

Thursday, 2 May 2024

1
2 (09.59 am)
3 **LADY HALLETT:** Mr Scott.
4 **MR SCOTT:** Good morning, my Lady. May we call
5 Christopher Stewart.
6 **LADY HALLETT:** Thank you.
7 **MR CHRISTOPHER STEWART (affirmed)**
8 **Questions from COUNSEL TO THE INQUIRY**
9 **A.** Good morning, Mr Scott. Good morning, my Lady.
10 **Q.** Thank you for your assistance to the Inquiry.
11 When you're giving your evidence today, can I ask
12 you to keep your voice up so that the stenographers can
13 hear you clearly, and if there's anything unclear or if
14 you're talking too quickly, then I may ask you to either
15 slow down or repeat yourself. If you need a break at
16 any point, please do just say.
17 You have provided the Inquiry with a witness
18 statement dated 4 February 2024, and that's up on
19 screen. I take it you're familiar with that --
20 **A.** Yes.
21 **Q.** -- witness statement?
22 At page 38 you have your signature and the statement
23 of truth. Please can you confirm that the contents of
24 that statement are true?
25 **A.** Yes, I can.

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1 anything in particular that you disagreed with in his
2 evidence?
3 **A.** There was nothing that I fundamentally disagreed with.
4 There are one or two areas where perhaps I could add
5 a little bit of light and shade, and in particular
6 I would welcome the opportunity to cover ground, which
7 I'm sure you'll wish to cover anyway, in terms of the
8 timing of the stand-up and activation of the civil
9 contingencies arrangements, and in particular how that
10 might have impacted on the ministerial desire for
11 greater grip or control over matters, particularly in
12 the early part of the pandemic.
13 **Q.** Thank you, Mr Stewart, I will be coming to those.
14 I just want to start with some kind of slightly more
15 fundamental principles, because there's a lot of talk
16 about civil contingencies and there will be a lot of
17 acronyms coming up.
18 So the Civil Contingencies Policy Branch, that's
19 known as CCPB, and that's part of TEO?
20 **A.** Yes.
21 **Q.** And its responsibility is for civil contingencies;
22 correct?
23 **A.** Yes.
24 **Q.** And effectively, as you describe it in your statement,
25 its default state is business as usual.

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1 **Q.** If I can just start with your background. So you served
2 in the Office of the First Minister and deputy First
3 Minister, which is the predecessor to the Executive
4 Office, or TEO, as I'll refer to it throughout, from
5 2000 to 2006, and during the final year of your service
6 in the Office of the First Minister and deputy First
7 Minister, your responsibilities included civil
8 contingencies matters.
9 **A.** That's correct.
10 **Q.** You joined TEO on transfer in October 2018, and on
11 taking up that appointment you had overall policy and
12 operational responsibility for all civil contingencies
13 matters.
14 **A.** That's correct.
15 **Q.** And in early 2020, prior to the pandemic, as part of
16 that role, you would have been what's known as chief of
17 staff for the hub as well; is that correct?
18 **A.** Yes, that was part of the role that I had.
19 **Q.** Thank you.
20 You plainly cover in your statement quite a similar
21 area that Sir David Sterling did in his evidence
22 yesterday. Did you hear the evidence of Sir David
23 yesterday?
24 **A.** Yes, I was able to follow it in its entirety.
25 **Q.** As far as it relates to civil contingencies, is there

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1 If we could just have up on screen INQ000468508,
2 page 17. Thank you.
3 So this is the statement of Ms Bernie Rooney, who
4 was brought in in August 2019. She sets out at
5 paragraphs 78 through to 80 the broad areas of work of
6 CCPB, and so you can see there that there's liaising
7 with Cabinet Office, developing, sharing guidance with
8 Northern Ireland departments, liaising with other
9 administrations.
10 So there's a broad range of work that's done that
11 relates to preparation and responding to potential civil
12 contingency matters; correct? And I'm going to come
13 back to the concept of sectoral resilience, but is it
14 right that sectoral resilience is part and parcel of the
15 business as usual role of CCPB?
16 **A.** Yes, it is, in addition to its overall policy role and
17 its overall co-ordination role during times when it's in
18 its operational role, it has a specific interest both
19 during business as usual and during actual civil
20 contingencies specifically for sectoral resilience.
21 **Q.** Again, I'm going to return to that, I'm just trying to
22 get some building blocks in place at the moment.
23 So, alongside the business as usual, you can have
24 some, what I've been calling bolt-on requirements, and
25 part of that can be activating the hub. Activating the

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1 hub can happen at any point, realistically, can't it?
 2 **A.** Yes.
 3 **Q.** We heard yesterday Sir David talking about weather
 4 events and all the way up to pandemics, for example. So
 5 it can cover a wide range of issues?
 6 **A.** Yes.
 7 **Q.** And CCPB always has to be ready to activate the hub; is
 8 that correct?
 9 **A.** That's correct.
 10 **Q.** In terms of when the hub's activated, then it has to be
 11 staffed --
 12 **A.** Yes.
 13 **Q.** -- is that right? And it's right that, as you describe
 14 it, it's not staffed by a standing army, but effectively
 15 you have the CCPB staff and then volunteers from the
 16 wider Northern Ireland Civil Service are brought in to
 17 assist?
 18 **A.** That's correct.
 19 **Q.** Is it also important that we don't mix up the idea of
 20 sector resilience on one hand and the hub stand-up or
 21 NICCMA activation on the other because they do different
 22 things. Would you just be able to describe kind of the
 23 times when you would be doing sectoral resilience
 24 comparing to standing up the hub and when they might
 25 intersect?

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1 take an example, education, and that manifested itself
 2 in a problem that couldn't be solved within the
 3 education sector alone or by that department, then it's
 4 likely that that would be referred to the hub for
 5 assistance, and the hub might at that stage be involved
 6 with some work to try and identify a solution or it may
 7 refer the matter to the Civil Contingencies Group for
 8 a decision, perhaps on to the Executive, or even for
 9 very serious and extremely difficult matters, it might
 10 be necessary to liaise and refer the matter to the
 11 UK Government.
 12 **Q.** So in terms of your kind of sector resilience, that will
 13 be happening effectively prior to or when there's no
 14 activation of the hub, is that a fair summary of the
 15 situation?
 16 **A.** That's correct, although I think as has already been
 17 made clear in evidence, that's one of the areas of work
 18 that was delayed or postponed because of the need to
 19 give priority to Brexit.
 20 **Q.** Yes. I just want to stay focusing with the hub at the
 21 moment. So it's -- the hub was a creation effectively
 22 of the response to EU exit; is that right?
 23 **A.** Yes, it was.
 24 **Q.** It was developed specifically for EU exit, it wasn't
 25 actually designed with a pandemic in mind; is that

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1 **A.** Certainly. It might be helpful just to set that in
 2 context of how the CCPB brought changes at the watershed
 3 point of stand-up and other contingency being declared.
 4 As you rightly say, in business as usual mode, as
 5 its name implies, it is a policy branch, so the sorts of
 6 activities that it would be engaged in are very typical
 7 of other policy branches: policy, legislation, advice to
 8 ministers, strategies, reviews of plans and priorities,
 9 exercising, testing.
 10 When it flips into its operational mode, then its
 11 role changes quite significantly and its core role is
 12 twofold: one, to provide the secretariat to the Civil
 13 Contingencies Group, the key decision-making body, and
 14 also to be the core of the staff of the hub.
 15 In terms of sectoral resilience, then, there's
 16 a similar change in its role between business as usual
 17 and an operational role. In business as usual mode, it
 18 would be responsible for co-ordinating and pulling
 19 together the sectoral resilience plans of individual
 20 departments and other public authorities, whereas once
 21 a contingency is declared and the hub is in active mode,
 22 it would be co-ordinating the response to sectoral
 23 resilience issues as they arose.
 24 For example, if there was a particular challenge or
 25 problem or difficulty within a particular sector, to

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1 right?
 2 **A.** It wasn't designed with a pandemic in mind. It was
 3 indeed, you rightly say, developed on the back of
 4 Brexit, but it was designed to be, if you like,
 5 contingency blind, to be sufficiently flexible to be
 6 deployed for any kind of contingency that might
 7 subsequently arise. So it was designed and put in place
 8 initially for a specific purpose, but I think from the
 9 outset we envisaged it continuing as a mechanism that
 10 could be deployed as and when needed.
 11 **Q.** Wasn't it a slight quirk of the hub, I think as
 12 Mr Harbinson describes it, that actually it wasn't
 13 realistically possible to socially distance in the hub,
 14 and is that reflective of the fact that it was designed
 15 more with EU exit in mind rather than in a pandemic or
 16 a disease based situation --
 17 **A.** I think that's entirely correct. I don't think that
 18 sort of consideration was ever part of the design
 19 process.
 20 **Q.** And in terms of staffing, you mentioned earlier on that
 21 the staff of CCPB formed the core of the hub. Is it
 22 right that in February 2020 there were meant to be --
 23 well, there were about five members of staff in CCPB?
 24 **A.** Yes, that's correct.
 25 **Q.** And that the intention would be that there would be

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1 12 full-time equivalents; is that right?
 2 **A.** I think the recognised complement would be around
 3 about 12 but it had been quite a few years since the
 4 staffing levels had been anywhere near that level.
 5 **Q.** But that wasn't through a reduction in the need for
 6 other staff; that was just a fact that you were finding
 7 it difficult to staff the hub over those years; is that
 8 right?
 9 **A.** There were a number of reasons for that. I think the
 10 main one was simply budget constraints through the years
 11 of austerity. I don't think it was a case of actually
 12 deciding to downsize the team at any stage, but as posts
 13 fell vacant, they tended not to be filled if the budget
 14 wasn't there to do so.

15 Another difficulty that the team encountered was the
 16 difficulty in filling posts even when the budget is
 17 available, because there was a very restricted supply of
 18 staff at the key grades that endures indeed to this day.

19 A third and perhaps unique difficulty that the team
 20 faced is that because of the nature of the posts, their
 21 sensitivity, many of them, in fact I think all of them,
 22 are subject to the second level of vetting known as
 23 security clearance. That's quite an intrusive process
 24 and on more than one occasion we have been in a position
 25 where a job has been offered to a member of staff, it's

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1 In your statement, you say that that shouldn't be
 2 taken literally, because she's indicating the numbers of
 3 available volunteers beyond her own team. I think it's
 4 fair to say that in her statement she says:

5 "From September 2019 to March 2020, I was the only
 6 [TEO] Senior Civil Servant working on civil contingency
 7 matters located in Castle Buildings which was where the
 8 on site development of the NI Hub project was taking
 9 place."

10 **A.** That's correct.

11 **Q.** So effectively you had that one person on site from
 12 January through 2020 working within CCPB?

13 **A.** At senior level, yes.

14 **Q.** At senior level, yes.

15 How does that compare with the intended staffing
 16 levels at senior level within CCPB; was that intentional
 17 or was that significantly lower than desired?

18 **A.** It might sound counterintuitive but it's actually
 19 a slight increase. In normal times, that area of work
 20 would have been part of the responsibility of another
 21 grade 5 who's also responsible for the Executive
 22 Secretariat. Mrs Rooney wasn't brought in specifically
 23 to take on an operational leadership role of civil
 24 contingencies, but she very kindly did take up that role
 25 when I asked her to do so. She was brought in, as you

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1 been explained to them they'll be subject to security
 2 clearance, and they've declined on the basis that they
 3 would prefer not to have that level of intrusion into
 4 their private lives.

5 **Q.** You also mention in your statement about the fact that
 6 civil contingencies work is quite specialist work.

7 **A.** Yes.

8 **Q.** Did that play any part in the ability to staff up to the
 9 full complement?

10 **A.** I'm not sure whether it played a particular part in that
 11 particular difficulty, but what I did observe was, as
 12 the branch had become smaller over the years, there was,
 13 other than that, a very low turnover of staff, much
 14 lower than I would have expected in a comparable policy
 15 branch. So those who went there tended to stay there
 16 for long periods of time.

17 **Q.** In February 2020, is it right that around about
 18 6 February that there was -- that effectively it had
 19 gone down to two members of staff?

20 **A.** Yes.

21 **Q.** Then we can see in an email that was sent by
 22 Ms Bernie Rooney on 21 March 2020 that there's a line
 23 where she says:

24 "... At the minute I am a one person Hub and all of
 25 the issues related to Covid-19 are moving at pace."

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1 said, specifically to carry out a review of civil
 2 contingencies.

3 When the pressure began to ramp up, actually towards
 4 the end of the Brexit period and then into the period of
 5 the pandemic and preparations for it, Mrs Rooney stepped
 6 up to the plate and became the **de facto** grade 5
 7 responsible for civil contingencies and took on that
 8 role, so it was actually a slight increase in the
 9 staffing complement that we had.

10 **LADY HALLETT:** Forgive me being slow, Mr Stewart, but
 11 Mr Scott's question was: Ms Rooney described it as
 12 a one-person hub; how many people were working in the
 13 hub at whatever level?

14 **A.** It would depend, my Lady, on the extent to which it was
 15 needed to be stood up. At its full complement,
 16 somewhere between 40 and 50 people would need to be
 17 there.

18 **LADY HALLETT:** How many when Ms Rooney described herself as
 19 a one-person hub? You said "Yes, I agree, at senior
 20 level", so you're saying there was one senior person
 21 there. How many other people were there working
 22 full-time?

23 **A.** I suspect on the day she wrote that it was probably
 24 herself, Anthony Harbinson, who had, for reasons we
 25 might come on to, succeeded me in the chief of staff

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1 role, and those members of the core CCPB team who were
 2 there, which may well have been as few as two.
 3 **MR SCOTT:** Yes, it may have been few, so the intention would
 4 be -- when I say the intention, the historic intention
 5 would be 12, realistically it was five.
 6 **A.** Yes.
 7 **Q.** But then, as you said, in February there was two, and
 8 then you have Ms Rooney saying that she's the only
 9 senior member, so realistically it can't be more than
 10 two that were in the hub in March, apart from the fact
 11 that Mr Harbinson had been added; is that right?
 12 **A.** On that particular day, I think in that particular week,
 13 I think the situation did improve in the week or at
 14 least the fortnight after that, thanks to the sterling
 15 efforts of Mr Harbinson.
 16 **Q.** Again, you were saying earlier on that there's
 17 a distinction between the CCPB who formed the core
 18 element of the staffing of the hub and the fact that
 19 volunteers are added?
 20 **A.** Yes.
 21 **Q.** So it's not simply that there was one CCPB person and
 22 there's nobody else, there might be other volunteers at
 23 the time; that's right?
 24 **A.** Yes. Although I think, as Mr Harbinson has said in his
 25 evidence, volunteers were difficult to obtain, much more

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1 Just the line below it:
 2 "For context this is about 50% of what TEO ran in
 3 the full C3 Brexit structure (55 roles)."
 4 So when we talk about the hub having been created
 5 for the purposes of EU exit, was effectively a full
 6 complement of hub staff then 55 roles?
 7 **A.** For it to run at its maximum intensity, over a shift
 8 pattern, yes.
 9 **Q.** So the intention around 12 March, as the NIO understood
 10 it, was that the hub would have 28 roles?
 11 **A.** Yes.
 12 **Q.** So is it not right that by 17 March, if you have
 13 Ms Rooney, you didn't have Mr Harbinson by 17 March; is
 14 that correct? He came in a day or two later.
 15 **A.** I believe he may already have been there on 17 March.
 16 **Q.** So we have Ms Rooney, potentially Mr Harbinson as well,
 17 and at most one, at most three, probably only one other
 18 staff member, and then one volunteer. So is that about
 19 four out of the 28 roles were filled at that point?
 20 **A.** At most, yes.
 21 **Q.** What was your view on the capability of the hub to
 22 respond, given that you had four out of 28 roles filled
 23 on 17 March?
 24 **A.** With only four out of 28 then the hub could only hope to
 25 discharge a very small proportion of its intended role.

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1 difficult than we thought would be the case, and he had
 2 to work extremely hard to get sufficient numbers in
 3 place.
 4 **Q.** Well, yes. So on 17 March 2020 -- so that was the day
 5 after the Executive had approved the activation of
 6 NICCMA; that's correct?
 7 **A.** That's correct.
 8 **Q.** So on 17 March you sent a message to Sir David Sterling
 9 saying:
 10 "The team itself is on its knees - Bernie and
 11 [REDACTED] are both very tired. Only one volunteer so
 12 far."
 13 Is that a reference to the fact that by 17 March
 14 there had only been one volunteer for the hub?
 15 **A.** I think that's correct, yes.
 16 **Q.** If I can show, please, INQ000091309.
 17 This is an email sent by an individual within the
 18 Northern Ireland Office. So this is not -- the NIO had
 19 no specific role within the hub or creating the hub as
 20 of 12 March 2020; is that correct?
 21 **A.** Yes, that's correct.
 22 **Q.** So if we can just see the second paragraph underneath
 23 where it says "Overview" -- thank you -- it says:
 24 "In their proposal [and this is the proposal in
 25 advance of 16 March] the Hub will have 28 roles."

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1 That doesn't give you anything like full operating
 2 capability, and had it remained at that level, that
 3 would have been a very serious matter, the hub simply
 4 couldn't have operated as intended.
 5 **Q.** You say in your statement, and this is paragraph 105,
 6 that there was activation of the hub on 26 March.
 7 I just want to check, by that do you mean that that's
 8 when it was effectively fully staffed with volunteers
 9 and it was fully up to speed?
 10 **A.** I think that's my recollection, yes.
 11 **Q.** So are you able to remember what its staffing was like
 12 on 23 March when Northern Ireland went into lockdown?
 13 **A.** I can't, unfortunately by that stage I had withdrawn
 14 from the role in the hub entirely for reasons that are
 15 set out in my statement. Around about 12 March, the
 16 medical and scientific advice was that anyone with
 17 an underlying health condition, such as asthma, which
 18 I have, needed to work from home. That came as
 19 a surprise and a bit of a shock. It presented a very
 20 significant difficulty for me in relation to the chief
 21 of staff role, for which I was designated. That's
 22 a leadership role, it needs to be discharged by someone
 23 who is physically present in the hub, able to respond
 24 and provide leadership to the staff immediately.
 25 For an very short period, one or two days,

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1 Mr Harbinson and I tried to discharge the role together
 2 with him being physically present and me being remote,
 3 and that was in recognition that he had only just
 4 arrived and was getting up to speed with the role. That
 5 proved impractical for two reasons. One, as I said,
 6 I just don't think the role is something that can be
 7 discharged remotely, it needs someone to be on site.
 8 And two, as it very quickly became clear, you can't
 9 realistically have two chiefs of staff, there is a real
 10 risk of getting in each other's way or giving
 11 conflicting advice to staff, so very quickly we both
 12 claim came to the pragmatic conclusion that one of us
 13 was going to have to do it and it would have to be him.

14 **Q.** Did Mr Harbinson have any background in civil
 15 contingencies?

16 **A.** He doesn't have any background in civil contingencies
 17 that I'm aware of, but it is a senior leadership role,
 18 it's not one that intrinsically calls for specific
 19 experience or qualifications in civil contingencies, but
 20 rather it calls for the generic competences of
 21 leadership, which Mr Harbinson had in very great degree,
 22 he's a very experienced colleague.

23 **Q.** Yes, but if you are going to be running the NI hub as
 24 its chief of staff, surely you would wish to have some
 25 kind of background in either the hub or civil

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1 that it's a model that would have had less risk
 2 associated with it for an influenza-type pandemic;
 3 ironically being in the high risk group I'm vaccinated
 4 every year for influenza, so if that had been the
 5 challenge there would have been no difficulty whatsoever
 6 in taking up the role. There were within the structure
 7 of the hub two designated deputy chief of staff roles,
 8 but the planning assumptions for those were that they
 9 would step in from time to time if, for example,
 10 I needed to attend a meeting of CCG or even the
 11 Executive, or even if the chief of staff had fallen ill
 12 for a short period and then needed to return. What we
 13 simply hadn't thought of at all was a situation where,
 14 because of medical advice, the chief of staff would be
 15 entirely unable to take up the role. As I've said
 16 candidly in my statement, that's an oversight, we ought
 17 to have thought of that and ought to have had
 18 a contingency in place.

19 **Q.** In terms of the deputy chief of staff, were either of
 20 the deputy chief of staff in late March actually the two
 21 deputy chief of staff who were intended when the hub was
 22 being planned, or were they completely different people?

23 **A.** One would have been Ms Rooney, the other would have been
 24 a grade 7 who was very heavily involved in the Brexit
 25 work and very experienced.

19

1 contingencies?

2 **A.** It certainly would have been preferable to have someone
 3 who was trained at least and preferably with some
 4 experience in it, as I had been. So it was a very steep
 5 learning curve for him, and I think a significant
 6 challenge to be overcome and again as of Ms Rooney and
 7 I'm very grateful for him having taken up the gauntlet
 8 at that point.

9 **Q.** Again you say in your statement that:

10 "There was no plan in place to deal with the
 11 contingency of the designated Chief of Staff being
 12 unable to take up the role. With hindsight, it is clear
 13 that there [enough] to have been such a plan, and its
 14 omission was a regrettable oversight."

15 Are you able to --

16 **A.** It sounds like a typing error, I think I meant "ought"
 17 to have been such a plan.

18 **Q.** I may have misread it, it is probably my fault and not
 19 yours, Mr Stewart.

20 Is the fact that there was no plan to deal with the
 21 contingency of the chief of staff being absent, is that
 22 a reflection as well of the fact that it was created in
 23 the context of EU exit where you're less likely to have
 24 senior members of staff be ill?

25 **A.** It is, and I would go slightly further than that, in

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1 **Q.** Okay, so one of the deputy chief of staff had experience
 2 of the hub, but Ms Rooney didn't have any experience of
 3 the hub?

4 **A.** She didn't have as much, she joined a month or two
 5 before the final completion of the Brexit work, so she
 6 would have had some familiarity with it, but certainly
 7 not as much as the other colleague.

8 **Q.** I just want to press you a little bit further, because
 9 one of the essential purposes of CCPB is planning for
 10 eventualities of civil contingencies, emergencies,
 11 situations like that, part and parcel of that is about
 12 planning for resilience; correct?

13 **A.** Yes.

14 **Q.** How is it that the resilience of the staff of the hub
 15 was not something that was thought about in advance?

16 **A.** It wasn't thought about enough at senior level. I would
 17 contend that it was very much part of the thinking on
 18 the overall complement of the hub. So we had in total,
 19 I think, a cadre of volunteers around 180 strong, and
 20 that was in expectation of us being able to man the hub
 21 to whatever degree was necessary over a prolonged
 22 period. Even that was suboptimal. In the design for
 23 the hub, the consultants who designed it recommended
 24 a particular ratio of staff to roles, and the ratio that
 25 they recommended was 8 to 1.

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1 Now, if you can achieve 8 to 1, that gives you
2 a very considerable degree of resilience, even if you're
3 running shift pattern over a prolonged period. In
4 actuality, we didn't manage to get a ratio of any more
5 than 5 to 1 at any given time, which is enough to run
6 a shift pattern with some resilience but only I think
7 for a limited time. But your observation is correct, we
8 simply hadn't given enough thought to resilience at
9 a senior level. The chief of staff role, two deputy
10 chief of staff roles, that would have seen us through
11 for a period, but in the event of a need to maintain the
12 hub in operation for anything more than, I think,
13 a couple of months, that would have given us a very
14 significant resilience challenge.

15 **Q.** Was there any detrimental impact upon the response to
16 the pandemic of those staffing arrangements?

17 **A.** Do you mean in particular Mr Harbinson substituting for
18 me?

19 **Q.** No, well, that, but also generally broader in terms of
20 the lack of staffing numbers that you had within the
21 hub.

22 **A.** I think specifically in Mr Harbinson's case, no. He's
23 a very experienced and capable colleague, he had a very
24 steep learning curve, which I think he successfully
25 negotiated, and I'm extremely grateful to him for the

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1 as director of CCPB, chief of staff of the hub and then
2 responsibility for planning, that was effectively
3 divided up into three?

4 **A.** Yes.

5 **Q.** Yourself, Mr Harbinson and Karen Pearson?

6 **A.** Yes.

7 **Q.** Does that show that it was never realistic that during
8 a pandemic the breadth of your role could have been
9 performed by one person?

10 **A.** I think that's a fair conclusion to draw. I think
11 knowing what we know now, I don't think anyone would
12 argue that the totality of the roles could be carried
13 out by one person for any length of time. There were
14 times when all three of us were very busy. My view on
15 it now is that I think it calls for at least two roles
16 and at times more than that. So I think I have to
17 concede that that is a shortcoming in the design and one
18 that should be rectified going forward.

19 But I would say that the need that arose to apply
20 additional leadership capacity to the work was not
21 unique to us in Northern Ireland. If you look at the
22 experience of the Cabinet Office around about that time,
23 it seemed to us that there were new teams and new senior
24 colleagues arriving there almost on a daily basis.

25 **Q.** You said that it would be performed by at least two

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1 leadership that he showed in taking up the role.

2 In relation to the overall numbers of staff
3 available for the hub, as I've said, our starting point
4 was below the ideal ratio for numbers available, and
5 Mr Harbinson encountered very significant difficulties
6 in the first week in even getting those numbers to come
7 forward.

8 That presented, I think, very real challenges and
9 very real difficulties for him, in his evidence he will
10 have said more about this, it required him to bring
11 forward innovative solutions, and you will have seen
12 from his evidence he did approach the four largest
13 consultancy firms in Northern Ireland with a plea for
14 help, which was forthcoming.

15 So there was a difficulty, there was an effect, it
16 required Mr Harbinson to find innovative solutions, but
17 I'm glad to say I think he was successful in doing so.

18 **Q.** It's never the intention in the early stages of the
19 activation of NICCMA or the activation of the hub that
20 some of the focus of the hub would be taken up on trying
21 to get in sufficient staff in order to run it; is that
22 right?

23 **A.** That's correct.

24 **Q.** I also want to talk about your role specifically. So
25 effectively in late March 2020 your role that you'd had

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1 people in terms of the breadth of --

2 **A.** That would be my view, yes.

3 **Q.** Yes. To be fair to you, you do say in your statement:

4 "In the event of a future pandemic, a simpler
5 management structure would apply as Ms Pearson's role
6 carries responsibility for all civil contingencies
7 matters ..."

8 And then it's likely an approach -- for legislation:

9 "... is likely that an approach similar to the
10 Executive Covid-19 Taskforce would be adopted, with lead
11 responsibility being taken by Ms Pearson' role."

12 Doesn't that demonstrate that at the moment one
13 person, so Ms Pearson, would be asked to perform two out
14 of the three roles that were undertaken during the
15 pandemic by you, Ms Pearson and Mr Harbinson? Again, is
16 that too much for one person?

17 **A.** In my view, it would be. As things currently stand, and
18 forgive me if I wasn't clear, that's what I meant by my
19 statement, if the same situation arose today then it
20 would be under, at present, the single leadership of
21 Ms Pearson.

22 Her role in that regard didn't have the other
23 elements of my role at that time. I was also
24 responsible for the Executive information service, the
25 Executive Secretariat and ministerial private offices.

24

1 I mean, those are not things that fall to her. So her
2 current role would allow her to devote a greater
3 proportion of her time to that, but it would remain my
4 view that there would be more than enough work there for
5 two people.

6 **Q.** So actually that current structure has come about
7 following the civil contingencies framework review which
8 I think took place in late 2021?

9 **A.** Yes.

10 **Q.** So that is even after there has been a review conducted
11 following on from the pandemic?

12 **A.** Yes.

13 **Q.** Is it right to say that you believe that that should
14 probably be looked at again, in terms of is that too
15 much for one person?

16 **A.** That's a personal view, but I think I would have to
17 concede it's a personal view from distance. It's
18 an area of work that I haven't been involved in since
19 May of 2020. Colleagues who undertook the review, and
20 indeed Ms Pearson now, I think would be much better
21 informed than I am about what's actually required.

22 **Q.** But that is based on your personal experience having
23 performed that role for a number of years?

24 **A.** For a period and for a contingency as challenging and as
25 difficult as the Covid pandemic, yes.

25

1 the respond phase or the operational phase.

2 So in prepare mode, if I may use that shorthand,
3 TEO's role would be to regularly review plans prepared
4 by individual departments and public authorities and to
5 do the joining up of that.

6 One of the key lessons that we learned from Brexit
7 is that it's necessary but not sufficient for
8 departments to plan individually, and there needs to be
9 someone, in this case TEO, taking an overview and
10 joining up the plans and drawing the lessons and the
11 inferences for that.

12 If I could give an example, perhaps to illustrate
13 that, and this was the case in preparation for Brexit,
14 quite a number of departments and public authorities
15 would have identified and planned for risks which might
16 have included the risk of public disorder. Not
17 unnaturally, in their plans they would have looked to
18 PSNI to respond to that and to deal with the necessary
19 risk. But if a number of public authorities are
20 planning on that basis individually, and if we don't
21 draw that information together and present it to PSNI,
22 then PSNI is not in a position to do its own planning
23 and to ensure that it has the necessary resources in
24 place or the ability to take the necessary
25 prioritisation decisions, and that's where the joining

27

1 **Q.** If I can turn now to sectoral resilience.

2 And if we can show INQ000411508, thank you very
3 much.

4 It's at paragraph 52, and it's the end of the second
5 line:

6 "... sectoral resilience, that is; the co-ordination
7 of action to support key public services, key economic
8 sectors, and the functioning of society generally."

9 You described that as "TEO's specific
10 responsibility". In the context of civil contingencies,
11 would that always be within TEO's responsibility?

12 **A.** Broadly, yes, although that paragraph, I think, is
13 a very specific reference to planning and preparation
14 for an influenza pandemic.

15 **Q.** Well, you say planning for an influenza pandemic, would
16 it not also be planning for any pandemic?

17 **A.** Yes.

18 **Q.** You were talking earlier on about how sectoral
19 resilience is about co-ordination.

20 **A.** Yes.

21 **Q.** You refer in your statement about co-ordination of
22 action. Please can you describe how TEO goes about
23 co-ordinating that action.

24 **A.** Again, I would draw a distinction between the sort of
25 planning role or the prepare phase of a contingency and

26

1 up and co-ordination role comes into its own for TEO.

2 It's not specifically an audit or a quality
3 assurance role, although if TEO was of the view that
4 there were deficiencies or gaps in the plan, then we
5 would point that out to the authority or department
6 concerned. But TEO would not itself have the expertise,
7 for example, to critique a plan from education or
8 infrastructure, and certainly not from health.

9 When we move into the operational phase, then TEO is
10 part of the hub and is part of the civil contingencies
11 arrangements. What it would be doing there is
12 responding to sectoral resilience issues as and when
13 they're raised by departments or public authorities,
14 and, as I said earlier, either being part of trying to
15 co-ordinate or develop the solution or escalating the
16 issue still further to CCG or the Executive, or even
17 beyond if that were necessary.

18 **Q.** So in terms of in the prepare phase, you would
19 effectively be looking to ensure that the issues the
20 departments need to deal with are covered, as you say,
21 during the joining up aspect?

22 **A.** Yes.

23 **Q.** And that when you were in an activated stage, so when
24 the hub was up and running, when NICCMA has been
25 activated, then you are more likely to be responding to

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1 points that have been raised?

2 **A.** Yes.

3 **Q.** And it's not your role to identify, as we saw in your
4 statement, for example, how public services should be
5 supported or how society should function generally; that
6 remained the responsibility of the individual
7 departments who have the specialist knowledge; is that
8 right?

9 **A.** Yes. The hub is very much a co-ordination mechanism.

10 **Q.** I just want to give an example of how that played out
11 actually in the pandemic.

12 If we can see INQ000309230. It's a document we
13 actually saw yesterday.

14 Now, this is an email that was circulated by the
15 Civil Contingencies Secretariat on 6 March 2020. Just
16 to orientate ourselves a little, Civil Contingencies
17 Secretariat is a body that falls within the
18 Cabinet Office and it's broadly equivalent to CCPB; is
19 that right?

20 **A.** It is, only very much larger and more sophisticated in
21 its capabilities.

22 **Q.** What was the relationship like between CCS and CCPB
23 prior to the pandemic?

24 **A.** Very positive.

25 **Q.** Did the -- did you share expertise, best practice,
29

1 Within Northern Ireland, I think it's unlikely that
2 CCPB would initiate an exercise like that on its own
3 initiative, but might well be tasked with doing so by
4 the Civil Contingencies Group or the Executive.

5 **Q.** Why wouldn't it do that itself?

6 **A.** It tends to operate under direction from the Civil
7 Contingencies Group, perhaps with less autonomy than the
8 Cabinet Office Civil Contingencies Secretariat would
9 have. I wouldn't rule it out as a possibility. I'm
10 simply saying that in my experience, it's more -- it's
11 not at all unlikely that it would be engaged in that
12 sort of activity, but I think it's more likely that it
13 would have been directed by CCG rather than initiated by
14 CCPB. Forgive me, I'm using a great many acronyms.

15 **Q.** CCG in normal times meets three times a year; is that
16 right?

17 **A.** Yes.

18 **Q.** So in between those meetings, why wouldn't it be that
19 CCPB, given its experience of civil contingencies, given
20 its role for sectoral resilience, why wouldn't it be
21 seeking to perform this equivalent task instead of
22 waiting to be commissioned by CCG or the Executive?

23 **A.** Well, if I understand that particular task, and I do
24 remember it --

25 **Q.** Please don't worry about the specific task, I mean, this
31

1 anything along those lines?

2 **A.** Broadly, yes. I can't cite specific examples of that,
3 but there would have been regular and ongoing liaison
4 between Katharine Hammond's team and mine.

5 **Q.** Just coming back to this document here, I'm not
6 concerned about the specific timing of it or the precise
7 details within it. So what we see in this email is that
8 CCS is asking departments, Whitehall departments, for
9 information, it's talking about specific interventions
10 and asking departments to identify what they consider
11 would be impacts. Thank you.

12 Then you can see specifically there they're
13 referencing specific groups such as vulnerable elderly
14 person and they're also asked to consider possible
15 mitigations.

16 Is that the type of activity that CCPB would have
17 done in Northern Ireland when it comes to, in general,
18 in principle, in relation to the Northern Ireland
19 departments?

20 **A.** Yes, if a commission to do so were received from the
21 Civil Contingencies Group or the Executive. I don't
22 know the origins of that particular request from
23 Cabinet Office, whether it came directly from the
24 secretariat thereof, on their own initiative, or whether
25 they were tasked with doing that by COBR or by Cabinet.
30

1 is an example of the task that might be performed.

2 **A.** Well, I think it is, I understand your point, but it's
3 an example that arose in particular circumstances,
4 I mean, this was in the early stages of preparation for
5 the pandemic, so this was not business as usual by the
6 Cabinet Office, this was a very specific exercise for
7 a very specific reason.

8 There is no reason why, in a business as usual
9 period, CCPB wouldn't be gathering information, testing
10 the state of preparedness of sectoral resilience. To
11 the extent to which it didn't do so in the years
12 preceding the Covid pandemic, I think that's a direct
13 result of resource constraints and the lack of staffing
14 resource that was available in the team.

15 **Q.** So let's say, for example, departmental contingency
16 plan, doesn't really matter which department, would that
17 have included specifically asking about impact upon
18 groups such as disabled, children, or others who might
19 be potentially particularly impacted by any given
20 situation? Was that something that would be considered?

21 **A.** Possibly. It may not have been as sophisticated
22 a request as that. I say that simply because in the
23 period where we were focused on this, in February and
24 through into early March, the question that we asked --
25 but that might have been a product simply more of the
32

1 urgency of that particular period -- was to departments:
 2 let us have your plans, let us see them, what is your
 3 state of readiness? I don't think we went further than
 4 that in asking the more specific questions that were in
 5 that example.

6 **Q.** And why was that the case, was that because of a lack of
 7 staffing availability as you indicated earlier on, or
 8 was that for a different reason?

9 **A.** I think it was more a case of one step at a time and the
 10 first step being let's get the plans in have a look at
 11 them and see where the gaps are.

12 **Q.** Is it not a gap if you start -- is it not a gap if
 13 you're considering that there's an absence of
 14 consideration of groups who might be particularly
 15 affected by a plan?

16 **A.** I would accept that, yes.

17 **Q.** If I could move on now to the actual particular pandemic
 18 response, you say in your statement that it's actually
 19 the UK Government who provided the official advice, the
 20 preparation for the Covid-19 pandemic should be on the
 21 basis of the extant influenza plan and that this
 22 remained the advice until some time in March 2020?

23 **A.** Yes.

24 **Q.** Whether or not the influenza plan should have been used
 25 in response to Covid-19 wasn't a matter for CCPB or TEO;

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1 a comparatively short period of time had got to grips
 2 very effectively with what the role of CCPB was, but
 3 I absolutely understand and respect the concern I think
 4 that she's expressing there.

5 **Q.** Again, coming back to staffing numbers, if you had five
 6 members of staff, again I think it's where we settled,
 7 and one was Ms Rooney, is the practical implication of
 8 Ms Rooney's statement that you -- Northern Ireland had
 9 at best four people within CCPB involved in sector
 10 resilience prior to the pandemic?

11 **A.** That's correct. I wouldn't dispute in any way that CCPB
 12 was, even at its full complement, a small team and, as
 13 you've correctly set out, it was nowhere near its full
 14 complement, it was a very small team.

15 **Q.** Again, Ms Rooney observes that her view was that staff
 16 within the existing CCPB lacked the expertise, skills to
 17 undertake a cumulative risk assessment of the emerging
 18 pandemic. Would you agree with that?

19 **A.** Not entirely. I respect her giving that view, but
 20 I wouldn't entirely agree with that. I think there was
 21 greater expertise in relation to that in Karen Pearson's
 22 team, which is why it was of very considerable benefit
 23 when they joined us. But I think there was expertise,
 24 sufficient expertise within CCPB, albeit concentrated in
 25 a small number of people, to do that assessment at the

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1 is that right?

2 **A.** Yes.

3 **Q.** Your role was effectively to implement the plan that was
 4 to be used in response to that pandemic; is that
 5 correct?

6 **A.** And specifically a particular strand of the plan that
 7 fell to TEO, which was sectoral resilience.

8 **Q.** Again, just touching upon Ms Rooney, so Ms Rooney was
 9 brought in in August 2019 in order to conduct
 10 a strategic review of civil contingencies within CCPB;
 11 that's right?

12 **A.** Yes.

13 **Q.** Ms Rooney says in her statement:
 14 "... I had been in post for 6 months at that time,
 15 I did not have an informed understanding of what was
 16 meant by sector resilience. It was the responsibility
 17 of the Head of Civil Contingencies Policy Branch."
 18 Is it not a cause of concern that Ms Rooney could
 19 have been involved in CCPB for six months and still not
 20 have an informed understanding of what was meant by
 21 sector resilience?

22 **A.** I was surprised to see that statement. It's not for me
 23 to put a gloss or an interpretation on what she's said,
 24 but my assessment at the time was that she was a very
 25 high performing individual who I thought in

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1 time when I asked them to do it.

2 **Q.** In terms of the timeline, Ms Pearson's team arrived
 3 around 14 March?

4 **A.** Yes, that's correct.

5 **Q.** So I think Ms Rooney's statement is that within the
 6 existing CCPB, again, you're saying that you thought
 7 that those four individuals did have sufficient
 8 expertise and skills to undertake a cumulative risk
 9 assessment?

10 **A.** Yes.

11 **Q.** Prior to 14 March?

12 **A.** Yes. But I respect Ms Rooney's right to take
 13 a different view on that.

14 **Q.** And Ms Rooney's view would be based on her role that you
 15 tasked her to do to effectively perform a review of
 16 those issues such as experience, skills, expertise
 17 within CCPB?

18 **A.** Yes, and I think particularly in feeding in to that
 19 review the recommendations in the lessons learned
 20 reports from PwC consultants following the design
 21 exercise for the hub.

22 **Q.** Because you say that you reached a conclusion that there
 23 was a need for a greater focus on preparation,
 24 particularly in relation to cumulative planning and risk
 25 assessment; is that right?

36

1 A. Yes.

2 Q. And you'd actually reached that view prior to
3 February 2020?

4 A. Yes.

5 Q. One of the documents that we've had which was referred
6 to frequently and I'd like you to be able to talk about
7 it is INQ000205712.

8 This is a document that you prepared, as we can see
9 from the top there.

10 A. Yes.

11 Q. "A strategic review of civil contingency
12 arrangements ..."

13 So the question that I was just asking about, the
14 focus on preparation, is this a document that arose from
15 your view that you needed a greater focus on
16 preparation?

17 A. It does. Perhaps before I turn to that, I may not have
18 been sufficiently clear in my previous answer or I may
19 have been answering perhaps a little too literally.

20 It was not my view that Civil Contingencies Policy
21 Branch had all the capacity or capability that it needed
22 to fully discharge the entirety of the role that
23 I envisaged for it, but at that particular point in
24 time, in February 2020, it was my view and remains my
25 view that it had sufficient capacity to deal with the

37

1 dealing with new types of contingencies, where we hadn't
2 even begun to plan, and perhaps the most obvious example
3 there is cyber attacks, particularly where they would
4 relate to critical national infrastructure such as the
5 power transmission and distribution network.

6 That was an area of work that CCPB had simply never
7 been able to get into, and it was my view that we needed
8 additional capacity to do that going forward, and that
9 was the provenance of the review.

10 But it was not intended to be part of the response
11 to Covid. That document is dated February. It wouldn't
12 be remotely conceivable even to start a review, never
13 mind finish one, in the period before the pandemic
14 arrived.

15 There was also a concern I think expressed that,
16 you know, were we resorting to a classic civil service
17 tactic there in the face of a problem: let's call for
18 a review and simply kick the can down the road. Again,
19 I'd like to, if I can, reassure you that that was not
20 the case.

21 This review was an entirely different purpose, it
22 wasn't part of the solution that I required in terms of
23 our ability to respond to the pandemic. The solution to
24 that, by that time, could only be found in transferring
25 staff from other parts of the department to give us

39

1 immediate challenge of gathering together sectoral
2 resilience plans in preparation for the coronavirus
3 pandemic.

4 As that paper sets out, and as I've just said,
5 I think there's an important point perhaps which is
6 worth bearing out here, because it touches on a concern
7 I think raised by Ms Dobbin in her questioning of
8 Sir David Sterling, and indeed in her opening remarks
9 where I think she understandably asked: why, in the
10 teeth of the pandemic, were you talking about a review
11 and why in a document that describes a review were you
12 talking about possible future emergencies, when it was
13 well known at that point that we were about to enter
14 into a pandemic?

15 The explanation for that is that, despite its
16 timing, that exercise was not ever intended to be part
17 of the response to Covid. It long pre-dates that, for
18 the very reasons that you've given. It's long in
19 gestation, its origins go back to August 2019, when
20 I asked Ms Rooney to join the department to carry out
21 just that review. Folded into that were the lessons
22 learned reports from PwC on the experience of standing
23 up the hub, and Ms Rooney's own assessment of what the
24 capacity situation was at that time. And its focus is
25 very much future-looking. Its focus is very much on

38

1 a short-term boost in our capacity.

2 Q. In terms of the review, though, if you're going to carry
3 out a review, somebody's got to carry it out.

4 A. Yes.

5 Q. Who was going to carry that out?

6 A. It would have been led by Ms Rooney, but, as is laid out
7 in that paper, in her estimate it wasn't something that
8 one person could do, even the review needed additional
9 capacity, and our request was for approval to -- in
10 addition to our own team, to employ some consultancy
11 resource to assist with that.

12 Q. But you're taking resources away from CCPB in late
13 February, just before the pandemic -- well, you're
14 taking resources away in late February; surely at that
15 point in time you don't want to weaken the capacity of
16 CCPB by asking them to do something else?

17 A. That's entirely correct, which is why the review did not
18 commence at that time.

19 Q. Yes, but you say, and we can see on the screen there,
20 that:

21 "[The] Issue: [of] civil contingencies arrangements
22 in Northern Ireland have not been reviewed for over
23 20 years. This paper seeks agreement to commission
24 a strategic review ..."

25 Is that not demonstrating that your intention was

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1 that the review would be carried out at that time?
 2 **A.** No, that wasn't my intention.
 3 **Q.** Well, then, why would you put a paper to the board
 4 asking for a review to be carried out if you didn't
 5 intend it to be carried out around that time?
 6 **A.** Quite simply because even at that stage, and
 7 I appreciate that this may appear incongruous, there was
 8 some normal business as usual still being transacted
 9 within the department, and this was part of the normal
 10 business as usual.
 11 That paper, as I said, was long in gestation. It
 12 finally got to the point where it was ready to go to the
 13 departmental board in February, and the board's approval
 14 was secured. But at no stage -- and I regarded that as
 15 approval to proceed at the right time. At no stage
 16 would I have considered taking resource away from Civil
 17 Contingencies Policy Branch in the teeth of the pandemic
 18 to carry out a review. That would have made no sense.
 19 **Q.** If we can go to page 9 of this document, please,
 20 paragraph 23.
 21 And again, it's worth remembering that this is
 22 a document that you'd authored:
 23 "... no action is taken to address the lessons
 24 learnt and to implement recommendations ..."
 25 So that opening sentence is effectively: if the

41

1 a review to ensure that, going forward, we had the
 2 entirety, all of the capacity and capability that we
 3 needed, to deal with all conceivable contingencies going
 4 forward.
 5 On the separate question of were we, in March 2020
 6 or even earlier, able to take the immediate steps that
 7 were necessary to respond to the Covid pandemic, my view
 8 was: yes, but only just. I said in my statement
 9 I thought we had adequate. What I meant by that was
 10 just enough and no more resource to mount that response.
 11 But I certainly didn't intend to imply by that statement
 12 that CCPB had all the resource that it could possibly
 13 need to do all the things that it could possibly be
 14 called on to do, hence the need for the review.
 15 **Q.** Yes, although is it not fair that the paragraph that
 16 you've authored there, on 25 February 2020, is a little
 17 bleaker in tone about -- "may not be prepared for, or
 18 have the capacity and capability to deal effectively
 19 with"; that's a bit bleaker than what you're currently
 20 saying now; do you agree with that?
 21 **A.** No, and if I've given you the impression this morning
 22 that it wasn't as bad as that, then let me take the
 23 opportunity to correct that. It was my view from quite
 24 early on in my tenure in TEO, and remains my view today,
 25 that, at that point in time, Civil Contingencies Policy

43

1 current position continues; is that right?
 2 **A.** Yes.
 3 **Q.** It then goes on:
 4 "... the risk arises that civil contingency
 5 arrangements in Northern Ireland will fall even further
 6 behind the rest of the UK, and the Executive and wider
 7 society may not be prepared for, or have the capacity
 8 and capability to deal with, an emergency situation
 9 should a major contingency present."
 10 Given that's 25 February, do you not consider that
 11 there was a likelihood of a pandemic and that,
 12 therefore, a major contingency had presented itself by
 13 that point?
 14 **A.** It was, and again I was conscious in Ms Dobbin's opening
 15 remarks that that might be interpreted as a belief on my
 16 part that a pandemic was not inevitable. That was not
 17 the case at that stage.
 18 There was also a concern raised, I think on behalf
 19 of one of the core participants in the opening
 20 statements, that: how could I be asking the departmental
 21 board for a review and stating very robustly there, as
 22 I did, that it was necessary in February, but yet be
 23 assuring ministers in March that we had the capacity to
 24 mount the immediate response to the pandemic? The
 25 explanation there is that the scope of that paper is

42

1 Branch was very considerably under-resourced for the
 2 task that it was tasked with doing.
 3 **Q.** What's unequivocal from that paragraph is that you were
 4 concerned that there was a deficit in the ability of
 5 CCPB to prepare for an emergency situation; is that
 6 right?
 7 **A.** Yes.
 8 **Q.** So if you had that view on 25 February 2020, had that
 9 led you to put extra emphasis on the need to prepare
 10 prior to February 2020 in the event of a pandemic when
 11 you were hearing whispers that Covid was potentially
 12 likely to be a major issue for Northern Ireland?
 13 **A.** Yes, forgive me, if I understand your question
 14 correctly, it was clear from an email that I received on
 15 22 January from the head of the branch that we were
 16 behind in our planning and preparation. She put it very
 17 succinctly in saying that we were 18 months behind where
 18 we ought to have been in terms of preparation for
 19 an influenza pandemic. So from that point on, I was
 20 encouraging and indeed directing the team, probably
 21 ad nauseam, to give priority to planning and
 22 preparation, because one of the key lessons that we had
 23 learned from the work on Brexit was the importance of
 24 doing just that, and the importance of doing not only
 25 the risk assessment but the cumulative risk assessment

44

1 across departments and public authorities. That's
 2 what's behind my encouragement and constant expectation
 3 of the branch to prioritise that at that stage, that is
 4 what is behind the advice that I was giving, which I'm
 5 sure we'll come on to, in terms of the appropriate point
 6 at which to activate the hub to move into operational
 7 role. That is a matter of very fine judgement.
 8 Activate too late and you impede the response. Activate
 9 too early and you won't have got -- made sufficient
 10 progress in the planning. And again, I think the
 11 importance of planning was emphasised in the opening
 12 remarks of a number of the core participants.

13 **Q.** Yes, but again it's important to focus on the planning
 14 and the preparation stage. You're talking here about
 15 preparation. We're not actually at the point of
 16 activation yet, are we?

17 **A.** No.

18 **Q.** This is about focusing in the planning stage?

19 **A.** Yes.

20 **Q.** So what emphasis are you putting on the additional
 21 planning at this point in February 2020 given your view
 22 about the potential deficit in the ability to plan?

23 **A.** I'm directing the team to set it as their top priority,
 24 which indeed they did, they worked extremely hard on it,
 25 got us to the point where, by 9 March, we were able to

45

1 to you saying:
 2 "I anticipate the cross-government co-ordination and
 3 wider sector resilience aspects will ramp up
 4 significantly."
 5 So on 6 February, by that point in time you had your
 6 own concerns about the ability of CCPB to plan for
 7 an event such as a pandemic; is that right?

8 **A.** Yes.

9 **Q.** And you had the CMO saying "I anticipate the wider
 10 sector resilience aspects will ramp up significantly",
 11 that's a bit of a pinch-point if, as your email above
 12 says, you have two members of staff, you have concerns
 13 about planning and the CMO is suggesting that wider
 14 resilience will need to ramp up. Were you satisfied
 15 that CCPB could give an adequate and an effective
 16 response in those circumstances?

17 **A.** My view was that it could give an adequate initial
 18 response, but I still had a very real concern about
 19 resilience versus sustainability with that effort for
 20 anything other than a short period and that's why there
 21 are the two references there, one to asking NIO
 22 colleagues for help, which in the end I didn't do, but
 23 also to the step which I did take on 19 March, if
 24 I recall correctly, which was to, with ministerial
 25 agreement, suspend all work on programme for government

47

1 present to Sir David Sterling our initial overview, our
 2 initial co-ordination of the sectoral resilience plans
 3 across all departments and, as I think you quoted from
 4 earlier, my signal to him that, as a result of that
 5 extremely busy period, that the branch had had --
 6 I think the phrase I used was that they were on their
 7 knees.

8 **Q.** Because you'd -- if we could go to INQ000309214, and
 9 it's focusing at the top -- sorry, well, we'll focus at
 10 the top and then we'll scroll down.

11 So we can see that that's an email from you on
 12 6 February 2020 and this is about sectoral resilience,
 13 you've got there an indication that:
 14 "... the outbreak might not peak in China for
 15 another 5 weeks, and 2 to 3 weeks after that ..."
 16 And then this is where it has come from about CCPB:
 17 "... down to 2 members of staff ... I'll need to
 18 take some fairly drastic re-prioritisation decisions
 19 ..."

20 If we can just go down to the email that's below
 21 that, which is from -- it says "redacted" there, is that
 22 actually from Professor McBride? Is that actually
 23 likely that it's from the CMO?

24 **A.** Yes, I think so.

25 **Q.** So you have an email there from 6 February from the CMO

46

1 and re-prioritise and re-direct actually an entire
 2 division of staff from work on the programme for
 3 government on to Covid work.

4 **Q.** I just want to dive a little deeper into that.
 5 If we can go to INQ000092712.
 6 And I think this is probably the document that you
 7 were referring to earlier on, from the head of the civil
 8 contingencies -- it's probably the document you were
 9 referring to earlier on; is that right?

10 **A.** Yes.

11 **Q.** Then if we scroll down to paragraph 3, please -- thank
 12 you very much -- and we can see there it's under the
 13 heading of "Sector Resilience":
 14 "CCPB was allocated responsibility for taking
 15 forward the sector resilience element of Pandemic flu
 16 preparations a few years ago. It is allocated to CCPB
 17 in the CCG(NI)Sector Resilience Programme."
 18 It is taken on as a non health-related issue.
 19 Just pausing there, health-related issues should be
 20 dealt with by the Department of Health?

21 **A.** Yes.

22 **Q.** "However, no work had commenced on it due to competing
 23 priorities and then the impact on staff resources due to
 24 EU exit preparations. This has resulted in
 25 Northern Ireland being more than 18 months behind the

48

1 rest of the United Kingdom in terms of ensuring sector
2 resilience to any Pandemic flu outbreak. It is clear
3 there is a pressing need to move ... forward."

4 So is that what you're talking there, that in the
5 18 months -- sorry. You were 18 months behind the rest
6 of the United Kingdom. Plainly any planning that
7 happens in 18 months can have an impact upon how someone
8 like a civil contingencies body would respond in the
9 event of a pandemic?

10 A. Yes.

11 Q. And also you're saying there that the reason why no work
12 was done was other priorities and staffing resources?

13 A. Yes, that was the advice that I was given and I've no
14 reason to doubt that that was the reason.

15 Q. The staffing resources situation wasn't actually any
16 better by January 2020; is that right?

17 A. Correct.

18 Q. If we can have up, please -- this is your statement --
19 INQ000411508, thank you.

20 This is page 12, I want to -- you deal with this at
21 length in your statement, fair to show this. If we can
22 go to paragraph 51, you say you don't recollect that
23 document.

24 Then at paragraph 52, you say:

25 "I do not recall being made aware of such concerns
49

1 for the activation of the hub?

2 A. Yes.

3 Q. You don't actually include in there any of the sectoral
4 resilience work in advance of the pandemic.

5 A. Those I would have seen as the three most pressing
6 priorities or, if you like, the innermost concentric
7 circle. The next priority after that is to do the work
8 with the departments and other public authorities in
9 gathering in the plans.

10 Probably worth saying as well that had we not been
11 18 months behind in our planning, those I would have
12 seen as the top priorities in a well developed plan.

13 Q. So sectoral resilience from January through to
14 March 2020, using the timeframe you used earlier on,
15 wasn't one of the top priorities?

16 A. Sorry, I've given you the wrong impression there, and
17 I think perhaps, with hindsight, my statement is less
18 than clear on that point.

19 In the situation that I found -- where we found
20 ourselves in in January, my judgement was that we needed
21 to do two sets of things. The first was those three
22 points that are on the highlighted document. The second
23 was to get the sectoral resilience planning under way at
24 great pace, and those things were done, and I apologise
25 if that's not reflected clearly in the statement.

51

1 prior to receipt of the document."

2 So that's 22 January, you don't remember being aware
3 of what people within CCPB considered being 18 months
4 behind England -- behind the rest of the United Kingdom,
5 prior to 22 January?

6 A. No, it had not been brought to my attention prior to
7 that point.

8 Q. Then this is the section where we were dealing earlier
9 on with sectoral resilience.

10 You then say at the bottom, and this is the rapid
11 pace -- if we could just have the zoom-in section back,
12 please, so it's the last three lines:

13 "... the rapid pace of developments around that
14 time ..."

15 What time do you mean by that?

16 A. From that point on, from late January through into
17 February and March.

18 Q. "... meant that the focus shifted rapidly thereafter
19 from the development of a more general plan onto a small
20 number of discrete tasks ..."

21 Then if we can go over the page, please, and then
22 those top three bullet points.

23 So those are the three tasks, so it's: input to the
24 development of the Coronavirus Act 2020; ensuring
25 readiness to activate the NICCMA protocol; and preparing
50

1 Q. Did CCPB have the capacity to do these aspects and
2 sectoral resilience with the limited number of staff
3 that it had between January 2020 and then when the hub
4 was stood up in March?

5 A. With a very considerable volume of work done on their
6 part, yes, and not without very considerable pressure.
7 And that is why at the end of that period my advice was
8 that the team was on their knees.

9 Q. Again, I just want to focus on the planning, because,
10 again, prior to 16 March you are still in the planning
11 and preparation phase; is that right?

12 A. Yes.

13 Q. So if we just go, again, same document, if we go down to
14 paragraph 59, please, and if we can zoom in there, this
15 is discussing the CCPB. You've formed the view the
16 focus within -- on preparation, which you've highlighted
17 there, about the need for preparation.

18 Is that bottom line:

19 "Fortunately, it was possible to address this by
20 involving the Brexit team (which was skilled and
21 experienced in planning and risk assessment) in the
22 preparation for the pandemic."

23 Are you saying there that planning really was
24 advanced when the Brexit team joined?

25 A. It was advanced to a certain point. By 9 March, I think
52

1 it was, we had done the initial co-ordination exercise
2 in gathering in the resilience plans from departments.
3 The arrival of the Brexit team I think gave that work
4 a considerable boost, significantly boosted our
5 capacity, took some of the pressure off the CCPB team at
6 that point.

7 And I think if I may characterise it in this way:
8 the CCPB approach had been very much bottom-up,
9 gathering in the plans, assessing them, trying to spot
10 the gaps, and join the dots, as it were. That was
11 complemented by the arrival of the Brexit team, which
12 took more of a top-down approach, starting by
13 identifying critical risks and then seeing how they were
14 reflected in the sectoral resilience plans that were
15 coming forward.

16 So the two approaches were complementary.

17 **Q.** I'm going to look at the actual planning just after the
18 break, Mr Stewart, but let's get the timeline correct.

19 So the Brexit team joined on 14 March?

20 **A.** Yes.

21 **Q.** And the WHO had declared a global pandemic on 11 March?

22 **A.** Yes, I think that's correct.

23 **Q.** Would you agree that's very late in the day for having
24 the sufficient planning resources?

25 **A.** I would absolutely accept that point, I would absolutely

53

1 behind in planning for influenza is a serious matter; we
2 ought not to have been in that position. Prior to
3 Brexit and prior to Covid, an influenza pandemic was our
4 number one risk. Being 18 months behind in the planning
5 for your number one risk is not a satisfactory position
6 and not one that I would attempt to defend.

7 The point that I was trying to make is that,
8 notwithstanding the very hard work of the branch to get,
9 if you like, influenza-based plans together in the
10 period from the end of January to early March, quite
11 simply the world turned upside-down with the
12 announcement of lockdown, and all of the planning that
13 we had done to that point, late though it was, from that
14 point forward, in my view, was of limited utility.

15 I might perhaps illustrate that with a couple of
16 examples, if I may.

17 A sectoral resilience plan for an influenza-type
18 pandemic in education would essentially be looking at
19 the task of: how do you keep the schools system going
20 with a 20% absence rate at any given time?

21 A sectoral resilience plan for education in
22 a coronavirus-type pandemic presents a wholly different
23 challenge, because the school system is closed. The
24 challenge there is: how do you ensure sectoral
25 resilience of the delivery of education to children when

55

1 accept the point that our planning overall was very late
2 in the day. Sir David said yesterday, and I entirely
3 agree with him, we were not as well prepared as we ought
4 to have been. We ought not to have been 18 months
5 behind in our planning for an influenza pandemic. We
6 got to where we got by mid-March by dint of extremely
7 hard work by a small and under-resourced team over
8 a very short period. That is not a satisfactory
9 position to be in, and it is not a position that I would
10 seek to defend. We ought not to have been in that
11 position. We ought to have been better prepared.

12 **Q.** You do say -- and thank you, that document can come down
13 now, I believe.

14 You do say in your statement that, as it transpired,
15 the influenza pandemic plan was of limited utility in
16 relation to the Covid-19 pandemic, which presented
17 a wholly different challenge in relation to sectoral
18 resilience and required a substantially different
19 response.

20 I just want to clarify there, Mr Stewart, are you
21 saying that in the end any lack of sector resilience
22 didn't matter because, in effect, the wrong plan was
23 being used?

24 **A.** No, absolutely not, and I want to ensure that I'm not
25 giving you that impression. The fact that we were

54

1 you no longer have a functioning schools system?

2 Similarly in health, although it wasn't TEO's role
3 to do the sectoral resilience in health, the sectoral
4 resilience plan in health for an influenza-type pandemic
5 is quite simply: how do you maintain services with a 20%
6 absence rate?

7 In a coronavirus pandemic, one of the challenges is:
8 how do you maintain health and social care when the
9 schools are closed and when large numbers of parents
10 perhaps are unable to come to work because they're
11 having to make alternative childcare arrangements?

12 That's what I meant when I said that an influenza
13 plan was of limited use in the actual circumstances of
14 a Covid pandemic. I was absolutely not trying to give
15 the impression that the fact that we were late to the
16 game on influenza planning didn't matter. It did
17 matter, in and of itself.

18 **Q.** But whichever way, it still comes back to planning, is
19 that right, the more that you're able to plan for
20 different scenarios and different plans, the more likely
21 you are to be prepared in the event of a pandemic?

22 **A.** That is absolutely correct, and that is what lay behind
23 the views and advice that I gave, and on occasion the
24 challenge that I had to give, when we were being urged
25 to stand up the hub at an earlier point than when we

56

1 actually did.

2 **MR SCOTT:** My Lady, that's a convenient point for the break.

3 **LADY HALLETT:** Perfect timing, Mr Scott.

4 I shall return at 11.30.

5 **(11.15 am)**

6 **(A short break)**

7 **(11.30 am)**

8 **LADY HALLETT:** Mr Scott.

9 **MR SCOTT:** Thank you, my Lady.

10 Mr Stewart, there's one point I just want to put to

11 you, and it was about the paper from February 2020.

12 If we could just have up on the screen INQ000391222.

13 My fault for the delay, rather than anybody else's,

14 Mr Stewart, it's just on its way now.

15 So this is the minutes of the TEO departmental board

16 meeting. The document that we were discussing earlier

17 on, your note about the review, that would have been

18 considered at this departmental board meeting?

19 **A.** Yes, I think that's correct.

20 **Q.** If we scroll down the page, please, we have 3b there,

21 and it says:

22 "Chris Stewart ..."

23 So it's headed "Strategic Review of Civil

24 Contingencies across Northern Ireland.

25 "Chris Stewart provided an overview of the paper

57

1 ourselves in time, this is before the briefing paper

2 that we were discussing of 25 February and the TEO

3 departmental board that we were just looking at.

4 Could you just describe what the purpose of the CCG

5 meeting was on 20 February 2020.

6 **A.** It's a little difficult to do so at this remove.

7 I don't have a particularly clear recollection of it.

8 **Q.** Can I help you?

9 **A.** Please.

10 **Q.** So was it an indication that when you were contacted by

11 the Department of Health in early February 2020 that

12 there was a suggestion that there be a meeting held by

13 TEO in order to try to pull together some planning and

14 preparation for the pandemic?

15 **A.** Yes.

16 **Q.** Does that sound about right?

17 **A.** Entirely right, yes. Forgive me --

18 **Q.** So is it likely that this is that meeting of

19 20 February?

20 **A.** It is exactly that. You've jogged my memory. I think

21 I referred to that in my statement.

22 **Q.** So what we can see there is we have the priorities, of

23 isolation facilities, so -- the Coronavirus Bill, excess

24 deaths. And then it's only at the bottom, in terms of

25 priorities, that we have "Readiness", and it's:

59

1 circulated, recording the importance of a review of

2 current arrangements given the changes in the strategic

3 landscape that now impose new risks and considerations

4 for civil contingency preparations. Following

5 discussion [name redacted] noted the timely nature of

6 the proposed review, the importance of engagement with

7 key stakeholders and the recording of all associated

8 risks."

9 It doesn't indicate there, would you agree, that it

10 was considered that the review would be something that

11 would be delayed to a point in future?

12 **A.** That isn't explicitly reflected in that paragraph,

13 that's correct.

14 **Q.** If that was the intention, would you have expected it to

15 be explicitly referred to in that paragraph?

16 **A.** I wouldn't have necessarily seen that as an omission.

17 I regarded the board's agreement as giving me permission

18 to take forward the review at a time and in a manner of

19 my choosing.

20 **Q.** Thank you.

21 If I can take you now, because I want to move on to

22 the actual planning that was conducted rather than some

23 of the approaches, if I can take you to INQ000023220.

24 So this is the note of the CCG meeting on Thursday

25 20 February 2020. So, again, just to orientate

58

1 "All organisations to review business continuity

2 plans in light of reasonable worst case parameters ..."

3 There is no indication there that there's any

4 specific role for CCPB. Is that right?

5 **A.** There isn't an indication there, but I think implicit in

6 that is review plans and pass them into CCPB.

7 **Q.** Well, in terms of the organisations, that relates to the

8 departments; is that right, and their arm's length

9 bodies?

10 **A.** That's right, their arm's length bodies, yes.

11 **Q.** Then if we can take off the zoom-in section, we can see

12 that we have the "Actions". Again, we can see at the

13 bottom, the second one up from the bottom:

14 "TEO to issue a short questionnaire ... on

15 readiness ..."

16 Would that be work that CCPB needed to undertake?

17 **A.** Yes. The questionnaire was, indeed, issued by CCPB.

18 **Q.** And then:

19 "DEPARTMENTAL MEMBERS to review readiness with

20 their CNI ..."

21 What does that mean, please?

22 **A.** Critical national infrastructure.

23 **Q.** Thank you.

24 Again, just for completeness, if we could just go

25 over the page, please.

