

**Witness Name:**

**Statement no:**

**Exhibits:**

**Dated:**

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**UK COVID-19 INQUIRY**

**WITNESS STATEMENT OF JAYNE BRADY - M2C-JBR-001**

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1. I, Jayne Brady, Head of the Northern Ireland Civil Service (HOCS) will say as follows:
2. This witness statement has been drafted with the assistance of colleagues within the department (The Executive Office). I confirm that the statement has been written at my direction, the facts stated are all known to me, and the opinions stated and inferences drawn are mine and mine alone.
3. In this statement I aim to set out my role as Head of the Northern Ireland Civil Service during the period of 1 September 2021 until March 2022.

**APPOINTMENT AND ROLE OF HEAD OF THE NORTHERN IRELAND CIVIL SERVICE**

4. On 10 June 2021, the former First Minister and deputy First Minister announced my appointment as Head of the Civil Service [**Exhibit JB2/001 - INQ000438287**]. This followed an open recruitment process that was advertised on 18 March 2021.
5. By profession, I am an engineer, who has spent more than 25 years working in the private sector including leadership roles in technology, business and venture capital. I was appointed in 2020 to the UK Government's Innovation Expert Group in the development of its Innovation Strategy which was published in 2021 and was an independent Commissioner on Higher Education for the UK government in 2021. I worked as Digital Innovation Commissioner for Belfast City Council from April 2020 until early August 2021 and was an Entrepreneurial Advisor to Oxford University's Said Business school during

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the same period. I have experience of both public and private sector business planning, governance and delivery.

6. The Head of the NI Civil Service (HOCS) is the most senior official in the Northern Ireland Civil Service (NICS). It is a critical role, with responsibility for providing leadership to more than 23,000 civil servants, including nine Permanent Secretaries, who operate in a diverse, constantly changing, resource constrained and complex political environment. The leadership role of HOCS in relation to Permanent Secretaries is sometimes described as *primus inter pares*, being based on influence and not hierarchical *command and control* governance and management arrangements. In the Northern Ireland system, each Department is a separate legal entity. I do not exercise day to day management or control of individual Departments, or their agencies or arm's length bodies nor do I hold an Accounting Officer role for any part of the NICS.
7. It is worth noting that the Northern Ireland Assembly's Public Accounts Committee report on Major Capital Projects dated 22 October 2020 [**Exhibit JB2/002 - INQ000438365**] made a recommendation that the role of the Northern Ireland HOCS should be revised to mirror the role in Scotland and Wales. This would, however, require significant changes to legislation and would be a matter for Ministers and the Executive to decide.
8. The Executive Office's corporate statement for Module 2C [**Exhibit JB2/003 - INQ000438364**] sets out further relevant details at paragraphs 9-28. I am accountable to the First Minister and deputy First Minister and as their principal policy adviser provide advice to them across all the issues of government and the exercise of their functions as joint Chairs of the Executive Committee. As Secretary to the Executive Committee, I am its chief advisor and the only official permitted to speak as of right at its meetings (other officials may be invited to speak). In that role, I also provide advice to all Ministers on matters relating to the role and conduct of the Executive Committee and its business.
9. A primary motivation for me as principal policy advisor was to ensure advice was based on how best NI could build more resilient policy responses to future socio-economic and environmental shocks.
10. I joined TEO and NICS at a pivotal time in the trajectory of the virus. By December 2021, the Omicron variant was becoming dominant, and the first case was reported here on 7 December 2021. I was conscious that citizens, families, front line workers, voluntary and business sectors and the Civil Service had experienced the pandemic for nearly two full years. I was personally determined to use my role and office to lead and support in that context.

