Thursday, 2 May 2024

(09.59 am)

LADY HALLETT: Mr Scott.

MR SCOTT: Good morning, my Lady. May we call Christopher Stewart.

LADY HALLETT: Thank you.

MR CHRISTOPHER STEWART (affirmed)

Questions from COUNSEL TO THE INQUIRY

A. Good morning, Mr Scott. Good morning, my Lady.

Q. Thank you for your assistance to the Inquiry.

When you're giving your evidence today, can I ask you to keep your voice up so that the stenographers can hear you clearly, and if there's anything unclear or if you're talking too quickly, then I may ask you to either slow down or repeat yourself. If you need a break at any point, please do just say.

You have provided the Inquiry with a witness statement dated 4 February 2024, and that's up on screen. I take it you're familiar with that --

A. Yes.

Q. -- witness statement?

At page 38 you have your signature and the statement of truth. Please can you confirm that the contents of that statement are true?

A. Yes, I can.

Q. If I can just start with your background. So you served in the Office of the First Minister and deputy First Minister, which is the predecessor to the Executive Office, or TEO, as I'll refer to it throughout, from 2000 to 2006, and during the final year of your service in the Office of the First Minister and deputy First Minister, your responsibilities included civil contingencies matters.

A. That's correct.

Q. You joined TEO on transfer in October 2018, and on taking up that appointment you had overall policy and operational responsibility for all civil contingencies matters.

A. That's correct.

Q. And in early 2020, prior to the pandemic, as part of that role, you would have been what's known as chief of staff for the hub as well; is that correct?

A. Yes, that was part of the role that I had.

Q. Thank you.

You plainly cover in your statement quite a similar area that Sir David Sterling did in his evidence yesterday. Did you hear the evidence of Sir David yesterday?

A. Yes, I was able to follow it in its entirety.

Q. As far as it relates to civil contingencies, is there

anything in particular that you disagreed with in his evidence?

A. There was nothing that I fundamentally disagreed with. There are one or two areas where perhaps I could add a little bit of light and shade, and in particular I would welcome the opportunity to cover ground, which I'm sure you'll wish to cover anyway, in terms of the timing of the stand-up and activation of the civil contingencies arrangements, and in particular how that might have impacted on the ministerial desire for greater grip or control over matters, particularly in the early part of the pandemic.

Q. Thank you, Mr Stewart, I will be coming to those.

I just want to start with some kind of slightly more fundamental principles, because there's a lot of talk about civil contingencies and there will be a lot of acronyms coming up.

So the Civil Contingencies Policy Branch, that's known as CCPB, and that's part of TEO?

A. Yes.

Q. And its responsibility is for civil contingencies; correct?

A. Yes.

Q. And effectively, as you describe it in your statement, its default state is business as usual.

If we could just have up on screen INQ000468508, page 17. Thank you.

So this is the statement of Ms Bernie Rooney, who was brought in in August 2019. She sets out at paragraphs 78 through to 80 the broad areas of work of CCPB, and so you can see there that there's liaising with Cabinet Office, developing, sharing guidance with Northern Ireland departments, liaising with other administrations.

So there's a broad range of work that's done that relates to preparation and responding to potential civil contingency matters; correct? And I'm going to come back to the concept of sectoral resilience, but is it right that sectoral resilience is part and parcel of the business as usual role of CCPB?

A. Yes, it is, in addition to its overall policy role and its overall co-ordination role during times when it's in its operational role, it has a specific interest both during business as usual and during actual civil contingencies specifically for sectoral resilience.

Q. Again, I'm going to return to that, I'm just trying to get some building blocks in place at the moment.

So, alongside the business as usual, you can have some, what I've been calling bolt-on requirements, and part of that can be activating the hub. Activating the

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

A. Certainly. It might be helpful just to set that in context of how the CCPB brought changes at the watershed point of stand-up and other contingency being declared.

As you rightly say, in business as usual mode, as its name implies, it is a policy branch, so the sorts of activities that it would be engaged in are very typical of other policy branches: policy, legislation, advice to ministers, strategies, reviews of plans and priorities, exercising, testing.

When it flips into its operational mode, then its role changes quite significantly and its core role is twofold: one, to provide the secretariat to the Civil Contingencies Group, the key decision-making body, and also to be the core of the staff of the hub.

In terms of sectoral resilience, then, there's a similar change in its role between business as usual and an operational role. In business as usual mode, it would be responsible for co-ordinating and pulling together the sectoral resilience plans of individual departments and other public authorities, whereas once a contingency is declared and the hub is in active mode, it would be co-ordinating the response to sectoral resilience issues as they arose.

For example, if there was a particular challenge or problem or difficulty within a particular sector, to

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

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

12 full-time equivalents; is that right?
A. I think the recognised complement would be around about 12 but it had been quite a few years since the staffing levels had been anywhere near that level.
Q. But that wasn't through a reduction in the need for other staff; that was just a fact that you were finding it difficult to staff the hub over those years; is that right?
A. There were a number of reasons for that. I think the main one was simply budget constraints through the years of austerity. I don't think it was a case of actually deciding to downsize the team at any stage, but as posts fell vacant, they tended not to be filled if the budget wasn't there to do so.
Another difficulty that the team encountered was the difficulty in filling posts even when the budget is available, because there was a very restricted supply of staff at the key grades that endures indeed to this day.
A third and perhaps unique difficulty that the team faced is that because of the nature of the posts, their sensitivity, many of them, in fact I think all of them, are subject to the second level of vetting known as security clearance. That's quite an intrusive process and on more than one occasion we have been in a position where a job has been offered to a member of staff, it's

been explained to them they'll be subject to security clearance, and they've declined on the basis that they would prefer not to have that level of intrusion into their private lives.
Q. You also mention in your statement about the fact that civil contingencies work is quite specialist work.
A. Yes.
Q. Did that play any part in the ability to staff up to the full complement?
A. I'm not sure whether it played a particular part in that particular difficulty, but what I did observe was, as the branch had become smaller over the years, there was, other than that, a very low turnover of staff, much lower than I would have expected in a comparable policy branch. So those who went there tended to stay there for long periods of time.
Q. In February 2020, is it right that around about 6 February that there was -- that effectively it had gone down to two members of staff?
A. Yes.
Q. Then we can see in an email that was sent by Ms Bernie Rooney on 21 March 2020 that there's a line where she says:
"... At the minute I am a one person Hub and all of the issues related to Covid-19 are moving at pace."

In your statement, you say that that shouldn't be taken literally, because she's indicating the numbers of available volunteers beyond her own team. I think it's fair to say that in her statement she says:
"From September 2019 to March 2020, I was the only [TEO] Senior Civil Servant working on civil contingency matters located in Castle Buildings which was where the on site development of the NI Hub project was taking place."
A. That's correct.
Q. So effectively you had that one person on site from January through 2020 working within CCPB?
A. At senior level, yes.
Q. At senior level, yes.
How does that compare with the intended staffing levels at senior level within CCPB; was that intentional or was that significantly lower than desired?
A. It might sound counterintuitive but it's actually a slight increase. In normal times, that area of work would have been part of the responsibility of another grade 5 who's also responsible for the Executive Secretariat. Mrs Rooney wasn't brought in specifically to take on an operational leadership role of civil contingencies, but she very kindly did take up that role when I asked her to do so. She was brought in, as you

said, specifically to carry out a review of civil contingencies.
When the pressure began to ramp up, actually towards the end of the Brexit period and then into the period of the pandemic and preparations for it, Mrs Rooney stepped up to the plate and became the **de facto** grade 5 responsible for civil contingencies and took on that role, so it was actually a slight increase in the staffing complement that we had.
LADY HALLETT: Forgive me being slow, Mr Stewart, but Mr Scott's question was: Ms Rooney described it as a one-person hub; how many people were working in the hub at whatever level?
A. It would depend, my Lady, on the extent to which it was needed to be stood up. At its full complement, somewhere between 40 and 50 people would need to be there.
LADY HALLETT: How many when Ms Rooney described herself as a one-person hub? You said "Yes, I agree, at senior level", so you're saying there was one senior person there. How many other people were there working full-time?
A. I suspect on the day she wrote that it was probably herself, Anthony Harbinson, who had, for reasons we might come on to, succeeded me in the chief of staff

role, and those members of the core CCPB team who were there, which may well have been as few as two.

MR SCOTT: Yes, it may have been few, so the intention would be -- when I say the intention, the historic intention would be 12, realistically it was five.

A. Yes.

Q. But then, as you said, in February there was two, and then you have Ms Rooney saying that she's the only senior member, so realistically it can't be more than two that were in the hub in March, apart from the fact that Mr Harbinson had been added; is that right?

A. On that particular day, I think in that particular week, I think the situation did improve in the week or at least the fortnight after that, thanks to the sterling efforts of Mr Harbinson.

Q. Again, you were saying earlier on that there's a distinction between the CCPB who formed the core element of the staffing of the hub and the fact that volunteers are added?

A. Yes.

Q. So it's not simply that there was one CCPB person and there's nobody else, there might be other volunteers at the time; that's right?

A. Yes. Although I think, as Mr Harbinson has said in his evidence, volunteers were difficult to obtain, much more

difficult than we thought would be the case, and he had to work extremely hard to get sufficient numbers in place.

Q. Well, yes. So on 17 March 2020 -- so that was the day after the Executive had approved the activation of NICCMA; that's correct?

A. That's correct.

Q. So on 17 March you sent a message to Sir David Sterling saying:

"The team itself is on its knees - Bernie and [REDACTED] are both very tired. Only one volunteer so far."

Is that a reference to the fact that by 17 March there had only been one volunteer for the hub?

A. I think that's correct, yes.

Q. If I can show, please, INQ000091309.

This is an email sent by an individual within the Northern Ireland Office. So this is not -- the NIO had no specific role within the hub or creating the hub as of 12 March 2020; is that correct?

A. Yes, that's correct.

Q. So if we can just see the second paragraph underneath where it says "Overview" -- thank you -- it says:

"In their proposal [and this is the proposal in advance of 16 March] the Hub will have 28 roles."

Just the line below it:

"For context this is about 50% of what TEO ran in the full C3 Brexit structure (55 roles)."

So when we talk about the hub having been created for the purposes of EU exit, was effectively a full complement of hub staff then 55 roles?

A. For it to run at its maximum intensity, over a shift pattern, yes.

Q. So the intention around 12 March, as the NIO understood it, was that the hub would have 28 roles?

A. Yes.

Q. So is it not right that by 17 March, if you have Ms Rooney, you didn't have Mr Harbinson by 17 March; is that correct? He came in a day or two later.

A. I believe he may already have been there on 17 March.

Q. So we have Ms Rooney, potentially Mr Harbinson as well, and at most one, at most three, probably only one other staff member, and then one volunteer. So is that about four out of the 28 roles were filled at that point?

