188. I saw both First Minister Foster and deputy First Minister O’Neill providing pragmatic leadership in the face of political differences as they sought to demonstrate that they and the Executive should and could act solely in the public interest on Covid matters. Both showed willingness to flex around a number of decisions and, despite pressure from business stakeholders in particular, often acceded to the DoH preferred position and secured Executive agreement. There were still tensions between them however relating to other aspects of Executive Committee business as for example on 8 January 2021 when diametrically opposing views between the DUP and Sinn Féin about academic selection were evident and led to heated discussions (INQ000048507). However, both Ministers recognised the need to show a united front as much as possible and their joint press conferences were a tangible demonstration of this.
189. As 2021 progressed and restrictions were progressively eased, the cohesion of the Executive was subject to increasing strain with certain Departmental Ministers pressing

for a faster pace and arguing for relaxations in particular areas of personal and sometimes party-political interest. The unity of purpose which seemed to characterise earlier stages of the Executive's pandemic response did start to break down and political chasms within the Executive became much more evident, particularly as non-Covid business re-emerged on the Executive's agenda.

190. This became very clear, for example, in March 2021 (INQ000048520) when a number of thorny issues being driven by the NIO and Secretary of State for NI, were being discussed at the Executive and the differing political positions raised the temperature of discussions. These issues included the introduction of abortion services in NI and New Decade New Approach: Irish Language Strategy and Ulster Scots Language, Heritage and Culture Strategy.

191. Indeed, as Spring 2021 progressed, the tensions within the DUP and the eventual leadership challenge began to play out at the Executive and the overall pragmatism that seemed to me to have characterised the Arlene Foster/Michelle O'Neill leadership period, was much less evident once Paul Givan took over as First Minister in June 2021. Relationships became much more hostile, and the new First Minister sought to have separate briefings with officials about Executive Committee business – something which was not acceded to beyond his initial "First Day Briefing" period.

192. I could not speak authoritatively about whether Ministers always agreed party lines in advance of Executive meetings as it was often clear that their challenges to Committee colleagues were driven by their own Departmental concerns, but I would be surprised if there were not many occasions when parties did agree a position in advance of the Executive Committee meeting. I would have expected the SpAds to have led on any such activity.

193. An example of this was clear at the 8 July 2021 meeting (INQ000048537) when the Executive discussed various ECT recommendations, against a backdrop of rising community tensions about a number of contentious bonfire sites, associated with the traditional Twelfth of July celebrations in loyalist communities across NI. The ECT proposals, supported by CMO and CSA, for easing of restrictions were discussed at length and the Committee sought and received advice from the Attorney General regarding the proportionality of maintaining the two-household rule for meetings in indoor domestic settings until 19 August 2021.

194. There was Executive consensus at that meeting that the number of households permitted to meet in indoor domestic settings should be increased from 2 to 3, however a vote was then taken on a proposal that this should be permitted with effect from 8 July rather than 19 August. The First Minister, the Minister of Agriculture, Environment and Rural Affairs and the Minister for the Economy all voted for lifting the restrictions earlier, and all other Ministers voted against. The majority decision of the Executive then prevailed, i.e., there was no change in the regulations until 19 August 2021.
195. Despite their political differences, I had no experience of Ministers being completely unable to work together. There were occasions during the period March – July 2021 when issues around the NI Protocol and related leadership tensions within the DUP led to some fractious and prolonged meetings. For example, as the traditional summer “marching season” began (where members of the Orange Order hold parades in various locations across NI prior to the Twelfth of July commemorations), community tensions rose, fuelled by opposition to aspects of the NI Protocol, such as additional checks at NI seaports. The underlying political differences made the atmosphere in the Executive very difficult and issues, such as the approach to the building of local community bonfires in interface areas, did threaten to undermine discussions about managing the pandemic response. The overall fragility of the Executive was clear to officials and indeed to the NI public as a whole during this period, particularly given the extent of media leaks.
196. Despite all this, the main points of difference within the Executive on Covid matters generally related to pressures to lift restrictions more quickly than the ECT/DoH recommendations with demands surfacing from those Departments with a business/economic focus. Meetings were long, frequently paused and then reconvened but overall compromises were either agreed in discussion, or decided, as on 8 July, by a simple majority vote.
197. The issue of leaks before and during Executive meetings, particularly ahead of the regular First Minister and deputy First Minister press conferences which followed them, was a source of frustration to Ministers and officials. The ongoing requirement for remote working and use of Zoom for the Executive Committee made it difficult to control attendee numbers at meetings. Despite my teams’ efforts to limit access to such meetings (by for example the use of Zoom passwords and requesting details in advance of those who would be present) it was clear at times that while Ministers were in front of computer screens in their offices, their advisors could have been sitting with them but were “off camera.”