60

1 So discussions there of working group meetings,
 2 C3 leads -- so:
 3 "... to consider the need for, and ... potential
 4 content of, accumulative impact document."
 5 Does that meeting, that's 20 February, indicate that
 6 actually at that point in time there wasn't any
 7 accumulative impact document in place in
 8 Northern Ireland about any prospective pandemic?
 9 **A.** I'm not sure I could say that there wasn't anything, but
 10 it certainly wasn't fully developed at that stage.
 11 **Q.** Why was that, that it wasn't fully developed or
 12 wasn't -- well, why wasn't it fully developed by
 13 25 February?
 14 **A.** That was very much during the period where we were
 15 running very hard to try to recover the lost ground from
 16 the 18-month delay, and, as I have conceded, we were not
 17 as well prepared as we ought to have been. We were
 18 trying to make up the deficit, and that's the reason
 19 why, on that date, things were not as advanced as they
 20 might have been.
 21 **Q.** Is it fair to say that, based on what you were just
 22 saying then, you were working hard to make up the
 23 deficit but, by the time of 23 March, you actually
 24 hadn't made up the deficit?
 25 **A.** What I would say is at the time, by 23 March, we had got

61

1 out the planning in relation to individual sectors,
 2 that's for the departments --
 3 **A.** That's correct.
 4 **Q.** So your role in terms of the co-ordination role would be
 5 that you could press departments --
 6 **A.** Yes.
 7 **Q.** -- and you could ask them to cover certain specific
 8 areas and certain queries, but you couldn't do the
 9 planning for them?
 10 **A.** Correct.
 11 **Q.** If I could just take you to INQ000325143, and it's
 12 page 2 of this document.
 13 These are going to be some messages between yourself
 14 and Ms Rooney, Mr Stewart, and they're from around
 15 8 March, around 4.30 pm. Just while we're waiting for
 16 that to come up, you can tell that from where it comes
 17 up in the middle of the text, about ...
 18 Thank you.
 19 So on the left-hand side, as we understand it, is
 20 messages from Bernie Rooney, and on the right-hand side
 21 are your messages.
 22 **A.** I think that's correct, yes.
 23 **Q.** So we see Ms Rooney saying:
 24 "Ok thanks. Should we circulate to Perm Secs seek
 25 lines on what [Departments] are considering or assume

63

1 to a certain point, we had issued and received the
 2 responses to that questionnaire, we had received the
 3 sectoral resilience plans from departments and carried
 4 out an initial overview of those. That was summarised
 5 in the table I think Ms Dobbin referred to yesterday.
 6 That was clearly not the end of the story. Planning is
 7 not complete at that point, which is why, as I said
 8 earlier, the very welcome addition of Karen Pearson's
 9 team gave us a boost and allowed considerable volume of
 10 further work to be done on planning beyond that date.
 11 I would not claim that by that date planning was
 12 complete. In fact I'm not certain that planning is
 13 something that ever ends in this context.
 14 **Q.** At this point, around 20 February, do you think that the
 15 planning that had been conducted by the departments was
 16 sufficient in order to respond to a pandemic?
 17 **A.** There were some gaps in it, and actually Ms Dobbin
 18 referred to one or two of them on the table yesterday.
 19 Which is why in the final column of that table you'll
 20 see a red, amber, green assessment of the state of
 21 readiness. Not a terribly sophisticated analysis,
 22 I must concede, but nevertheless an initial view from
 23 CCPB on the state of readiness in each department.
 24 **Q.** Because again I come back to the point that we canvassed
 25 very early on, that it's actually not for CCPB to carry

62

1 that this work [is] ongoing. The only evidence that I
 2 have seen of any real planning is Economy."
 3 You say:
 4 "... I think we need to wait for advice from Michael
 5 on the timing of this in Northern Ireland."
 6 Again, reference there to "Michael"; is that the
 7 CMO?
 8 **A.** It would be the CMO, yes.
 9 **Q.** Why would you need to wait for advice from the CMO on
 10 the timing?
 11 **A.** I'm afraid I'm not quite sure what it was that
 12 Mrs Rooney was referring to in terms of what it was that
 13 we should circulate to permanent secretaries.
 14 **Q.** Okay. Well, then, let's focus at the paragraph on the
 15 left-hand side at the bottom:
 16 "I am concerned about [Departments] delay in
 17 planning. All a bit slow at present, waiting to be
 18 asked and told what to do."
 19 If this is 8 March, is the suggestion here from Ms
 20 Rooney that actually there hadn't been sufficient
 21 planning done by the departments?
 22 **A.** I think that's the only construction that you could put
 23 on that sentence, but I'm not sure that I entirely agree
 24 with her assessment at that point, in particular the
 25 assessment in the paragraph above.

64

1 By 9 March we had an assembled table which set out
2 the status and the state of planning in each department.
3 There were clearly some gaps in it identified, but there
4 was also, I think, evidence of a great deal of planning
5 that had taken place.

6 Q. Okay.

7 A. I respectfully disagree with my colleague on that.

8 Q. Okay, let's take you to INQ000023226. It's likely to be
9 page 18 that opens up, but hopefully we could start at
10 page 1. Thank you.

11 So this is the document that --

12 A. The very table that I referred to.

13 Q. Yes. And again, it's the non-health sectoral resilience
14 returns, anything health related would have been dealt
15 with by the Department of Health; is that correct?

16 A. That's correct.

17 Q. So when it says "version 2" in the top right-hand
18 corner, 13th March --

19 A. There was an earlier version on 9 March which is why
20 that was version 2.

21 Q. So that's what you're saying was the totality of the
22 planning that had come through to CCPB?

23 A. With respect, no, that's what I'm saying is the summary
24 prepared by CCPB, not the totality of the planning.

25 Q. Okay.

65

1 A. Based on what's in front of us, yes, and I think the
2 point might also be made that you would expect to see
3 reference to the needs of disabled people in other
4 departments' plans, not just those of the department of
5 communities.

6 Q. You say that this was a summary table. Are you
7 suggesting that this table would -- well, this table
8 would have distilled the key elements of that, that's
9 the nature of a summary, isn't it?

10 A. It would have aimed to do so, yes. Just to be
11 absolutely clear, this is not a plan, this is a summary
12 table of plans.

13 Q. But it's going to contain effectively the highlight
14 points of those plans?

15 A. It should do, yes.

16 Q. I just want to then talk about planning. So when
17 Ms Pearson arrived -- and she, by 17 March, had produced
18 a plan; is that correct? What was described as a plan?

19 A. She had produced, if memory serves me, I think,
20 a proposal to take planning to, if you like, the next
21 level or the next steps that she was advising that
22 needed to be taken going forward.

23 Q. Let me use your words on this, if we can see
24 INQ000325137, and this is going to be a message from
25 yourself to Sir David Sterling on 17 March 2020.

67

1 Then Ms Dobbin asked Sir David Sterling about
2 whether he considered that this document showed
3 a sufficient level of planning. What's your view on
4 whether this shows a sufficient level of planning at
5 13 March 2020?

6 A. I think it clearly identifies gaps, there are a number
7 of ambers, if memory serves me I think further down the
8 table there are perhaps one or two reds as well.

9 Q. Yes. If we could just go to page 18, for example, so
10 what happens in this document is that you've got tables
11 for each of the individual departments.

12 A. Yes.

13 Q. So this is the Department for Communities, so if we were
14 to look at, for example, the impact upon disabled
15 people, would we naturally be wanting to be looking at
16 the "Communities" section?

17 A. Yes.

18 Q. So we have there the key areas of concern, welfare,
19 services to the public, we've got the impact of
20 vulnerable citizens disproportionately impacted and then
21 the mitigations about a working group.

22 Given that this is 13 March 2020, it doesn't look
23 like there's a significant amount of planning in terms
24 of the mitigations of the potential impact of the
25 pandemic on disabled people. Would you agree with that?

66

1 A. I suspect it's the one where I describe it as a tour de
2 force.

3 Q. Yes, so your words are:

4 "Karen's planning paper is a tour de force, but
5 I worry that it involves a complexity that will be hard
6 to manage and hard for Departments to populate without
7 a major shift in resource and attitude they struggled to
8 get to a point where [again name redacted] and Bernie
9 handed over."

10 So even by 17 March are you expressing concerns
11 there that there's not sufficient planning within the
12 departments in order to meet the plan that had been
13 advanced by Ms Pearson?

14 A. I don't think I was giving an overall judgement on the
15 adequacy or otherwise of planning in departments at that
16 stage, what I was saying was that it had taken
17 considerable time and effort on the part of CCPB and
18 indeed within departments to get to that point.
19 Having -- I wouldn't use the word "struggle", but having
20 experienced challenges in getting to this point, the
21 more sophisticated and more comprehensive approach that
22 Ms Pearson was recommending, I think rightly so, was
23 going to be a considerable further challenge to
24 departments going ahead, hence I was signalling very
25 clearly that more resource was going to have to be

68

1 applied within departments on planning.

2 **Q.** Ms Pearson, as is indicated, arrived around 14 March,
3 she produced a plan on 17 March, why wasn't
4 an equivalent plan produced by CCPB earlier, even before
5 Ms Pearson arrived?

6 **A.** I think it's fair to say that the approach that we took
7 in CCPB prior to that point was less sophisticated. It
8 was, as I described earlier, a bottom-up approach based
9 on gathering together the plans, probing them for
10 weaknesses, challenging where necessary, joining the
11 dots and completing the picture. What Karen and her
12 team brought to it was an altogether more sophisticated
13 approach and one which I characterise as top-down, which
14 began more with identification of the risks and then
15 assessing how or whether those risks were reflected in
16 departmental plans. The two approaches I think are
17 quite complementary.

18 **Q.** But is that not what CCPB should have been doing,
19 a top-down approach, given your experience in civil
20 contingencies in terms of departments in terms of
21 information you required in the same way that the Civil
22 Contingencies Secretariat did at an early stage in the
23 pandemic?

24 **A.** I accept that that would have been a better approach.

25 **Q.** I'm going to be moving on to a different topic in

69

1 at that point. Prior to that, and indeed from that
2 point forward, other than hub staff, planning and
3 operational response are actually carried out by the
4 same teams of staff.

5 **Q.** Unless there is anything further you wish to add, I was
6 going to move on to your role in terms of planning for
7 the legislation and the initial set of regulations in
8 2020?

9 **A.** Yes.

10 **Q.** So after you had to relinquish the role of chief of
11 staff of the hub, which you have explained earlier on,
12 the focus of your role was on preparing legislation and
13 that was what became The Health Protection (Coronavirus,
14 Restrictions) Regulations (Northern Ireland) 2020 which
15 was the governing set of restrictions that came in and
16 I think they were made on 28 March?

17 **A.** That's correct.

18 **Q.** Now, what those restrictions did, in essence, was that
19 you had taken the English regulations and then I think
20 the way you describe it is that you made some necessary
21 changes to reflect differences in administrative and
22 enforcement arrangements.

23 There doesn't appear to have been any particular
24 consideration given to any specific features of
25 Northern Ireland society which might be distinct from

71

1 relation to legislation planning. You said earlier on,
2 Mr Stewart, that you wished to talk about the activation
3 of NICCMA, would you please indicate what points you
4 would wish to make in addition to what
5 Sir David Sterling said?

6 **A.** I won't repeat the points that he made, other than to
7 say that I agree entirely with his evidence that the
8 judgement that we made at the time was that we had asked
9 for activation at the right point, but like Sir David,
10 I entirely accept that the Inquiry may come to
11 a different conclusion on that. Points I think have
12 been well made and drawn out in your questioning that
13 there is a fine judgement to be made in identifying that
14 transition point between planning and operations,
15 because both are important and it is a matter of
16 judgement. Stand up too early and you may not have
17 got -- made sufficient progress on planning. Stand up
18 too late and you may impede the response.

19 **Q.** Yes. And if you have sufficient resources you're able
20 to both plan and prepare for the stand-up at the same
21 time; is that right?

22 **A.** Well, sufficient resources are a pre-requisite to both
23 modes, but I think another point that's worth bearing in
24 mind is when you reach the operational point, the hub is
25 new and involves a cadre of staff who join the operation

70

1 society in England; is that right?

2 **A.** I think that's a fair comment.

3 **Q.** When you were looking to bring in place those
4 regulations, which they came in after Northern Ireland
5 went into lockdown; correct? They were made on 28 March
6 and lockdown was 23 March.

7 **A.** Yes, but whether or not there was observance of lockdown
8 prior to the regulations is not something I could give
9 an authoritative view on.

10 **Q.** No, but it's about your planning for the legislation and
11 the circumstances you find yourself in at the time, is
12 that right, in terms of when you were drafting the
13 legislation, and the urgency?

14 **A.** So the announcement as you say was on the 23rd, the full
15 detail of how that would be operationalised in England
16 wasn't with us until the 25th, when we first had sight
17 of the English regulations, and indeed a set of
18 regulations for Wales at that point. Thereafter the
19 task was to move as quickly as possible to have, as you
20 say, broadly equivalent regulations made for
21 Northern Ireland.

22 **Q.** But there would have been time for consideration to be
23 given to whether any amendments needed to be made to the
24 substance of that legislation to reflect any specific
25 features of life in Northern Ireland; is that right?

72

- 1 **A.** Yes, but it was two days of very intensive effort even
2 to do that.
- 3 **Q.** Yes. But those regulations were going to have
4 a significant impact on the entire population of
5 Northern Ireland, and therefore you would agree that
6 consideration needed to be given to what those
7 regulations were going to do to the population?
- 8 **A.** I would accept that point, but what I would say again
9 was in the period of 48 hours that it transpired we had
10 in order to get the regulations made, that required
11 a great deal of effort even to do it in the way that we
12 did. I absolutely concede there would have been better
13 ways of doing it in terms of giving consideration to
14 those particular considerations that you've outlined,
15 and indeed engaging in the stakeholders and those very
16 profoundly affected by the regulations, which there
17 simply wasn't time to do.
- 18 **Q.** Is it correct or not that there were three ministers who
19 had an input into the content of those regulations: the
20 First Minister, the deputy First Minister and the health
21 minister?
- 22 **A.** Yes, I think my advice went to all three simultaneously.
- 23 **Q.** Did any other minister have any input into the content
24 of those regulations before they were made?
- 25 **A.** At ministerial level, no, but there was intense

73

- 1 regulations made; is that right?
- 2 **A.** Yes.
- 3 **Q.** And who or what was driving that?
- 4 **A.** The need as it was seen to give urgent effect to the
5 decision that had been announced on the 23rd.
- 6 **Q.** I just want to ask in terms of the relationship with the
7 United Kingdom and recognise the difference in available
8 resources between Cabinet Office and TEO.
- 9 During the period from January 2020 to March 2020,
10 were you receiving any assistance from CCS or anybody
11 within Westminster about civil contingencies planning
12 for the pandemic?
- 13 **A.** No.
- 14 **Q.** So it was all requests, effectively, to assist their
15 planning, as we've seen earlier on in that document from
16 March?
- 17 **A.** That might be a little unfair to them, requests and
18 liaison but not help in the sense of secondment of staff
19 or anything of that nature.
- 20 **Q.** No, but also were they giving any indications about any
21 suggestions about what you might be able to do in terms
22 of getting more information out of departments?
- 23 **A.** No.
- 24 **Q.** Then one final topic, if we can just see INQ000409665.
25 This is an email from you dated 25 June 2021, and this

75

- 1 engagement with colleagues in the Department of Justice
2 to ensure that we had matters such as fines and
3 penalties and enforcement correctly described in the
4 regulations, I'm not sure that they would have referred
5 that work to their minister, I very much doubt it.
- 6 **Q.** Yes, but those were the administrative aspects. In
7 terms of cross-cutting issues, whether appropriate for
8 ministerial level, there was no consideration of any
9 minister, other than the First Minister, the deputy
10 First Minister and the health minister; is that right?
- 11 **A.** Not until the entire matter came to the Executive for
12 its approval.
- 13 **Q.** Well, actually when it came to the Executive, it was
14 made by urgent procedure, wasn't it?
- 15 **A.** It was, but there was a remote engagement with all
16 ministers prior to the regulations being made, largely
17 by email and telephone.
- 18 **Q.** And how long was that period?
- 19 **A.** It was over a few hours, I think, on the evening when
20 the regulations were made. There may have been some
21 contact the day before, but I regret I don't recall that
22 clearly. Certainly the most intense period of
23 engagement with ministers was in the hours before the
24 regulations were actually made.
- 25 **Q.** And there was a driver at that time in order to get the

74

- 1 followed on from the letter that had been circulated
2 originally from the Cabinet Office about preserving
3 records, and you set out there in detail to a number of
4 very -- if we could go back up to the top -- a number of
5 senior figures within the Executive Office.
- 6 **A.** In fact that's the top management team for the
7 department.
- 8 **Q.** Yes, and you're giving your advice, thoughts,
9 understanding of issues that could arise. How far did
10 you expect that advice to be disseminated?
- 11 **A.** To all staff who would have been in a position to
12 contribute evidence to the Inquiry.
- 13 **Q.** And would you have expected it to be escalated to
14 ministers as well or is this just something within TEO
15 officials?
- 16 **A.** I confess I wasn't actually thinking of ministers at
17 that stage. Although I think the note makes clear,
18 reflecting on my own experience of an earlier public
19 inquiry, a rather well known one in Northern Ireland, on
20 the Renewable Heat Incentive. What I was trying to get
21 across to colleagues was that unless you have experience
22 of a public inquiry, it is very easy to underestimate or
23 to be entirely ignorant of just what the inquiry's
24 requirements might be in terms of information, and
25 I wanted to ensure that no one was going to go into that

76

1 situation without sufficient awareness, and I wanted to
2 ensure that colleagues were also in a position to take
3 action early, because there is an enormous amount of
4 effort involved in gathering together and collating the
5 information that's necessary for an adequate response to
6 a public inquiry. And to put it simply, the earlier you
7 start the better, and that was the sense of what
8 I wanted to get across to colleagues.

9 **MR SCOTT:** Thank you, Mr Stewart, I have no further
10 questions.

11 **LADY HALLETT:** Can I ask you one question pursuing something
12 Mr Scott asked you about, Mr Stewart.

13 You were asked about whether you received assistance
14 from the Civil Contingencies Secretariat in London.
15 Given sensitivities of the devolution settlement and
16 Westminster not interfering and trying to undermine it,
17 what would you need to do to get it, would you need to
18 ask for it, is that what would happen? What would be
19 the process if you did want help from a Whitehall
20 department?

21 **A.** Exactly that, I think a simple request, and forgive me,
22 perhaps I should clarify this, I wasn't meaning to imply
23 in any way that any reasonable request was turned down
24 by Cabinet Office secretariat, we simply hadn't made
25 one, I think that's probably a learning point going

77

1 **A.** Yes, it is, that's -- I had attended the meeting of
2 Irish and Northern Ireland ministers earlier in the day,
3 that was me giving a read-out of the meeting to
4 Sir David.

5 **Q.** Because you say there:

6 "I'm having to work quite hard to keep NIO from
7 jumping in. So far advice is being heeded but SoS mad
8 keen to get involved. For now he is limiting himself to
9 ringing Simon Coveney."

10 Do you know why the NIO were "mad keen to get
11 involved" as you describe it?

12 **A.** The Secretary of State's natural exuberance.

13 **LADY HALLETT:** Sorry, I missed that.

14 **A.** Secretary of State's natural exuberance, my Lady.

15 **MR SCOTT:** And you were seeking to prevent that from
16 happening?

17 **A.** I was seeking to ensure that any intervention was
18 helpful. If I perhaps may give an example from
19 a different time which might illustrate that. There was
20 at one point a degree of tension within the Executive
21 around the issue of the re-opening of --

22 **Q.** Sorry, just to interrupt, Mr Stewart, unless this is
23 an example of your specific involvement, I think maybe
24 we can leave this to other individuals who might be in
25 a better place to deal with this point?

79

1 forward, CCPB will never be able to have the level of
2 capacity or capability that the Cabinet Office
3 secretariat has, and perhaps going forward we should be
4 more ready than we were in this instance to ask for that
5 help.

6 **MR SCOTT:** And there's one point just on the back of
7 my Lady's point about devolution, if we can just go to
8 INQ000325137, again this is another message between
9 yourself and Sir David Sterling on 14 March 2020, if we
10 can go to page 17, please, it's 14 March, if we can go
11 down the bottom, please, so around 14 March there were
12 issues in relation to relationships within the Executive
13 and the approach; is that correct?

14 **A.** Sorry, could you just direct me to the particular
15 paragraph?

16 **Q.** Well, on the right-hand side just underneath where it
17 says "Saturday, 14 March 2020"?

18 **A.** Yes, I'm with you. I had misunderstood you. Yes, there
19 were, and I think that was covered in the some of the
20 earlier sessions. That refers very specifically to the
21 issue around the timing of the closure of schools.

22 **Q.** Yes, I am not interested in that but if we can go
23 further down to the message, just scroll down, please.
24 Thank you very much. Then there's, I believe this is
25 a message from you to Sir David Sterling, I believe.

78

1 **A.** It is an example of my specific involvement and I hope
2 it will be helpful to illustrate my concern about
3 ensuring that the Secretary of State's involvement was
4 correct.

5 If you would indulge me, my Lady, for a couple of
6 moments.

7 **LADY HALLETT:** Do you know where we're going, Mr Scott?

8 **MR SCOTT:** No.

9 **A.** I'll have you on tenterhooks now.

10 There was an issue within the Executive on the
11 correct timing of the re-opening of waste disposal
12 centres. It was a difficult issue on which the
13 Executive struggled to gain agreement. The Executive
14 had come to the view that one particular local council,
15 which was out of line with the Executive's recommended
16 approach, should be spoken to and asked to come back
17 into line. At around about the same time, the
18 Secretary of State intervened in the media and the
19 comments that he made were: they may be breaking the law
20 but I'm not going to criticise them if they're doing it
21 for the right reasons.

22 That, if I may put it mildly, was less than helpful
23 in terms of maintaining the Executive's message at that
24 point. I was very disturbed by that, and raised my
25 concerns with Northern Ireland Office colleagues, and

80

1 asked them to try and ensure that we maintained as far
2 as possible a degree of consistency between what the
3 Secretary of State was saying and what the Executive was
4 saying. Forgive me, it's not an example directly
5 related to what you asked about, but I hope it does
6 realise what lay behind my concern in ensuring that we
7 were all square with NIO.

8 **MR SCOTT:** Thank you, Mr Stewart.

9 **LADY HALLETT:** Mr Wilcock? Oh, Ms Campbell, sorry.

10 **MS CAMPBELL:** Thank you, my Lady.

11 **Questions from MS CAMPBELL KC**

12 **MS CAMPBELL:** Mr Stewart, my name is Brenda Campbell, and
13 I ask questions on behalf of the Northern Irish Covid
14 Bereaved.

15 May we have back on the screen, please,
16 INQ000325143, and it's a set of messages between you and
17 Bernie Rooney, Ms Bernie Rooney, you looked at some of
18 them already this morning.

19 Just to assist you, because the data's potentially
20 important, we can see at the top that the messages start
21 on Sunday 8 March at about 17 minutes past 4 in the
22 afternoon. It's not a memory test. We know that
23 a teleconference was taking place at this time between
24 the Executive Office and the Cabinet Office and other
25 Whitehall departments in advance of a COBR meeting that

81

1 "... B."

2 For Bernie.

3 And you reply:

4 "David is aware ..."

5 And that David would be David Sterling; is that
6 right?

7 **A.** It's David Sterling, yes.

8 **Q.** So the inference from Mrs Rooney's messages to you is
9 that on the Friday evening when that request had come in
10 on several occasions she had sought the attention of the
11 Department of Health in relation to a response; is that
12 right?

13 **A.** Yes.

14 **Q.** On each of those occasions there was a complete lack of
15 interest or non-response?

16 **A.** Those are her words.

17 **Q.** Yes, well, she also indicates that she then spoke to
18 you, so that non-response came in advance of speaking to
19 you?

20 **A.** Yes.

21 **Q.** Do you recall her speaking to you about it?

22 **A.** I don't, but I've no reason to doubt the accuracy of
23 what's said there.

24 **Q.** No, and indeed you don't actually question the accuracy
25 of what's said in any response from you?

83

1 was to happen on the Monday morning, this being the
2 Sunday afternoon, and it's in relation to the request
3 that had come in on the Friday for various responses
4 from Northern Irish departments in relation to their, if
5 you like, civil contingency readiness. Okay?

6 We also know, and we've heard some evidence of it
7 yesterday, that the Chief Medical Officer had intervened
8 in that response and, if you like, indicated that
9 Northern Ireland would not be responding for reasons
10 that he will no doubt be asked about.

11 But you start, you're on the right-hand side, and
12 Ms Rooney's on the left-hand side of these messages, and
13 you message Ms Rooney and say:

14 "On call. Obvious irritation with
15 [Northern Ireland] non response!"

16 And that's to the request from the Civil
17 Contingencies Secretariat that we've discussed.

18 Ms Rooney says:

19 "Yep! We did raise this on Friday with DoH several
20 times before speaking to you. Complete lack of interest
21 from [Department of Health] Gold as they were packing up
22 to go home."

23 The inference being on a Friday afternoon.

24 "May be tricky for our Ministers tomorrow ..."

25 And we may put in brackets, at the COBR meeting.

82

1 **A.** No.

2 **Q.** Then she said there's a "Complete lack of interest from
3 [Department of Health] Gold". Now, help us, please,
4 what's "DoH Gold"?

5 **A.** DoH had within its own department a fairly orthodox
6 arrangement for its civil contingencies response: gold,
7 silver and bronze command. Gold would be the strategic
8 level of command within any organisation in responding
9 to a civil contingency. In essence DoH gold would have
10 been the senior leadership team within DoH, and
11 Professor Sir Michael McBride would have been, if not
12 a member of DoH Gold, certainly in regular engagement
13 with it.

14 **Q.** Yes. Now, we don't know which individuals Ms Rooney
15 managed to speak to, or indeed if any, or contact, but
16 the complete lack of interest from DoH gold means
17 a complete lack of interest from those, if you like, at
18 the top of the helm of the strategic response on
19 a Friday afternoon in response to this urgent request
20 from Whitehall?

21 **A.** That was Ms Rooney's assessment, yes.

22 **Q.** And you say "David is aware".

23 **A.** Yes.

24 **Q.** Now, what was David aware of, Sir David Sterling?

25 **A.** I think if I recall this correctly, and I think this --

84

1 another sequence of text messages was examined, it was
2 the one where I had indicated that, to Sir David, that
3 I faced a choice between annoying the Cabinet Office and
4 annoying the Chief Medical Officer and he gave his
5 response to that in a particular way, so this is
6 a follow-up to that, so that's what I meant by "David
7 was aware", which was that I had already flagged to him
8 that we were coming under pressure from Cabinet Office
9 to respond but some very clear advice from
10 Sir Michael McBride that a response was not in his view
11 required at that time.

12 **Q.** In fairness to you, I think the chronology will prove
13 your recollection correct, because that exchange of
14 messages in relation to who better to annoy or who worse
15 to annoy --

16 **A.** Yes.

17 **Q.** -- was the Saturday evening before these messages on the
18 Sunday afternoon, and we know that --

19 **A.** If you would permit me, it may assist the Inquiry if
20 I give a little bit more context there, because I think
21 my use of the word "annoy" might be rather misconstrued.

22 Sir Michael had a pivotal role in all of this and he
23 was under enormous pressure at that time, and his input
24 to everything that we were doing was absolutely crucial
25 to success. We had on a number of occasions prior to

85

1 head down and doing what she's told.

2 Now, by the Monday morning did you get the
3 impression that, for whatever reason, you or your team
4 or the CCPB were not in Professor McBride's good books?

5 **A.** I think it stemmed from earlier than that. As I say,
6 I think there were one or two instances where Michael
7 was concerned that we were, if I could put it perhaps
8 too simplistically, jogging his elbow a little bit, and
9 that's what I was reporting there.

10 I should say in relation to that that, to the extent
11 to which we were doing that, that's my responsibility
12 and not the responsibility of any member of the team.

13 **Q.** Back on track, if we may, in relation to my questions.

14 Could we go, then, to page 2 of this same document,
15 because -- and we're back in the time of that meeting on
16 the Sunday afternoon with your colleagues across in
17 Whitehall. And Ms Rooney, the conversation continues
18 about -- no doubt prompted by what's happening in the
19 meeting itself, and she says on the left-hand side of
20 the page:

21 "[Northern Ireland] is bound to struggle with Adult
22 Social Care and I don't think that DoH want to think
23 about it."

24 Now, you reply, and this is what we looked at
25 briefly a moment ago with Mr Scott, that you will do

87

1 that acted or behaved in a way that he found not
2 entirely helpful, there were one or two instances where
3 he felt we were getting ahead of the opportunity for him
4 to provide his advice and input into the exercise. So
5 I was exercising, if you like, there an abundance of
6 caution in wanting to ensure that we did not act in
7 a way that made it more difficult for Sir Michael to
8 discharge the very weighty responsibilities that he had
9 around that time. I regret now with hindsight using the
10 word "annoy" to describe that; I don't think that
11 properly captures my intention.

12 **Q.** If I might, my Lady, in light of the answer, there's
13 a further message on page 4 of this document, and we're
14 jumping ahead in the chronology because we're now at the
15 Monday morning, and I'll just make sure I have the page
16 correct, because we have gone to the Monday morning at
17 8.14 in the morning, and again you're messaging
18 Ms Rooney and you're saying, bearing in mind what had
19 just happened over the weekend:

20 "Tread carefully" --

21 **A.** Yes, I've put it rather more pithily there, yes.

22 **Q.** "... around Michael today. He is under considerable
23 pressure and, rightly or wrongly, we are not in the good
24 books, so extra caution please."

25 And Ms Rooney replies essentially she's keeping her

86

1 a quick email to ministers after this just to warn them
2 that the slide deck is coming, and it's in that context
3 that Ms Rooney then says that the only evidence that she
4 has seen of any real planning is in economy. Okay?
5 I'll come back in a moment to that.

6 But here you are in a conversation with one of your
7 senior colleagues, who is saying: the Department of
8 Health don't appear to want to think about adult social
9 care and it is plainly an area in which we're bound to
10 struggle.

11 The first observation is you don't disagree with
12 Ms Rooney in this message, do you? You don't say
13 "Actually there's lots of work ongoing and there's lots
14 of planning ongoing, so fear not"?

15 **A.** I neither agreed nor disagreed with it, that was
16 Ms Rooney's assessment. Personally I wouldn't have felt
17 in a position to make that assessment.

18 **Q.** Well, we heard yesterday from Sir David that if anybody
19 was, if you like, holding that strategic or overarching
20 role in terms of what departments were doing at this
21 period of March, it probably would have been you,
22 although it's fair to say he maybe didn't say it
23 definitely was you?

24 **A.** I think he could perfectly reasonably have said that it
25 was me, yes, that was my responsibility.

88

1 Q. Well, if in fact there was a great deal of work going on
 2 or evidence that the Department of Health did want to
 3 think about adult social care, firstly what was it, what
 4 was that work?
 5 A. I can only answer you on the basis of what I was aware
 6 of at that time, and I was not aware of any sort of
 7 significant deficiency in the Department of Health's
 8 planning in that regard. I honestly don't know what
 9 prompted Ms Rooney to advance that view.
 10 Q. Well, in fairness, in answering questions to Mr Scott,
 11 you did say that you respectfully disagreed with her
 12 assessment that the only evidence of any real planning
 13 that she had seen was in economy.
 14 A. Yes.
 15 Q. And you respectfully disagreed, and we can see that:
 16 "All [was] a bit slow at present ..."
 17 A. Yes.
 18 Q. You see, you didn't in fact respectfully disagree at the
 19 time, because if we go to the top of the next page, we
 20 see your answer coming in to Ms Rooney, and it's:
 21 "Well, I did try to kickstart it on Friday..."
 22 A. Would you mind just showing me just the page above that,
 23 I'm not quite sure --
 24 Q. Absolutely, it is important to see these in context.
 25 If we start at the top -- sorry, about a third of
 89

1 Dr Joanne McClean.
 2 **DR JOANNE McCLEAN (affirmed)**
 3 **Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2C**
 4 **MS DOBBIN:** May I ask you to give your full name to
 5 the Inquiry.
 6 A. My name is Joanne McClean.
 7 Q. And you ought to have a witness statement in front of
 8 you.
 9 A. I do.
 10 Q. I think you signed it on 20 February of this year.
 11 A. That's correct.
 12 Q. Are you content that the contents of that statement are
 13 true to the best of your knowledge?
 14 A. I am, yes.
 15 Q. Thank you, Dr McClean. I think it's right that you're
 16 the current director of the Public Health Agency in
 17 Northern Ireland?
 18 A. That's correct, yes, I have been the director of public
 19 health in the Public Health Agency since September 2022.
 20 Prior to that, I had been -- immediately prior to that
 21 I was working as an associate Deputy Chief Medical
 22 Officer in the Department of Health, and that was from
 23 June 2021 until my appointment with the PHA in
 24 August 2022 --
 25 Q. Just -- I'll stop you there. I'll just take you
 91

1 the way down page 2 --
 2 A. Yes, so what Ms Rooney is indicating there, she's
 3 concerned about the delay in departments' planning,
 4 "a bit slow at present, waiting to be asked and told
 5 what to do", and then my response to that was "I did try
 6 to kickstart it on Friday".
 7 Q. Yes. So what had you tried to kick start on Friday?
 8 A. I'm afraid I don't recall in detail exactly what I refer
 9 to at that stage, but clearly, I think, the only
 10 construction that you can put on that was that I felt
 11 there was a need to give some further impetus to
 12 whatever departments were doing at that point.
 13 But I should make clear perhaps an important
 14 distinction here. The CEO's role in co-ordinating
 15 sectoral resilience planning covered all departments
 16 except one: the Department of Health.
 17 **MS CAMPBELL:** Yes.
 18 Thank you, my Lady.
 19 **LADY HALLETT:** Thank you, Ms Campbell.
 20 I think that completes the questions for you,
 21 Mr Stewart. Thank you for your help.
 22 **THE WITNESS:** Thank you, my Lady.
 23 **LADY HALLETT:** Thank you.
 24 **(The witness withdrew)**
 25 **MS DOBBIN:** My Lady, may I call the next witness, please,
 90

1 through, if I may --
 2 A. Okay.
 3 Q. -- your career. I think that you are a medical doctor
 4 by qualification?
 5 A. That's right.
 6 Q. And I think, in fact, you're still a clinician, you
 7 still remain practising; is that also correct?
 8 A. I am, yes, I graduated from Queen's University in 1999
 9 and I've remained a practising doctor since then and I'm
 10 on the GMC register as a consultant in public health
 11 medicine.
 12 Q. I think you had a very early specialisation in public
 13 health; is that correct?
 14 A. I did, yes. After I completed several years of clinical
 15 training in junior doctor roles, I commenced the
 16 Northern Ireland public health medicine training scheme,
 17 in 2004 I think, and I then completed that and took up
 18 my first post as a consultant in 2011.
 19 Q. I think it's right that that was in the Public Health
 20 Agency?
 21 A. That's correct, that was in the Public Health Agency.
 22 Q. And I think it's also right that in fact your
 23 specialisation is in children's public health and the
 24 commissioning of children's services; is that right?
 25 A. So public health training is generic, so you are trained
 92

1 right across the curriculum, including health
2 protection, service, public health, health improvement.
3 Prior to taking up my current post, my consultant post
4 had had a particular focus on children's public health,
5 children's services and the health and wellbeing of
6 children.

7 **Q.** In fact during the pandemic I think, at the beginning,
8 you remained in your role --

9 **A.** I did.

10 **Q.** -- in terms of commissioning children's services, but at
11 a point in time, and we'll come to this, you in fact
12 moved role, as it were, so that you could assist in the
13 provision of advice in respect of care homes; is that
14 right?

15 **A.** That's correct, yes. I -- in the initial stages of the
16 pandemic I helped and assisted with contact tracing, in
17 those very early days, and then my focus was on my
18 substantive post, and in that role I prepared mainly
19 children's services for the oncoming wave of infection.

20 I then went on and assisted in Public Health Agency
21 responding to care homes. That was from around about
22 April, early or mid-April 2020. I continued in that
23 role and I also worked in the provision of highly
24 specialised services, a role that I supported my
25 colleagues in the Health and Social Care Board with.

93

1 public health, and the main aim was to improve public
2 health and with a particular focus on reducing health
3 inequalities.

4 Within that there are three main areas of work that
5 we have. They are -- sorry.

6 They are health protection, which is responding to
7 cases and clusters and outbreaks of infectious diseases,
8 also pandemic preparedness and responding to threats to
9 health that are posed by the environment, maybe water
10 pollution, things like that.

11 We also have a responsibility for health
12 improvement, and we lead and commission a whole range of
13 programmes from encouraging people to stop smoking, to
14 exercise more, but also really supporting communities
15 who are disadvantaged to sort of take actions to improve
16 their health, and that's called our health improvement
17 team.

18 And then we also have a team who focus on the
19 provision of public health advice into the commissioning
20 and delivery of health services, and within that team we
21 are also responsible for the commissioning and quality
22 assurance of population screening programmes.

23 And the agency also then has a lead function for
24 research and development across the health and social
25 care system, not just in public health.

95

1 And then sort of towards the end of the summer, in
2 early September, then I was redeployed again, and at
3 that point I led the Public Health Agency's response to
4 Covid infections in schools.

5 **Q.** All right.

6 Now --

7 **LADY HALLETT:** Dr McClean, you're like me, you speak very
8 quickly. It's very difficult to change one's pattern of
9 speech, I know all too well, but if you could slow down.

10 **A.** I'll try.

11 **LADY HALLETT:** Sorry to interrupt, Ms Dobbin.

12 **MS DOBBIN:** No, no, I was about to say.

13 Thank you, Dr McClean.

14 Now I know that you're obviously going to give
15 evidence on behalf of the Public Health Agency, and
16 I will ask a little bit about your experience in terms
17 of providing advice in respect of care homes as well,
18 but I'll start, if I may, with the role of the Public
19 Health Agency.

20 I think it's right that the Public Health Agency in
21 Northern Ireland -- and if you need a place or if you
22 want to look, it's in your statement at paragraph 10,
23 but it has three core functions, doesn't it?

24 **A.** So the Public Health Agency was established in 2009, and
25 it was really established because of the importance of

94

1 **Q.** All right. So, of these three functions, it's obviously
2 the health protection function that came to the fore,
3 during the pandemic, but obviously with some overlap in
4 terms of the Public Health Agency's role in respect of
5 inequalities as well; correct?

6 **A.** Yes.

7 **Q.** All right. I'll ask you a bit more about inequalities
8 shortly, I just want to stay, if I may, on the role of
9 the Public Health Agency. It's also right that it's
10 an arm's length body of the Department of Health?

11 **A.** That's correct.

12 **Q.** And that the Chief Medical Officer's group is the
13 departmental sponsor for the Public Health Agency as
14 well; is that right?

15 **A.** That was right at the time of the pandemic. So from the
16 establishment of the agency in 2009 right up until
17 fairly recently -- I think possibly, I can't quite
18 remember, but I think it may have been April or maybe
19 January of this year -- the sponsor branch has moved
20 from the Chief Medical Officer's office to another
21 deputy permanent secretary within the Department of
22 Health, and that's quite a new arrangement, and that was
23 just part of a wider reorganisation of functions and
24 responsibilities within the Department of Health.

25 **Q.** I'm going to ask you to just try to slow down again.

96

1 Just coming back to the time -- in fact I'm going to
 2 ask you a little bit more about the background to the
 3 Public Health Agency, but could you just help us in
 4 terms of the sponsorship role and what that was intended
 5 to provide to the Public Health Agency?
 6 **A.** So my understanding is that the sponsorship role is to
 7 provide direction, to make sure that the agency performs
 8 its statutory duties as they are supposed to, and also
 9 that the agency is delivering to a sufficient quality,
 10 delivering and delivering in line with the Department of
 11 Health and therefore the minister's wishes.
 12 The form that sponsorship takes is that there are
 13 regular meetings between the chair of the Public Health
 14 Agency and the chief executive with either the permanent
 15 secretary, the sponsor, within the department, where
 16 they go through a range of issues where the agency may
 17 escalate things that they believe are a risk or
 18 an issue, and the department may seek assurances on some
 19 part of our delivery.
 20 **Q.** Dr McClean, I think you're aware that, from around 2017,
 21 issues were being raised with the Public Health Agency
 22 by its sponsor about its capacity and capability to
 23 carry out its core functions; is that correct?
 24 **A.** I think the documentation that I have seen relating to
 25 that time mainly comes from the documents that are

97

1 correct.
 2 **Q.** And again I think that it's right that between 2018 and
 3 2020 the situation deteriorated still further in terms
 4 of that loss of critical staff and experience within the
 5 PHA?
 6 **A.** That's correct. The numbers had gone down significantly
 7 for a range of reasons, mainly people had retired, come
 8 to an age whenever they retired. It is quite
 9 a specialist role so the staff who we need to fill those
 10 posts are highly specialised staff, they are
 11 consultants, like I am, in public health, but for them
 12 they would have chosen to maintain an interest in health
 13 protection. So at the point you achieve a certificate
 14 of completion of training in public health, that is
 15 across all the public health domains, but once you go
 16 into consultant practice, a lot of people -- and
 17 certainly practice within the agency up until that
 18 point, was that you went and worked primarily in one of
 19 the domains, so health protection is what we're talking
 20 about now. Other people chose to go, like I did, and
 21 work in service development and screening.
 22 **Q.** I think the net result of that was that at the advent of
 23 the pandemic, I think there were very, very few people
 24 indeed within the PHA who had any sort of experience of
 25 dealing with a widespread outbreak of any infectious

99

1 reviewed in preparation for giving evidence today, and
 2 most of that was around staffing within the health
 3 protection division, particularly staffing and the
 4 availability of consultant staff, specialist consultant
 5 staff to lead areas of work within that.
 6 At the time of establishment of the agency there had
 7 been -- I'm not sure of the exact number, but there had
 8 been maybe nine, ten consultants in health whose special
 9 interest was health protection, and that number had gone
 10 down as low as three, I think, not long before the
 11 Public Health Agency was established.
 12 **Q.** All right.
 13 **A.** Or -- or before the pandemic --
 14 **Q.** The pandemic happened. So I'm going to start in 2017.
 15 **A.** Mm-hm.
 16 **Q.** So I think the issues that were being raised in 2017
 17 was, because of the depletion in staffing and
 18 experience, there was concern that the PHA couldn't
 19 carry out its core functions; yes?
 20 **A.** That's right.
 21 **Q.** And again the following year, in 2018, the issue was
 22 raised again as to whether or not the PHA was going to
 23 be able to carry out its core functions; is that also
 24 correct?
 25 **A.** From the evidence I have seen in my bundle, yes, that is

98

1 disease; is that right?
 2 **A.** I think there were a small number of very experienced
 3 consultants who had many years' experience and would
 4 have had experience of dealing with significant
 5 outbreaks, including for example the swine flu outbreak
 6 in 2009, the pandemic in 2009, but their numbers were
 7 small, and just before the pandemic the agency had had
 8 some success in recruiting a number of locum consultants
 9 into the agency, so that was a good thing, to stabilise
 10 and improve staff as we went -- phased into the
 11 pandemic.
 12 **Q.** I think it's right we've seen some email correspondence
 13 that there were possibly two people in the PHA who had
 14 had some role or experience of dealing with swine flu in
 15 2009; does that sound about right?
 16 **A.** So I think that there were many more people within the
 17 agency who had experience of dealing with swine flu
 18 in 2009. I think the correspondence to -- which you are
 19 referring to is from an official in the Department of
 20 Health who has made a comment that only two people in
 21 a very senior role within the agency were around in
 22 2009, and that they, in 2009, had not been in very
 23 senior roles.
 24 There were a significant number of staff who had
 25 been in the agency in 2009, including, for example, me,

100

1 but at a much, much more junior level.

2 **Q.** Yes.

3 **A.** I think what that correspondence goes on to talk about,
4 I suppose, change at a senior level in the Public Health
5 Agency, so I know we're talking about consultants and
6 specialist staffing, but there was concern around change
7 at the senior level as well.

8 **Q.** But just coming to someone like you, for example, and
9 whatever experience you had as a junior doctor in 2009,
10 you would have been ten years qualified, I mean, would
11 that -- would your involvement at that stage in any way
12 have equipped you for dealing with something much more
13 significant than swine flu?

14 **A.** I think there was learning for everyone, no matter what
15 level of the agency that we were at at the time.
16 I think that following that there were a number of
17 exercises, because there were very few people, actually
18 if any, across Northern Ireland who would have had to
19 deal with something on the scale of Covid, because
20 no one had.

21 **Q.** Of course.

22 **A.** The sort of things that would have happened was we would
23 have had significant outbreaks that would have tested
24 us, and there's learning in that in how you scale up
25 staffing and things to respond to things, but nothing on

101

1 respect of infectious disease is actually a statutory
2 one; is that correct?

3 **A.** That's correct, yes.

4 **Q.** So, by statute, part of its role is to respond, is that
5 correct, to an outbreak of an infectious disease?

6 **A.** That's right. So most of our statutory responsibility
7 and powers in relation to responding to infectious
8 diseases comes from the 1967 Public Health Act, the
9 Northern Ireland Public Health Act, so that talks about
10 particular powers and it talks about the director of
11 public health having particular powers with respect to
12 a range of notifiable diseases, and it talks about
13 powers to issue things like a notice to exclude someone
14 from school, work, things like that. So that's around
15 responding to cases of notifiable diseases.

16 We also then, building on that, have
17 responsibilities to try to stop the spread of infectious
18 diseases within the community, and that, if you get more
19 than one case, then that would be moving into
20 an outbreak response, and we have a range of things that
21 we do.

22 We discharge those responsibilities not by
23 ourselves, so even to diagnose infectious diseases we
24 rely on our colleagues in primary care to notify us, and
25 the notifiable disease part of this is that if a medical

103

1 the scale of Covid. And I think that's true for a lot
2 of agencies.

3 I think one of the ways that we prepared, in common
4 with other agencies as well, would have been through
5 exercising. So, at national level, local level, running
6 pandemic exercises, testing plans. But that, as we
7 learned, is very different to doing it for real.

8 **Q.** Yes, and I think we'll probably find -- we'll look at
9 what eventuated in terms of the PHA's role, but, I mean,
10 would it be right to say at this stage -- and please say
11 if you disagree -- that any of those planning exercises
12 proved wholly inadequate to the mammoth task that faced
13 the PHA from January onwards?

14 **A.** I think it's fair to say that the PHA was not prepared
15 in a number of ways, and I wouldn't try to argue that we
16 were. I think we had a number of strengths, but I don't
17 think we would have been prepared. But I think that was
18 true probably of every public health organisation and
19 body across the world, because it was such
20 an unprecedented event.

21 **Q.** All right. Well, we'll come and we'll examine some of
22 those issues in a little bit more detail.

23 I just want to go back to the role that PHA would
24 ordinarily expect to play whenever's an outbreak of
25 an infectious disease. I think first of all its role in

102

1 practitioner -- and I think the 1967 Act is written
2 about medical practitioners.

3 **Q.** Yes.

4 **A.** But if the medical practitioner suspects that
5 an individual is suffering from one of a whole range of
6 notifiable diseases, by law they have to inform -- and
7 the Act says -- the director of public health. So then
8 we receive those notifications and take appropriate
9 action in relation to them.

10 **Q.** So within the PHA there's essentially a team of
11 people --

12 **A.** Yeah.

13 **Q.** -- and that's their function within the PHA? And can
14 you help the Inquiry in terms of the number of people
15 who were in that team at the outbreak of the pandemic in
16 January 2020?

17 **A.** Yeah, so I'll have to look at my notes for the exact
18 number so I don't mislead you, but in ...

19 So within the public health directorate, in
20 January 2020 we were divided up into four divisions. So
21 there was health protection, which is that team that
22 we'll come to, there was service development and
23 screening, health improvement and the R&D team. So the
24 team who would respond to infectious diseases in the way
25 I've described were drawn from the health protection

104

1 team.

2 So I'm looking at my statement here, at paragraph 19
3 I think it is, there are some tables, and it says that
4 in -- 31 December 2019 there were just short of
5 40 whole-time equivalent staff within that health
6 protection team.

7 **Q.** All right, so, I mean, a small team of people?

8 **A.** Yes.

9 **Q.** Are they all clinicians, are they all doctors and
10 nurses, or do you have other types of staff within that
11 fourth group?

12 **A.** No, within that there are a small number of consultants,
13 most of whom are medical. We also have some registrars,
14 who are in training in public health. We also have
15 a team of nurses who have specialist expertise and
16 experience in both health protection, public health, and
17 infection control, and then we also have surveillance
18 scientists, and we have project managers within the team
19 and admin support as well. So that 40 includes a whole
20 range of functions and any of the individual teams are
21 quite small.

22 **Q.** All right.

23 Now I'm going to ask you a bit about the PHA's role
24 in silver within the orthodox emergency response. So
25 first of all that's within the Department of Health,

105

1 business support organisation.

2 **Q.** Can I just check, then, at that silver level, is it
3 intended then that the PHA are part of the operational
4 response or still part of the strategic response to the
5 pandemic?

6 **A.** So at that stage we are providing a strategic response,
7 but I think we had two roles here. So at that time
8 silver was set up and it was, my understanding is,
9 a public health-led silver at that time, and that was
10 quite early in the pandemic, in January, whenever we
11 didn't have any cases, even in the UK, but there was
12 a lot of concern, there was a lot of information coming
13 in from a lot of sources, and obviously then we need to
14 be getting ourselves ready to provide an operational
15 response within the Public Health Agency to deal with
16 the cases, but then the other role of silver at that
17 stage would have been to help our health service, our
18 providers, our trusts be ready to respond, because they
19 will have had lots of questions around how should they
20 organise their services, what was the guidance if
21 someone turned up who had been in one of the affected
22 areas, what should they do with them, lots of other
23 questions about how they operationally would implement
24 the guidance. So the guidance was coming in from all
25 sorts of areas and silver at that stage was very much

107

1 isn't it, they have a gold, silver, bronze response to
2 an emergency?

3 **A.** So the emergency response plan, sort of the health and
4 social care system in Northern Ireland sort of organise
5 themselves into to respond to issues is set up, and
6 it's -- I think it's standard emergency planning
7 practice, I'm not an expert emergency planner, but this
8 is a standard way to respond, that you have a gold
9 command type level and that sits in the Department of
10 Health, and then you have a regional layer which was
11 silver, and that is made up of the Public Health Agency
12 and our -- where we take the lead in silver it would be
13 mainly in response to something that was of public
14 health nature, so infectious diseases like the pandemic.

15 **Q.** I'm going to ask you to stop, because I can take you to
16 a document that sets all of that out. I suppose the
17 question is really this: when those structures were
18 stood up -- that's the term used -- I think that was on
19 23 January 2020; correct?

20 **A.** That's correct.

21 **Q.** And the PHA formed part of the silver response alongside
22 one of -- it's the HSBC(sic), isn't it, the health
23 service board?

24 **A.** Health and Social Care Board, HSCB. And the other
25 organisation that sits at silver level with us is the

106

1 focused on trying to collate, I suppose, curate the
2 guidance and make sure it got out to the right people
3 properly and that questions that came up were answered.
4 At that stage that was the focus of silver.

5 **Q.** I'll take you to the document and ask if it accurately
6 reflects what the PHA's role was supposed to be. If
7 I could ask for INQ000325424. It's the first page of
8 this document. I don't know if you're familiar with it,
9 Dr McClean. It ought to have been with you --

10 **A.** I have seen it.

11 **Q.** You have seen it?

12 **A.** I have seen it, yeah.

13 **Q.** Good. We can see that that's dated 2 March. I think
14 there may have been terms of reference before this, but
15 this is slightly later on in the day. So it may give us
16 a slightly more considered idea of what the PHA's role
17 was intended to be.

18 I think if we look at section 8 of this document, it
19 sets out -- I won't read through all of them, but I just
20 wanted to draw attention to some of them.

21 So the PHA was going to jointly run an operation
22 centre; correct? I'll ask you about it, I just want to
23 make sure to ask you whether or not these were things
24 that the PHA was intended to do as part of its role at
25 silver.

108

1 **A.** So these terms of reference are from a period whenever
 2 PHA were no longer in the lead for running the emergency
 3 operation centre. In the early days PHA was running the
 4 emergency operation centre because it was primarily
 5 about health information that was coming in. By this
 6 stage the focus was very much on preparing the service.
 7 So it would have been the Health and Social Care Board
 8 who were taking the lead in running the emergency
 9 operation centre at that time. We would have helped and
 10 assisted, but my understanding is that by March it was
 11 the Health and Social Care Board who were in charge of
 12 running the EOC and we were there in a supportive way.
 13 It was the opposite way earlier on.

14 **Q.** That's what I was going to ask you, because that's what
 15 I thought from your statement, but that helps to clarify
 16 that.

17 There was also going to be the provision of a joint
 18 situation report to the Department of Health as well?

19 **A.** I believe that is the case, and I believe that that did
 20 happen and I've seen examples of that as part of my
 21 preparation.

22 **Q.** All right. Then the third point was that the PHA was
 23 going to maintain surveillance systems of Covid-19 cases
 24 and outbreak investigation, and again at that point in
 25 time was that the intended position, that that's what

109

1 us to do on our own.

2 **Q.** Well, that's what I wanted to check, because I think
 3 your witness statement suggests that in fact the PHA did
 4 not produce that kind of guidance.

5 **A.** So I think there were different types of -- lots of
 6 different types of guidance were produced during the
 7 pandemic, and I think at this stage there were, for us
 8 in public health, at that stage, I think they were in
 9 two main categories. The first would have been around
 10 guidance on how to manage cases from a sort of infection
 11 control point of view, and the first part of that is,
 12 first of all, how do you know you have a case? So that
 13 case definition, when is the case infectious? We didn't
 14 really know at that time, but when is the case
 15 infectious? What should you do in response if you have
 16 a suspected case?

17 That to me is the public health management guidance,
 18 and that is something that we absolutely would be
 19 responsible for taking a lead on.

20 We don't -- we didn't develop that by ourselves
 21 because this was now an emergency of an international
 22 significance, it was a huge, huge event, and in
 23 situations like this we look to sort of our colleagues
 24 in other parts of the UK who have a very large public
 25 health response team, so they're really specialised --

111

1 the PHA would do?

2 **A.** Yes, and that would be part of our core function in
 3 Public Health Agency. A really important part --

4 **Q.** Yes.

5 **A.** -- of responding to infectious diseases is knowing how
 6 many infections there are in the community and any
 7 changes in that infection, and the sort of technical
 8 term for that is surveillance, so that was a core bit of
 9 our function.

10 **Q.** Yes, so of all of the things that the PHA was going to
 11 do, at this point in the pandemic, would that have been
 12 the most important or the most significant?

13 **A.** It would have been one of a number of surveillance -- of
 14 important things.

15 **Q.** Then the next one was to adapt guidance on the
 16 management of cases and their contacts. Again, can
 17 I check, was that foreseen as being a PHA role?

18 **A.** Because I wasn't here at the time I feel I'm not able to
 19 comment in a lot of detail, but what I can say is that
 20 it would be my expectation that, as information on the
 21 infection came in, we would have had a role in
 22 disseminating that. We are not a provider of clinical
 23 care, so any provision of clinical guidance would have
 24 to be in consultation with clinical teams who look after
 25 patients. It wouldn't be something that I would expect

110

1 **Q.** Sorry, I didn't mean to cut across you, but is that
 2 Public Health England?

3 **A.** Yes, that would have been Public Health England, so in
 4 terms of, we didn't create guidance of a public health
 5 nature from scratch, because it -- we couldn't have done
 6 it, we wouldn't have had the expertise, and we wouldn't
 7 have added anything by doing it, because if you
 8 remember, and I think it does reference it in my
 9 statement as well, a lot of the information was emerging
 10 from other parts of the world, it was emerging from all
 11 sorts of places, we wouldn't have that in-house
 12 capability, and because a lot of the information was
 13 coming from international partners, WHO and to an extent
 14 ECDC and other bodies like that, that sort of liaison at
 15 a UK level is with a single national contact point which
 16 is in Public Health England or was in Public Health
 17 England at that time.

18 **Q.** Can I ask you to pause there. Is it right then that
 19 Public Health England would have essentially taken all
 20 of that information, distilled it --

21 **A.** Yes.

22 **Q.** -- as it saw fit, and produced guidance, and you would
 23 then have essentially adopted that guidance?

24 **A.** Yes.

25 **Q.** Other than doing that --

112

1 **A.** Yes, we might have had to tailor it a little bit.
 2 **Q.** Of course.
 3 **A.** To take account of our situation here, but by and large
 4 that was guidance that was rightly produced by people
 5 who are very specialist in that area. I wasn't in this
 6 role at the time, but what does happen and has happened
 7 in other incidents that have happened since I have taken
 8 up post is that the people who do this in Public Health
 9 England do liaise with their colleagues in the devolved
 10 administrations, and even the English regions at times,
 11 so there was that communication. Guidance changed
 12 really, really rapidly, more quickly than anything I've
 13 seen before or since.
 14 **Q.** Yes.
 15 **A.** So I hope I'm not diverting here, but this bit, the
 16 management of clinical cases and the clinical management
 17 of the illness might be something we would be involved
 18 in, in the Public Health Agency, but we would very much
 19 depend on our clinical colleagues to advise us, we might
 20 help corral that and get it into a consensus document,
 21 but at that stage both the public health guidance and
 22 the clinical guidance was very much new, it was not
 23 something that PHA would have developed from scratch and
 24 we would have done it with the appropriate partners,
 25 either Public Health England for the public health

113

1 been commenced?
 2 **A.** Yes.
 3 **Q.** Again would that actually have been a role of the PHA at
 4 that time?
 5 **A.** **(Pause)** Possibly, but I'm very conscious that this was
 6 an incident that was even by this stage being managed
 7 very much on a UK-wide basis, so for something of this
 8 significance I'm not sure that ... now I have the
 9 benefit of four years of hindsight, looking at this, but
 10 actually the point at which, you know, you have to
 11 change your strategy ... possibly.
 12 **MS DOBBIN:** All right. Maybe we can come back to that after
 13 lunch, if that's a good point to break.
 14 **LADY HALLETT:** Yes, of course.
 15 I am sorry, I hoped that you were warned that we
 16 would have to break in the middle of your evidence,
 17 Dr McClean, I'm sorry about that.
 18 **THE WITNESS:** No, it's okay.
 19 **LADY HALLETT:** I shall return at 1.45.
 20 **(12.46 pm)**
 21 **(The short adjournment)**
 22 **(1.45 pm)**
 23 **LADY HALLETT:** Ms Dobbin.
 24 **MS DOBBIN:** Dr McClean, before the short adjournment we were
 25 looking at the document which set out what the PHA's

115

1 guidance, and then if there was a need for clinical
 2 guidance locally for anything to come out from the
 3 silver level, that would have to be done with clinical
 4 colleagues.
 5 **Q.** All right. I'm going to try and just finish off this
 6 document, if I may. The other part of your role that
 7 was foreseen at this time was that you would provide
 8 timely and accurate information for public and health
 9 professionals on Covid-19 and the clinical effects of
 10 the infection.
 11 Now, what we'll come to and what we'll look at is
 12 the provision by the PHA to data effectively at this
 13 point in time.
 14 Is that what that's talking about at this stage?
 15 **A.** It's hard for me to know entirely because I wasn't
 16 involved in formulating this, but I'm reading it and I'm
 17 thinking it probably is around providing information on
 18 the number of cases we have and how it's spreading
 19 within the community. The clinical effects of the
 20 infection, that is something that would not be a primary
 21 function normally. Now, we do work closely with
 22 colleagues and can help disseminate that, but I'm not
 23 really sure what was meant by that at that time.
 24 **Q.** All right, and I think provide advice on when to cease
 25 measures to slow transmission of the virus if they had

114

1 intended role was at the outset of the pandemic, and
 2 I just wanted to finish off quickly, if I may, on that.
 3 I think we were looking before the break at the
 4 point at which it said "Provide timely and accurate
 5 information", so we'd dealt with that, and we'd dealt
 6 with ceasing measures, and I think you'd said it was
 7 possible that the PHA didn't have that role. And
 8 I think, as things transpired, it didn't have that role,
 9 did it, as time moved on?
 10 **A.** I think that for something that wasn't on the scale of
 11 Covid-19, so something that was a much more limited
 12 outbreak, something a bit more usual, if you had a wide
 13 -- if you had an outbreak across Northern Ireland of
 14 something else, and quite often in an outbreak your
 15 overall objective will change through the course of the
 16 outbreak, I think if it was something more on what we
 17 would call a more normal scale, that may have been
 18 appropriate, but given what subsequently happened over
 19 the coming week to ten days, the scale of Covid I think
 20 made this quite a different scenario, even from perhaps
 21 what was expected whenever the terms of reference were
 22 drafted, which I think, from having looked at it just
 23 before lunch, was around the start of March.
 24 **Q.** Yes, absolutely, and I'm going to come on and just ask
 25 you generally about these terms of reference, but just

116

1 to finish off on this, so at that time, and again just
 2 focusing on early March, it was foreseen that the PHA
 3 would lead on the public health response; correct?
 4 **A.** Yes.
 5 **Q.** And that it would lead the case management cell?
 6 **A.** Yes.
 7 **Q.** And that it would undertake community surveillance and
 8 that it would provide -- I'll cut through this --
 9 mortality surveillance as well?
 10 **A.** Yes.
 11 **Q.** And that it would also have a communications programme?
 12 **A.** Yes.
 13 **Q.** And I think it's right that very quickly it must have
 14 been realised that the PHA just wasn't constituted to
 15 carry out a number of these --
 16 **A.** Yeah.
 17 **Q.** -- functions.
 18 We'll look at some of the functions that it did
 19 exercise during the early period, but I think a number
 20 of these things effectively fell away and became the
 21 responsibility of the Department of Health; correct?
 22 **A.** I think that's correct, and at a strategic level even
 23 beyond the Department of Health, really at a UK-wide
 24 level for some of them.
 25 **Q.** Right.

117

1 it was -- because it was a new disease.
 2 **Q.** If I can just focus for a moment, because that's really
 3 what I really want to get to and try to understand.
 4 At the outset of the pandemic, so I mean January,
 5 February, March time, in terms of the sources of
 6 information available to the PHA, I think, am I right in
 7 understanding, that you had access to Apollo?
 8 **A.** Yes.
 9 **Q.** So that is a mechanism that works the reporting back of
 10 some information about flu data; is that correct?
 11 **A.** That's correct. So Apollo was a system that is used
 12 I think across the UK, and PHA started to use it in 2009
 13 around the time of the swine flu outbreak, and Apollo
 14 gave -- it has subsequently been replaced, or is in the
 15 process of being replaced, but it gave information
 16 around flu consultations in general practice.
 17 And that's for flu. That's a really useful
 18 barometer of how many people in the community are
 19 experiencing flu-like symptoms. So in the winter time,
 20 you know, just because it happens that more people
 21 flu-like symptoms, so it's important that we're able to
 22 understand how that is progressing in the community. We
 23 don't have widespread testing for flu in the community
 24 so we do depend on looking at how many symptomatic
 25 people are seeking healthcare and that primarily, for

119

1 So I'm just going to look then at some of the things
 2 the PHA was doing at the outset. I think what you said
 3 a few moments ago was that the core role, as it were, of
 4 the PHA is to provide the surveillance about the
 5 transmission of a disease when there is an outbreak?
 6 **A.** So that is one of our core roles, is to provide
 7 infectious disease surveillance, that's one of the
 8 things that we were set up to do.
 9 **Q.** And I think it's right that from the outset of the
 10 pandemic, in fact the PHA faced real challenges in its
 11 ability to access data so that it could provide that
 12 information onwards to the Department of Health about
 13 the transmission of the disease; is that correct?
 14 **A.** I think this was -- first of all, it was a brand new
 15 infection. So if it had been something like -- and I'll
 16 use the example of flu. Had it been a typical flu,
 17 something that we have systems and mechanisms in place
 18 with our laboratories to count cases, with our GP
 19 colleagues for them to provide us with information about
 20 the number of people they are seeing with flu-like
 21 symptoms, they are pipelines and approaches that are in
 22 place. Covid was a brand new infection and so therefore
 23 there weren't any ready-built things even within our lab
 24 to run the test, that was something that had to be
 25 developed, and the pipelines and the channels were new,

118

1 something like flu, is with primary care.
 2 **Q.** All right. So presumably, then, that's of limited use?
 3 **A.** Yes.
 4 **Q.** Because it's only telling you who's going to primary
 5 care --
 6 **A.** Yes.
 7 **Q.** -- reporting symptoms of flu, so it in no way gives you
 8 an accurate picture of who might be reporting with
 9 a different virus?
 10 **A.** That's right. So it looks for flu-like symptoms, so
 11 whenever they go to see their GP -- GPs have very good
 12 electronic systems. When you go to see your GP they
 13 will put stuff up on the computer. And if they are
 14 coming in with symptoms that are typical of flu or
 15 another respiratory illness, that's what it will pick
 16 up. But it is limited to primary care.
 17 And I think some other parts of the UK have -- and
 18 that's called syndromic surveillance. So syndromic
 19 surveillance is people who have the syndrome, so people
 20 have symptoms; it's not based on laboratory data, it's
 21 based on symptoms. It's called syndromic surveillance.
 22 At the start of the pandemic we had that in primary
 23 care through Apollo but we didn't have it in secondary
 24 care set up within EDs. I think that is mentioned in
 25 the statement. Some syndromic surveillance had been set

120

1 up at a point in time in the Public Health Agency but
2 that wasn't in place, certainly, at the start of the
3 pandemic, and I don't fully understand the reasons why
4 that stopped.

5 **Q.** All right.

6 Let me just take it in stages, because I think as
7 well, according to your statement, that you didn't have
8 any method of identifying hospitalisations with Covid-19
9 and you weren't able to trace hospital-acquired Covid-19
10 until May of that year as well?

11 **A.** Can I just check the paragraph number?

12 **Q.** So it's paragraph 282.

13 **A.** Sorry?

14 **Q.** Paragraph 282.