A. At most, yes.

Q. What was your view on the capability of the hub to respond, given that you had four out of 28 roles filled on 17 March?

A. With only four out of 28 then the hub could only hope to discharge a very small proportion of its intended role.

That doesn't give you anything like full operating capability, and had it remained at that level, that would have been a very serious matter, the hub simply couldn't have operated as intended.

Q. You say in your statement, and this is paragraph 105, that there was activation of the hub on 26 March. I just want to check, by that do you mean that that's when it was effectively fully staffed with volunteers and it was fully up to speed?

A. I think that's my recollection, yes.

Q. So are you able to remember what its staffing was like on 23 March when Northern Ireland went into lockdown?

A. I can't, unfortunately by that stage I had withdrawn from the role in the hub entirely for reasons that are set out in my statement. Around about 12 March, the medical and scientific advice was that anyone with an underlying health condition, such as asthma, which I have, needed to work from home. That came as a surprise and a bit of a shock. It presented a very significant difficulty for me in relation to the chief of staff role, for which I was designated. That's a leadership role, it needs to be discharged by someone who is physically present in the hub, able to respond and provide leadership to the staff immediately.

For an very short period, one or two days,

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

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

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

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

contingencies?

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

Q. Again you say in your statement that:

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

Are you able to --

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

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

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

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

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

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

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

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

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

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

A. Yes.

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

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

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

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

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

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

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

leadership that he showed in taking up the role.

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

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

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

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

A. That's correct.

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

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

A. Yes.

Q. Yourself, Mr Harbinson and Karen Pearson?

A. Yes.

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

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

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

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

people in terms of the breadth of --

A. That would be my view, yes.

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

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

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

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

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

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

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

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

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

A. Yes.

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

A. Yes.

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

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

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

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

Q. If I can turn now to sectoral resilience.

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

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

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

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

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

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

A. Yes.

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

A. Yes.

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

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

the respond phase or the operational phase.

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

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

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

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

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

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

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

A. Yes.

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

points that have been raised?
A. Yes.
Q. And it's not your role to identify, as we saw in your statement, for example, how public services should be supported or how society should function generally; that remained the responsibility of the individual departments who have the specialist knowledge; is that right?
A. Yes. The hub is very much a co-ordination mechanism.
Q. I just want to give an example of how that played out actually in the pandemic.

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

Now, this is an email that was circulated by the Civil Contingencies Secretariat on 6 March 2020. Just to orientate ourselves a little, Civil Contingencies Secretariat is a body that falls within the Cabinet Office and it's broadly equivalent to CCPB; is that right?
A. It is, only very much larger and more sophisticated in its capabilities.
Q. What was the relationship like between CCS and CCPB prior to the pandemic?
A. Very positive.
Q. Did the -- did you share expertise, best practice,

anything along those lines?
A. Broadly, yes. I can't cite specific examples of that, but there would have been regular and ongoing liaise between Katharine Hammond's team and mine.
Q. Just coming back to this document here, I'm not concerned about the specific timing of it or the precise details within it. So what we see in this email is that CCS is asking departments, Whitehall departments, for information, it's talking about specific interventions and asking departments to identify what they consider would be impacts. Thank you.

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

Is that the type of activity that CCPB would have done in Northern Ireland when it comes to, in general, in principle, in relation to the Northern Ireland departments?
A. Yes, if a commission to do so were received from the Civil Contingencies Group or the Executive. I don't know the origins of that particular request from Cabinet Office, whether it came directly from the secretariat thereof, on their own initiative, or whether they were tasked with doing that by COBR or by Cabinet.

Within Northern Ireland, I think it's unlikely that CCPB would initiate an exercise like that on its own initiative, but might well be tasked with doing so by the Civil Contingencies Group or the Executive.
Q. Why wouldn't it do that itself?
A. It tends to operate under direction from the Civil Contingencies Group, perhaps with less autonomy than the Cabinet Office Civil Contingencies Secretariat would have. I wouldn't rule it out as a possibility. I'm simply saying that in my experience, it's more -- it's not at all unlikely that it would be engaged in that sort of activity, but I think it's more likely that it would have been directed by CCG rather than initiated by CCPB. Forgive me, I'm using a great many acronyms.
Q. CCG in normal times meets three times a year; is that right?
A. Yes.
Q. So in between those meetings, why wouldn't it be that CCPB, given its experience of civil contingencies, given its role for sectoral resilience, why wouldn't it be seeking to perform this equivalent task instead of waiting to be commissioned by CCG or the Executive?
A. Well, if I understand that particular task, and I do remember it --
Q. Please don't worry about the specific task, I mean, this

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

There is no reason why, in a business as usual period, CCPB wouldn't be gathering information, testing the state of preparedness of sectoral resilience. To the extent to which it didn't do so in the years preceding the Covid pandemic, I think that's a direct result of resource constraints and the lack of staffing resource that was available in the team.
Q. So let's say, for example, departmental contingency plan, doesn't really matter which department, would that have included specifically asking about impact upon groups such as disabled, children, or others who might be potentially particularly impacted by any given situation? Was that something that would be considered?
A. Possibly. It may not have been as sophisticated a request as that. I say that simply because in the period where we were focused on this, in February and through into early March, the question that we asked -- but that might have been a product simply more of the

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

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

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

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

A. I would accept that, yes.

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

A. Yes.

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

is that right?

A. Yes.

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

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

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

A. Yes.

Q. Ms Rooney says in her statement:

"... I had been in post for 6 months at that time, I did not have an informed understanding of what was meant by sector resilience. It was the responsibility of the Head of Civil Contingencies Policy Branch."

Is it not a cause of concern that Ms Rooney could have been involved in CCPB for six months and still not have an informed understanding of what was meant by sector resilience?

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

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

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

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

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

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

time when I asked them to do it.

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

A. Yes, that's correct.

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

A. Yes.

Q. Prior to 14 March?

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

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

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

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

A. Yes.
Q. And you'd actually reached that view prior to February 2020?
A. Yes.
Q. One of the documents that we've had which was referred to frequently and I'd like you to be able to talk about it is INQ000205712.

This is a document that you prepared, as we can see from the top there.
A. Yes.
Q. "A strategic review of civil contingency arrangements ..."

So the question that I was just asking about, the focus on preparation, is this a document that arose from your view that you needed a greater focus on preparation?
A. It does. Perhaps before I turn to that, I may not have been sufficiently clear in my previous answer or I may have been answering perhaps a little too literally.

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

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

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

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

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

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

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

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

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

a short-term boost in our capacity.
Q. In terms of the review, though, if you're going to carry out a review, somebody's got to carry it out.
A. Yes.
Q. Who was going to carry that out?
A. It would have been led by Ms Rooney, but, as is laid out in that paper, in her estimate it wasn't something that one person could do, even the review needed additional capacity, and our request was for approval to -- in addition to our own team, to employ some consultancy resource to assist with that.
Q. But you're taking resources away from CCPB in late February, just before the pandemic -- well, you're taking resources away in late February; surely at that point in time you don't want to weaken the capacity of CCPB by asking them to do something else?
A. That's entirely correct, which is why the review did not commence at that time.
Q. Yes, but you say, and we can see on the screen there, that:

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

Is that not demonstrating that your intention was

that the review would be carried out at that time?
A. No, that wasn't my intention.
Q. Well, then, why would you put a paper to the board asking for a review to be carried out if you didn't intend it to be carried out around that time?
A. Quite simply because even at that stage, and I appreciate that this may appear incongruous, there was some normal business as usual still being transacted within the department, and this was part of the normal business as usual.

That paper, as I said, was long in gestation. It finally got to the point where it was ready to go to the departmental board in February, and the board's approval was secured. But at no stage -- and I regarded that as approval to proceed at the right time. At no stage would I have considered taking resource away from Civil Contingencies Policy Branch in the teeth of the pandemic to carry out a review. That would have made no sense.
Q. If we can go to page 9 of this document, please, paragraph 23.

And again, it's worth remembering that this is a document that you'd authored:

"... no action is taken to address the lessons learnt and to implement recommendations ..."

So that opening sentence is effectively: if the

current position continues; is that right?
A. Yes.
Q. It then goes on:

"... the risk arises that civil contingency arrangements in Northern Ireland will fall even further behind the rest of the UK, and the Executive and wider society may not be prepared for, or have the capacity and capability to deal with, an emergency situation should a major contingency present."

Given that's 25 February, do you not consider that there was a likelihood of a pandemic and that, therefore, a major contingency had presented itself by that point?
A. It was, and again I was conscious in Ms Dobbin's opening remarks that that might be interpreted as a belief on my part that a pandemic was not inevitable. That was not the case at that stage.

There was also a concern raised, I think on behalf of one of the core participants in the opening statements, that: how could I be asking the departmental board for a review and stating very robustly there, as I did, that it was necessary in February, but yet be assuring ministers in March that we had the capacity to mount the immediate response to the pandemic? The explanation there is that the scope of that paper is

a review to ensure that, going forward, we had the entirety, all of the capacity and capability that we needed, to deal with all conceivable contingencies going forward.

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

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

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

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

A. No.

Q. This is about focusing in the planning stage?

A. Yes.

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

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

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

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

So we can see that that's an email from you on 6 February 2020 and this is about sectoral resilience, you've got there an indication that:

"... the outbreak might not peak in China for another 5 weeks, and 2 to 3 weeks after that ..."

And then this is where it has come from about CCPB:

"... down to 2 members of staff ... I'll need to take some fairly drastic re-prioritisation decisions ..."

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

A. Yes, I think so.

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

to you saying:

"I anticipate the cross-government co-ordination and wider sector resilience aspects will ramp up significantly."

So on 6 February, by that point in time you had your own concerns about the ability of CCPB to plan for an event such as a pandemic; is that right?

A. Yes.

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

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

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

Q. I just want to dive a little deeper into that.

If we can go to INQ000092712.

And I think this is probably the document that you were referring to earlier on, from the head of the civil contingencies -- it's probably the document you were referring to earlier on; is that right?

A. Yes.

Q. Then if we scroll down to paragraph 3, please -- thank you very much -- and we can see there it's under the heading of "Sector Resilience":

"CCPB was allocated responsibility for taking forward the sector resilience element of Pandemic flu preparations a few years ago. It is allocated to CCPB in the CCG(NI)Sector Resilience Programme."

It is taken on as a non health-related issue.

Just pausing there, health-related issues should be dealt with by the Department of Health?

A. Yes.

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

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

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

A. Yes.

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

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

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

A. Correct.

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

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

Then at paragraph 52, you say:

"I do not recall being made aware of such concerns

prior to receipt of the document."

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

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

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

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

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

What time do you mean by that?