198. Inevitably the leaks led to suspicion about Ministers' and their SpAds' behaviour and motives and in my view did undermine the cohesion and confidence in progressing the decision-making process regarding restrictions, both between political parties and also within one party. Political tensions between and within some of the parties were increasingly evident and the strain of dealing with EU Exit matters and the NI Protocol became clearer even during Covid-related Executive meetings. Every Minister seemed to be seeking media opportunities to talk about their individual Departmental actions as well as commenting on Brexit matters as part of the ongoing public dialogue.
199. The main impact of the bad feeling which surfaced at Executive meetings as a result of the leaks as well as the revealing to the media of some of the tension between Ministers as they discussed relaxation of restrictions, was the undermining of public confidence in the Executive. It undoubtedly encouraged certain business groups and prominent individuals to increase their public calls for faster progress and promoted press speculation.
200. I discussed the issue of leaks with First Minister and deputy First Minister and their SpAds (Exhibit JP/36 - INQ000391452) as well as with the EIS but there was little that civil servants could do beyond keeping the press informed of when official announcements would be made and trying to persuade them not to encourage leaks.
201. The constant media speculation about possible changes to Covid restrictions coupled with ongoing political discontent with the NI Protocol and Brexit impacts in NI made it difficult in my view to develop and maintain clear consistent messaging from the Executive. It reinforced public opinion about the ability of Executive Ministers to work together and in turn this undermined confidence in the decisions being made about NPI actions.

### **Overall assessment of decision-making**

202. The CMO and CSA attended almost every Executive Committee meeting in support of the Health Minister and the Executive. They gave regular presentations and were assiduous in addressing queries from Ministers. At times they took a very robust position in light of health data and trends, arguing for caution and supporting their positions with evidence but they were not in my experience resistant to offering compromises in light of Ministers' desire to take decisions based on wider socioeconomic and not just health issues. The Committee welcomed their advice and frequently sought further explanation and advice from them. They were in my view not only the Health Ministers' key advisors

but also the principal sources of expert advice to the Executive Committee, which was appreciative of their professional guidance.

203. The issue of whether the Executive Committee was the most effective structure for government in NI to respond to a pandemic is somewhat moot as the multi-party mandatory coalition is the agreed structure of government established under the Belfast Good Friday Agreement in 1998 (and enshrined in the NI Act 1998) following a result of lengthy and difficult political negotiations. Subsequent amendments then had to be made to accommodate ongoing political crises including the 2007 St Andrews Agreement, the 2010 Hillsborough Agreement, the Stormont House Agreement in 2014 and New Decade, New Approach (NDNA) in 2020.

204. It is a matter of record that the NI Executive has not been fully functional since the Good Friday Agreement, with the period 2017-2020 representing a very difficult and sustained period of sub optimal government when civil servants were faced with the invidious task of running Departments and maintaining public services in the absence of Ministerial direction and control. Policy making especially on areas where cross cutting action would have benefitted delivery, was clearly very difficult to achieve as David Sterling has noted in his Module 1 submission.

205. As I have said before, the Executive had only just been restored in January 2020 before the pandemic hit, with a significant number of “new” Ministers who had not served in the previous Executive which had collapsed in 2017. There was clearly a need for a united response from the get-go and it is my understanding that Ministers did act in a collaborative and collective manner during most of 2020 despite not having had the benefit of a longer period of stable operation which might have ironed out some of the challenges of working as a mandatory coalition.

206. However, the political differences and the structural fractures which had existed between the two main parties in particular did re-emerge as Covid restrictions began to be relaxed and Ministers began to jostle for positions related to their own Departmental briefs. Difficulties became increasingly evident in relation to EU Exit and the NI Protocol. The overall result of the Brexit referendum in NI had been that a majority voted to remain in the EU, so being part of the overall UK decision to leave, simply reinforced existing unionist-nationalist political divisions. In addition, unionist opposition to the Withdrawal Agreement and its consequences, coupled with widespread public concern about the implications of the NI Protocol, were constantly in the media headlines and were clearly at the centre of the political agenda in NI during the entire period of the 2020 Executive’s

existence, ultimately leading to its collapse in October 2022 following the resignation of the First Minister in February 2022. There is no doubt in my mind that this was a considerable distraction for Ministers which surfaced at Executive meetings during my time and made the working environment more difficult for them and for civil servants.

### **Informal decision-making**

207. I had no experience of any key decisions relating to the pandemic being made during informal or unminuted discussions. I was involved in a number of informal conversations with Ministers, UK civil servants and Irish civil servants but to the best of my recollections none of these would have been about anything other than process matters. Only Ministers could make decisions about Covid related matters and in Executive Committee format, other than when such matters fell within their own Department's vires.

208. I find it impossible to comment on the use of WhatsApp, text, or SMS by and between Ministers and their SpAds about Covid matters. I was not in receipt of any messages from them during my time that I felt were inappropriate either in terms of language or content.

209. I rarely used such informal mechanisms myself, other than texting where it was most useful for matters such as checking organisational issues/arranging a phone call/Zoom with TEO or Permanent Secretary colleagues or to liaise with Private Secretaries about Ministerial availability or to ascertain if they had reviewed submissions from me/TEO on Covid and other NICS matters. It was my experience that all these informal means of communication were essential while working remotely – it was not possible to simply walk down the corridor to see if a colleague was free for a conversation.