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11. I welcome the work of the Inquiry to identify lessons on how we can better respond to future crises.
12. Within the Civil Service, which I lead, colleagues were under severe and sustained pressure. There were positive developments in the vaccinations and booster programme but that in itself required sustained effort on the part of my colleagues in Department of Health (DoH) and frontline workers. Other colleagues in DoH had been involved in the process of making and easing restrictions in line with decisions of the Executive since March 2020, and the Omicron variant would mean further work of that type against tight deadlines largely by the same individuals. Colleagues in Department for Economy, Department for Communities, my own Department and indeed all parts of the Civil Service faced a further period of sustained pressure and uncertainty while the nature of the Omicron variant was still to be fully understood.
13. This made me determined to play a personal role to alleviate these pressures on the Civil Service, to use the convening power of the HOCS role, and to provide support to the TEO Ministers and the Executive as well as to my Permanent Secretary colleagues. It was my view that historical and ingrained structural problems in the economy and society, were being compounded by the pandemic and a civil service stretched and unable to deal with those issues. My solution was to tackle those issues was threefold: firstly, to provide an evidence base to identify cross-cutting structural issues for future policy development; secondly, to rebuild the civil service capability and capacity over time; thirdly and importantly, also to take short term measures to create resilience with which to respond to further waves.
14. Specifically, my approach was built on the learning from previous Covid waves over the preceding two years, I took specific steps to alleviate pressures within the service including putting in place surge support after a period of sustained pressure, and I took an active personal role in outward engagement with voluntary and business sectors and citizens' groups.
15. This context is important in considering the work on Covid which went on during the part of the specified period covered in this statement. It built on work done previously and considered the pressure under which staff had been working for an extended period. I will go on to explain below the specific actions I took and the broader political context.
16. Prior to taking up post on 1 September 2021, I cleared the month of August in my diary in order to induct into my new role, I met with former and current Senior Civil Servants and key stakeholders to ensure I was as informed as possible in taking up the role.

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17. I also used this opportunity to attend various meetings as an observer alongside the then Interim Head of Civil Service, Jenny Pyper. On 26 July 2021, Ms Pyper emailed me a list of meetings that I may find helpful to attend during the month of August [Exhibit JB2/004 - INQ000438351]. Amongst others, this included a staff engagement event on “New Ways of Working” on 9 August; an event of Tackling Violence Against Women and Girls led by Women’s Aid and attended by other key stakeholders on 13 August 2021 [Exhibit JB2/005 - INQ000421708, Exhibit JB2/006 - [INQ000269107] Exhibit JB2/007 - INQ000421707]; an Executive Covid Taskforce (ECT) meeting on 18 August [Exhibit JB2/008 - INQ000278953] and TEO Departmental Board meeting on 25 August [Exhibit JB2/009 - INQ000438374]. I also attended an Executive pre-brief meeting on 12 August [Exhibit JB2/010 - INQ000286302] followed by the Executive meeting on the same day as an observer [Exhibit JB2/011 - INQ000048540]. On 3 September 2021, I chaired the Permanent Secretary Stocktake meeting with Jenny in support [Exhibit JB2/012 - INQ000438373].
18. I reviewed background information provided by Ms Pyper and her office, in addition to other materials available online. Ms Pyper also provided me with the TEO First Day Brief [Exhibit JB2/013 - INQ000269109].
19. I attended an introductory meeting with First Minister and deputy First Minister on 1 September 2021 [Exhibit JB2/014 - [INQ000452487] At this meeting, we discussed the Executive meeting for the week ahead, which covered the key Covid issues including a review of remaining restrictions.
20. Ms Pyper established the Executive’s COVID-19 Taskforce (ECT) in December 2020 [Exhibit JB2/015 - INQ000048501, Exhibit JB2/016 - INQ000212987, Exhibit JB2/017 - INQ000148174] to lead and co-ordinate the Executive’s ongoing response to, and recovery from, the pandemic. The Taskforce brought together the many strands of the Executive’s overall response to the pandemic, by joining up the work already taking place across Government Departments, Local Government and public sector agencies.
21. The ECT progressed an integrated programme of work across four key areas: Protect; Recovery; Adherence and Strategic Communications. It established a 4-weekly review of restrictions to inform Executive decision-making and provided an evolving and dynamic approach when it was appropriate.
22. The ECT was chaired by the Head of the Civil Service and consisted of the then Permanent Secretaries for Health (Richard Pengelly), Justice (Peter May), Communities (Tracey Meharg) and Economy (Mike Brennan) and on occasion senior officials deputising