15 (Pause)

16 Just so that I can orientate you in your statement,
17 this is your entire section on data.

18 (Pause)

19 **A.** Okay.

20 **Q.** So that would appear to be right, wouldn't it, from your
21 statement?

22 **A.** Yes. I think earlier on in the pandemic, one of the --
23 there were a number of things that were built to allow
24 the surveillance team to count Covid-19-positive tests.
25 So the first thing I think that they established was

121

1 a positive test.

2 **Q.** The point that I'm trying to get to, it's really just to
3 understand in those early months how it was that Covid
4 was actually being measured in Northern Ireland, because
5 I think it's right that, in fact, testing was extremely
6 limited right up until March, and that a very small
7 number of people had been tested even by -- I think we
8 get to around 7 or 8 March and the numbers of people
9 that had been tested was small.

10 How was it up until that point -- or what was the
11 most reliable barometer of what Covid transmission rates
12 were like in Northern Ireland?

13 **A.** So I don't think we did have a particularly reliable
14 barometer at that stage. We were -- we were building
15 links with the laboratories, so we were getting
16 reasonably accurate information from the laboratories,
17 but as you say, that was really only the tip of the
18 iceberg, because only a very small number of people were
19 eligible for the very limited number of tests at that
20 stage.

21 In terms of deaths, for example, because that is
22 mentioned on the -- in the terms of reference document
23 and it's also mentioned in the evidence, to the best of
24 my knowledge, prior to Covid-19 deaths were not reported
25 to the Public Health Agency for us to publish data on.

123

1 a reporting link with the laboratories, so the
2 laboratories would tell them how many positive Covid
3 tests there were, and in the very early days that number
4 was very low because testing was limited.

5 **Q.** Yes.

6 **A.** So the first thing that would have been built would have
7 been a feed from the lab. It's then a step beyond that
8 to be able to link the feed that comes from the lab with
9 electronic information from the patient administration
10 system, which is the hospital system. That involves
11 an electronic linkage. It wasn't something that was
12 well developed within the agency at that time.

13 Whenever the Public Health Agency was set up, the
14 infectious disease surveillance sat within the agency,
15 but the analysis and use of the hospital data, which
16 includes admissions data, discharge data, that actually
17 sat within the Health and Social Care Board. So their
18 staff, in the Health and Social Care Board, were much
19 better at using those electronic systems. And they're
20 not simple. You know, it does require experience to
21 negotiate it, or to understand it. So they were in two
22 different sort of -- two different worlds, if you like,
23 and I think it did take some time for the laboratory
24 information to be able to sort of link and cut across so
25 you could see how many people in hospital had had

122

1 **Q.** Yes.

2 **A.** We would have been aware of deaths, say, for example,
3 from meningococcal disease or another disease, and we
4 would have that information for ourselves, but to the
5 best of my knowledge we never received information
6 routinely on deaths and we didn't publish information on
7 deaths, that was the role of the Northern Ireland
8 research and statistical agency, NISRA.

9 **Q.** Yes. There's a few things bound up in that, if I can
10 just tease them out a bit. Obviously the -- silver had
11 been stood up from the January.

12 **A.** Mm-hm.

13 **Q.** Can the Inquiry assume, then, that between the January
14 and until we're getting into the middle of March, that
15 the work done to build up testing capacity hadn't taken
16 place within the PHA?

17 **A.** So testing capacity was ramped up primarily -- Public
18 Health Agency does not run testing. Testing is
19 delivered, first of all, by -- it was the virology lab
20 in Queen's University -- or not in Queen's University,
21 in the Royal Victoria Hospital.

22 **Q.** Yes.

23 **A.** The regional virology lab very quickly actually got
24 a test. So remember, this was a virus that hadn't
25 existed six months previously, so the virology lab in

124

1 the Royal was actually quite fast, in UK-wide terms, in
2 getting a test that was in place.

3 A lot of work then did go on and one of my
4 colleagues in the Public Health Agency chaired the
5 expert advisory group on testing on behalf of the
6 department, and -- of health, and that group sat within
7 the Department of Health but relied on specialist skills
8 from the PHA, and the remit of that group was to advise
9 on testing and to be involved in the ramp-up of testing.

10 Testing went from not being able to do any tests at
11 all, sort of at the start of the year, to, by the end of
12 the year, doing hundreds of thousands of tests.

13 **Q.** Yes.

14 **A.** And that was way beyond the capacity of the health
15 service, and you'll remember that we had the national
16 testing initiative come in, so there were lots of
17 different partners involved. There was the Royal, there
18 was also the universities --

19 **Q.** Sorry, I'm just going to stop you, because I am really
20 just focusing on the outset, and really trying to
21 understand what work had been done within the PHA, and
22 I understand the PHA wasn't in fact administering the
23 testing by itself, but, just trying to understand the
24 work that had been done in those first few months on the
25 understanding that there would have to be a test and

125

1 shortly that might help, but I just wanted to go to this
2 first so that we could understand some of the practical
3 difficulties there were at the outset.

4 This is INQ000445513. If we could go to page 2 of
5 that.

6 And again, I think you've been provided with this,
7 Dr McClean. This is an email that was sent by one of
8 the advisers to Minister Swann, and it's one of a number
9 of emails at around this time that were sent to the PHA
10 setting out the difficulties, and I think the minister
11 had taken a personal interest in trying to ensure that
12 he was providing accurate data whenever he was making
13 announcements or speaking about the pandemic.

14 But we can see that at the second paragraph what the
15 adviser was saying was that:

16 "There are serious discrepancies in what the
17 Minister is being told and what is actually happening.
18 I ... continue to have serious concerns about the
19 quality of information being published in the daily PHA
20 surveillance report."

21 Then there's a reference in the next paragraph --
22 I think the Hugo is Professor Hugo van Woerden; is that
23 correct?

24 **A.** Correct.

25 **Q.** "Hugo/Brid - the Minister & I both asked for clarity

127

1 trace capacity that didn't exist, what your

2 understanding is of the work that went on in that first
3 bit of time within the PHA?

4 **A.** So because I wasn't physically there I'm really not over
5 the detail of that and I don't want to misrepresent
6 anyone by saying -- by maybe not describing something
7 that happened. I hadn't seen the note of every single
8 silver meeting to be able to describe any discussions
9 that took up -- took place about ramp-up.

10 I think ramp-up was very quick. Perhaps in
11 hindsight, and learning for a future pandemic, I would
12 say that it is much more obvious to us now that testing
13 capacity and the rapid expansion of that at the start
14 needs to be a priority, and that is something that
15 I would expect will be built into plans. But that is
16 learning.

17 **Q.** All right.

18 **A.** But perhaps, if it's acceptable, if I undertake to look
19 at the notes and provide the Inquiry with any additional
20 record that I can find of specific actions that were
21 taken by silver at that time.

22 **Q.** I anticipate there will be other witnesses who can help
23 us with that --

24 **A.** Okay.

25 **Q.** -- and I'll take you through to some other documents

126

1 yesterday, and with all respect we didn't get it. I was
2 even told yesterday that it's not the time to be getting
3 into the detail. It is."

4 Then he sets out some of the other issues that had
5 been raised.

6 Can you help the Inquiry with that? I think it is
7 right that there were real difficulties at that point in
8 time with the PHA's provision of information to the
9 Department of Health and to the minister in particular.

10 **A.** So because I recognised that this is going to be
11 an issue that was going to be of particular interest,
12 I have taken the opportunity to talk to some people who
13 were involved, because I was not involved at this time,
14 so my understanding is that a lot of the difference and
15 the perception of discrepancies in the numbers was
16 around the difference between the total testing
17 capacity, the absolute maximum number of tests that the
18 laboratories could run versus the number of tests they
19 actually ran.

20 So, having looked at documents that were provided by
21 the Inquiry around this issue and having talked to
22 colleagues who were directly involved, what seems to
23 have happened is that around about or just before this
24 date, which was Sunday 28 March, but just before then
25 I think an announcement or -- it had been put into the

128

1 public domain that we -- our testing, our total testing
2 capacity in Northern Ireland was now 600 tests per day.
3 Which is a huge increase from what we've talked about
4 earlier. Then I think there was frustration and
5 disappointment expressed whenever reports from the
6 Public Health Agency were coming that, well, we did
7 maybe 380, 400 tests, and that number was fluctuating
8 from day to day.

9 I think that the issue has arisen because there are
10 two different things at play here. There is the total
11 number of tests that the laboratory can physically do
12 and then there's the total number of tests that the
13 laboratory receives, and that's really the demand, the
14 number of people who are coming forward to be tested.

15 It seemed counterintuitive at the time because there
16 was such a clamour for testing, such a demand for
17 testing, that information was being put out that there
18 were now 600 tests a day now available but only 300 and
19 whatever it was people came forward.

20 And I think there were a number of reasons for that.
21 Testing at that stage was limited in who could come
22 forward. Healthcare workers had now been prioritised,
23 and that was to make sure that they weren't bringing the
24 infection into work and to make sure that they could
25 safely return to work with symptoms. So they had been

129

1 document, sorry. Yes. Because we have the minister in
2 fact stepping in now to say that the PHA in their
3 reporting needs fixed and fixed now, "This is now
4 a millstone around our necks, can we pull the daily
5 surveillance report into the department".

6 So plainly the issue is around the minister being
7 concerned about the accuracy of the information that
8 he's providing, and did that in fact happen? Did the
9 surveillance report then go in, was that taken into the
10 Department of Health?

11 **A.** So I can't comment for the minister or what his
12 frustrations were at that time, so I may be incorrect,
13 but what I have seen in the documents was I think it was
14 the mismatch between the tests available and the tests
15 actually being done.

16 **Q.** Yes.

17 **A.** PHA accurately reported the tests being done. The fact
18 that they did not, were not the same as the 600 tests
19 available seems to have been the issue. The
20 surveillance, I know that some reporting did go into the
21 department. I'm not entirely sure of what exactly went
22 into the department, and what remained with the PHA.
23 I don't really understand the exact breakdown of it, but
24 that did happen at a later stage, but ...

25 **Q.** All right. I'm going to go to the PHA response to this,

131

1 prioritised, and I think there was a frustration that we
2 still had healthcare workers off work but not all the
3 tests were being used. And I think at that stage the
4 number of -- the number of testing centres was limited
5 so I think there were maybe two at this stage, one in
6 the SSE and one maybe in Derry. So the number of people
7 who came forward were that number. And people might not
8 have come forward for a whole range of reasons, but the
9 number of people who come forward, that is beyond the
10 control or remit of the Public Health Agency. All we
11 can do, really, is make sure that our colleagues in
12 trusts and healthcare providers know that they are
13 symptomatic staff, that they are eligible for testing
14 and they should come forward. And I think it was the
15 difference between those two numbers --

16 **Q.** There was a missing -- there is --

17 **A.** That is -- so because I wasn't there, I can't be
18 absolutely certain, but having spoken to people from PHA
19 who were there and having looked at the various emails
20 and documents, that seems to be the issue, that there
21 was a frustration that there was a public announcement
22 made that there were 600 tests available now but a much
23 smaller number were actually being performed.

24 **Q.** Because I was going to ask if we could go to a document
25 that's related to this, I think it's page 1 of that

130

1 so it's at INQ000389810, and if we could go to page 3,
2 please, to begin with. It's just to help orientate you
3 in this, so I think we can see here that the director,
4 and just to be clear, Professor van Woerden was the then
5 director of the Public Health Agency, wanted to have
6 a meeting about it. If we could then go to page 2,
7 please, and this is from Mr Pengelly, who's the
8 permanent secretary to the Department of Health.

9 One can see there the frustration apparent on his
10 part, and his annoyance that no meeting was needed, it
11 was just clarity.

12 So again it would seem that at this point, and it's
13 28 March, this was obviously an issue of some
14 seriousness; yes.

15 **A.** Yes, it obviously has been escalated to a very senior
16 level. Because I wasn't there, I really want -- I don't
17 get the nuance, I wouldn't want to misrepresent
18 anything. I would make a comment, though, that this was
19 an extremely difficult time for everyone, at all levels
20 of society, and I think that people were working really
21 round the clock, and I notice in some of these emails
22 that they were sent on a Sunday, quite often late on
23 a Sunday, and I think it is -- it's inevitable sometimes
24 that frustration will spill into communication, and
25 I can't comment on whether or not a meeting was

132

1 required. My experience in general is that if there was
2 a misunderstanding and email correspondence goes forward
3 and back, that can sometimes make things worse and
4 sometimes a discussion to understand the positions is
5 helpful. But I wasn't there, so I don't know.

6 **Q.** I think you will have been able to see from the
7 correspondence --

8 **A.** Oh yeah.

9 **Q.** -- that we have sent that these problems endured, they
10 didn't go away. Perhaps if we could look at another
11 document, this is INQ000389819, if we could go to page 4
12 again just to help you orientate yourself in it.

13 So I think we can see that in relation to this, the
14 issue is around the numbers of people who had died, and
15 that being part of the PHA's role to report those by
16 this stage as well, and I think if we go to page 4 of
17 this -- sorry, it is page 1 of that, I do apologise. We
18 can see that there's a lengthy explanation from
19 Professor van Woerden about the deaths and how they were
20 being counted. It would appear from this that there's
21 some resistance on his part to the basis upon which the
22 PHA was being asked to provide information to the
23 Department of Health about the number of people who were
24 dying each day. Is that right?

25 **A.** So this email is dated 6 May.

133

1 a system whereby clinical staff, so doctors in the main,
2 consultants in hospitals, could report patients who died
3 in hospital who had had a positive Covid test within the
4 previous 28 days. The positive Covid test within the
5 previous 28 days is a definition that had been agreed
6 with other public health organisations as being the best
7 definition we could use. That used a system called
8 SharePoint, which is a very basic, I think it's
9 a Microsoft programme, and it allows you, it's like
10 a portal, so it allows you to put information in, maybe
11 in a hospital, and then that would come into the PHA.

12 So the arrangement was, and I think the chief
13 executive wrote to trusts' chief executives and asked
14 them to implement this in their trusts, the arrangements
15 was that clinicians would report all deaths that had
16 occurred in patients under their care by a certain time
17 each day and that would allow the PHA to produce
18 a count.

19 Now, there were a number of challenges with that.
20 As I say, this was the first time anything like this had
21 been set up before. It depended on very busy
22 clinicians, busy clinicians who were looking after very
23 sick patients, it required them to go and complete
24 an administrative task, so there's a little bit of
25 a weakness there, that you could get under-reporting for

135

1 **Q.** Yes.

2 **A.** I think some of the issues and differences around deaths
3 pre-date that, and I think it's maybe helpful to go back
4 a bit earlier in the pandemic to sort of explain the
5 story of how I think this unfolded.

6 I said a while ago that, to the best of my
7 knowledge, and I've talked to my colleagues who have
8 a special interest in surveillance, PHA has never had
9 a role in counting deaths, receiving information about
10 deaths and providing public information. That's
11 a statutory duty that sits with NISRA and the Registrar
12 General. So there's a law that you must report a death
13 within five days in Northern Ireland.

14 **Q.** Yes.

15 **A.** And the causes of that then are set out, and there are
16 lots of rules around what you put on the death
17 certificate, and that is looked after by NISRA, and
18 that's a really important accurate record of deaths.

19 Because there was an absolute recognition that
20 people will want to know, including the department,
21 including the minister, but including ourselves, for
22 trying to understand how the pandemic is progressing,
23 how many people are being admitted to hospital, how many
24 people are dying, the surveillance team and the Public
25 Health Agency established for the first time ever

134

1 very understandable reasons.

2 You could also get that the clinicians maybe didn't
3 get a chance over the course of a couple of days and
4 might report several deaths maybe on one day, but they
5 may have reported on different days. So it was -- it
6 was as good a system as could have been put in at the
7 time, but it was certainly not a perfect system and it
8 was certainly not at the accuracy that we would expect
9 when deaths are being published in the way they are
10 being published from NISRA.

11 I think there was some loss in confidence around the
12 information that was being provided when it started to
13 be used in the public domain and being used as a count
14 of deaths because there was that risk of
15 under-ascertainment of deaths.

16 There was also a risk that we obviously weren't
17 getting most community deaths, although sometimes I'm
18 led to believe that maybe a GP would have phoned in and
19 said "I've had a patient who's died in the community
20 from Covid", that might have been added in to the
21 numbers, so they just weren't accurate numbers that we
22 could really stand over in the same way that NISRA has
23 accurate numbers. And I think there was some anxiety
24 around that, and sometimes perhaps the department would
25 hear -- would say, "Well, the Public Health Agency said

136

1 three people died in the Northern Trust on this day, but
2 I know, because my neighbour died" -- and there was just
3 a bit of a shakiness of confidence.

4 But having looked at that, I would say this is
5 because the information system that was put in place was
6 the best that it could have been considering the
7 circumstances, but it was never going to give totally
8 accurate information, that rightly and properly rests
9 with NISRA. So it was almost, like -- it was
10 information but it wasn't complete information. It was
11 useful information in that it gave you a bit of a trend.
12 You would certainly expect day to day that you would see
13 a reasonable trend, but it wasn't perfect.

14 So I understand there had been some loss of
15 confidence because of the issues, and again I think it
16 was perhaps misunderstandings and perhaps not
17 understanding the complexity and just what was involved.

18 This then, this email, which happens -- which is
19 sent in May, and I did take the opportunity to speak to
20 Professor van Woerden about it, what he meant, this
21 is -- I think relates to a different issue to the death
22 counting --

23 **Q.** Can I just stop you, sorry, you've spoken at length, and
24 I am really just focusing on the language that's used --

25 **A.** Okay.

137

1 Covid? So an analogy that was used that used to be used
2 sometimes in the media you would hear "Well, you could
3 die of -- you know, you could fall and hit your head and
4 die from a head injury, just because you happened to
5 have Covid a week previously you would be counted in the
6 Covid death numbers".

7 Now, there was a lot of public discussion around
8 that, around what was death from Covid versus death with
9 Covid.

10 **Q.** Yes.

11 **A.** And I think what happened then was NISRA then moved and
12 did publish quite detailed guidance on the attributable
13 causes of death, so within the death certificate you've
14 got various things and it talks about what the
15 underlying cause is which starts to try to unpick it.

16 I can't be absolutely sure what
17 Professor van Woerden meant at that stage, but from
18 having talked to him and looked at the chronology of the
19 various things that have happened, I think that may be
20 the issue. But, as I say, I'm not entirely sure.

21 **Q.** Should we take it from this that from that period until
22 May there were still serious issues or serious concerns
23 on the part of the PHA as to the accuracy of the data
24 that was being reported?

25 **A.** This is the opinion of Professor van Woerden, so I'm

139

1 **Q.** I want to focus on the language that's being used in
2 this email.

3 **A.** Okay.

4 **Q.** Because what he sets out in terms is, and it's the third
5 bullet point down, isn't it:

6 "The data that is being reported to the public is
7 completely misleading."

8 So he is not saying it's imperfect, he is saying
9 it's completely misleading, and I want to understand
10 your evidence as to whether or not what he was saying in
11 May, is that accurate, is that correct, was the data
12 that was being reported completely misleading because,
13 as you've suggested, it might have been
14 an underestimate?

15 **A.** So I think, I'm not sure, I would need to check this,
16 but I think by May I think he is actually talking about
17 information that is now being published as well by NISRA
18 as well.

19 **Q.** Yes.

20 **A.** I think whenever he said it's misleading whenever
21 I spoke to him I said what did you mean I think that
22 what he's referring to is the debate that we heard many
23 times during the pandemic is: is death with a positive
24 Covid test within 28 days the most accurate way to
25 reflect the number of people who have died because of

138

1 just careful about interpreting it.

2 **Q.** Yes.

3 **A.** I think ... my feeling about this was that he was
4 worried that things were being presented as absolute
5 certainty that this was a Covid death when other things
6 may have been in there as well, is my understanding, and
7 it was that thing sort of, dying because of Covid versus
8 maybe having a coincidental positive test within
9 28 days, that is my understanding having tried to piece
10 together the various bits of evidence and having spoken
11 to him.

12 **Q.** I'm going to move on to ask you, I think you know that
13 there was a rapid review of the PHA's epidemiological
14 function, if I could ask for that to be brought up,
15 please, it's INQ000001196.

16 **LADY HALLETT:** To repeat the word "rapid", I am afraid you
17 are going to get into terrible trouble with the
18 stenographers, Dr McClean, can you try and slow down.

19 **MS DOBBIN:** If we could go to page 20, please, and it's
20 paragraph 9.4. I'm sure you've seen this, but this
21 epidemiological review, and this was done at quite
22 an early stage, forgive me, I've forgotten the date, but
23 I will come to that, it was done at quite an early stage
24 but we can see at paragraph 9.4 it expressly refers to
25 the fact that there were difficulties and tensions

140

1 around the reporting of the daily death figures.
 2 "It seems clear from a recent feedback session, from
 3 this rapid review to the PHA board, for their
 4 individuals who attend PHA board meetings who still
 5 cannot grasp why it was so important to the Minister and
 6 the Department to have exact and reliable figures about
 7 the number of daily deaths. This was and is a matter of
 8 public confidence and a measure of the competence of the
 9 system to respond to the pandemic."

10 So the criticism that appears to be being made in
 11 that review was the ability of the PHA to provide the
 12 accurate and up-to-date information. Do you agree?

13 **A.** So ... so the review, in my understanding, was
 14 undertaken by an individual who was a retired civil
 15 servant, so he will have fully understood the minister's
 16 and the department's need for accurate and up-to-date
 17 information, and indeed the public's need, and
 18 I understand that. I can't comment on his view that he
 19 makes about individuals who attend PHA board meetings.
 20 I wasn't there, I will not comment -- I can't comment on
 21 that.

22 I think the report is titled "A rapid review of the
 23 epidemiological function of the PHA", and what I've been
 24 trying to explain is that, prior to Covid, PHA has never
 25 had and even now still does not have the primary

141

1 So I think the challenges -- while it might seem
 2 like a simple thing to do, the challenges of accurately
 3 reporting deaths are not insignificant.

4 **Q.** All right. That report was in July 2020.

5 **A.** Okay.

6 **Q.** So that we have that for the record and I think what it
 7 suggests, and we can see this if we look, for example,
 8 at paragraph 9.5, that again reflects the concern
 9 that -- about the ability of the agency to understand
 10 the department's requirement for information, including
 11 the required frequency.

12 I won't read out all of this, but it goes on at
 13 paragraph 9.6 again to consider those difficulties, and
 14 then goes on at paragraph 9.7 to set out a number of
 15 challenges which the PHA faced in being able to provide
 16 the sort of information that was being required.

17 Correct? And it went back to the issues that I asked
 18 you about at the very outset: in other words, was the
 19 PHA adequately staffed in order to be able to provide
 20 that sort of service to the Department of Health; yes?

21 **A.** It does, and I think we've talked about staffing issues,
 22 we've talked about staffing issues at consultant level,
 23 but public health is a multidisciplinary effort, in fact
 24 it's a multi-agency effort, the PHA can do really
 25 nothing on our own, we need to work with lots of

143

1 responsibility in reporting death numbers. That lies
 2 with NISRA, and it lies with NISRA for the reasons I've
 3 tried to explain, that it is a complicated system.

4 I think my colleagues in the PHA and surveillance,
 5 I think they did an excellent job working with the
 6 trusts to put in place a system where trusts could
 7 report deaths, the only way that we had at that stage
 8 was for people to report them. Other layers that were
 9 subsequently put in included linking death, the fact of
 10 death to information on the patient administration
 11 system. Even that method is not 100% accurate, the
 12 definitive source for the reporting of death numbers is
 13 still NISRA, but that -- there's an obvious lag there
 14 because I think you have up to five days to register
 15 a death, I think the median is about three, and then
 16 there is a process of checking, and I know that
 17 subsequently -- that during this period I have seen in
 18 the evidence that the Department of Health had asked
 19 NISRA to report on a more frequent basis -- to report
 20 deaths on a more frequent basis. They are asking PHA
 21 for it daily. I think they wanted NISRA, because they
 22 recognised that NISRA are the accurate source of death
 23 information, to report it more frequently, maybe twice
 24 weekly, and NISRA then wrote back and explained why that
 25 wasn't possible for them.

142

1 partners right across society, but in terms of staff
 2 numbers, we did have a very small surveillance team as
 3 well, and surveillance is a skilled task, so there are
 4 surveillance scientists who we employ who are really
 5 good and skilled at understanding information coming in
 6 from laboratories, understanding what a case is, what
 7 a case isn't, lots of caveats of data. So I think there
 8 definitely was a shortage in the number of people who
 9 were employed by the PHA with those sort of skills, that
 10 has been addressed to some degree.

11 I think another area that required development and
 12 that is being developed now is our ability around
 13 automation and our ability to use digital data and
 14 things, so we have -- over the course of the pandemic
 15 PHA has really developed capability and capacity around
 16 digital analysis.

17 **Q.** I'm going to stop you, because you're rushing ahead to
 18 issues that I'm going to come to. I'm going to go
 19 through some of the tasks or functions that the PHA was
 20 asked to exercise in order to understand whether it was
 21 capable of doing them.

22 One of the other tasks at this early stage as part
 23 of the stand-up of the silver arrangements that the PHA
 24 was asked to do was to partake in surge planning as
 25 well. I think again PHA was asked to do that in

144

1 conjunction with the board as well; correct?
 2 **A.** Yes, the Health and Social Care Board, yes.
 3 **Q.** Yes, and again the evidence seems to suggest that there
 4 were problems I think on the part of both bodies to be
 5 able to provide that in a timely way as well; is that
 6 correct?
 7 **A.** I think it was a challenge. I think -- I mean, as we
 8 keep saying, this was an unprecedented event that
 9 happened, and yes, I think it was a challenge to
 10 actually be able to, at speed and scale, provide a surge
 11 plan that would meet the needs of the population of
 12 Northern Ireland.
 13 And one of the things that I think we forget
 14 four years on is really the lack of knowledge that we
 15 had. Guidance, information wasn't just changing day to
 16 day, it was changing hour by hour, so really it was very
 17 difficult to know what it was that we were planning for.
 18 I remember people were not sure about the duration of
 19 the pandemic, would there be -- I think initially there
 20 was a general feeling that there would be one wave and
 21 it would be a bit like flu, you would have one big wave
 22 and then sort of a series of smaller waves fizzling out.
 23 This played out in a very different way, but it was
 24 challenge -- the surge planning, I think, was
 25 challenging as well for a lot of reasons, including the

145

1 was just very limited testing capability up until about
 2 the middle of March. Is that --
 3 **A.** So it ramped up, I can't remember the exact times, but
 4 it did ramp up very, very quickly.
 5 **Q.** I've certainly picked out from one of the documents that
 6 was in your bundle -- and I won't take you to it -- in
 7 addition to that the number of cases that were actually
 8 being confirmed was quite low as well; is that correct?
 9 And certainly one of the figures that's mentioned is
 10 that by 7 or 8 March there had been eight confirmed
 11 cases in Northern Ireland; is that correct?
 12 **A.** It sounds -- I can't remember exactly but it sounds
 13 about right, yeah.
 14 **Q.** But that's about right. So just then looking at the
 15 tracing capability -- because that was held within the
 16 PHA; yes?
 17 **A.** Yes.
 18 **Q.** But I think as you set out in your statement, that was
 19 also extremely limited as well; is that right?
 20 **A.** Yes. In the early days of the pandemic, we had a very
 21 small number of cases and the cases at the very early
 22 days, as tends to be the case with things like this,
 23 were imported cases, because they were coming in from
 24 elsewhere.
 25 **Q.** Yes.

147

1 ones I've talked about.
 2 **Q.** We've got some witnesses who can deal in a bit more
 3 detail with surge planning, but I think it's also right
 4 that the PHA didn't have any modelling capacity either?
 5 **A.** No.
 6 **Q.** At that time you had no modelling assistance?
 7 **A.** The PHA's -- did not have any modelling capacity and, as
 8 I said earlier, our development in more digital
 9 analysis, data science, was behind what we would have
 10 ideally liked. We have done a lot of work to improve
 11 that, and I think -- at the outset we talked about the
 12 change or the number of health protection consultants we
 13 had, but the PHA had also been without a permanent chief
 14 executive from 2016. I'm the fifth director of public
 15 health in -- I think since the pandemic started. So
 16 that instability in leadership and uncertainty around
 17 what the future for the Health and Social Care Board
 18 would be, I suspect that that probably did not help
 19 sort of future planning, strategic planning, horizon
 20 scanning.
 21 **Q.** Yes. Forgive me, I'm going to move on to the next --
 22 **A.** Okay.
 23 **Q.** -- part of the role, which was obviously surveillance.
 24 Now, we know testing is an important part of
 25 surveillance, and I think it's common ground that there

146

1 **A.** So we had a small number of cases. And the strategy at
 2 that time right across the UK was to identify the cases,
 3 which in the main were coming in, they were imported
 4 cases because the outbreaks were in other countries, and
 5 was to identify those cases, isolate them, isolate their
 6 contacts, to try to slow down and prevent further
 7 spread.
 8 That's quite an intensive job, whatever you're doing
 9 it for a prolonged period of time. So what happened in
 10 PHA, which is in line with our plans, is that other
 11 people, so health protection, the health protection part
 12 of the directorate that we've talked about, were
 13 initially in charge, and then they started to bring
 14 people in from other divisions, redeploy people in.
 15 **Q.** I'm just going to stop you there, because obviously we
 16 know when we get to 12 March, tracing stopped in
 17 Northern Ireland. I think what's less clear is whether
 18 or not the Public Health Agency had at that point gone
 19 beyond its capacities in terms of being able to carry on
 20 tracing, or whether you were still at a point where you
 21 could have carried on doing that at that time?
 22 **A.** So I was involved in tracing at that stage because I had
 23 been redeployed over to help with it. I think that it
 24 was a challenge because it was very intensive and it
 25 required us to work very long hours, seven days a week,

148

1 and bring lots of people in because of the labour
 2 intensiveness of each one. I think that we were -- we
 3 had got into a rhythm. I wasn't working at director
 4 level at that stage so I don't know what the corporate
 5 position was but certainly on the ground, involved in
 6 it, we technically probably could have kept going for
 7 a bit longer beyond 12 March. I think there's
 8 a separate discussion around the utility of that.
 9 You know, would it have been worthwhile? I think in
 10 theory we could have kept going. It wouldn't have been
 11 without its impacts on the staff, on the staff
 12 wellbeing, it was hard work.

13 **Q.** Right. But is it right that still at that stage there
 14 wasn't actually a clear picture as to what the
 15 prevalence was in Northern Ireland?

16 **A.** So at that stage people who were being tested were
 17 people who had returned from other countries or people
 18 who had been contacts of cases. I think, and I can't
 19 remember at what point it was in March, maybe about
 20 the 8th, we started to see cases that were locally
 21 acquired, so they had -- and hadn't had contact with
 22 a case we'd known from outside. So at that point we had
 23 some level of community transmission in
 24 Northern Ireland, so at that point we certainly had gone
 25 beyond the point that we were going to contain it to

149

1 INQ000353669. I think we need to go to page 7 of this,
 2 please. No, that's fine.

3 We can see that this is an email again from
 4 Professor van Woerden, and he's writing, isn't he, to
 5 the Chief Scientific Adviser -- this is on 20 April --
 6 to say that over 500 contact tracers who had been
 7 identified and were being trained -- and I think that
 8 that's in reply to an email from the Chief Scientific
 9 Adviser. We might just need to go up a bit, if we can,
 10 please. Yes, it's the email that was sent at 9.18.

11 Yes, so it's in response to the Chief Scientific
 12 Adviser saying that contact tracing and testing was
 13 likely to be a "key component" of the strategy going
 14 forward; yes?

15 Can you help, the evidence of the CMO and the CSA is
 16 that that information was what they understood the
 17 position to be, that there were 500 people who were
 18 being trained. Was that in fact the position?

19 **A.** So, again, this is an area that I have had to look into
 20 and speak to people around, because I wasn't there.
 21 I have spoken to people and tried to understand where
 22 the 500 figure came from in Dr van Woerden's email.
 23 I think it may have related to -- at that point in time,
 24 there had been a suggestion that 500 environmental
 25 health officers, or people who weren't working in

151

1 only imported cases, I think that is true.

2 Could we have continued contact tracing for a few
 3 more days? Arguably, yes, we probably could have.
 4 Would that have stopped the pandemic in
 5 Northern Ireland? No, it wouldn't, because we already
 6 had community transmission.

7 **Q.** How many people were involved in tracing at around that
 8 point in time?

9 **A.** So I would need to refer to the rotas and things we
 10 had --

11 **Q.** Can you give us a rough idea?

12 **A.** On any -- so I'm -- from memory here, we were running
 13 a seven-day service, we were running it from about 9 to
 14 8 in the evening, and at any particular time there might
 15 have been, this is a total guess, maybe 20 or 30 people
 16 in a room, so -- but many more people contributing to
 17 rotas. But that is something that, from our records,
 18 I may be able to give a better idea. We were mainly
 19 relying on redeployed staff from other parts of the PHA.

20 **Q.** I want to move forward, as it were, because obviously
 21 efforts were then made to ramp up test and tracing, and
 22 I think you know that there's an issue about the
 23 information that the PHA provided about the capacity to
 24 expand the number of tracers who would be available.

25 If I could ask to be brought up, please,

150

1 environmental health, officers who weren't really doing
 2 environmental health things, because restaurants and
 3 things were shut, could be loaned into the PHA to help
 4 with contact tracing; that possibly seems to be where
 5 the number 500 has come from. Those staff did not come
 6 across to the PHA and, to the best of my knowledge, at
 7 this point in time, in April 2020, that number of
 8 people, 500 people, were not being trained, it was
 9 a much smaller number.

10 Over the course of the pandemic, how contact tracing
 11 was approached and delivered changed. I've liaised with
 12 colleagues who were involved in the operation --

13 **Q.** I'm going to stop you, and of course it's understood
 14 this is not your email to answer for, but I think what
 15 you're saying is it was not the position that 500 people
 16 were being trained, and that the email is misleading in
 17 suggesting that?

18 **A.** At that point of time, to the best of my knowledge,
 19 500 people were not being trained.

20 **Q.** I want to just stay on this, if I may, and ask if
 21 another email could be brought up, please. This is
 22 INQ000353671.

23 I think we need to go to the next page to orientate
 24 ourselves. We can see again it's from
 25 Professor van Woerden, and we can just see that he's

152

1 setting out -- we're obviously a bit later in time, it's
2 gotten to the autumn, and Professor van Woerden is
3 setting out that Professor Young had indicated that the
4 PHA would need to be able to manage 500 cases a day and
5 5,000 -- I think that's probably contacts a day.

6 **A.** Yes.

7 **Q.** And that this would require 300 to 600 staff.

8 I think if we go to the very bottom, under
9 "Reflections" he's effectively saying that he would have
10 to double the size of the PHA, so that -- effectively,
11 that was just not realistic; is that correct?

12 **A.** I think, again, not my email, but that would seem to be
13 what he was suggesting.

14 **Q.** And I think if we could go up, please, in this email
15 chain to page 2, thank you, the email at the top is
16 from, we can just see, the Chief Medical Officer, and he
17 says:

18 "Perhaps ground hog day for PHA and DPH."

19 Can you help me as to who DPH is, please?

20 **A.** So that will have been Professor van Woerden at that
21 time.

22 **Q.** Thank you.

23 What he says is:

24 "We provided this modelling update to PHA in
25 March/May time at a meeting in Castle Buildings which
153

1 self-trace, SMS message, all that sort of thing. So it
2 wasn't a very fixed number. I think the difference in
3 opinion may have been around the number of staff
4 required to trace that number of cases a day, but again,
5 that is from the discussions and what I can ascertain
6 has happened.

7 **Q.** Because it's not really -- it's not a disagreement,
8 I think, in this email.

9 **A.** Yeah.

10 **Q.** The Chief Medical Officer is saying that he had directed
11 PHA to double its capacity --

12 **A.** Yes.

13 **Q.** -- and that that hadn't been done, effectively; do you
14 agree?

15 **A.** I think that that seems to be a fair conclusion.

16 **Q.** But is there also an issue, then, as to whether or not
17 the PHA just had that capacity or ability at all to ramp
18 up in order to be able to provide that level --

19 **A.** I think that -- I think that very quickly after this
20 there was -- there was a period I think in late
21 September, early October, where PHA capacity to keep up
22 with the number of cases and satisfactorily trace them
23 and complete them was challenged, and having looked at
24 the activity data for the service I can see that there
25 was a period where on many days we weren't hitting the
155

1 Liz and I attended and at which Hugo was also present.
2 We experienced significant incredulity and push back
3 from PHA colleagues as I recall which I challenged ahead
4 at the time and we have repeatedly challenged since."

5 Then he sets out that he had in fact "directed PHA
6 to double their contact tracing capacity".

7 So again, Dr McClean, just taking his words and his
8 reference to incredulity and push-back, was that right,
9 was there push-back on the part of the PHA? And again,
10 understanding that you were not the director at that
11 time, about the extent of contact tracing that would be
12 required?

13 **A.** So I wasn't the director at that time, but again I've
14 tried to explore with colleagues who were there what
15 this referred to.

16 I think that there may have been individuals who
17 were involved in planning the contact tracing service --
18 I wasn't -- who felt that between 300 to 600 contact
19 tracers was a very large number to trace a thousand
20 cases a day, that you wouldn't have needed that many.
21 And I think at various points in emails an ECDC document
22 is mentioned where it sets out some different scenarios
23 for the type of staffing you would need, and it would
24 depend on how long you took per case, how long it took
25 to contact a contact, whether or not you used digital
154

1 sort of 80% of cases done that we would have wanted to.

2 I think then changes were made and the model was
3 changed and -- or the model was further improved, I'm
4 not sure operationally exactly what happened, but very
5 quickly the number of contact tracing hours that were
6 available increased really rapidly and then that -- once
7 that was in place.

8 So I think there has -- I mean, I think it's fair to
9 say there has been an issue for a period of time where
10 perhaps a course of action was taken that -- and we
11 ended up in a situation where capacity was not enough.
12 It was rectified pretty quickly, and I think I would
13 just want to acknowledge the efforts of people within
14 the PHA who did ramp up a huge contact tracing service,
15 and I know that because I've asked about the number of
16 staff who were involved. And I think rather than
17 talking about individuals or whole-time equivalents, we
18 learned that actually planning the number of tracing
19 hours you needed day to day was more helpful. So -- and
20 they were planned based on the number of cases that we
21 expected to get, and that worked much better, sort of
22 beyond the middle of October. But I did ask how many
23 staff actually did we have, and over the course of the
24 pandemic I'm told around 600 staff were trained in
25 contact tracing. Not all of them traced all the time,
156

1 some of them would only have traced for maybe a small
 2 number of days at a very busy period --
 3 **Q.** So that was the eventual --
 4 **A.** Eventually we got the 600 -- it wasn't 600 whole-time
 5 equivalents, but it was across the pandemic -- in total,
 6 at different times, we had 600 people contributing to
 7 the contact tracing hours.
 8 **Q.** I want to go to another topic and it's an important one.
 9 I'm going to try and take it as quickly as I can.
 10 You were obviously involved in care homes and
 11 I think controlling outbreaks of Covid-19 in care homes
 12 and providing advice; is that correct?
 13 **A.** So I was involved in working primarily with colleagues
 14 in nursing and social services around trying to put some
 15 measures in place that would support the sector in
 16 a number of ways.
 17 **Q.** All right. And I think it's right, this is a matter for
 18 a number of -- another witness, but the guidance that
 19 was given by the Department of Health at the very outset
 20 of the pandemic was to the effect that capacity in
 21 hospitals should be freed up by making as much use of
 22 care homes as possible; is that right?
 23 **A.** So I believe that that would have been the position.
 24 I think there was a real concern early in the pandemic
 25 that hospitals were going to very quickly be

157

1 **A.** That is my understanding, that's not the part of care
 2 homes that I was involved in at the time, testing policy
 3 was being led by the expert advisory group on testing,
 4 but I think testing at that time was being reserved for
 5 symptomatic people.
 6 **Q.** Yes, it in fact took a considerable period of time,
 7 didn't it, before there was asymptomatic testing within
 8 care homes?
 9 **A.** It did. It did.
 10 **Q.** I think that it was raised first of all in the April, is
 11 that right, or guidance was suggested in the April
 12 that --
 13 **A.** I can't remember the dates exactly, but I know that,
 14 I think it was recognised that care homes were a very
 15 important place to get testing into, and available to,
 16 and I think then there was a plan, and it was around
 17 Easter, which is possibly early April, from what
 18 I remember, that testing started to go into care homes,
 19 and I remember that we did have an initial round of
 20 testing -- after testing for the asymptomatic -- or the
 21 symptomatic cases, there was work to sort of establish
 22 how feasible it would be to go into a care home and test
 23 every single resident and every single member of staff,
 24 because while that's something that became very normal
 25 during the pandemic, at the outset there was very much:

159

1 overwhelmed, and I think you may be referring to
 2 a letter sort of preparing the system --
 3 **Q.** Yes.
 4 **A.** -- for Covid, and I think there's also reference in that
 5 letter to perhaps almost field hospitals, real concern
 6 that we would run out of capacity in our hospitals to
 7 look after all the people --
 8 **Q.** Yes.
 9 **A.** -- who needed to be there. So I think the driver there
 10 is that we need to make sure that people in our
 11 hospitals are people who could only be cared for in
 12 a hospital. I think that's where that comes from
 13 perhaps.
 14 **Q.** Yes, so I think we understand the rationale for it but
 15 the direction was to utilise as much --
 16 **A.** Yes.
 17 **Q.** -- spare capacity in the care --
 18 **A.** Yeah, that seems to be the direction.
 19 **Q.** -- sector as was possible?
 20 Can you just help me then, in terms of the testing
 21 of people who were going from hospital into care homes,
 22 certainly from the material, and I think that it's in
 23 your bundle, I think initially at least was the
 24 direction given to care homes that they should test
 25 people who were symptomatic within the care home?

158

1 would that be acceptable, would it be fair to go round
 2 and test every single resident, would it be fair to test
 3 all the staff?
 4 So eventually we did get to a position, by sort of
 5 testing that that was possible, first of all, then we
 6 rolled out testing starting off with a single round of
 7 testing, from memory, in homes where there had been
 8 an outbreak.
 9 **Q.** Yes.
 10 **A.** And that was around -- into them first, then also homes
 11 who had never had an outbreak. And then the regular
 12 programme of asymptomatic testing, which I think
 13 remained in place possibly for the next year, 18 months,
 14 then came after that.
 15 **Q.** I think it wasn't until the November that there was
 16 weekly testing in care homes of asymptomatic people,
 17 does that accord with your --
 18 **A.** I think regular testing started, I can't remember the
 19 dates, I'd need to see my timeline, which I don't have,
 20 but there certainly was a round of testing which
 21 completed I think by the end of June and then there were
 22 recommendations about introducing a regular testing
 23 programme. Prevalence in the summer of 2020 was very
 24 low, testing residents is -- and we're very conscious of
 25 this -- testing residents -- anyone who had a Covid test

160

1 will remember, it was quite unpleasant, so you didn't
2 want to test people unnecessarily, so I think that the
3 testing during the summer was less frequent and then it
4 was increased in frequency perhaps in the autumn, but
5 I think regular testing started in the summer, but I may
6 be incorrect.

7 **Q.** Just if we stick for the moment at the outset of the
8 pandemic, so looking at early spring, I think it's right
9 that the growth in cases became -- and you've said this
10 yourself in your statement, that most of your work from
11 the March onwards was dealing with outbreaks in care
12 homes, and I think we've seen already in the data that
13 the highest number of deaths in care homes in
14 Northern Ireland was in April 2020; correct?

15 **A.** Yes.

16 **Q.** In terms of the role of the PHA in dealing with that,
17 I don't think any of your staff were able to actually go
18 into homes to observe whether or not or what testing was
19 taking place or what separation there was of people who
20 were infected from those who weren't?

21 **A.** So the role of the PHA, so PHA has a role in supporting
22 care homes and before the pandemic, the sort of
23 outbreaks we got, the more common ones would have been
24 GI, sort of gastrointestinal outbreaks, but we would
25 have had a small number of respiratory outbreaks every

161

1 outbreak notified, we would tell trusts and then the
2 letter had asked trusts to use their care home support
3 teams and IPCM have a knowledge of the home and go into
4 the home and observe practices if necessary, and I think
5 that is in a letter which we can find and supply.

6 **Q.** I'm going to move on, if I may, to another --

7 **LADY HALLETT:** Just before you do, and I'm sorry to take up
8 some of your time, Ms Dobbin.

9 You seem to have moved from testing on discharge
10 from hospital to testing in care homes of residents and
11 staff. Could I just check what was your evidence on
12 testing on discharge from hospital: when did any testing
13 on discharge from hospital start, roughly?

14 **A.** I'm sorry, I can't answer that now, I would have to
15 check that and come back, I can't remember.

16 **LADY HALLETT:** Initially it was for symptomatic patients?

17 **A.** Yes.

18 **LADY HALLETT:** Do you know when, if at all, testing for
19 asymptomatic patients on discharge from hospital
20 started?

21 **A.** I'd have to -- that definitely did come in, but I'd have
22 to check the date that that actually started, I'm not
23 sure.

24 **LADY HALLETT:** Finally on this subject, who was making the
25 decision as to when testing would occur on discharge

163

1 year. However, if a home had some sort of outbreak, our
2 nursing colleagues -- primarily our nursing colleagues
3 within health protection would work with the home to
4 give them advice around infection control, isolation,
5 all the various things to manage an outbreak.

6 Why we didn't go into care homes routinely during
7 the pandemic, we did have a programme of education and
8 learning that would have happened before the pandemic,
9 and actually continued on during it. I do think that in
10 those weeks in April where there were obviously lots of
11 outbreaks with very high mortality rates in care homes
12 very high attack rates, we worked collectively with
13 nursing and indeed colleagues in the department and
14 other places to try and put in place a range of measures
15 that would help the care home sector. I do recall
16 a letter that was issued I think jointly by the Chief
17 Medical Officer and Chief Nursing Officer, it wasn't in
18 my bundle but I do remember this letter was issued,
19 PHA -- we don't have a team of infection control nurses
20 who would routinely go out and perform inspections and
21 support that sort of setting, at the time we didn't, and
22 I remember the letter that went out from the Chief
23 Medical Officer and the Chief Nursing Officer asked
24 trusts who would have more capacity in this area than we
25 did to make sure that whenever there was a care home

162

1 from hospital?

2 **A.** So my understanding is that advice on testing was
3 considered by the expert advisory group on testing, that
4 was chaired, as I said, by someone from the Public
5 Health Agency on behalf of the department, that group
6 included public health people, it included virologists,
7 it included infection control people, and they provided
8 the best advice that they could come with collectively
9 and they provided that advice to the department, their
10 role was to advise the department then on testing
11 policy, so testing policy was policy that the department
12 made, is my understanding.

13 **LADY HALLETT:** If you can find the dates, I'd be really
14 grateful --

15 **A.** Okay.

16 **LADY HALLETT:** -- for the asymptomatic and symptomatic,
17 because practice seems to have varied around the
18 United Kingdom.

19 **A.** Okay.

20 **MS DOBBIN:** What we do have, but it may be that the CMO
21 I think will be able to help us on this if you don't
22 have the date to hand.

23 **A.** Yes.

24 **Q.** I think certainly what the Department of Health suggests
25 is that from 12 April 2020 Covid-19 testing arrangements

164

1 were put in place for all symptomatic resident and staff
2 in care homes, so that's not dealing with the hospital,
3 that's dealing with the care homes. I don't want to put
4 you on the spot, if you can't remember any specific
5 dates but --

6 **A.** I can't remember exact -- it sounds roughly right.
7 I think it was post Easter and I think Easter in 2020
8 was early April.

9 **Q.** All right.

10 I had wanted to ask you about one more specific and
11 discrete area, I'm conscious that we're under a time
12 pressure.

13 It's really the role that the PHA has in health
14 inequalities as well. Now, in terms of its broader
15 remit, it has both a health inequalities role and a risk
16 assessment role as well when it comes to outbreaks of
17 disease. At any stage, and I'm thinking in particular
18 about the early stages of the pandemic, did that role
19 intersect, as it were, so that the PHA was providing
20 guidance, for example, about the particular risks that
21 might accrue to disabled people, whether because of
22 their clinical risks to Covid-19 or more generally
23 because of the risks that disabled people are at in
24 terms of their health? I hope that makes sense.

25 **A.** Yeah. No, it does. So I think, I can't specifically
165

1 born, their life expectancy differs by five years, two
2 newborn babies, that's unfair and that is unacceptable.
3 And that is the situation that we went into the pandemic
4 in that we had those inequalities and I have used an
5 inequality that was between disadvantaged groups, but
6 also disabilities, ethnicity, gender, lots of other
7 things cause inequalities. I would say at the start of
8 the pandemic, do I think that we looked at it as much as
9 we could? No, I don't, and I think that is learning for
10 the future, that we have to be so conscious of those
11 pre-existing health inequalities, and how we mitigate in
12 future. I would also say as director of public health
13 that this is not just about the pandemic, it is unfair
14 that we have those health inequalities in our society.
15 The Public Health Agency and indeed the health service
16 overall cannot fix those. 80% of those are about how
17 much money people have, their level of education, and
18 I think there is an absolute onus on society and on the
19 Executive and on government to realise that these are
20 unfair inequalities that need to be tackled, not just
21 because they caused an issue in the pandemic but just
22 because they can and should be tackled. And I think if
23 there was anything around the Executive and around
24 coming together, that is a message that I think that we
25 need to go in, this is not just about pandemic
167

1 remember what advice we might have given to disabled
2 people. Are you thinking about shielding, or ...?

3 **Q.** It's not necessarily advice, I think it's trying to
4 understand whether or not the PHA played any sort of
5 broader risk assessment role about the particular
6 vulnerabilities, for example, of disabled people in the
7 community and helping to inform decision-making.

8 **A.** So to --

9 **Q.** Because of its very particular remit.

10 **A.** To the best of my knowledge in those early stages of the
11 pandemic, I don't think that we did do a lot of that.
12 I hope I haven't misrepresented work that maybe went on
13 and I just am not aware of. As the very early stages,
14 there were lots of things going on, we were getting used
15 to remote working, it was very -- I think for most
16 organisations it was a little -- it was hard.

17 Certainly later on in the pandemic there was very
18 much a recognition that that I think was probably
19 obvious from the outset, I mean, in Northern Ireland we
20 have, like many countries and like the rest of the UK,
21 quite shocking health inequalities, particularly,
22 you know. If you think about two boy babies being born
23 in a hospital in Northern Ireland today, one born to
24 parents from an affluent area, one born to parents from
25 a very disadvantaged area. At the moment that they are
166

1 preparedness, this is about health inequalities in
2 a broader sense.

3 But coming back to our role in PHA, I would say that
4 as things went on, I mean, I've explained that we have
5 a health improvement team who were involved helping us
6 with doing many of the health protection type things at
7 the start that we recognise that they have particular
8 skills and particular contacts and I said earlier that
9 the Public Health Agency, we can't do anything by
10 ourselves. We need to have partnerships at all levels
11 of the community right down to sort of grassroot
12 community level. And I think where that team really did
13 make a difference was the connections that they had with
14 councils, the connections they had perhaps with groups
15 of migrant workers, with community groups who represent
16 them.

17 And, for example, we had outbreaks in factories that
18 have lots of migrant workers, trying to go in there,
19 explain isolation, eventually explain vaccine, trying to
20 make sure that vaccine came to them, we did do work on
21 that later on. But in the early days and particularly
22 thinking about perhaps people who were disabled or had
23 other types of -- faced other types of disadvantage
24 I think that is something that I hope I haven't
25 misrepresented and missed things that we did but I think
168

1 it's something that I would want to improve on for the
2 future.

3 **MS DOBBIN:** I'm grateful to you.
4 Those are all my questions, and I understand there
5 aren't any other --

6 **LADY HALLETT:** I don't know how much of your thunder
7 Ms Dobbin has pinched, Mr Friedman?

8 **MR FRIEDMAN:** None of my thunder pinched, I want to thank
9 her for asking the questions and the answers that have
10 been given by Dr McClean.
11 No more questions from me.

12 **LADY HALLETT:** Thank you, Mr Friedman.
13 Thank you very much for your help, Dr McClean.
14 **(The witness withdrew)**

15 **LADY HALLETT:** We will break now and we shall return at
16 3.15.
17 **(3.00 pm)**
18 **(A short break)**
19 **(3.15 pm)**

20 **LADY HALLETT:** Mr Scott.
21 **MR SCOTT:** Good afternoon, my Lady. May I call Jenny Pyper.
22 **DR JENNY PYPER (affirmed)**
23 **Questions from COUNSEL TO THE INQUIRY**

24 **LADY HALLETT:** Sorry you've had to wait so long.
25 **THE WITNESS:** That's okay.

169

1 page 9 of the second statement. Please confirm the
2 contents of that statement are true as well?

3 **A.** Yes.
4 **Q.** Thank you.
5 If I can just summarise your background as follows:
6 you joined the Northern Ireland Civil Service in 1985,
7 you were appointed to the Senior Civil Service in 2003,
8 you resigned in 2013 to take up the post of chief
9 executive of the utility regulator. You remained in
10 that role until October of 2020, and as you just
11 indicated, it was at that time that you were approached
12 to take on the role of the interim head of the Civil
13 Service.
14 **A.** Correct.
15 **Q.** And that you took up that post on, was it 1 or
16 3 December 2020 that you --
17 **A.** 1 December.
18 **Q.** And then you served as interim head of the Civil Service
19 for nine months until Jayne Brady took up the post on
20 1 September 2021?
21 **A.** That's correct.
22 **Q.** One point just to clear up. When you took on the role
23 of interim head of the Civil Service, there had been no
24 head of the Civil Service in Northern Ireland between
25 Sir David Difficult's resignation at the end of

171

1 **MR SCOTT:** Good afternoon, Dr Pyper. Thank you for your
2 assistance to the Inquiry.
3 Can we ask you to keep your voice up, speak into the
4 microphone in front of you, and not to speak too quickly
5 so that the stenographers can keep pace. If you need
6 a break at any point, please just say so.
7 You have provided two witness statements to
8 the Inquiry, the first one is dated 17 January 2024 and
9 that's there on screen. If we could just go to page 2,
10 paragraph 6, please, I understand that there is
11 a correction in this statement, Dr Pyper?
12 **A.** Yes, please.
13 **Q.** If you could please highlight that correction.
14 **A.** So the correction is in relation to the date on which
15 I first met with the First Minister and deputy First
16 Minister, it should read 27 October 2020.
17 **Q.** Then you have provided a second witness statement dated
18 28 March 2024, and I take it you're familiar with both
19 of those statements?
20 **A.** I am.
21 **Q.** You provided a signature and the statement of truth is
22 on page 62 of your first statement. Please can you
23 confirm the contents of that statement are true?
24 **A.** Correct.
25 **Q.** And your signature and the statement of truth is at

170

1 August 2020 and when you took on the role; is that
2 correct?
3 **A.** Correct.
4 **Q.** Was there anybody filling the gap of head of the Civil
5 Service in that window?
6 **A.** There was no one filling the gap as head of the Civil
7 Service. I understand that a number of the senior
8 staff, permanent secretaries, stepped up to try and
9 provide support to the Executive, and also to carry on
10 the work of the Civil Service board and the permanent
11 secretaries group, but there was no one appointed or
12 designated as head of the Civil Service.
13 **Q.** You describe the role of the head of the Civil Service
14 as taking a holistic view of providing support to all
15 Executive ministers and you also describe it as leading
16 and putting together joined up and cross-cutting
17 responses from across the Civil Service. Is that right?
18 **A.** Yes.
19 **Q.** In what way would you do that?
20 **A.** Well, in a number of ways. I made reference to the
21 Civil Service board, the NICS board, which would have
22 included all of the permanent secretaries and a number
23 of additional senior staff, including the head of NICS
24 HR human resources department, and that group would have
25 met monthly to look at cross-cutting issues in relation

172

1 to the Civil Service, resourcing and the management and
2 movement of staff.

3 The permanent secretaries group met every Friday and
4 again would have been looking at issues right across
5 each department, that would have been a stocktake
6 meeting, looking at what was happening on every
7 department, reflecting that back so that the head of the
8 Civil Service would have an overview of everything that
9 was -- the key issues that were going on in the
10 departments, and that would allow the head of the Civil
11 Service to have an understanding of the sorts of issues
12 that the Executive ministers might be considering as
13 well.

14 **Q.** Is it right that there's a slight tension between the
15 role of the head of the Civil Service and the way that
16 the departmental structure actually operates in
17 Northern Ireland, to the extent that the responsibility
18 that's delegated to individual departments and their
19 ministers does rather work against the kind of
20 cross-cutting holistic role that the head of the Civil
21 Service has?

22 **A.** I think that's correct and I think Sir David Sterling
23 gave quite a detailed explanation of that to the Inquiry
24 yesterday and his explanation has -- would resonate with
25 my understanding and experience. It does, and you

173

1 **A.** The head of the Civil Service operating in the role of
2 permanent secretary of the Executive Office could
3 exercise that authority, given the responsibilities for
4 that department, the Executive Office, but could not do
5 that in relation to other departments because the
6 permanent secretaries of each of the other eight
7 departments are all accounting officers and have
8 a personal responsibility for the management and
9 delivery of the resources underneath their command.

10 **Q.** You say in your statement that you have experience of
11 the reluctance of ministers and their departments to
12 share resources and the inability of a head of the Civil
13 Service to demand or impose flexibility. How kind of
14 conceptually did that impact upon your ability to carry
15 out your role?

16 **A.** I think where I found it particularly challenging was in
17 some of the later stages of my tenure after the
18 Covid Taskforce had been established and was up and
19 running, and there were a number of difficult
20 cross-cutting issues coming through, such as managed
21 quarantine arrangements and the establishment of
22 a support scheme to assist travel agents. Neither of
23 those issues -- both were -- certainly the managed
24 quarantine was -- arguably had cross-cutting
25 implications, but there was a sense that that probably

175

1 referred to the tension, and I think that does leave the
2 head of the Civil Service in a position of not being
3 able to dictate to the permanent secretaries how they
4 might operate or what their priorities should be.

5 It also leaves, I think, the head of the Civil
6 Service in a position of having to use soft power to at
7 times encourage the reallocation perhaps of resources,
8 and again I think that's an issue that
9 Sir David Sterling touched on yesterday when he referred
10 to seeking volunteers to staff up the Civil
11 Contingencies Group.

12 That's -- that's one of the limitations of the model
13 that the head of the Civil Service is also permanent
14 secretary in -- or certainly at my time and in
15 Sir David's time, was also permanent secretary of
16 a department, the Executive Office, with delivery
17 responsibilities in that office at the same time as
18 trying to take that holistic view and represent the
19 Civil Service as a whole.

20 I hope I've explained that okay.

21 **Q.** I'm going to tease a couple of those elements out, if
22 I may. So one point is about using the soft power in
23 terms of reallocation of resources. Is it right that
24 the head of the Civil Service can't actually require or
25 direct any action by any civil servant?

174

1 was the responsibility of the Department of Health; and
2 the travel agents scheme should in the minds of many
3 have fallen to the Department for the Economy, which had
4 responsibility for tourism.

5 The difficulty arose because neither of those
6 departments would accept responsibility for delivery of
7 those two big initiatives, and my department, the
8 Executive Office, was seen sometimes as a little bit of
9 a dumping ground for cross-cutting initiatives and those
10 two particular areas were allocated with considerable
11 reluctance to my staff, and when I tried to seek some
12 additional resources to support my team in delivery of
13 a grant scheme -- not something we were resourced to
14 do -- and to a lesser extent the managed quarantine
15 service, that's when I experienced the reluctance to
16 release resources to the centre to help support delivery
17 of those two initiatives in particular.

18 **Q.** So effectively at that time you had two hats on, you
19 were permanent secretary of the TEO and you were head of
20 the Civil Service, so as permanent secretary you could
21 allocate resources within your own department?

22 **A.** Correct.

23 **Q.** But actually as head of the Civil Service you weren't
24 able to then direct anybody within the Civil Service,
25 whether it be to TEO or any other department, in order

176

1 to fill any gaps that arose; is that right?

2 **A.** That's correct, and was the source of some frustration,
3 I think, to Executive ministers.

4 **LADY HALLETT:** I can understand, I didn't know about this
5 until this Inquiry started, Dr Pyper, but I can
6 understand why you have the system of the independent
7 departments with ministers because they're coming from
8 the different political parties, but is there any scope
9 for suggesting that may well be the right way to do it
10 here in Northern Ireland given all the sensitivities but
11 in a national emergency?

12 **A.** My Lady, I would agree with that, and indeed for me it
13 would be one of the reflections from my tenure that that
14 perhaps in the case of a national emergency the head of
15 the Civil Service could exercise some additional
16 authority or powers in relation to brigading the
17 necessary resources, whether that would be to manage and
18 staff up CCG or whether it would be to take forward some
19 of those big cross-cutting initiatives. I think my team
20 deserve a huge amount of credit for delivering, as do
21 all of the departments, and Department of Health was
22 exceptionally pressed, but it did show one of the
23 weaknesses of what ministers and indeed the general
24 public might have imagined was the case in terms of the
25 extent to -- the head of the Civil Service could control

177

1 just how to make regulations but also an understanding
2 of the health regulations, and I think there was
3 a paucity across the Civil Service of people with
4 those -- with those appropriate skills, and therefore it
5 was not straightforward to simply direct anyone that had
6 legislative experience to work in support of the
7 Department of Health.

8 **Q.** If I can just jump in there, so is that a feature of the
9 fact that there had been a series of effectively
10 redundancy schemes, for want of a better phrase, in the
11 years prior to 20 in which you had lost a number of
12 older more experienced civil servants who had
13 legislative experience?

14 **A.** I think that's undoubtedly the case, but I would suggest
15 that a further factor was the fact that we hadn't had
16 an Executive for three years until January 2020 and
17 there had been no legislative programme being delivered
18 during that time. So there were civil servants there
19 during my tenure who had no experience of making
20 legislation and doing the necessary work because there
21 had been no executive for a prolonged period of time.

22 **Q.** Because you set out in your statement that in June 2021
23 there were 4,000 unfilled vacancies in Northern Ireland
24 Civil Service. What percentage of the Civil Service is
25 that?

179

1 all of the resources under his or her command.

2 **MR SCOTT:** So in terms of the specific examples that you've
3 given earlier on, was there any other negative impact
4 that arose from the fact that you weren't able to direct
5 staff across the Civil Service, not just necessarily
6 within TEO but within other departments?

7 **A.** I think it was a regular frustration at the permanent
8 secretaries' stocktake group, that there were some
9 departments under severe resource pressure, particularly
10 the Department of Health -- particularly the Department
11 of Health -- for obvious reasons. And the permanent
12 secretary would have, at almost every meeting, have
13 raised his concerns about how stretched and strained his
14 resources were, and he, like me, was trying to exercise
15 soft power and plead with other departments that if they
16 had any staff that they could release, he would -- he
17 would -- could use them to take up the strain in the
18 Department of Health.

19 I think one of the problems with that that I faced
20 was the difficulty we had in getting people who could do
21 the necessary legislative drafting, particularly in very
22 short timeframes. If the Executive agreed changes,
23 for example, to the guidance and regulations needed to
24 be amended, those regulations were invariably public
25 health regulations, and required an understanding of not

178

1 **A.** I wouldn't know that offhand.

2 **Q.** Well, what was the impact upon the pandemic response in
3 2021 of 4,000 unfilled vacancies in the Civil Service?

4 **A.** Clearly the Civil Service had been running with that
5 level of vacancy for some time, and the Civil Service
6 board had been working through a process of trying to
7 recruit more staff, but even recruitment during
8 a pandemic, particularly during lockdown, was not
9 straightforward. I think what -- the impact that it had
10 was probably to place additional pressures on the senior
11 cadre within departments in particular. I can't recall
12 now -- although the figures are available in minutes of
13 the NICS board, I can't recall exactly where those
14 vacancies lay, many of the 4,000 might have been in the
15 administrative grades, but certainly the strain, the
16 slack, was taken up at senior level and it was,
17 you know, the principal officers and above that were
18 bearing a disproportionate burden.

19 **Q.** Thank you.

20 If I could then just move to the state of the
21 pandemic in Northern Ireland as at 1 December when you
22 took on the role. So you commenced the role about
23 three weeks after there had been a, I think it's fair to
24 describe, lengthy and taxing Executive Committee meeting
25 that commenced on 9 November and continued on and off

180

1 until 12 November. Significant restrictions had been
 2 implemented in Northern Ireland that started on
 3 27 November. Restrictions were going to expire on
 4 10 December, and it wasn't known at the time that you
 5 started what those restrictions would be replaced by.
 6 Plans for Christmas 2020 were under consideration, and
 7 it was also believed that restrictions would be required
 8 after Christmas 2020.

9 That's a very challenging set of facts to drop
 10 yourself into when you were appointed to the role of
 11 interim head of the Civil Service. Had you had any
 12 handover, introduction, induction, into your role before
 13 you started?

14 **A.** I'd had some opportunity to put in place a number of
 15 familiarisation meetings in the first week of my tenure,
 16 and in addition there was what the Civil Service calls
 17 first day briefing that had been prepared for me on
 18 arrival. The reality, however, was that I didn't know
 19 until 24 November for definite that I was taking up the
 20 post --

21 **Q.** So you had a week?