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

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

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

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

for the activation of the hub?

A. Yes.

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

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

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

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

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

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

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

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

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

A. Yes.

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

Is that bottom line:

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

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

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

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

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

So the two approaches were complementary.

Q. I'm going to look at the actual planning just after the break, Mr Stewart, but let's get the timeline correct. So the Brexit team joined on 14 March?

A. Yes.

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

A. Yes, I think that's correct.

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

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

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

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

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

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

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

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

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

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

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

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

you no longer have a functioning schools system?

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

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

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

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

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

actually did.
MR SCOTT: My Lady, that's a convenient point for the break.
LADY HALLETT: Perfect timing, Mr Scott.
I shall return at 11.30.
(11.15 am)
(A short break)
(11.30 am)
LADY HALLETT: Mr Scott.
MR SCOTT: Thank you, my Lady.
Mr Stewart, there's one point I just want to put to you, and it was about the paper from February 2020.
If we could just have up on the screen INQ000391222.
My fault for the delay, rather than anybody else's, Mr Stewart, it's just on its way now.
So this is the minutes of the TEO departmental board meeting. The document that we were discussing earlier on, your note about the review, that would have been considered at this departmental board meeting?
A. Yes, I think that's correct.
Q. If we scroll down the page, please, we have 3b there, and it says:
"Chris Stewart ..."
So it's headed "Strategic Review of Civil Contingencies across Northern Ireland.
"Chris Stewart provided an overview of the paper

circulated, recording the importance of a review of current arrangements given the changes in the strategic landscape that now impose new risks and considerations for civil contingency preparations. Following discussion [name redacted] noted the timely nature of the proposed review, the importance of engagement with key stakeholders and the recording of all associated risks."
It doesn't indicate there, would you agree, that it was considered that the review would be something that would be delayed to a point in future?
A. That isn't explicitly reflected in that paragraph, that's correct.
Q. If that was the intention, would you have expected it to be explicitly referred to in that paragraph?
A. I wouldn't have necessarily seen that as an omission. I regarded the board's agreement as giving me permission to take forward the review at a time and in a manner of my choosing.
Q. Thank you.
If I can take you now, because I want to move on to the actual planning that was conducted rather than some of the approaches, if I can take you to INQ000023220.
So this is the note of the CCG meeting on Thursday 20 February 2020. So, again, just to orientate

ourselves in time, this is before the briefing paper that we were discussing of 25 February and the TEO departmental board that we were just looking at.
Could you just describe what the purpose of the CCG meeting was on 20 February 2020.
A. It's a little difficult to do so at this remove. I don't have a particularly clear recollection of it.
Q. Can I help you?
A. Please.
Q. So was it an indication that when you were contacted by the Department of Health in early February 2020 that there was a suggestion that there be a meeting held by TEO in order to try to pull together some planning and preparation for the pandemic?
A. Yes.
Q. Does that sound about right?
A. Entirely right, yes. Forgive me --
Q. So is it likely that this is that meeting of 20 February?
A. It is exactly that. You've jogged my memory. I think I referred to that in my statement.
Q. So what we can see there is we have the priorities, of isolation facilities, so -- the Coronavirus Bill, excess deaths. And then it's only at the bottom, in terms of priorities, that we have "Readiness", and it's:

"All organisations to review business continuity plans in light of reasonable worst case parameters ..."
There is no indication there that there's any specific role for CCPB. Is that right?
A. There isn't an indication there, but I think implicit in that is review plans and pass them into CCPB.
Q. Well, in terms of the organisations, that relates to the departments; is that right, and their arm's length bodies?
A. That's right, their arm's length bodies, yes.
Q. Then if we can take off the zoom-in section, we can see that we have the "Actions". Again, we can see at the bottom, the second one up from the bottom:
"TEO to issue a short questionnaire ... on readiness ..."
Would that be work that CCPB needed to undertake?
A. Yes. The questionnaire was, indeed, issued by CCPB.
Q. And then:
"DEPARTMENTAL MEMBERS to review readiness with their CNI ..."
What does that mean, please?
A. Critical national infrastructure.
Q. Thank you.
Again, just for completeness, if we could just go over the page, please.

So discussions there of working group meetings, C3 leads -- so:

"... to consider the need for, and ... potential content of, accumulative impact document."

Does that meeting, that's 20 February, indicate that actually at that point in time there wasn't any accumulative impact document in place in Northern Ireland about any prospective pandemic?

A. I'm not sure I could say that there wasn't anything, but it certainly wasn't fully developed at that stage.

Q. Why was that, that it wasn't fully developed or wasn't -- well, why wasn't it fully developed by 25 February?

A. That was very much during the period where we were running very hard to try to recover the lost ground from the 18-month delay, and, as I have conceded, we were not as well prepared as we ought to have been. We were trying to make up the deficit, and that's the reason why, on that date, things were not as advanced as they might have been.

Q. Is it fair to say that, based on what you were just saying then, you were working hard to make up the deficit but, by the time of 23 March, you actually hadn't made up the deficit?

A. What I would say is at the time, by 23 March, we had got

to a certain point, we had issued and received the responses to that questionnaire, we had received the sectoral resilience plans from departments and carried out an initial overview of those. That was summarised in the table I think Ms Dobbin referred to yesterday. That was clearly not the end of the story. Planning is not complete at that point, which is why, as I said earlier, the very welcome addition of Karen Pearson's team gave us a boost and allowed considerable volume of further work to be done on planning beyond that date. I would not claim that by that date planning was complete. In fact I'm not certain that planning is something that ever ends in this context.

Q. At this point, around 20 February, do you think that the planning that had been conducted by the departments was sufficient in order to respond to a pandemic?

A. There were some gaps in it, and actually Ms Dobbin referred to one or two of them on the table yesterday. Which is why in the final column of that table you'll see a red, amber, green assessment of the state of readiness. Not a terribly sophisticated analysis, I must concede, but nevertheless an initial view from CCPB on the state of readiness in each department.

Q. Because again I come back to the point that we canvassed very early on, that it's actually not for CCPB to carry

out the planning in relation to individual sectors, that's for the departments --

A. That's correct.

Q. So your role in terms of the co-ordination role would be that you could press departments --

A. Yes.

Q. -- and you could ask them to cover certain specific areas and certain queries, but you couldn't do the planning for them?

A. Correct.

Q. If I could just take you to INQ000325143, and it's page 2 of this document.

These are going to be some messages between yourself and Ms Rooney, Mr Stewart, and they're from around 8 March, around 4.30 pm. Just while we're waiting for that to come up, you can tell that from where it comes up in the middle of the text, about ...

Thank you.

So on the left-hand side, as we understand it, is messages from Bernie Rooney, and on the right-hand side are your messages.

A. I think that's correct, yes.

Q. So we see Ms Rooney saying:

"Ok thanks. Should we circulate to Perm Secs seek lines on what [Departments] are considering or assume

that this work [is] ongoing. The only evidence that I have seen of any real planning is Economy."

You say:

"... I think we need to wait for advice from Michael on the timing of this in Northern Ireland."

Again, reference there to "Michael"; is that the CMO?

A. It would be the CMO, yes.

Q. Why would you need to wait for advice from the CMO on the timing?

A. I'm afraid I'm not quite sure what it was that Mrs Rooney was referring to in terms of what it was that we should circulate to permanent secretaries.

Q. Okay. Well, then, let's focus at the paragraph on the left-hand side at the bottom:

"I am concerned about [Departments] delay in planning. All a bit slow at present, waiting to be asked and told what to do."

If this is 8 March, is the suggestion here from Ms Rooney that actually there hadn't been sufficient planning done by the departments?

A. I think that's the only construction that you could put on that sentence, but I'm not sure that I entirely agree with her assessment at that point, in particular the assessment in the paragraph above.

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

Q. Okay.

A. I respectfully disagree with my colleague on that.

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

So this is the document that --

A. The very table that I referred to.

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

A. That's correct.

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

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

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

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

Q. Okay.

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

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

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

A. Yes.

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

A. Yes.

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

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

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

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

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

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

A. It should do, yes.

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

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

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

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

Q. Yes, so your words are:

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

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

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

applied within departments on planning.
Q. Ms Pearson, as is indicated, arrived around 14 March, she produced a plan on 17 March, why wasn't an equivalent plan produced by CCPB earlier, even before Ms Pearson arrived?
A. I think it's fair to say that the approach that we took in CCPB prior to that point was less sophisticated. It was, as I described earlier, a bottom-up approach based on gathering together the plans, probing them for weaknesses, challenging where necessary, joining the dots and completing the picture. What Karen and her team brought to it was an altogether more sophisticated approach and one which I characterise as top-down, which began more with identification of the risks and then assessing how or whether those risks were reflected in departmental plans. The two approaches I think are quite complementary.
Q. But is that not what CCPB should have been doing, a top-down approach, given your experience in civil contingencies in terms of departments in terms if information you required in the same way that the Civil Contingencies Secretariat did at an early stage in the pandemic?
A. I accept that that would have been a better approach.
Q. I'm going to be moving on to a different topic in

relation to legislation planning. You said earlier on, Mr Stewart, that you wished to talk about the activation of NICCMA, would you please indicate what points you would wish to make in addition to what Sir David Sterling said?
A. I won't repeat the points that he made, other than to say that I agree entirely with his evidence that the judgement that we made at the time was that we had asked for activation at the right point, but like Sir David, I entirely accept that the Inquiry may come to a different conclusion on that. Points I think have been well made and drawn out in your questioning that there is a fine judgement to be made in identifying that transition point between planning and operations, because both are important and it is a matter of judgement. Stand up too early and you may not have got -- made sufficient progress on planning. Stand up too late and you may impede the response.
Q. Yes. And if you have sufficient resources you're able to both plan and prepare for the stand-up at the same time; is that right?
A. Well, sufficient resources are a pre-requisite to both modes, but I think another point that's worth bearing in mind is when you reach the operational point, the hub is new and involves a cadre of staff who join the operation

at that point. Prior to that, and indeed from that point forward, other than hub staff, planning and operational response are actually carried out by the same teams of staff.
Q. Unless there is anything further you wish to add, I was going to move on to your role in terms of planning for the legislation and the initial set of regulations in 2020?
A. Yes.
Q. So after you had to relinquish the role of chief of staff of the hub, which you have explained earlier on, the focus of your role was on preparing legislation and that was what became The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 which was the governing set of restrictions that came in and I think they were made on 28 March?
A. That's correct.
Q. Now, what those restrictions did, in essence, was that you had taken the English regulations and then I think the way you describe it is that you made some necessary changes to reflect differences in administrative and enforcement arrangements.
There doesn't appear to have been any particular consideration given to any specific features of Northern Ireland society which might be distinct from

society in England; is that right?
A. I think that's a fair comment.
Q. When you were looking to bring in place those regulations, which they came in after Northern Ireland went into lockdown; correct? They were made on 28 March and lockdown was 23 March.
A. Yes, but whether or not there was observance of lockdown prior to the regulations is not something I could give an authoritative view on.
Q. No, but it's about your planning for the legislation and the circumstances you find yourself in at the time, is that right, in terms of when you were drafting the legislation, and the urgency?
A. So the announcement as you say was on the 23rd, the full detail of how that would be operationalised in England wasn't with us until the 25th, when we first had sight of the English regulations, and indeed a set of regulations for Wales at that point. Thereafter the task was to move as quickly as possible to have, as you say, broadly equivalent regulations made for Northern Ireland.
Q. But there would have been time for consideration to be given to whether any amendments needed to be made to the substance of that legislation to reflect any specific features of life in Northern Ireland; is that right?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. Because you say there:

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

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

A. The Secretary of State's natural exuberance.

LADY HALLETT: Sorry, I missed that.