and was attended by the Head of Covid Strategy and Civil Contingencies and the Head of Executive Communications. In December 2021, I decided that the Department of Education should also be represented on the ECT [Exhibit JB2/018 - INQ000438311] by John Smith, Director of Infrastructure, Transport, Food and Recovery Group, to provide a focus on the impact of the pandemic on children. It was not a decision-making forum but was a forum for the most senior officials to consider the evidence provided by the Chief Medical Officer and Chief Scientific Advisor and ensure that the decisions which Ministers (usually the Health Minister) would have to take were fully informed at a strategic level from a cross-Departmental perspective.

23. Prior to the establishment of ECT, there was a regular meeting of more junior officials called the Cross Departmental Working Group (CDWG). The ECT integrated this group into its structures, and it was used to consider the proposals submitted by Ministers for Executive consideration for the relaxation of restrictions as well as other Covid-related cross-cutting issues at a more detailed level and to provide and receive updates on the position in other jurisdictions, on sectoral engagement and recovery. More detail about the CDWG is set out in the TEO Module 2C corporate statement in phase 3 of Part 2.

24. My first presentation to the Executive on 6 September 2021 [Exhibit JB2/019 - [INQ000207223]] was on Covid matters and I spent significant time preparing for it. I came into post at a time when the numbers of Covid cases was dropping, so my focus was not only on the immediate situation, but from the outset was also on how to address NI's long term socio-economic resilience to future shocks.

25. In September 2021, Executive meetings were still taking place online. In person meetings resumed on 23 September 2021 [Exhibit JB2/020 - [INQ000207224]] but were agile, with some taking place in virtual or hybrid format to facilitate early decision making on emerging issues.

#### **IMPACT OF PERIOD WITHOUT HOCS**

26. Before my appointment and after the retirement of David Sterling, there was no HOCS from 1 September to 31 November 2020. Jenny Pyper was appointed as an interim HOCS on that date and served until my appointment. In addition to her briefings to me and engagement through July and August 2021, we had a three-day, in-person handover. The role of HOCS as leader of the Department Permanent Secretaries is one of relationship and influence, which must be built up over time. In addition to being principal policy adviser to the First Minister and deputy First Minister they are also Secretary to the Executive. It is clearly far from ideal to have the instability of a period without a HOCS and

then two new appointees in quick succession during a pandemic. However, I have reflected on the situation I found when I arrived and the decisions which required to be taken during my early months in office. I have not identified any specific negative impact on the effectiveness of NI's response to the pandemic caused by this situation.

27. Ms Pyper was appointed by the First Minister and deputy First Minister, and I understand that she had a clear remit to put the necessary arrangements in place to recruit a substantive Head of the Civil Service, which she achieved. She established the Executive's Covid Taskforce (ECT) in December 2020, as described at paras 11 and 12 above and I found it a very useful tool in our Covid response.

## **CHANGES TO THE NI CIVIL SERVICE AND TO THE RUNNING OF TEO**

### **Planning for a post-Covid future - Renewal Programme**

28. I feel strongly that the role of the public sector is important in shaping and driving societal change, and not merely responding to it. The economic effects of the pandemic have been asymmetric with marginalised and economically disadvantaged groups hit the hardest. In addition, the Renewable Heat Incentive (RHI) Inquiry and the NI Audit Office reviews of Capacity and Capability and Major Capital Projects provided timely opportunities for comprehensive system reform. Furthermore, it is my view that innovation, data and technology must be at the centre of driving that change and of supporting us to respond to and navigate most effectively the changing environment.

29. Having met with a range of colleagues from across the system when I took up post, it was clear to me that there was a real and genuine appetite in the NICS for a modern, innovative civil service with diverse people and skills. This prompted a range of actions.