210. First Minister and deputy First Minister phoned and texted me separately very occasionally if they wanted a call/clarification on matters relating to Executive papers. In responding to either Minister, I then had to speak to the other to ensure that I was maintaining impartiality in dealing with them.

211. As far as I can recall, I was part of only two WhatsApp groups (one in TEO for the senior team and one that included all the NI Permanent Secretaries) both of which had been set up before I was appointed. I was also involved in a number of WhatsApp exchanges with individuals. As explained in paragraph 208, I have no record of any conversations involving these groups and my recollection is that they were used very infrequently. The fact that I had come in from outside the NICS probably limited my use of WhatsApp during

my time as interim HOCS as I was not part of any established groups. I understand that those exchanges that can be provided from other sources have been disclosed.

212. 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.

213. It is my understanding that the references in the handwritten notes of Executive Committee meetings to “chat” refers to the facility in Zoom to “chat” to individual attendees and/or all attendees.

214. Commenting to “Everyone” on Zoom chat was the primary means by which participants flagged a desire to speak during meetings and allowed the First Minister or deputy First Minister who was chairing to see who was wanting to raise a point. It was also used on occasion by Ministers to add a point of emphasis or endorse what a previous speaker had said. As such it was an effective mechanism for managing the Committee meetings.

215. The individual chat facility was also used frequently by me and individual members of my TEO team rather than the “Everyone” option in response to emerging queries or issues of process. Ministers may also have used it to communicate between one another without the chat being visible to everyone in the meeting. On occasion I used it to confirm facts or provide clarification in response to a query from a Minister.

216. Given that in my time all Executive meetings were held remotely, I could not ascertain if Ministers were using other means of communication such as WhatsApp or text in addition to Zoom during meetings. At times I could see on screen that they had a mobile phone and or a laptop nearby, but it was generally not clear whether they were using these. In addition, the ability to turn off cameras in Zoom and use of the Mute function whilst maintaining connectivity to the meeting, makes it impossible to know what meeting participants were doing.

## **Relationship with the UK**

217. The TEO Module 2 Corporate Statement sets out the engagement mechanisms that were in place between NI and the UK during all phases of the pandemic. My experience relates to the end of phase 3, all of phase 4 and most of phase 5.

218. I am aware that during autumn 2020 the Ministerial Implementation Group meetings (MIGs) had ceased but the weekly 4 nation meetings (attended by First Minister, deputy First Minister and the Health Minister) chaired by the Chancellor of the Duchy of Lancaster (CDL) continued as well as regular meetings with the Secretary of State for NI (SOSNI) and several with the Prime Minister (PM), including COBR. It is my understanding that all of these focussed on the progress of the pandemic in NI vis-a-vis other parts of the UK, emerging policy responses being considered by UKG, vaccine deployment and initial thinking about recovery. It was clear too that there was regular dialogue between senior DoH officials (CMO and CSA) and UK counterparts and they had direct access scientific advice from SAGE and other UKG health bodies.

219. I cannot comment on the extent to which there were any problems with the arrangements particularly around information sharing, prior to my appointment in December 2020.

220. I do know that the 4 nations CDL meetings continued weekly during my tenure with occasional SOSNI updates. There were no COBR meetings attended by NI Ministers. There was one meeting with the PM at the 3 June 2021 Recovery Summit with the Devolved Administrations (DAs) (INQ000286555).

221. The focus of these meetings shifted to vaccination roll out and recovery plans as well as the UKG thinking on easing of restrictions. While it seems that for much of the previous phases there was broad alignment across the DAs in terms of response, including furlough and other financial support mechanisms, as the second pandemic wave began, differences developed in the timing of responses tailored to the differing pace of the pandemic in each Administration.

222. My experience of these meetings was that they offered an opportunity for NI Ministers to set out the NI position in terms of the state of play (Rt numbers, hospital cases, etc.) and their thinking around the NI response but there was little discussion, debate, or challenge – they were “show and tell” rather than decision making meetings. As NI continued to trend about two weeks behind the pandemic’s trajectory in GB, the Executive was able to watch and learn. By and large First Minister and deputy First Minister were ad idem in



presenting the NI position, although differences in terms of travel restrictions did illicit differing views in relation to Ireland and alignment across the island for obvious political reasons. These were not debated however – merely stated during the meetings.

223. While it was clearly important for all the DAs to be aware of what was happening across the entire UK, I did not consider that the meetings had any real substantive value other than information sharing. I did not sense any desire for a concerted UK wide effort to ensure alignment or co-ordination of responses; rather each Administration was crafting their own pathways out of restrictions based on their own circumstances and reporting these to the CDL meetings. It seemed to me that there was a very broad alignment of priorities and timing which informed the NI Executive response but there was no overall co-ordinated plan. Communication to the public about responses to the pandemic was also largely left to the DAs and the fact that UKG moved ahead with its plans for easing restrictions in England with little/no dialogue with NI undoubtedly led to confusion about messaging and challenges about the comparative pace of changes in NI.