22 **A.** So I had a week during which I was able to make contact
 23 with some former colleagues, make contact with some of
 24 the staff I knew would be running my private office --

25 **Q.** Because in comparison, I mean, as you set out, Dr Brady
 181

1 health and the CMO were providing options around
 2 restrictions, were providing very clear health medical
 3 and scientific information, and I think as we moved
 4 through December, the extent to which Northern Ireland
 5 was facing a post-Christmas surge, I think that was
 6 known and was anticipated. Where I think a head of the
 7 Civil Service might have been able to add value in
 8 the weeks preceding that, particularly around the time
 9 of that difficult -- very difficult three, four-day
 10 Executive meeting, there might have been the possibility
 11 or scope for a head of the Civil Service to exercise
 12 some control or some processes around consideration of
 13 a range of issues. That was the point at which
 14 ministers were starting to really explore that tension
 15 between the impact on the economy and the health
 16 implications. By the time I started, they had had that
 17 initial foray into a very -- a series of very ad hoc
 18 meetings. By the time I came, yes, we did have, as we
 19 went through December -- particularly as we got closer
 20 to Christmas, we did have an increasing series of
 21 meetings after 17 December. I think 17 December --

22 **Q.** If I can just stop you there, because we are slightly
 23 going off the path.

24 **A.** Sorry.

25 **Q.** If I can just bring you back in terms of the benefit of
 183

1 had a handover from mid -- that lasted from about
 2 mid-June to the end of August 2021; plainly that's
 3 a very beneficial position for a head of the Civil
 4 Service to find themselves in and to have that handover,
 5 and it would've been a benefit of you to have something
 6 similar?

7 **A.** It would, but my understanding was that until First and
 8 deputy First Minister had made a decision and then
 9 briefed the Executive, which I understand was done on
 10 26 November, prior to the press release about my
 11 appointment on the 27th. Until that had been done it
 12 wouldn't have been appropriate for me to have made
 13 contact or sought to have briefings with anyone, and, as
 14 I say, I only received a draft contract on 24 November.

15 **Q.** Given the circumstances that were in existence at the
 16 time that you took up the role, and given the fact that
 17 there hadn't been a head of the Civil Service for
 18 a number of months, do you think at that point in time
 19 Northern Ireland was and the Civil Service was missing
 20 an experienced head of the Civil Service who would be
 21 able to use that soft power that you describe to
 22 potentially navigate a way through some of those tricky
 23 situations?

24 **A.** I can only speak with a degree of confidence about what
 25 I found from 1 December, at which point the minister for
 182

1 the head of the Civil Service, so fair to say that the
 2 role of the head of the Civil Service, you have to be
 3 able to build effective relationships with ministers and
 4 permanent secretaries?

5 **A.** Indeed.

6 **Q.** You also have to know the relationships between the
 7 ministers and their permanent secretaries?

8 **A.** Yes.

9 **Q.** You had last worked in the Northern Ireland Civil
 10 Service seven years before you took on the role?

11 **A.** Yes.

12 **Q.** Did you have any of those established relationships with
 13 any of the permanent secretaries or the ministers, or
 14 were you effectively building them from scratch when you
 15 took on the role?

16 **A.** I think I knew all of the permanent secretaries. Some
 17 I knew quite well. I'd worked with some of them before.
 18 I knew a number of the ministers quite well, I'd worked
 19 with some of them before, particularly the
 20 First Minister and the finance minister, whom I'd worked
 21 directly for in previous roles. So I didn't feel that
 22 I was starting from absolute scratch with any of the
 23 permanent secretaries or the ministers, and indeed for
 24 some of them the work that I had been doing as utility
 25 regulator would have brought me into contact with them
 184

1 on occasion. So, for example, the infrastructure
2 minister would have been aware of some of the work I'd
3 done with the regulator. So I don't think I was
4 an unknown quantity to ministers or the perm secs or
5 vice versa.

6 **Q.** But in terms of the working relationships from within
7 the Civil Service as opposed to working with the
8 regulator dealing with civil servants or the ministers,
9 in terms of the ability to build up those relationships
10 and the understanding and the trust that that takes,
11 that took time?

12 **A.** It did take time, and I met all of the -- all of the
13 ministers with their permanent secretaries in the first
14 few weeks of my -- of my tenure.

15 **Q.** And do you think that there was any impact upon the
16 pandemic response at the time that it took you to build
17 up those relationships?

18 **A.** No, I don't believe so, because ministers had already
19 been working with one another and working with senior
20 officials in the TEO team.

21 **Q.** If I can then move to the preparations for
22 Christmas 2020. So is it fair to say that in
23 December 2020 the primary consideration of ministers
24 generally at that time was maintaining the ability of
25 people to interact with their families at Christmas in

185

1 brought in in that month of December, apart from the
2 ECT, that you thought were necessary when you arrived as
3 the interim head of the Civil Service?

4 **A.** I think establishing a clear separation between
5 Executive meetings that were considering EU exit matters
6 and Executive meetings considering Covid response, and
7 separating those into, I think we took EU issues on
8 a Tuesday and Covid Executive meetings on a Thursday.
9 That sort of discipline I think was one of the first
10 things that I tried to reinstate.

11 I also reinstated the weekly meetings with special
12 advisers and weekly meetings with the ministers as well,
13 first deputy and the head of the Civil Service and for
14 the Executive at that stage my attendance at Executive
15 meetings and the ability that First and deputy First
16 Minister gave me to speak to Executive ministers about
17 the taskforce was again something of a change. The
18 normal situation would be that officials don't speak at
19 Executive meetings, other than perhaps to clarify
20 an issue or a ...

21 **Q.** Okay. So you're talking then about bringing back the
22 weekly meetings; the implication of that is that those
23 meetings had either ceased to happen or had happened
24 less frequently. Had there been a bit of a drifting
25 apart of the departments and so they were more focusing

187

1 2020?

2 **A.** I think given what had happened over the summer in terms
3 of the progress of the pandemic and in terms of the
4 relaxations in the regulations that ministers had been
5 put in place -- had put in place, I think there had been
6 a hope probably from, you know, from late summer, as
7 ministers looked ahead they had been a hope and a desire
8 to be able to give people more of a normal Christmas, if
9 that were possible. They knew, and I think accepted,
10 that that was dependent on the R rate, they had a desire
11 to keep that under or at about 1. And I believe that
12 they weighed carefully and talked at length, I believe,
13 about the impact of lockdown, the impact of the
14 prolonged restrictions, about the ability to maintain
15 adherence to those restrictions, and I think they had
16 a real concern for the impact of prolonged restrictions,
17 particularly on some of the more vulnerable groups.
18 They were concerned about mental health. So they were
19 weighing -- it wasn't just that they said "We all want
20 to have Christmas", I think they were weighing carefully
21 the implications for individuals, for communities and
22 for business sectors as well.

23 **Q.** In terms of the changes that you brought about -- I'm
24 going to deal with the ECT shortly, the Executive
25 Covid Taskforce -- were there any other changes that you

186

1 on their own area of responsibility, without somebody to
2 pull them all together from the top?

3 **A.** I think that was -- I think there was -- there was
4 inevitably, I think, some of that, perhaps exacerbated
5 by the fact that ministers were beginning to think
6 beyond a collective response to the pandemic and
7 beginning to think about their own departmental
8 responsibilities and priorities, and that inevitably was
9 provoking the permanent secretaries to focus on,
10 you know, on their ministers' other priorities not just
11 the response to the pandemic.

12 **Q.** That's going to take us conveniently through to the
13 Executive Covid Taskforce. You say in your statement
14 that:

15 "The First Minister and deputy First Minister made
16 it clear to me that the ECT was my first priority on
17 taking up the interim head of the Civil Service role."

18 How stridently was that put to you that that was
19 your first priority?

20 **A.** I couldn't say that it was strident, but it was
21 certainly mentioned to me by First and deputy First
22 Minister when I first met them on 26 October. They
23 didn't talk in detail about an Executive
24 Covid Taskforce, but they did indicate that they'd been
25 giving some thought to a head of the Civil Service led

188

1 taskforce to look ahead at the approach to lifting
 2 restrictions or addressing restrictions and starting the
 3 work towards recovery. So that was flagged with me as
 4 early as October --

5 **Q.** Did they say why they wanted this brought in?

6 **A.** They did indicate that they felt there was a need to
 7 start and look at things not simply from the health
 8 perspective but to find a means to consider other issues
 9 particularly around the economy and what was happening
 10 in the community, and they felt that that could only be
 11 done because that raised cross-cutting issues, they felt
 12 that could only be done by a head of the Civil Service.

13 **Q.** Was there a sense of frustration that they felt that
 14 they weren't receiving the information that they wished?

15 **A.** I think that's -- that's documented in a number of
 16 areas, including a minute of one of the meetings.

17 **Q.** Shall we pull that up?

18 If we could have INQ000391436. Thank you.

19 So this is a meeting between yourself, the First
 20 Minister and the deputy First Minister on 1 December
 21 2020. Is this the meeting that you were referring to in
 22 terms of it indicating their views and their thoughts at
 23 the time?

24 **A.** This is -- this is not the -- this is not what they
 25 talked to me about back in October, but yes, this is the

189

1 **A.** Well, I mean, I know that they were frustrated that on
 2 a number of occasions the minister for health and
 3 I think on one occasion the CMO had been giving
 4 briefings to the press, as was normal and as you would
 5 expect, but information --

6 **Q.** Did you mean that in terms of the joint press
 7 conferences or separate from those joint press
 8 conferences?

9 **A.** I mean those press conferences where the health minister
 10 spoke or where the CMO in his professional capacity
 11 would have spoken. They indicated to me that there
 12 were -- had been a number of occasions where information
 13 that they were unaware of was revealed to the media, and
 14 that had caused them considerable annoyance because they
 15 were the joint heads of government. So that's I think
 16 the reference to the "don't know what's happening" and
 17 I think the reference to "late papers and process"
 18 really was a reference to some of the health papers that
 19 were coming through from the minister of health that
 20 were coming very late to the Executive. The process
 21 would be that any papers to be discussed at the
 22 Executive would be provided to the First and deputy
 23 First Minister in the first instance, and then once
 24 they'd had a chance to consider them and agree the
 25 agenda for the meeting, the papers would be circulated

191

1 meeting I was referring to where they perhaps were more
 2 candid about some of their -- I think you used the word
 3 "frustrations", and I think that's reflected in this
 4 note.

5 **Q.** Yes. I mean, how well do you remember the meeting?

6 **A.** Erm --

7 **Q.** Because it's not a memory test, if you don't remember
 8 it --

9 **A.** No, I do remember it and I recognise this note of the
 10 meeting and I recognise it as reflecting the discussions
 11 that we had, and I think it does -- it does bring across
 12 the level of frustration that perhaps they were both
 13 feeling at the time, and it chimes with what they had
 14 said to me about needing a HOCS-led approach to make
 15 sure that there was a more balanced approach and better
 16 process put in place.

17 **Q.** Because there was, as it set out there, First Minister
 18 under "Low key points" is looking for a more
 19 co-ordinated approach required, that they don't know
 20 what's happening, and then under the deputy First
 21 Minister's points, "left not knowing and left to front
 22 things".

23 Again, are you able to provide any further
 24 indication of what they were thinking or is that best
 25 left to ask them?

190

1 to the other ministers, and if papers were late coming
 2 to First and deputy First Minister, that then meant they
 3 were even later being circulated to the other ministers,
 4 which had the impact of sometimes causing the start of
 5 an Executive meeting to be postponed, and in terms of
 6 process the deputy First Minister describes it as
 7 disrespectful.

8 **Q.** Yes, and in fairness the bullet point below is
 9 an example of "DoJ -- late issue given", so it wasn't
 10 entirely the Department of Health, but were you able to
 11 get a sense of where there was a primary or a more
 12 frequent source to their concerns about information not
 13 being given to them?

14 **A.** I think the primary source that was reflected to me
 15 would have been the Department of Health. However,
 16 I have to agree with Sir David Sterling, who reflected
 17 yesterday that the frequent leaking of Executive papers
 18 did perhaps encourage some ministers to hold back their
 19 papers to the last possible minute before they
 20 circulated them. And there was a bit of poor process
 21 and poor behaviour bred, poor process and poor
 22 behaviour, from all ministers.

23 **Q.** You were talking there about leaking, Sir David
 24 difficult was talking about leaking. There was
 25 a three-month gap, a sort of three, four-month gap

192

1 between when Sir David retired and when you started.
2 How long did the leaks continue for when you were in
3 your role?

4 **A.** They were continuous. I would have to say that I felt
5 as if all of those meetings in December, I felt as if we
6 were living them in the media, because the timing of
7 meetings was -- seemed to be available to the press, any
8 delays, any postponements.

9 I do think, if I may, once the Covid Taskforce got
10 up and running and we got into a better process and
11 a better rhythm, and I know we may go there, and there
12 was a bit more certainty and predictability about when
13 decisions would be made around restrictions, I think we
14 did get some -- an easement in the extent to which there
15 were leaks, but there's no doubt in my mind that
16 everything started up again really between March and
17 April. And, you know, there were political issues going
18 on then which I think were perhaps encouraging some
19 parties to leak.

20 **LADY HALLETT:** March and April 2021?

21 **A.** Of 2021, yes.

22 **MR SCOTT:** Those issues, they were non-pandemic-related
23 issues; is that right?

24 **A.** They were non-pandemic issues.

25 **Q.** But plainly when you have an Executive Committee of
193

1 **A.** I couldn't say at Christmas that there was any
2 particular impact. It certainly made for a very intense
3 schedule of meetings and the chairs pleading with
4 colleagues not to leak to the press.

5 I'm not conscious of papers being leaked, I've no
6 memory of papers being leaked, but certainly the timing
7 and the rescheduling and the frequency of meetings, the
8 press seemed to be aware. And it did add, I believe, to
9 people's uncertainty about what was happening and what
10 the guidance would be.

11 **Q.** I want to move away from non-pandemic issues and go back
12 to the setting up of the ECT.

13 Was there resistance from any quarters to the
14 setting up of the ECT?

15 **A.** My understanding is that the Executive itself was in
16 fact briefed about the proposition to set up a taskforce
17 back in November, late November, and there was not
18 resistance or opposition to that. I think there was
19 a recognition that some fresh process, perhaps a step
20 change in process might be valuable.

21 I did brief the Executive on the emerging structure
22 and **modus operandi** of the taskforce on 3 December, and
23 there was push-back, particularly from two ministers,
24 from the minister of health and the minister for the
25 economy, not an absolute push-back but concerns were
195

1 ministers, they're not focusing solely on
2 pandemic-related issues, and any issues that arise in --
3 for non-pandemic matters are naturally going to have
4 an impact upon the relationships they have with each
5 other?

6 **A.** Correct.

7 **Q.** And therefore it's going to have an impact upon the way
8 decision-making is taking place; is that right?

9 **A.** Correct.

10 **Q.** So in terms of you were talking about December before
11 the ECT got up and running, what was the impact upon
12 the -- living the meetings in the media, as you
13 described it, upon decision-making of the Executive at
14 that time?

15 **A.** I think it hampered -- it hampered decision-making
16 because there was a breakdown of process and a breakdown
17 of trust. I think it added to perhaps the sense of --
18 you know, the public loss of confidence in
19 decision-making, and that could have had other impacts
20 as well in terms of public confidence about adherence
21 and whether it was guidance or regulation. I think it
22 didn't create the right impression --

23 **Q.** As far as you're aware, did it have any of that
24 particular impact in terms of adherence, or you just
25 don't know?
194

1 raised about how the taskforce would operate.

2 **Q.** What were the concerns raised by the minister of health?

3 **A.** I think his concern was that in some way the taskforce
4 would dilute or seek to reinterpret the health
5 information. Clearly the initial response to the
6 pandemic had been health led, and perhaps there was
7 a concern that this move now to look at issues in
8 a cross-cutting way would take a focus off the health
9 aspect of the pandemic, which still remained hugely,
10 hugely important. I think perhaps he and maybe some of
11 his senior colleagues might have had a concern that
12 there would have been some challenge to the integrity of
13 some of the medical and scientific information coming
14 forward, or perhaps some reinterpretation by non-medical
15 experts within the Executive Office. And that was
16 a concern that I could recognise.

17 I think he was also operating initially -- at the
18 time that he raised the concerns, he was operating under
19 a slight misconception that it was an Executive Office,
20 a TEO, as a department, a TEO taskforce. So TEO as the
21 department as opposed to the Executive as a whole.

22 In fact the taskforce had the endorsement of the
23 entire Executive and it was not a narrow departmental
24 issue.

25 **Q.** It seems like that the genesis of establishing the ECT
196

1 was the First Minister and the deputy First Minister
 2 wanting to have a little bit more knowledge and control
 3 of the events that were coming out of the Department of
 4 Health, and is it right that you're describing there
 5 slight resistance from the Department of Health because
 6 they want didn't want to lose that control over their
 7 own data and their own information?

8 **A.** I think that's fair, but I think it's also fair that the
 9 regulations were all within public health legislation,
 10 and therefore they did have that primus inter pares
 11 role, I think. So I did recognise and understand where
 12 the minister of health was coming from, and an early
 13 meeting with him in December I think was helpful in
 14 teasing out those concerns and reassuring him that
 15 actually the purpose of the Covid Taskforce was to take
 16 information from all departments, see what they were
 17 saying, what proposals they might have around lifting of
 18 restrictions, almost as a triage exercise that could
 19 then be referred to the CMO and the CSA in terms of: if
 20 we did this, what might the implication be?

21 So in fact what happened was the taskforce operated
 22 and we actually built in the health input, and the
 23 health information still came as a separate paper with
 24 all of the information that they would have been
 25 providing anyway and had been providing.

197

1 meetings so that he had an opportunity to tease out with
 2 them any issues or concerns that they had, and also to
 3 make sure that his voice in terms of the medical and
 4 scientific position was being presented. And I believe
 5 that was really helpful to First and deputy First
 6 Minister in their chairing of meetings, but it also,
 7 I think, reassured him that he was, you know, still very
 8 much in a key position within the Executive.

9 **Q.** You had also mentioned the economy minister, it wasn't
 10 just about the health minister, about resistance.

11 **A.** Yes.

12 **Q.** Would you be able to describe what your views were of
 13 any resistance from the economy minister to the ECT?
 14 Were they similar concerns or were they different?

15 **A.** No, I think they were -- they were quite different,
 16 although they may still have come from the same place in
 17 terms of the positioning of her department.

18 I think her concerns were really about who would be
 19 leading recovery, and particularly recovery of the
 20 economy. She was concerned that that was an area that
 21 her department was leading on in terms of a new economic
 22 strategy, the 10x strategy. I think she expressed
 23 concerns about the Covid Taskforce slowing things down,
 24 and perhaps duplicating work that was being done
 25 elsewhere or creating additional layers of reporting and

199

1 So it actually enhanced -- I think it enhanced the
 2 information flow, and indeed I believe the minister of
 3 health did recognise that in subsequent meetings.

4 **Q.** And is that an example of the soft power that you're
 5 bringing to bear, that it's -- even though you're
 6 talking about legislation and the responsibility for the
 7 Department of Health for health matters, that you still
 8 had other ministers who felt that their areas of
 9 responsibility were being slightly pushed back on, and
 10 so it's not just a matter of process when you're in
 11 a mandatory power-sharing arrangement, you have to
 12 maintain the relationships between the ministers to make
 13 sure the Executive is working as efficiently as it
 14 possibly can?

15 **A.** Absolutely.

16 **Q.** So is it right that that meeting that you had, I think
 17 as you described it, did that end up helping the
 18 situation in terms of the relationships between
 19 ministers as opposed to just the flow of information
 20 through the ECT?

21 **A.** I believe that it did. It -- certainly I believe it
 22 reassured the health minister, and indeed within
 23 a matter of weeks, five or six weeks, I proposed the
 24 idea of the health minister joining First and deputy
 25 First Minister for a pre-brief ahead of Executive

198

1 bureaucracy that might divert her officials from driving
 2 forward with the economic recovery document.

3 **Q.** In relation to those ministers, the health minister has
 4 responsibility for the Department of Health, the economy
 5 minister is responsible for the Department of the
 6 Economy, plainly it is part of their role in order to
 7 advance the views of their department to the best of
 8 their ability at the Executive Committee; is that right?

9 **A.** Indeed.

10 **Q.** So did you end up bringing the ministers together again
 11 and actually having that little bit more cohesion as in
 12 the Executive through the introduction of the ECT?

13 **A.** I think I probably -- there was more progress with the
 14 minister of health in terms of cohesion. I think the
 15 economy minister remained throughout my time impatient
 16 with the pace of the lifting of restrictions as they
 17 applied to the business community, particularly as we
 18 got beyond Easter, and a very strong call came from the
 19 hospitality and tourism sectors. I think perhaps she
 20 felt that some of her concerns were valid, but in fact
 21 the Covid Taskforce was not a decision-making body, it
 22 was a means of co-ordinating policy. But in contrast to
 23 the CCG, which was looking at operational co-ordination,
 24 the ECT, the Covid Taskforce, was looking at
 25 co-ordination of policy responses and trying to make

200

1 sure that there was an overall coherence to the
2 Executive's response to lifting restrictions, and in
3 particular to developing an overall Executive response
4 to recovery, in addition to what the minister for the
5 economy was doing with the economic recovery.

6 **Q.** Thank you.

7 If I can move now to consideration of inequalities
8 in -- probably into 2021.

9 If we can have up INQ000411509, and if we go to
10 page 60, please, paragraph 273.

11 We can see there:

12 "The extent of the impact of NPIs on different
13 groups within society was not assessed in any systematic
14 way during my tenure ..."

15 Why not?

16 **A.** It's a very good question, and I think it's one of the
17 key learnings for me from this process. Initially
18 I believe that the pace of decision-making was such that
19 it simply wasn't possible to do the normal section 75 or
20 EQIA reviews that would be a normal part of civil
21 service process.

22 We were unable, therefore, to consult in a short
23 space of time in the way we would normally, but
24 stakeholder engagement was very extensive, both before
25 I came and also throughout my tenure, and I suppose that
201

1 missed by the Covid Taskforce to perhaps have
2 an equality workstream that would have given some focus
3 to the work that was being done in terms of stakeholder
4 engagement but also the work that was being done by
5 individual departments with their stakeholders. So I'm
6 thinking perhaps of the Department for Communities, with
7 disadvantaged communities and with low paid families.
8 I'm thinking of the Department of Health in relation to
9 all of the information that was coming through from the
10 Public Health Agency and in particular from the trusts,
11 a huge amount of information from the social care
12 system. That information was -- I think assumptions
13 were made that that information was being considered and
14 assessed by departments and was factoring in and
15 featuring in their individual departmental responses.
16 I think we missed --

17 **Q.** Apologies to cut across you, just I'm conscious of the
18 time that we have.

19 In terms of the assumptions that were being made,
20 was there anybody within the ECT who was suggesting that
21 more should have been done to make a systematic
22 assessment, or was it effectively a collective
23 assumption that sufficient was being done elsewhere?

24 **A.** I couldn't say that there was anyone in particular,
25 which is why on reflection I would say we should -- we
203

1 was -- that was our proxy for consultation --

2 **Q.** But isn't it a difficulty, when you say about proxy of
3 consultation, that you are the government of
4 Northern Ireland, you have access to different sections
5 of information and it is incumbent on the government to
6 be able to identify the source of information so that in
7 a pandemic you have an understanding of the impact of
8 the pandemic on different groups?

9 **A.** Yes, I wouldn't disagree with that.

10 **Q.** Was there anything that you directed, as the head of the
11 civil service, about any steps that could have been
12 taken in order to ensure that there was a greater
13 understanding or assessment of the impact of NPIs on
14 different groups within society, as you include in your
15 statement?

16 **A.** Both ministers, both the Executive and the
17 Covid Taskforce, did consider the impact of restrictions
18 and indeed of lifting restrictions on different groups
19 as we worked through our process. And particularly in
20 relation to the Covid Taskforce, some of the work on
21 adherence and behavioural insights did delve into what
22 the implications were for particularly vulnerable
23 groups. I think the point I was trying to make is that
24 we didn't do it in any systematic way during my tenure
25 and that an opportunity, I would say, an opportunity was
202

1 missed an opportunity and we should have taken more care
2 and made greater proactive efforts to make sure that all
3 the voices that should have been heard were in fact
4 heard.

5 **Q.** Because if I can just take you to -- it's the document
6 "*Moving Forward: The Executive's Pathway out of*
7 *Restrictions*", it's INQ000104467.

8 I presume you remember this document quite well, it
9 was published on 2 March 2021. This was intended to be
10 a public-facing document.

11 **A.** Yes.

12 **Q.** So it was intended to communicate the Executive's
13 thought processes, plans, intentions to the population
14 of Northern Ireland.

15 If we can go to page 6, please.

16 In terms of the "Societal Impact" there, it is set
17 out that:

18 "... the pandemic and restrictions have had
19 an impact upon physical and mental wellbeing ..."

20 It then moves into issues in relation to housing,
21 sports, arts and culture.

22 And then -- down into the next page, please:

23 "The financial impact ..."

24 In the top left corner:

25 "... has been heavy for many people, with increased
204

1 levels of unemployment ..."

2 And then:

3 "Across society, it would be difficult to imagine
4 anyone who has not been negatively impacted by this
5 pandemic ..."

6 On reflection of this framework, do you consider
7 that there is sufficient attention given to inequalities
8 and impact upon the population of NPIs, or do you think
9 that on reflection more should have been included in
10 there, given that it was a public-facing document?

11 **A.** I think it would have been -- with hindsight it would
12 have been better to draw out some of those implications
13 and those impacts more clearly in that public-facing
14 document, which was intended to be a communication to
15 explain to the public how the Executive's process was
16 working, and in a way that was an attempt to try and
17 deal with the concern and perhaps any loss of public
18 confidence about how the Executive was working.

19 I would say to you that we did learn from the
20 engagement that we had with the stakeholder groups, and
21 when we came to develop the recovery document, the
22 Pathway out of -- recovery, which was published in
23 August 2021, one of the key workstreams, and I think we
24 described it as a recovery accelerator, one of those
25 themes was tackling inequalities, and that was

205

1 behalf, regarding how the public in Northern Ireland
2 approached the response to the pandemic."

3 Is that true?

4 **A.** It is true.

5 **Q.** So you, in your original statement, and if we can have
6 up INQ000411509, page 47, and it's paragraph 212.

7 You set out there, under:

8 "On the day of my departure from the interim HOCS
9 role on 3 September 2021, I returned my NICS mobile
10 phone and laptop and have had no access to either device
11 since. I had deleted nothing from them and had no
12 informal messages on any other personal device ..."

13 I'll give you the opportunity to explain, Dr Pyper:
14 is that accurate?

15 **A.** It is not correct and that's why I made a second
16 statement on 28 March to correct that assertion.

17 **Q.** And so your further statement says that:

18 "... contrary to what I stated in paragraph 212 ...
19 I did delete material from my work and personal
20 devices."

21 Joining those two limbs together, you're saying that
22 you did delete some material, but you're also satisfied
23 that you didn't delete any material about the government
24 in Northern Ireland's response to the pandemic; is that
25 right?

207

1 an explicit recognition of the disproportionate impact
2 that the pandemic had had on various groups and various
3 sectors, and it was -- it was a recognition that there
4 was a -- there were specific streams of work that would
5 need to be taken forward as we moved into recovery to
6 address those impacts and those inequalities.

7 **Q.** That framework, "*Moving Forward*", was criticised by the
8 Equality Commission, is that right, for not paying
9 sufficient attention to section 75 duties?

10 **A.** I understand that, however that postdated my tenure, but
11 we did -- that was the first document that we put
12 through the formal EQIA process and I'm aware that it
13 was criticised, yes.

14 **Q.** In truth, that building forward Covid recovery plan was
15 published on 2 August but it had started consideration
16 back in March 2021, so it was about five months in the
17 making; is that right?

18 **A.** It was.

19 **Q.** I want to move now to WhatsApps.

20 You say in your statement that you've:

21 "... had no experience of any key decisions relating
22 to the pandemic being made during informal or unminuted
23 discussions."

24 And:

25 "... no messages were deleted by me, or on my

206

1 **A.** I can only be clear about my personal phone, because
2 although I returned my Civil Service, my work phone,
3 when I left, and I did not reset that phone, I learned
4 on, I think it was, 13 January that that device could
5 not be located, so I can't speak confidently about my
6 work phone.

7 But my second statement does set out the
8 circumstances of deletion of material from my personal
9 phone, and confirms that that material was not related
10 to the Covid Inquiry or to -- or not related to the
11 pandemic response or to decision-making.

12 **Q.** Yes, if we can have up INQ000421746, please, page 6.

13 At paragraphs 25 to 27, I'm not going to go through
14 them, but that sets out your understanding of the
15 circumstances of the -- that led to the deletion of that
16 material?

17 **A.** It does.

18 **Q.** And so you say that you were not advised by Jill, so
19 that is Jill Minne, the --

20 **A.** That's Jill Minne.

21 **Q.** And she is the head of NICS HR; is that correct?

22 **A.** She is.

23 **Q.** And you say that you were not advised to delete messages
24 but you were advised about appropriate and acceptable
25 behaviour, that's what you say there in your statement.

208

- 1 **A.** Indeed.
- 2 **Q.** If that was the advice that you had received, why did
3 that lead you to -- in the words of the message that you
4 sent, why did that lead you to clear out all of your
5 WhatsApps and messages on your personal phone and your
6 work phone?
- 7 **A.** I did not clear out all WhatsApps and messages on my
8 personal phone. I cleared out -- deleted -- the
9 exchange with Dr McCormick because I'd believed that
10 I had shared some casual and offhand comments on what
11 was a personal communication channel, but I believed
12 those comments, on reflection, were unprofessional.
13 I don't believe that I consciously thought that those
14 messages needed to be retained but, having spoken
15 to Jill, I reflected that my communications with
16 Dr McCormick had drifted towards the inappropriate.
- 17 **Q.** Just in terms of accuracy, if I can take you to
18 INQ000378038 for the reason why I talk about clearing
19 out WhatsApp messages.
20 So if we can scroll in at the top there, so it's
21 that message there, 17 May 2021, 19.49.35:
22 "On Jill's advice I have cleared out all my WhatsApp
23 and Messages on this and my work phone."
24 So are you saying that you didn't actually clear out
25 everything, you just cleared out aspects?

209

- 1 **Q.** And you circulated it around permanent secretaries in --
- 2 **A.** I did.
- 3 **Q.** What steps did you take in response to this letter to
4 ensure that information was secured across the
5 government of Northern Ireland or the Executive Office
6 to ensure that all records were retained that might be
7 relevant to the Inquiry?
- 8 **A.** As you have said, I did circulate that guidance to all
9 permanent secretaries and senior TEO colleagues. I drew
10 specific attention to the need to secure information and
11 reminded permanent secretaries about the fact that this
12 might raise governance issues for their -- I don't think
13 I explicitly said audit and risk committees, but it was
14 in my intention was to ensure that their governance
15 processes were cognisant of the likelihood of
16 Northern Ireland joining this Inquiry. At the time
17 Northern Ireland had not committed to join the Inquiry,
18 the deputy First Minister had not agreed that we would
19 be part of it, but I think the assumption was that we
20 would form part of that Inquiry. I did draw specific
21 attention to the requirements in that -- in that memo.
22 But permanent secretaries are accounting officers and
23 accountable for their own staff and their own resources,
24 and frankly I felt the responsibility, the primary
25 responsibility, lay with them to ensure that proper

211

- 1 **A.** I did not clear out everything, and a number of my
2 exhibits confirm that there were other WhatsApps
3 exchanged. It's very casual, especially when you read
4 it now, knowing what has happened in relation to the
5 loss of information. There was nothing more than --
6 I suppose the conversation with Jill was nothing more
7 than a reminder about not using informal channels for
8 casual conversations, and I regret now that I deleted
9 anything from my personal phone because I believe
10 that -- you know, it could have led -- or given the
11 impression that in fact I had deleted more than I had.
- 12 **Q.** You were aware at that time of the need for accurate
13 retention of records?
- 14 **A.** I was aware of the Civil Service guidance at the time,
15 yes.
- 16 **Q.** And in terms of the timeline, so that is dated
17 17 May 2021, so it was on the -- if we could just have
18 INQ000409662.
19 So this is 10 June 2021, so it does postdate the
20 messages that you sent in terms of the letter from the
21 director general, propriety and ethics, at the
22 Cabinet Office about recording records in relation to
23 the Covid-19 independent inquiry, and you saw that
24 letter from the Cabinet Office?
- 25 **A.** I did.

210

- 1 procedures were followed. I did talk with my own
2 accounting officer, because although I was the
3 permanent -- I'm sorry.
- 4 **Q.** No, apologies to cut across you, I'm just conscious of
5 the time.
6 As far as you were concerned, you received this
7 letter in and around two weeks after that you had
8 deleted those messages, are you satisfied that the
9 messages that you deleted didn't have any relevance to
10 the Covid Inquiry?
- 11 **A.** I cannot speak with authority about when I deleted the
12 messages, but because the action point is noted in my
13 own notebook, I believe I deleted them then, before
14 10 June.
- 15 **MR SCOTT:** My Lady, I've no further questions.
- 16 **LADY HALLETT:** Thank you.
17 Does anybody else have any questions? Mr Friedman.
- 18 **Questions from MR FRIEDMAN KC**
- 19 **MR FRIEDMAN:** Dr Pyper, I ask questions for
20 Disability Action and I want to raise a matter with you
21 in the knowledge that you very understandably did not
22 have the luxury to read into your role, and we've heard
23 that very clearly this afternoon. But as to what you
24 found on 1 December, would it be right that you were
25 initially dependent on what was flagged up to you and

212

1 what had sufficiently left its mark in the everyday
2 workings of the Executive Office to otherwise be clear
3 to you?

4 **A.** I think that's an accurate statement, yes.

5 **Q.** Now, at paragraph 276 of your statement, you just give
6 a personal sense that the impact of the pandemic on
7 certain groups within society only really began to
8 emerge, at least for you, as 2021 progressed, and you
9 may recall you refer to the Sarah Everard event in
10 London then triggering your own awareness of things
11 going on in Northern Ireland. That's a context for what
12 I'm about to ask you.

13 Therefore, given you coming into the job at the end
14 of 2020, does it follow that you were not aware of or
15 otherwise briefed about following reports in relation to
16 disabled people?

17 I'm going to give you a list and it may be "no" to
18 everything, but if I may.

19 In May 2020 the Cabinet Office in London, the
20 Disability Unit, published a paper entitled "The impact
21 of Covid-19 on disabled people", and it made its way to
22 the Executive Office, we know that. Did you ever see
23 that?

24 **A.** No.

25 **Q.** In June 2020, the Northern Ireland Council for Voluntary
213

1 haven't been flagged up to you, haven't made their way
2 into sort of the everyday thinking of the
3 Executive Office that could, if there was a more
4 systematic way of approaching these things, have been at
5 least more embedded in the Executive Office? Would you
6 agree with that?

7 **A.** I would agree with it, and it's why I said what I did
8 around the Covid Taskforce and, with hindsight, the
9 benefit of having an equality workstream within the
10 Covid Taskforce to look at those sources of information,
11 to be a point of direct contact for Disability Action,
12 for the Commissioner for Older People, a central point
13 of contact as opposed to relying on sources of
14 information held in disparate parts of the system.

15 **MR FRIEDMAN:** Yes.

16 Now, my Lady, I did ask for one follow-up question,
17 and it --

18 **LADY HALLETT:** I gather. Don't worry, carry on,
19 Mr Friedman, thank you.

20 **MR FRIEDMAN:** I'll carry on. That's very helpful.

21 I just wanted to then follow up on engagement, as
22 you fairly put it, being a proxy for proper
23 consultation, and I didn't hear you to say anything
24 other than that would be a second best, but I just want
25 to ask you about engagement.
215

1 Action published a report on the impact of Covid-19 on
2 carers in Northern Ireland. Did you ever see that?

3 **A.** No.

4 **Q.** In September 2020, Disability Action -- the DPO in
5 Northern Ireland that I act for -- published a report
6 "The impact of Covid-19 on disabled people in
7 Northern Ireland". Did you see that?

8 **A.** No.

9 **Q.** Now, that report followed UK-wide reports on the impact
10 of Covid-19 on disabled people published in July 2020 by
11 the Office for National Statistics, and I'm wondering
12 whether you saw that?

13 **A.** I'm afraid I didn't see that either.

14 **Q.** Well, it's not a criticism.

15 Just to clarify, then, the last would be in
16 December 2020, the House of Commons' Women and
17 Equalities Committee in the UK Parliament published the
18 report of "*Unequal impact? Coronavirus, disability and
19 access to services*". Did you see that?

20 **A.** No, I did not.

21 **Q.** So really picking up on your acknowledgement about the
22 learned lessons about not having a systematic approach
23 to analysing adverse impact, is that a set of at least
24 reported impacts on disabled people that haven't been
25 obvious to you when you've come into your office,
214

1 You may know, but my clients do not believe and they
2 give evidence about why they were not properly engaged
3 with as a DPO, I don't want to ask you details about
4 that, your impression was that there was extensive
5 stakeholder engagement, you've spoken about that this
6 afternoon, it's in your statement.

7 Now, just in terms of how that processes into final
8 government product, are you aware that disabled people
9 are not mentioned at all in the moving forward strategy
10 from March 2021?

11 **A.** Yes, and that has been put in front of me as part of the
12 hearing today, and they are not mentioned explicitly.

13 I would just slightly push back that the moving forward
14 document is not a strategy, it is an explanation of the
15 process that was going to be followed by the Executive,
16 but I absolutely accept that there wasn't anything
17 explicit within that process that referred to engagement
18 with people with disabilities or their representatives.

19 **Q.** Yes. I understand what you accept and I understand the
20 slight caveat. Of course the Covid recovery plan was
21 a plan, and disabled people or people with disabilities
22 are only mentioned once in that document, and that is
23 with regard to enhancing their skills so that they can
24 gain more employment. Now, that may be valid, but just
25 in terms of engagement not really leading to enough in
216

1 terms of important flagship government plan product,
 2 would you agree that's just not enough, and therefore
 3 whatever engagement went on it just wasn't good enough
 4 and not a sufficient proxy, to use your words?
 5 **A.** I would absolutely agree that we should have made more
 6 efforts to make sure that we had a more inclusive
 7 process and that the voices of people who should have
 8 been heard were heard and reflected in the documents,
 9 yes, I would agree.
 10 **MR FRIEDMAN:** Thank you.
 11 Thank you, my Lady.
 12 **LADY HALLETT:** Thank you very much, Mr Friedman.
 13 Thank you very much, Dr Pyper, very grateful for
 14 your help.
 15 **(The witness withdrew)**
 16 **LADY HALLETT:** That's it for today?
 17 **MR SCOTT:** Yes.
 18 **LADY HALLETT:** 10 o'clock tomorrow, please.
 19 **(4.25 pm)**
 20 **(The hearing adjourned until 10 am**
 21 **on Friday, 3 May 2024)**
 22
 23
 24
 25

INDEX	PAGE
1	
2	
3 MR CHRISTOPHER STEWART (affirmed)	1
4	
5 Questions from COUNSEL TO THE INQUIRY	1
6	
7 Questions from MS CAMPBELL KC	81
8	
9 DR JOANNE McCLEAN (affirmed)	91
10	
11 Questions from LEAD COUNSEL TO THE INQUIRY ..91	
12 for MODULE 2C	
13	
14 DR JENNY PYPER (affirmed)	170
15	
16 Questions from COUNSEL TO THE INQUIRY	170
17	
18 Questions from MR FRIEDMAN KC	212
19	
20	
21	
22	
23	
24	
25	

LADY HALLETT: [36] 1/3 1/6 12/10 12/18 57/3 57/8 77/11 79/13 80/7 81/9 90/19 90/23 94/7 94/11 115/14 115/19 115/23 140/16 163/7 163/16 163/18 163/24 164/13 164/16 169/6 169/12 169/15 169/20 169/24 177/4 193/20 212/16 215/18 217/12 217/16 217/18 MR FRIEDMAN: [5] 169/8 212/19 215/15 215/20 217/10 MR SCOTT: [15] 1/4 13/3 57/2 57/9 77/9 78/6 79/15 80/8 81/8 169/21 170/1 178/2 193/22 212/15 217/17 MS CAMPBELL: [3] 81/10 81/12 90/17 MS DOBBIN: [8] 90/25 91/4 94/12 115/12 115/24 140/19 164/20 169/3 THE WITNESS: [3] 90/22 115/18 169/25	16/15 148/16 149/7 12 November [1] 181/1 12.46 pm [1] 115/20 13 January [1] 208/4 13 March 2020 [2] 66/5 66/22 13th [1] 65/18 14 [2] 36/3 78/17 14 March [5] 36/11 53/19 69/2 78/10 78/11 14 March 2020 [1] 78/9 16 March [2] 14/25 52/10 17 [3] 4/2 78/10 170/8 17 December [2] 183/21 183/21 17 March [9] 14/8 14/13 15/12 15/13 15/15 15/23 67/17 68/10 69/3 17 March 2020 [2] 14/4 67/25 17 May 2021 [2] 209/21 210/17 17 minutes [1] 81/21 18 [3] 48/25 65/9 66/9 18 months [9] 44/17 49/5 49/5 49/7 50/3 51/11 54/4 55/4 160/13 18-month [1] 61/16 180 [1] 20/19 19 [20] 10/25 24/10 33/20 33/25 54/16 105/2 109/23 114/9 116/11 121/8 121/9 123/24 157/11 164/25 165/22 210/23 213/21 214/1 214/6 214/10 19 March [1] 47/23 19.49.35 [1] 209/21 1967 [2] 103/8 104/1 1985 [1] 171/6 1999 [1] 92/8	20 years [1] 40/23 2000 [1] 2/5 2003 [1] 171/7 2004 [1] 92/17 2006 [1] 2/5 2009 [11] 94/24 96/16 100/6 100/6 100/15 100/18 100/22 100/22 100/25 101/9 119/12 2011 [1] 92/18 2013 [1] 171/8 2016 [1] 146/14 2017 [3] 97/20 98/14 98/16 2018 [3] 2/10 98/21 99/2 2019 [5] 4/4 11/5 34/9 38/19 105/4 2020 [65] 2/15 8/22 10/17 10/22 11/5 11/12 14/4 14/20 22/25 25/19 29/15 33/22 37/3 37/24 43/5 43/16 44/8 44/10 45/21 46/12 49/16 50/24 51/14 52/3 57/11 58/25 59/5 59/11 66/5 66/22 67/25 71/8 71/14 75/9 75/9 78/9 78/17 93/22 99/3 104/16 104/20 106/19 143/4 152/7 160/23 161/14 164/25 165/7 170/16 171/10 171/16 172/1 179/16 181/6 181/8 185/22 185/23 186/1 189/21 213/14 213/19 213/25 214/4 214/10 214/16 2021 [19] 25/8 75/25 91/23 171/20 179/22 180/3 182/2 193/20 193/21 201/8 204/9 205/23 206/16 207/9 209/21 210/17 210/19 213/8 216/10 2022 [2] 91/19 91/24 2024 [5] 1/1 1/18 170/8 170/18 217/21 21 March 2020 [1] 10/22 212 [2] 207/6 207/18 22 [1] 50/5 22 January [2] 44/15 50/2 23 [1] 41/20 23 January 2020 [1] 106/19 23 March [4] 16/12 61/23 61/25 72/6 23rd [2] 72/14 75/5 24 November [2] 181/19 182/14	25 [1] 208/13 25 February [3] 42/10 59/2 61/13 25 February 2020 [2] 43/16 44/8 25 June 2021 [1] 75/25 25th [1] 72/16 26 March [1] 16/6 26 November [1] 182/10 26 October [1] 188/22 27 [1] 208/13 27 November [1] 181/3 27 October 2020 [1] 170/16 273 [1] 201/10 276 [1] 213/5 27th [1] 182/11 28 [4] 14/25 15/19 15/22 15/24 28 days [4] 135/4 135/5 138/24 140/9 28 March [5] 71/16 72/5 128/24 132/13 207/16 28 March 2024 [1] 170/18 28 roles [1] 15/10 282 [2] 121/12 121/14 2C [2] 91/3 218/12	400 tests [1] 129/7 47 [1] 207/6 48 hours [1] 73/9
0 09.59 am [1] 1/2				
1 1 December [4] 171/17 180/21 182/25 212/24 1 September [1] 171/20 1.45 [1] 115/19 1.45 pm [1] 115/22 10 [1] 94/22 10 am [1] 217/20 10 December [1] 181/4 10 June [1] 212/14 10 June 2021 [1] 210/19 10 o'clock [1] 217/18 100 [1] 142/11 105 [1] 16/5 10x [1] 199/22 11 March [1] 53/21 11.15 am [1] 57/5 11.30 [1] 57/4 11.30 am [1] 57/7 12 [4] 9/3 13/5 14/20 49/20 12 April 2020 [1] 164/25 12 full-time [1] 9/1 12 March [4] 15/9	2 2 August [1] 206/15 2 March [1] 108/13 2 March 2021 [1] 204/9 2 May 2024 [1] 1/1 20 [5] 55/20 56/5 140/19 150/15 179/11 20 April [1] 151/5 20 February [4] 59/19 61/5 62/14 91/10 20 February 2020 [2] 58/25 59/5	25 [1] 208/13 25 February [3] 42/10 59/2 61/13 25 February 2020 [2] 43/16 44/8 25 June 2021 [1] 75/25 25th [1] 72/16 26 March [1] 16/6 26 November [1] 182/10 26 October [1] 188/22 27 [1] 208/13 27 November [1] 181/3 27 October 2020 [1] 170/16 273 [1] 201/10 276 [1] 213/5 27th [1] 182/11 28 [4] 14/25 15/19 15/22 15/24 28 days [4] 135/4 135/5 138/24 140/9 28 March [5] 71/16 72/5 128/24 132/13 207/16 28 March 2024 [1] 170/18 28 roles [1] 15/10 282 [2] 121/12 121/14 2C [2] 91/3 218/12	5 5 weeks [1] 46/15 5,000 [1] 153/5 50 [2] 12/16 15/2 500 [2] 152/5 153/4 500 contact [1] 151/6 500 environmental [1] 151/24 500 figure [1] 151/22 500 people [4] 151/17 152/8 152/15 152/19 51 [1] 49/22 52 [2] 26/4 49/24 55 [1] 15/3 55 roles [1] 15/6 59 [1] 52/14	6 6 February [3] 10/18 46/25 47/5 6 February 2020 [1] 46/12 6 March 2020 [1] 29/15 6 May [1] 133/25 6 months [1] 34/14 60 [1] 201/10 600 [7] 129/18 130/22 131/18 153/7 154/18 157/4 157/4 600 people [1] 157/6 600 staff [1] 156/24 600 tests [1] 129/2 62 [1] 170/22
				7 75 [2] 201/19 206/9 78 [1] 4/5
				8 8 March [5] 63/15 64/19 81/21 123/8 147/10 8.14 [1] 86/17 80 [3] 4/5 156/1 167/16 8th [1] 149/20
				9 9 March [3] 45/25 52/25 65/1 9.18 [1] 151/10 9.4 [2] 140/20 140/24 9.5 [1] 143/8 9.6 [1] 143/13 9.7 [1] 143/14
				A ability [18] 10/8

<p>A</p> <p>ability... [17] 27/24 39/23 44/4 45/22 47/6 118/11 141/11 143/9 144/12 144/13 155/17 175/14 185/9 185/24 186/14 187/15 200/8</p> <p>able [45] 2/24 5/22 16/11 16/23 18/15 20/20 37/6 39/7 43/6 45/25 56/19 70/19 75/21 78/1 98/23 110/18 119/21 121/9 122/8 122/24 125/10 126/8 133/6 143/15 143/19 145/5 145/10 148/19 150/18 153/4 155/18 161/17 164/21 174/3 176/24 178/4 181/22 182/21 183/7 184/3 186/8 190/23 192/10 199/12 202/6</p> <p>about [198] 3/16 5/3 8/23 9/3 10/5 10/17 15/2 15/4 15/18 16/15 20/11 20/15 20/16 22/10 22/24 23/22 25/6 25/21 26/18 26/19 26/21 26/22 30/6 30/9 31/25 32/17 37/6 37/13 38/10 38/12 38/13 43/17 45/14 45/18 45/22 46/12 46/16 47/6 47/13 47/18 52/17 57/11 57/17 59/16 61/8 63/17 64/16 66/1 66/21 67/16 70/2 72/10 75/11 75/20 75/21 76/2 77/12 77/13 78/7 80/2 80/17 81/5 81/21 82/10 83/21 87/18 87/23 88/8 89/3 89/25 90/3 93/21 94/12 94/16 96/7 97/2 97/22 99/20 100/15 101/3 101/5 103/9 103/10 103/12 104/2 105/23 107/23 108/22 109/5 114/14 115/17 116/25 118/4 118/12 118/19 119/10 126/9 127/13 127/18 128/23 129/3 131/7 132/6 133/19 133/23 134/9 137/20 138/16 139/14 140/1 140/3 141/6 141/19 142/15 143/9 143/18 143/21 143/22 145/18 146/1 146/11 147/1 147/13 147/14 148/12 149/19 150/13 150/22 150/23</p>	<p>154/11 156/15 156/17 160/22 165/10 165/18 165/20 166/2 166/5 166/22 167/13 167/16 167/25 168/1 168/22 174/22 177/4 178/13 180/22 182/1 182/10 182/24 186/11 186/13 186/14 186/18 186/23 187/16 187/21 188/7 188/23 189/25 190/2 190/14 192/12 192/23 192/24 193/12 194/10 194/20 195/9 195/16 196/1 198/6 199/10 199/10 199/18 199/23 202/2 202/11 205/18 206/16 207/23 208/1 208/5 208/24 209/18 210/7 210/22 211/11 212/11 213/12 213/15 214/21 214/22 215/25 216/2 216/3 216/5</p> <p>about 12 [1] 9/3 above [4] 47/11 64/25 89/22 180/17</p> <p>absence [3] 33/13 55/20 56/6</p> <p>absent [1] 18/21</p> <p>absolute [6] 128/17 134/19 140/4 167/18 184/22 195/25</p> <p>absolutely [17] 35/3 53/25 53/25 54/24 56/14 56/22 67/11 73/12 85/24 89/24 111/18 116/24 130/18 139/16 198/15 216/16 217/5</p> <p>abundance [1] 86/5</p> <p>accelerator [1] 205/24</p> <p>accept [9] 33/16 53/25 54/1 69/24 70/10 73/8 176/6 216/16 216/19</p> <p>acceptable [3] 126/18 160/1 208/24</p> <p>accepted [1] 186/9</p> <p>access [5] 118/11 119/7 202/4 207/10 214/19</p> <p>accord [1] 160/17</p> <p>according [1] 121/7</p> <p>account [1] 113/3</p> <p>accountable [1] 211/23</p> <p>accounting [3] 175/7 211/22 212/2</p> <p>accrue [1] 165/21</p> <p>accumulative [2] 61/4 61/7</p> <p>accuracy [6] 83/22 83/24 131/7 136/8</p>	<p>139/23 209/17</p> <p>accurate [18] 114/8 116/4 120/8 123/16 127/12 134/18 136/21 136/23 137/8 138/11 138/24 141/12 141/16 142/11 142/22 207/14 210/12 213/4</p> <p>accurately [3] 108/5 131/17 143/2</p> <p>achieve [2] 21/1 99/13</p> <p>acknowledge [1] 156/13</p> <p>acknowledgement [1] 214/21</p> <p>acquired [2] 121/9 149/21</p> <p>acronyms [2] 3/17 31/14</p> <p>across [28] 45/1 46/3 57/24 76/21 77/8 87/16 93/1 95/24 99/15 101/18 102/19 112/1 116/13 119/12 122/24 144/1 148/2 152/6 157/5 172/17 173/4 178/5 179/3 190/11 203/17 205/3 211/4 212/4</p> <p>act [7] 50/24 86/6 103/8 103/9 104/1 104/7 214/5</p> <p>acted [1] 86/1</p> <p>action [13] 26/7 26/22 26/23 41/23 77/3 104/9 156/10 174/25 212/12 212/20 214/1 214/4 215/11</p> <p>actions [3] 60/12 95/15 126/20</p> <p>activate [5] 5/7 45/6 45/8 45/8 50/25</p> <p>activated [3] 5/10 28/23 28/25</p> <p>activating [2] 4/25 4/25</p> <p>activation [11] 3/8 5/21 7/14 14/5 16/6 22/19 22/19 45/16 51/1 70/2 70/9</p> <p>active [1] 6/21</p> <p>activities [1] 6/6</p> <p>activity [3] 30/16 31/12 155/24</p> <p>actual [5] 4/19 33/17 53/17 56/13 58/22</p> <p>actuality [1] 21/4</p> <p>actually [60] 7/25 8/12 9/11 11/18 12/3 12/8 19/20 25/6 25/21 29/11 29/13 33/18 37/2 45/15 46/22 46/22 48/1 49/15 51/3</p>	<p>57/1 61/6 61/23 62/17 62/25 64/20 71/3 74/13 74/24 76/16 83/24 88/13 101/17 103/1 115/3 115/10 122/16 123/4 124/23 125/1 127/17 128/19 130/23 131/15 138/16 145/10 147/7 149/14 156/18 156/23 161/17 162/9 163/22 173/16 174/24 176/23 197/15 197/22 198/1 200/11 209/24</p> <p>ad [2] 44/21 183/17</p> <p>ad hoc [1] 183/17</p> <p>ad nauseam [1] 44/21</p> <p>adapt [1] 110/15</p> <p>add [4] 3/4 71/5 183/7 195/8</p> <p>added [5] 13/11 13/19 112/7 136/20 194/17</p> <p>addition [7] 4/16 40/10 62/8 70/4 147/7 181/16 201/4</p> <p>additional [10] 23/20 39/8 40/8 45/20 126/19 172/23 176/12 177/15 180/10 199/25</p> <p>address [3] 41/23 52/19 206/6</p> <p>addressed [1] 144/10</p> <p>addressing [1] 189/2</p> <p>adequacy [1] 68/15</p> <p>adequate [4] 43/9 47/15 47/17 77/5</p> <p>adequately [1] 143/19</p> <p>adherence [4] 186/15 194/20 194/24 202/21</p> <p>adjourned [1] 217/20</p> <p>adjournment [2] 115/21 115/24</p> <p>admin [1] 105/19</p> <p>administering [1] 125/22</p> <p>administration [2] 122/9 142/10</p> <p>administrations [2] 4/9 113/10</p> <p>administrative [4] 71/21 74/6 135/24 180/15</p> <p>admissions [1] 122/16</p> <p>admitted [1] 134/23</p> <p>adopted [2] 24/10 112/23</p> <p>adult [3] 87/21 88/8 89/3</p>	<p>advance [7] 14/25 20/15 51/4 81/25 83/18 89/9 200/7</p> <p>advanced [4] 52/24 52/25 61/19 68/13</p> <p>advent [1] 99/22</p> <p>adverse [1] 214/23</p> <p>advice [31] 6/7 16/16 17/11 19/14 33/19 33/22 45/4 49/13 52/7 56/23 64/4 64/9 73/22 76/8 76/10 79/7 85/9 86/4 93/13 94/17 95/19 114/24 157/12 162/4 164/2 164/8 164/9 166/1 166/3 209/2 209/22</p> <p>advise [3] 113/19 125/8 164/10</p> <p>advised [3] 208/18 208/23 208/24</p> <p>adviser [4] 127/15 151/5 151/9 151/12</p> <p>advisers [2] 127/8 187/12</p> <p>advising [1] 67/21</p> <p>advisory [3] 125/5 159/3 164/3</p> <p>affected [3] 33/15 73/16 107/21</p> <p>affirmed [6] 1/7 91/2 169/22 218/3 218/9 218/14</p> <p>affluent [1] 166/24</p> <p>afraid [4] 64/11 90/8 140/16 214/13</p> <p>after [23] 13/14 14/5 25/10 46/15 51/7 53/17 71/10 72/4 88/1 92/14 110/24 115/12 134/17 135/22 155/19 158/7 159/20 160/14 175/17 180/23 181/8 183/21 212/7</p> <p>afternoon [10] 81/22 82/2 82/23 84/19 85/18 87/16 169/21 170/1 212/23 216/6</p> <p>again [61] 4/21 13/16 18/6 18/9 24/15 25/14 26/24 34/8 35/5 35/6 35/15 36/6 39/18 41/21 42/14 45/10 45/13 52/9 52/10 52/13 58/25 60/12 60/24 62/24 64/6 65/13 68/8 73/8 78/8 86/17 94/2 96/25 98/21 98/22 99/2 109/24 110/16 115/3 117/1 127/6 132/12 133/12 137/15 143/8 143/13 144/25 145/3 151/3 151/19 152/24</p>
--	--	--	--	--

A	102/21 102/25 105/7 105/9 105/9 105/22 105/25 106/16 107/24 108/19 109/22 110/10 111/12 112/10 112/19 114/5 114/24 115/12 118/14 120/2 121/5 124/19 125/11 126/17 128/1 130/2 130/10 131/25 132/19 135/15 143/4 143/12 155/1 155/17 156/25 156/25 157/17 158/7 159/10 160/3 160/5 162/5 163/18 165/1 165/9 168/10 169/4 172/14 172/22 175/7 177/10 177/21 178/1 184/16 185/12 185/12 186/19 188/2 192/22 193/5 197/9 197/16 197/24 203/9 204/2 209/4 209/7 209/22 211/6 211/8 216/9 All right [15] 94/5 96/7 98/12 102/21 105/7 105/22 109/22 114/5 114/24 115/12 121/5 126/17 131/25 143/4 157/17 allocate [1] 176/21 allocated [3] 48/14 48/16 176/10 allow [4] 25/2 121/23 135/17 173/10 allowed [1] 62/9 allows [2] 135/9 135/10 almost [5] 23/24 137/9 158/5 178/12 197/18 alone [1] 7/3 along [1] 30/1 alongside [2] 4/23 106/21 already [7] 7/16 15/15 81/18 85/7 150/5 161/12 185/18 also [67] 5/19 6/14 10/5 11/21 21/19 22/24 24/23 26/16 30/14 39/15 42/18 47/23 49/11 65/4 67/2 75/20 77/2 82/6 83/17 92/7 92/22 93/23 95/8 95/11 95/14 95/18 95/21 95/23 96/9 97/8 98/23 103/16 105/13 105/14 105/17 109/17 117/11 123/23 125/18 136/2 136/16 146/3 146/13 147/19 154/1 155/16 158/4 160/10 167/6 167/12 172/9	172/15 174/5 174/13 174/15 179/1 181/7 184/6 187/11 196/17 197/8 199/2 199/6 199/9 201/25 203/4 207/22 alternative [1] 56/11 although [13] 7/16 13/24 26/12 28/3 43/15 56/2 76/17 88/22 136/17 180/12 199/16 208/2 212/2 altogether [1] 69/12 always [2] 5/7 26/11 am [18] 1/2 10/24 25/21 57/5 57/7 64/16 78/22 91/14 92/8 99/11 115/15 119/6 125/19 137/24 140/16 166/13 170/20 217/20 amber [1] 62/20 ambers [1] 66/7 amended [1] 178/24 amendments [1] 72/23 amount [4] 66/23 77/3 177/20 203/11 analogy [1] 139/1 analysing [1] 214/23 analysis [4] 62/21 122/15 144/16 146/9 announced [1] 75/5 announcement [4] 55/12 72/14 128/25 130/21 announcements [1] 127/13 annoy [4] 85/14 85/15 85/21 86/10 annoyance [2] 132/10 191/14 annoying [2] 85/3 85/4 another [16] 9/15 11/20 46/15 70/23 78/8 85/1 96/20 120/15 124/3 133/10 144/11 152/21 157/8 157/18 163/6 185/19 answer [6] 37/18 86/12 89/5 89/20 152/14 163/14 answered [1] 108/3 answering [2] 37/19 89/10 answers [1] 169/9 Anthony [1] 12/24 Anthony Harbinson [1] 12/24 anticipate [3] 47/2 47/9 126/22 anticipated [1] 183/6 anxiety [1] 136/23 any [102] 1/16 5/1	8/6 9/12 10/8 17/14 17/16 20/2 21/4 21/5 21/15 23/13 26/16 32/19 35/11 49/2 49/6 49/15 51/3 54/21 55/20 60/3 61/6 61/8 64/2 71/23 71/24 72/23 72/24 73/23 73/23 74/8 75/10 75/20 75/20 77/23 77/23 79/17 83/25 84/8 84/15 87/12 88/4 89/6 89/12 99/24 99/25 101/11 101/18 102/11 105/20 107/11 110/6 110/23 118/23 121/8 125/10 126/8 126/19 146/4 146/7 150/12 150/14 161/17 163/12 165/4 165/17 166/4 169/5 170/6 174/25 174/25 176/25 177/1 177/8 178/3 178/16 181/11 184/12 184/13 184/22 185/15 186/25 190/23 191/21 193/7 193/8 194/2 194/23 195/1 195/13 199/2 199/13 201/13 202/11 202/24 205/17 206/21 207/12 207/23 212/9 212/17 anybody [7] 57/13 75/10 88/18 172/4 176/24 203/20 212/17 anyone [8] 16/16 23/11 126/6 160/25 179/5 182/13 203/24 205/4 anything [21] 1/13 3/1 16/1 21/12 30/1 47/20 61/9 65/14 71/5 75/19 112/7 113/12 114/2 132/18 135/20 167/23 168/9 202/10 210/9 215/23 216/16 anyway [2] 3/7 197/25 anywhere [1] 9/4 apart [3] 13/10 187/1 187/25 Apollo [4] 119/7 119/11 119/13 120/23 apologies [2] 203/17 212/4 apologise [2] 51/24 133/17 apparent [1] 132/9 appear [5] 41/7 71/23 88/8 121/20 133/20 appears [1] 141/10 applied [2] 69/1 200/17 apply [2] 23/19 24/5	appointed [3] 171/7 172/11 181/10 appointment [3] 2/11 91/23 182/11 appreciate [1] 41/7 approach [18] 22/12 24/8 24/9 53/8 53/12 68/21 69/6 69/8 69/13 69/19 69/24 78/13 80/16 189/1 190/14 190/15 190/19 214/22 approached [3] 152/11 171/11 207/2 approaches [4] 53/16 58/23 69/16 118/21 approaching [1] 215/4 appropriate [8] 45/5 74/7 104/8 113/24 116/18 179/4 182/12 208/24 approval [4] 40/9 41/13 41/15 74/12 approved [1] 14/5 April [14] 93/22 93/22 96/18 151/5 152/7 159/10 159/11 159/17 161/14 162/10 164/25 165/8 193/17 193/20 April 2020 [2] 152/7 161/14 April 2021 [1] 193/20 are [119] 1/24 3/4 5/16 6/6 9/22 10/25 13/19 14/11 16/11 16/14 17/23 18/15 25/1 27/19 28/20 28/25 33/11 45/16 45/20 47/21 50/23 51/22 52/10 52/23 54/20 56/9 56/10 56/21 63/13 63/21 63/25 66/6 66/8 67/6 68/3 68/10 69/16 70/15 70/22 71/3 83/16 86/23 88/6 91/12 91/12 92/3 92/25 95/4 95/5 95/6 95/9 95/15 95/21 97/8 97/12 97/17 97/25 99/10 99/10 100/18 105/3 105/9 105/9 105/12 105/13 105/14 105/20 107/3 107/6 109/1 110/6 110/22 113/5 118/20 118/21 118/21 119/18 119/25 120/13 120/14 127/16 129/9 129/14 130/12 130/13 134/15 134/15 134/23 134/24 136/9 136/9 140/17 142/20
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A	40/21 42/5 56/11 58/2 71/22 135/14 144/23 164/25 175/21 arrival [3] 53/3 53/11 181/18 arrived [7] 17/4 36/2 39/14 67/17 69/2 69/5 187/2 arriving [1] 23/24 arts [1] 204/21 as [272] As I say [1] 135/20 ascertain [1] 155/5 ascertainment [1] 136/15 ask [36] 1/11 1/14 63/7 75/6 77/11 77/18 78/4 81/13 91/4 94/16 96/7 96/25 97/2 105/23 106/15 108/5 108/7 108/22 108/23 109/14 112/18 116/24 130/24 140/12 140/14 150/25 152/20 156/22 165/10 170/3 190/25 212/19 213/12 215/16 215/25 216/3 asked [28] 11/25 24/13 30/14 32/24 36/1 38/9 38/20 64/18 66/1 70/8 77/12 77/13 80/16 81/1 81/5 82/10 90/4 127/25 133/22 135/13 142/18 143/17 144/20 144/24 144/25 156/15 162/23 163/2 asking [11] 30/8 30/10 32/17 33/4 37/13 40/16 41/4 42/20 47/21 142/20 169/9 aspect [2] 28/21 196/9 aspects [5] 47/3 47/10 52/1 74/6 209/25 assembled [1] 65/1 assertion [1] 207/16 assessed [2] 201/13 203/14 assessing [2] 53/9 69/15 assessment [20] 34/24 35/17 35/25 36/9 36/25 38/23 44/25 44/25 52/21 62/20 64/24 64/25 84/21 88/16 88/17 89/12 165/16 166/5 202/13 203/22 assist [7] 5/17 40/11 75/14 81/19 85/19 93/12 175/22 assistance [6] 1/10	7/5 75/10 77/13 146/6 170/2 assisted [3] 93/16 93/20 109/10 associate [1] 91/21 associated [2] 19/2 58/7 assume [2] 63/25 124/13 assumption [2] 203/23 211/19 assumptions [3] 19/8 203/12 203/19 assurance [2] 28/3 95/22 assurances [1] 97/18 assuring [1] 42/23 asthma [1] 16/17 asymptomatic [6] 159/7 159/20 160/12 160/16 163/19 164/16 at [347] at present [3] 24/20 89/16 90/4 attack [1] 162/12 attacks [1] 39/3 attempt [2] 55/6 205/16 attend [3] 19/10 141/4 141/19 attendance [1] 187/14 attended [2] 79/1 154/1 attention [7] 50/6 83/10 108/20 205/7 206/9 211/10 211/21 attitude [1] 68/7 attributable [1] 139/12 audit [2] 28/2 211/13 August [8] 4/4 34/9 38/19 91/24 172/1 182/2 205/23 206/15 August 2019 [3] 4/4 34/9 38/19 August 2020 [1] 172/1 August 2021 [1] 205/23 August 2022 [1] 91/24 austerity [1] 9/11 authored [2] 41/22 43/16 authoritative [1] 72/9 authorities [7] 6/20 27/4 27/14 27/19 28/13 45/1 51/8 authority [4] 28/5 175/3 177/16 212/11 automation [1] 144/13 autonomy [1] 31/7	autumn [2] 153/2 161/4 availability [2] 33/7 98/4 available [16] 9/17 11/3 22/3 22/4 32/14 75/7 119/6 129/18 130/22 131/14 131/19 150/24 156/6 159/15 180/12 193/7 aware [20] 17/17 49/25 50/2 83/4 84/22 84/24 85/7 89/5 89/6 97/20 124/2 166/13 185/2 194/23 195/8 206/12 210/12 210/14 213/14 216/8 awareness [2] 77/1 213/10 away [6] 40/12 40/14 41/16 117/20 133/10 195/11	11/2 19/14 20/8 32/22 33/6 36/22 38/6 41/6 44/22 46/8 52/9 54/22 55/23 56/10 58/21 62/24 70/15 77/3 79/5 81/19 85/13 85/20 86/14 86/16 87/15 89/19 94/25 98/17 101/17 101/19 102/19 106/15 107/18 109/4 109/14 110/18 111/2 111/21 112/5 112/7 112/12 114/15 119/1 119/2 119/20 120/4 121/6 122/4 123/4 123/18 123/21 125/19 126/4 128/10 128/13 129/9 129/15 130/17 130/24 131/1 132/16 134/19 136/14 137/2 137/5 137/15 138/4 138/12 138/25 139/4 140/7 142/14 142/21 144/17 147/15 147/23 148/4 148/15 148/22 148/24 149/1 150/5 150/20 151/20 152/2 155/7 156/15 159/24 164/17 165/21 165/23 166/9 167/21 167/22 175/5 176/5 177/7 179/20 179/22 181/25 183/22 185/18 189/11 190/7 190/17 191/14 193/6 194/16 197/5 204/5 208/1 209/9 210/9 212/2 212/12 become [1] 10/12 been [188] 2/16 4/24 7/16 9/3 9/4 9/24 9/25 10/1 11/20 13/2 13/3 13/11 14/14 15/4 15/15 16/3 18/2 18/4 18/13 18/17 19/4 19/5 19/23 19/23 23/8 25/10 25/18 28/24 29/1 30/3 31/13 32/21 32/25 33/24 34/14 34/19 37/18 37/19 39/7 40/6 40/22 44/18 50/6 51/10 53/8 54/4 54/4 54/10 54/11 55/2 57/17 61/17 61/20 62/15 64/20 65/14 68/12 69/18 69/24 70/12 71/23 72/22 73/12 74/20 75/5 76/1 76/11 84/10 84/11 88/21 91/18 91/20 96/18 98/7 98/8 100/22 100/25 101/10 102/4 102/17 107/17 107/21 108/9 108/14 109/7 110/11 110/13
		B		
		babies [2] 166/22 167/2 back [40] 4/13 8/3 30/5 35/5 38/19 50/11 56/18 62/24 76/4 78/6 80/16 81/15 87/13 87/15 88/5 97/1 102/23 115/12 119/9 133/3 134/3 142/24 143/17 154/2 154/8 154/9 163/15 168/3 173/7 183/25 187/21 189/25 192/18 195/11 195/17 195/23 195/25 198/9 206/16 216/13 background [6] 2/1 17/14 17/16 17/25 97/2 171/5 bad [1] 43/22 balanced [1] 190/15 barometer [3] 119/18 123/11 123/14 based [10] 8/16 25/22 36/14 55/9 61/21 67/1 69/8 120/20 120/21 156/20 basic [1] 135/8 basis [9] 10/2 23/24 27/20 33/21 89/5 115/7 133/21 142/19 142/20 be [276] bear [1] 198/5 bearing [4] 38/6 70/23 86/18 180/18 became [6] 12/6 17/8 71/13 117/20 159/24 161/9 because [120] 3/15 5/21 7/18 9/17 9/20		