- By the end of 2021, the NICS Board was reconstituted under revised terms of reference [**Exhibit JB2/021- INQ000438355**] to create a refreshed mission to lead and deliver change.
- I recruited external non-executive members of the NICS Board which I understand was the first time, to offer independent expert advice and challenge, and to specifically focus on critical areas where we need to improve.
- I launched a competition for new Permanent Secretaries and appointed Neil Gibson, Colum Boyle and Julie Harrison early in 2022; Neil Gibson was formerly Chief

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Economist for EY for Ireland and his appointment brought further diversity of views particularly with an economic evidence base around the permanent secretary forum.

- Schemes to increase diversity within NICS workforce were developed, including graduate placement and trainee programmes.
- Prior to taking up position, when I was Digital Innovation Commissioner, I had been concerned about the absence of the Chief Scientific Adviser for the Northern Ireland Executive and the potential impact of NI not being represented around the CSA inter-governmental forums. I made my views clear to the Department for the Economy through a stakeholder (NI Levelling Up) group I chaired and worked with the Department to put an interim CSA in place. Dr Robert Grundy took up this position on the 1<sup>st</sup> September 2021, whilst I put in place the necessary structures to appoint a substantive Chief Scientific and Technology Adviser. When the interim CSA was appointed, I chaired cross departmental meetings to enable information sharing with the CSA network and other relevant leads, for example Department of Health, Chief Data Officer and NISRA Chief Executive.

30. In addition, since my appointment to the NICS Board, I developed a strategic Renewal Programme with service-wide objectives built around four themes [**Exhibit JB2/022 - INQ000438371, Exhibit JB2/023 - INQ000304729**].

- Delivery**, led by Denis McMahon, to join up and deliver the Covid Recovery Plan and the Executive's Programme for Government (PfG), and to identify and focus our efforts on a small number of “wicked issues” to address NI’s long term structural weaknesses with the objective of building a more resilient economic and social fabric [**Exhibit JB2/024 - INQ000438356**].
- People**, led by Peter May to strengthen our NICS, build new skills and capacity, increase diversity, manage performance more effectively, while developing our talent and empowering our people to be more innovative.
- Innovate**, led by Mike Brennan and linked to the theme of 'People', to help us be more innovative in our approaches through more effective use of data and analytics in policy making and by accessing the best advice and information. Key actions identified were the appointment of a Chief Science and Technology Adviser, and a Chief Data Officer [**Exhibit JB2/025 - INQ000438357, Exhibit JB2/026 - INQ000438358, Exhibit JB2/027 - INQ000438367, Exhibit JB2/028 -**

**INQ000438368, Exhibit JB2/029 - INQ000438369, Exhibit JB2/030 - INQ000438370].**

- iv. **Communicate**, led by Katrina Godfrey, to improve the way we communicate with our partners and stakeholders with co-production at the core of how we do business. I also wanted to do more internally to share good ideas and good practice and to ensure that all of our people, no matter where they work, feel connected to the PfG and the business of the Executive. Key actions identified were to create a new Corporate Communications Unit, including the appointment of a Director of Corporate Communication [**Exhibit JB2/031 - INQ000438359**].
31. I would like to say more about the Delivery Strand of the Renewal Programme. It was established in October 2021 and a group, chaired by Denis McMahon met on 25 October 2021 [**Exhibit JB2/032 - INQ000279369**].
32. The Group agreed to focus on priorities that impacted productivity, green growth and early years intervention.
33. A scoping paper was prepared in November 2021 to aid further discussions with Permanent Secretaries [**Exhibit JB2/033 - INQ000438283, Exhibit JB2/034 - INQ000279371**]. This set out product and design principles and the approach for progressing the recovery element of the delivery strand. Two key short-term priorities were to: (i) build momentum in the delivery of the COVID Recovery Plan; and (ii) to have a particular focus on cross cutting areas of work. The output of this work subsequently formed the basis of my substantive engagement over the past 24 months with parties entitled to form an Executive in the development of the framework for a Programme for Government for an incoming Executive.
34. I submitted a paper to First Minister and deputy First Minister on 3 February 2022 [**Exhibit JB2/022 - INQ000438371**] that set out the work I had been leading with the NICS Board to strengthen the NICS and improve how we invest our energy and resources. The submission sought approval to appoint a Chief Scientific and Technology Adviser, a Chief Data Officer and a Deputy Director of Corporate Communication. It also set out my thinking on a decade long commitment to change and renewal, starting with the appointment of these roles.
35. This work would allow us to move towards my strategic view of TEO, which was captured in the submission with key extracts provided below:

### **“The Case for Change**

*The economic effects of the pandemic are asymmetric – marginalised and economically disadvantaged groups have been hit hardest. Building the economic recovery needs to take account of that, and there will be a need to expand policy priorities beyond traditional GDP growth. Economic recovery not only has a rate, it also has a direction and this is an opportunity to embed the structural changes to develop a more sustainable, dynamic and inclusive region.”*

*Within the civil service, we need to prepare to lead the public sector role in that recovery. There is a well-established school of thought that government and the role of the public sector should be restricted to intervening only to regulate or correct market failures. Recognizing that policy is for Ministers to decide, not civil servants, there is however strong, reliable evidence that the public sector works best when it is proactive, investing to secure outcomes, thinking and behaving as an entrepreneur, with a more open appetite for taking risk.”*

### **Why Now**

*“We have a burning platform. We have long-standing systemic problems in terms of productivity, health in-equalities and achieving net zero carbon emissions. The pandemic has only compounded these issues, particular for under 25s, women and people with disabilities. If we do not take pre-emptive action now there is risk of further long-term scarring that will be multi-generational.”*

*Moments of disruption are catalysts for change. The best time to grow differentially is when aggregate growth is low. The NICS response to the pandemic has produced examples of our ability to rapidly respond and innovate when required. As the post-COVID world is still forming, we have a once in a generation opportunity to set a new direction for our society and economy.”*

### **Our “Wicked” Challenges**

*“We have long term “Wicked” Challenges which have been exacerbated by the pandemic. These types of problems tend to transcend traditional*

*boundaries and timescales. They cannot be resolved within any individual department, or within a 5-year electoral mandate.”*

*These “Wicked” Challenges pre-date the Covid pandemic, although the legacy of the pandemic risks exacerbating those underlying problems if we do not act on them in a focussed, long term and whole of government way.”*

*Therefore, whilst we as the Civil Service Board continue to focus on our society’s recovery from Covid, underpinned by the Executive’s agreed Covid Recovery Plan, we have also decided to focus our energy and attention in addition on tackling three “wicked” challenges, delivering associated population-wide outcomes over the next decade namely; Health Inequality, Green Sustainable Future, Productive inclusive economy.”*

### **Changes to the Running of TEO**

36. Changes to the running of TEO were made to help achieve the changes I have set out above, particularly as some of the new positions were directly as a result of the Renewal Programme that was established to achieve my vision of a strengthened NICS able to improve how we invest our energy and resources.
37. A Permanent Secretary had been appointed as Accounting Officer for TEO in July 2021 and I was glad to have had the opportunity to work with Dr McMahon, an experienced senior officer, when I took up post.
38. While not directly relevant to Covid-related work, since taking up post there have been several changes to the structure of the Executive Office. These include:
- i. As part of the Renewal Programme, a Director of Marketing, Outreach and Internal Communications was appointed at Grade 5 level. The role was designed to have a dual focus on: (i) improving internal comms – particularly between the NICS Board and the wider service; and (ii) increasing interest in NICS job opportunities to attract diverse talent into the system. **[Exhibit JB2/035 - INQ000438366]**. Natasha Sayee was appointed on 20 September 2022.
  - ii. Reallocation of Grade 3 responsibilities resulting in the appointment of two new Directors at Grade 3:
    - i. Claire Archbold (Ending Violence Against Women and Girls)