224. As well as the formal Ministerial dialogue there may have been informal discussion between some Ministers and Whitehall counterparts, but I was not party to these, and they may have been more political in nature. The reality seemed to me that the UKG viewed NI as a post-conflict society with a complex devolution settlement through the Belfast Good Friday Agreement which was designed to maintain peace in NI. Thus, the main purpose of UKG engagement with NI was in relation to EU Exit matters which threatened to, and eventually did, destabilise the NI Executive and cause its collapse.

225. It is also my sense that by the time of my appointment, the NI Executive had moved on from initial reliance on UKG mechanisms to inform decision-making. It was accessing NI data and making decisions based on what was happening locally whilst still monitoring the national picture. For example, along with everyone else, the CMO and CSA had been able to observe in the media the impact of huge numbers of people mixing in the run up to Christmas 2020 as a result of relaxations in England, and pointed to the associated rises in Covid cases so that the Executive was able to reflect on this when looking at the NI indicators. This informed the different NI response to restrictions over Christmas, which in turn had a positive impact on suppression of R numbers in January 2021.

226. At official level, weekly Wednesday morning stocktake meetings of all the Whitehall Permanent Secretaries as well as the HOCS in Scotland, Wales and NI had been taking place throughout 2020 and these continued throughout my tenure which both the Permanent Secretary of NIO and I attended. I found these to be of very limited value –

the NI update position was the last to be taken as part of the round robin format of the meetings and it was clear that the UKG Permanent Secretaries were in much more frequent contact (for understandable reasons) and the input from the DAs was received without comment. I could not say that there was a concerted effort to establish centralised decision making or aligned policy co-ordination. The political situations in the DA's and especially in Scotland, may well have contributed to Whitehall colleagues being somewhat guarded in these discussions.

227. I met with my counterparts in Scotland and Wales on a monthly basis to exchange updates and intelligence on the likely timing on easing of restrictions, public reactions and communication plans and was able to factor this in as necessary to Executive Ministers alongside my ECT updates. I found these meetings to have more value than those on Wednesday mornings, not least as colleagues often shared frustration with "the Whitehall machine" and the fact that the DA's were generally an afterthought in considering the implications of UKG plans. The general impression I had was of much more turmoil and disarray in Whitehall than I was experiencing in NI. High profile media reports of Ministerial disagreements, behaviour by No.10 SpAds and associated breaches of restrictions in England made for a difficult context for senior Whitehall officials.

228. I am also aware that there were regular meetings between key NI DoH officials (including CMO and CSA) and their UK counterparts and while I imagine that these meetings did get into the details of progress with the pandemic, testing, vaccination, etc., I cannot comment on their content or value.

229. Overall, I consider that while there were mechanisms at Ministerial and official level for the exchange of information between NI and UKG, these were not fully joined up and their effectiveness in terms of informing an overall UK policy response was limited. Such a response might have enabled gaps to be identified and addressed, enabled consistent financial support mechanisms to be put in place co-terminously and could have given the public greater confidence about how the pandemic was being managed. However, I have no evidence to suggest that the absence of a "UK-wide" response plan was ultimately detrimental to the development of the NI Executive response and recovery strategies as these were informed by NI evidence and in line with the transferred responsibilities of the NI Departments and their Ministers. Indeed a "one size fits all" UK response would not have allowed for NI's specific circumstances to be factored in and could in my view have undermined the work of the NI Executive as a devolved government. With hindsight,

however, a better balance, particularly when it came to messaging, might have been more effective.

230. I had a good personal relationship with the NIO Permanent Secretary, and we met on a 1-1 basis at least monthly to keep in touch with Covid developments in NI as well as updating on progress with sensitive “legacy” matters such as Abortion Services and key NDNA initiatives such as Victims Payments and the pace of the NI legislative programme, which included sensitive matters such as the Language Bills. In summer 2021, these discussions broadened to include the UKG “Levelling Up” proposals.

231. These were broad stocktake type meetings and did not cover the detail of the NI Executive thinking, particularly since all the key aspects of the NI response to the pandemic were transferred matters. However, we did on several occasions discuss the use of the Ministry of Defence (MOD) MACA (Military Aid to the Civil Authorities) arrangements given the sensitivities around use of the British Army in NI – a reserved matter. These arrangements were called on a number of times during the pandemic in relation to setting up Nightingale Hospital facilities and subsequent vaccination arrangements. As a general rule the objective of these meetings was about keeping open lines of communication and avoiding or/minimising any surprises from respective principals. The meetings were unminuted and any notes that I took at the time are included in my notebooks already disclosed to the Inquiry.

### **Border Matters**

232. I do not recall NI Ministers being consulted on border control in NI – borders are not a devolved matter.

233. The absence of a hard border between NI and Ireland was a difficult one for the NI Executive to grapple with in relation to the pandemic given differing political allegiances and the context of EU Exit and the NI Protocol which focussed on the movement of goods between the UK and other parts of the EU, including Ireland.