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

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

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

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

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

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

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

MR SCOTT: No.

A. I'll have you on tenterhooks now.

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

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

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

MR SCOTT: Thank you, Mr Stewart.

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

MS CAMPBELL: Thank you, my Lady.

Questions from MS CAMPBELL KC

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

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

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

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

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

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

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

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

Ms Rooney says:

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

The inference being on a Friday afternoon.

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

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

"... B."

For Bernie.

And you reply:

"David is aware ..."

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

A. It's David Sterling, yes.

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

A. Yes.

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

A. Those are her words.

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

A. Yes.

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

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

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

A. No.

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

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

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

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

Q. And you say "David is aware".

A. Yes.

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

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

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

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

A. Yes.

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

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

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

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

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

"Tread carefully" --

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

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

And Ms Rooney replies essentially she's keeping her

head down and doing what she's told.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

through, if I may --
A. Okay.
Q. -- your career. I think that you are a medical doctor by qualification?
A. That's right.
Q. And I think, in fact, you're still a clinician, you still remain practising; is that also correct?
A. I am, yes, I graduated from Queen's University in 1999 and I've remained a practising doctor since then and I'm on the GMC register as a consultant in public health medicine.
Q. I think you had a very early specialisation in public health; is that correct?
A. I did, yes. After I completed several years of clinical training in junior doctor roles, I commenced the Northern Ireland public health medicine training scheme, in 2004 I think, and I then completed that and took up my first post as a consultant in 2011.
Q. I think it's right that that was in the Public Health Agency?
A. That's correct, that was in the Public Health Agency.
Q. And I think it's also right that in fact your specialisation is in children's public health and the commissioning of children's services; is that right?
A. So public health training is generic, so you are trained

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

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

A. I did.

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

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

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

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

Q. All right.

Now --

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

A. I'll try.

LADY HALLETT: Sorry to interrupt, Ms Dobbin.

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

Thank you, Dr McClean.

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

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

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

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

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

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

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

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

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

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

A. Yes.

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

A. That's correct.

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

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

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

Just coming back to the time -- in fact I'm going to ask you a little bit more about the background to the Public Health Agency, but could you just help us in terms of the sponsorship role and what that was intended to provide to the Public Health Agency?

A. So my understanding is that the sponsorship role is to provide direction, to make sure that the agency performs its statutory duties as they are supposed to, and also that the agency is delivering to a sufficient quality, delivering and delivering in line with the Department of Health and therefore the minister's wishes.

The form that sponsorship takes is that there are regular meetings between the chair of the Public Health Agency and the chief executive with either the permanent secretary, the sponsor, within the department, where they go through a range of issues where the agency may escalate things that they believe are a risk or an issue, and the department may seek assurances on some part of our delivery.

Q. Dr McClean, I think you're aware that, from around 2017, issues were being raised with the Public Health Agency by its sponsor about its capacity and capability to carry out its core functions; is that correct?

A. I think the documentation that I have seen relating to that time mainly comes from the documents that are

reviewed in preparation for giving evidence today, and most of that was around staffing within the health protection division, particularly staffing and the availability of consultant staff, specialist consultant staff to lead areas of work within that.

At the time of establishment of the agency there had been -- I'm not sure of the exact number, but there had been maybe nine, ten consultants in health whose special interest was health protection, and that number had gone down as low as three, I think, not long before the Public Health Agency was established.

Q. All right.

A. Or -- or before the pandemic --

Q. The pandemic happened. So I'm going to start in 2017.

A. Mm-hm.

Q. So I think the issues that were being raised in 2017 was, because of the depletion in staffing and experience, there was concern that the PHA couldn't carry out its core functions; yes?

A. That's right.

Q. And again the following year, in 2018, the issue was raised again as to whether or not the PHA was going to be able to carry out its core functions; is that also correct?

A. From the evidence I have seen in my bundle, yes, that is

correct.

Q. And again I think that it's right that between 2018 and 2020 the situation deteriorated still further in terms of that loss of critical staff and experience within the PHA?

A. That's correct. The numbers had gone down significantly for a range of reasons, mainly people had retired, come to an age whenever they retired. It is quite a specialist role so the staff who we need to fill those posts are highly specialised staff, they are consultants, like I am, in public health, but for them they would have chosen to maintain an interest in health protection. So at the point you achieve a certificate of completion of training in public health, that is across all the public health domains, but once you go into consultant practice, a lot of people -- and certainly practice within the agency up until that point, was that you went and worked primarily in one of the domains, so health protection is what we're talking about now. Other people chose to go, like I did, and work in service development and screening.

Q. I think the net result of that was that at the advent of the pandemic, I think there were very, very few people indeed within the PHA who had any sort of experience of dealing with a widespread outbreak of any infectious

disease; is that right?

A. I think there were a small number of very experienced consultants who had many years' experience and would have had experience of dealing with significant outbreaks, including for example the swine flu outbreak in 2009, the pandemic in 2009, but their numbers were small, and just before the pandemic the agency had had some success in recruiting a number of locum consultants into the agency, so that was a good thing, to stabilise and improve staff as we went -- phased into the pandemic.

Q. I think it's right we've seen some email correspondence that there were possibly two people in the PHA who had had some role or experience of dealing with swine flu in 2009; does that sound about right?

A. So I think that there were many more people within the agency who had experience of dealing with swine flu in 2009. I think the correspondence to -- which you are referring to is from an official in the Department of Health who has made a comment that only two people in a very senior role within the agency were around in 2009, and that they, in 2009, had not been in very senior roles.

There were a significant number of staff who had been in the agency in 2009, including, for example, me,

but at a much, much more junior level.
Q. Yes.
A. I think what that correspondence goes on to talk about, I suppose, change at a senior level in the Public Health Agency, so I know we're talking about consultants and specialist staffing, but there was concern around change at the senior level as well.
Q. But just coming to someone like you, for example, and whatever experience you had as a junior doctor in 2009, you would have been ten years qualified, I mean, would that -- would your involvement at that stage in any way have equipped you for dealing with something much more significant than swine flu?
A. I think there was learning for everyone, no matter what level of the agency that we were at at the time.
I think that following that there were a number of exercises, because there were very few people, actually if any, across Northern Ireland who would have had to deal with something on the scale of Covid, because no one had.
Q. Of course.
A. The sort of things that would have happened was we would have had significant outbreaks that would have tested us, and there's learning in that in how you scale up staffing and things to respond to things, but nothing on

the scale of Covid. And I think that's true for a lot of agencies.
I think one of the ways that we prepared, in common with other agencies as well, would have been through exercising. So, at national level, local level, running pandemic exercises, testing plans. But that, as we learned, is very different to doing it for real.
Q. Yes, and I think we'll probably find -- we'll look at what eventuated in terms of the PHA's role, but, I mean, would it be right to say at this stage -- and please say if you disagree -- that any of those planning exercises proved wholly inadequate to the mammoth task that faced the PHA from January onwards?
A. I think it's fair to say that the PHA was not prepared in a number of ways, and I wouldn't try to argue that we were. I think we had a number of strengths, but I don't think we would have been prepared. But I think that was true probably of every public health organisation and body across the world, because it was such an unprecedented event.
Q. All right. Well, we'll come and we'll examine some of those issues in a little bit more detail.
I just want to go back to the role that PHA would ordinarily expect to play whenever's an outbreak of an infectious disease. I think first of all its role in

respect of infectious disease is actually a statutory one; is that correct?
A. That's correct, yes.
Q. So, by statute, part of its role is to respond, is that correct, to an outbreak of an infectious disease?
A. That's right. So most of our statutory responsibility and powers in relation to responding to infectious diseases comes from the 1967 Public Health Act, the Northern Ireland Public Health Act, so that talks about particular powers and it talks about the director of public health having particular powers with respect to a range of notifiable diseases, and it talks about powers to issue things like a notice to exclude someone from school, work, things like that. So that's around responding to cases of notifiable diseases.
We also then, building on that, have responsibilities to try to stop the spread of infectious diseases within the community, and that, if you get more than one case, then that would be moving into an outbreak response, and we have a range of things that we do.
We discharge those responsibilities not by ourselves, so even to diagnose infectious diseases we rely on our colleagues in primary care to notify us, and the notifiable disease part of this is that if a medical

practitioner -- and I think the 1967 Act is written about medical practitioners.
Q. Yes.
A. But if the medical practitioner suspects that an individual is suffering from one of a whole range of notifiable diseases, by law they have to inform -- and the Act says -- the director of public health. So then we receive those notifications and take appropriate action in relation to them.
Q. So within the PHA there's essentially a team of people --
A. Yeah.
Q. -- and that's their function within the PHA? And can you help the Inquiry in terms of the number of people who were in that team at the outbreak of the pandemic in January 2020?
A. Yeah, so I'll have to look at my notes for the exact number so I don't mislead you, but in ...
So within the public health directorate, in January 2020 we were divided up into four divisions. So there was health protection, which is that team that we'll come to, there was service development and screening, health improvement and the R&D team. So the team who would respond to infectious diseases in the way I've described were drawn from the health protection

team.

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

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

A. Yes.

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

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

Q. All right.

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

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

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

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

A. That's correct.

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

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

business support organisation.

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

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

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

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

A. I have seen it.

Q. You have seen it?

A. I have seen it, yeah.

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

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

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

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

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

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

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

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

the PHA would do?

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

Q. Yes.

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

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

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

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

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

us to do on our own.

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

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

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

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

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

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

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

A. Yes.

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

A. Yes.

Q. Other than doing that --

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

guidance, and then if there was a need for clinical guidance locally for anything to come out from the silver level, that would have to be done with clinical colleagues.
Q. All right. I'm going to try and just finish off this document, if I may. The other part of your role that was foreseen at this time was that you would provide timely and accurate information for public and health professionals on Covid-19 and the clinical effects of the infection.