B	44/16 44/17 45/2 45/4 48/25 49/5 50/4 50/4 51/11 54/5 55/1 55/4 56/22 81/6 146/9 being [85] 6/3 12/10 17/2 17/2 18/11 18/21 19/3 19/22 20/20 24/11 28/14 33/10 41/8 48/25 49/25 50/2 50/3 54/23 55/4 56/24 74/16 79/7 82/1 82/23 97/21 98/16 110/17 115/6 119/15 123/4 125/10 127/17 127/19 129/17 130/3 130/23 131/6 131/15 131/17 133/15 133/20 133/22 134/23 135/6 136/9 136/10 136/12 136/13 138/1 138/6 138/12 138/17 139/24 140/4 141/10 143/15 143/16 144/12 147/8 148/19 149/16 151/7 151/18 152/8 152/16 152/19 159/3 159/4 166/22 174/2 179/17 192/3 192/13 195/5 195/6 198/9 199/4 199/24 203/3 203/4 203/13 203/19 203/23 206/22 215/22 belief [1] 42/15 believe [23] 15/15 25/13 54/13 78/24 78/25 97/17 109/19 109/19 136/18 157/23 185/18 186/11 186/12 195/8 198/2 198/21 198/21 199/4 201/18 209/13 210/9 212/13 216/1 believed [3] 181/7 209/9 209/11 below [4] 15/1 22/4 46/20 192/8 beneficial [1] 182/3 benefit [5] 35/22 115/9 182/5 183/25 215/9 Bereaved [1] 81/14 Bernie [8] 4/3 10/22 14/10 63/20 68/8 81/17 81/17 83/2 Bernie Rooney [2] 63/20 81/17 best [15] 29/25 35/9 91/13 123/23 124/5 134/6 135/6 137/6 152/6 152/18 164/8 166/10 190/24 200/7 215/24 better [16] 25/20 49/16 54/11 69/24	73/12 77/7 79/25 85/14 122/19 150/18 156/21 179/10 190/15 193/10 193/11 205/12 between [34] 6/16 12/16 13/17 26/24 29/22 30/4 31/18 52/3 63/13 70/14 75/8 78/8 81/2 81/16 81/23 85/3 97/13 99/2 124/13 128/16 130/15 131/14 154/18 167/5 171/24 173/14 183/15 184/6 187/4 189/19 193/1 193/16 198/12 198/18 beyond [13] 11/3 28/17 62/10 117/23 122/7 125/14 130/9 148/19 149/7 149/25 156/22 188/6 200/18 big [3] 145/21 176/7 177/19 Bill [1] 59/23 bit [36] 3/5 16/19 20/8 43/19 47/11 64/17 85/20 87/8 89/16 90/4 94/16 96/7 97/2 102/22 105/23 110/8 113/1 113/15 116/12 124/10 126/3 134/4 135/24 137/3 137/11 145/21 146/2 149/7 151/9 153/1 176/8 187/24 192/20 193/12 197/2 200/11 bits [1] 140/10 bleaker [2] 43/17 43/19 blind [1] 8/5 blocks [1] 4/22 board [24] 41/3 41/13 42/21 57/15 57/18 59/3 93/25 106/23 106/24 109/7 109/11 122/17 122/18 141/3 141/4 141/19 145/1 145/2 146/17 172/10 172/21 172/21 180/6 180/13 board's [2] 41/13 58/17 bodies [4] 60/9 60/10 112/14 145/4 body [6] 6/13 29/17 49/8 96/10 102/19 200/21 bolt [1] 4/24 bolt-on [1] 4/24 books [2] 86/24 87/4 boost [3] 40/1 53/4 62/9 boosted [1] 53/4 born [4] 166/22 166/23 166/24 167/1	both [17] 4/18 14/11 17/11 70/15 70/20 70/22 105/16 113/21 127/25 145/4 165/15 170/18 175/23 190/12 201/24 202/16 202/16 bottom [10] 50/10 52/18 53/8 59/24 60/13 60/13 64/15 69/8 78/11 153/8 bottom-up [1] 53/8 bound [3] 87/21 88/9 124/9 boy [1] 166/22 brackets [1] 82/25 Brady [2] 171/19 181/25 branch [13] 3/18 6/5 10/12 10/15 34/17 37/21 41/17 44/1 44/15 45/3 46/5 55/8 96/19 branches [1] 6/7 brand [2] 118/14 118/22 breadth [2] 23/8 24/1 break [10] 1/15 53/18 57/2 57/6 115/13 115/16 116/3 169/15 169/18 170/6 breakdown [3] 131/23 194/16 194/16 breaking [1] 80/19 bred [1] 192/21 Brenda [1] 81/12 Brexit [15] 7/19 8/4 12/4 15/3 19/24 20/5 27/6 27/13 44/23 52/20 52/24 53/3 53/11 53/19 55/3 Brid [1] 127/25 brief [2] 195/21 198/25 briefed [3] 182/9 195/16 213/15 briefing [2] 59/1 181/17 briefings [2] 182/13 191/4 briefly [1] 87/25 brigading [1] 177/16 bring [6] 22/10 72/3 148/13 149/1 183/25 190/11 bringing [4] 129/23 187/21 198/5 200/10 broad [2] 4/5 4/10 broader [4] 21/19 165/14 166/5 168/2 broadly [4] 26/12 29/18 30/2 72/20 bronze [2] 84/7 106/1 brought [15] 4/4 5/16 6/2 11/22 11/25 34/9	50/6 69/12 140/14 150/25 152/21 184/25 186/23 187/1 189/5 budget [3] 9/10 9/13 9/16 build [4] 124/15 184/3 185/9 185/16 building [5] 4/22 103/16 123/14 184/14 206/14 Buildings [2] 11/7 153/25 built [5] 118/23 121/23 122/6 126/15 197/22 bullet [3] 50/22 138/5 192/8 bundle [4] 98/25 147/6 158/23 162/18 burden [1] 180/18 bureaucracy [1] 200/1 business [15] 3/25 4/15 4/19 4/23 6/4 6/16 6/17 32/5 32/8 41/8 41/10 60/1 107/1 186/22 200/17 busy [5] 23/14 46/5 135/21 135/22 157/2 but [264]
			C	
			C3 [2] 15/3 61/2 C3 leads [1] 61/2 Cabinet [17] 4/7 23/22 29/18 30/23 30/25 31/8 32/6 75/8 76/2 77/24 78/2 81/24 85/3 85/8 210/22 210/24 213/19 Cabinet Office [16] 4/7 23/22 29/18 30/23 31/8 32/6 75/8 76/2 77/24 78/2 81/24 85/3 85/8 210/22 210/24 213/19 cadre [3] 20/19 70/25 180/11 call [7] 1/4 39/17 82/14 90/25 116/17 169/21 200/18 called [5] 43/14 95/16 120/18 120/21 135/7 calling [1] 4/24 calls [4] 17/18 17/20 23/15 181/16 came [22] 15/14 16/18 17/12 30/23 71/15 72/4 74/11 74/13 83/18 96/2 108/3 110/21 129/19 130/7 151/22 160/14 168/20 183/18 197/23	

C	16/2 37/21 42/8 43/2 43/18 78/2 97/22 112/12 144/15 147/1 147/15	109/23 110/16 111/10 113/16 114/18 118/18 147/7 147/11 147/21 147/21 147/23 148/1 148/2 148/4 148/5 149/18 149/20 150/1 153/4 154/20 155/4 155/22 156/1 156/20 159/21 161/9	61/10 74/22 84/12 99/17 121/2 136/7 136/8 137/12 147/5 147/9 149/5 149/24 158/22 160/20 164/24 166/17 174/14 175/23 180/15 188/21 195/2 195/6 198/21	23/1 71/10 82/7 85/4 91/21 96/12 96/20 97/14 135/12 135/13 146/13 151/5 151/8 151/11 153/16 155/10 162/16 162/17 162/22 162/23 171/8
came... [3] 200/18 201/25 205/21	capable [2] 21/23 144/21	Castle [2] 11/7 153/25	certainty [2] 140/5 193/12	chiefs [1] 17/9
Campbell [5] 81/9 81/11 81/12 90/19 218/7	capacities [1] 148/19	casual [3] 209/10 210/3 210/8	certificate [3] 99/13 134/17 139/13	childcare [1] 56/11
can [125] 1/11 1/12 1/23 1/25 2/1 4/6 4/23 4/25 5/1 5/5 10/21 14/16 14/22 17/6 21/1 26/1 26/2 26/22 29/12 30/12 37/8 39/18 39/19 40/19 41/19 46/11 46/20 48/5 48/12 49/7 49/18 49/21 50/21 52/14 54/12 58/21 58/23 59/8 59/22 60/11 60/11 60/12 63/16 67/23 75/24 77/11 78/7 78/10 78/10 78/22 79/24 81/20 89/5 89/15 90/10 104/13 106/15 107/2 108/13 110/16 110/19 112/18 114/22 115/12 119/2 121/11 121/16 124/9 124/13 126/20 126/22 127/14 128/6 129/11 130/11 131/4 132/3 132/9 133/3 133/13 133/18 137/23 140/18 140/24 143/7 143/24 146/2 150/11 151/3 151/9 151/15 152/24 152/25 153/16 153/19 155/5 155/24 157/9 158/20 163/5 164/13 167/22 170/3 170/5 170/22 171/5 177/4 177/5 179/8 182/24 183/22 183/25 185/21 198/14 201/7 201/9 201/11 204/5 204/15 207/5 208/1 208/12 209/17 209/20 216/23	capacity [37] 23/20 37/21 37/25 38/24 39/8 40/1 40/9 40/15 42/7 42/23 43/2 43/18 52/1 53/5 78/2 97/22 124/15 124/17 125/14 126/1 126/13 128/17 129/2 144/15 146/4 146/7 150/23 154/6 155/11 155/17 155/21 156/11 157/20 158/6 158/17 162/24 191/10	caused [2] 167/21 191/14	chaired [2] 125/4 164/4	children [3] 32/18 55/25 93/6
can't [27] 5/1 13/9 16/13 17/8 30/2 96/17 130/17 131/11 132/25 139/16 141/18 141/20 147/3 147/12 149/18 159/13 160/18 163/14 163/15 165/4 165/6 165/25 168/9 174/24 180/11 180/13 208/5	captures [1] 86/11	causes [2] 134/15 139/13	chair [1] 97/13	children's [6] 92/23 92/24 93/4 93/5 93/10 93/19
candid [1] 190/2	care [51] 56/8 87/22 88/9 89/3 93/13 93/21 93/25 94/17 95/25 103/24 106/4 106/24 109/7 109/11 110/23 120/1 120/5 120/16 120/23 120/24 122/17 122/18 135/16 145/2 146/17 157/10 157/11 157/22 158/17 158/21 158/24 158/25 159/1 159/8 159/14 159/18 159/22 160/16 161/11 161/13 161/22 162/6 162/11 162/15 162/25 163/2 163/10 165/2 165/3 203/11 204/1	causing [1] 192/4	chairing [1] 199/6	choosing [1] 58/19
candidly [1] 19/16	careful [1] 140/1	caution [2] 86/6 86/24	chairs [1] 195/3	chose [1] 99/20
cannot [3] 141/5 167/16 212/11	carefully [3] 86/20 186/12 186/20	caveat [1] 216/20	challenge [15] 6/24 18/6 19/5 21/14 38/1 54/17 55/23 55/24 56/24 68/23 145/7 145/9 145/24 148/24 196/12	chosen [1] 99/12
canvassed [1] 62/24	carers [1] 214/2	caveats [1] 144/7	challenged [3] 154/3 154/4 155/23	Chris [2] 57/22 57/25
capabilities [1] 29/21	carried [7] 23/12 41/1 41/4 41/5 62/3 71/3 148/21	CCG [10] 19/10 28/16 31/13 31/15 31/22 48/17 58/24 59/4 177/18 200/23	challenges [8] 22/8 56/7 68/20 118/10 135/19 143/1 143/2 143/15	Chris Stewart [2] 57/22 57/25
capability [12] 15/21	cases [30] 95/7 103/15 107/11 107/16	CCPB [61] 3/19 4/6 4/15 5/7 5/15 6/2 8/21 8/23 11/12 11/16 13/1 13/17 13/21 20/9 23/1 29/18 29/22 30/16 31/2 31/14 31/19 32/9 33/25 34/10 34/19 35/2 35/9 35/11 35/16 35/24 36/6 36/17 39/6 40/12 40/16 43/12 44/5 46/16 47/6 47/15 48/14 48/16 50/3 52/1 52/15 53/5 53/8 60/4 60/6 60/16 60/17 62/23 62/25 65/22 65/24 68/17 69/4 69/7 69/18 78/1 87/4	chance [2] 136/3 191/24	Christmas [9] 181/6 181/8 183/5 183/20 185/22 185/25 186/8 186/20 195/1

C	closer [1] 183/19	140/23 144/18 152/5	203/7	47/18 66/18 80/2 81/6
civil... [61] 171/12	closure [1] 78/21	152/5 163/15 163/21	community [17]	98/18 101/6 107/12
171/18 171/23 171/24	clusters [1] 95/7	164/8 199/16 214/25	103/18 110/6 114/19	143/8 157/24 158/5
172/4 172/6 172/10	CMO [13] 46/23	comes [9] 28/1 30/17	117/7 119/18 119/22	186/16 196/3 196/7
172/12 172/13 172/17	46/25 47/9 47/13 64/7	56/18 63/16 97/25	119/23 136/17 136/19	196/11 196/16 205/17
172/21 173/1 173/8	64/8 64/9 151/15	103/8 122/8 158/12	149/23 150/6 166/7	concerned [10] 28/6
173/10 173/15 173/20	164/20 183/1 191/3	165/16	168/11 168/12 168/15	30/6 44/4 64/16 87/7
174/2 174/5 174/10	191/10 197/19	coming [33] 3/13	189/10 200/17	90/3 131/7 186/18
174/13 174/19 174/24	CNI [1] 60/20	3/17 30/5 35/5 53/15	comparable [1]	199/20 212/6
174/25 175/1 175/12	co [19] 4/17 6/18	85/8 88/2 89/20 97/1	10/14	concerns [18] 47/6
176/20 176/23 176/24	6/22 26/6 26/19 26/21	101/8 107/12 107/24	comparatively [1]	47/12 49/25 68/10
177/15 177/25 178/5	26/23 28/1 28/15 29/9	109/5 112/13 116/19	35/1	80/25 127/18 139/22
179/3 179/12 179/18	46/2 47/2 53/1 63/4	120/14 129/6 129/14	compare [1] 11/15	178/13 192/12 195/25
179/24 179/24 180/3	90/14 190/19 200/22	144/5 147/23 148/3	comparing [1] 5/24	196/2 196/18 197/14
180/4 180/5 181/11	200/23 200/25	167/24 168/3 175/20	comparison [1]	199/2 199/14 199/18
181/16 182/3 182/17	co-ordinate [1] 28/15	177/7 191/19 191/20	181/25	199/23 200/20
182/19 182/20 183/7	co-ordinated [1]	192/1 196/13 197/3	competence [1]	conclusion [5] 17/12
183/11 184/1 184/2	190/19	197/12 203/9 213/13	141/8	23/10 36/22 70/11
184/9 185/7 185/8	co-ordinating [5]	command [5] 84/7	competences [1]	155/15
187/3 187/13 188/17	6/18 6/22 26/23 90/14	84/8 106/9 175/9	17/20	condition [1] 16/17
188/25 189/12 201/20	200/22	178/1	competing [1] 48/22	conduct [1] 34/9
202/11 208/2 210/14	co-ordination [11]	commence [1] 40/18	complement [8] 9/2	conducted [3] 25/10
claim [2] 17/12 62/11	4/17 26/6 26/19 26/21	commenced [5]	10/9 12/9 12/15 15/6	58/22 62/15
clamour [1] 129/16	28/1 46/2 47/2 53/1	48/22 92/15 115/1	20/18 35/12 35/14	conferences [3]
clarify [5] 54/20	63/4 200/23 200/25	180/22 180/25	complementary [2]	191/7 191/8 191/9
77/22 109/15 187/19	COBR [3] 30/25	comment [9] 72/2	53/16 69/17	confess [1] 76/16
214/15	81/25 82/25	100/20 110/19 131/11	complemented [1]	confidence [8]
clarity [2] 127/25	cognisant [1] 211/15	132/18 132/25 141/18	53/11	136/11 137/3 137/15
132/11	coherence [1] 201/1	141/20 141/20	complete [10] 62/7	141/8 182/24 194/18
classic [1] 39/16	cohesion [2] 200/11	comments [3] 80/19	62/12 82/20 83/14	194/20 205/18
clear [27] 7/17 17/8	200/14	209/10 209/12	84/2 84/16 84/17	confidently [1] 208/5
18/12 24/18 37/18	coincidental [1]	commission [4]	135/23 137/10 155/23	confirm [4] 1/23
44/14 49/2 51/18 59/7	140/8	30/20 40/23 95/12	completed [3] 92/14	170/23 171/1 210/2
67/11 76/17 85/9	collate [1] 108/1	206/8	92/17 160/21	confirmed [2] 147/8
90/13 132/4 141/2	collating [1] 77/4	commissioned [1]	completely [4] 19/22	147/10
148/17 149/14 171/22	colleague [4] 17/22	31/22	138/7 138/9 138/12	confirms [1] 208/9
183/2 187/4 188/16	20/7 21/23 65/7	Commissioner [1]	completeness [1]	conflicting [1] 17/11
208/1 209/4 209/7	colleagues [34]	215/12	60/24	conjunction [1]
209/24 210/1 213/2	23/24 25/19 47/22	Commissioner for [1]	completes [1] 90/20	145/1
clearance [2] 9/23	74/1 76/21 77/2 77/8	215/12	completing [1] 69/11	connections [2]
10/2	80/25 87/16 88/7	commissioning [4]	completion [2] 20/5	168/13 168/14
cleared [3] 209/8	93/25 103/24 111/23	92/24 93/10 95/19	99/14	conscious [8] 42/14
209/22 209/25	113/9 113/19 114/4	95/21	complexity [2] 68/5	115/5 160/24 165/11
clearing [1] 209/18	114/22 118/19 125/4	committed [1]	137/17	167/10 195/5 203/17
clearly [12] 1/13	128/22 130/11 134/7	211/17	complicated [1]	212/4
51/25 62/6 65/3 66/6	142/4 152/12 154/3	Committee [4]	142/3	consciously [1]
68/25 74/22 90/9	154/14 157/13 162/2	180/24 193/25 200/8	component [1]	209/13
180/4 196/5 205/13	162/2 162/13 181/23	214/17	151/13	consensus [1]
212/23	195/4 196/11 211/9	committees [1]	comprehensive [1]	113/20
clients [1] 216/1	collective [2] 188/6	211/13	68/21	consider [9] 30/10
clinical [14] 92/14	203/22	common [3] 102/3	computer [1] 120/13	30/14 42/10 61/3
110/22 110/23 110/24	collectively [2]	146/25 161/23	concede [4] 23/17	143/13 189/8 191/24
113/16 113/16 113/19	162/12 164/8	Commons' [1]	25/17 62/22 73/12	202/17 205/6
113/22 114/1 114/3	column [1] 62/19	214/16	conceded [1] 61/16	considerable [12]
114/9 114/19 135/1	come [40] 4/12 12/25	communicate [1]	conceivable [2]	21/2 35/22 52/5 52/6
165/22	22/6 25/6 45/5 46/16	204/12	39/12 43/3	53/4 62/9 68/17 68/23
clinician [1] 92/6	54/12 56/10 62/24	communication [4]	concentrated [1]	86/22 159/6 176/10
clinicians [5] 105/9	63/16 65/22 70/10	113/11 132/24 205/14	35/24	191/14
135/15 135/22 135/22	80/14 80/16 82/3 83/9	209/11	concentric [1] 51/6	considerably [1]
136/2	88/5 93/11 99/7	communications [2]	concept [1] 4/13	44/1
clock [1] 132/21	102/21 104/22 114/2	117/11 209/15	conceptually [1]	consideration [12]
closed [2] 55/23 56/9	114/11 115/12 116/24	communities [7]	175/14	8/18 33/14 71/24
closely [1] 114/21	125/16 129/21 130/8	66/13 66/16 67/5	concern [21] 34/18	72/22 73/6 73/13 74/8
	130/9 130/14 135/11	95/14 186/21 203/6	35/3 38/6 39/15 42/18	181/6 183/12 185/23

<p>C</p> <p>consideration... [2] 201/7 206/15</p> <p>considerations [2] 58/3 73/14</p> <p>considered [9] 32/20 41/16 50/3 57/18 58/10 66/2 108/16 164/3 203/13</p> <p>considering [6] 33/13 63/25 137/6 173/12 187/5 187/6</p> <p>consistency [1] 81/2</p> <p>constant [1] 45/2</p> <p>constituted [1] 117/14</p> <p>constraints [2] 9/10 32/13</p> <p>construction [2] 64/22 90/10</p> <p>consult [1] 201/22</p> <p>consultancy [2] 22/13 40/10</p> <p>consultant [7] 92/10 92/18 93/3 98/4 98/4 99/16 143/22</p> <p>consultants [10] 20/23 36/20 98/8 99/11 100/3 100/8 101/5 105/12 135/2 146/12</p> <p>consultation [4] 110/24 202/1 202/3 215/23</p> <p>consultations [1] 119/16</p> <p>contact [26] 74/21 84/15 93/16 112/15 149/21 150/2 151/6 151/12 152/4 152/10 154/6 154/11 154/17 154/18 154/25 154/25 156/5 156/14 156/25 157/7 181/22 181/23 182/13 184/25 215/11 215/13</p> <p>contacted [1] 59/10</p> <p>contacts [5] 110/16 148/6 149/18 153/5 168/8</p> <p>contain [2] 67/13 149/25</p> <p>contend [1] 20/17</p> <p>content [4] 61/4 73/19 73/23 91/12</p> <p>contents [4] 1/23 91/12 170/23 171/2</p> <p>context [9] 6/2 15/2 18/23 26/10 62/13 85/20 88/2 89/24 213/11</p> <p>contingencies [48] 2/8 2/12 2/25 3/9 3/16</p>	<p>3/18 3/21 4/20 6/13 7/7 10/6 11/24 12/2 12/7 17/15 17/16 17/19 18/1 20/10 24/6 25/7 26/10 28/10 29/15 29/16 30/21 31/4 31/7 31/8 31/19 34/10 34/17 37/20 39/1 40/21 41/17 43/3 43/25 48/8 49/8 57/24 69/20 69/22 75/11 77/14 82/17 84/6 174/11</p> <p>contingency [19] 4/12 6/3 6/21 8/5 8/6 11/6 18/11 18/21 19/18 25/24 26/25 32/15 37/11 42/4 42/9 42/12 58/4 82/5 84/9</p> <p>continue [2] 127/18 193/2</p> <p>continued [4] 93/22 150/2 162/9 180/25</p> <p>continues [2] 42/1 87/17</p> <p>continuing [1] 8/9</p> <p>continuity [1] 60/1</p> <p>continuous [1] 193/4</p> <p>contract [1] 182/14</p> <p>contrary [1] 207/18</p> <p>contrast [1] 200/22</p> <p>contribute [1] 76/12</p> <p>contributing [2] 150/16 157/6</p> <p>control [11] 3/11 105/17 111/11 130/10 162/4 162/19 164/7 177/25 183/12 197/2 197/6</p> <p>controlling [1] 157/11</p> <p>convenient [1] 57/2</p> <p>conveniently [1] 188/12</p> <p>conversation [3] 87/17 88/6 210/6</p> <p>conversations [1] 210/8</p> <p>core [15] 6/11 6/14 8/21 13/1 13/17 42/19 45/12 94/23 97/23 98/19 98/23 110/2 110/8 118/3 118/6</p> <p>core participants [2] 42/19 45/12</p> <p>corner [2] 65/18 204/24</p> <p>coronavirus [7] 38/2 50/24 55/22 56/7 59/23 71/13 214/18</p> <p>Coronavirus Act [1] 50/24</p> <p>Coronavirus Bill [1] 59/23</p>	<p>corporate [1] 149/4</p> <p>corral [1] 113/20</p> <p>correct [94] 2/9 2/14 2/17 3/22 4/12 5/8 5/9 5/18 7/16 8/17 8/24 11/10 14/6 14/7 14/15 14/20 14/21 15/14 20/12 21/7 22/23 34/5 35/11 36/4 40/17 43/23 49/17 53/18 53/22 56/22 57/19 58/13 63/3 63/10 63/22 65/15 65/16 67/18 71/17 72/5 73/18 78/13 80/4 80/11 85/13 86/16 91/11 91/18 92/7 92/13 92/21 93/15 96/5 96/11 97/23 98/24 99/1 99/6 103/2 103/3 103/5 106/19 106/20 108/22 117/3 117/21 117/22 118/13 119/10 119/11 127/23 127/24 138/11 143/17 145/1 145/6 147/8 147/11 153/11 157/12 161/14 170/24 171/14 171/21 172/2 172/3 173/22 176/22 177/2 194/6 194/9 207/15 207/16 208/21</p> <p>correction [3] 170/11 170/13 170/14</p> <p>correctly [5] 35/13 44/14 47/24 74/3 84/25</p> <p>correspondence [5] 100/12 100/18 101/3 133/2 133/7</p> <p>could [98] 3/4 4/1 8/10 15/24 23/8 23/12 27/12 33/17 34/18 39/24 40/8 42/20 43/12 43/13 46/8 47/15 47/17 50/11 57/12 59/4 60/24 61/9 63/5 63/7 63/11 64/22 65/9 66/9 72/8 76/4 76/9 78/14 87/7 87/14 88/24 93/12 94/9 97/3 108/7 118/11 122/25 127/2 127/4 128/18 129/21 129/24 130/24 132/1 132/6 133/10 133/11 135/2 135/7 135/25 136/2 136/6 136/22 137/6 139/2 139/3 140/14 140/19 142/6 148/21 149/6 149/10 150/2 150/3 150/25 152/3 152/21 153/14 158/11 163/11 164/8 167/9 170/9</p>	<p>170/13 175/2 175/4 176/20 177/15 177/25 178/16 178/17 178/20 180/20 189/10 189/12 189/18 194/19 196/16 197/18 202/11 208/4 210/10 210/17 215/3</p> <p>couldn't [8] 7/2 16/4 63/8 98/18 112/5 188/20 195/1 203/24</p> <p>council [2] 80/14 213/25</p> <p>councils [1] 168/14</p> <p>COUNSEL [6] 1/8 91/3 169/23 218/5 218/11 218/16</p> <p>count [4] 118/18 121/24 135/18 136/13</p> <p>counted [2] 133/20 139/5</p> <p>counterintuitive [2] 11/18 129/15</p> <p>counting [2] 134/9 137/22</p> <p>countries [3] 148/4 149/17 166/20</p> <p>couple [5] 21/13 55/15 80/5 136/3 174/21</p> <p>course [11] 101/21 113/2 115/14 116/15 136/3 144/14 152/10 152/13 156/10 156/23 216/20</p> <p>Coveney [1] 79/9</p> <p>cover [5] 2/20 3/6 3/7 5/5 63/7</p> <p>covered [3] 28/20 78/19 90/15</p> <p>Covid [72] 10/25 24/10 25/25 32/12 33/20 33/25 38/17 39/11 43/7 44/11 48/3 54/16 55/3 56/14 81/13 94/4 101/19 102/1 109/23 114/9 116/11 116/19 118/22 121/8 121/9 121/24 122/2 123/3 123/11 123/24 135/3 135/4 136/20 138/24 139/1 139/5 139/6 139/8 139/9 140/5 140/7 141/24 157/11 158/4 160/25 164/25 165/22 175/18 186/25 187/6 187/8 188/13 188/24 193/9 197/15 199/23 200/21 200/24 202/17 202/20 203/1 206/14 208/10 210/23 212/10 213/21 214/1 214/6 214/10 215/8 215/10 216/20</p>	<p>Covid Inquiry [2] 208/10 212/10</p> <p>Covid Taskforce [14] 175/18 186/25 188/13 188/24 193/9 197/15 199/23 200/21 200/24 202/17 202/20 203/1 215/8 215/10</p> <p>Covid-19 [19] 10/25 24/10 33/20 33/25 54/16 109/23 114/9 116/11 121/8 121/9 123/24 157/11 164/25 165/22 210/23 213/21 214/1 214/6 214/10</p> <p>Covid-19-positive [1] 121/24</p> <p>create [2] 112/4 194/22</p> <p>created [2] 15/4 18/22</p> <p>creating [2] 14/19 199/25</p> <p>creation [1] 7/21</p> <p>credit [1] 177/20</p> <p>critical [4] 39/4 53/13 60/22 99/4</p> <p>criticise [1] 80/20</p> <p>criticised [2] 206/7 206/13</p> <p>criticism [2] 141/10 214/14</p> <p>critique [1] 28/7</p> <p>cross [11] 47/2 74/7 172/16 172/25 173/20 175/20 175/24 176/9 177/19 189/11 196/8</p> <p>cross-cutting [9] 74/7 172/16 172/25 173/20 175/20 175/24 176/9 177/19 189/11</p> <p>cross-government [1] 47/2</p> <p>crucial [1] 85/24</p> <p>CSA [2] 151/15 197/19</p> <p>culture [1] 204/21</p> <p>cumulative [4] 35/17 36/8 36/24 44/25</p> <p>curate [1] 108/1</p> <p>current [6] 25/2 25/6 42/1 58/2 91/16 93/3</p> <p>currently [2] 24/17 43/19</p> <p>curriculum [1] 93/1</p> <p>curve [2] 18/5 21/24</p> <p>cut [5] 112/1 117/8 122/24 203/17 212/4</p> <p>cutting [10] 74/7 172/16 172/25 173/20 175/20 175/24 176/9 177/19 189/11 196/8</p> <p>cyber [1] 39/3</p>
--	--	--	---	---

D	dealt [4] 48/20 65/14 116/5 116/5	delegated [1] 173/18	30/8 30/10 30/19 33/1	detailed [2] 139/12
data [19] 114/12	death [17] 134/12	delete [4] 207/19	45/1 46/3 51/8 53/2	173/23
118/11 119/10 120/20	134/16 137/21 138/23	207/22 207/23 208/23	60/8 62/3 62/15 63/2	details [2] 30/7 216/3
121/17 122/15 122/16	139/6 139/8 139/8	deleted [9] 206/25	63/5 63/25 64/16	deteriorated [1] 99/3
122/16 123/25 127/12	139/13 139/13 140/5	207/11 209/8 210/8	64/21 66/11 68/6	detrimental [1] 21/15
138/6 138/11 139/23	141/1 142/1 142/9	210/11 212/8 212/9	68/12 68/15 68/18	develop [3] 28/15
144/7 144/13 146/9	142/10 142/12 142/15	212/11 212/13	68/24 69/1 69/20	111/20 205/21
155/24 161/12 197/7	142/22	deletion [2] 208/8	75/22 81/25 82/4	developed [11] 7/24
data's [1] 81/19	deaths [22] 59/24	208/15	88/20 90/12 90/15	8/3 51/12 61/10 61/11
date [11] 61/19 62/10	123/21 123/24 124/2	delivered [3] 124/19	173/10 173/18 175/5	61/12 113/23 118/25
62/11 128/24 134/3	124/6 124/7 133/19	152/11 179/17	175/7 175/11 176/6	122/12 144/12 144/15
140/22 141/12 141/16	134/2 134/9 134/10	delivering [4] 97/9	177/7 177/21 178/6	developing [2] 4/7
163/22 164/22 170/14	134/18 135/15 136/4	97/10 97/10 177/20	178/9 178/15 180/11	201/3
dated [8] 1/18 39/11	136/9 136/14 136/15	delivery [8] 55/25	187/25 197/16 203/5	development [8]
75/25 108/13 133/25	136/17 141/7 142/7	95/20 97/19 174/16	203/14	11/8 50/19 50/24
170/8 170/17 210/16	142/20 143/3 161/13	175/9 176/6 176/12	departments' [2]	95/24 99/21 104/22
dates [5] 38/17	debate [1] 138/22	176/16	67/4 90/3	144/11 146/8
159/13 160/19 164/13	December [19] 105/4	delve [1] 202/21	departure [1] 207/8	developments [1]
165/5	171/16 171/17 180/21	demand [3] 129/13	depend [4] 12/14	50/13
David [30] 2/21 2/22	181/4 182/25 183/4	129/16 175/13	113/19 119/24 154/24	device [3] 207/10
5/3 14/8 38/8 46/1	183/19 183/21 183/21	demonstrate [1]	depended [1] 135/21	207/12 208/4
54/2 66/1 67/25 70/5	185/23 187/1 189/20	24/12	dependent [2]	devices [1] 207/20
70/9 78/9 78/25 79/4	193/5 194/10 195/22	demonstrating [1]	186/10 212/25	devolution [2] 77/15
83/4 83/5 83/5 83/7	197/13 212/24 214/16	40/25	depletion [1] 98/17	78/7
84/22 84/24 84/24	December 2020 [2]	department [88] 7/3	deployed [2] 8/6 8/10	devolved [1] 113/9
85/2 85/6 88/18	185/23 214/16	28/5 32/16 38/20	deputy [27] 2/2 2/6	devote [1] 25/2
171/25 173/22 174/9	deciding [1] 9/12	39/25 41/9 48/20	19/7 19/19 19/20	diagnose [1] 103/23
192/16 192/23 193/1	decision [13] 6/13	59/11 62/23 65/2	19/21 20/1 21/9 73/20	dictate [1] 174/3
David Sterling [1]	7/8 75/5 163/25 166/7	65/15 66/13 67/4 74/1	74/9 91/21 96/21	did [121] 2/21 2/22
83/5	182/8 194/8 194/13	76/7 77/20 82/21	170/15 182/8 187/13	10/8 10/11 11/24
David's [1] 174/15	194/15 194/19 200/21	83/11 84/3 84/5 88/7	187/15 188/15 188/21	13/13 17/14 22/12
day [33] 9/18 12/23	201/18 208/11	89/2 89/7 90/16 91/22	189/20 190/20 191/22	29/25 29/25 34/15
13/12 14/4 15/14	decision-making [8]	96/10 96/21 96/24	192/2 192/6 197/1	36/7 40/17 42/22
53/23 54/2 74/21 79/2	6/13 166/7 194/8	97/10 97/15 97/18	198/24 199/5 211/18	45/24 47/23 52/1
108/15 129/2 129/8	194/13 194/15 194/19	100/19 105/25 106/9	Derry [1] 130/6	56/16 57/1 69/22
129/8 129/18 133/24	201/18 208/11	109/18 117/21 117/23	describe [15] 3/24	71/18 73/12 73/23
135/17 136/4 137/1	decisions [4] 27/25	118/12 125/6 125/7	5/13 5/22 26/22 59/4	76/9 77/19 82/19 86/6
137/12 137/12 145/15	46/18 193/13 206/21	128/9 131/5 131/10	68/1 71/20 79/11	87/2 89/2 89/11 89/21
145/16 150/13 153/4	deck [1] 88/2	131/21 131/22 132/8	86/10 126/8 172/13	90/5 92/14 93/9 99/20
153/5 153/18 154/20	declared [3] 6/3 6/21	133/23 134/20 136/24	172/15 180/24 182/21	109/19 111/3 116/9
155/4 156/19 156/19	53/21	141/6 142/18 143/20	199/12	117/18 122/23 123/13
181/17 183/9 207/8	declined [1] 10/2	157/19 162/13 164/5	described [10] 12/11	125/3 129/6 131/8
days [21] 16/25 73/1	deeper [1] 48/4	164/9 164/10 164/11	12/18 26/9 67/18 69/8	131/8 131/18 131/20
93/17 109/3 116/19	default [1] 3/25	164/24 172/24 173/5	74/3 104/25 194/13	131/24 137/19 138/21
122/3 134/13 135/4	defend [2] 54/10 55/6	173/7 174/16 175/4	198/17 205/24	139/12 142/5 144/2
135/5 136/3 136/5	deficiencies [1] 28/4	176/1 176/3 176/7	describes [3] 8/12	146/7 146/18 147/4
138/24 140/9 142/14	deficiency [1] 89/7	176/21 176/25 177/21	38/11 192/6	152/5 156/14 156/22
147/20 147/22 148/25	deficit [5] 44/4 45/22	178/10 178/10 178/18	describing [2] 126/6	156/23 159/9 159/9
150/3 155/25 157/2	61/18 61/23 61/24	179/7 192/10 192/15	197/4	159/19 160/4 162/7
168/21	definite [1] 181/19	196/20 196/21 197/3	deserve [1] 177/20	162/25 163/12 163/21
de [3] 12/6 68/1 68/4	definitely [3] 88/23	197/5 198/7 199/17	design [4] 8/18 20/22	165/18 166/11 168/12
de facto [1] 12/6	144/8 163/21	199/21 200/4 200/5	23/17 36/20	168/20 168/25 175/14
deal [18] 18/10 18/20	definition [3] 111/13	200/7 203/6 203/8	designated [4] 16/21	177/22 183/18 183/20
27/18 28/20 37/25	135/5 135/7	department's [2]	18/11 19/7 172/12	184/12 185/12 188/24
42/8 43/3 43/18 49/20	definitive [1] 142/12	141/16 143/10	designed [6] 7/25 8/2	189/5 189/6 191/6
65/4 73/11 79/25 89/1	degree [7] 17/21	departmental [13]	8/4 8/7 8/14 20/23	192/18 193/2 193/14
101/19 107/15 146/2	20/21 21/2 79/20 81/2	32/15 41/13 42/20	desire [3] 3/10 186/7	194/23 195/8 195/21
186/24 205/17	144/10 182/24	57/15 57/18 59/3	186/10	197/10 197/11 197/20
dealing [12] 39/1	delay [4] 57/13 61/16	60/19 69/16 96/13	desired [1] 11/17	198/3 198/17 198/21
50/8 99/25 100/4	64/16 90/3	173/16 188/7 196/23	despite [1] 38/15	200/10 202/17 202/21
100/14 100/17 101/12	delayed [2] 7/18	203/15	detail [9] 72/15 76/3	205/19 206/11 207/19
161/11 161/16 165/2	58/11	departments [55] 4/8	90/8 102/22 110/19	207/22 208/3 209/2
165/3 185/8	delays [1] 193/8	6/20 27/4 27/8 27/14	126/5 128/3 146/3	209/4 209/7 210/1
		28/13 28/20 29/7 30/8	188/23	210/25 211/2 211/3

D	78/14 174/25 176/24 178/4 179/5 215/11 directed [4] 31/13 154/5 155/10 202/10 directing [2] 44/20 45/23 direction [5] 31/6 97/7 158/15 158/18 158/24 directly [4] 30/23 81/4 128/22 184/21 director [13] 23/1 91/16 91/18 103/10 104/7 132/3 132/5 146/14 149/3 154/10 154/13 167/12 210/21 director general [1] 210/21 directorship [2] 104/19 148/12 disabilities [3] 167/6 216/18 216/21 disability [5] 212/20 213/20 214/4 214/18 215/11 Disability Action [3] 212/20 214/4 215/11 Disability Unit [1] 213/20 disabled [16] 32/18 66/14 66/25 67/3 165/21 165/23 166/1 166/6 168/22 213/16 213/21 214/6 214/10 214/24 216/8 216/21 disadvantage [1] 168/23 disadvantaged [4] 95/15 166/25 167/5 203/7 disagree [5] 65/7 88/11 89/18 102/11 202/9 disagreed [5] 3/1 3/3 88/15 89/11 89/15 disagreement [1] 155/7 disappointment [1] 129/5 discharge [11] 15/25 17/1 37/22 86/8 103/22 122/16 163/9 163/12 163/13 163/19 163/25 discharged [2] 16/22 17/7 discipline [1] 187/9 discrepancies [2] 127/16 128/15 discrete [2] 50/20 165/11 discussed [2] 82/17 191/21 discussing [3] 52/15	57/16 59/2 discussion [4] 58/5 133/4 139/7 149/8 discussions [5] 61/1 126/8 155/5 190/10 206/23 disease [14] 8/16 100/1 102/25 103/1 103/5 103/25 118/5 118/7 118/13 119/1 122/14 124/3 124/3 165/17 diseases [10] 95/7 103/8 103/12 103/15 103/18 103/23 104/6 104/24 106/14 110/5 disorder [1] 27/16 disparate [1] 215/14 disposal [1] 80/11 disproportionate [2] 180/18 206/1 disproportionately [1] 66/20 dispute [1] 35/11 disrespectful [1] 192/7 disseminate [1] 114/22 disseminated [1] 76/10 disseminating [1] 110/22 distance [2] 8/13 25/17 distilled [2] 67/8 112/20 distinct [1] 71/25 distinction [3] 13/17 26/24 90/14 distribution [1] 39/5 disturbed [1] 80/24 dive [1] 48/4 divert [1] 200/1 diverting [1] 113/15 divided [2] 23/3 104/20 division [2] 48/2 98/3 divisions [2] 104/20 148/14 do [106] 1/16 5/21 9/14 11/25 16/7 17/13 21/17 24/3 27/5 27/22 30/20 31/5 31/23 32/11 35/25 36/1 36/15 39/8 40/8 40/16 42/10 43/13 43/14 43/20 47/22 49/25 50/15 51/7 51/21 52/1 54/12 54/14 55/19 55/24 56/3 56/5 56/8 59/6 62/14 63/8 64/18 67/10 67/15 73/2 73/7 73/11 73/17 75/21 77/17 79/10 80/7	83/21 87/25 88/12 90/5 91/9 103/21 105/10 107/22 108/24 110/1 110/11 111/1 111/12 111/15 113/8 113/9 114/21 118/8 119/24 125/10 129/11 130/11 133/17 141/12 143/2 143/24 144/24 144/25 155/13 162/9 162/15 162/18 163/7 163/18 164/20 166/11 167/8 168/9 168/20 172/19 175/4 176/14 177/9 177/20 178/20 182/18 185/15 190/5 190/9 193/9 201/19 202/24 205/6 205/8 216/1 Dobbin [8] 38/7 62/5 62/17 66/1 94/11 115/23 163/8 169/7 Dobbin's [1] 42/14 doctor [4] 92/3 92/9 92/15 101/9 doctors [2] 105/9 135/1 document [47] 29/12 30/5 37/8 37/14 38/11 39/11 41/19 41/22 48/6 48/8 49/23 50/1 51/22 52/13 54/12 57/16 61/4 61/7 63/12 65/11 66/2 66/10 75/15 86/13 87/14 106/16 108/5 108/8 108/18 113/20 114/6 115/25 123/22 130/24 131/1 133/11 154/21 200/2 204/5 204/8 204/10 205/10 205/14 205/21 206/11 216/14 216/22 documentation [1] 97/24 documented [1] 189/15 documents [8] 37/5 97/25 126/25 128/20 130/20 131/13 147/5 217/8 does [26] 11/15 23/7 37/17 59/16 60/21 61/5 81/5 100/15 112/8 113/6 122/20 124/18 141/25 143/21 160/17 165/25 173/19 173/25 174/1 190/11 190/11 208/7 208/17 210/19 212/17 213/14 doesn't [8] 16/1 17/16 24/12 32/16 58/9 66/22 71/23 94/23	DoH [8] 82/19 84/4 84/5 84/9 84/10 84/12 84/16 87/22 doing [29] 5/23 22/17 28/11 30/25 31/3 44/2 44/24 44/24 69/18 73/13 80/20 85/24 87/1 87/11 88/20 90/12 102/7 112/7 112/25 118/2 125/12 144/21 148/8 148/21 152/1 168/6 179/20 184/24 201/5 DoJ [1] 192/9 domain [2] 129/1 136/13 domains [2] 99/15 99/19 don't [57] 5/19 8/17 9/11 17/6 23/11 27/20 30/21 31/25 33/3 40/15 49/22 50/2 51/3 59/7 68/14 74/21 83/22 83/24 84/14 86/10 87/22 88/8 88/11 88/12 89/8 90/8 102/16 104/18 108/8 111/20 119/23 121/3 123/13 126/5 131/23 132/16 133/5 149/4 160/19 161/17 162/19 164/21 165/3 166/11 167/9 169/6 185/3 185/18 187/18 190/7 190/19 191/16 194/25 209/13 211/12 215/18 216/3 done [32] 4/10 30/17 49/12 51/24 52/5 53/1 55/13 62/10 64/21 112/5 113/24 114/3 124/15 125/21 125/24 131/15 131/17 140/21 140/23 146/10 155/13 156/1 182/9 182/11 185/3 189/11 189/12 199/24 203/3 203/4 203/21 203/23 dots [2] 53/10 69/11 double [3] 153/10 154/6 155/11 doubt [6] 49/14 74/5 82/10 83/22 87/18 193/15 down [31] 1/15 10/19 39/18 46/10 46/17 46/20 48/11 52/13 53/12 54/12 55/11 57/20 66/7 69/13 69/19 77/23 78/11 78/23 78/23 87/1 90/1 94/9 96/25 98/10 99/6 138/5 140/18 148/6 168/11 199/23 204/22
----------	--	--	---	--

D	dying [3] 133/24 134/24 140/7	36/15 41/25 43/18 67/13 75/14 114/12 117/20 153/9 153/10 155/13 176/18 179/9 184/14 203/22	144/4	54/2 59/17 64/23 70/7 70/10 76/23 86/2 114/15 131/21 139/20 192/10
downsize [1] 9/12	DPH [2] 153/18 153/19	E	employed [1] 144/9	entirety [3] 2/24 37/22 43/2
DPO [2] 214/4 216/3	Dr [27] 91/1 91/2 91/15 94/7 94/13 97/20 108/9 115/17 115/24 127/7 140/18 151/22 154/7 169/10 169/13 169/22 170/1 170/11 177/5 181/25 207/13 209/9 209/16 212/19 217/13 218/9 218/14	each [11] 17/10 62/23 65/2 66/11 83/14 133/24 135/17 149/2 173/5 175/6 194/4	employment [1] 216/24	entitled [1] 213/20
Dr Brady [1] 181/25	Dr Joanne McClean [1] 91/1	earlier [32] 8/20 13/16 26/18 28/14 33/7 43/6 46/4 48/7 48/9 50/8 51/14 56/25 57/16 62/8 65/19 69/4 69/8 70/1 71/11 75/15 76/18 77/6 78/20 79/2 87/5 109/13 121/22 129/4 134/4 146/8 168/8 178/3	encountered [2] 9/15 22/5	environment [1] 95/9
Dr McClean [8] 91/15 94/13 97/20 108/9 115/17 115/24 127/7 154/7	Dr McCormick [2] 209/9 209/16	early [39] 2/15 3/12 22/18 32/4 32/24 43/24 45/9 55/10 59/11 62/25 69/22 70/16 77/3 92/12 93/17 93/22 94/2 107/10 109/3 117/2 117/19 122/3 123/3 140/22 140/23 144/22 147/20 147/21 155/21 157/24 159/17 161/8 165/8 165/18 166/10 166/13 168/21 189/4 197/12	encourage [2] 174/7 192/18	environmental [3] 151/24 152/1 152/2
Dr Pyper [5] 170/1 170/11 207/13 212/19 217/13	Dr van Woerden's [1] 151/22	elbow [1] 87/8	encouragement [1] 45/2	envisaged [2] 8/9 37/23
draft [1] 182/14	drafted [1] 116/22	elderly [1] 30/13	encouraging [3] 44/20 95/13 193/18	EOC [1] 109/12
drafting [2] 72/12 178/21	drastic [1] 46/18	electronic [4] 120/12 122/9 122/11 122/19	end [15] 12/4 26/4 47/22 52/7 54/21 55/10 62/6 94/1 125/11 160/21 171/25 182/2 198/17 200/10 213/13	epidemiological [3] 140/13 140/21 141/23
draw [6] 23/10 26/24 27/21 108/20 205/12 211/20	drawing [1] 27/10	element [2] 13/18 48/15	ended [1] 156/11	EQIA [2] 201/20 206/12
drawn [2] 70/12 104/25	drew [1] 211/9	elements [3] 24/23 67/8 174/21	endorsement [1] 196/22	Equalities [1] 214/17
drifted [1] 209/16	drifting [1] 187/24	eligible [2] 123/19 130/13	ends [1] 62/13	equality [3] 203/2 206/8 215/9
driver [2] 74/25 158/9	driving [2] 75/3 200/1	else [4] 13/22 40/16 116/14 212/17	endured [1] 133/9	Equality Commission [1] 206/8
drop [1] 181/9	due [2] 48/22 48/23	else's [1] 57/13	endures [1] 9/18	equipped [1] 101/12
dumping [1] 176/9	duplicating [1] 199/24	elsewhere [3] 147/24 199/25 203/23	enforcement [2] 71/22 74/3	equivalent [5] 29/18 31/21 69/4 72/20 105/5
duration [1] 145/18	during [27] 2/5 4/17 4/19 4/19 23/7 24/14 28/21 61/14 75/9 93/7 96/3 111/6 117/19 138/23 142/17 159/25 161/3 162/6 162/9 179/18 179/19 180/7 180/8 181/22 201/14 202/24 206/22	email [29] 10/21 14/17 29/14 30/7 44/14 46/11 46/20 46/25 47/11 74/17 75/25 88/1 100/12 127/7 133/2 133/25 137/18 138/2 151/3 151/8 151/10 151/22 152/14 152/16 152/21 153/12 153/14 153/15 155/8	engaged [3] 6/6 31/11 216/2	equivalentents [3] 9/1 156/17 157/5
duties [2] 97/8 206/9	duty [1] 134/11	emails [4] 127/9 130/19 132/21 154/21	engagement [14] 58/6 74/1 74/15 74/23 84/12 201/24 203/4 205/20 215/21 215/25 216/5 216/17 216/25 217/3	Erm [1] 190/6
		embedded [1] 215/5	engaging [1] 73/15	error [1] 18/16
		emerge [1] 213/8	England [10] 50/4 72/1 72/15 112/2 112/3 112/16 112/17 112/19 113/9 113/25	escalate [1] 97/17
		emergencies [2] 20/10 38/12	English [3] 71/19 72/17 113/10	escalated [2] 76/13 132/15
		emergency [13] 42/8 44/5 105/24 106/2 106/3 106/6 106/7 109/2 109/4 109/8 111/21 177/11 177/14	enhanced [2] 198/1 198/1	escalating [1] 28/15
		emerging [4] 35/17 112/9 112/10 195/21	enhancing [1] 216/23	especially [1] 210/3
		emphasis [2] 44/9 45/20	enormous [2] 77/3 85/23	essence [2] 71/18 84/9
		emphasised [1] 45/11	enough [10] 18/13 20/16 21/5 21/8 25/4 43/10 156/11 216/25 217/2 217/3	essential [1] 20/9
		employ [2] 40/10	ensure [17] 27/23 28/19 43/1 54/24 55/24 74/2 76/25 77/2 79/17 81/1 86/6 127/11 202/12 211/4 211/6 211/14 211/25	essentially [5] 55/18 86/25 104/10 112/19 112/23
			ensuring [4] 49/1 50/24 80/3 81/6	establish [1] 159/21
			enter [1] 38/13	established [7] 94/24 94/25 98/11 121/25 134/25 175/18 184/12
			entire [5] 48/1 73/4 74/11 121/17 196/23	establishing [2] 187/4 196/25
			entirely [18] 8/17 16/14 19/15 35/19 35/20 39/21 40/17	establishment [3] 96/16 98/6 175/21
				estimate [1] 40/7
				ethics [1] 210/21
				ethnicity [1] 167/6
				EU [8] 7/22 7/24 8/15 15/5 18/23 48/24 187/5 187/7
				EU exit [6] 7/22 7/24 8/15 15/5 18/23 187/5
				even [34] 7/8 9/16 19/10 19/11 20/22 21/2 22/6 25/10 28/16 35/12 39/2 39/12 40/8 41/6 42/5 43/6 68/10 69/4 73/1 73/11

E	165/20 166/6 168/17 178/23 185/1 192/9 198/4	8/15 15/5 18/23 48/24 187/5	154/11 173/17 176/14 177/25 183/4 193/14 201/12	fast [1] 125/1 fault [2] 18/18 57/13 fear [1] 88/14 feasible [1] 159/22 feature [1] 179/8 features [2] 71/24 72/25 featuring [1] 203/15 February [33] 1/18 8/22 10/17 10/18 13/7 32/23 37/3 37/24 39/11 40/13 40/14 41/13 42/10 42/22 43/16 44/8 44/10 45/21 46/12 46/25 47/5 50/17 57/11 58/25 59/2 59/5 59/11 59/19 61/5 61/13 62/14 91/10 119/5 February 2020 [8] 8/22 10/17 37/3 37/24 44/10 45/21 57/11 59/11 feed [2] 122/7 122/8 feedback [1] 141/2 feeding [1] 36/18 feel [2] 110/18 184/21 feeling [3] 140/3 145/20 190/13 fell [3] 9/13 34/7 117/20 felt [13] 86/3 88/16 90/10 154/18 189/6 189/10 189/11 189/13 193/4 193/5 198/8 200/20 211/24 few [12] 9/3 13/2 13/3 48/16 74/19 99/23 101/17 118/3 124/9 125/24 150/2 185/14 few weeks [1] 185/14 field [1] 158/5 fifth [1] 146/14 figure [1] 151/22 figures [5] 76/5 141/1 141/6 147/9 180/12 fill [2] 99/9 177/1 filled [3] 9/13 15/19 15/22 filling [3] 9/16 172/4 172/6 final [5] 2/5 20/5 62/19 75/24 216/7 finally [2] 41/12 163/24 finance [1] 184/20 financial [1] 204/23 find [8] 22/16 72/11 102/8 126/20 163/5 164/13 182/4 189/8
even... [14] 103/23 107/11 113/10 115/6 116/20 117/22 118/23 123/7 128/2 141/25 142/11 180/7 192/3 198/5 evening [4] 74/19 83/9 85/17 150/14 event [10] 21/11 24/4 44/10 47/7 49/9 56/21 102/20 111/22 145/8 213/9 events [2] 5/4 197/3 eventual [1] 157/3 eventualities [1] 20/10 eventually [3] 157/4 160/4 168/19 eventuated [1] 102/9 ever [6] 8/18 38/16 62/13 134/25 213/22 214/2 Everard [1] 213/9 every [10] 19/4 102/18 126/7 159/23 159/23 160/2 161/25 173/3 173/6 178/12 everyday [2] 213/1 215/2 everyone [2] 101/14 132/19 everything [6] 85/24 173/8 193/16 209/25 210/1 213/18 evidence [28] 1/11 2/21 2/22 3/2 7/17 13/25 22/9 22/12 64/1 65/4 70/7 76/12 82/6 88/3 89/2 89/12 94/15 98/1 98/25 115/16 123/23 138/10 140/10 142/18 145/3 151/15 163/11 216/2 exacerbated [1] 188/4 exact [6] 98/7 104/17 131/23 141/6 147/3 165/6 exactly [8] 59/20 77/21 90/8 131/21 147/12 156/4 159/13 180/13 examine [1] 102/21 examined [1] 85/1 example [33] 5/4 6/24 7/1 19/9 27/12 28/7 29/4 29/10 32/1 32/3 32/15 33/5 39/2 66/9 66/14 79/18 79/23 80/1 81/4 100/5 100/25 101/8 118/16 123/21 124/2 143/7	165/20 166/6 168/17 178/23 185/1 192/9 198/4 examples [4] 30/2 55/16 109/20 178/2 excellent [1] 142/5 except [1] 90/16 exceptionally [1] 177/22 excess [1] 59/23 exchange [2] 85/13 209/9 exchanged [1] 210/3 exclude [1] 103/13 executive [79] 2/3 7/8 11/21 14/5 19/11 24/10 24/24 24/25 28/16 30/21 31/4 31/22 42/6 74/11 74/13 76/5 78/12 79/20 80/10 80/13 80/13 81/3 81/24 97/14 135/13 146/14 167/19 167/23 171/9 172/9 172/15 173/12 174/16 175/2 175/4 176/8 177/3 178/22 179/16 179/21 180/24 182/9 183/10 186/24 187/5 187/6 187/8 187/14 187/14 187/16 187/19 188/13 188/23 191/20 191/22 192/5 192/17 193/25 194/13 195/15 195/21 196/15 196/19 196/21 196/23 198/13 198/25 199/8 200/8 200/12 201/3 202/16 205/18 211/5 213/2 213/22 215/3 215/5 216/15 Executive Office [3] 175/2 213/2 215/3 Executive's [6] 80/15 80/23 201/2 204/6 204/12 205/15 executives [1] 135/13 exercise [14] 31/2 32/6 36/21 38/16 53/1 86/4 95/14 117/19 144/20 175/3 177/15 178/14 183/11 197/18 exercises [3] 101/17 102/6 102/11 exercising [3] 6/9 86/5 102/5 exhibits [1] 210/2 exist [1] 126/1 existed [1] 124/25 existence [1] 182/15 existing [3] 35/16 36/6 167/11 exit [7] 7/22 7/24	154/11 173/17 176/14 177/25 183/4 193/14 201/12 expand [1] 150/24 expansion [1] 126/13 expect [8] 67/2 76/10 102/24 110/25 126/15 136/8 137/12 191/5 expectancy [1] 167/1 expectation [3] 20/20 45/2 110/20 expected [5] 10/14 58/14 76/13 116/21 156/21 experience [31] 17/19 18/4 20/1 20/2 23/22 25/22 31/10 31/19 36/16 38/22 69/19 76/18 76/21 94/16 98/18 99/4 99/24 100/3 100/4 100/14 100/17 101/9 105/16 122/20 133/1 173/25 175/10 179/6 179/13 179/19 206/21 experienced [10] 17/22 19/25 21/23 52/21 68/20 100/2 154/2 176/15 179/12 182/20 experiencing [1] 119/19 expert [4] 106/7 125/5 159/3 164/3 expertise [10] 28/6 29/25 35/16 35/21 35/23 35/24 36/8 36/16 105/15 112/6 experts [1] 196/15 expire [1] 181/3 explain [7] 134/4 141/24 142/3 168/19 168/19 205/15 207/13 explained [5] 10/1 71/11 142/24 168/4 174/20 explanation [6] 38/15 42/25 133/18 173/23 173/24 216/14 explicit [2] 206/1 216/17 explicitly [4] 58/12 58/15 211/13 216/12 explore [2] 154/14 183/14 expressed [3] 39/15 129/5 199/22 expressing [2] 35/4 68/10 expressly [1] 140/24 extant [1] 33/21 extensive [2] 201/24 216/4 extent [11] 12/14 32/11 87/10 112/13	154/11 173/17 176/14 177/25 183/4 193/14 201/12 extra [2] 44/9 86/24 extremely [9] 7/9 14/2 21/25 45/24 46/5 54/6 123/5 132/19 147/19 exuberance [2] 79/12 79/14 F face [1] 39/17 faced [7] 9/20 85/3 102/12 118/10 143/15 168/23 178/19 facilities [1] 59/23 facing [4] 183/5 204/10 205/10 205/13 fact [45] 8/14 9/6 9/21 10/5 13/10 13/18 14/13 18/20 18/22 54/25 56/15 62/12 76/6 89/1 89/18 92/6 92/22 93/7 93/11 97/1 111/3 118/10 123/5 125/22 131/2 131/8 131/17 140/25 142/9 143/23 151/18 154/5 159/6 178/4 179/9 179/15 182/16 188/5 195/16 196/22 197/21 200/20 204/3 210/11 211/11 facto [1] 12/6 factor [1] 179/15 factories [1] 168/17 factoring [1] 203/14 facts [1] 181/9 fair [20] 7/14 11/4 23/10 24/3 43/15 49/21 61/21 69/6 72/2 88/22 102/14 155/15 156/8 160/1 160/2 180/23 184/1 185/22 197/8 197/8 fairly [4] 46/18 84/5 96/17 215/22 fairness [3] 85/12 89/10 192/8 fall [3] 25/1 42/5 139/3 fallen [2] 19/11 176/3 falls [1] 29/17 familiar [3] 1/19 108/8 170/18 familiarisation [1] 181/15 familiarity [1] 20/6 families [2] 185/25 203/7 far [7] 2/25 14/12 76/9 79/7 81/1 194/23 212/6	