234. I am not sighted on the extent to which UKG discussed excepted issues of border control, such as immigration, with the NIO but have no evidence of extensive consideration of the NI situation and cross border implications in advance of UKG methodology on international travel and from the Common Travel Area being determined.

235. The NI Executive adopted the overall UKG approach and had put in place international travel restrictions back in June 2020 which required those arriving in NI who had been

outside the Common Travel Area (CTA) to complete a Passenger Locator form online and to self-isolate for 14 days from the time they entered the CTA. In January 2021, the Executive agreed that the fines for those found in breach of these regulations should be aligned to those elsewhere in the UK. The following month they noted alignment of the Scottish and Welsh Governments with the arrangements being introduced in England by the Department of Transport.

236. The challenges of NI “controlling its own border” on the island of Ireland (for example by enforcing PLF compliance for those travelling to NI via Ireland) was acknowledged by the Executive. With over 200 public roads which criss-cross the defined limits of the border between NI and Ireland however, enforcing restrictions or controls on the movement of people would have been practically unfeasible, not to say politically unacceptable for several of the NI political parties. Indeed, since Sinn Féin do not even accept that the border exists (no matter how porous), securing agreement within the mandatory coalition that is the NI Executive on how to control movement within the island, would have been well-nigh impossible.

237. Managing the question of entry from overseas to anywhere on the entire island of Ireland would have required a pan-island approach with common agreed controls in place, parallel legislation, and regulations enforceable at ports and airports both north and south. While there are established processes and significant cross border co-operation on policing matters between PSNI and An Garda Síochána, the alignment of legislation (regulations), test and trace arrangements and other related NPI measures would have stretched existing North/South mechanisms to the limit (not least given the Brexit context) and been impossible to put in place in a timely way. There was, however, dialogue at official level between Irish Government officials and TEO officials, to try and maximise alignment.

238. The practical consequences of the UKG travel restrictions (pre-departure testing, passenger locator forms, quarantine arrangements, etc.) all fell to the NI Executive and TEO took the lead in co-ordinating and implementing these. There was extensive dialogue with senior official colleagues in the relevant Whitehall departments as well as with the other DAs to ensure consistent approaches across the UK.

239. When in May 2021, UKG announced the re-opening of international travel to/from England for green list countries (with travel discouraged for those countries on the amber and red lists) the NI Executive adopted the same green list along with revised guidance on self-isolation and testing. It also agreed to retain guidance with regard to self-isolation when

arriving into NI from within the CTA – including Ireland. It was noted that there were persistently high levels of Covid in NI border areas.

240. The methodology adopted (Red/Amber/Green) was sufficiently clear and was readily adopted by the NI Executive not least as Ireland and other countries were using something similar. I am not aware of any lack of co-operation by UKG in relation to travel restrictions but as was clearly the case at time of the Brexit referendum, there seems to have been a lack of understanding in some quarters about the nature of the Irish border and the political sensitivities around it.

## **Funding**

241. The funding model for NI from Westminster is based on annual Budget allocations to what is called the NI Block. This funding is generally supplemented by additions during in-year monitoring rounds known as Barnett consequentials.

242. In terms of the Budget, I was made aware from early December 2020 of the challenging outlook for 2021/22 and deep concerns from PSG of the implications – essentially the UK Spending Review had left NI with something close to a flat cash settlement and all NI Departments declaring significant funding pressures.

243. I wrote to First Minister and deputy First Minister on 15 December 2020 setting out an overview of the pressures and proposing some guiding principles ahead of a specific budget discussion (Exhibit JP/37 - INQ000391447).

244. Despite Ministers acknowledging the extent of the financial crisis there was no agreement on an Executive Budget position until March 2021 (INQ000048522). This authorised the cash and use of resources for all departments for the 2020-21 year, based on the Executive's final expenditure plans for the year. The Budget Act (Northern Ireland) 2021 (Exhibit JP/38 - INQ000391448) in April 2021 then authorised Departments' access to cash and use of resources for the early months of the 2021-22 financial year. The Budget (No. 2) Act (Northern Ireland) 2021 (Exhibit JP/39 - INQ000391449) which received Royal Assent on 4 August 2021, authorised the cash and resource balance to complete for the remainder of the 2021-22 financial year based on the Executive's 2021-22 Final Budget.

245. In terms of Covid-19 funding from the UK, I am aware that during the period May - December 2020 more than £3 billion in Barnett consequentials was received to support response and recovery activity. This funding was allocated to each of the 9 Departments by the DoF through a series of bidding exercises, separate to the normal budgeting

processes. The outcome of these exercise was determined by the Executive, and I am aware that the total bids exceeded the funds available.

246. Again the allocation of Covid funding in line with UK wide policy predated my appointment so I cannot comment on its timeliness and impact on the NI pandemic response other than to say that the introduction of the various support schemes and initiatives was directly linked to the timing and availability of funding from the UK and they broadly aligned to similar arrangements being put in place elsewhere in the 4 Devolved Administrations, such as the Small Business Support Grant Scheme. I am aware that there were concerns in DoF about underspending on these schemes primarily due to the late receipt of monies from HMT.