Now, what we'll come to and what we'll look at is the provision by the PHA to data effectively at this point in time.

Is that what that's talking about at this stage?
A. It's hard for me to know entirely because I wasn't involved in formulating this, but I'm reading it and I'm thinking it probably is around providing information on the number of cases we have and how it's spreading within the community. The clinical effects of the infection, that is something that would not be a primary function normally. Now, we do work closely with colleagues and can help disseminate that, but I'm not really sure what was meant by that at that time.
Q. All right, and I think provide advice on when to cease measures to slow transmission of the virus if they had

been commenced?
A. Yes.
Q. Again would that actually have been a role of the PHA at that time?
A. **(Pause)**. Possibly, but I'm very conscious that this was an incident that was even by this stage being managed very much on a UK-wide basis, so for something of this significance I'm not sure that ... now I have the benefit of four years of hindsight, looking at this, but actually the point at which, you know, you have to change your strategy ... possibly.
MS DOBBIN: All right. Maybe we can come back to that after lunch, if that's a good point to break.
LADY HALLETT: Yes, of course.

I am sorry, I hoped that you were warned that we would have to break in the middle of your evidence, Dr McClean, I'm sorry about that.
THE WITNESS: No, it's okay.
LADY HALLETT: I shall return at 1.45.
(12.46 pm)

(The short adjournment)

(1.45 pm)
LADY HALLETT: Ms Dobbin.
MS DOBBIN: Dr McClean, before the short adjournment we were looking at the document which set out what the PHA's

intended role was at the outset of the pandemic, and I just wanted to finish off quickly, if I may, on that.

I think we were looking before the break at the point at which it said "Provide timely and accurate information", so we'd dealt with that, and we'd dealt with ceasing measures, and I think you'd said it was possible that the PHA didn't have that role. And I think, as things transpired, it didn't have that role, did it, as time moved on?
A. I think that for something that wasn't on the scale of Covid-19, so something that was a much more limited outbreak, something a bit more usual, if you had a wide -- if you had an outbreak across Northern Ireland of something else, and quite often in an outbreak your overall objective will change through the course of the outbreak, I think if it was something more on what we would call a more normal scale, that may have been appropriate, but given what subsequently happened over the coming week to ten days, the scale of Covid I think made this quite a different scenario, even from perhaps what was expected whenever the terms of reference were drafted, which I think, from having looked at it just before lunch, was around the start of March.
Q. Yes, absolutely, and I'm going to come on and just ask you generally about these terms of reference, but just

to finish off on this, so at that time, and again just focusing on early March, it was foreseen that the PHA would lead on the public health response; correct?
A. Yes.
Q. And that it would lead the case management cell?
A. Yes.
Q. And that it would undertake community surveillance and that it would provide -- I'll cut through this -- mortality surveillance as well?
A. Yes.
Q. And that it would also have a communications programme?
A. Yes.
Q. And I think it's right that very quickly it must have been realised that the PHA just wasn't constituted to carry out a number of these --
A. Yeah.
Q. -- functions.
We'll look at some of the functions that it did exercise during the early period, but I think a number of these things effectively fell away and became the responsibility of the Department of Health; correct?
A. I think that's correct, and at a strategic level even beyond the Department of Health, really at a UK-wide level for some of them.
Q. Right.

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

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

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

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

Q. All right.

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

A. Can I just check the paragraph number?

Q. So it's paragraph 282.

A. Sorry?

Q. Paragraph 282.

(Pause)

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

(Pause)

A. Okay.

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

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

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

Q. Yes.

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

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

a positive test.

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

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

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

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

Q. Yes.

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

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

A. Mm-hm.

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

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

Q. Yes.

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

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

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

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

Q. Yes.

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

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

trace capacity that didn't exist, what your understanding is of the work that went on in that first bit of time within the PHA?

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

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

Q. All right.

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

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

A. Okay.

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

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

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

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

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

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

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

A. Correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. Yes.

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

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

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

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

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

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

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

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

A. Oh yeah.

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

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

A. So this email is dated 6 May.

Q. Yes.

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

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

Q. Yes.

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

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

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

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

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

very understandable reasons.

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

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

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

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

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

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

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

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

A. Okay.

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

A. Okay.

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

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

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

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

Q. Yes.

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

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

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

Q. Yes.

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

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

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

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

just careful about interpreting it.

Q. Yes.

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

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

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

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

around the reporting of the daily death figures.

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

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

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

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

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

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

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

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

A. Okay.

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

I won't read out all of this, but it goes on at paragraph 9.6 again to consider those difficulties, and then goes on at paragraph 9.7 to set out a number of challenges which the PHA faced in being able to provide the sort of information that was being required. Correct? And it went back to the issues that I asked you about at the very outset: in other words, was the PHA adequately staffed in order to be able to provide that sort of service to the Department of Health; yes?

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

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

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

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

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

conjunction with the board as well; correct?
A. Yes, the Health and Social Care Board, yes.
Q. Yes, and again the evidence seems to suggest that there were problems I think on the part of both bodies to be able to provide that in a timely way as well; is that correct?
A. I think it was a challenge. I think -- I mean, as we keep saying, this was an unprecedented event that happened, and yes, I think it was a challenge to actually be able to, at speed and scale, provide a surge plan that would meet the needs of the population of Northern Ireland.

And one of the things that I think we forget four years on is really the lack of knowledge that we had. Guidance, information wasn't just changing day to day, it was changing hour by hour, so really it was very difficult to know what it was that we were planning for. I remember people were not sure about the duration of the pandemic, would there be -- I think initially there was a general feeling that there would be one wave and it would be a bit like flu, you would have one big wave and then sort of a series of smaller waves fizzling out. This played out in a very different way, but it was challenge -- the surge planning, I think, was challenging as well for a lot of reasons, including the

ones I've talked about.
Q. We've got some witnesses who can deal in a bit more detail with surge planning, but I think it's also right that the PHA didn't have any modelling capacity either?
A. No.
Q. At that time you had no modelling assistance?
A. The PHA's -- did not have any modelling capacity and, as I said earlier, our development in more digital analysis, data science, was behind what we would have ideally liked. We have done a lot of work to improve that, and I think -- at the outset we talked about the change or the number of health protection consultants we had, but the PHA had also been without a permanent chief executive from 2016. I'm the fifth director of public health in -- I think since the pandemic started. So that instability in leadership and uncertainty around what the future for the Health and Social Care Board would be, I suspect that that probably did not help sort of future planning, strategic planning, horizon scanning.
Q. Yes. Forgive me, I'm going to move on to the next --
A. Okay.
Q. -- part of the role, which was obviously surveillance.

Now, we know testing is an important part of surveillance, and I think it's common ground that there

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

A. So we had a small number of cases. And the strategy at that time right across the UK was to identify the cases, which in the main were coming in, they were imported cases because the outbreaks were in other countries, and was to identify those cases, isolate them, isolate their contacts, to try to slow down and prevent further spread.

That's quite an intensive job, whatever you're doing it for a prolonged period of time. So what happened in PHA, which is in line with our plans, is that other people, so health protection, the health protection part of the directorate that we've talked about, were initially in charge, and then they started to bring people in from other divisions, redeploy people in.
Q. I'm just going to stop you there, because obviously we know when we get to 12 March, tracing stopped in Northern Ireland. I think what's less clear is whether or not the Public Health Agency had at that point gone beyond its capacities in terms of being able to carry on tracing, or whether you were still at a point where you could have carried on doing that at that time?
A. So I was involved in tracing at that stage because I had been redeployed over to help with it. I think that it was a challenge because it was very intensive and it required us to work very long hours, seven days a week,

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

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

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

only imported cases, I think that is true.

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

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

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

Q. Can you give us a rough idea?

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

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

If I could ask to be brought up, please,

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

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

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

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

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

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

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

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

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

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

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

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

A. Yes.

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

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

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

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

"Perhaps ground hog day for PHA and DPH."

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

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

Q. Thank you.

What he says is:

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

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

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

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

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

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

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

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

A. Yeah.

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

A. Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Yes.

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

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

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

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

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

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

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

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

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

LADY HALLETT: Initially it was for symptomatic patients?

A. Yes.

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

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

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

from hospital?

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

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

A. Okay.

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

A. Okay.

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

A. Yes.

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

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

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

Q. All right.

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

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

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

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

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

A. So to --

Q. Because of its very particular remit.

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

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

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

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

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

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

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

MS DOBBIN: I'm grateful to you.

Those are all my questions, and I understand there aren't any other --

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

MR FRIEDMAN: None of my thunder pinched, I want to thank her for asking the questions and the answers that have been given by Dr McClean.

No more questions from me.

LADY HALLETT: Thank you, Mr Friedman.

Thank you very much for your help, Dr McClean.

(The witness withdrew)

LADY HALLETT: We will break now and we shall return at 3.15.

(3.00 pm)

(A short break)

(3.15 pm)

LADY HALLETT: Mr Scott.

MR SCOTT: Good afternoon, my Lady. May I call Jenny Pyper.

DR JENNY PYPER (affirmed)

Questions from COUNSEL TO THE INQUIRY

LADY HALLETT: Sorry you've had to wait so long.

THE WITNESS: That's okay.

MR SCOTT: Good afternoon, Dr Pyper. Thank you for your assistance to the Inquiry.

Can we ask you to keep your voice up, speak into the microphone in front of you, and not to speak too quickly so that the stenographers can keep pace. If you need a break at any point, please just say so.

You have provided two witness statements to the Inquiry, the first one is dated 17 January 2024 and that's there on screen. If we could just go to page 2, paragraph 6, please, I understand that there is a correction in this statement, Dr Pyper?

A. Yes, please.

Q. If you could please highlight that correction.

A. So the correction is in relation to the date on which I first met with the First Minister and deputy First Minister, it should read 27 October 2020.

Q. Then you have provided a second witness statement dated 28 March 2024, and I take it you're familiar with both of those statements?

A. I am.

Q. You provided a signature and the statement of truth is on page 62 of your first statement. Please can you confirm the contents of that statement are true?

A. Correct.

Q. And your signature and the statement of truth is at

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

A. Yes.

Q. Thank you.

If I can just summarise your background as follows: you joined the Northern Ireland Civil Service in 1985, you were appointed to the Senior Civil Service in 2003, you resigned in 2013 to take up the post of chief executive of the utility regulator. You remained in that role until October of 2020, and as you just indicated, it was at that time that you were approached to take on the role of the interim head of the Civil Service.

A. Correct.

Q. And that you took up that post on, was it 1 or 3 December 2020 that you --

A. 1 December.

Q. And then you served as interim head of the Civil Service for nine months until Jayne Brady took up the post on 1 September 2021?