F	120/7 120/10 120/14 145/21	Forward: [1] 204/6 Forward: The [1] 204/6	3/3	123/15 124/14 125/2 128/2 136/17 166/14 178/20
finding [1] 9/6	flu-like [4] 118/20 119/19 119/21 120/10	found [7] 39/24 51/19 51/19 86/1 175/16 182/25 212/24	further [20] 18/25 20/8 28/16 33/3 42/5 62/10 66/7 68/23 71/5 77/9 78/23 86/13 90/11 99/3 148/6 156/3 179/15 190/23 207/17 212/15	GI [1] 161/24 give [27] 7/19 16/1 27/12 29/10 39/25 44/21 47/15 47/17 56/14 56/24 72/8 75/4 79/18 85/20 90/11 91/4 94/14 108/15 137/7 150/11 150/18 162/4 186/8 207/13 213/5 213/17 216/2
fine [3] 45/7 70/13 151/2	focus [24] 22/20 36/23 37/14 37/15 38/24 38/25 45/13 46/9 50/18 52/9 52/16 64/14 71/12 93/4 93/17 95/2 95/18 108/4 109/6 119/2 138/1 188/9 196/8 203/2	four [11] 15/19 15/22 15/24 22/12 35/9 36/7 104/20 115/9 145/14 183/9 192/25	future [10] 24/4 38/12 38/25 58/11 126/11 146/17 146/19 167/10 167/12 169/2	given [39] 15/22 21/5 21/8 21/13 31/19 31/19 32/19 38/18 42/10 43/21 45/21 49/13 51/16 55/20 58/2 66/22 69/19 71/24 72/23 73/6 77/15 116/18 157/19 158/24 166/1 169/10 175/3 177/10 178/3 182/15 182/16 186/2 192/9 192/13 203/2 205/7 205/10 210/10 213/13
finer [1] 74/2	focused [2] 32/23 108/1	four-day [1] 183/9 four-month [1] 192/25	future-looking [1] 38/25	
finish [4] 39/13 114/5 116/2 117/1	focusing [8] 7/20 45/18 46/9 117/2 125/20 137/24 187/25 194/1	fourth [1] 105/11 framework [3] 25/7 205/6 206/7	G	
firms [1] 22/13	folded [1] 38/21	frankly [1] 211/24 freed [1] 157/21	gain [2] 80/13 216/24	
first [72] 2/2 2/2 2/6 2/6 22/6 33/10 51/21 72/16 73/20 73/20 74/9 74/10 88/11 92/18 102/25 105/25 108/7 111/9 111/11 111/12 118/14 121/25 122/6 124/19 125/24 126/2 127/2 134/25 135/20 159/10 160/5 160/10 170/8 170/15 170/15 170/15 170/22 181/15 181/17 182/7 182/8 184/20 185/13 187/9 187/13 187/15 187/15 188/15 188/15 188/16 188/19 188/21 188/21 188/22 189/19 189/20 190/17 190/20 191/22 191/23 191/23 192/2 192/2 192/6 197/1 197/1 198/24 198/25 199/5 199/5 206/11 211/18	follow [5] 2/24 85/6 213/14 215/16 215/21	frequency [3] 143/11 161/4 195/7	game [1] 56/16	
First Minister [10] 2/2 2/6 73/20 74/9 170/15 184/20 188/15 189/20 190/17 197/1	follow-up [1] 215/16	frequent [5] 142/19 142/20 161/3 192/12 192/17	gap [6] 33/12 33/12 172/4 172/6 192/25 192/25	
firstly [1] 89/3	followed [4] 76/1 212/1 214/9 216/15	freed [1] 157/21	gaps [7] 28/4 33/11 53/10 62/17 65/3 66/6 177/1	
fit [1] 112/22	following [7] 25/7 25/11 36/20 58/4 98/21 101/16 213/15	frequency [3] 37/6 142/23 187/24	gastrointestinal [1] 161/24	
five [8] 8/23 13/5 35/5 134/13 142/14 167/1 198/23 206/16	follows [1] 171/5	fresh [1] 195/19	gather [1] 215/18	
five days [2] 134/13 142/14	foray [1] 183/17	Friday [10] 82/3 82/19 82/23 83/9 84/19 89/21 90/6 90/7 173/3 217/21	gathering [7] 32/9 38/1 51/9 53/2 53/9 69/9 77/4	
five months [1] 206/16	force [2] 68/2 68/4	Friedman [7] 169/7 169/12 212/17 212/18 215/19 217/12 218/18	gauntlet [1] 18/7	
five years [1] 167/1	fore [1] 96/2	front [5] 67/1 91/7 170/4 190/21 216/11	gave [9] 53/3 56/23 62/9 85/4 119/14 119/15 137/11 173/23 187/16	
fix [1] 167/16	foreseen [3] 110/17 114/7 117/2	frustrated [1] 191/1	gender [1] 167/6	
fixed [3] 131/3 131/3 155/2	forget [1] 145/13	frustration [9] 129/4 130/1 130/21 132/9 132/24 177/2 178/7 189/13 190/12	general [8] 30/17 50/19 119/16 133/1 134/12 145/20 177/23 210/21	
fizzling [1] 145/22	forgive [9] 12/10 24/18 31/14 44/13 59/17 77/21 81/4 140/22 146/21	frustrations [2] 131/12 190/3	generally [6] 21/19 26/8 29/5 116/25 165/22 185/24	
flagged [4] 85/7 189/3 212/25 215/1	form [2] 97/12 211/20	full [11] 9/1 10/9 12/15 12/22 15/3 15/5 16/1 35/12 35/13 72/14 91/4	generic [2] 17/20 92/25	
flagship [1] 217/1	formal [1] 206/12	full-time [1] 12/22	genesis [1] 196/25	
flexibility [1] 175/13	formed [4] 8/21 13/17 52/15 106/21	fully [8] 16/8 16/9 37/22 61/10 61/11 61/12 121/3 141/15	gestation [2] 38/19 41/11	
flexible [1] 8/5	former [1] 181/23	function [9] 29/5 95/23 96/2 104/13 110/2 110/9 114/21 140/14 141/23	get [36] 4/22 14/2 21/4 22/21 33/10 39/7 51/23 53/18 55/8 68/8 68/18 73/10 74/25 76/20 77/8 77/17 79/8 79/10 87/2 103/18 113/20 119/3 123/2 123/8 128/1 132/17 135/25 136/2 136/3 140/17 148/16 156/21 159/15 160/4 192/11 193/14	
flips [1] 6/10	formulating [1] 114/16	functioning [2] 26/8 56/1	getting [14] 17/4 17/10 22/6 68/20 75/22 86/3 107/14	
flow [2] 198/2 198/19	forthcoming [1] 22/14	functions [10] 94/23 96/1 96/23 97/23 98/19 98/23 105/20 117/17 117/18 144/19		
flu [21] 48/15 49/2 100/5 100/14 100/17 101/13 118/16 118/16 118/20 119/10 119/13 119/16 119/17 119/19 119/21 119/23 120/1	fortunate [1] 52/19	fundamental [1] 3/15 fundamentally [1]		

G	180/15 graduated [1] 92/8 grant [1] 176/13 grasp [1] 141/5 grassroot [1] 168/11 grateful [5] 18/7 21/25 164/14 169/3 217/13 great [6] 17/21 31/14 51/24 65/4 73/11 89/1 greater [7] 3/11 25/2 35/21 36/23 37/15 202/12 204/2 green [1] 62/20 grip [1] 3/11 grips [1] 35/1 ground [6] 3/6 61/15 146/25 149/5 153/18 176/9 group [21] 6/13 7/7 19/3 30/21 31/4 31/7 61/1 66/21 96/12 105/11 125/5 125/6 125/8 159/3 164/3 164/5 172/11 172/24 173/3 174/11 178/8 groups [15] 30/13 32/18 33/14 167/5 168/14 168/15 186/17 201/13 202/8 202/14 202/18 202/23 205/20 206/2 213/7 growth [1] 161/9 guess [1] 150/15 guidance [30] 4/7 107/20 107/24 107/24 108/2 110/15 110/23 111/4 111/6 111/10 111/17 112/4 112/22 112/23 113/4 113/11 113/21 113/22 114/1 114/2 139/12 145/15 157/18 159/11 165/20 178/23 194/21 195/10 210/14 211/8	82/1 109/20 113/6 131/8 131/24 187/23 happened [20] 86/19 98/14 101/22 113/6 113/7 116/18 126/7 128/23 139/4 139/11 139/19 145/9 148/9 155/6 156/4 162/8 186/2 187/23 197/21 210/4 happening [9] 7/13 79/16 87/18 127/17 173/6 189/9 190/20 191/16 195/9 happens [4] 49/7 66/10 119/20 137/18 Harbinson [15] 8/12 12/24 13/11 13/15 13/24 15/13 15/16 17/1 17/14 17/21 21/17 22/5 22/16 23/5 24/15 Harbinson's [1] 21/22 hard [12] 14/2 45/24 54/7 55/8 61/15 61/22 68/5 68/6 79/6 114/15 149/12 166/16 has [42] 4/18 5/7 5/10 7/16 9/25 13/24 25/6 25/10 27/23 28/24 46/16 48/24 78/3 88/4 94/23 95/23 96/19 100/20 113/6 119/14 129/9 132/15 134/8 136/22 141/24 144/10 144/15 152/5 155/6 156/8 156/9 161/21 165/13 165/15 169/7 173/21 173/24 200/3 204/25 205/4 210/4 216/11 hats [1] 176/18 have [389] haven't [6] 25/18 166/12 168/24 214/24 215/1 215/1 having [25] 15/4 18/7 25/22 53/23 56/11 68/19 68/19 79/6 103/11 116/22 128/20 128/21 130/18 130/19 137/4 139/18 140/8 140/9 140/10 155/23 174/6 200/11 209/14 214/22 215/9 he [55] 14/1 15/14 15/15 17/3 17/16 21/23 21/24 22/1 22/9 22/12 22/17 66/2 70/6 79/8 80/19 82/10 85/4 85/22 86/1 86/3 86/8 86/22 88/22 88/24 127/12 127/12 128/4	137/20 138/4 138/8 138/8 138/10 138/16 138/20 140/3 141/15 141/18 151/4 153/9 153/13 153/16 153/23 154/5 154/5 155/10 174/9 178/14 178/16 178/16 196/10 196/17 196/18 196/18 199/1 199/7 he's [7] 17/22 21/22 131/8 138/22 151/4 152/25 153/9 head [44] 34/17 44/15 48/7 87/1 139/3 139/4 171/12 171/18 171/23 171/24 172/4 172/6 172/12 172/13 172/23 173/7 173/10 173/15 173/20 174/2 174/5 174/13 174/24 175/1 175/12 176/19 176/23 177/14 177/25 181/11 182/3 182/17 182/20 183/6 183/11 184/1 184/2 187/3 187/13 188/17 188/25 189/12 202/10 208/21 headed [1] 57/23 heading [1] 48/13 heads [1] 191/15 health [219] Health's [1] 89/7 health-led [1] 107/9 health-related [2] 48/18 48/19 healthcare [4] 119/25 129/22 130/2 130/12 hear [5] 1/13 2/22 136/25 139/2 215/23 heard [9] 5/3 82/6 88/18 138/22 204/3 204/4 212/22 217/8 217/8 hearing [3] 44/11 216/12 217/20 Heat [1] 76/20 heavily [1] 19/24 heavy [1] 204/25 heeded [1] 79/7 held [3] 59/12 147/15 215/14 helm [1] 84/18 help [29] 22/14 47/22 59/8 75/18 77/19 78/5 84/3 90/21 97/3 104/14 107/17 113/20 114/22 126/22 127/1 128/6 132/2 133/12 146/18 148/23 151/15 152/3 153/19 158/20 162/15 164/21 169/13 176/16 217/14	helped [2] 93/16 109/9 helpful [11] 6/1 79/18 80/2 80/22 86/2 133/5 134/3 156/19 197/13 199/5 215/20 helping [3] 166/7 168/5 198/17 helps [1] 109/15 hence [2] 43/14 68/24 her [29] 11/3 11/4 11/25 24/22 25/1 25/1 25/2 25/3 34/13 35/15 35/19 36/14 36/15 38/7 38/8 40/7 64/24 69/11 83/16 83/21 86/25 89/11 169/9 178/1 199/17 199/18 199/21 200/1 200/20 here [15] 30/5 38/6 45/14 64/19 88/6 90/14 105/2 107/7 110/18 113/3 113/15 129/10 132/3 150/12 177/10 herself [2] 12/18 12/24 high [4] 19/3 34/25 162/11 162/12 highest [1] 161/13 highlight [2] 67/13 170/13 highlighted [2] 51/22 52/16 highly [2] 93/23 99/10 him [17] 17/2 17/13 18/5 18/7 21/25 22/9 22/10 46/4 54/3 85/7 86/3 138/21 139/18 140/11 197/13 197/14 199/7 himself [1] 79/8 hindsight [7] 18/12 51/17 86/9 115/9 126/11 205/11 215/8 his [26] 2/21 3/1 13/24 22/9 22/12 70/7 85/4 85/10 85/23 86/4 87/8 131/11 132/9 132/10 133/21 141/18 154/7 154/7 173/24 178/1 178/13 178/13 191/10 196/3 196/11 199/3 historic [1] 13/4 hit [1] 139/3 hitting [1] 155/25 hm [2] 98/15 124/12 hoc [1] 183/17 HOCS [2] 190/14 207/8 hog [1] 153/18
----------	---	--	--	---

H	133/19 134/5 134/22 134/23 134/23 150/7 152/10 154/24 154/24 156/22 159/22 167/11 167/16 169/6 174/3 175/13 178/13 179/1 188/18 190/5 193/2 196/1 205/15 205/18 207/1 216/7	I asked [4] 11/25 36/1 38/20 143/17 I be [1] 42/20 I believe [17] 15/15 54/13 78/24 78/25 109/19 109/19 157/23 186/11 186/12 195/8 198/2 198/21 198/21 199/4 201/18 210/9 212/13 I believed [1] 209/11 I both [1] 127/25 I call [2] 90/25 169/21 I came [2] 183/18 201/25 I can [29] 1/25 2/1 14/16 26/1 39/19 58/21 58/23 89/5 106/15 110/19 119/2 121/16 124/9 126/20 155/5 155/24 157/9 171/5 177/4 177/5 179/8 182/24 183/22 183/25 185/21 201/7 204/5 208/1 209/17 I can't [20] 16/13 30/2 96/17 130/17 131/11 132/25 139/16 141/18 141/20 147/3 147/12 149/18 159/13 160/18 163/14 163/15 165/25 180/11 180/13 208/5 I cannot [1] 212/11 I certainly [1] 43/11 I check [1] 110/17 I cleared [1] 209/8 I come [1] 62/24 I commenced [1] 92/15 I completed [1] 92/14 I confess [1] 76/16 I consciously [1] 209/13 I continued [1] 93/22 I could [12] 3/4 27/12 33/17 61/9 63/11 72/8 87/7 108/7 140/14 150/25 180/20 196/16 I couldn't [3] 188/20 195/1 203/24 I deleted [3] 210/8 212/11 212/13 I describe [1] 68/1 I described [1] 69/8 I did [24] 10/11 34/15 42/22 47/23 89/21 90/5 92/14 93/9 99/20 137/19 156/22 195/21 197/11 207/19 208/3 209/7 210/1 210/25 211/2 211/8 211/20 212/1 214/20 215/7	I didn't [7] 47/22 112/1 177/4 181/18 184/21 214/13 215/23 I do [9] 31/23 49/25 91/9 133/17 162/9 162/15 162/18 190/9 193/9 I don't [33] 8/17 9/11 23/11 30/21 33/3 59/7 68/14 74/21 83/22 86/10 87/22 90/8 102/16 104/18 108/8 121/3 123/13 126/5 131/23 132/16 133/5 149/4 160/19 161/17 165/3 166/11 167/9 169/6 185/3 185/18 209/13 211/12 216/3 I drew [1] 211/9 I entirely [3] 54/2 64/23 70/10 I envisaged [1] 37/23 I experienced [1] 176/15 I explicitly [1] 211/13 I faced [2] 85/3 178/19 I feel [1] 110/18 I felt [4] 90/10 193/4 193/5 211/24 I first [2] 170/15 188/22 I found [3] 51/19 175/16 182/25 I fundamentally [1] 3/3 I gave [1] 56/23 I give [1] 85/20 I graduated [1] 92/8 I had [18] 2/18 16/13 18/4 34/14 56/24 78/18 79/1 85/2 85/7 91/20 148/22 165/10 181/22 184/24 207/11 209/10 210/11 210/11 I hadn't [1] 126/7 I have [19] 16/18 23/16 41/16 61/16 77/9 86/15 91/18 97/24 98/25 108/10 108/12 113/7 115/8 128/12 131/13 142/17 151/19 151/21 192/16 I haven't [3] 25/18 166/12 168/24 I help [1] 59/8 I helped [1] 93/16 I honestly [1] 89/8 I hope [7] 80/1 81/5 113/15 165/24 166/12 168/24 174/20 I just [24] 3/14 7/20 16/7 17/6 20/8 29/10 48/4 52/9 54/20 57/10	67/16 75/6 96/8 102/23 107/2 108/19 108/22 116/2 121/11 127/1 137/23 163/11 215/21 215/24 I just am [1] 166/13 I knew [4] 181/24 184/16 184/17 184/18 I know [10] 94/9 94/14 101/5 131/20 137/2 142/16 156/15 159/13 191/1 193/11 I learned [1] 208/3 I led [1] 94/3 I left [1] 208/3 I made [2] 172/20 207/15 I may [18] 27/2 37/17 37/18 53/7 55/16 80/22 92/1 96/8 114/6 116/2 131/12 150/18 152/20 161/5 163/6 174/22 193/9 213/18 I mean [14] 25/1 31/25 32/4 101/10 102/9 105/7 119/4 145/7 166/19 168/4 181/25 190/5 191/1 191/9 I meant [4] 24/18 43/9 56/12 85/6 I met [1] 185/12 I might [2] 55/15 86/12 I missed [1] 79/13 I must [1] 62/22 I needed [1] 19/10 I neither [1] 88/15 I notice [1] 132/21 I only [1] 182/14 I perhaps [1] 79/18 I prepared [1] 93/18 I presume [1] 204/8 I probably [1] 200/13 I proposed [1] 198/23 I really [2] 119/3 132/16 I recall [2] 47/24 84/25 I received [1] 44/14 I recognise [2] 190/9 190/10 I recognised [1] 128/10 I refer [1] 90/8 I referred [2] 59/21 65/12 I reflected [1] 209/15 I regarded [2] 41/14 58/17 I regret [3] 74/21 86/9 210/8 I remember [4]
----------	---	--	--	---

I	89/6 91/21 94/2 94/12 109/14 128/1 128/13 130/24 148/22 157/13 159/2 181/19 181/22 184/22 185/3 190/1 202/23 210/14 212/2	139/20 139/25 140/12 140/20 144/17 144/18 144/18 146/14 146/21 148/15 150/12 152/13 156/3 156/24 157/9 163/6 163/7 163/14 163/22 165/11 165/17 169/3 174/21 186/23 195/5 203/5 203/8 203/17 206/12 208/13 212/3 212/4 213/12 213/17 214/11 214/13	80/20 80/22 82/4 82/8 84/11 84/15 84/17 84/25 85/19 85/19 86/5 86/12 87/7 87/13 88/18 88/19 89/1 89/19 89/25 92/1 94/9 94/18 94/21 94/21 96/8 101/18 102/11 103/18 103/25 104/4 107/20 108/5 108/6 108/8 108/18 111/15 112/7 114/1 114/6 114/25 115/13 116/2 116/12 116/13 116/16 118/15 119/2 120/13 122/22 124/9 126/18 126/18 127/4 130/24 132/1 132/6 133/1 133/10 133/11 133/16 140/14 140/19 143/7 150/25 151/9 152/20 152/20 153/8 153/14 161/7 162/1 163/4 163/6 163/18 164/13 164/21 165/4 166/22 167/22 170/5 170/9 170/13 171/5 174/21 178/15 178/22 179/8 180/20 183/22 183/25 185/21 186/8 189/18 190/7 192/1 193/5 193/5 193/9 197/19 201/7 201/9 201/9 204/5 204/15 207/5 208/12 209/2 209/17 209/20 210/17 213/18 215/3	32/19 66/20 205/4 impacts [6] 30/11 149/11 194/19 205/13 206/6 214/24 impatient [1] 200/15 impede [2] 45/8 70/18 imperfect [1] 138/8 impetus [1] 90/11 implement [4] 34/3 41/24 107/23 135/14 implemented [1] 181/2 implication [3] 35/7 187/22 197/20 implications [5] 175/25 183/16 186/21 202/22 205/12 implicit [1] 60/5 implies [1] 6/5 imply [2] 43/11 77/22 importance [6] 44/23 44/24 45/11 58/1 58/6 94/25 important [18] 5/19 38/5 45/13 70/15 81/20 89/24 90/13 110/3 110/12 110/14 119/21 134/18 141/5 146/24 157/8 159/15 196/10 217/1 imported [3] 147/23 148/3 150/1 impose [2] 58/3 175/13 impractical [1] 17/5 impression [8] 43/21 51/16 54/25 56/15 87/3 194/22 210/11 216/4 improve [6] 13/13 95/1 95/15 100/10 146/10 169/1 improved [1] 156/3 improvement [5] 93/2 95/12 95/16 104/23 168/5 inability [1] 175/12 inadequate [1] 102/12 inappropriate [1] 209/16 Incentive [1] 76/20 incident [1] 115/6 incidents [1] 113/7 include [2] 51/3 202/14 included [9] 2/7 27/16 32/17 142/9 164/6 164/6 164/7 172/22 205/9 includes [2] 105/19 122/16 including [10] 93/1																																																													
I remember... [4] 145/18 159/18 159/19 162/22	I required [1] 39/22	I respect [2] 35/19 36/12	I respectfully [1] 65/7	I returned [1] 208/2	I right [1] 119/6	I said [12] 17/5 28/14 41/11 43/8 56/12 62/7 134/6 138/21 146/8 164/4 168/8 215/7	I say [5] 13/4 32/22 87/5 139/20 182/14	I shall [2] 57/4 115/19	I should [3] 77/22 87/10 90/13	I spoke [1] 138/21	I started [1] 183/16	I stated [1] 207/18	I still [1] 47/18	I supported [1] 93/24	I suppose [5] 101/4 106/16 108/1 201/25 210/6	I suspect [3] 12/23 68/1 146/18	I take [2] 1/19 170/18	I talk [1] 209/18	I then [2] 92/17 93/20	I think [351]	I thought [3] 34/25 43/9 109/15	I tried [3] 17/1 176/11 187/10	I turn [1] 37/17	I understand [12] 31/23 44/13 125/22 137/14 141/18 169/4 170/10 172/7 182/9 206/10 216/19 216/19	I undertake [1] 126/18	I used [1] 46/6	I very [1] 74/5	I want [11] 49/20 54/24 58/21 138/1 138/9 150/20 152/20 157/8 195/11 206/19 212/20	I wanted [4] 76/25 77/1 77/8 111/2	I was [41] 2/24 11/5 16/21 24/23 34/22 37/13 42/14 44/19 45/4 49/13 55/7 56/14 68/14 68/16 68/24 71/5 76/20 79/17 80/24 86/5 87/9 89/5	262/23 210/14 212/2	I wasn't [15] 24/18 76/16 77/22 110/18 113/5 114/15 126/4 130/17 132/16 133/5 141/20 149/3 151/20 154/13 154/18	I will [3] 3/13 94/16 141/20	I won't [4] 70/6 108/19 143/12 147/6	I worry [1] 68/5	I would [41] 3/6 10/14 18/25 20/16 23/19 25/16 26/24 33/16 51/5 51/11 53/25 53/25 54/9 55/6 61/25 62/11 73/8 73/8 110/25 126/11 126/15 132/18 137/4 138/15 150/9 156/12 163/14 167/7 167/12 168/3 169/1 177/12 179/14 193/4 202/25 203/25 205/19 215/7 216/13 217/5 217/9	I wouldn't [9] 31/9 35/11 35/20 68/19 88/16 102/15 132/17 180/1 202/9	I'd [12] 37/6 39/19 160/19 163/21 163/21 164/13 181/14 184/17 184/18 184/20 185/2 209/9	I'll [18] 2/4 46/17 80/9 86/15 88/5 91/25 91/25 94/10 94/18 96/7 104/17 108/5 108/22 117/8 118/15 126/25 207/13 215/20	I'll have [1] 104/17	I'm [93] 3/7 4/12 4/21 4/21 10/10 17/17 18/7 19/3 21/25 22/17 30/5 31/9 31/14 45/4 45/23 53/17 54/24 61/9 62/12 64/11 64/11 64/23 65/23 69/25 74/4 78/18 79/6 80/20 89/23 90/8 92/9 96/25 97/1 98/7 98/14 105/2 105/23 106/7 106/15 110/18 113/15 114/5 114/16 114/16 114/22 115/5 115/8 115/17 116/24 118/1 123/2 125/19 126/4 131/21 131/25 136/17 138/15	139/20 139/25 140/12 140/20 144/17 144/18 144/18 146/14 146/21 148/15 150/12 152/13 156/3 156/24 157/9 163/6 163/7 163/14 163/22 165/11 165/17 169/3 174/21 186/23 195/5 203/5 203/8 203/17 206/12 208/13 212/3 212/4 213/12 213/17 214/11 214/13	I'm afraid [2] 90/8 214/13	I've [27] 4/24 19/15 22/3 38/4 43/21 49/13 51/16 83/22 86/21 92/9 104/25 109/20 113/12 134/7 136/19 140/22 141/23 142/2 146/1 147/5 152/11 154/13 156/15 168/4 174/20 195/5 212/15	iceberg [1] 123/18	idea [5] 5/19 108/16 150/11 150/18 198/24	ideal [1] 22/4	ideally [1] 146/10	identification [1] 69/14	identified [3] 27/15 65/3 151/7	identifies [1] 66/6	identify [6] 7/6 29/3 30/10 148/2 148/5 202/6	identifying [3] 53/13 70/13 121/8	if [199] 1/13 1/13 1/15 2/1 4/1 6/24 8/4 9/13 14/16 14/22 15/12 17/23 19/4 19/9 19/11 21/1 21/2 23/21 24/18 24/19 26/1 26/2 27/2 27/12 27/19 27/20 28/3 28/17 29/12 30/20 31/23 33/12 33/12 33/17 35/5 39/19 40/2 41/4 41/19 41/25 43/21 44/8 44/13 46/8 46/20 47/11 47/23 48/5 48/11 49/18 49/21 50/11 50/21 51/6 51/25 52/13 52/13 52/14 53/7 55/9 55/16 57/12 57/20 58/14 58/21 58/23 60/11 60/24 63/11 64/19 66/7 66/9 66/13 67/19 67/20 67/23 69/20 70/19 75/24 76/4 77/19 78/7 78/9 78/10 78/22 79/18 80/5	80/20 80/22 82/4 82/8 84/11 84/15 84/17 84/25 85/19 85/19 86/5 86/12 87/7 87/13 88/18 88/19 89/1 89/19 89/25 92/1 94/9 94/18 94/21 94/21 96/8 101/18 102/11 103/18 103/25 104/4 107/20 108/5 108/6 108/8 108/18 111/15 112/7 114/1 114/6 114/25 115/13 116/2 116/12 116/13 116/16 118/15 119/2 120/13 122/22 124/9 126/18 126/18 127/4 130/24 132/1 132/6 133/1 133/10 133/11 133/16 140/14 140/19 143/7 150/25 151/9 152/20 152/20 153/8 153/14 161/7 162/1 163/4 163/6 163/18 164/13 164/21 165/4 166/22 167/22 170/5 170/9 170/13 171/5 174/21 178/15 178/22 179/8 180/20 183/22 183/25 185/21 186/8 189/18 190/7 192/1 193/5 193/5 193/9 197/19 201/7 201/9 201/9 204/5 204/15 207/5 208/12 209/2 209/17 209/20 210/17 213/18 215/3	ignorant [1] 76/23	ill [2] 18/24 19/11	illness [2] 113/17 120/15	illustrate [4] 27/12 55/15 79/19 80/2	imagine [1] 205/3	imagined [1] 177/24	immediate [3] 38/1 42/24 43/6	immediately [2] 16/24 91/20	impact [41] 21/15 32/17 48/23 49/7 61/4 61/7 66/14 66/19 66/24 73/4 175/14 178/3 180/2 180/9 183/15 185/15 186/13 186/13 186/16 192/4 194/4 194/7 194/11 194/24 195/2 201/12 202/7 202/13 202/17 204/16 204/19 204/23 205/8 206/1 213/6 213/20 214/1 214/6 214/9 214/18 214/23	impacted [4] 3/10

I	132/23	47/17 53/1 62/4 62/22	INQ000411509 [2] 201/9 207/6	international [2] 111/21 112/13
including... [9] 100/5	inevitably [2] 188/4 188/8	71/7 93/15 159/19	INQ000421746 [1] 208/12	interpretation [1] 34/23
100/25 134/20 134/21	infected [1] 161/20	183/17 196/5	INQ000445513 [1] 127/4	interpreted [1] 42/15
134/21 143/10 145/25	infection [13] 93/19	145/19 148/13 158/23	INQ000468508 [1] 4/1	interpreting [1] 140/1
172/23 189/16	105/17 110/7 110/21	163/16 196/17 201/17		interrupt [2] 79/22 94/11
inclusive [1] 217/6	111/10 114/10 114/20	212/25	inquiry [31] 1/8 1/10	intersect [2] 5/25 165/19
incongruous [1] 41/7	118/15 118/22 129/24	initiate [1] 31/2	1/17 70/10 76/12	intervened [2] 80/18 82/7
incorrect [2] 131/12 161/6	162/4 162/19 164/7	initiated [1] 31/13	76/19 76/22 77/6	intervention [1] 79/17
increase [3] 11/19 12/8 129/3	infections [2] 94/4 110/6	initiative [3] 30/24 31/3 125/16	85/19 91/3 91/5	interventions [1] 30/9
increased [3] 156/6 161/4 204/25	infectious [15] 95/7 99/25 102/25 103/1	initiatives [4] 176/7 176/9 176/17 177/19	104/14 124/13 126/19	into [70] 6/10 10/3
increasing [1] 183/20	103/5 103/7 103/17	injury [1] 139/4	128/6 128/21 169/23	12/4 16/12 23/3 28/1
incredulity [2] 154/2 154/8	103/23 104/24 106/14	innermost [1] 51/6	170/2 170/8 173/23	28/9 32/24 38/14
incumbent [1] 202/5	110/5 111/13 111/15	innovative [2] 22/11 22/16	177/5 208/10 210/23	38/21 39/7 45/6 48/4
indeed [26] 8/3 9/18 25/20 38/8 44/20	118/7 122/14	input [6] 50/23 73/19	211/7 211/16 211/17	50/16 60/6 72/5 73/19
45/24 60/17 68/18	inference [2] 82/23 83/8	73/23 85/23 86/4	211/20 212/10 218/5	73/23 76/25 80/17
71/1 72/17 73/15	inferences [1] 27/11	197/22	218/11 218/16	86/4 95/19 99/16
83/24 84/15 99/24	influenza [16] 19/2 19/4 26/14 26/15	INQ000001196 [1] 140/15	inquiry's [1] 76/23	100/9 100/10 103/19
141/17 162/13 167/15	33/21 33/24 44/19	INQ000023220 [1] 58/23	insights [1] 202/21	104/20 106/5 113/20
177/12 177/23 184/5	54/5 54/15 55/1 55/3	INQ000023226 [1] 65/8	insignificant [1] 143/3	124/14 126/15 128/3
184/23 198/2 198/22	55/9 55/17 56/4 56/12	INQ000091309 [1] 14/16	inspections [1] 162/20	128/25 129/24 131/5
200/9 202/18 209/1	56/16	INQ000092712 [1] 48/5	instability [1] 146/16	131/9 131/20 131/22
independent [2] 177/6 210/23	influenza-based [1] 55/9	INQ000104467 [1] 204/7	instance [2] 78/4 191/23	132/24 135/11 140/17
INDEX [1] 217/22	inform [2] 104/6 166/7	INQ000205712 [1] 37/7	instances [2] 86/2 87/6	149/3 151/19 152/3
indicate [5] 58/9 61/5 70/3 188/24 189/6	informal [3] 206/22 207/12 210/7	INQ000309214 [1] 46/8	instead [1] 31/21	158/21 159/15 159/18
indicated [7] 33/7 69/2 82/8 85/2 153/3 171/11 191/11	information [77] 24/24 27/21 30/9 32/9	INQ000309230 [1] 29/12	integrity [1] 196/12	159/22 160/10 161/18
indicates [1] 83/17	69/21 75/22 76/24	INQ000325137 [2] 67/24 78/8	intend [2] 41/5 43/11	162/6 163/3 167/3
indicating [3] 11/2 90/2 189/22	77/5 107/12 109/5	INQ000325143 [2] 63/11 81/16	intended [15] 11/15	170/3 181/10 181/12
indication [5] 46/13 59/10 60/3 60/5 190/24	110/20 112/9 112/12	INQ000325424 [1] 108/7	15/25 16/4 19/21	183/17 184/25 187/7
indications [1] 75/20	112/20 114/8 114/17	INQ000353669 [1] 151/1	38/16 39/10 97/4	193/10 201/8 202/21
individual [13] 6/19 14/17 27/4 29/6 34/25 63/1 66/11 104/5 105/20 141/14 173/18 203/5 203/15	116/5 118/12 118/19	INQ000353671 [1] 152/22	107/3 108/17 108/24	204/20 204/22 206/5
individually [2] 27/8 27/20	119/6 119/10 119/15	INQ000378038 [1] 209/18	109/25 116/1 204/9	212/22 213/13 214/25
individuals [8] 36/7 79/24 84/14 141/4 141/19 154/16 156/17 186/21	122/9 122/24 123/16	INQ000389810 [1] 132/1	204/12 205/14	215/2 216/7
induction [1] 181/12	124/4 124/5 124/6	INQ000389819 [1] 133/11	intense [3] 73/25 74/22 195/2	intrinsically [1] 17/18
indulge [1] 80/5	127/19 128/8 129/17	INQ000391222 [1] 57/12	intensity [1] 15/7	introducing [1] 160/22
inequalities [16] 95/3 96/5 96/7 165/14 165/15 166/21 167/4 167/7 167/11 167/14 167/20 168/1 201/7 205/7 205/25 206/6	131/7 133/22 134/9	INQ000391436 [1] 189/18	intensive [3] 73/1 148/8 148/24	introduction [2] 181/12 200/12
inequality [1] 167/5	134/10 135/10 136/12	INQ000409662 [1] 210/18	intensiveness [1] 149/2	intrusion [1] 10/3
inevitable [2] 42/16	137/5 137/8 137/10	INQ000409665 [1] 75/24	intention [11] 8/25 13/3 13/4 13/4 15/9 22/18 40/25 41/2 58/14 86/11 211/14	intrusive [1] 9/23
	137/10 137/11 138/17	INQ000411508 [2] 26/2 49/19	13/3 13/4 13/4 15/9	invariably [1] 178/24
	141/12 141/17 142/10		22/18 40/25 41/2	investigation [1] 109/24
	142/23 143/10 143/16		58/14 86/11 211/14	involved [26] 7/5 19/24 25/18 34/19 35/9 77/4 79/8 79/11 113/17 114/16 125/9 125/17 128/13 128/13 128/22 137/17 148/22 149/5 150/7 152/12 154/17 156/16 157/10 157/13 159/2 168/5
	144/5 145/15 150/23		134/8	involvement [4] 79/23 80/1 80/3 101/11
	151/16 183/3 189/14		interested [1] 78/22	involves [3] 68/5 70/25 122/10
	191/5 191/12 192/12		interfering [1] 77/16	involving [1] 52/20
	196/5 196/13 197/7		interim [7] 171/12	
	197/16 197/23 197/24		171/18 171/23 181/11	
	198/2 198/19 202/5		187/3 188/17 207/8	
	202/6 203/9 203/11			
	203/12 203/13 210/5			
	211/4 211/10 215/10 215/14			
	informed [3] 25/21 34/15 34/20			
	infrastructure [4] 28/8 39/4 60/22 185/1			
	initial [11] 46/1 46/2			

I	193/17 193/22 193/23 193/24 194/2 194/2 195/11 196/7 199/2 204/20 211/12 it [582] it's [145] 4/17 5/13 5/14 7/3 7/21 9/25 11/3 11/18 13/21 17/18 19/1 22/18 24/8 25/17 25/17 26/4 26/4 27/7 28/2 29/3 29/12 29/18 30/9 31/1 31/10 31/10 31/12 32/2 33/18 34/22 35/6 38/18 41/21 45/13 46/9 46/23 48/8 48/12 50/12 50/23 57/14 57/23 59/6 59/24 59/25 62/25 63/11 65/8 65/13 67/13 68/1 69/6 72/10 78/10 81/4 81/16 81/22 82/2 83/7 88/2 88/22 89/20 91/15 92/19 92/22 94/8 94/20 94/22 96/1 96/9 96/9 99/2 100/12 102/14 106/6 106/6 106/22 108/7 114/15 114/18 115/18 117/13 118/9 119/21 120/4 120/20 120/20 120/21 121/12 122/7 123/2 123/5 123/23 126/18 127/8 128/2 130/25 132/1 132/2 132/12 132/23 134/3 135/8 135/9 138/4 138/8 138/9 138/20 140/15 140/19 143/24 146/3 146/25 151/10 151/11 152/13 152/24 153/1 155/7 155/7 156/8 157/8 157/17 158/22 161/8 165/13 166/3 166/3 169/1 180/23 190/7 194/7 197/8 198/5 198/10 201/16 201/16 204/5 204/7 207/6 209/20 210/3 214/14 215/7 216/6 its [51] 2/24 3/21 3/25 4/16 4/17 4/18 6/5 6/10 6/10 6/11 6/16 12/15 14/10 15/7 15/25 16/11 17/24 18/13 27/22 28/1 29/21 31/2 31/19 31/20 35/12 35/13 38/15 38/19 38/24 38/25 57/14 74/12 84/5 84/6 97/8 97/22 97/22 97/23 98/19 98/23 102/25 103/4 108/24 118/10 148/19	149/11 155/11 165/14 166/9 213/1 213/21 itself [9] 7/1 14/10 28/6 31/5 42/12 56/17 87/19 125/23 195/15	J January [23] 11/12 44/15 49/16 50/2 50/5 50/16 51/13 51/20 52/3 55/10 75/9 96/19 102/13 104/16 104/20 106/19 107/10 119/4 124/11 124/13 170/8 179/16 208/4 January 2020 [6] 49/16 52/3 75/9 104/16 104/20 179/16 January through [1] 11/12 Jayne [1] 171/19 Jayne Brady [1] 171/19 Jenny [3] 169/21 169/22 218/14 Jenny Pyper [1] 169/21 Jill [5] 208/18 208/19 208/20 209/15 210/6 Jill Minne [2] 208/19 208/20 Jill's [1] 209/22 Joanne [4] 91/1 91/2 91/6 218/9 Joanne McClean [1] 91/6 job [4] 9/25 142/5 148/8 213/13 jogged [1] 59/20 jogging [1] 87/8 join [4] 38/20 53/10 70/25 211/17 joined [7] 2/10 20/4 35/23 52/24 53/19 171/6 172/16 joining [8] 27/5 27/10 27/25 28/21 69/10 198/24 207/21 211/16 joint [4] 109/17 191/6 191/7 191/15 jointly [2] 108/21 162/16 judgement [6] 45/7 51/20 68/14 70/8 70/13 70/16 July [2] 143/4 214/10 July 2020 [2] 143/4 214/10 jump [1] 179/8 jumping [2] 79/7 86/14 June [8] 75/25 91/23 160/21 179/22 182/2 210/19 212/14 213/25	June 2020 [1] 213/25 June 2021 [2] 91/23 179/22 junior [3] 92/15 101/1 101/9 just [165] 1/16 2/1 3/14 4/1 4/21 5/22 6/1 7/20 9/6 14/22 15/1 16/7 17/3 17/6 20/8 29/10 29/15 30/5 34/8 37/13 38/4 38/21 40/13 43/8 43/10 44/24 46/20 48/4 48/19 50/11 52/9 52/13 53/17 54/20 57/10 57/12 57/14 58/25 59/3 59/4 60/24 60/24 61/21 63/11 63/15 66/9 67/4 67/10 67/16 75/6 75/24 76/14 76/23 78/6 78/7 78/14 78/16 78/23 79/22 81/19 86/15 86/19 88/1 89/22 89/22 91/25 91/25 95/25 96/8 96/23 96/25 97/1 97/3 100/7 101/8 102/23 105/4 107/2 108/19 108/22 114/5 116/2 116/22 116/24 116/25 117/1 117/14 118/1 119/2 119/20 121/6 121/11 121/16 123/2 124/10 125/19 125/20 125/23 127/1 128/23 128/24 132/2 132/4 132/11 133/12 136/21 137/2 137/17 137/23 137/24 139/4 140/1 145/15 147/1 147/14 148/15 151/9 152/20 152/25 153/11 153/16 154/7 155/17 156/13 158/20 161/7 163/7 163/11 166/13 167/13 167/20 167/21 167/25 170/6 170/9 171/5 171/10 171/22 178/5 179/1 179/8 180/20 183/22 183/25 186/19 188/10 194/24 198/10 198/19 199/10 203/17 204/5 209/17 209/25 210/17 212/4 213/5 214/15 215/21 215/24 216/7 216/13 216/24 217/2 217/3 Justice [1] 74/1	35/21 62/8 Karen's [1] 68/4 Katharine [1] 30/4 Katharine Hammond's [1] 30/4 KC [4] 81/11 212/18 218/7 218/18 keen [2] 79/8 79/10 keep [8] 1/12 55/19 79/6 145/8 155/21 170/3 170/5 186/11 keeping [1] 86/25 kept [2] 149/6 149/10 key [16] 6/13 9/18 26/7 26/7 27/6 44/22 58/7 66/18 67/8 151/13 173/9 190/18 199/8 201/17 205/23 206/21 kick [2] 39/18 90/7 kickstart [2] 89/21 90/6 kind [8] 3/14 5/22 7/12 8/6 17/25 111/4 173/19 175/13 kindly [1] 11/24 Kingdom [5] 49/1 49/6 50/4 75/7 164/18 knees [3] 14/10 46/7 52/8 knew [5] 181/24 184/16 184/17 184/18 186/9 know [57] 23/11 30/22 39/16 79/10 80/7 81/22 82/6 84/14 85/18 89/8 94/9 94/14 101/5 108/8 111/12 111/14 114/15 115/10 119/20 122/20 130/12 131/20 133/5 134/20 137/2 139/3 140/12 142/16 145/17 146/24 148/16 149/4 149/9 150/22 156/15 159/13 163/18 166/22 169/6 177/4 180/1 180/17 181/18 184/6 186/6 188/10 190/19 191/1 191/16 193/11 193/17 194/18 194/25 199/7 210/10 213/22 216/1 knowing [4] 23/11 110/5 190/21 210/4 knowledge [12] 29/7 91/13 123/24 124/5 134/7 145/14 152/6 152/18 163/3 166/10 197/2 212/21 known [8] 2/16 3/19 9/22 38/13 76/19 149/22 181/4 183/6
----------	--	---	---	--	--

L	leads [1] 61/2	11/16 12/13 12/20	linkage [1] 122/11	107/12 107/13 110/19
laboratories [7]	leak [2] 193/19 195/4	16/2 20/16 21/9 66/3	linking [1] 142/9	112/9 112/12 125/3
118/18 122/1 122/2	leaked [2] 195/5	66/4 67/21 73/25 74/8	links [1] 123/15	128/14 139/7 145/25
123/15 123/16 128/18	195/6	78/1 84/8 101/1 101/4	list [1] 213/17	146/10 166/11
144/6	leaking [3] 192/17	101/7 101/15 102/5	literally [2] 11/2	lots [14] 88/13 88/13
laboratory [4] 120/20	192/23 192/24	102/5 106/9 106/25	37/19	107/19 107/22 111/5
122/23 129/11 129/13	leaks [2] 193/2	107/2 112/15 114/3	little [19] 3/5 20/8	125/16 134/16 143/25
labour [1] 149/1	193/15	117/22 117/24 132/16	29/16 37/19 43/16	144/7 149/1 162/10
lack [10] 21/20 32/13	learn [1] 205/19	143/22 149/4 149/23	48/4 59/6 75/17 85/20	166/14 167/6 168/18
33/6 54/21 82/20	learned [8] 27/6	155/18 167/17 168/12	87/8 94/16 97/2	low [7] 10/13 98/10
83/14 84/2 84/16	36/19 38/22 44/23	180/5 180/16 190/12	102/22 113/1 135/24	122/4 147/8 160/24
84/17 145/14	102/7 156/18 208/3	132/19 168/10 205/1	166/16 176/8 197/2	190/18 203/7
lacked [1] 35/16	214/22	liaise [3] 7/10 30/3	200/11	lower [2] 10/14 11/17
Lady [17] 1/4 1/9	learning [9] 18/5	113/9	lives [1] 10/4	lunch [2] 115/13
12/14 57/2 57/9 79/14	21/24 77/25 101/14	liaised [1] 152/11	living [2] 193/6	116/23
80/5 81/10 86/12	101/24 126/11 126/16	112/14	194/12	luxury [1] 212/22
90/18 90/22 90/25	162/8 167/9	liaising [2] 4/6 4/8	Liz [1] 154/1	
169/21 177/12 212/15	learnings [1] 201/17	liaison [2] 75/18	loaned [1] 152/3	M
215/16 217/11	learnt [1] 41/24	112/14	local [2] 80/14 102/5	mad [2] 79/7 79/10
Lady's [1] 78/7	least [8] 13/14 18/3	lies [2] 142/1 142/2	locally [2] 114/2	made [48] 7/17 41/18
lag [1] 142/13	23/15 23/25 158/23	life [2] 72/25 167/1	149/20	45/9 49/25 61/24 67/2
laid [1] 40/6	213/8 214/23 215/5	lifting [5] 189/1	located [2] 11/7	70/6 70/8 70/12 70/13
landscape [1] 58/3	leave [2] 79/24 174/1	197/17 200/16 201/2	208/5	70/17 71/16 71/20
language [2] 137/24	leaves [1] 174/5	202/18	lockdown [7] 16/12	72/5 72/20 72/23
138/1	led [11] 40/6 44/9	light [3] 3/5 60/2	55/12 72/5 72/6 72/7	73/10 73/24 74/14
laptop [1] 207/10	94/3 107/9 136/18	86/12	180/8 186/13	74/16 74/20 74/24
large [4] 56/9 111/24	159/3 188/25 190/14	like [48] 8/4 16/1	locum [1] 100/8	75/1 77/24 80/19 86/7
113/3 154/19	196/6 208/15 210/10	16/11 18/16 20/11	London [3] 77/14	100/20 106/11 116/20
largely [1] 74/16	left [10] 63/19 64/15	29/22 31/2 37/6 39/19	213/10 213/19	130/22 141/10 150/21
larger [1] 29/20	82/12 87/19 190/21	49/8 51/6 55/9 66/23	long [11] 10/16 38/17	156/2 164/12 172/20
largest [1] 22/12	190/21 190/25 204/24	67/20 70/9 82/5 82/8	38/18 41/11 74/18	182/8 182/12 188/15
last [4] 50/12 184/9	208/3 213/1	84/17 86/5 88/19 94/7	98/10 148/25 154/24	193/13 195/2 203/13
192/19 214/15	left-hand [4] 63/19	95/10 99/11 99/20	154/24 169/24 193/2	203/19 204/2 206/22
lasted [1] 182/1	64/15 82/12 87/19	101/8 103/13 103/14	longer [3] 56/1 109/2	207/15 213/21 215/1
late [20] 19/20 22/25	legislation [11] 6/7	106/14 111/23 112/14	149/7	217/5
25/8 40/12 40/14 45/8	24/8 70/1 71/7 71/12	118/15 118/20 119/19	look [24] 23/21 33/10	main [6] 9/10 95/1
50/16 53/23 54/1	72/10 72/13 72/24	119/21 120/1 120/10	53/17 66/14 66/22	95/4 111/9 135/1
55/13 56/15 70/18	179/20 197/9 198/6	122/22 123/12 135/9	94/22 102/8 104/17	148/3
132/22 155/20 186/6	legislative [4] 178/21	135/20 137/9 143/2	108/18 110/24 111/23	mainly [5] 93/18
191/17 191/20 192/1	179/6 179/13 179/17	145/21 147/22 166/20	114/11 117/18 118/1	97/25 99/7 106/13
192/9 195/17	length [7] 23/13	166/20 178/14 196/25	126/18 133/10 143/7	150/18
later [8] 15/14 108/15	49/21 60/8 60/10	liked [1] 146/10	151/19 158/7 172/25	maintain [7] 21/11
131/24 153/1 166/17	96/10 137/23 186/12	likelihood [2] 42/11	189/1 189/7 196/7	56/5 56/8 99/12
168/21 175/17 192/3	lengthy [2] 133/18	211/15	215/10	109/23 186/14 198/12
law [3] 80/19 104/6	180/24	likely [12] 7/4 18/23	looked [13] 25/14	maintained [1] 81/1
134/12	less [9] 18/23 19/1	24/8 24/9 28/25 31/12	27/17 81/17 87/24	maintaining [2]
lay [4] 56/22 81/6	31/7 51/17 69/7 80/22	44/12 46/23 56/20	116/22 128/20 130/19	80/23 185/24
180/14 211/25	148/17 161/3 187/24	59/18 65/8 151/13	134/17 137/4 139/18	major [4] 42/9 42/12
layer [1] 106/10	lesser [1] 176/14	limbs [1] 207/21	155/23 167/8 186/7	44/12 68/7
layers [2] 142/8	lessons [7] 27/6	limitations [1] 174/12	looking [19] 28/19	make [31] 55/7 56/11
199/25	27/10 36/19 38/21	limited [15] 21/7 52/2	38/25 55/18 59/3	61/18 61/22 70/4
lead [14] 24/10 91/3	41/23 44/22 214/22	54/15 55/14 56/13	66/15 72/3 105/2	86/15 88/17 90/13
95/12 95/23 98/5	let [5] 33/2 33/2	116/11 120/2 120/16	115/9 115/25 116/3	97/7 108/2 108/23
106/12 109/2 109/8	43/22 67/23 121/6	122/4 123/6 123/19	119/24 135/22 147/14	129/23 129/24 130/11
111/19 117/3 117/5	let's [6] 32/15 33/10	129/21 130/4 147/1	161/8 173/4 173/6	132/18 133/3 158/10
209/3 209/4 218/11	39/17 53/18 64/14	147/19	190/18 200/23 200/24	162/25 168/13 168/20
leadership [10]	65/8	limiting [1] 79/8	looks [1] 120/10	179/1 181/22 181/23
11/23 16/22 16/24	letter [12] 76/1 158/2	line [8] 10/22 15/1	lose [1] 197/6	190/14 198/12 199/3
17/17 17/21 22/1	158/5 162/16 162/18	26/5 52/18 80/15	loss [6] 99/4 136/11	200/25 202/23 203/21
23/20 24/20 84/10	162/22 163/2 163/5	80/17 97/10 148/10	137/14 194/18 205/17	204/2 217/6
146/16	210/20 210/24 211/3	lines [3] 30/1 50/12	210/5	makes [3] 76/17
leading [4] 172/15	212/7	63/25	lost [2] 61/15 179/11	141/19 165/24
199/19 199/21 216/25	level [41] 9/4 9/22	link [3] 122/1 122/8	lot [16] 3/15 3/16	making [14] 6/13
	10/3 11/13 11/14	122/24	99/16 102/1 107/12	127/12 157/21 163/24

M	206/16 216/10	me [49] 12/10 12/25 16/20 17/2 21/18 24/18 31/14 34/22 43/22 44/13 58/17 59/17 66/7 67/19 67/23 77/21 78/14 79/3 80/5 81/4 85/19 88/25 89/22 94/7 100/25 111/17 114/15 121/6 140/22 146/21 153/19 158/20 169/11 177/12 178/14 181/17 182/12 184/25 187/16 188/16 188/21 189/3 189/25 190/14 191/11 192/14 201/17 206/25 216/11	189/21 190/1 190/5 190/10 191/25 192/5 197/13 198/16 meetings [26] 31/18 61/1 97/13 141/4 141/19 181/15 183/18 183/21 187/5 187/6 187/8 187/11 187/12 187/15 187/19 187/22 187/23 189/16 193/5 193/7 194/12 195/3 195/7 198/3 199/1 199/6 meets [1] 31/15 member [6] 9/25 13/9 15/18 84/12 87/12 159/23 members [8] 8/23 10/19 13/1 18/24 35/6 46/17 47/12 60/19 memo [1] 211/21 memory [8] 59/20 66/7 67/19 81/22 150/12 160/7 190/7 195/6 meningococcal [1] 124/3 mental [2] 186/18 204/19 mention [1] 10/5 mentioned [11] 8/20 120/24 123/22 123/23 147/9 154/22 188/21 199/9 216/9 216/12 216/22 message [13] 14/8 67/24 78/8 78/23 78/25 80/23 82/13 86/13 88/12 155/1 167/24 209/3 209/21 messages [22] 63/13 63/20 63/21 81/16 81/20 82/12 83/8 85/1 85/14 85/17 206/25 207/12 208/23 209/5 209/7 209/14 209/19 209/23 210/20 212/8 212/9 212/12 messaging [1] 86/17 met [5] 170/15 172/25 173/3 185/12 188/22 method [2] 121/8 142/11 Michael [8] 64/4 64/6 84/11 85/10 85/22 86/7 86/22 87/6 Michael McBride [1] 84/11 microphone [1] 170/4 Microsoft [1] 135/9 mid [4] 54/6 93/22 182/1 182/2	mid-April [1] 93/22 mid-June [1] 182/2 mid-March [1] 54/6 middle [5] 63/17 115/16 124/14 147/2 156/22 might [55] 3/10 5/24 6/1 7/5 7/9 8/6 11/18 12/25 13/22 27/15 31/3 32/1 32/18 32/25 33/14 42/15 46/14 55/15 61/20 67/2 71/25 75/17 75/21 76/24 79/19 79/24 85/21 86/12 113/1 113/17 113/19 120/8 127/1 130/7 136/4 136/20 138/13 143/1 150/14 151/9 165/21 166/1 173/12 174/4 177/24 180/14 183/7 183/10 195/20 196/11 197/17 197/20 200/1 211/6 211/12 migrant [2] 168/15 168/18 mildly [1] 80/22 millstone [1] 131/4 mind [8] 7/25 8/2 8/15 39/13 70/24 86/18 89/22 193/15 minds [1] 176/2 mine [1] 30/4 minister [63] 2/2 2/3 2/6 2/7 73/20 73/20 73/21 73/23 74/5 74/9 74/9 74/10 74/10 127/8 127/10 127/17 127/25 128/9 131/1 131/6 131/11 134/21 141/5 170/15 170/16 182/8 182/25 184/20 184/20 185/2 187/16 188/15 188/15 188/22 189/20 189/20 190/17 191/2 191/9 191/19 191/23 192/2 192/6 195/24 195/24 196/2 197/1 197/1 197/12 198/2 198/22 198/24 198/25 199/6 199/9 199/10 199/13 200/3 200/5 200/14 200/15 201/4 211/18 Minister Swann [1] 127/8 minister's [3] 97/11 141/15 190/21 ministerial [5] 3/10 24/25 47/24 73/25 74/8 ministers [45] 6/8 42/23 73/18 74/16 74/23 76/14 76/16
making... [10] 166/7 179/19 194/8 194/13 194/15 194/19 200/21 201/18 206/17 208/11 mammoth [1] 102/12 man [1] 20/20 manage [6] 21/4 68/6 111/10 153/4 162/5 177/17 managed [5] 84/15 115/6 175/20 175/23 176/14 management [9] 24/5 76/6 110/16 111/17 113/16 113/16 117/5 173/1 175/8 managers [1] 105/18 mandatory [1] 198/11 manifested [1] 7/1 manner [1] 58/18 many [25] 9/21 12/12 12/18 12/21 31/14 100/3 100/16 110/6 119/18 119/24 122/2 122/25 134/23 134/23 138/22 150/7 150/16 154/20 155/25 156/22 166/20 168/6 176/2 180/14 204/25 March [85] 10/22 11/5 13/10 14/4 14/8 14/13 14/20 14/25 15/9 15/12 15/13 15/15 15/23 16/6 16/12 16/15 19/20 22/25 29/15 32/24 33/22 36/3 36/11 42/23 43/5 45/25 47/23 50/17 51/14 52/4 52/10 52/25 53/19 53/21 54/6 55/10 61/23 61/25 63/15 64/19 65/1 65/18 65/19 66/5 66/22 67/17 67/25 68/10 69/2 69/3 71/16 72/5 72/6 75/9 75/16 78/9 78/10 78/11 78/17 81/21 88/21 108/13 109/10 116/23 117/2 119/5 123/6 123/8 124/14 128/24 132/13 147/2 147/10 148/16 149/7 149/19 153/25 161/11 170/18 193/16 193/20 204/9 206/16 207/16 216/10 March 2020 [7] 11/5 14/20 22/25 33/22 43/5 51/14 75/9 March 2021 [2]	March/May [1] 153/25 mark [1] 213/1 material [7] 158/22 207/19 207/22 207/23 208/8 208/9 208/16 matter [18] 7/7 7/10 16/3 32/16 33/25 45/7 54/22 55/1 56/16 56/17 70/15 74/11 101/14 141/7 157/17 198/10 198/23 212/20 matters [11] 2/8 2/13 3/11 4/12 7/9 11/7 24/7 74/2 187/5 194/3 198/7 maximum [2] 15/7 128/17 may [78] 1/1 1/4 1/14 7/6 13/2 13/3 15/15 18/18 25/19 27/2 32/21 37/17 37/18 41/7 42/7 43/17 53/7 55/16 70/10 70/16 70/18 74/20 79/18 80/19 80/22 81/15 82/24 82/25 85/19 87/13 90/25 91/4 92/1 94/18 96/8 96/18 97/16 97/18 108/14 108/15 114/6 116/2 116/17 121/10 131/12 133/25 136/5 137/19 138/11 138/16 139/19 139/22 140/6 150/18 151/23 152/20 153/25 154/16 155/3 158/1 161/5 163/6 164/20 169/21 174/22 177/9 193/9 193/11 199/16 209/21 210/17 213/9 213/17 213/18 213/19 216/1 216/24 217/21 May 2020 [1] 213/19 maybe [22] 79/23 88/22 95/9 96/18 98/8 115/12 126/6 129/7 130/5 130/6 134/3 135/10 136/2 136/4 136/18 140/8 142/23 149/19 150/15 157/1 166/12 196/10 McBride [3] 46/22 84/11 85/10 McBride's [1] 87/4 McClellan [16] 91/1 91/2 91/6 91/15 94/7 94/13 97/20 108/9 115/17 115/24 127/7 140/18 154/7 169/10 169/13 218/9 McCormick [2] 209/9 209/16	mean [22] 16/7 21/17 25/1 31/25 32/4 50/15 60/21 101/10 102/9 105/7 112/1 119/4 138/21 145/7 156/8 166/19 168/4 181/25 190/5 191/1 191/6 191/9 meaning [1] 77/22 means [3] 84/16 189/8 200/22 meant [13] 8/22 18/16 24/18 34/16 34/20 43/9 50/18 56/12 85/6 114/23 137/20 139/17 192/2 measure [1] 141/8 measured [1] 123/4 measures [4] 114/25 116/6 157/15 162/14 mechanism [3] 8/9 29/9 119/9 mechanisms [1] 118/17 media [5] 80/18 139/2 191/13 193/6 194/12 median [1] 142/15 medical [20] 16/16 19/14 82/7 85/4 91/21 92/3 96/12 96/20 103/25 104/2 104/4 105/13 153/16 155/10 162/17 162/23 183/2 196/13 196/14 199/3 medicine [2] 92/11 92/16 meet [2] 68/12 145/11 meeting [32] 19/10 57/16 57/18 58/24 59/5 59/12 59/18 61/5 79/1 79/3 81/25 82/25 87/15 87/19 126/8 132/6 132/10 132/25 153/25 173/6 178/12 180/24 183/10 189/19		

M	218/12	move [17] 28/9 33/17 45/6 49/3 58/21 71/6 72/19 140/12 146/21 150/20 163/6 180/20 185/21 195/11 196/7 201/7 206/19	36/2 36/5 36/12 36/14 38/7 38/20 38/23 40/6 42/14 62/5 62/17 63/14 63/23 64/19 66/1 67/17 68/13 68/22 69/2 69/5 81/9 81/11 81/17 82/12 82/13 82/18 84/14 84/21 86/18 86/25 87/17 88/3 88/12 88/16 89/9 89/20 90/2 90/19 94/11 115/23 163/8 169/7 218/7	my [153] 1/4 1/9 12/14 16/10 16/15 18/18 19/16 23/14 24/2 24/17 24/18 24/23 25/3 31/10 34/24 37/18 37/20 37/24 37/24 39/7 41/2 42/15 43/7 43/8 43/23 43/24 43/24 45/2 46/4 47/17 50/6 51/17 51/20 52/7 55/14 57/2 57/9 57/13 58/19 59/20 59/21 65/7 73/22 76/18 78/7 79/14 80/1 80/2 80/5 80/24 81/6 81/10 81/12 85/21 86/11 86/12 87/11 87/13 88/25 90/5 90/18 90/22 90/25 91/6 91/23 92/18 93/3 93/3 93/17 93/17 93/24 97/6 98/25 104/17 105/2 107/8 109/10 109/20 110/20 112/8 123/24 124/5 125/3 128/14 133/1 134/6 134/7 137/2 140/3 140/6 140/9 141/13 142/4 152/6 152/18 153/12 159/1 160/19 162/18 164/2 164/12 166/10 169/4 169/8 169/21 173/25 174/14 175/17 176/7 176/11 176/12 177/12 177/13 177/19 179/19 181/15 181/24 182/7 182/10 185/14 185/14 187/14 188/16 193/15 195/15 200/15 201/14 201/25 202/24 206/10 206/25 207/8 207/9 207/19 208/1 208/2 208/2 208/5 208/7 208/8 209/7 209/15 209/22 209/23 210/1 210/9 211/14 212/1 212/12 212/15 215/16 216/1 217/11
ministers... [38] 79/2 82/24 88/1 172/15 173/12 173/19 175/11 177/3 177/7 177/23 183/14 184/3 184/7 184/13 184/18 184/23 185/4 185/8 185/13 185/18 185/23 186/4 186/7 187/12 187/16 188/5 192/1 192/3 192/18 192/22 194/1 195/23 198/8 198/12 198/19 200/3 200/10 202/16	modus [1] 195/22	Ms Bernie Rooney [3] 4/3 10/22 81/17	my Lady [17] 1/4 1/9 12/14 57/2 57/9 79/14 80/5 81/10 86/12 90/18 90/22 90/25 169/21 177/12 212/15 215/16 217/11	
ministers' [1] 188/10	modus operandi [1] 195/22	Ms Campbell [2] 81/9 90/19	my Lady's [1] 78/7	
Minne [2] 208/19 208/20	moment [8] 4/22 7/21 24/12 87/25 88/5 119/2 161/7 166/25	Ms Dobbin [8] 38/7 62/5 62/17 66/1 94/11 115/23 163/8 169/7	N	
minute [3] 10/24 189/16 192/19	moments [2] 80/6 118/3	Ms Dobbin's [1] 42/14	name [6] 6/5 58/5 68/8 81/12 91/4 91/6	
minutes [3] 57/15 81/21 180/12	Monday [4] 82/1 86/15 86/16 87/2	Ms Pearson [9] 24/13 24/15 24/21 25/20 67/17 68/13 68/22 69/2 69/5	narrow [1] 196/23	
misconception [1] 196/19	money [1] 167/17	Ms Pearson's [1] 24/11	national [8] 39/4 60/22 102/5 112/15	
misconstrued [1] 85/21	month [5] 20/4 61/16 187/1 192/25 192/25	Ms Pearson's [2] 24/5 36/2		
mislead [1] 104/18	monthly [1] 172/25	Ms Rooney [29] 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 34/8 34/8 34/13 34/18 35/7 35/15 38/20 40/6 63/14 63/23 82/13 82/18 84/14 86/18 86/25 87/17 88/3 88/12 89/9 89/20 90/2		
misleading [5] 138/7 138/9 138/12 138/20 152/16	months [19] 21/13 34/14 34/19 44/17 48/25 49/5 49/5 49/7 50/3 51/11 54/4 55/4 123/3 124/25 125/24 160/13 171/19 182/18 206/16	Ms Rooney's [8] 35/8 36/5 36/12 36/14 38/23 82/12 84/21 88/16		
mislead [1] 104/18	more [87] 3/14 8/15 9/24 13/9 13/25 21/4 21/12 22/10 23/16 25/4 28/25 29/20 31/10 31/12 32/25 33/4 33/9 43/10 48/25 50/19 53/12 56/19 56/20 68/21 68/21 68/25 69/12 69/14 75/22 78/4 85/20 86/7 86/21 95/14 96/7 97/2 100/16 101/1 101/12 102/22 103/18 108/16 113/12 116/11 116/12 116/16 116/17 119/20 126/12 142/19 142/20 142/23 146/2 146/8 150/3 150/16 156/19 161/23 162/24 165/10 165/22 169/11 179/12 180/7 186/8 186/17 187/25 190/1 190/15 190/18 192/11 193/12 197/2 200/11 200/13 203/21 204/1 205/9 205/13 210/5 210/6 210/11 215/3 215/5 216/24 217/5 217/6	Mr Friedman [3] 212/17 215/19 217/12		
misleading [5] 138/7 138/9 138/12 138/20 152/16	morning [10] 1/4 1/9 1/9 43/21 81/18 82/1 86/15 86/16 86/17 87/2	Mr Harbinson [13] 8/12 13/11 13/15 13/24 15/13 15/16 17/1 17/14 17/21 21/17 22/5 23/5 24/15		
mismatch [1] 131/14	Mr Harbinson's [1] 21/22	Mr Pengelly [1] 132/7		
misread [1] 18/18	Mr Scott [8] 1/3 1/9 57/3 57/8 80/7 87/25 89/10 169/20	Mr Scott's [1] 12/11		
misrepresent [2] 126/5 132/17	Mr Scott's [1] 12/11	Mr Stewart [12] 3/13 12/10 18/19 53/18 54/20 57/10 57/14 63/14 70/2 77/9 81/8 90/21		
misrepresented [2] 166/12 168/25	Mr Stewart [12] 3/13 12/10 18/19 53/18 54/20 57/10 57/14 63/14 70/2 77/9 81/8 90/21	Mrs [4] 11/22 12/5 64/12 83/8		
missed [5] 79/13 168/25 203/1 203/16 204/1	Mrs Rooney [3] 11/22 12/5 64/12	Mrs Rooney's [1] 83/8		
missing [2] 130/16 182/19	Mrs Rooney's [1] 83/8	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15		
misunderstanding [1] 133/2	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15	much [43] 10/13 13/25 20/4 20/7 20/17 24/16 25/15 25/20 26/3 29/9 29/20 38/25 38/25 48/12 53/8 61/14 74/5 78/24 101/1 101/1 101/12 107/25 109/6 113/18 113/22 115/7 116/11 122/18 126/12 130/22 152/9 156/21 157/21 158/15 159/25 166/18 167/8 167/17 169/6 169/13 199/8 217/12 217/13		
misunderstandings [1] 137/16	Mr Wilcock [1] 81/9	multi [1] 143/24		
misunderstood [1] 78/18	Mrs [4] 11/22 12/5 64/12 83/8	multidisciplinary [1] 143/23		
mitigate [1] 167/11	Mrs Rooney [3] 11/22 12/5 64/12	must [3] 62/22 117/13 134/12		
mitigations [3] 30/15 66/21 66/24	Mrs Rooney's [1] 83/8			
mix [1] 5/19	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15			
Mm [2] 98/15 124/12	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15			
Mm-hm [2] 98/15 124/12	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15			
mobile [1] 207/9	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15			
mode [5] 6/4 6/10 6/17 6/21 27/2	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15			
model [4] 19/1 156/2 156/3 174/12	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15			
modelling [4] 146/4 146/6 146/7 153/24	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15			
modes [1] 70/23	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15			
MODULE [2] 91/3	Ms [66] 4/3 10/22 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 24/5 24/11 24/13 24/15 24/21 25/20 34/8 34/8 34/13 34/18 35/7 35/8 35/15			