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- ii. Gareth Johnston (Good Relations and Inclusion)
- iii. The Deputy Director post of Operational Readiness for EU Exit was removed and a further seven new Grade 5 Deputy Directors have been appointed:
  - i. Jayne Byrne (Chief of Staff to HOCS)
  - ii. Richard Johnston (Economic Policy Unit)
  - iii. Aodhán Connolly (Office of the Northern Ireland Executive in Brussels)
  - iv. Colin Moffett (Climate Change)
  - v. Geraldine Fee (Ending Violence Against Women and Girls)
  - vi. Martin Carey (Truth Recovery)
  - vii. Ronan Murtagh (Finance)
- iv. TEO organisation charts for 1 September 2021 [**Exhibit JB2/036 - INQ000438387**] and 8 January 2024 [**Exhibit JB2/037 - INQ000438388**] are provided for information.
- v. Creation of an Arm's length body (ALB) Forum to enhance communication and working between TEO and its ALBs.
- vi. The process and subsequent appointment of a substantive Chief Scientific and Technology Advisor to the Executive.

### **Response to the Covid-19 Pandemic**

#### Political Governance

39. During Autumn 2021, the Executive, in line with its agreed principle that no restriction would be in place for any longer than required, removed a range of Covid restrictions as the Delta wave passed. It was subsequently necessary to reinstate them in December 2021 when the Omicron wave hit. Unless otherwise stated below, the changes I made were a response to this emerging and fluid emergency situation. The changes I refer to below are divided into three categories:

- a) Changes relating to good functioning of the Executive Committee;
- b) Flexible and informed responses to the changing situation; and

- c) Strategic changes looking forward to a post-pandemic future.
40. Following the resignation of the First Minister, Paul Givan (and as a result the deputy First Minister, Michelle O’Neill also ceasing to hold office) on 3 February 2022, other Ministers of the Executive remained in office. Under the provisions of the Northern Ireland Act 1998, as amended by the Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022, they too ceased to hold office on 28 October 2022.
41. To keep a clear track of the narrative in this statement, and its political context, it may therefore be helpful to bear in mind the following dates during and following the specified period:
- a) Period when there was a fully functioning Executive (11 January 2020 – 3 February 2022).
  - b) Period with only Departmental Ministers (4 February 2022 – 27 October 2022), with the exception of TEO.
  - c) Period with no Ministers (28 October 2022 – 3 February 2024).
42. I would draw attention, as context, to the fact that in the absence of a First Minister and deputy First Minister as joint Chairs there was no functioning Executive during the period during which the other Ministers remained in office. Ministers could therefore perform only limited roles, within the specific responsibilities of their departments. No cross-cutting, significant or controversial decisions, which must be referred to the Executive under the terms of paragraph 2.4 of the Ministerial Code [**Exhibit JB2/038 - INQ000104470**], could be taken in the absence of the Executive. In The Executive Office, without a First Minister and deputy First Minister in place, any departmental decision-making requiring Ministers was not possible.

#### **Changes relating to the functioning of the Executive Committee**

43. In Northern Ireland, the Executive is a mandatory coalition, as provided in the Belfast/Good Friday Agreement and the Northern Ireland Act 1998. Ministers have executive authority within their own areas, subject only to the requirement that matters which are crosscutting, significant or controversial (or significant or controversial and outside a Programme for Government when one is in existence) should be brought to the Executive for its consideration and agreement. The Ministerial Pledge of Office [**Exhibit JB2/038 - INQ000104470**], which all Ministers must take, requires them “*to support, and to act in accordance with, all decisions of the Executive Committee and Assembly*”.