A. That's correct.

Q. One point just to clear up. When you took on the role of interim head of the Civil Service, there had been no head of the Civil Service in Northern Ireland between Sir David difficult's resignation at the end of

August 2020 and when you took on the role; is that correct?

A. Correct.

Q. Was there anybody filling the gap of head of the Civil Service in that window?

A. There was no one filling the gap as head of the Civil Service. I understand that a number of the senior staff, permanent secretaries, stepped up to try and provide support to the Executive, and also to carry on the work of the Civil Service board and the permanent secretaries group, but there was no one appointed or designated as head of the Civil Service.

Q. You describe the role of the head of the Civil Service as taking a holistic view of providing support to all Executive ministers and you also describe it as leading and putting together joined up and cross-cutting responses from across the Civil Service. Is that right?

A. Yes.

Q. In what way would you do that?

A. Well, in a number of ways. I made reference to the Civil Service board, the NICS board, which would have included all of the permanent secretaries and a number of additional senior staff, including the head of NICS HR human resources department, and that group would have met monthly to look at cross-cutting issues in relation

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

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

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

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

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

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

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

I hope I've explained that okay.

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

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

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

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

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

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

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

A. Correct.

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

to fill any gaps that arose; is that right?
A. That's correct, and was the source of some frustration, I think, to Executive ministers.
LADY HALLETT: I can understand, I didn't know about this until this Inquiry started, Dr Pyper, but I can understand why you have the system of the independent departments with ministers because they're coming from the different political parties, but is there any scope for suggesting that may well be the right way to do it here in Northern Ireland given all the sensitivities but in a national emergency?
A. My Lady, I would agree with that, and indeed for me it would be one of the reflections from my tenure that that perhaps in the case of a national emergency the head of the Civil Service could exercise some additional authority or powers in relation to brigading the necessary resources, whether that would be to manage and staff up CCG or whether it would be to take forward some of those big cross-cutting initiatives. I think my team deserve a huge amount of credit for delivering, as do all of the departments, and Department of Health was exceptionally pressed, but it did show one of the weaknesses of what ministers and indeed the general public might have imagined was the case in terms of the extent to -- the head of the Civil Service could control

all of the resources under his or her command.
MR SCOTT: So in terms of the specific examples that you've given earlier on, was there any other negative impact that arose from the fact that you weren't able to direct staff across the Civil Service, not just necessarily within TEO but within other departments?
A. I think it was a regular frustration at the permanent secretaries' stocktake group, that there were some departments under severe resource pressure, particularly the Department of Health -- particularly the Department of Health -- for obvious reasons. And the permanent secretary would have, at almost every meeting, have raised his concerns about how stretched and strained his resources were, and he, like me, was trying to exercise soft power and plead with other departments that if they had any staff that they could release, he would -- he would -- could use them to take up the strain in the Department of Health.

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

just how to make regulations but also an understanding of the health regulations, and I think there was a paucity across the Civil Service of people with those -- with those appropriate skills, and therefore it was not straightforward to simply direct anyone that had legislative experience to work in support of the Department of Health.
Q. If I can just jump in there, so is that a feature of the fact that there had been a series of effectively redundancy schemes, for want of a better phrase, in the years prior to 20 in which you had lost a number of older more experienced civil servants who had legislative experience?
A. I think that's undoubtedly the case, but I would suggest that a further factor was the fact that we hadn't had an Executive for three years until January 2020 and there had been no legislative programme being delivered during that time. So there were civil servants there during my tenure who had no experience of making legislation and doing the necessary work because there had been no executive for a prolonged period of time.
Q. Because you set out in your statement that in June 2021 there were 4,000 unfilled vacancies in Northern Ireland Civil Service. What percentage of the Civil Service is that?

A. I wouldn't know that offhand.
Q. Well, what was the impact upon the pandemic response in 2021 of 4,000 unfilled vacancies in the Civil Service?
A. Clearly the Civil Service had been running with that level of vacancy for some time, and the Civil Service board had been working through a process of trying to recruit more staff, but even recruitment during a pandemic, particularly during lockdown, was not straightforward. I think what -- the impact that it had was probably to place additional pressures on the senior cadre within departments in particular. I can't recall now -- although the figures are available in minutes of the NICS board, I can't recall exactly where those vacancies lay, many of the 4,000 might have been in the administrative grades, but certainly the strain, the slack, was taken up at senior level and it was, you know, the principal officers and above that were bearing a disproportionate burden.
Q. Thank you.

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

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

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

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

Q. So you had a week?

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

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

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

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

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

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

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

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

A. Sorry.

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

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

A. Indeed.

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

A. Yes.

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

A. Yes.

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

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

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

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

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

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

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

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

2020?

A. I think given what had happened over the summer in terms of the progress of the pandemic and in terms of the relaxations in the regulations that ministers had been put in place -- had put in place, I think there had been a hope probably from, you know, from late summer, as ministers looked ahead they had been a hope and a desire to be able to give people more of a normal Christmas, if that were possible. They knew, and I think accepted, that that was dependent on the R rate, they had a desire to keep that under or at about 1. And I believe that they weighed carefully and talked at length, I believe, about the impact of lockdown, the impact of the prolonged restrictions, about the ability to maintain adherence to those restrictions, and I think they had a real concern for the impact of prolonged restrictions, particularly on some of the more vulnerable groups. They were concerned about mental health. So they were weighing -- it wasn't just that they said "We all want to have Christmas", I think they were weighing carefully the implications for individuals, for communities and for business sectors as well.

Q. In terms of the changes that you brought about -- I'm going to deal with the ECT shortly, the Executive Covid Taskforce -- were there any other changes that you

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

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

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

Q. Okay. So you're talking then about bringing back the weekly meetings; the implication of that is that those meetings had either ceased to happen or had happened less frequently. Had there been a bit of a drifting apart of the departments and so they were more focusing

on their own area of responsibility, without somebody to pull them all together from the top?

A. I think that was -- I think there was -- there was inevitably, I think, some of that, perhaps exacerbated by the fact that ministers were beginning to think beyond a collective response to the pandemic and beginning to think about their own departmental responsibilities and priorities, and that inevitably was provoking the permanent secretaries to focus on, you know, on their ministers' other priorities not just the response to the pandemic.

Q. That's going to take us conveniently through to the Executive Covid Taskforce. You say in your statement that:

"The First Minister and deputy First Minister made it clear to me that the ECT was my first priority on taking up the interim head of the Civil Service role."

How stridently was that put to you that that was your first priority?

A. I couldn't say that it was strident, but it was certainly mentioned to me by First and deputy First Minister when I first met them on 26 October. They didn't talk in detail about an Executive Covid Taskforce, but they did indicate that they'd been giving some thought to a head of the Civil Service led

taskforce to look ahead at the approach to lifting restrictions or addressing restrictions and starting the work towards recovery. So that was flagged with me as early as October --

Q. Did they say why they wanted this brought in?

A. They did indicate that they felt there was a need to start and look at things not simply from the health perspective but to find a means to consider other issues particularly around the economy and what was happening in the community, and they felt that that could only be done because that raised cross-cutting issues, they felt that could only be done by a head of the Civil Service.

Q. Was there a sense of frustration that they felt that they weren't receiving the information that they wished?

A. I think that's -- that's documented in a number of areas, including a minute of one of the meetings.

Q. Shall we pull that up?

If we could have INQ000391436. Thank you.

So this is a meeting between yourself, the First Minister and the deputy First Minister on 1 December 2020. Is this the meeting that you were referring to in terms of it indicating their views and their thoughts at the time?

A. This is -- this is not the -- this is not what they talked to me about back in October, but yes, this is the

meeting I was referring to where they perhaps were more candid about some of their -- I think you used the word "frustrations", and I think that's reflected in this note.

Q. Yes. I mean, how well do you remember the meeting?

A. Erm --

Q. Because it's not a memory test, if you don't remember it --

A. No, I do remember it and I recognise this note of the meeting and I recognise it as reflecting the discussions that we had, and I think it does -- it does bring across the level of frustration that perhaps they were both feeling at the time, and it chimes with what they had said to me about needing a HOCS-led approach to make sure that there was a more balanced approach and better process put in place.

Q. Because there was, as it set out there, First Minister under "Low key points" is looking for a more co-ordinated approach required, that they don't know what's happening, and then under the deputy First Minister's points, "left not knowing and left to front things".

Again, are you able to provide any further indication of what they were thinking or is that best left to ask them?

A. Well, I mean, I know that they were frustrated that on a number of occasions the minister for health and I think on one occasion the CMO had been giving briefings to the press, as was normal and as you would expect, but information --

Q. Did you mean that in terms of the joint press conferences or separate from those joint press conferences?

A. I mean those press conferences where the health minister spoke or where the CMO in his professional capacity would have spoken. They indicated to me that there were -- had been a number of occasions where information that they were unaware of was revealed to the media, and that had caused them considerable annoyance because they were the joint heads of government. So that's I think the reference to the "don't know what's happening" and I think the reference to "late papers and process" really was a reference to some of the health papers that were coming through from the minister of health that were coming very late to the Executive. The process would be that any papers to be discussed at the Executive would be provided to the First and deputy First Minister in the first instance, and then once they'd had a chance to consider them and agree the agenda for the meeting, the papers would be circulated

to the other ministers, and if papers were late coming to First and deputy First Minister, that then meant they were even later being circulated to the other ministers, which had the impact of sometimes causing the start of an Executive meeting to be postponed, and in terms of process the deputy First Minister describes it as disrespectful.

Q. Yes, and in fairness the bullet point below is an example of "DoJ -- late issue given", so it wasn't entirely the Department of Health, but were you able to get a sense of where there was a primary or a more frequent source to their concerns about information not being given to them?

A. I think the primary source that was reflected to me would have been the Department of Health. However, I have to agree with Sir David Sterling, who reflected yesterday that the frequent leaking of Executive papers did perhaps encourage some ministers to hold back their papers to the last possible minute before they circulated them. And there was a bit of poor process and poor behaviour bred, poor process and poor behaviour, from all ministers.

Q. You were talking there about leaking, Sir David difficult was talking about leaking. There was a three-month gap, a sort of three, four-month gap

between when Sir David retired and when you started. How long did the leaks continue for when you were in your role?

A. They were continuous. I would have to say that I felt as if all of those meetings in December, I felt as if we were living them in the media, because the timing of meetings was -- seemed to be available to the press, any delays, any postponements.

I do think, if I may, once the Covid Taskforce got up and running and we got into a better process and a better rhythm, and I know we may go there, and there was a bit more certainty and predictability about when decisions would be made around restrictions, I think we did get some -- an easement in the extent to which there were leaks, but there's no doubt in my mind that everything started up again really between March and April. And, you know, there were political issues going on then which I think were perhaps encouraging some parties to leak.

LADY HALLETT: March and April 2021?