N	nevertheless [1] 62/22	non-medical [1] 196/14	214/7	129/7 129/11 129/12
national... [4] 125/15 177/11 177/14 214/11	new [12] 23/23 23/23 39/1 58/3 70/25 96/22	non-pandemic [3] 193/24 194/3 195/11	Northern Irish [1] 82/4	129/14 129/20 130/4
natural [2] 79/12 79/14	113/22 118/14 118/22 118/25 119/1 199/21	non-pandemic-relate d [1] 193/22	not [231]	130/4 130/6 130/7
naturally [2] 66/15 194/3	newborn [1] 167/2	non-response [2] 83/15 83/18	note [6] 57/17 58/24 76/17 126/7 190/4 190/9	130/9 130/23 133/23
nature [6] 9/20 58/5 67/9 75/19 106/14 112/5	next [11] 51/7 67/20 67/21 89/19 90/25 110/15 127/21 146/21 152/23 160/13 204/22	None [1] 169/8	notebook [1] 212/13	135/19 138/25 141/7
nauseam [1] 44/21	NI [3] 11/8 17/23 48/17	nor [1] 88/15	noted [2] 58/5 212/12	143/14 144/8 146/12
navigate [1] 182/22	NICCMA [6] 5/21 14/6 22/19 28/24 50/25 70/3	normal [11] 11/19 31/15 41/8 41/9 116/17 159/24 186/8 187/18 191/4 201/19 201/20	notes [2] 104/17 126/19	147/7 147/21 148/1
near [2] 9/4 35/13	NICS [5] 172/21 172/23 180/13 207/9 208/21	normally [2] 114/21 201/23	nothing [6] 3/3 101/25 143/25 207/11 210/5 210/6	150/24 152/5 152/7
necessarily [3] 58/16 166/3 178/5	NICS HR [1] 208/21	Northern [75] 4/8 5/16 14/18 16/12 22/13 23/21 30/17 30/18 31/1 35/8 40/22 42/5 44/12 48/25 57/24 61/8 64/5 71/14 71/25 72/4 72/21 72/25 73/5 76/19 79/2	notice [2] 103/13 132/21	152/9 154/19 155/2
necessary [17] 7/10 20/21 27/7 27/18 27/23 27/24 28/17 42/22 43/7 69/10 71/20 77/5 163/4 177/17 178/21 179/20 187/2	nine [2] 98/8 171/19	notwithstanding [1] 55/8	notifiable [4] 103/12 103/15 103/25 104/6	155/3 155/4 155/22
necks [1] 131/4	nine months [1] 171/19	notified [1] 163/1	notification [1] 104/8	156/5 156/15 156/18
need [46] 1/15 7/18 9/5 12/16 21/11 23/19 28/20 36/23 43/13 43/14 44/9 46/17 47/14 49/3 52/17 61/3 64/4 64/9 75/4 77/17 77/17 90/11 94/21 99/9 107/13 114/1 138/15 141/16 141/17 143/25 150/9 151/1 151/9 152/23 153/4 154/23 158/10 160/19 167/20 167/25 168/10 170/5 189/6 206/5 210/12 211/10	NIO [6] 14/18 15/9 47/21 79/6 79/10 81/7	notify [1] 103/24	notwithstanding [1] 55/8	156/20 157/2 157/16
28/20 36/23 43/13 43/14 44/9 46/17 47/14 49/3 52/17 61/3 64/4 64/9 75/4 77/17 77/17 90/11 94/21 99/9 107/13 114/1 138/15 141/16 141/17 143/25 150/9 151/1 151/9 152/23 153/4 154/23 158/10 160/19 167/20 167/25 168/10 170/5 189/6 206/5 210/12 211/10	NISRA [15] 124/8 134/11 134/17 136/10 136/22 137/9 138/17 139/11 142/2 142/2 142/13 142/19 142/21 142/22 142/24	notwithstanding [1] 55/8	November [9] 160/15 180/25 181/1 181/3 181/19 182/10 182/14 195/17 195/17	157/18 161/13 161/25
177/17 178/21 179/20 187/2	no [76] 7/13 14/19 18/10 18/20 19/5 21/19 21/22 32/8 41/2 41/14 41/15 41/18 41/23 43/10 43/21 45/17 48/22 49/11 49/13 50/6 54/24 56/1 60/3 65/23 72/10 73/25 74/8 75/13 75/20 75/23 76/25 77/9 80/8 82/10 83/22 83/24 84/1 87/18 94/12 94/12 101/14 101/20 105/12 109/2 115/18 120/7 132/10 146/5 146/6 150/5 151/2 165/25 167/9 169/11 171/23 172/6 172/11 179/17 179/19 179/21 185/18 190/9 193/15 195/5 199/15 206/21 206/25 207/10 207/11 212/4 212/15 213/17 213/24 214/3 214/8 214/20	notwithstanding [1] 55/8	now [59] 21/1 23/11 23/15 25/20 26/1 29/14 33/17 43/20 54/13 57/14 58/3 58/21 71/18 79/8 80/9 84/3 84/14 84/24 86/9 86/14 87/2 87/24 94/6 94/14 99/20 105/23 111/21 114/11 114/21 115/8 126/12 129/2 129/18 129/18 129/22 130/22 131/2 131/3 131/3 135/19 138/17 139/7 141/25 144/12 146/24 163/14 165/14 169/15 180/12 196/7 201/7 206/19 210/4 210/8 213/5 214/9 215/16 216/7 216/24	175/19 179/11 181/14
177/17 178/21 179/20 187/2	no one [4] 76/25 101/20 172/6 172/11	notwithstanding [1] 55/8	nowhere [1] 35/13	182/18 184/18 189/15
needed [21] 8/10 12/15 16/18 19/10 19/12 37/15 37/21 39/7 40/8 43/3 51/20 60/16 67/22 72/23 73/6 132/10 154/20 156/19 158/9 178/23 209/14	nobody [1] 13/22	notwithstanding [1] 55/8	NPIs [3] 201/12 202/13 205/8	191/2 191/12 210/1
needing [1] 190/14	non [10] 48/18 65/13 82/15 83/15 83/18 193/22 193/24 194/3 195/11 196/14	notwithstanding [1] 55/8	nuance [1] 132/17	number 500 [1] 152/5
needs [7] 16/22 17/7 27/8 67/3 126/14 131/3 145/11	non-health [1] 65/13	notwithstanding [1] 55/8	number [90] 9/9 25/23 27/14 27/19 35/25 45/12 50/20 52/2 55/4 55/5 66/6 76/3 76/4 85/25 98/7 98/9 100/2 100/8 100/24 101/16 102/15 102/16 104/14 104/18 105/12 110/13 114/18 117/15 117/19 118/20 121/11 121/23 122/3 123/7 123/18 123/19 127/8 128/17 128/18	number one [2] 55/4 55/5
negative [1] 178/3		notwithstanding [1] 55/8	November [9] 160/15 180/25 181/1 181/3 181/19 182/10 182/14 195/17 195/17	numbers [21] 11/2 14/2 21/20 22/2 22/4 22/6 35/5 56/9 99/6 100/6 123/8 128/15 130/15 133/14 136/21 136/21 136/23 139/6 142/1 142/12 144/2
negatively [1] 205/4		notwithstanding [1] 55/8	now [59] 21/1 23/11 23/15 25/20 26/1 29/14 33/17 43/20 54/13 57/14 58/3 58/21 71/18 79/8 80/9 84/3 84/14 84/24 86/9 86/14 87/2 87/24 94/6 94/14 99/20 105/23 111/21 114/11 114/21 115/8 126/12 129/2 129/18 129/18 129/22 130/22 131/2 131/3 131/3 135/19 138/17 139/7 141/25 144/12 146/24 163/14 165/14 169/15 180/12 196/7 201/7 206/19 210/4 210/8 213/5 214/9 215/16 216/7 216/24	nurses [3] 105/10 105/15 162/19
negotiate [1] 122/21		notwithstanding [1] 55/8	now [59] 21/1 23/11 23/15 25/20 26/1 29/14 33/17 43/20 54/13 57/14 58/3 58/21 71/18 79/8 80/9 84/3 84/14 84/24 86/9 86/14 87/2 87/24 94/6 94/14 99/20 105/23 111/21 114/11 114/21 115/8 126/12 129/2 129/18 129/18 129/22 130/22 131/2 131/3 131/3 135/19 138/17 139/7 141/25 144/12 146/24 163/14 165/14 169/15 180/12 196/7 201/7 206/19 210/4 210/8 213/5 214/9 215/16 216/7 216/24	nursing [6] 157/14 162/2 162/2 162/13 162/17 162/23
negotiated [1] 21/25		notwithstanding [1] 55/8	now [59] 21/1 23/11 23/15 25/20 26/1 29/14 33/17 43/20 54/13 57/14 58/3 58/21 71/18 79/8 80/9 84/3 84/14 84/24 86/9 86/14 87/2 87/24 94/6 94/14 99/20 105/23 111/21 114/11 114/21 115/8 126/12 129/2 129/18 129/18 129/22 130/22 131/2 131/3 131/3 135/19 138/17 139/7 141/25 144/12 146/24 163/14 165/14 169/15 180/12 196/7 201/7 206/19 210/4 210/8 213/5 214/9 215/16 216/7 216/24	number 500 [1] 152/5
neighbour [1] 137/2		notwithstanding [1] 55/8	now [59] 21/1 23/11 23/15 25/20 26/1 29/14 33/17 43/20 54/13 57/14 58/3 58/21 71/18 79/8 80/9 84/3 84/14 84/24 86/9 86/14 87/2 87/24 94/6 94/14 99/20 105/23 111/21 114/11 114/21 115/8 126/12 129/2 129/18 129/18 129/22 130/22 131/2 131/3 131/3 135/19 138/17 139/7 141/25 144/12 146/24 163/14 165/14 169/15 180/12 196/7 201/7 206/19 210/4 210/8 213/5 214/9 215/16 216/7 216/24	number one [2] 55/4 55/5
neither [3] 88/15 175/22 176/5		notwithstanding [1] 55/8	now [59] 21/1 23/11 23/15 25/20 26/1 29/14 33/17 43/20 54/13 57/14 58/3 58/21 71/18 79/8 80/9 84/3 84/14 84/24 86/9 86/14 87/2 87/24 94/6 94/14 99/20 105/23 111/21 114/11 114/21 115/8 126/12 129/2 129/18 129/18 129/22 130/22 131/2 131/3 131/3 135/19 138/17 139/7 141/25 144/12 146/24 163/14 165/14 169/15 180/12 196/7 201/7 206/19 210/4 210/8 213/5 214/9 215/16 216/7 216/24	numbers [21] 11/2 14/2 21/20 22/2 22/4 22/6 35/5 56/9 99/6 100/6 123/8 128/15 130/15 133/14 136/21 136/21 136/23 139/6 142/1 142/12 144/2
net [1] 99/22		notwithstanding [1] 55/8	now [59] 21/1 23/11 23/15 25/20 26/1 29/14 33/17 43/20 54/13 57/14 58/3 58/21 71/18 79/8 80/9 84/3 84/14 84/24 86/9 86/14 87/2 87/24 94/6 94/14 99/20 105/23 111/21 114/11 114/21 115/8 126/12 129/2 129/18 129/18 129/22 130/22 131/2 131/3 131/3 135/19 138/17 139/7 141/25 144/12 146/24 163/14 165/14 169/15 180/12 196/7 201/7 206/19 210/4 210/8 213/5 214/9 215/16 216/7 216/24	nurses [3] 105/10 105/15 162/19
network [1] 39/5		notwithstanding [1] 55/8	now [59] 21/1 23/11 23/15 25/20 26/1 29/14 33/17 43/20 54/13 57/14 58/3 58/21 71/18 79/8 80/9 84/3 84/14 84/24 86/9 86/14 87/2 87/24 94/6 94/14 99/20 105/23 111/21 114/11 114/21 115/8 126/12 129/2 129/18 129/18 129/22 130/22 131/2 131/3 131/3 135/19 138/17 139/7 141/25 144/12 146/24 163/14 165/14 169/15 180/12 196/7 201/7 206/19 210/4 210/8 213/5 214/9 215/16 216/7 216/24	number 500 [1] 152/5
never [10] 22/18 23/7 39/6 39/12 78/1 124/5 134/8 137/7 141/24 160/11		notwithstanding [1] 55/8	now [59] 21/1 23/11 23/15 25/20 26/1 29/14 33/17 43/20 54/13 57/14 58/3 58/21 71/18 79/8 80/9 84/3 84/14 84/24 86/9 86/14 87/2 87/24 94/6 94/14 99/20 105/23 111/21 114/11 114/21 115/8 126/12 129/2 129/18 129/18 129/22 130/22 131/2 131/3 131/3 135/19 138/17 139/7 141/25 144/12 146/24 163/14 165/14 169/15 180/12 196/7 201/7 206/19 210/4 210/8 213/5 214/9 215/16 216/7 216/24	number one [2] 55/4 55/5

O	17/5 17/12 17/18 19/23 20/1 20/9 23/9 23/13 23/17 24/12 24/16 25/15 27/6 33/9 35/7 37/5 39/13 40/8 42/19 44/22 47/21 51/15 55/4 55/5 55/6 56/7 57/10 60/13 62/18 66/8 68/1 69/13 75/24 76/19 76/25 77/11 77/25 78/6 79/20 80/14 85/2 86/2 87/6 88/6 90/16 99/18 101/20 102/3 103/2 103/19 104/5 106/22 107/21 110/13 110/15 118/6 118/7 121/22 125/3 127/7 127/8 130/5 130/6 132/9 136/4 144/22 145/13 145/20 145/21 147/5 147/9 149/2 157/8 165/10 166/23 166/24 170/8 171/22 172/6 172/11 174/12 174/22 177/13 177/22 178/19 185/19 187/9 189/16 191/3 201/16 205/23 205/24 215/16 one's [1] 94/8 ones [2] 146/1 161/23 ongoing [4] 30/3 64/1 88/13 88/14 only [36] 11/5 13/8 14/11 14/14 15/17 15/24 15/24 17/3 21/6 29/20 39/24 43/8 44/24 59/24 64/1 64/22 88/3 89/5 89/12 90/9 100/20 120/4 123/17 123/18 129/18 142/7 150/1 157/1 158/11 182/14 182/24 189/10 189/12 208/1 213/7 216/22 onto [1] 50/19 onus [1] 167/18 onwards [3] 102/13 118/12 161/11 opening [7] 38/8 41/25 42/14 42/19 45/11 79/21 80/11 opens [1] 65/9 operandi [1] 195/22 operate [3] 31/6 174/4 196/1 operated [2] 16/4 197/21 operates [1] 173/16 operating [4] 16/1 175/1 196/17 196/18 operation [7] 21/12 70/25 108/21 109/3	109/4 109/9 152/12 operational [13] 2/12 4/18 6/10 6/17 11/23 27/1 28/9 45/6 70/24 71/3 107/3 107/14 200/23 operationalised [1] 72/15 operationally [2] 107/23 156/4 operations [1] 70/14 opinion [2] 139/25 155/3 opportunity [11] 3/6 43/23 86/3 128/12 137/19 181/14 199/1 202/25 202/25 204/1 207/13 opposed [4] 185/7 196/21 198/19 215/13 opposite [1] 109/13 opposition [1] 195/18 options [1] 183/1 or [185] 1/13 1/15 2/4 3/4 3/11 5/20 6/24 6/25 7/3 7/6 7/8 7/13 7/18 8/15 11/17 13/13 14/19 15/14 16/25 17/10 17/19 17/25 19/10 19/11 19/22 20/4 22/19 26/25 27/1 27/24 28/2 28/4 28/5 28/7 28/13 28/15 28/15 28/16 28/16 29/5 30/6 30/21 30/24 30/25 31/4 31/22 32/18 33/7 33/24 33/25 34/23 37/18 37/21 42/7 43/6 43/17 51/6 61/11 62/18 63/25 66/8 67/21 68/15 69/15 72/7 73/18 75/3 75/10 75/19 76/14 76/22 78/2 83/15 84/15 84/15 85/14 86/1 86/2 86/23 87/3 87/4 87/6 88/19 89/2 93/22 94/21 96/18 97/17 98/13 98/13 98/22 100/14 105/10 107/4 108/23 110/12 112/16 113/13 119/14 120/14 122/21 123/8 123/10 124/3 124/20 127/13 128/23 128/25 130/10 131/11 132/25 138/10 139/22 144/19 146/12 147/10 148/18 148/20 149/17 150/15 151/25 154/25 155/16 155/17 156/3 156/17 159/11 159/20 161/18 161/18	161/19 165/22 166/2 166/4 168/22 171/15 172/11 174/4 174/14 174/24 175/13 176/25 177/16 177/18 178/1 182/13 183/11 183/12 184/13 184/13 184/23 185/4 185/4 185/8 186/11 187/20 187/23 189/2 190/24 191/7 191/10 192/11 194/21 194/24 195/18 196/4 196/14 198/23 199/2 199/14 199/25 201/19 202/13 203/22 205/8 206/22 206/25 208/10 208/10 208/11 210/10 211/5 213/14 216/18 216/21 order [13] 22/21 34/9 59/13 62/16 68/12 73/10 74/25 143/19 144/20 155/18 176/25 200/6 202/12 ordinarily [1] 102/24 ordinate [1] 28/15 ordinated [1] 190/19 ordinating [5] 6/18 6/22 26/23 90/14 200/22 ordination [12] 4/17 26/6 26/19 26/21 28/1 29/9 46/2 47/2 53/1 63/4 200/23 200/25 organisation [4] 84/8 102/18 106/25 107/1 organisations [4] 60/1 60/7 135/6 166/16 organise [2] 106/4 107/20 orientate [6] 29/16 58/25 121/16 132/2 133/12 152/23 original [1] 207/5 originally [1] 76/2 origins [2] 30/22 38/19 orthodox [2] 84/5 105/24 other [73] 4/8 5/21 6/3 6/7 6/20 9/6 10/13 12/21 13/22 15/17 19/23 20/7 24/22 39/25 47/20 49/12 51/8 67/3 70/6 71/2 73/23 74/9 79/24 81/24 99/20 102/4 105/10 106/24 107/16 107/22 111/24 112/10 112/14 112/25 113/7 114/6 120/17 126/22 126/25 128/4 135/6 140/5 142/8 143/18	144/22 148/4 148/10 148/14 149/17 150/19 162/14 167/6 168/23 168/23 169/5 175/5 175/6 176/25 178/3 178/6 178/15 186/25 187/19 188/10 189/8 192/1 192/3 194/5 194/19 198/8 207/12 210/2 215/24 other's [1] 17/10 others [1] 32/18 otherwise [3] 68/15 213/2 213/15 ought [12] 18/16 19/16 19/17 44/18 54/3 54/4 54/10 54/11 55/2 61/17 91/7 108/9 our [50] 22/3 39/23 40/1 40/9 40/10 44/16 46/1 46/1 51/11 53/4 54/1 54/5 55/3 82/24 95/16 97/19 103/6 103/24 106/12 107/17 107/17 107/18 110/2 110/9 111/1 111/23 113/3 113/19 118/6 118/18 118/18 118/23 129/1 129/1 130/11 131/4 143/25 144/12 144/13 146/8 148/10 150/17 158/6 158/10 162/1 162/2 167/14 168/3 202/1 202/19 ourselves [10] 29/16 51/20 59/1 103/23 107/14 111/20 124/4 134/21 152/24 168/10 out [84] 4/4 12/1 15/19 15/22 15/24 16/15 23/13 24/13 28/5 29/10 31/9 35/13 38/4 38/6 38/20 40/3 40/3 40/5 40/6 41/1 41/4 41/5 41/18 62/4 63/1 65/1 70/12 71/3 75/22 76/3 79/3 80/15 97/23 98/19 98/23 106/16 108/2 108/19 114/2 115/25 117/15 124/10 127/10 128/4 129/17 134/15 138/4 143/12 143/14 145/22 145/23 147/5 147/18 153/1 153/3 154/5 154/22 158/6 160/6 162/20 162/22 174/21 175/15 179/22 181/25 190/17 197/3 197/14 199/1 204/6 204/17 205/12 205/22 207/7 208/7 208/14 209/4 209/7 209/8 209/19 209/22 209/24 209/25
----------	--	---	---	--

<p>O</p> <p>out... [1] 210/1</p> <p>outbreak [20] 46/14 49/2 99/25 100/5 102/24 103/5 103/20 104/15 109/24 116/12 116/13 116/14 116/16 118/5 119/13 160/8 160/11 162/1 162/5 163/1</p> <p>outbreaks [12] 95/7 100/5 101/23 148/4 157/11 161/11 161/23 161/24 161/25 162/11 165/16 168/17</p> <p>outlined [1] 73/14</p> <p>outset [13] 8/9 116/1 118/2 118/9 119/4 125/20 127/3 143/18 146/11 157/19 159/25 161/7 166/19</p> <p>outside [1] 149/22</p> <p>over [24] 3/11 9/7 10/12 15/7 20/21 21/3 40/22 50/21 54/7 60/25 68/9 74/19 86/19 116/18 126/4 136/3 136/22 144/14 148/23 151/6 152/10 156/23 186/2 197/6</p> <p>overall [11] 2/11 4/16 4/17 20/18 22/2 54/1 68/14 116/15 167/16 201/1 201/3</p> <p>overarching [1] 88/19</p> <p>overcome [1] 18/6</p> <p>overlap [1] 96/3</p> <p>oversight [2] 18/14 19/16</p> <p>overview [6] 14/23 27/9 46/1 57/25 62/4 173/8</p> <p>overwhelmed [1] 158/1</p> <p>own [22] 11/3 27/22 28/1 30/24 31/2 38/23 40/10 47/6 76/18 84/5 111/1 143/25 176/21 188/1 188/7 197/7 197/7 211/23 211/23 212/1 212/13 213/10</p>	<p>87/20 89/19 89/22 90/1 108/7 127/4 130/25 132/1 132/6 133/11 133/16 133/17 140/19 151/1 152/23 153/15 170/9 170/22 171/1 201/10 204/15 204/22 207/6 208/12 218/2</p> <p>page 1 [3] 65/10 130/25 133/17</p> <p>page 12 [1] 49/20</p> <p>page 17 [2] 4/2 78/10</p> <p>page 18 [2] 65/9 66/9</p> <p>page 2 [7] 63/12 87/14 90/1 127/4 132/6 153/15 170/9</p> <p>page 20 [1] 140/19</p> <p>page 3 [1] 132/1</p> <p>page 38 [1] 1/22</p> <p>page 4 [2] 86/13 133/16</p> <p>page 47 [1] 207/6</p> <p>page 6 [2] 204/15 208/12</p> <p>page 60 [1] 201/10</p> <p>page 62 [1] 170/22</p> <p>page 7 [1] 151/1</p> <p>page 9 [2] 41/19 171/1</p> <p>page to [1] 152/23</p> <p>paid [1] 203/7</p> <p>pandemic [138] 2/15 3/12 7/25 8/2 8/15 12/5 19/2 21/16 23/8 24/4 24/15 25/11 25/25 26/14 26/15 26/16 29/11 29/23 32/5 32/12 33/17 33/20 34/4 35/10 35/18 38/3 38/10 38/14 39/13 39/23 40/13 41/17 42/11 42/16 42/24 43/7 44/10 44/19 47/7 48/15 49/2 49/9 51/4 52/22 53/21 54/5 54/15 54/16 55/3 55/18 55/22 56/4 56/7 56/14 56/21 59/14 61/8 62/16 66/25 69/23 75/12 93/7 93/16 95/8 96/3 96/15 98/13 98/14 99/23 100/6 100/7 100/11 102/6 104/15 106/14 107/5 107/10 110/11 111/7 116/1 118/10 119/4 120/22 121/3 121/22 126/11 127/13 134/4 134/22 138/23 141/9 144/14 145/19 146/15 147/20 150/4 152/10 156/24 157/5</p>	<p>157/20 157/24 159/25 161/8 161/22 162/7 162/8 165/18 166/11 166/17 167/3 167/8 167/13 167/21 167/25 180/2 180/8 180/21 185/16 186/3 188/6 188/11 193/22 193/24 194/2 194/3 195/11 196/6 196/9 202/7 202/8 204/18 205/5 206/2 206/22 207/2 207/24 208/11 213/6</p> <p>pandemic-related [1] 194/2</p> <p>pandemics [1] 5/4</p> <p>paper [12] 38/4 40/7 40/23 41/3 41/11 42/25 57/11 57/25 59/1 68/4 197/23 213/20</p> <p>papers [9] 191/17 191/18 191/21 191/25 192/1 192/17 192/19 195/5 195/6</p> <p>paragraph [33] 14/22 16/5 26/4 26/12 41/20 43/15 44/3 48/11 49/22 49/24 52/14 58/12 58/15 64/14 64/25 78/15 94/22 105/2 121/11 121/12 121/14 127/14 127/21 140/20 140/24 143/8 143/13 143/14 170/10 201/10 207/6 207/18 213/5</p> <p>paragraph 10 [1] 94/22</p> <p>paragraph 105 [1] 16/5</p> <p>paragraph 19 [1] 105/2</p> <p>paragraph 212 [2] 207/6 207/18</p> <p>paragraph 23 [1] 41/20</p> <p>paragraph 273 [1] 201/10</p> <p>paragraph 276 [1] 213/5</p> <p>paragraph 3 [1] 48/11</p> <p>paragraph 51 [1] 49/22</p> <p>paragraph 52 [2] 26/4 49/24</p> <p>paragraph 59 [1] 52/14</p> <p>paragraph 6 [1] 170/10</p> <p>paragraph 9.4 [2] 140/20 140/24</p> <p>paragraph 9.5 [1]</p>	<p>143/8</p> <p>paragraph 9.6 [1] 143/13</p> <p>paragraph 9.7 [1] 143/14</p> <p>paragraphs [2] 4/5 208/13</p> <p>paragraphs 25 [1] 208/13</p> <p>paragraphs 78 [1] 4/5</p> <p>parameters [1] 60/2</p> <p>parcel [2] 4/14 20/11</p> <p>parents [3] 56/9 166/24 166/24</p> <p>pares [1] 197/10</p> <p>Parliament [1] 214/17</p> <p>part [51] 2/15 2/18 3/12 3/19 4/14 4/25 8/18 10/8 10/10 11/20 20/11 20/17 28/10 28/10 28/14 38/16 39/10 39/22 41/9 42/16 52/6 68/17 96/23 97/19 103/4 103/25 106/21 107/3 107/4 108/24 109/20 110/2 110/3 111/11 114/6 132/10 133/15 133/21 139/23 144/22 145/4 146/23 146/24 148/11 154/9 159/1 200/6 201/20 211/19 211/20 216/11</p> <p>partake [1] 144/24</p> <p>participants [2] 42/19 45/12</p> <p>particular [45] 3/1 3/5 3/9 6/24 6/25 10/10 10/11 13/12 13/12 20/24 21/17 30/22 31/23 32/3 33/1 33/17 34/6 37/23 64/24 71/23 73/14 78/14 80/14 85/5 93/4 95/2 103/10 103/11 128/9 128/11 150/14 165/17 165/20 166/5 166/9 168/7 168/8 176/10 176/17 180/11 194/24 195/2 201/3 203/10 203/24</p> <p>particularly [26] 3/11 32/19 33/14 36/18 36/24 39/3 59/7 98/3 123/13 166/21 168/21 175/16 178/9 178/10 178/21 180/8 183/8 183/19 184/19 186/17 189/9 195/23 199/19 200/17 202/19 202/22</p> <p>parties [2] 177/8 193/19</p>	<p>partners [4] 112/13 113/24 125/17 144/1</p> <p>partnerships [1] 168/10</p> <p>parts [6] 39/25 111/24 112/10 120/17 150/19 215/14</p> <p>pass [1] 60/6</p> <p>past [1] 81/21</p> <p>path [1] 183/23</p> <p>Pathway [2] 204/6 205/22</p> <p>patient [3] 122/9 136/19 142/10</p> <p>patients [6] 110/25 135/2 135/16 135/23 163/16 163/19</p> <p>pattern [4] 15/8 21/3 21/6 94/8</p> <p>paucity [1] 179/3</p> <p>pause [4] 112/18 115/5 121/15 121/18</p> <p>pausing [1] 48/19</p> <p>paying [1] 206/8</p> <p>peak [1] 46/14</p> <p>Pearson [10] 23/5 24/13 24/15 24/21 25/20 67/17 68/13 68/22 69/2 69/5</p> <p>Pearson' [1] 24/11</p> <p>Pearson's [4] 24/5 35/21 36/2 62/8</p> <p>penalties [1] 74/3</p> <p>Pengelly [1] 132/7</p> <p>people [108] 12/12 12/16 12/21 19/22 24/1 25/5 35/9 35/25 50/3 66/15 66/25 67/3 95/13 99/7 99/16 99/20 99/23 100/13 100/16 100/20 101/17 104/11 104/14 105/7 108/2 113/4 113/8 118/20 119/18 119/20 119/25 120/19 120/19 122/25 123/7 123/8 123/18 128/12 129/14 129/19 130/6 130/7 130/9 130/18 132/20 133/14 133/23 134/20 134/23 134/24 137/1 138/25 142/8 144/8 145/18 148/11 148/14 148/14 149/1 149/16 149/17 149/17 150/7 150/15 150/16 151/17 151/20 151/21 151/25 152/8 152/8 152/15 152/19 156/13 157/6 158/7 158/10 158/11 158/21 158/25 159/5 160/16 161/2 161/19 164/6 164/7 165/21 165/23 166/2 166/6</p>
--	--	---	---	---

P	184/16 184/23 185/13 188/9 211/1 211/9 211/11 211/22 212/3	209/6 209/8 209/23 210/9	56/18 58/22 59/13 62/6 62/10 62/11 62/12 62/15 63/1 63/9 64/2 64/17 64/21 65/2 65/4 65/22 65/24 66/3 66/4 66/23 67/16 67/20 68/4 68/11 68/15 69/1 70/1 70/14 70/17 71/2 71/6 72/10 75/11 75/15 88/4 88/14 89/8 89/12 90/3 90/15 102/11 106/6 144/24 145/17 145/24 146/3 146/19 146/19 154/17 156/18	70/23 70/24 71/1 71/2 72/18 73/8 77/25 78/6 78/7 79/20 79/25 80/24 90/12 93/11 94/3 99/13 99/18 109/22 109/24 110/11 111/11 112/15 114/13 115/10 115/13 116/4 121/1 123/2 123/10 128/7 132/12 138/5 148/18 148/20 149/19 149/22 149/24 149/25 150/8 151/23 152/7 152/18 170/6 171/22 174/22 182/18 182/25 183/13 192/8 202/23 212/12 215/11 215/12
people... [18] 167/17 168/22 178/20 179/3 185/25 186/8 204/25 213/16 213/21 214/6 214/10 214/24 215/12 216/8 216/18 216/21 216/21 217/7	permanent secretaries [1] 172/8 permission [1] 58/17 permit [1] 85/19 person [13] 10/24 11/11 12/12 12/19 12/20 13/21 23/9 23/13 24/13 24/16 25/15 30/14 40/8	phoned [1] 136/18 phrase [2] 46/6 179/10 physical [1] 204/19 physically [4] 16/23 17/2 126/4 129/11 pick [1] 120/15 picked [1] 147/5 picking [1] 214/21 picture [3] 69/11 120/8 149/14 piece [1] 140/9 pinch [1] 47/11 pinched [2] 169/7 169/8 pipelines [2] 118/21 118/25 pithily [1] 86/21 pivotal [1] 85/22 place [36] 4/22 8/7 11/9 14/3 18/10 19/18 25/8 27/24 61/7 65/5 72/3 79/25 81/23 94/21 118/17 118/22 121/2 124/16 125/2 126/9 137/5 142/6 156/7 157/15 159/15 160/13 161/19 162/14 165/1 180/10 181/14 186/5 186/5 190/16 194/8 199/16 places [2] 112/11 162/14 plainly [7] 2/20 49/6 88/9 131/6 182/2 193/25 200/6 plan [39] 18/10 18/13 18/17 18/20 27/8 28/4 28/7 32/16 33/15 33/21 33/24 34/3 34/6 39/2 45/22 47/6 50/19 51/12 54/15 54/22 55/17 55/21 56/4 56/13 56/19 67/11 67/18 67/18 68/12 69/3 69/4 70/20 106/3 145/11 159/16 206/14 216/20 216/21 217/1 planned [3] 19/22 27/15 156/20 planner [1] 106/7 planning [84] 19/8 20/9 20/12 23/2 26/13 26/15 26/16 26/25 27/20 27/22 36/24 44/16 44/21 45/10 45/11 45/13 45/18 45/21 47/13 49/6 51/11 51/23 52/9 52/10 52/21 52/23 53/17 53/24 54/1 54/5 55/1 55/4 55/12 56/16	62/6 62/10 62/11 62/12 62/15 63/1 63/9 64/2 64/17 64/21 65/2 65/4 65/22 65/24 66/3 66/4 66/23 67/16 67/20 68/4 68/11 68/15 69/1 70/1 70/14 70/17 71/2 71/6 72/10 75/11 75/15 88/4 88/14 89/8 89/12 90/3 90/15 102/11 106/6 144/24 145/17 145/24 146/3 146/19 146/19 154/17 156/18 plans [28] 6/8 6/19 27/3 27/10 27/17 33/2 33/10 38/2 46/2 51/9 53/2 53/9 53/14 55/9 56/20 60/2 60/6 62/3 67/4 67/12 67/14 69/9 69/16 102/6 126/15 148/10 181/6 204/13 plate [1] 12/6 play [3] 10/8 102/24 129/10 played [4] 10/10 29/10 145/23 166/4 plea [1] 22/13 plead [1] 178/15 pleading [1] 195/3 please [45] 1/16 1/23 14/16 26/22 31/25 41/19 48/11 49/18 50/12 50/21 52/14 57/20 59/9 60/21 60/25 70/3 78/10 78/11 78/23 81/15 84/3 86/24 90/25 102/10 132/2 132/7 140/15 140/19 150/25 151/2 151/10 152/21 153/14 153/19 170/6 170/10 170/12 170/13 170/22 171/1 201/10 204/15 204/22 208/12 217/18 pm [6] 63/15 115/20 115/22 169/17 169/19 217/19 point [102] 1/16 5/1 6/3 15/19 18/8 22/3 28/5 32/2 37/23 38/5 38/13 40/15 41/12 42/13 43/25 44/19 45/5 45/15 45/21 45/25 47/5 47/11 50/7 50/16 51/18 52/25 53/6 53/25 54/1 55/7 55/13 55/14 56/25 57/2 57/10 58/11 61/6 62/1 62/7 62/14 62/24 64/24 67/2 68/8 68/18 68/20 69/7 70/9 70/14	70/23 70/24 71/1 71/2 72/18 73/8 77/25 78/6 78/7 79/20 79/25 80/24 90/12 93/11 94/3 99/13 99/18 109/22 109/24 110/11 111/11 112/15 114/13 115/10 115/13 116/4 121/1 123/2 123/10 128/7 132/12 138/5 148/18 148/20 149/19 149/22 149/24 149/25 150/8 151/23 152/7 152/18 170/6 171/22 174/22 182/18 182/25 183/13 192/8 202/23 212/12 215/11 215/12 points [10] 29/1 50/22 51/22 67/14 70/3 70/6 70/11 154/21 190/18 190/21 policy [17] 2/11 3/18 4/16 6/5 6/7 6/7 10/14 34/17 37/20 41/17 43/25 159/2 164/11 164/11 164/11 200/22 200/25 political [2] 177/8 193/17 pollution [1] 95/10 poor [4] 192/20 192/21 192/21 192/21 populate [1] 68/6 population [6] 73/4 73/7 95/22 145/11 204/13 205/8 portal [1] 135/10 posed [1] 95/9 position [23] 9/24 27/22 42/1 54/9 54/9 54/11 55/2 55/5 76/11 77/2 88/17 109/25 149/5 151/17 151/18 152/15 157/23 160/4 174/2 174/6 182/3 199/4 199/8 positioning [1] 199/17 positions [1] 133/4 positive [8] 29/24 121/24 122/2 123/1 135/3 135/4 138/23 140/8 possibility [2] 31/9 183/10 possible [14] 8/13 30/14 38/12 52/19 72/19 81/2 116/7 142/25 157/22 158/19 160/5 186/9 192/19 201/19 possibly [11] 32/21 43/12 43/13 96/17 100/13 115/5 115/11

P	45/15 52/11 52/16 52/17 52/22 59/14 98/1 109/21	principle [1] 30/18 principles [1] 3/15 prior [25] 2/15 7/13 29/23 35/10 36/11 37/2 44/10 50/1 50/5 50/6 52/10 55/2 55/3 69/7 71/1 72/8 74/16 85/25 91/20 91/20 93/3 123/24 141/24 179/11 182/10	216/8 217/1 professional [1] 191/10 professionals [1] 114/9 Professor [14] 46/22 84/11 87/4 127/22 132/4 133/19 137/20 139/17 139/25 151/4 152/25 153/2 153/3 153/20 Professor Hugo van Woerden [1] 127/22 Professor McBride [1] 46/22 Professor McBride's [1] 87/4 Professor Sir [1] 84/11 Professor van [1] 132/4 Professor van Woerden [8] 133/19 137/20 139/17 139/25 151/4 152/25 153/2 153/20 Professor Young [1] 153/3 profoundly [1] 73/16 programme [9] 47/25 48/2 48/17 117/11 135/9 160/12 160/23 162/7 179/17 programmes [2] 95/13 95/22 progress [4] 45/10 70/17 186/3 200/13 progressed [1] 213/8 progressing [2] 119/22 134/22 project [2] 11/8 105/18 prolonged [6] 20/21 21/3 148/9 179/21 186/14 186/16 prompted [2] 87/18 89/9 proper [2] 211/25 215/22 properly [4] 86/11 108/3 137/8 216/2 proportion [2] 15/25 25/3 proposal [3] 14/24 14/24 67/20 proposals [1] 197/17 proposed [2] 58/6 198/23 proposition [1] 195/16 propriety [1] 210/21 prospective [1] 61/8 protection [17] 71/13 93/2 95/6 96/2 98/3	98/9 99/13 99/19 104/21 104/25 105/6 105/16 146/12 148/11 148/11 162/3 168/6 protocol [1] 50/25 prove [1] 85/12 proved [2] 17/5 102/12 provenance [1] 39/9 provide [24] 6/12 16/24 86/4 97/5 97/7 107/14 114/7 114/24 116/4 117/8 118/4 118/6 118/11 118/19 126/19 133/22 141/11 143/15 143/19 145/5 145/10 155/18 172/9 190/23 provided [14] 1/17 33/19 57/25 127/6 128/20 136/12 150/23 153/24 164/7 164/9 170/7 170/17 170/21 191/22 provider [1] 110/22 providers [2] 107/18 130/12 providing [13] 94/17 107/6 114/17 127/12 131/8 134/10 157/12 165/19 172/14 183/1 183/2 197/25 197/25 provision [7] 93/13 93/23 95/19 109/17 110/23 114/12 128/8 provoking [1] 188/9 proxy [4] 202/1 202/2 215/22 217/4 PSNI [3] 27/18 27/21 27/22 public [115] 6/20 26/7 27/4 27/14 27/16 27/19 28/13 29/4 45/1 51/8 66/19 76/18 76/22 77/6 91/16 91/18 91/19 92/10 92/12 92/16 92/19 92/21 92/23 92/25 93/2 93/4 93/20 94/3 94/15 94/18 94/20 94/24 95/1 95/1 95/19 95/25 96/4 96/9 96/13 97/3 97/5 97/13 97/21 98/11 99/11 99/14 99/15 101/4 102/18 103/8 103/9 103/11 104/7 104/19 105/14 105/16 106/11 106/13 107/9 107/15 110/3 111/8 111/17 111/24 112/2 112/3 112/4 112/16 112/16 112/19 113/8 113/18 113/21 113/25 113/25 114/8
----------	---	--	---	--

<p>P</p> <p>public... [39] 117/3 121/1 122/13 123/25 124/17 125/4 129/1 129/6 130/10 130/21 132/5 134/10 134/24 135/6 136/13 136/25 138/6 139/7 141/8 143/23 146/14 148/18 164/4 164/6 167/12 167/15 168/9 177/24 178/24 194/18 194/20 197/9 203/10 204/10 205/10 205/13 205/15 205/17 207/1</p> <p>public's [1] 141/17</p> <p>public-facing [1] 205/13</p> <p>publish [3] 123/25 124/6 139/12</p> <p>published [12] 127/19 136/9 136/10 138/17 204/9 205/22 206/15 213/20 214/1 214/5 214/10 214/17</p> <p>pull [4] 59/13 131/4 188/2 189/17</p> <p>pulling [1] 6/18</p> <p>purpose [4] 8/8 39/21 59/4 197/15</p> <p>purposes [2] 15/5 20/9</p> <p>pursuing [1] 77/11</p> <p>push [6] 154/2 154/8 154/9 195/23 195/25 216/13</p> <p>push-back [4] 154/8 154/9 195/23 195/25</p> <p>pushed [1] 198/9</p> <p>put [34] 8/7 34/23 41/3 44/9 44/16 57/10 64/22 77/6 80/22 82/25 86/21 87/7 90/10 120/13 128/25 129/17 134/16 135/10 136/6 137/5 142/6 142/9 157/14 162/14 165/1 165/3 181/14 186/5 186/5 188/18 190/16 206/11 215/22 216/11</p> <p>putting [2] 45/20 172/16</p> <p>PwC [2] 36/20 38/22</p> <p>Pyper [9] 169/21 169/22 170/1 170/11 177/5 207/13 212/19 217/13 218/14</p>	<p>qualified [1] 101/10</p> <p>quality [4] 28/2 95/21 97/9 127/19</p> <p>quantity [1] 185/4</p> <p>quarantine [3] 175/21 175/24 176/14</p> <p>quarters [1] 195/13</p> <p>Queen's [3] 92/8 124/20 124/20</p> <p>Queen's University [3] 92/8 124/20 124/20</p> <p>queries [1] 63/8</p> <p>question [10] 12/11 32/24 37/13 43/5 44/13 77/11 83/24 106/17 201/16 215/16</p> <p>questioning [2] 38/7 70/12</p> <p>questionnaire [3] 60/14 60/17 62/2</p> <p>questions [25] 1/8 33/4 77/10 81/11 81/13 87/13 89/10 90/20 91/3 107/19 107/23 108/3 169/4 169/9 169/11 169/23 212/15 212/17 212/18 212/19 218/5 218/7 218/11 218/16 218/18</p> <p>quick [2] 88/1 126/10</p> <p>quickly [16] 1/14 17/8 17/11 72/19 94/8 113/12 116/2 117/13 124/23 147/4 155/19 156/5 156/12 157/9 157/25 170/4</p> <p>quirk [1] 8/11</p> <p>quite [35] 2/20 6/11 9/3 9/23 10/6 27/14 41/6 43/23 55/10 56/5 64/11 69/17 79/6 89/23 96/17 96/22 99/8 105/21 107/10 116/14 116/20 125/1 132/22 139/12 140/21 140/23 147/8 148/8 161/1 166/21 173/23 184/17 184/18 199/15 204/8</p> <p>quoted [1] 46/3</p>	<p>126/9 126/10 147/4 150/21 155/17 156/14</p> <p>ramp-up [3] 125/9 126/9 126/10</p> <p>ramped [2] 124/17 147/3</p> <p>ran [2] 15/2 128/19</p> <p>range [12] 4/10 5/5 95/12 97/16 99/7 103/12 103/20 104/5 105/20 130/8 162/14 183/13</p> <p>rapid [7] 50/10 50/13 126/13 140/13 140/16 141/3 141/22</p> <p>rapidly [3] 50/18 113/12 156/6</p> <p>rate [3] 55/20 56/6 186/10</p> <p>rates [3] 123/11 162/11 162/12</p> <p>rather [10] 8/15 17/20 31/13 57/13 58/22 76/19 85/21 86/21 156/16 173/19</p> <p>ratio [4] 20/24 20/24 21/4 22/4</p> <p>rationale [1] 158/14</p> <p>re [5] 46/18 48/1 48/1 79/21 80/11</p> <p>re-direct [1] 48/1</p> <p>re-opening [2] 79/21 80/11</p> <p>re-prioritisation [1] 46/18</p> <p>re-prioritise [1] 48/1</p> <p>reach [1] 70/24</p> <p>reached [2] 36/22 37/2</p> <p>read [6] 79/3 108/19 143/12 170/16 210/3 212/22</p> <p>readiness [8] 33/3 50/25 59/25 60/15 60/19 62/21 62/23 82/5</p> <p>reading [1] 114/16</p> <p>ready [6] 5/7 41/12 78/4 107/14 107/18 118/23</p> <p>ready-built [1] 118/23</p> <p>real [13] 17/9 22/8 22/9 47/18 64/2 88/4 89/12 102/7 118/10 128/7 157/24 158/5 186/16</p> <p>realise [2] 81/6 167/19</p> <p>realised [1] 117/14</p> <p>realistic [2] 23/7 153/11</p> <p>realistically [5] 5/1 8/13 13/5 13/9 17/9</p>	<p>reality [1] 181/18</p> <p>reallocation [2] 174/7 174/23</p> <p>really [47] 32/16 52/23 94/25 95/14 106/17 110/3 111/14 111/25 113/12 113/12 114/23 117/23 119/2 119/3 119/17 123/2 123/17 125/19 125/20 126/4 129/13 130/11 131/23 132/16 132/20 134/18 136/22 137/24 143/24 144/4 144/15 145/14 145/16 152/1 155/7 156/6 164/13 165/13 168/12 183/14 191/18 193/16 199/5 199/18 213/7 214/21 216/25</p> <p>reason [10] 32/7 32/8 33/8 49/11 49/14 49/14 61/18 83/22 87/3 209/18</p> <p>reasonable [3] 60/2 77/23 137/13</p> <p>reasonably [2] 88/24 123/16</p> <p>reasons [15] 9/9 12/24 16/14 17/5 38/18 80/21 82/9 99/7 121/3 129/20 130/8 136/1 142/2 145/25 178/11</p> <p>reassure [1] 39/19</p> <p>reassured [2] 198/22 199/7</p> <p>reassuring [1] 197/14</p> <p>recall [11] 47/24 49/25 74/21 83/21 84/25 90/8 154/3 162/15 180/11 180/13 213/9</p> <p>receipt [1] 50/1</p> <p>receive [1] 104/8</p> <p>received [9] 30/20 44/14 62/1 62/2 77/13 124/5 182/14 209/2 212/6</p> <p>receives [1] 129/13</p> <p>receiving [3] 75/10 134/9 189/14</p> <p>recent [1] 141/2</p> <p>recently [1] 96/17</p> <p>recognise [7] 75/7 168/7 190/9 190/10 196/16 197/11 198/3</p> <p>recognised [4] 9/2 128/10 142/22 159/14</p> <p>recognition [6] 17/3 134/19 166/18 195/19 206/1 206/3</p> <p>recollect [1] 49/22</p>	<p>recollection [3] 16/10 59/7 85/13</p> <p>recommendations [3] 36/19 41/24 160/22</p> <p>recommended [3] 20/23 20/25 80/15</p> <p>recommending [1] 68/22</p> <p>record [3] 126/20 134/18 143/6</p> <p>recording [3] 58/1 58/7 210/22</p> <p>records [5] 76/3 150/17 210/13 210/22 211/6</p> <p>recover [1] 61/15</p> <p>recovery [12] 189/3 199/19 199/19 200/2 201/4 201/5 205/21 205/22 205/24 206/5 206/14 216/20</p> <p>recruit [1] 180/7</p> <p>recruiting [1] 100/8</p> <p>recruitment [1] 180/7</p> <p>rectified [2] 23/18 156/12</p> <p>red [1] 62/20</p> <p>redacted [4] 14/11 46/21 58/5 68/8</p> <p>redeploy [1] 148/14</p> <p>redeployed [3] 94/2 148/23 150/19</p> <p>reds [1] 66/8</p> <p>reducing [1] 95/2</p> <p>reduction [1] 9/5</p> <p>redundancy [1] 179/10</p> <p>refer [7] 2/4 7/7 7/10 26/21 90/8 150/9 213/9</p> <p>reference [17] 14/13 26/13 64/6 67/3 108/14 109/1 112/8 116/21 116/25 123/22 127/21 154/8 158/4 172/20 191/16 191/17 191/18</p> <p>references [1] 47/21</p> <p>referencing [1] 30/13</p> <p>referred [13] 7/4 37/5 58/15 59/21 62/5 62/18 65/12 74/4 154/15 174/1 174/9 197/19 216/17</p> <p>referring [8] 48/7 48/9 64/12 100/19 138/22 158/1 189/21 190/1</p> <p>refers [2] 78/20 140/24</p> <p>reflect [3] 71/21 72/24 138/25</p> <p>reflected [9] 51/25</p>
(82) public... - reflected				

R	22/2 30/18 35/21 36/24 54/16 54/17 63/1 70/1 78/12 82/2 82/4 83/11 85/14 87/10 87/13 103/7 104/9 133/13 170/14 172/25 175/5 177/16 200/3 202/20 203/8 204/20 210/4 210/22 213/15	repeat [3] 1/15 70/6 140/16 repeatedly [1] 154/4 replaced [3] 119/14 119/15 181/5 replies [1] 86/25 reply [3] 83/3 87/24 151/8 report [20] 109/18 127/20 131/5 131/9 133/15 134/12 135/2 135/15 136/4 141/22 142/7 142/8 142/19 142/19 142/23 143/4 214/1 214/5 214/9 214/18 reported [7] 123/24 131/17 136/5 138/6 138/12 139/24 214/24 reporting [13] 87/9 119/9 120/7 120/8 122/1 131/3 131/20 135/25 141/1 142/1 142/12 143/3 199/25 reports [5] 36/20 38/22 129/5 213/15 214/9 represent [2] 168/15 174/18 representatives [1] 216/18 request [9] 30/22 32/22 40/9 77/21 77/23 82/2 82/16 83/9 84/19 requests [2] 75/14 75/17 require [3] 122/20 153/7 174/24 required [19] 22/10 22/16 25/21 39/22 54/18 69/21 73/10 85/11 133/1 135/23 143/11 143/16 144/11 148/25 154/12 155/4 178/25 181/7 190/19 requirement [1] 143/10 requirements [3] 4/24 76/24 211/21 requisite [1] 70/22 rescheduling [1] 195/7 research [2] 95/24 124/8 reserved [1] 159/4 reset [1] 208/3 resident [3] 159/23 160/2 165/1 residents [3] 160/24 160/25 163/10 resignation [1] 171/25 resigned [1] 171/8	resilience [53] 4/13 4/14 4/20 5/20 5/23 6/15 6/19 6/23 7/12 20/12 20/14 21/2 21/6 21/8 21/14 26/1 26/6 26/19 28/12 31/20 32/10 34/7 34/16 34/21 35/10 38/2 46/2 46/12 47/3 47/10 47/14 47/19 48/13 48/15 48/17 49/2 50/9 51/4 51/13 51/23 52/2 53/2 53/14 54/18 54/21 55/17 55/21 55/25 56/3 56/4 62/3 65/13 90/15 resistance [6] 133/21 195/13 195/18 197/5 199/10 199/13 resonate [1] 173/24 resorting [1] 39/16 resource [9] 32/13 32/14 40/11 41/16 43/10 43/12 68/7 68/25 178/9 resourced [3] 44/1 54/7 176/13 resources [22] 27/23 40/12 40/14 48/23 49/12 49/15 53/24 70/19 70/22 75/8 172/24 174/7 174/23 175/9 175/12 176/12 176/16 176/21 177/17 178/1 178/14 211/23 resourcing [1] 173/1 respect [10] 35/3 35/19 36/12 65/23 93/13 94/17 96/4 103/1 103/11 128/1 respectfully [4] 65/7 89/11 89/15 89/18 respiratory [2] 120/15 161/25 respond [16] 15/22 16/23 27/1 27/18 39/23 43/7 49/8 62/16 85/9 101/25 103/4 104/24 106/5 106/8 107/18 141/9 responding [11] 4/11 28/12 28/25 82/9 84/8 93/21 95/6 95/8 103/7 103/15 110/5 response [57] 6/22 7/22 21/15 33/18 33/25 34/4 38/17 39/10 42/24 43/10 45/8 47/16 47/18 54/19 70/18 71/3 77/5 82/8 82/15 83/11 83/15 83/18 83/25 84/6 84/18 84/19 85/5 85/10 90/5 94/3	103/20 105/24 106/1 106/3 106/13 106/21 107/4 107/4 107/6 107/15 111/15 111/25 117/3 131/25 151/11 180/2 185/16 187/6 188/6 188/11 196/5 201/2 201/3 207/2 207/24 208/11 211/3 responses [5] 62/2 82/3 172/17 200/25 203/15 responsibilities [8] 2/7 86/8 96/24 103/17 103/22 174/17 175/3 188/8 responsibility [29] 2/12 3/21 11/20 23/2 24/6 24/11 26/10 26/11 29/6 34/16 48/14 87/11 87/12 88/25 95/11 103/6 117/21 142/1 173/17 175/8 176/1 176/4 176/6 188/1 198/6 198/9 200/4 211/24 211/25 responsible [7] 6/18 11/21 12/7 24/24 95/21 111/19 200/5 rest [5] 42/6 49/1 49/5 50/4 166/20 restaurants [1] 152/2 restricted [1] 9/17 restrictions [21] 71/14 71/15 71/18 181/1 181/3 181/5 181/7 183/2 186/14 186/15 186/16 189/2 189/2 193/13 197/18 200/16 201/2 202/17 202/18 204/7 204/18 rests [1] 137/8 result [3] 32/13 46/4 99/22 resulted [1] 48/24 retained [2] 209/14 211/6 retention [1] 210/13 retired [4] 99/7 99/8 141/14 193/1 return [6] 4/21 19/12 57/4 115/19 129/25 169/15 returned [3] 149/17 207/9 208/2 returns [1] 65/14 revealed [1] 191/13 review [42] 12/1 25/7 25/10 25/19 27/3 34/10 36/15 36/19 37/11 38/10 38/11 38/21 39/9 39/12 39/18 39/21 40/2 40/3
----------	---	---	--	--

R	35/17 36/8 36/24 42/4 44/25 44/25 52/21 55/4 55/5 97/17 136/14 136/16 165/15 166/5 211/13 risks [9] 27/15 53/13 58/3 58/8 69/14 69/15 165/20 165/22 165/23 road [1] 39/18 robustly [1] 42/21 role [126] 2/16 2/18 4/15 4/16 4/17 4/18 6/11 6/11 6/16 6/17 11/23 11/24 12/8 13/1 14/19 15/25 16/14 16/21 16/22 17/1 17/4 17/6 17/17 18/12 19/6 19/15 21/9 22/1 22/24 22/25 23/8 24/5 24/11 24/22 24/23 25/2 25/23 26/25 27/3 28/1 28/3 29/3 31/20 34/3 35/2 36/14 37/22 45/7 56/2 60/4 63/4 63/4 71/6 71/10 71/12 85/22 88/20 90/14 93/8 93/12 93/18 93/23 93/24 94/18 96/4 96/8 97/4 97/6 99/9 100/14 100/21 102/9 102/23 102/25 103/4 105/23 107/16 108/6 108/16 108/24 110/17 110/21 113/6 114/6 115/3 116/1 116/7 116/8 118/3 124/7 133/15 134/9 146/23 161/16 161/21 161/21 164/10 165/13 165/15 165/16 165/18 166/5 168/3 171/10 171/12 171/22 172/1 172/13 173/15 173/20 175/1 175/15 180/22 180/22 181/10 181/12 182/16 184/2 184/10 184/15 188/17 193/3 197/11 200/6 207/9 212/22 roles [17] 14/25 15/3 15/6 15/10 15/19 15/22 19/7 20/24 21/10 23/12 23/15 24/14 92/15 100/23 107/7 118/6 184/21 rolled [1] 160/6 room [1] 150/16 Rooney [38] 4/3 10/22 11/22 12/5 12/11 12/18 13/8 15/13 15/16 18/6 19/23 20/2 34/8 34/8 34/13 34/18 35/7 35/15 38/20 40/6	63/14 63/20 63/23 64/12 64/20 81/17 81/17 82/13 82/18 84/14 86/18 86/25 87/17 88/3 88/12 89/9 89/20 90/2 Rooney's [9] 35/8 36/5 36/12 36/14 38/23 82/12 83/8 84/21 88/16 rotas [2] 150/9 150/17 rough [1] 150/11 roughly [2] 163/13 165/6 round [5] 132/21 159/19 160/1 160/6 160/20 routinely [3] 124/6 162/6 162/20 Royal [3] 124/21 125/1 125/17 rule [1] 31/9 rules [1] 134/16 run [8] 15/7 21/5 22/21 108/21 118/24 124/18 128/18 158/6 running [16] 17/23 21/3 28/24 61/15 102/5 109/2 109/3 109/8 109/12 150/12 150/13 175/19 180/4 181/24 193/10 194/11 rushing [1] 144/17	satisfied [3] 47/14 207/22 212/8 Saturday [2] 78/17 85/17 saw [5] 29/3 29/13 112/22 210/23 214/12 say [81] 1/16 6/4 8/3 11/1 11/4 13/4 16/5 18/9 22/17 23/19 24/3 25/13 26/15 28/20 32/15 32/22 33/18 36/22 40/19 49/22 49/24 50/10 54/12 54/14 61/9 61/21 61/25 64/3 67/6 69/6 70/7 72/14 72/20 73/8 79/5 82/13 84/22 87/5 87/10 88/12 88/22 88/22 89/11 94/12 102/10 102/10 102/14 110/19 123/17 124/2 126/12 131/2 135/20 136/25 137/4 139/20 151/6 156/9 167/7 167/12 168/3 170/6 175/10 182/14 184/1 185/22 188/13 188/20 189/5 193/4 195/1 202/2 202/25 203/24 203/25 205/19 206/20 208/18 208/23 208/25 215/23 saying [36] 12/20 13/8 13/16 14/9 31/10 36/6 43/20 44/17 47/1 47/9 49/11 51/10 52/23 54/21 61/22 63/23 65/21 65/23 68/16 81/3 81/4 86/18 88/7 126/6 127/15 138/8 138/8 138/10 145/8 151/12 152/15 153/9 155/10 197/17 207/21 209/24 says [18] 10/23 11/4 14/23 14/23 34/13 46/21 47/12 57/21 65/17 78/17 82/18 87/19 88/3 104/7 105/3 153/17 153/23 207/17 scale [7] 101/19 101/24 102/1 116/10 116/17 116/19 145/10 scanning [1] 146/20 scenario [1] 116/20 scenarios [2] 56/20 154/22 schedule [1] 195/3 scheme [4] 92/16 175/22 176/2 176/13 schemes [1] 179/10 school [2] 55/23 103/14	schools [5] 55/19 56/1 56/9 78/21 94/4 science [1] 146/9 scientific [7] 16/16 151/5 151/8 151/11 183/3 196/13 199/4 scientists [2] 105/18 144/4 scope [3] 42/25 177/8 183/11 Scott [9] 1/3 1/9 57/3 57/8 77/12 80/7 87/25 89/10 169/20 Scott's [1] 12/11 scratch [4] 112/5 113/23 184/14 184/22 screen [6] 1/19 4/1 40/19 57/12 81/15 170/9 screening [3] 95/22 99/21 104/23 scroll [5] 46/10 48/11 57/20 78/23 209/20 second [11] 9/22 14/22 26/4 51/22 60/13 127/14 170/17 171/1 207/15 208/7 215/24 secondary [1] 120/23 secondment [1] 75/18 secretariat [12] 6/12 11/22 24/25 29/15 29/17 30/24 31/8 69/22 77/14 77/24 78/3 82/17 secretaries [18] 64/13 172/8 172/11 172/22 173/3 174/3 175/6 184/4 184/7 184/13 184/16 184/23 185/13 188/9 211/1 211/9 211/11 211/22 secretaries' [1] 178/8 secretary [14] 79/12 79/14 80/3 80/18 81/3 96/21 97/15 132/8 174/14 174/15 175/2 176/19 176/20 178/12 secs [2] 63/24 185/4 section [8] 50/8 50/11 60/11 66/16 108/18 121/17 201/19 206/9 section 75 [2] 201/19 206/9 section 8 [1] 108/18 sections [1] 202/4 sector [17] 5/20 6/25 7/3 7/12 34/16 34/21 35/9 47/3 47/10 48/13 48/15 48/17 49/1 54/21 157/15 158/19 162/15
----------	---	---	---	---