### **Republic of Ireland**

247. I cannot comment with any authority on the state of government relations between the NI Executive and the coalition Government of Ireland in December 2020 when I was appointed. I would assume that during the early phases of the pandemic there were areas of considerable commonality and co-operation from a health perspective, but I also know that EU Exit and ongoing issues around its impact were causing tensions over the practical implications of the NI Protocol as this was evident in the media. During my tenure, the ongoing difficulties for the NI Executive (and unionist parties within it in particular) around the Protocol and increasing anxiety in Ireland about the implications for many sectors including pharmaceuticals, as well as the movement of goods and services, clearly over shadowed Ministerial and official conversations on co-operation about NPIs and restrictions.

248. The traditional unionist/nationalist divide within the NI Executive was ever-present as was the fact of Sinn Féin being an all-Ireland political party. Thus, the First Minister was politically inclined to focus on Westminster and alignment with UKG while deputy First Minister would naturally have been more inclined to view matters through an all-island lens.

249. In general terms, I believe that First Minister would have looked to the UK Prime Minister, Boris Johnson as an ally, while deputy First Minister (not least in her capacity as Vice President of Sinn Féin) would have viewed the Taoiseach (initially Leo Varadkar from Fine Gael and later in 2020 and through 2021, Micheál Martin of Fianna Fáil) as a political rival.

250. There was only one meeting of the Ministerial UK/NI/IE trilateral co-ordination group during my tenure on 8 December 2020 (INQ000091432). It was a very high level stocktake but provided me with the opportunity to meet my Irish counterpart and his senior team (several of whom I knew from having worked together on the all-island Single Energy Market) within days of taking up the interim HOCS post.
251. In addition, the North South Ministerial Council (NSMC) (the key piece of intergovernmental machinery for North/South co-operation) only operated in a limited manner during my tenure. The NSMC was established under the Belfast/Good Friday Agreement to develop consultation, co-operation, and action within the island of Ireland and has a complex structure and modus operandi. It is supported by a Joint Secretariat of officials from the NICS and Irish civil service.
252. In its plenary format, it involves the NI Executive led by the First Minister and deputy First Minister and the Irish Government led by the Taoiseach. The task of the Plenary is to take an overview of co-operation on the island and of the North South institutions. During the period of my appointment there was an NSMC Plenary on 18 December 2020 (Exhibit JP/40 - INQ000391458) and another on 30 July 2021 (Exhibit JP/41 - INQ000391459). The key agenda item for both these meetings was the response to the pandemic.
253. The NSMC also meets regularly in relation to each of 12 Sectors of agreed co-operation. In six of these Sectors, co-operation is taken forward by means of the North South Implementation Bodies (Waterways Ireland, the Loughs Agency, the Food Safety Promotion Board, InterTradelreland, and the 2 Language Bodies – the Ulster Scots Agency and Forás ná Gailege) and in the six Areas of Co-operation (agriculture, education, transport, tourism, environment and health), by means of existing mechanisms in each jurisdiction separately, generally through appropriate Government Departments or Agencies.
254. At these Sectoral meetings of the NSMC, the Irish Government is represented by the Minister or the Minister of State responsible for that Sector, and the NI Executive is represented by two Ministers nominated by the First Minister and deputy First Minister on a cross-community basis, one normally being the Minister with responsibility for that Sector within the Executive. This is in line with the requirements of the Belfast/Good Friday Agreement 1998 and the Northern Ireland Act 1998 that participation by the Executive in the NSMC must be on a cross-community basis.

255. On a number of occasions, during my time as interim HOCS, there were a number of NSMC meetings planned that did not proceed during this time due to the unavailability of the relevant DUP Minister.
256. I understand that there were five NSMC Sectoral meetings during my time and that the implications of Covid were discussed in relation to its impact on the sector in question.
257. The other piece of machinery in place to facilitate inter-governmental dialogue is the British Irish Council (BIC) which was also established as part of the 1998 Belfast Good Friday Agreement. Its membership comprises representatives from the Irish Government; UK Government; Scottish Government; Northern Ireland Executive; Welsh Government; Isle of Man Government; Government of Jersey and Government of Guernsey. All members act in accordance with their own democratic procedures and remain accountable to their respective elected institutions. The Council was established to further promote positive, practical relationships among the people of the islands; and to provide a forum for consultation and co-operation. It meets in two formats – bi-annual summit meetings with Heads of Administrations and work sector meetings of Ministers and meetings of officials.
258. Ministerial and official involvement in the British Irish Council (BIC) during the pandemic was through regular, bi-annual participation at summit level as outlined in the TEO Module 2C Corporate Statement. During my tenure there was only 1 BIC meeting – on 11 June 2021 hosted by the NI Executive in County Fermanagh.
259. At that meeting Ministers discussed the impact of Covid-19 across Member Administrations and reflected on sustainable approaches to recovery and which addressed potentially long-lasting impacts. The Council discussed areas of coherence across Member Administrations in relation to recovery, and in planning for potential future impacts of Covid-19. Ministers also discussed the latest political developments across their jurisdictions, and noted the recent elections held across a number of administrations. Ministers provided an update and engaged on a number of topics of mutual interest, including the EU-UK relationship. The communiqué from that meeting is exhibited at Exhibit JP/42 - INQ000391460).
260. It seems to me that none of the structures in place for co-ordination between NI and Ireland and/or between NI, Ireland and UKG, produced specific examples of joined up policy or co-ordinated implementation of initiatives. They were all means of exchanging information but did not result in a joined-up strategy for responding to the pandemic or