A. Of 2021, yes.

MR SCOTT: Those issues, they were non-pandemic-related issues; is that right?

A. They were non-pandemic issues.

Q. But plainly when you have an Executive Committee of

ministers, they're not focusing solely on pandemic-related issues, and any issues that arise in -- for non-pandemic matters are naturally going to have an impact upon the relationships they have with each other?

A. Correct.

Q. And therefore it's going to have an impact upon the way decision-making is taking place; is that right?

A. Correct.

Q. So in terms of you were talking about December before the ECT got up and running, what was the impact upon the -- living the meetings in the media, as you described it, upon decision-making of the Executive at that time?

A. I think it hampered -- it hampered decision-making because there was a breakdown of process and a breakdown of trust. I think it added to perhaps the sense of -- you know, the public loss of confidence in decision-making, and that could have had other impacts as well in terms of public confidence about adherence and whether it was guidance or regulation. I think it didn't create the right impression --

Q. As far as you're aware, did it have any of that particular impact in terms of adherence, or you just don't know?

A. I couldn't say at Christmas that there was any particular impact. It certainly made for a very intense schedule of meetings and the chairs pleading with colleagues not to leak to the press.

I'm not conscious of papers being leaked, I've no memory of papers being leaked, but certainly the timing and the rescheduling and the frequency of meetings, the press seemed to be aware. And it did add, I believe, to people's uncertainty about what was happening and what the guidance would be.

Q. I want to move away from non-pandemic issues and go back to the setting up of the ECT.

Was there resistance from any quarters to the setting up of the ECT?

A. My understanding is that the Executive itself was in fact briefed about the proposition to set up a taskforce back in November, late November, and there was not resistance or opposition to that. I think there was a recognition that some fresh process, perhaps a step change in process might be valuable.

I did brief the Executive on the emerging structure and **modus operandi** of the taskforce on 3 December, and there was push-back, particularly from two ministers, from the minister of health and the minister for the economy, not an absolute push-back but concerns were

raised about how the taskforce would operate.

Q. What were the concerns raised by the minister of health?

A. I think his concern was that in some way the taskforce would dilute or seek to reinterpret the health information. Clearly the initial response to the pandemic had been health led, and perhaps there was a concern that this move now to look at issues in a cross-cutting way would take a focus off the health aspect of the pandemic, which still remained hugely, hugely important. I think perhaps he and maybe some of his senior colleagues might have had a concern that there would have been some challenge to the integrity of some of the medical and scientific information coming forward, or perhaps some reinterpretation by non-medical experts within the Executive Office. And that was a concern that I could recognise.

I think he was also operating initially -- at the time that he raised the concerns, he was operating under a slight misconception that it was an Executive Office, a TEO, as a department, a TEO taskforce. So TEO as the department as opposed to the Executive as a whole.

In fact the taskforce had the endorsement of the entire Executive and it was not a narrow departmental issue.

Q. It seems like that the genesis of establishing the ECT

was the First Minister and the deputy First Minister wanting to have a little bit more knowledge and control of the events that were coming out of the Department of Health, and is it right that you're describing there slight resistance from the Department of Health because they want didn't want to lose that control over their own data and their own information?

A. I think that's fair, but I think it's also fair that the regulations were all within public health legislation, and therefore they did have that primus inter pares role, I think. So I did recognise and understand where the minister of health was coming from, and an early meeting with him in December I think was helpful in teasing out those concerns and reassuring him that actually the purpose of the Covid Taskforce was to take information from all departments, see what they were saying, what proposals they might have around lifting of restrictions, almost as a triage exercise that could then be referred to the CMO and the CSA in terms of: if we did this, what might the implication be?

So in fact what happened was the taskforce operated and we actually built in the health input, and the health information still came as a separate paper with all of the information that they would have been providing anyway and had been providing.

So it actually enhanced -- I think it enhanced the information flow, and indeed I believe the minister of health did recognise that in subsequent meetings.

Q. And is that an example of the soft power that you're bringing to bear, that it's -- even though you're talking about legislation and the responsibility for the Department of Health for health matters, that you still had other ministers who felt that their areas of responsibility were being slightly pushed back on, and so it's not just a matter of process when you're in a mandatory power-sharing arrangement, you have to maintain the relationships between the ministers to make sure the Executive is working as efficiently as it possibly can?

A. Absolutely.

Q. So is it right that that meeting that you had, I think as you described it, did that end up helping the situation in terms of the relationships between ministers as opposed to just the flow of information through the ECT?

A. I believe that it did. It -- certainly I believe it reassured the health minister, and indeed within a matter of weeks, five or six weeks, I proposed the idea of the health minister joining First and deputy First Minister for a pre-brief ahead of Executive

meetings so that he had an opportunity to tease out with them any issues or concerns that they had, and also to make sure that his voice in terms of the medical and scientific position was being presented. And I believe that was really helpful to First and deputy First Minister in their chairing of meetings, but it also, I think, reassured him that he was, you know, still very much in a key position within the Executive.

Q. You had also mentioned the economy minister, it wasn't just about the health minister, about resistance.

A. Yes.

Q. Would you be able to describe what your views were of any resistance from the economy minister to the ECT? Were they similar concerns or were they different?

A. No, I think they were -- they were quite different, although they may still have come from the same place in terms of the positioning of her department.

I think her concerns were really about who would be leading recovery, and particularly recovery of the economy. She was concerned that that was an area that her department was leading on in terms of a new economic strategy, the 10x strategy. I think she expressed concerns about the Covid Taskforce slowing things down, and perhaps duplicating work that was being done elsewhere or creating additional layers of reporting and

bureaucracy that might divert her officials from driving forward with the economic recovery document.

Q. In relation to those ministers, the health minister has responsibility for the Department of Health, the economy minister is responsible for the Department of the Economy, plainly it is part of their role in order to advance the views of their department to the best of their ability at the Executive Committee; is that right?

A. Indeed.

Q. So did you end up bringing the ministers together again and actually having that little bit more cohesion as in the Executive through the introduction of the ECT?

A. I think I probably -- there was more progress with the minister of health in terms of cohesion. I think the economy minister remained throughout my time impatient with the pace of the lifting of restrictions as they applied to the business community, particularly as we got beyond Easter, and a very strong call came from the hospitality and tourism sectors. I think perhaps she felt that some of her concerns were valid, but in fact the Covid Taskforce was not a decision-making body, it was a means of co-ordinating policy. But in contrast to the CCG, which was looking at operational co-ordination, the ECT, the Covid Taskforce, was looking at co-ordination of policy responses and trying to make

sure that there was an overall coherence to the Executive's response to lifting restrictions, and in particular to developing an overall Executive response to recovery, in addition to what the minister for the economy was doing with the economic recovery.

Q. Thank you.

If I can move now to consideration of inequalities in -- probably into 2021.

If we can have up INQ000411509, and if we go to page 60, please, paragraph 273.

We can see there:

"The extent of the impact of NPIs on different groups within society was not assessed in any systematic way during my tenure ..."

Why not?

A. It's a very good question, and I think it's one of the key learnings for me from this process. Initially I believe that the pace of decision-making was such that it simply wasn't possible to do the normal section 75 or EQIA reviews that would be a normal part of civil service process.

We were unable, therefore, to consult in a short space of time in the way we would normally, but stakeholder engagement was very extensive, both before I came and also throughout my tenure, and I suppose that

was -- that was our proxy for consultation --

Q. But isn't it a difficulty, when you say about proxy of consultation, that you are the government of Northern Ireland, you have access to different sections of information and it is incumbent on the government to be able to identify the source of information so that in a pandemic you have an understanding of the impact of the pandemic on different groups?

A. Yes, I wouldn't disagree with that.

Q. Was there anything that you directed, as the head of the civil service, about any steps that could have been taken in order to ensure that there was a greater understanding or assessment of the impact of NPIs on different groups within society, as you include in your statement?

A. Both ministers, both the Executive and the Covid Taskforce, did consider the impact of restrictions and indeed of lifting restrictions on different groups as we worked through our process. And particularly in relation to the Covid Taskforce, some of the work on adherence and behavioural insights did delve into what the implications were for particularly vulnerable groups. I think the point I was trying to make is that we didn't do it in any systematic way during my tenure and that an opportunity, I would say, an opportunity was

missed by the Covid Taskforce to perhaps have an equality workstream that would have given some focus to the work that was being done in terms of stakeholder engagement but also the work that was being done by individual departments with their stakeholders. So I'm thinking perhaps of the Department for Communities, with disadvantaged communities and with low paid families. I'm thinking of the Department of Health in relation to all of the information that was coming through from the Public Health Agency and in particular from the trusts, a huge amount of information from the social care system. That information was -- I think assumptions were made that that information was being considered and assessed by departments and was factoring in and featuring in their individual departmental responses. I think we missed --

Q. Apologies to cut across you, just I'm conscious of the time that we have.

In terms of the assumptions that were being made, was there anybody within the ECT who was suggesting that more should have been done to make a systematic assessment, or was it effectively a collective assumption that sufficient was being done elsewhere?

A. I couldn't say that there was anyone in particular, which is why on reflection I would say we should -- we

missed an opportunity and we should have taken more care and made greater proactive efforts to make sure that all the voices that should have been heard were in fact heard.

Q. Because if I can just take you to -- it's the document *"Moving Forward: The Executive's Pathway out of Restrictions*", it's INQ000104467.

I presume you remember this document quite well, it was published on 2 March 2021. This was intended to be a public-facing document.

A. Yes.

Q. So it was intended to communicate the Executive's thought processes, plans, intentions to the population of Northern Ireland.

If we can go to page 6, please.

In terms of the "Societal Impact" there, it is set out that:

"... the pandemic and restrictions have had an impact upon physical and mental wellbeing ..."

It then moves into issues in relation to housing, sports, arts and culture.

And then -- down into the next page, please:

"The financial impact ..."

In the top left corner:

"... has been heavy for many people, with increased

levels of unemployment ..."

And then:

"Across society, it would be difficult to imagine anyone who has not been negatively impacted by this pandemic ..."

On reflection of this framework, do you consider that there is sufficient attention given to inequalities and impact upon the population of NPIs, or do you think that on reflection more should have been included in there, given that it was a public-facing document?

A. I think it would have been -- with hindsight it would have been better to draw out some of those implications and those impacts more clearly in that public-facing document, which was intended to be a communication to explain to the public how the Executive's process was working, and in a way that was an attempt to try and deal with the concern and perhaps any loss of public confidence about how the Executive was working.

I would say to you that we did learn from the engagement that we had with the stakeholder groups, and when we came to develop the recovery document, the Pathway out of -- recovery, which was published in August 2021, one of the key workstreams, and I think we described it as a recovery accelerator, one of those themes was tackling inequalities, and that was

an explicit recognition of the disproportionate impact that the pandemic had had on various groups and various sectors, and it was -- it was a recognition that there was a -- there were specific streams of work that would need to be taken forward as we moved into recovery to address those impacts and those inequalities.