S				
<p>sectoral [32] 4/13 4/14 4/20 5/23 6/15 6/19 6/22 26/1 26/6 26/18 28/12 31/20 32/10 34/7 38/1 46/2 46/12 50/9 51/3 51/13 51/23 52/2 53/14 54/17 55/17 55/21 55/24 56/3 56/3 62/3 65/13 90/15</p> <p>sectors [5] 26/8 63/1 186/22 200/19 206/3</p> <p>secure [1] 211/10</p> <p>secured [2] 41/14 211/4</p> <p>security [2] 9/23 10/1</p> <p>see [53] 4/6 10/21 14/22 29/12 30/7 30/12 33/2 33/11 34/22 37/8 40/19 46/11 48/12 59/22 60/11 60/12 62/20 63/23 67/2 67/23 75/24 81/20 89/15 89/18 89/20 89/24 108/13 120/11 120/12 122/25 127/14 132/3 132/9 133/6 133/13 133/18 137/12 140/24 143/7 149/20 151/3 152/24 152/25 153/16 155/24 160/19 197/16 201/11 213/22 214/2 214/7 214/13 214/19</p> <p>seeing [2] 53/13 118/20</p> <p>seek [5] 54/10 63/24 97/18 176/11 196/4</p> <p>seeking [5] 31/21 79/15 79/17 119/25 174/10</p> <p>seeks [1] 40/23</p> <p>seem [4] 132/12 143/1 153/12 163/9</p> <p>seemed [4] 23/23 129/15 193/7 195/8</p> <p>seems [10] 128/22 130/20 131/19 141/2 145/3 152/4 155/15 158/18 164/17 196/25</p> <p>seen [24] 21/10 22/11 51/5 51/12 58/16 64/2 75/4 75/15 88/4 89/13 97/24 98/25 100/12 108/10 108/11 108/12 109/20 113/13 126/7 131/13 140/20 142/17 161/12 176/8</p> <p>self [1] 155/1</p> <p>self-trace [1] 155/1</p> <p>senior [28] 11/6</p>	<p>11/13 11/14 11/16 12/19 12/20 13/9 17/17 18/24 20/16 21/9 23/23 76/5 84/10 88/7 100/21 100/23 101/4 101/7 132/15 171/7 172/7 172/23 180/10 180/16 185/19 196/11 211/9</p> <p>sense [10] 41/18 75/18 77/7 165/24 168/2 175/25 189/13 192/11 194/17 213/6</p> <p>sensitivities [2] 77/15 177/10</p> <p>sensitivity [1] 9/21</p> <p>sent [11] 10/21 14/8 14/17 127/7 127/9 132/22 133/9 137/19 151/10 209/4 210/20</p> <p>sentence [2] 41/25 64/23</p> <p>separate [4] 43/5 149/8 191/7 197/23</p> <p>separating [1] 187/7</p> <p>separation [2] 161/19 187/4</p> <p>September [7] 11/5 91/19 94/2 155/21 171/20 207/9 214/4</p> <p>September 2019 [1] 11/5</p> <p>September 2020 [1] 214/4</p> <p>September 2022 [1] 91/19</p> <p>sequence [1] 85/1</p> <p>series [4] 145/22 179/9 183/17 183/20</p> <p>serious [7] 7/9 16/3 55/1 127/16 127/18 139/22 139/22</p> <p>seriousness [1] 132/14</p> <p>servant [3] 11/6 141/15 174/25</p> <p>servants [3] 179/12 179/18 185/8</p> <p>served [2] 2/1 171/18</p> <p>serves [2] 66/7 67/19</p> <p>service [76] 2/5 5/16 24/24 39/16 93/2 99/21 104/22 106/23 107/17 109/6 125/15 143/20 150/13 154/17 155/24 156/14 167/15 171/6 171/7 171/13 171/18 171/23 171/24 172/5 172/7 172/10 172/12 172/13 172/17 172/21 173/1 173/8 173/11 173/15 173/21 174/2 174/6 174/13 174/19 174/24 175/1</p>	<p>175/13 176/15 176/20 176/23 176/24 177/15 177/25 178/5 179/3 179/24 179/24 180/3 180/4 180/5 181/11 181/16 182/4 182/17 182/19 182/20 183/7 183/11 184/1 184/2 184/10 185/7 187/3 187/13 188/17 188/25 189/12 201/21 202/11 208/2 210/14</p> <p>services [13] 26/7 29/4 56/5 66/19 92/24 93/5 93/10 93/19 93/24 95/20 107/20 157/14 214/19</p> <p>session [1] 141/2</p> <p>sessions [1] 78/20</p> <p>set [30] 6/1 16/15 35/13 45/23 65/1 71/7 71/15 72/17 76/3 81/16 106/5 107/8 115/25 118/8 120/24 120/25 122/13 134/15 135/21 143/14 147/18 179/22 181/9 181/25 190/17 195/16 204/16 207/7 208/7 214/23</p> <p>sets [10] 4/4 38/4 51/21 106/16 108/19 128/4 138/4 154/5 154/22 208/14</p> <p>setting [6] 127/10 153/1 153/3 162/21 195/12 195/14</p> <p>settled [1] 35/6</p> <p>settlement [1] 77/15</p> <p>seven [3] 148/25 150/13 184/10</p> <p>seven days [1] 148/25</p> <p>seven years [1] 184/10</p> <p>several [4] 82/19 83/10 92/14 136/4</p> <p>severe [1] 178/9</p> <p>shade [1] 3/5</p> <p>shakiness [1] 137/3</p> <p>shall [4] 57/4 115/19 169/15 189/17</p> <p>share [2] 29/25 175/12</p> <p>shared [1] 209/10</p> <p>SharePoint [1] 135/8</p> <p>sharing [2] 4/7 198/11</p> <p>she [28] 4/4 10/23 11/4 11/24 11/25 12/23 20/4 20/4 20/5 34/24 38/9 44/16 67/17 67/19 67/21 69/3 83/10 83/17 83/17 84/2 87/19 88/3</p>	<p>89/13 199/20 199/22 200/19 208/21 208/22</p> <p>she's [7] 11/2 13/8 34/23 35/4 86/25 87/1 90/2</p> <p>shielding [1] 166/2</p> <p>shift [4] 15/7 21/3 21/6 68/7</p> <p>shifted [1] 50/18</p> <p>shock [1] 16/19</p> <p>shocking [1] 166/21</p> <p>short [14] 16/25 19/12 35/1 40/1 47/20 54/8 57/6 60/14 105/4 115/21 115/24 169/18 178/22 201/22</p> <p>shortage [1] 144/8</p> <p>shortcoming [1] 23/17</p> <p>shorthand [1] 27/2</p> <p>shortly [3] 96/8 127/1 186/24</p> <p>should [35] 23/18 25/13 29/4 29/5 33/20 33/24 42/9 48/19 63/24 64/13 67/15 69/18 77/22 78/3 80/16 87/10 90/13 107/19 107/22 111/15 130/14 139/21 157/21 158/24 167/22 170/16 174/4 176/2 203/21 203/25 204/1 204/3 205/9 217/5 217/7</p> <p>shouldn't [1] 11/1</p> <p>show [5] 14/16 23/7 26/2 49/21 177/22</p> <p>showed [2] 22/1 66/2</p> <p>showing [1] 89/22</p> <p>shows [1] 66/4</p> <p>shut [1] 152/3</p> <p>sic [1] 106/22</p> <p>sick [1] 135/23</p> <p>side [7] 63/19 63/20 64/15 78/16 82/11 82/12 87/19</p> <p>sight [1] 72/16</p> <p>signal [1] 46/4</p> <p>signalling [1] 68/24</p> <p>signature [3] 1/22 170/21 170/25</p> <p>signed [1] 91/10</p> <p>significance [2] 111/22 115/8</p> <p>significant [14] 16/20 18/5 21/14 22/5 66/23 73/4 89/7 100/4 100/24 101/13 101/23 110/12 154/2 181/1</p> <p>significantly [6] 6/11 11/17 47/4 47/10 53/4 99/6</p> <p>silver [19] 84/7 105/24 106/1 106/11</p>	<p>106/12 106/21 106/25 107/2 107/8 107/9 107/16 107/25 108/4 108/25 114/3 124/10 126/8 126/21 144/23</p> <p>similar [5] 2/20 6/16 24/9 182/6 199/14</p> <p>Similarly [1] 56/2</p> <p>Simon [1] 79/9</p> <p>Simon Coveney [1] 79/9</p> <p>simple [3] 77/21 122/20 143/2</p> <p>simpler [1] 24/4</p> <p>simplistically [1] 87/8</p> <p>simply [19] 9/10 13/21 16/3 19/13 21/8 31/10 32/22 32/25 39/6 39/18 41/6 55/11 56/5 73/17 77/6 77/24 179/5 189/7 201/19</p> <p>simultaneously [1] 73/22</p> <p>since [9] 9/3 25/18 91/19 92/9 113/7 113/13 146/15 154/4 207/11</p> <p>single [7] 24/20 112/15 126/7 159/23 159/23 160/2 160/6</p> <p>Sir [28] 2/21 2/22 5/3 14/8 38/8 46/1 54/2 66/1 67/25 70/5 70/9 78/9 78/25 79/4 84/11 84/24 85/2 85/10 85/22 86/7 88/18 171/25 173/22 174/9 174/15 192/16 192/23 193/1</p> <p>Sir David [10] 2/22 5/3 54/2 70/9 79/4 85/2 88/18 171/25 192/23 193/1</p> <p>Sir David Sterling [13] 2/21 14/8 38/8 46/1 66/1 67/25 70/5 78/9 78/25 84/24 173/22 174/9 192/16</p> <p>Sir David's [1] 174/15</p> <p>Sir Michael [2] 85/22 86/7</p> <p>Sir Michael McBride [1] 85/10</p> <p>site [3] 11/8 11/11 17/7</p> <p>sits [3] 106/9 106/25 134/11</p> <p>situation [19] 7/15 8/16 13/13 19/13 24/19 32/20 38/24 42/8 44/5 49/15 51/19 77/1 99/3 109/18</p>

S	39/22 39/23	68/21 69/7 69/12	29/7 98/4 99/9 101/6	174/10 176/11 177/18
situation... [5] 113/3	solutions [2] 22/11	sorry [23] 46/9 49/5	105/15 113/5 125/7	178/5 178/16 180/7
156/11 167/3 187/18	22/16	51/16 78/14 79/13	specific [27] 4/18 8/8	181/24 211/23
198/18	solved [1] 7/2	79/22 81/9 89/25	14/19 17/18 26/9	staffed [4] 5/11 5/14
situations [3] 20/11	some [101] 3/14 4/22	94/11 95/5 112/1	26/13 30/2 30/6 30/9	16/8 143/19
111/23 182/23	4/24 7/6 17/24 18/3	115/15 115/17 121/13	30/13 31/25 32/6 32/7	staffing [21] 8/20 9/4
six [3] 34/19 124/25	20/6 21/6 22/20 33/22	125/19 131/1 133/17	33/4 60/4 63/7 71/24	11/15 12/9 13/18
198/23	40/10 41/8 46/18 53/5	137/23 163/7 163/14	72/24 79/23 80/1	16/11 21/16 21/20
six months [2] 34/19	58/22 59/13 62/17	169/24 183/24 212/3	126/20 165/4 165/10	32/13 33/7 35/5 49/12
124/25	63/13 65/3 71/20	sort [39] 8/18 26/24	178/2 206/4 211/10	49/15 98/2 98/3 98/17
six weeks [1] 198/23	74/20 78/19 81/17	31/12 89/6 94/1 95/15	211/20	101/6 101/25 143/21
size [1] 153/10	82/6 85/9 90/11 96/3	99/24 101/22 106/3	specifically [12] 4/20	143/22 154/23
skilled [3] 52/20	97/18 100/8 100/12	106/4 110/7 111/10	7/24 11/22 12/1 21/22	stage [46] 7/5 9/12
144/3 144/5	100/14 102/21 105/3	111/23 112/14 122/22	22/24 28/2 30/12	16/13 28/23 41/6
skills [8] 35/16 36/8	105/13 108/20 117/18	122/24 125/11 134/4	32/17 34/6 78/20	41/14 41/15 42/17
36/16 125/7 144/9	117/24 118/1 119/10	140/7 143/16 143/20	165/25	45/3 45/14 45/18
168/8 179/4 216/23	120/17 120/25 122/23	144/9 145/22 146/19	speech [1] 94/9	61/10 68/16 69/22
slack [1] 180/16	126/25 127/2 128/4	155/1 156/1 156/21	speed [3] 16/9 17/4	76/17 90/9 101/11
slide [1] 88/2	128/12 131/20 132/13	158/2 159/21 160/4	145/10	102/10 107/6 107/17
slight [7] 8/11 11/19	132/21 133/21 134/2	161/22 161/24 162/1	spill [1] 132/24	107/25 108/4 109/6
12/8 173/14 196/19	136/11 136/23 137/14	162/21 166/4 168/11	spoke [3] 83/17	111/7 111/8 113/21
197/5 216/20	144/10 144/19 146/2	187/9 192/25 215/2	138/21 191/10	114/14 115/6 123/14
slightly [7] 3/14	149/23 154/22 157/1	sort of [34] 8/18	spoken [8] 80/16	123/20 129/21 130/3
18/25 108/15 108/16	157/14 162/1 163/8	26/24 31/12 89/6 94/1	130/18 137/23 140/10	130/5 131/24 133/16
183/22 198/9 216/13	175/17 176/11 177/2	95/15 99/24 101/22	151/21 191/11 209/14	139/17 140/22 140/23
slow [10] 1/15 12/10	177/15 177/18 178/8	106/3 106/4 110/7	216/5	142/7 144/22 148/22
64/17 89/16 90/4 94/9	180/5 181/14 181/23	111/23 112/14 122/22	sponsor [4] 96/13	149/4 149/13 149/16
96/25 114/25 140/18	181/23 182/22 183/12	122/24 125/11 134/4	96/19 97/15 97/22	165/17 187/14
148/6	183/12 184/16 184/17	140/7 143/16 143/20	sponsorship [3] 97/4	stages [8] 22/18 32/4
slowing [1] 199/23	184/19 184/24 185/2	144/9 146/19 155/1	97/6 97/12	93/15 121/6 165/18
small [19] 15/25	186/17 188/4 188/25	156/1 156/21 158/2	sports [1] 204/21	166/10 166/13 175/17
35/12 35/14 35/25	190/2 191/18 192/18	159/21 161/22 161/24	spot [2] 53/9 165/4	stakeholder [4]
50/19 54/7 100/2	193/14 193/18 195/19	162/21 166/4 168/11	spread [2] 103/17	201/24 203/3 205/20
100/7 105/7 105/12	196/3 196/10 196/12	187/9 215/2	148/7	216/5
105/21 123/6 123/9	196/13 196/14 200/20	sorts [4] 6/5 107/25	spreading [1] 114/18	stakeholders [3]
123/18 144/2 147/21	202/20 203/2 205/12	112/11 173/11	spring [1] 161/8	58/7 73/15 203/5
148/1 157/1 161/25	207/22 209/10	SoS [1] 79/7	square [1] 81/7	stand [10] 3/8 5/20
smaller [4] 10/12	somebody [1] 188/1	sought [2] 83/10	SSE [1] 130/6	6/3 24/17 56/25 70/16
130/23 145/22 152/9	somebody's [1] 40/3	182/13	stabilise [1] 100/9	70/17 70/20 136/22
smoking [1] 95/13	someone [9] 16/22	sound [3] 11/18	staff [89] 2/17 5/15	144/23
SMS [1] 155/1	17/7 18/2 27/9 49/7	59/16 100/15	6/14 8/21 8/23 9/6 9/7	stand-up [5] 3/8 5/20
SMS message [1]	101/8 103/13 107/21	sounds [4] 18/16	9/18 9/25 10/8 10/13	6/3 70/20 144/23
155/1	164/4	147/12 147/12 165/6	10/19 12/25 15/6	standard [2] 106/6
so [342]	something [38] 17/6	source [6] 142/12	15/18 16/21 16/24	106/8
social [16] 56/8	20/15 32/20 40/7	142/22 177/2 192/12	17/9 17/11 17/24	standing [3] 5/14
87/22 88/8 89/3 93/25	40/16 58/10 62/13	192/14 202/6	18/11 18/21 18/24	5/24 38/22
95/24 106/4 106/24	72/8 76/14 77/11	sources [4] 107/13	19/7 19/11 19/14	start [22] 2/1 3/14
109/7 109/11 122/17	101/12 101/19 106/13	119/5 215/10 215/13	19/19 19/20 19/21	33/12 39/12 65/9 77/7
122/18 145/2 146/17	110/25 111/18 113/17	space [1] 201/23	20/1 20/14 20/24 21/9	81/20 82/11 89/25
157/14 203/11	113/23 114/20 115/7	spare [1] 158/17	21/10 22/2 22/21 23/1	90/7 94/18 98/14
social care [1]	116/10 116/11 116/12	speak [11] 84/15	35/6 35/15 39/25	116/23 120/22 121/2
203/11	116/14 116/16 118/15	94/7 137/19 151/20	46/17 47/12 48/2	125/11 126/13 163/13
socially [1] 8/13	118/17 118/24 120/1	170/3 170/4 182/24	48/23 52/2 70/25 71/2	167/7 168/7 189/7
Societal [1] 204/16	122/11 126/6 126/14	187/16 187/18 208/5	71/4 71/11 75/18	192/4
society [13] 26/8	150/17 159/24 168/24	212/11	76/11 98/4 98/5 99/4	started [18] 119/12
29/5 42/7 71/25 72/1	169/1 176/13 182/5	speaking [4] 82/20	99/9 99/10 100/10	136/12 146/15 148/13
132/20 144/1 167/14	187/17	83/18 83/21 127/13	100/24 105/5 105/10	149/20 159/18 160/18
167/18 201/13 202/14	sometimes [8]	special [3] 98/8	122/18 130/13 135/1	161/5 163/20 163/22
205/3 213/7	132/23 133/3 133/4	134/8 187/11	144/1 149/11 149/11	177/5 181/2 181/5
soft [5] 174/6 174/22	136/17 136/24 139/2	specialisation [2]	150/19 152/5 153/7	181/13 183/16 193/1
178/15 182/21 198/4	176/8 192/4	92/12 92/23	155/3 156/16 156/23	193/16 206/15
solely [1] 194/1	somewhere [1] 12/16	specialised [3] 93/24	156/24 159/23 160/3	starting [6] 22/3
solution [4] 7/6 28/15	sophisticated [6]	99/10 111/25	161/17 163/11 165/1	53/12 160/6 183/14
	29/20 32/21 62/21	specialist [8] 10/6	172/8 172/23 173/2	184/22 189/2

S	90/21 218/3 stick [1] 161/7 still [22] 28/16 34/19 41/8 47/18 52/10 56/18 92/6 92/7 99/3 107/4 130/2 139/22 141/4 141/25 142/13 148/20 149/13 196/9 197/23 198/7 199/7 199/16 stocktake [2] 173/5 178/8 stood [4] 12/15 52/4 106/18 124/11 stop [10] 91/25 95/13 103/17 106/15 125/19 137/23 144/17 148/15 152/13 183/22 stopped [3] 121/4 148/16 150/4 story [2] 62/6 134/5 straightforward [2] 179/5 180/9 strain [2] 178/17 180/15 strained [1] 178/13 strand [1] 34/6 strategic [12] 34/10 37/11 40/24 57/23 58/2 84/7 84/18 88/19 107/4 107/6 117/22 146/19 strategies [1] 6/8 strategy [7] 115/11 148/1 151/13 199/22 199/22 216/9 216/14 streams [1] 206/4 strengths [1] 102/16 stretched [1] 178/13 strident [1] 188/20 stridently [1] 188/18 strong [2] 20/19 200/18 structure [6] 15/3 19/6 24/5 25/6 173/16 195/21 structures [1] 106/17 struggle [3] 68/19 87/21 88/10 struggled [2] 68/7 80/13 stuff [1] 120/13 subject [3] 9/22 10/1 163/24 suboptimal [1] 20/22 subsequent [1] 198/3 subsequently [5] 8/7 116/18 119/14 142/9 142/17 substance [1] 72/24 substantially [1] 54/18 substantive [1] 93/18	substituting [1] 21/17 succeeded [1] 12/25 success [2] 85/25 100/8 successful [1] 22/17 successfully [1] 21/24 succinctly [1] 44/17 such [15] 16/17 18/13 18/17 30/13 32/18 36/16 39/4 47/7 49/25 74/2 102/19 129/16 129/16 175/20 201/18 suffering [1] 104/5 sufficient [22] 14/2 22/21 27/7 35/24 36/7 37/25 45/9 53/24 62/16 64/20 66/3 66/4 68/11 70/17 70/19 70/22 77/1 97/9 203/23 205/7 206/9 217/4 sufficiently [3] 8/5 37/18 213/1 suggest [2] 145/3 179/14 suggested [2] 138/13 159/11 suggesting [6] 47/13 67/7 152/17 153/13 177/9 203/20 suggestion [3] 59/12 64/19 151/24 suggestions [1] 75/21 suggests [3] 111/3 143/7 164/24 summarise [1] 171/5 summarised [1] 62/4 summary [5] 7/14 65/23 67/6 67/9 67/11 summer [6] 94/1 160/23 161/3 161/5 186/2 186/6 Sunday [7] 81/21 82/2 85/18 87/16 128/24 132/22 132/23 supply [2] 9/17 163/5 support [12] 26/7 105/19 107/1 157/15 162/21 163/2 172/9 172/14 175/22 176/12 176/16 179/6 supported [2] 29/5 93/24 supporting [2] 95/14 161/21 supportive [1] 109/12 suppose [5] 101/4 106/16 108/1 201/25 210/6	supposed [2] 97/8 108/6 sure [35] 3/7 10/10 45/5 61/9 64/11 64/23 74/4 86/15 89/23 97/7 98/7 108/2 108/23 114/23 115/8 129/23 129/24 130/11 131/21 138/15 139/16 139/20 140/20 145/18 156/4 158/10 162/25 163/23 168/20 190/15 198/13 199/3 201/1 204/2 217/6 surely [2] 17/24 40/14 surge [5] 144/24 145/10 145/24 146/3 183/5 surprise [1] 16/19 surprised [1] 34/22 surveillance [26] 105/17 109/23 110/8 110/13 117/7 117/9 118/4 118/7 120/18 120/19 120/21 120/25 121/24 122/14 127/20 131/5 131/9 131/20 134/8 134/24 142/4 144/2 144/3 144/4 146/23 146/25 suspect [3] 12/23 68/1 146/18 suspected [1] 111/16 suspects [1] 104/4 suspend [1] 47/25 sustainability [1] 47/19 Swann [1] 127/8 swine [5] 100/5 100/14 100/17 101/13 119/13 swine flu [5] 100/5 100/14 100/17 101/13 119/13 symptomatic [8] 119/24 130/13 158/25 159/5 159/21 163/16 164/16 165/1 symptoms [9] 118/21 119/19 119/21 120/7 120/10 120/14 120/20 120/21 129/25 syndrome [1] 120/19 syndromic [4] 120/18 120/18 120/21 120/25 system [21] 55/19 55/23 56/1 95/25 106/4 119/11 122/10 122/10 135/1 135/7 136/6 136/7 137/5 141/9 142/3 142/6 142/11 158/2 177/6	203/12 215/14 systematic [5] 201/13 202/24 203/21 214/22 215/4 systems [4] 109/23 118/17 120/12 122/19
		T		
		table [10] 62/5 62/18 62/19 65/1 65/12 66/8 67/6 67/7 67/7 67/12 tables [2] 66/10 105/3 tackled [2] 167/20 167/22 tackling [1] 205/25 tactic [1] 39/17 tailor [1] 113/1 take [48] 1/19 7/1 11/23 11/24 18/12 19/15 27/24 36/12 43/6 43/22 46/18 47/23 58/18 58/21 58/23 60/11 63/11 65/8 67/20 77/2 91/25 95/15 104/8 106/12 106/15 108/5 113/3 121/6 122/23 126/25 137/19 139/21 147/6 157/9 163/7 170/18 171/8 171/12 174/18 177/18 178/17 185/12 188/12 196/8 197/15 204/5 209/17 211/3 taken [22] 11/2 18/7 22/20 24/11 41/23 48/18 65/5 67/22 68/16 71/19 112/19 113/7 124/15 126/21 127/11 128/12 131/9 156/10 180/16 202/12 204/1 206/5 takes [2] 97/12 185/10 taking [19] 2/11 11/8 19/6 22/1 27/9 40/12 40/14 41/16 48/14 81/23 93/3 109/8 111/19 154/7 161/19 172/14 181/19 188/17 194/8 talk [11] 3/15 15/4 22/24 37/6 67/16 70/2 101/3 128/12 188/23 209/18 212/1 talked [11] 128/21 129/3 134/7 139/18 143/21 143/22 146/1 146/11 148/12 186/12 189/25 talking [18] 1/14 5/3 26/18 30/9 38/10 38/12 45/14 49/4 99/19 101/5 114/14		

T	tensions [1] 140/25	128/16 129/1 129/1	that's [150] 1/18 2/9	192/18 197/6 197/7
talking... [7] 138/16	tenterhooks [1] 80/9	129/16 129/17 129/21	2/14 3/18 3/19 4/10	198/8 199/6 200/6
156/17 187/21 192/23	tenure [10] 43/24	130/4 130/13 146/24	5/9 5/18 7/16 7/17	200/7 200/8 203/5
192/24 194/10 198/6	175/17 177/13 179/19	147/1 151/12 158/20	8/17 8/24 9/23 11/10	203/15 211/12 211/14
talks [4] 103/9	181/15 185/14 201/14	159/2 159/3 159/4	13/23 14/6 14/7 14/15	211/23 211/23 215/1
103/10 103/12 139/14	201/25 202/24 206/10	159/7 159/15 159/18	14/21 16/7 16/10	216/18 216/23
task [10] 31/21 31/23	TEO [28] 2/4 2/10	159/20 159/20 160/5	16/21 19/16 22/23	their CNI [1] 60/20
31/25 32/1 44/2 55/19	3/19 11/6 15/2 26/22	160/6 160/7 160/12	23/10 24/18 25/16	them [60] 9/21 9/21
72/19 102/12 135/24	27/9 28/1 28/3 28/6	160/16 160/18 160/20	27/25 32/12 34/11	10/1 33/2 33/11 36/1
144/3	28/9 33/25 34/7 43/24	160/22 160/24 160/25	35/11 36/4 40/17	40/16 53/9 60/6 62/18
tasked [4] 30/25 31/3	57/15 59/2 59/13	161/3 161/5 161/18	42/10 43/19 45/1	63/7 63/9 69/9 75/17
36/15 44/2	60/14 75/8 76/14	163/9 163/10 163/12	46/11 46/20 47/11	80/20 81/1 81/18 88/1
taskforce [24] 24/10	176/19 176/25 178/6	163/12 163/18 163/25	47/20 50/2 51/25	99/11 104/9 107/22
175/18 186/25 187/17	185/20 196/20 196/20	164/2 164/3 164/10	53/22 53/23 56/12	108/19 108/20 117/24
188/13 188/24 189/1	196/20 211/9	164/11 164/25	57/2 57/19 58/13	118/19 122/2 124/10
193/9 195/16 195/22	TEO's [4] 26/9 26/11	tests [18] 121/24	60/10 61/5 61/18 63/2	135/14 135/23 142/8
196/1 196/3 196/20	27/3 56/2	122/3 123/19 125/10	63/3 63/22 64/22	142/25 144/21 148/5
196/22 197/15 197/21	term [3] 40/1 106/18	125/12 128/17 128/18	65/16 65/21 65/23	155/22 155/23 156/25
199/23 200/21 200/24	110/8	129/2 129/7 129/11	67/8 70/23 71/17 72/2	157/1 160/10 162/4
202/17 202/20 203/1	terms [85] 3/7 5/10	129/12 129/18 130/3	76/6 77/5 77/25 79/1	168/16 168/20 178/17
215/8 215/10	6/15 7/12 8/20 19/19	130/22 131/14 131/14	82/16 85/6 87/9 87/11	184/14 184/17 184/19
tasks [4] 50/20 50/23	21/19 24/1 25/14	131/17 131/18	91/11 91/18 92/5	184/24 184/25 188/2
144/19 144/22	28/18 36/2 39/22 40/2	text [2] 63/17 85/1	92/21 93/15 95/16	188/22 190/25 191/14
taxing [1] 180/24	44/18 45/5 49/1 59/24	than [40] 8/15 9/24	96/11 96/22 98/20	191/24 192/13 192/20
team [52] 9/12 9/15	60/7 63/4 64/12 66/23	10/13 10/14 11/17	99/6 102/1 103/3	193/6 199/2 207/11
9/19 11/3 13/1 14/10	69/20 69/20 71/6	13/9 14/1 18/25 21/5	103/6 103/14 104/13	208/14 211/25 212/13
30/4 32/14 35/12	72/12 73/13 74/7 75/6	21/12 23/16 25/4	105/25 106/18 106/20	themes [1] 205/25
35/14 35/22 36/2	75/21 76/24 80/23	25/21 31/7 31/13 33/3	108/13 109/14 109/14	themselves [2] 106/5
40/10 44/20 45/23	88/20 93/10 94/16	43/19 47/20 48/25	109/25 111/2 114/14	182/4
52/8 52/20 52/24 53/3	96/4 97/4 99/3 102/9	51/18 56/25 57/13	115/13 117/22 118/7	then [133] 1/14 5/10
53/5 53/11 53/19 54/7	104/14 108/14 109/1	58/22 70/6 71/2 74/9	119/2 119/11 119/17	5/15 6/10 6/15 7/3
62/9 69/12 76/6 84/10	112/4 116/21 116/25	78/4 80/22 87/5	119/17 120/2 120/10	10/21 12/4 13/7 13/8
87/3 87/12 95/17	119/5 123/21 123/22	101/13 103/19 112/25	120/15 120/18 129/13	15/6 15/18 15/24
95/18 95/20 104/10	125/1 138/4 144/1	113/12 156/16 162/24	130/25 134/10 134/18	19/12 23/1 24/8 24/19
104/15 104/21 104/23	148/19 158/20 161/16	187/19 210/5 210/7	137/24 138/1 147/9	27/22 28/4 28/9 28/25
104/24 105/1 105/6	165/14 165/24 174/23	210/11 215/24	147/14 148/8 151/2	30/12 41/3 42/3 43/22
105/7 105/15 105/18	177/24 178/2 183/25	thank [43] 1/6 1/10	151/8 153/5 158/12	46/10 46/16 48/11
111/25 121/24 134/24	185/6 185/9 186/2	2/19 3/13 4/2 14/23	159/1 159/24 165/2	48/23 49/24 50/8
144/2 162/19 168/5	186/3 186/23 189/22	26/2 30/11 48/11	165/3 167/2 169/25	50/10 50/21 50/21
168/12 176/12 177/19	191/6 192/5 194/10	49/19 54/12 57/9	170/9 171/21 173/18	52/3 53/13 59/24
185/20	194/20 194/24 197/19	58/20 60/23 63/18	173/22 174/8 174/12	60/11 60/18 61/22
teams [5] 23/23 71/4	198/18 199/3 199/17	65/10 77/9 78/24 81/8	174/12 176/15 177/2	64/14 66/1 66/20
105/20 110/24 163/3	199/21 200/14 203/3	81/10 90/18 90/19	179/14 181/9 182/2	67/16 69/14 71/19
tease [3] 124/10	203/19 204/16 209/17	90/21 90/22 90/23	188/12 189/15 189/15	75/24 78/24 83/17
174/21 199/1	210/16 210/20 216/7	91/15 94/13 153/15	190/3 191/15 197/8	84/2 87/14 88/3 90/5
teasing [1] 197/14	216/25 217/1	153/22 169/8 169/12	207/15 208/20 208/25	92/9 92/17 93/17
technical [1] 110/7	terrible [1] 140/17	169/13 170/1 171/4	213/4 213/11 215/20	93/20 94/1 94/2 95/18
technically [1] 149/6	terribly [1] 62/21	180/19 189/18 201/6	217/2 217/16	95/23 103/16 103/19
teeth [2] 38/10 41/17	test [18] 81/22	212/16 215/19 217/10	their [66] 9/20 10/4	104/7 105/17 106/10
teleconference [1]	118/24 123/1 124/24	217/11 217/12 217/13	14/24 27/17 30/24	107/2 107/3 107/13
81/23	125/2 125/25 135/3	thank you [33] 1/6	45/23 46/6 52/5 52/8	107/16 109/22 110/15
telephone [1] 74/17	135/4 138/24 140/8	1/10 2/19 3/13 4/2	60/8 60/10 60/20 74/5	112/18 112/23 114/1
tell [3] 63/16 122/2	150/21 158/24 159/22	14/23 30/11 49/19	75/14 82/4 95/16	118/1 120/2 122/7
163/1	160/2 160/2 160/25	54/12 57/9 58/20	100/6 104/13 107/20	124/13 125/3 127/21
telling [1] 120/4	161/2 190/7	60/23 63/18 65/10	110/16 113/9 120/11	128/4 128/24 129/4
ten [3] 98/8 101/10	tested [5] 101/23	77/9 81/8 81/10 90/18	122/17 131/2 135/14	129/12 131/9 132/4
116/19	123/7 123/9 129/14	90/19 90/21 90/22	135/16 141/3 148/5	132/6 134/15 135/11
ten days [1] 116/19	149/16	90/23 91/15 94/13	154/6 163/2 164/9	137/18 139/11 139/11
ten years [1] 101/10	testing [61] 6/9 32/9	153/15 153/22 170/1	165/22 165/24 167/1	142/15 142/24 143/14
tended [2] 9/13 10/15	102/6 119/23 122/4	171/4 180/19 201/6	167/17 173/18 174/4	145/22 147/14 148/13
tends [2] 31/6 147/22	123/5 124/15 124/17	212/16 217/10 217/11	175/9 175/11 184/7	150/21 154/5 155/16
tension [4] 79/20	124/18 124/18 125/5	thanks [2] 13/14	185/13 185/25 188/1	156/2 156/6 158/20
173/14 174/1 183/14	125/9 125/9 125/10	63/24	188/7 188/10 189/22	159/16 160/5 160/10
	125/16 125/23 126/12	that [1739]	189/22 190/2 192/12	160/11 160/14 160/21

T	168/7 168/13 168/14 174/3 178/15 178/16 183/16 186/7 186/9 186/10 186/12 186/15 186/18 186/18 186/19 186/20 187/25 188/22 188/24 189/5 189/5 189/6 189/6 189/10 189/11 189/13 189/14 189/14 189/24 190/1 190/12 190/13 190/19 190/24 191/1 191/11 191/13 191/14 192/2 192/19 193/4 193/22 193/24 194/4 197/6 197/10 197/16 197/17 197/24 199/2 199/14 199/14 199/15 199/15 199/16 200/16 216/1 216/2 216/12 216/23	73/14 73/15 73/19 73/24 74/6 83/14 83/16 84/17 93/17 99/9 102/11 102/22 103/22 104/8 106/17 122/19 123/3 125/24 130/15 133/15 143/13 144/9 148/5 152/5 161/20 162/10 166/10 167/4 167/10 167/14 167/16 167/16 169/4 170/19 174/21 175/23 176/5 176/7 176/9 176/17 177/19 178/24 179/4 179/4 180/13 181/5 182/22 184/12 185/9 185/17 186/15 187/7 187/22 191/7 191/9 193/5 193/22 197/14 200/3 205/12 205/13 205/24 206/6 206/6 207/21 209/12 209/13 212/8 215/10	169/8 Thursday [3] 1/1 58/24 187/8 time [146] 9/1 10/16 12/22 13/23 19/9 19/9 21/5 21/7 23/13 23/22 24/23 25/3 33/9 33/22 34/14 34/24 35/1 36/1 37/24 38/24 39/24 40/15 40/18 41/1 41/5 41/15 43/25 47/5 50/14 50/15 55/20 58/18 59/1 61/6 61/23 61/25 68/17 70/8 70/21 72/11 72/22 73/17 74/25 79/19 80/17 81/23 85/11 85/23 86/9 87/15 89/6 89/19 93/11 96/15 97/1 97/25 98/6 101/15 105/5 107/7 107/9 109/9 109/25 110/18 111/14 112/17 113/6 114/7 114/13 114/23 115/4 116/9 117/1 119/5 119/13 119/19 121/1 122/12 122/23 126/3 126/21 127/9 128/2 128/8 128/13 129/15 131/12 132/19 134/25 135/16 135/20 136/7 146/6 148/2 148/9 148/21 150/8 150/14 151/23 152/7 152/18 153/1 153/21 153/25 154/4 154/11 154/13 156/9 156/17 156/25 157/4 159/2 159/4 159/6 162/21 163/8 165/11 171/11 174/14 174/15 174/17 176/18 179/18 179/21 180/5 181/4 182/16 182/18 183/8 183/16 183/18 185/11 185/12 185/16 185/24 189/23 190/13 194/14 196/18 200/15 201/23 203/18 210/12 210/14 211/16 212/5 timeframe [1] 51/14 timeframes [1] 178/22 timeline [4] 36/2 53/18 160/19 210/16 timely [4] 58/5 114/8 116/4 145/5 times [13] 4/17 5/23 11/19 23/14 23/16 31/15 31/15 82/20 113/10 138/23 147/3 157/6 174/7 timing [10] 3/8 30/6 38/16 57/3 64/5 64/10	78/21 80/11 193/6 195/6 tip [1] 123/17 tired [1] 14/11 titled [1] 141/22 today [8] 1/11 24/19 43/24 86/22 98/1 166/23 216/12 217/16 together [14] 6/19 17/1 27/21 38/1 55/9 59/13 69/9 77/4 140/10 167/24 172/16 188/2 200/10 207/21 told [6] 64/18 87/1 90/4 127/17 128/2 156/24 tomorrow [2] 82/24 217/18 tone [1] 43/17 too [11] 1/14 24/16 25/14 37/19 45/8 45/9 70/16 70/18 87/8 94/9 170/4 took [22] 12/7 25/8 53/5 53/12 69/6 92/17 126/9 126/9 154/24 154/24 159/6 171/15 171/19 171/22 172/1 180/22 182/16 184/10 184/15 185/11 185/16 187/7 top [21] 37/9 45/23 46/9 46/10 50/22 51/12 51/15 53/12 65/17 69/13 69/19 76/4 76/6 81/20 84/18 89/19 89/25 153/15 188/2 204/24 209/20 top-down [1] 69/13 topic [3] 69/25 75/24 157/8 total [7] 20/18 128/16 129/1 129/10 129/12 150/15 157/5 totality [3] 23/12 65/21 65/24 totally [1] 137/7 touched [1] 174/9 touches [1] 38/6 touching [1] 34/8 tour [2] 68/1 68/4 tourism [2] 176/4 200/19 towards [4] 12/3 94/1 189/3 209/16 trace [6] 121/9 126/1 154/19 155/1 155/4 155/22 traced [2] 156/25 157/1 tracers [3] 150/24 151/6 154/19 tracing [19] 93/16 147/15 148/16 148/20
----------	---	--	--	--

T	125/23 127/11 134/22 141/24 157/14 166/3 168/18 168/19 174/18 178/14 180/6 200/25 202/23 Tuesday [1] 187/8 turn [2] 26/1 37/17 turned [3] 55/11 77/23 107/21 turnover [1] 10/13 twice [1] 142/23 two [47] 3/4 10/19 13/2 13/7 13/10 15/14 16/25 17/5 17/8 17/9 19/7 19/20 20/4 21/9 23/15 23/25 24/13 25/5 47/12 47/21 51/21 53/16 62/18 66/8 69/16 73/1 86/2 87/6 100/13 100/20 107/7 111/9 122/21 122/22 129/10 130/5 130/15 166/22 167/1 170/7 176/7 176/10 176/17 176/18 195/23 207/21 212/7 two days [1] 73/1 two weeks [1] 212/7 twofold [1] 6/12 type [8] 19/2 30/16 55/17 55/22 56/4 106/9 154/23 168/6 types [6] 39/1 105/10 111/5 111/6 168/23 168/23 typical [3] 6/6 118/16 120/14 typing [1] 18/16	190/18 190/20 196/18 207/7 under way [1] 51/23 under-ascertainment [1] 136/15 under-reporting [1] 135/25 under-resourced [2] 44/1 54/7 underestimate [2] 76/22 138/14 underlying [2] 16/17 139/15 undermine [1] 77/16 underneath [3] 14/22 78/16 175/9 understand [35] 31/23 32/2 35/3 44/13 63/19 119/3 119/22 121/3 122/21 123/3 125/21 125/22 125/23 127/2 131/23 133/4 134/22 137/14 138/9 141/18 143/9 144/20 151/21 158/14 166/4 169/4 170/10 172/7 177/4 177/6 182/9 197/11 206/10 216/19 216/19 understandable [1] 136/1 understandably [2] 38/9 212/21 understanding [30] 34/15 34/20 76/9 97/6 107/8 109/10 119/7 125/25 126/2 128/14 137/17 140/6 140/9 141/13 144/5 144/6 154/10 159/1 164/2 164/12 173/11 173/25 178/25 179/1 182/7 185/10 195/15 202/7 202/13 208/14 understood [4] 15/9 141/15 151/16 152/13 56/25 57/12 60/13 61/18 61/22 61/24 63/16 63/17 65/9 69/8 70/16 70/17 70/20 76/4 82/21 85/6 92/17 93/3 96/16 99/17 101/24 104/20 106/5 106/11 106/18 107/8 107/21 108/3 113/8 118/8 120/13 120/16 120/24 121/1 122/13 123/6 123/10 124/9 124/11 124/15 124/17 125/9 126/9 126/9 126/10 135/21 140/14 141/12 141/16 142/14 144/23 147/1 147/3 147/4 150/21 150/25 151/9 152/21 153/14	16/13 unique [2] 9/19 23/21 Unit [1] 213/20 United [5] 49/1 49/6 50/4 75/7 164/18 United Kingdom [3] 49/6 75/7 164/18 universities [1] 125/18 University [3] 92/8 124/20 124/20 unknown [1] 185/4 unless [3] 71/5 76/21 79/22 unlikely [2] 31/1 31/11 unminuted [1] 206/22 unnaturally [1] 27/17 unnecessarily [1] 161/2 unpick [1] 139/15 unpleasant [1] 161/1 unprecedented [2] 102/20 145/8 unprofessional [1] 209/12 until [22] 33/22 72/16 74/11 91/23 96/16 99/17 121/10 123/6 123/10 124/14 139/21 147/1 160/15 171/10 171/19 177/5 179/16 181/1 181/19 182/7 182/11 217/20 up [136] 1/12 1/18 2/11 3/8 3/17 4/1 5/4 5/19 5/20 5/24 6/3 10/8 11/24 12/3 12/6 12/15 16/9 17/4 18/7 18/12 19/6 19/15 22/1 22/20 23/3 27/5 27/10 28/1 28/21 28/24 38/23 47/3 47/10 47/14 49/18 52/4 53/8 56/25 57/12 60/13 61/18 61/22 61/24 63/16 63/17 65/9 69/8 70/16 70/17 70/20 76/4 82/21 85/6 92/17 93/3 96/16 99/17 101/24 104/20 106/5 106/11 106/18 107/8 107/21 108/3 113/8 118/8 120/13 120/16 120/24 121/1 122/13 123/6 123/10 124/9 124/11 124/15 124/17 125/9 126/9 126/9 126/10 135/21 140/14 141/12 141/16 142/14 144/23 147/1 147/3 147/4 150/21 150/25 151/9 152/21 153/14	155/18 155/21 156/11 156/14 157/21 163/7 170/3 171/8 171/15 171/19 171/22 172/8 172/16 174/10 175/18 177/18 178/17 180/16 181/19 182/16 185/9 185/17 188/17 189/17 193/10 193/16 194/11 195/12 195/14 195/16 198/17 200/10 201/9 207/6 208/12 212/25 214/21 215/1 215/16 215/21 update [1] 153/24 upon [15] 21/15 32/17 34/8 49/7 66/14 133/21 175/14 180/2 185/15 194/4 194/7 194/11 194/13 204/19 205/8 upside [1] 55/11 upside-down [1] 55/11 urged [1] 56/24 urgency [2] 33/1 72/13 urgent [3] 74/14 75/4 84/19 us [33] 17/12 20/20 21/10 21/13 23/14 23/21 23/23 33/2 33/2 35/23 39/25 45/25 62/9 67/1 72/16 84/3 97/3 101/24 103/24 106/25 108/15 111/1 111/7 113/19 118/19 123/25 126/12 126/23 148/25 150/11 164/21 168/5 188/12 use [17] 27/2 56/13 67/23 68/19 85/21 118/16 119/12 120/2 122/15 135/7 144/13 157/21 163/2 174/6 178/17 182/21 217/4 used [20] 33/24 34/4 46/6 51/14 54/23 106/18 119/11 130/3 135/7 136/13 136/13 137/24 138/1 139/1 139/1 139/1 154/25 166/14 167/4 190/2 useful [2] 119/17 137/11 using [6] 31/14 51/14 86/9 122/19 174/22 210/7 usual [12] 3/25 4/15 4/19 4/23 6/4 6/16 6/17 32/5 32/8 41/8 41/10 116/12 utilise [1] 158/15 utility [5] 54/15 55/14
	U UK [15] 7/11 33/19 42/6 107/11 111/24 112/15 115/7 117/23 119/12 120/17 125/1 148/2 166/20 214/9 214/17 UK Government [2] 7/11 33/19 UK-wide [2] 125/1 214/9 unable [4] 18/12 19/15 56/10 201/22 unacceptable [1] 167/2 unaware [1] 191/13 uncertainty [2] 146/16 195/9 unclear [1] 1/13 under [22] 24/20 31/6 44/1 48/12 51/23 54/7 85/8 85/23 86/22 135/16 135/25 136/15 153/8 165/11 178/1 178/9 181/6 186/11			

U	135/8 135/21 135/22 136/1 143/18 144/2 145/16 145/23 147/1 147/4 147/4 147/20 147/21 148/24 148/25 153/8 154/19 155/2 155/19 156/4 157/2 157/19 157/25 159/14 159/24 159/25 160/23 160/24 162/11 162/12 166/9 166/13 166/15 166/17 166/25 169/13 178/21 181/9 182/3 183/2 183/9 183/17 183/17 191/20 195/2 199/7 200/18 201/16 201/24 210/3 212/21 212/23 215/20 217/12 217/13 217/13	Wales [1] 72/18 want [48] 3/14 7/20 16/7 20/8 22/24 29/10 40/15 48/4 49/20 52/9 54/20 54/24 57/10 58/21 67/16 75/6 77/19 87/22 88/8 89/2 94/22 96/8 102/23 108/22 119/3 126/5 132/16 132/17 134/20 138/1 138/9 150/20 152/20 156/13 157/8 161/2 165/3 169/1 169/8 179/10 186/19 195/11 197/6 197/6 206/19 212/20 215/24 216/3 wanted [13] 76/25 77/1 77/8 108/20 111/2 116/2 127/1 132/5 142/21 156/1 165/10 189/5 215/21 wanting [3] 66/15 86/6 197/2 warn [1] 88/1 warned [1] 115/15 was [768] was intended [1] 204/9 wasn't [62] 7/24 8/2 8/11 8/12 9/5 9/14 11/22 20/16 24/18 33/25 39/22 40/7 41/2 43/22 49/15 51/15 56/2 61/6 61/9 61/10 61/11 61/12 61/12 69/3 72/16 73/17 74/14 76/16 77/22 110/18 113/5 114/15 116/10 117/14 121/2 122/11 125/22 126/4 130/17 132/16 133/5 137/10 137/13 141/20 142/25 145/15 149/3 149/14 151/20 154/13 154/18 155/2 157/4 160/15 162/17 181/4 186/19 192/9 199/9 201/19 216/16 217/3 waste [1] 80/11 water [1] 95/9 watershed [1] 6/2 wave [3] 93/19 145/20 145/21 waves [1] 145/22 way [42] 5/4 17/10 35/11 51/23 53/7 56/18 57/14 69/21 71/20 73/11 77/23 85/5 86/1 86/7 90/1 101/11 104/24 106/8 109/12 109/13 120/7 125/14 136/9 136/22 138/24 142/7 145/5	145/23 172/19 173/15 177/9 182/22 194/7 196/3 196/8 201/14 201/23 202/24 205/16 213/21 215/1 215/4 ways [5] 73/13 102/3 102/15 157/16 172/20 we [410] we'd [3] 116/5 116/5 149/22 we'll [12] 45/5 46/9 46/10 93/11 102/8 102/8 102/21 102/21 104/22 114/11 114/11 117/18 we're [14] 45/15 63/15 80/7 86/13 86/14 87/15 88/9 99/19 101/5 119/21 124/14 153/1 160/24 165/11 we've [13] 37/5 66/19 75/15 82/6 82/17 100/12 129/3 143/21 143/22 146/2 148/12 161/12 212/22 weaken [1] 40/15 weakness [1] 135/25 weaknesses [2] 69/10 177/23 weather [1] 5/3 week [9] 13/12 13/13 22/6 116/19 139/5 148/25 181/15 181/21 181/22 weekend [1] 86/19 weekly [5] 142/24 160/16 187/11 187/12 187/22 weeks [9] 46/15 46/15 162/10 180/23 183/8 185/14 198/23 198/23 212/7 weighed [1] 186/12 weighing [2] 186/19 186/20 weighty [1] 86/8 welcome [2] 3/6 62/8 welfare [1] 66/18 well [80] 2/17 8/23 13/2 14/4 15/16 18/22 21/19 26/15 31/3 31/23 32/2 38/13 40/13 41/3 46/9 51/10 51/12 54/3 60/7 61/12 61/17 64/14 66/8 67/7 70/12 70/22 74/13 76/14 76/19 78/16 83/17 88/18 89/1 89/10 89/21 94/9 94/17 96/5 96/14 101/7 102/4 102/21 105/19 109/18 111/2 112/9 117/9 121/7	121/10 122/12 129/6 133/16 136/25 138/17 138/18 139/2 140/6 144/3 144/25 145/1 145/5 145/25 147/8 147/19 165/14 165/16 171/2 172/20 173/13 177/9 180/2 184/17 184/18 186/22 187/12 190/5 191/1 194/20 204/8 214/14 well known [2] 38/13 76/19 wellbeing [3] 93/5 149/12 204/19 went [18] 10/15 16/12 33/3 72/5 73/22 93/20 99/18 100/10 125/10 126/2 131/21 143/17 162/22 166/12 167/3 168/4 183/19 217/3 were [321] weren't [12] 118/23 121/9 129/23 136/16 136/21 151/25 152/1 155/25 161/20 176/23 178/4 189/14 Westminster [2] 75/11 77/16 what [189] 4/24 10/11 15/2 15/21 16/11 19/12 23/11 24/18 28/11 29/22 30/7 30/10 33/2 34/15 34/20 34/23 35/2 38/23 43/9 43/19 45/4 45/20 49/4 50/3 50/15 56/12 56/22 59/4 59/22 60/21 61/21 61/25 63/25 64/11 64/12 64/18 65/21 65/23 66/10 67/18 68/16 69/11 69/18 70/3 70/4 71/13 71/18 73/6 73/8 75/3 75/21 76/20 76/23 77/7 77/17 77/18 77/18 81/2 81/3 81/5 81/6 84/24 85/6 86/18 87/1 87/9 87/24 88/20 89/3 89/3 89/5 89/8 90/2 90/5 90/7 90/8 97/4 99/19 101/3 101/14 102/9 107/20 107/22 108/6 108/16 109/14 109/14 109/25 110/19 111/2 111/15 113/6 114/11 114/11 114/14 114/23 115/25 116/16 116/18 116/21 118/2 119/3 120/15 123/10 123/11 125/21 126/1 127/14 127/16 127/17
V	vacancies [3] 179/23 180/3 180/14 vacancy [1] 180/5 vacant [1] 9/13 vaccinated [1] 19/3 vaccine [2] 168/19 168/20 valid [2] 200/20 216/24 valuable [1] 195/20 value [1] 183/7 van [11] 127/22 132/4 133/19 137/20 139/17 139/25 151/4 151/22 152/25 153/2 153/20 varied [1] 164/17 various [9] 82/3 130/19 139/14 139/19 140/10 154/21 162/5 206/2 206/2 versa [1] 185/5 version [3] 65/17 65/19 65/20 version 2 [2] 65/17 65/20 versus [4] 47/19 128/18 139/8 140/7 very [155] 6/6 7/9 9/17 10/13 11/24 14/11 15/25 16/3 16/19 16/25 17/8 17/11 17/21 17/22 18/4 18/7 19/24 19/25 20/17 21/2 21/13 21/23 21/23 22/5 22/8 22/9 23/14 26/2 26/13 29/9 29/20 29/24 32/6 32/7 34/24 35/2 35/14 35/22 38/18 38/25 38/25 42/21 44/1 44/16 45/7 47/18 48/12 52/5 52/6 53/8 53/23 54/1 54/8 55/8 61/14 61/15 62/8 62/25 65/12 68/24 73/1 73/15 74/5 76/4 76/22 78/20 78/24 80/24 85/9 86/8 92/12 93/17 94/7 94/8 99/23 99/23 100/2 100/21 100/22 101/17 102/7 107/25 109/6 111/24 113/5 113/18 113/22 115/5 115/7 117/13 120/11 122/3 122/4 123/6 123/18 123/19 124/23 126/10 132/15	vetting [1] 9/22 vice [1] 185/5 vice versa [1] 185/5 Victoria [1] 124/21 view [36] 15/21 23/14 24/2 24/17 25/4 25/16 25/17 28/3 35/15 35/19 36/13 36/14 37/2 37/15 37/20 37/24 37/25 39/7 43/7 43/23 43/24 44/8 45/21 47/17 52/15 55/14 62/22 66/3 72/9 80/14 85/10 89/9 111/11 141/18 172/14 174/18 views [4] 56/23 189/22 199/12 200/7 virologists [1] 164/6 virology [3] 124/19 124/23 124/25 virus [3] 114/25 120/9 124/24 voice [3] 1/12 170/3 199/3 voices [2] 204/3 217/7 volume [2] 52/5 62/9 Voluntary [1] 213/25 volunteer [3] 14/11 14/14 15/18 volunteers [8] 5/15 11/3 13/19 13/22 13/25 16/8 20/19 174/10 vulnerabilities [1] 166/6 vulnerable [4] 30/13 66/20 186/17 202/22	wanted [13] 76/25 77/1 77/8 108/20 111/2 116/2 127/1 132/5 142/21 156/1 165/10 189/5 215/21 wanting [3] 66/15 86/6 197/2 warn [1] 88/1 warned [1] 115/15 was [768] was intended [1] 204/9 wasn't [62] 7/24 8/2 8/11 8/12 9/5 9/14 11/22 20/16 24/18 33/25 39/22 40/7 41/2 43/22 49/15 51/15 56/2 61/6 61/9 61/10 61/11 61/12 61/12 69/3 72/16 73/17 74/14 76/16 77/22 110/18 113/5 114/15 116/10 117/14 121/2 122/11 125/22 126/4 130/17 132/16 133/5 137/10 137/13 141/20 142/25 145/15 149/3 149/14 151/20 154/13 154/18 155/2 157/4 160/15 162/17 181/4 186/19 192/9 199/9 201/19 216/16 217/3 waste [1] 80/11 water [1] 95/9 watershed [1] 6/2 wave [3] 93/19 145/20 145/21 waves [1] 145/22 way [42] 5/4 17/10 35/11 51/23 53/7 56/18 57/14 69/21 71/20 73/11 77/23 85/5 86/1 86/7 90/1 101/11 104/24 106/8 109/12 109/13 120/7 125/14 136/9 136/22 138/24 142/7 145/5	wait [3] 64/4 64/9 169/24 waiting [4] 31/22 63/15 64/17 90/4
W	wait [3] 64/4 64/9 169/24 waiting [4] 31/22 63/15 64/17 90/4			

W	174/9 176/11 176/15 180/21 181/10 184/14 187/2 188/22 193/1 193/1 193/2 193/12 193/25 198/10 202/2 205/21 208/3 210/3 212/11 214/25	133/21 135/8 137/18 137/18 139/15 143/15 146/23 148/3 148/10 153/25 154/1 154/3 159/17 160/12 160/19 160/20 163/5 170/14 172/21 176/3 179/11 181/22 182/9 182/25 183/4 183/13 192/4 193/14 193/18 196/9 200/23 203/25 205/14 205/22	156/17 157/4 wholly [3] 54/17 55/22 102/12 whom [2] 105/13 184/20 whose [1] 98/8 why [36] 31/5 31/18 31/20 32/8 33/6 35/22 38/9 38/11 40/17 41/3 47/20 49/11 52/7 61/11 61/12 61/19 62/7 62/19 64/9 65/19 69/3 79/10 121/3 141/5 142/24 162/6 177/6 189/5 201/15 203/25 207/15 209/2 209/4 209/18 215/7 216/2 wide [6] 5/5 115/7 116/12 117/23 125/1 214/9 wider [6] 5/16 42/6 47/3 47/9 47/13 96/23 widespread [2] 99/25 119/23 Wilcock [1] 81/9 will [33] 3/13 3/16 7/12 14/25 22/9 22/11 42/5 47/3 47/10 47/14 68/5 78/1 80/2 82/10 85/12 87/25 94/16 107/19 116/15 120/13 120/15 126/15 126/22 132/24 133/6 134/20 140/23 141/15 141/20 153/20 161/1 164/21 169/15 window [1] 172/5 winter [1] 119/19 wish [4] 3/7 17/24 70/4 71/5 wished [2] 70/2 189/14 wishes [1] 97/11 withdrawn [1] 16/13 withdrew [3] 90/24 169/14 217/15 within [93] 6/25 7/2 11/12 11/16 14/17 14/19 19/6 21/20 26/11 29/17 30/7 31/1 34/10 35/9 35/16 35/24 36/5 36/17 41/9 50/3 52/16 68/11 68/18 69/1 75/11 76/5 76/14 78/12 79/20 80/10 84/5 84/8 84/10 95/4 95/20 96/21 96/24 97/15 98/2 98/5 99/4 99/17 99/24 100/16 100/21 103/18 104/10 104/13 104/19 105/5 105/10 105/12 105/18 105/24 105/25	107/15 114/19 118/23 120/24 122/12 122/14 122/17 124/16 125/6 125/21 126/3 134/13 135/3 135/4 138/24 139/13 140/8 147/15 156/13 158/25 159/7 162/3 176/21 176/24 178/6 178/6 180/11 185/6 196/15 197/9 198/22 199/8 201/13 202/14 203/20 213/7 215/9 216/17 without [6] 52/6 68/6 77/1 146/13 149/11 188/1 witness [11] 1/17 1/21 90/24 90/25 91/7 111/3 157/18 169/14 170/7 170/17 217/15 witnesses [2] 126/22 146/2 Woerden [10] 127/22 132/4 133/19 137/20 139/17 139/25 151/4 152/25 153/2 153/20 Woerden's [1] 151/22 Women [1] 214/16 won't [5] 45/9 70/6 108/19 143/12 147/6 wondering [1] 214/11 word [5] 68/19 85/21 86/10 140/16 190/2 words [7] 67/23 68/3 83/16 143/18 154/7 209/3 217/4 work [75] 4/5 4/10 7/6 7/17 10/6 10/6 11/19 14/2 16/18 19/25 20/5 23/20 25/4 25/18 39/6 44/23 47/25 48/2 48/3 48/22 49/11 51/4 51/7 52/5 53/3 54/7 55/8 56/10 60/16 62/10 64/1 74/5 79/6 88/13 89/1 89/4 95/4 98/5 99/21 103/14 114/21 124/15 125/3 125/21 125/24 126/2 129/24 129/25 130/2 143/25 146/10 148/25 149/12 159/21 161/10 162/3 166/12 168/20 172/10 173/19 179/6 179/20 184/24 185/2 189/3 199/24 202/20 203/3 203/4 206/4 207/19 208/2 208/6 209/6 209/23 worked [10] 45/24 93/23 99/18 156/21 162/12 184/9 184/17
what... [79] 128/22 129/3 131/11 131/13 131/21 131/22 134/16 137/17 137/20 138/4 138/10 138/21 138/22 139/8 139/11 139/14 139/16 141/23 143/6 144/6 144/6 145/17 146/9 146/17 148/9 149/4 149/14 149/19 151/16 152/14 153/13 153/23 154/14 155/5 156/4 159/17 161/18 161/19 163/11 164/20 164/24 166/1 172/19 173/6 174/4 177/23 179/24 180/2 180/9 181/5 181/16 182/24 186/2 189/9 189/24 190/13 190/24 194/11 195/9 195/9 196/2 197/16 197/17 197/20 197/21 199/12 201/4 202/21 207/18 208/25 209/10 210/4 211/3 212/23 212/25 213/1 213/11 215/7 216/19	whenever [11] 99/8 107/10 109/1 116/21 120/11 122/13 127/12 129/5 138/20 138/20 162/25 whenever's [1] 102/24 where [56] 3/4 9/25 10/23 11/7 14/23 18/23 19/13 27/25 32/23 33/11 35/6 38/9 39/1 39/3 41/12 44/17 45/25 46/16 50/8 51/19 54/6 61/14 63/16 68/1 68/8 69/10 78/16 80/7 85/2 86/2 87/6 97/15 97/16 106/12 142/6 148/20 151/21 152/4 154/22 155/21 155/25 156/9 156/11 158/12 160/7 162/10 168/12 175/16 180/13 183/6 190/1 191/9 191/10 191/12 192/11 197/11 whereas [1] 6/20 whereby [1] 135/1 whether [28] 10/10 30/23 30/24 33/24 66/2 66/4 69/15 72/7 72/23 74/7 77/13 98/22 108/23 132/25 138/10 144/20 148/17 148/20 154/25 155/16 161/18 165/21 166/4 176/25 177/17 177/18 194/21 214/12 which [96] 2/3 3/6 11/7 12/14 13/2 16/17 16/21 17/21 21/5 21/24 22/14 25/7 27/15 32/11 32/16 34/7 35/22 37/5 38/5 40/17 45/4 45/6 45/24 46/21 47/22 47/23 47/24 52/16 52/20 53/11 54/16 62/7 62/19 65/1 65/19 69/13 69/13 71/11 71/14 71/25 72/4 73/16 79/19 80/12 80/15 84/14 85/7 87/11 88/9 95/6 100/18 104/21 106/10 112/15 115/10 115/25 116/4 116/22 122/10 122/15 128/24 129/3	who [112] 4/3 10/15 12/24 13/1 13/17 16/23 18/3 19/21 19/24 20/23 25/19 29/7 32/18 33/14 33/19 34/25 40/5 53/21 70/25 73/18 75/3 76/11 79/24 85/14 85/14 88/7 95/15 95/18 99/9 99/24 100/3 100/13 100/17 100/20 100/24 101/18 104/15 104/24 105/14 105/15 107/21 109/8 109/11 110/24 111/24 112/13 113/5 113/8 120/8 120/19 126/22 128/12 128/22 129/14 129/21 130/7 130/9 130/19 133/14 133/23 134/7 135/2 135/3 135/22 138/25 141/4 141/4 141/14 141/19 144/4 144/4 144/8 146/2 149/16 149/17 149/18 150/24 151/6 151/17 151/25 152/1 152/12 153/19 154/14 154/16 154/18 156/14 156/16 158/9 158/11 158/21 158/25 160/11 160/25 161/19 161/20 162/20 162/24 163/24 168/5 168/15 168/22 178/20 179/12 179/19 182/20 192/16 198/8 199/18 203/20 205/4 217/7 who's [4] 11/21 120/4 132/7 136/19 whole [9] 95/12 104/5 105/5 105/19 130/8 156/17 157/4 174/19 196/21 whole-time [2]	wholly [3] 54/17 55/22 102/12 whom [2] 105/13 184/20 whose [1] 98/8 why [36] 31/5 31/18 31/20 32/8 33/6 35/22 38/9 38/11 40/17 41/3 47/20 49/11 52/7 61/11 61/12 61/19 62/7 62/19 64/9 65/19 69/3 79/10 121/3 141/5 142/24 162/6 177/6 189/5 201/15 203/25 207/15 209/2 209/4 209/18 215/7 216/2 wide [6] 5/5 115/7 116/12 117/23 125/1 214/9 wider [6] 5/16 42/6 47/3 47/9 47/13 96/23 widespread [2] 99/25 119/23 Wilcock [1] 81/9 will [33] 3/13 3/16 7/12 14/25 22/9 22/11 42/5 47/3 47/10 47/14 68/5 78/1 80/2 82/10 85/12 87/25 94/16 107/19 116/15 120/13 120/15 126/15 126/22 132/24 133/6 134/20 140/23 141/15 141/20 153/20 161/1 164/21 169/15 window [1] 172/5 winter [1] 119/19 wish [4] 3/7 17/24 70/4 71/5 wished [2] 70/2 189/14 wishes [1] 97/11 withdrawn [1] 16/13 withdrew [3] 90/24 169/14 217/15 within [93] 6/25 7/2 11/12 11/16 14/17 14/19 19/6 21/20 26/11 29/17 30/7 31/1 34/10 35/9 35/16 35/24 36/5 36/17 41/9 50/3 52/16 68/11 68/18 69/1 75/11 76/5 76/14 78/12 79/20 80/10 84/5 84/8 84/10 95/4 95/20 96/21 96/24 97/15 98/2 98/5 99/4 99/17 99/24 100/16 100/21 103/18 104/10 104/13 104/19 105/5 105/10 105/12 105/18 105/24 105/25	

W	145/14 167/1 179/11 179/16 184/10 years' [1] 100/3 Yep [1] 82/19 yes [216] 1/20 1/25 2/18 2/24 3/20 3/23 4/16 5/2 5/6 5/12 7/20 7/23 8/24 10/7 10/20 11/13 11/14 12/19 13/3 13/6 13/20 13/24 14/4 14/15 14/21 15/8 15/11 15/20 16/10 17/23 20/13 23/4 23/6 24/2 24/3 25/9 25/12 25/25 26/12 26/17 26/20 28/22 29/2 29/9 30/2 30/20 31/17 33/16 33/23 34/2 34/12 36/4 36/10 36/12 36/18 37/1 37/4 37/10 40/4 40/19 42/2 43/8 43/15 44/7 44/13 45/13 45/19 46/24 47/8 48/10 48/21 49/10 49/13 51/2 52/6 52/12 53/20 53/22 57/19 59/15 59/17 60/10 60/17 63/6 63/22 64/8 65/13 66/9 66/12 66/17 67/1 67/10 67/15 68/3 70/19 71/9 72/7 73/1 73/3 73/22 74/6 75/2 76/8 78/18 78/18 78/22 79/1 83/7 83/13 83/17 83/20 84/14 84/21 84/23 85/16 86/21 86/21 88/25 89/14 89/17 90/2 90/7 90/17 91/14 91/18 92/8 92/14 93/15 96/6 98/19 98/25 101/2 102/8 103/3 104/3 105/8 110/2 110/4 110/10 112/3 112/21 112/24 113/1 113/14 115/2 115/14 116/24 117/4 117/6 117/10 117/12 119/8 120/3 120/6 121/22 122/5 124/1 124/9 124/22 125/13 131/1 131/16 132/14 132/15 134/1 134/14 138/19 139/10 140/2 143/20 145/2 145/2 145/3 145/9 146/21 147/16 147/17 147/20 147/25 150/3 151/10 151/11 151/14 153/6 155/12 158/3 158/8 158/14 158/16 159/6 160/9 161/15 163/17 164/23 170/12 171/3 172/18 183/18	184/8 184/11 189/25 190/5 192/8 193/21 199/11 202/9 204/11 206/13 208/12 210/15 213/4 215/15 216/11 216/19 217/9 217/17 yesterday [14] 2/22 2/23 5/3 29/13 54/2 62/5 62/18 82/7 88/18 128/1 128/2 173/24 174/9 192/17 yet [2] 42/22 45/16 you [605] you know [14] 39/16 115/10 119/20 122/20 139/3 149/9 166/22 180/17 186/6 188/10 193/17 194/18 199/7 210/10 you'd [5] 22/25 37/2 41/22 46/8 116/6 you'll [3] 3/7 62/19 125/15 you're [40] 1/11 1/14 1/19 12/20 18/23 21/2 33/13 36/6 40/2 40/12 40/13 43/19 45/14 49/4 49/11 56/19 65/21 70/19 76/8 82/11 86/17 86/18 91/15 92/6 94/7 94/14 97/20 108/8 144/17 148/8 152/15 170/18 187/21 194/23 197/4 198/4 198/5 198/10 207/21 207/22 you've [20] 35/13 38/18 43/16 46/13 52/15 52/16 59/20 66/10 73/14 127/6 137/23 138/13 139/13 140/20 161/9 169/24 178/2 206/20 214/25 216/5 Young [1] 153/3 your [126] 1/10 1/11 1/12 1/22 2/1 2/5 2/7 2/20 3/24 7/12 10/5 11/1 15/21 16/5 18/9 21/7 22/24 22/25 23/8 24/3 25/22 26/21 29/3 29/3 32/2 33/2 33/2 33/18 34/3 37/15 40/25 44/13 45/21 47/5 47/11 49/18 49/21 54/14 55/5 57/17 63/4 63/21 66/3 67/23 68/3 69/19 70/12 71/6 71/12 72/10 76/8 79/23 85/13 87/3 87/16 88/6 89/20 90/21 91/4 91/13 92/3 92/22 93/8 94/16 94/22 101/11	108/9 109/15 111/3 114/6 115/11 115/16 116/14 120/12 121/7 121/16 121/17 121/20 126/1 138/10 139/3 147/6 147/18 152/14 158/23 160/17 161/10 161/10 161/17 163/8 163/11 169/6 169/13 170/1 170/3 170/22 170/25 171/5 175/10 175/14 175/15 176/21 179/22 181/12 188/13 188/19 193/3 199/12 202/14 206/20 207/5 207/17 208/14 208/25 209/4 209/5 209/5 212/22 213/5 213/10 214/21 214/25 216/4 216/6 217/4 217/14 yours [1] 18/19 yourself [10] 1/15 23/5 63/13 67/25 72/11 78/9 133/12 161/10 181/10 189/19
Y	yeah [9] 104/12 104/17 108/12 117/16 133/8 147/13 155/9 158/18 165/25 year [11] 2/5 19/4 31/15 91/10 96/19 98/21 121/10 125/11 125/12 160/13 162/1 years [16] 9/3 9/7 9/10 10/12 25/23 32/11 40/23 48/16 92/14 101/10 115/9		Z zoom [3] 50/11 52/14 60/11 zoom-in [2] 50/11 60/11