progressing recovery. For example, I recall Irish colleagues commenting in March 2021 that the faster vaccination rollout in NI was likely to lead to divergence of restrictions. In my opinion there would have been benefits in an all-island approach to the pandemic with aligned strategies for easing of restrictions and messaging. This might also have facilitated implementation of the travel restrictions during 2021 given that there is no hard border between the jurisdictions north and south. Indeed, absent Brexit, a UK - Ireland approach to the pandemic might have been more possible and more effective. I am aware that all-island arrangements exist in relation to animal and phyto-sanitary health and that model would seem to offer some lessons for issues of human health and epidemiology as well.

261. In the absence of structured bilateral (or trilateral with the UK) meetings between NI and Irish civil servants (other than on health matters based on the MoU outlined below), I and my senior TEO team (usually Andrew McCormick and Karen Person) met every 4-6 weeks with our Irish counterparts. I would describe those meetings as informal information sharing discussions aimed at keeping lines of communication open on wider Covid matters such as easing of restrictions and likely timing of public advice. We touched on the EU Exit/NI Protocol context and ongoing UK/EU dialogue, but self-evidently such discussions were high level.

262. The Devolution settlement is designed to support and grow sustainable government in NI and the fact that we had a newly formed Executive coinciding with the arrival of the Covid-19 pandemic meant that it was fragile and needed to be protected and scaffolded. I believe that all senior officials would have seen it as important to have good relationships with those in their neighbouring jurisdictions, particularly during a health crisis and I would hope that politicians of all persuasions would support this. However, in practice officials had no authority to discuss matters of North-South co-operation outside the agreed NSMC arrangements so of necessity our meetings were high level. I feel nonetheless that they did have value in maintaining understanding and keeping relationships open, particularly coming up to the summer of 2021 when political tensions about the NI Protocol were leading to civil disturbances in parts of NI.

263. I do not feel competent to speculate on the motives of the Irish Government (Ministers or officials) in relation to the sharing of information with NI but believe that the UK exit from the EU made the context much more difficult, given Ireland's role at the negotiating table for EU.

264. I would not be confident or indeed feel it appropriate to comment on structures and arrangements made by the DoH in NI and its counterpart in Ireland which were established before my appointment as interim HOCS in December 2020 and in which I was not directly involved during my tenure.

265. I understand however that an MoU was signed by the NI CMO and his Irish counterpart in April 2020 on behalf of their respective Ministers and believe that in terms of health issues, it did facilitate co-operation during the pandemic. However, from my experience the wider issues for co-operation such as aligned messaging and work on behavioural responses which are set out in the MoU were not pursued to the same extent. With hindsight there may have been missed opportunities here. A genuinely joined up approach would have involved harnessing data and professional expertise both north and south and this could have been beneficial in informing balanced decision making which recognised mobility (and thus virus transmission) throughout the island.

266. I do not feel that I have the evidence or experience to comment on any specific examples of DoH public policy alignment or the contention that there were problems in terms of North/South co-operation on health matters.

267. I am unaware of the nature of the discussion about the timing of announcements in Ireland and the ability of NI Ministers to respond, as discussed at a 9 June 2020 “Quad” meeting which predates my appointment. I am aware that during my tenure all jurisdictions (UKG, the 3 DAs and Ireland) pursued their own timetables for the easing of restrictions and that while officials may have had a “heads up” on likely timing of announcements about these through informal discussions, there was no formal process for notification about Irish communications – and indeed sometimes little advance warning of UKG proposals either.

268. I am not aware of the extent of any work done to assess whether greater harmonisation or co-operation with Ireland throughout the pandemic would have produced “better” outcomes in terms of the Rt rate, hospitalisations, or excess deaths. It is my view that at the very least it could have improved communication and understanding of key messages and that this might have impacted on adherence to regulations (which could then have limited rates of infection). But there seems little doubt that closing all airports and ports on the island simultaneously to international travel would have limited virus transmission rates as would common test and trace and quarantine arrangements. Civil contingency and pandemic planning on an all-island basis would seem to be an area worthy of further consideration by the NSMC – and indeed by the BIC. It seems self-evident that the island of Ireland should be considered to be a single epidemiological unit.