Q. That framework, *"Moving Forward",* was criticised by the Equality Commission, is that right, for not paying sufficient attention to section 75 duties?

A. I understand that, however that postdated my tenure, but we did -- that was the first document that we put through the formal EQIA process and I'm aware that it was criticised, yes.

Q. In truth, that building forward Covid recovery plan was published on 2 August but it had started consideration back in March 2021, so it was about five months in the making; is that right?

A. It was.

Q. I want to move now to WhatsApps.

You say in your statement that you've:

"... had no experience of any key decisions relating to the pandemic being made during informal or unminuted discussions."

And:

"... no messages were deleted by me, or on my

behalf, regarding how the public in Northern Ireland approached the response to the pandemic."

Is that true?

A. It is true.

Q. So you, in your original statement, and if we can have up INQ000411509, page 47, and it's paragraph 212.

You set out there, under:

"On the day of my departure from the interim HOCS role on 3 September 2021, I returned my NICS mobile phone and laptop and have had no access to either device since. I had deleted nothing from them and had no informal messages on any other personal device ..."

I'll give you the opportunity to explain, Dr Pyper: is that accurate?

A. It is not correct and that's why I made a second statement on 28 March to correct that assertion.

Q. And so your further statement says that:

"... contrary to what I stated in paragraph 212 ... I did delete material from my work and personal devices."

Joining those two limbs together, you're saying that you did delete some material, but you're also satisfied that you didn't delete any material about the government in Northern Ireland's response to the pandemic; is that right?

A. I can only be clear about my personal phone, because although I returned my Civil Service, my work phone, when I left, and I did not reset that phone, I learned on, I think it was, 13 January that that device could not be located, so I can't speak confidently about my work phone.

But my second statement does set out the circumstances of deletion of material from my personal phone, and confirms that that material was not related to the Covid Inquiry or to -- or not related to the pandemic response or to decision-making.

Q. Yes, if we can have up INQ000421746, please, page 6.

At paragraphs 25 to 27, I'm not going to go through them, but that sets out your understanding of the circumstances of the -- that led to the deletion of that material?

A. It does.

Q. And so you say that you were not advised by Jill, so that is Jill Minne, the --

A. That's Jill Minne.

Q. And she is the head of NICS HR; is that correct?

A. She is.

Q. And you say that you were not advised to delete messages but you were advised about appropriate and acceptable behaviour, that's what you say there in your statement.

A. Indeed.
Q. If that was the advice that you had received, why did that lead you to -- in the words of the message that you sent, why did that lead you to clear out all of your WhatsApps and messages on your personal phone and your work phone?
A. I did not clear out all WhatsApps and messages on my personal phone. I cleared out -- deleted -- the exchange with Dr McCormick because I'd believed that I had shared some casual and offhand comments on what was a personal communication channel, but I believed those comments, on reflection, were unprofessional. I don't believe that I consciously thought that those messages needed to be retained but, having spoken to Jill, I reflected that my communications with Dr McCormick had drifted towards the inappropriate.
Q. Just in terms of accuracy, if I can take you to INQ000378038 for the reason why I talk about clearing out WhatsApp messages.

So if we can scroll in at the top there, so it's that message there, 17 May 2021, 19.49.35:

"On Jill's advice I have cleared out all my WhatsApp and Messages on this and my work phone."

So are you saying that you didn't actually clear out everything, you just cleared out aspects?

A. I did not clear out everything, and a number of my exhibits confirm that there were other WhatsApps exchanged. It's very casual, especially when you read it now, knowing what has happened in relation to the loss of information. There was nothing more than -- I suppose the conversation with Jill was nothing more than a reminder about not using informal channels for casual conversations, and I regret now that I deleted anything from my personal phone because I believe that -- you know, it could have led -- or given the impression that in fact I had deleted more than I had.
Q. You were aware at that time of the need for accurate retention of records?
A. I was aware of the Civil Service guidance at the time, yes.
Q. And in terms of the timeline, so that is dated 17 May 2021, so it was on the -- if we could just have INQ000409662.

So this is 10 June 2021, so it does postdate the messages that you sent in terms of the letter from the director general, propriety and ethics, at the Cabinet Office about recording records in relation to the Covid-19 independent inquiry, and you saw that letter from the Cabinet Office?
A. I did.

Q. And you circulated it around permanent secretaries in --
A. I did.
Q. What steps did you take in response to this letter to ensure that information was secured across the government of Northern Ireland or the Executive Office to ensure that all records were retained that might be relevant to the Inquiry?
A. As you have said, I did circulate that guidance to all permanent secretaries and senior TEO colleagues. I drew specific attention to the need to secure information and reminded permanent secretaries about the fact that this might raise governance issues for their -- I don't think I explicitly said audit and risk committees, but it was in my intention was to ensure that their governance processes were cognisant of the likelihood of Northern Ireland joining this Inquiry. At the time Northern Ireland had not committed to join the Inquiry, the deputy First Minister had not agreed that we would be part of it, but I think the assumption was that we would form part of that Inquiry. I did draw specific attention to the requirements in that -- in that memo. But permanent secretaries are accounting officers and accountable for their own staff and their own resources, and frankly I felt the responsibility, the primary responsibility, lay with them to ensure that proper

procedures were followed. I did talk with my own accounting officer, because although I was the permanent -- I'm sorry.
Q. No, apologies to cut across you, I'm just conscious of the time.

As far as you were concerned, you received this letter in and around two weeks after that you had deleted those messages, are you satisfied that the messages that you deleted didn't have any relevance to the Covid Inquiry?
A. I cannot speak with authority about when I deleted the messages, but because the action point is noted in my own notebook, I believe I deleted them then, before 10 June.
MR SCOTT: My Lady, I've no further questions.
LADY HALLETT: Thank you.

Does anybody else have any questions? Mr Friedman.

Questions from MR FRIEDMAN KC

MR FRIEDMAN: Dr Pyper, I ask questions for Disability Action and I want to raise a matter with you in the knowledge that you very understandably did not have the luxury to read into your role, and we've heard that very clearly this afternoon. But as to what you found on 1 December, would it be right that you were initially dependent on what was flagged up to you and

what had sufficiently left its mark in the everyday workings of the Executive Office to otherwise be clear to you?

A. I think that's an accurate statement, yes.

Q. Now, at paragraph 276 of your statement, you just give a personal sense that the impact of the pandemic on certain groups within society only really began to emerge, at least for you, as 2021 progressed, and you may recall you refer to the Sarah Everard event in London then triggering your own awareness of things going on in Northern Ireland. That's a context for what I'm about to ask you.

Therefore, given you coming into the job at the end of 2020, does it follow that you were not aware of or otherwise briefed about following reports in relation to disabled people?

I'm going to give you a list and it may be "no" to everything, but if I may.

In May 2020 the Cabinet Office in London, the Disability Unit, published a paper entitled "The impact of Covid-19 on disabled people", and it made its way to the Executive Office, we know that. Did you ever see that?

A. No.

Q. In June 2020, the Northern Ireland Council for Voluntary

Action published a report on the impact of Covid-19 on carers in Northern Ireland. Did you ever see that?

A. No.

Q. In September 2020, Disability Action -- the DPO in Northern Ireland that I act for -- published a report "The impact of Covid-19 on disabled people in Northern Ireland". Did you see that?

A. No.

Q. Now, that report followed UK-wide reports on the impact of Covid-19 on disabled people published in July 2020 by the Office for National Statistics, and I'm wondering whether you saw that?

A. I'm afraid I didn't see that either.

Q. Well, it's not a criticism.

Just to clarify, then, the last would be in December 2020, the House of Commons' Women and Equalities Committee in the UK Parliament published the report of *"Unequal impact? Coronavirus, disability and access to services"*. Did you see that?

A. No, I did not.

Q. So really picking up on your acknowledgement about the learned lessons about not having a systematic approach to analysing adverse impact, is that a set of at least reported impacts on disabled people that haven't been obvious to you when you've come into your office,

haven't been flagged up to you, haven't made their way into sort of the everyday thinking of the Executive Office that could, if there was a more systematic way of approaching these things, have been at least more embedded in the Executive Office? Would you agree with that?

A. I would agree with it, and it's why I said what I did around the Covid Taskforce and, with hindsight, the benefit of having an equality workstream within the Covid Taskforce to look at those sources of information, to be a point of direct contact for Disability Action, for the Commissioner for Older People, a central point of contact as opposed to relying on sources of information held in disparate parts of the system.

MR FRIEDMAN: Yes.

Now, my Lady, I did ask for one follow-up question, and it --

LADY HALLETT: I gather. Don't worry, carry on, Mr Friedman, thank you.

MR FRIEDMAN: I'll carry on. That's very helpful.

I just wanted to then follow up on engagement, as you fairly put it, being a proxy for proper consultation, and I didn't hear you to say anything other than that would be a second best, but I just want to ask you about engagement.

You may know, but my clients do not believe and they give evidence about why they were not properly engaged with as a DPO, I don't want to ask you details about that, your impression was that there was extensive stakeholder engagement, you've spoken about that this afternoon, it's in your statement.

Now, just in terms of how that processes into final government product, are you aware that disabled people are not mentioned at all in the moving forward strategy from March 2021?

A. Yes, and that has been put in front of me as part of the hearing today, and they are not mentioned explicitly. I would just slightly push back that the moving forward document is not a strategy, it is an explanation of the process that was going to be followed by the Executive, but I absolutely accept that there wasn't anything explicit within that process that referred to engagement with people with disabilities or their representatives.

Q. Yes. I understand what you accept and I understand the slight caveat. Of course the Covid recovery plan was a plan, and disabled people or people with disabilities are only mentioned once in that document, and that is with regard to enhancing their skills so that they can gain more employment. Now, that may be valid, but just in terms of engagement not really leading to enough in

terms of important flagship government plan product, would you agree that's just not enough, and therefore whatever engagement went on it just wasn't good enough and not a sufficient proxy, to use your words?

A. I would absolutely agree that we should have made more efforts to make sure that we had a more inclusive process and that the voices of people who should have been heard were heard and reflected in the documents, yes, I would agree.

MR FRIEDMAN: Thank you.

Thank you, my Lady.

LADY HALLETT: Thank you very much, Mr Friedman.

Thank you very much, Dr Pyper, very grateful for your help.

(The witness withdrew)

LADY HALLETT: That's it for today?

MR SCOTT: Yes.

LADY HALLETT: 10 o'clock tomorrow, please.

(4.25 pm)

(The hearing adjourned until 10 am on Friday, 3 May 2024)

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