269. Further, it does seem as if there are models in place which could be built upon. I was struck by the evidence in the statement from DAERA to the Inquiry about the extent of contingency planning and intergovernmental co-operation that seems to exist in relation to the spread of plant and animal diseases. For example, in her statement, the Permanent Secretary says:

*“As biosecurity threats transcend administrative boundaries, DAERA collaborates with Defra and its counterparts in the Scottish, Irish and Welsh Governments, in planning for, and responding to, animal disease outbreaks. Collaborative working ensures sharing of expertise, knowledge, and resources. Contingency plans are regularly tested at both local and national levels, to ensure they remain fit for purpose.”*

270. The DAERA statement also explains the contingency planning structures that are in place in the event of a local, regional, or national disease outbreak and notes that:

*“In the event of an outbreak of epizootic disease in either Northern Ireland or Ireland, it is recognised by DAERA and DAFM (the Irish agriculture department) that sustained co-operation between both administrations will be essential to prevent further spread of disease. There are a number of areas where co-operation and agreement are of particular benefit. The areas include cross-border communication; tracings; trade; vaccination; and management of external communications.”*

271. In addition, the revised NI Civil Contingencies Framework published in August 2021 entitled Building Resilience Together (INQ000274305), sought to integrate many of the lessons learned during the pandemic. The purpose of this document is to set out the Northern Ireland arrangements for effective emergency management, identifying the processes involved in preparing for, responding to, and recovering from an emergency. It is not, nor could it be, prescriptive in terms of the incidents it outlines, but provides generic guidance for all types of emergencies. It provides tools to those responsible for preparing emergency plans drawing upon best practice and lessons learned from previous emergencies, both within Northern Ireland and from UK, Republic of Ireland (ROI) and global experiences. This framework brings together the existing protocols and guidance under one umbrella.

272. Having left the NICS at the start of September 2021, I have not been party to overall outcomes analysis or reviews and so have no evidence to inform a view on whether Ireland had better outcomes from Covid than NI or whether broad alignment with the UK produced “better” outcomes. I can only assume that consideration of such issues will have

formed part of the wider lessons learned work which I know will be done by civil servants, particularly health officials.

### **Equality Considerations**

273. The extent of the impact of NPIs on different groups within society was not assessed in any systematic way during my tenure but it did feature in many of the Executive's discussions, as was clear for example from the papers considered by its 3 December 2020 (INQ000208784) meeting on Christmas arrangements and the need for additional support for the vulnerable.

274. The Executive did recognise that the pandemic had impacted and was continuing to impact disproportionately on particular groups of people in the community and undertook extensive stakeholder engagement (remotely) at Ministerial and official level via members of the ECT. It also relied heavily on intelligence and evidence from individual Departments, particularly DfC and DfE, in relation to likely impacts on different sectoral and community groups and Ministers discussed the likely impact of maintaining/easing restrictions at Executive meetings, particularly where there were issues of fairness and proportionality.

275. The closeness of officials in Departments to the citizens and the representative groups for whom they were providing services such as schools, social security benefits, business support and wider community services, coupled with Ministerial feedback from their own and party colleagues' experiences about impacts on the ground, was factored into decision making through discussions at the Executive and between officials and their individual Ministers. In addition, the two Junior TEO Ministers (one each from the DUP and Sinn Féin) met regularly with stakeholder groups and reported back to the NI Executive.

276. My sense is that the impact of the pandemic on certain groups within society only really began to emerge as 2021 progressed. For example, in light of the murder of Sarah Everard in London on 3 March 2021, I began work to establish a cross Departmental initiative aimed at tackling violence against women and girls (VAWG) and the scoping work for this revealed something of the extent to which domestic violence had increased during the pandemic.

277. The ECT Dashboard presented to the Executive Committee did include data and analysis of the impact of the pandemic and the changes to restrictions of different societal groups.

For example, the 23 June 2021 Dashboard (INQ000190769) noted that the overall domestic abuse figure was higher in 2020/21 than in the previous year and there were more children in care and children referred to Social Services than in the previous year (although the trend had been rising). Information on mental health statistics was also included.

278. Despite all the engagement and the data gathered by the ECT and presented in its Dashboard reports to the Executive, I think it's fair to say that, with the benefit of hindsight, the absence of comprehensive data or systematic ongoing evidence of the pandemic's impact on differing groups in society beyond those in the primary health care system such as the elderly, and the clinically extremely vulnerable (CEV) to inform decisions, represents an area where we could have done better, particularly in relation to children (including those in care) and young people. I cannot judge the extent to which this would have made any fundamental changes to the Executive's decisions, but such information would undoubtedly have been weighed by Ministers and mitigations considered.

### **Care Homes**

279. I would not be confident or indeed feel it appropriate to comment on decisions made or issues discussed by the NI Executive before my appointment as interim HOCS in December 2020. I am aware, however, that the Covid-19 daily dashboard by the DoH provided data in relation to outbreaks of Covid-19 in care homes and this data, amongst other data, was referred to when providing advice to Ministers.

### 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:

17/1/24