44. It is a normal part of our system that proposals requiring Executive agreement must be brokered on a multi-party basis, and procedures have been developed to allow this to happen. This brokerage takes place mainly in advance of Executive meetings, by means of the prior circulation of draft papers to all Ministers for comment. Final papers can only be put on to the agenda of the Executive when agreed by both the First Minister and deputy First Minister who, as joint Chairs of the Executive, are required by the Ministerial Code to seek to secure that its decisions are reached by consensus wherever possible. However, where necessary, a vote may be taken. This is usually a simple majority vote, but if three Ministers request it, the vote must be taken on a cross-community basis: there must be an overall majority, a majority of Unionist Ministers and a majority of Nationalist Ministers in favour.
45. The agenda for Executive Committee meetings is determined by the First Minister and deputy First Minister acting jointly, taking account of the papers which have been submitted by Ministers. Those papers that the First Minister and deputy First Minister have jointly agreed should be included on the Executive agenda are then subject to substantive discussion and consideration for agreement at an Executive meeting. As set out in the Conduct of Executive Business Protocol **[Exhibit JB2/039 - INQ000279220]** in circumstances where the First Minister and deputy First Minister have not yet agreed the inclusion of a paper on the agenda, and three meetings have taken place since its initial circulation, the relevant Minister may request that the paper be included on the agenda for discussion and decision. The rule does not, however, affect the ultimate authority of the First Minister and deputy First Minister to determine the agenda.
46. When I came into post, I became Secretary to the Executive and also Chair of ECT, which is a separate role, I ensured that regular written updates continued to be provided by the ECT to Executive Meetings on the wide range of issues in relation to the pandemic **[Exhibit JB2/040 - INQ000438243]**, **[Exhibit JB2/041 - INQ000438242]**. This ensured that all Ministers had the appropriate background and context for all decisions.
47. In advance of each Executive Meeting where Covid issues were to be addressed, I also met with the First Minister, deputy First Minister and Health Minister, attended by the Chief Medical Officer (CMO), the Chief Scientific Adviser (CSA) and TEO officials, typically Karen Pearson, Peter Luney, Jane Holmes and Carol Morrow, depending on who was available. These meetings were in place when I arrived, and aware of their importance, I continued them. No decisions were taken at these meetings, rather they provided an opportunity for the First Minister and deputy First Minister to discuss proposals the Health Minister was bringing to the Executive, to interrogate the scientific evidence and thereby

to aid discussion and facilitate agreement at Executive meetings. Examples of discussions at these meetings are provided at **[Exhibit JB2/042 - INQ000304307, Exhibit JB2/043 - INQ000304328 and Exhibit JB2/044 - INQ000304336]**.

48. After each Executive meeting, I would hold a meeting with the First Minister and deputy First Minister, to lead on the outworkings of the Executive meeting just past and outline and plan for forthcoming Executive meetings. For example, at such a meeting on 28 September 2021 **[Exhibit JB2/045 - INQ000291312]** we discussed the need for an Autumn / Winter contingency plan by 7 October 2021 and the potential use of mandatory Covid status certification.

***Responses to a changing situation - Stakeholder Engagement***

49. Northern Ireland is a small place, and we have a well-developed civic society sector which is well-networked with government. When I arrived in post, there were already mechanisms in place to gather data and allow us to take the views of civic society partners and hear the impacts of the pandemic on people's lived experience as set out below.

50. There was significant stakeholder engagement across the NICS led by the appropriate departments **[Exhibit JB2/046 – INQ000271213, Exhibit JB2/047 - INQ000438354]**. Engagement was led by individual departments in line with their remit. For example, the Department for Communities, as sponsor department for the Commissioner for Older People, led on engagement on the impact of the pandemic on older people. There were occasions, however, when TEO attended meetings convened by other departments on specific issues. One such example was when arrangements for mandatory Covid Status Certification were being developed. In November 2021, TEO officials, such as Peter Luney and Jane Holmes, attended meetings with sporting bodies and the Events sector convened by the Department for Communities (see example at **[Exhibit JB2/048 - INQ000438352]**).

51. I concluded that it is an important aspect of my role to provide visible leadership especially at key inflection points and decided that I would engage directly with a range of sectoral groups, in particular when we needed to provide immediate engagement to those who would be particularly impacted by Executive decisions. For example, I attended the Faiths forum, comprising representatives from a wide range of faith communities, on 5 October 2021 **[Exhibit JB2/049 - INQ000269118]** to discuss Autumn/Winter planning ahead of discussion at the Executive on 7 October 2021. I understand we were the only part of the United Kingdom where such a forum was established. The body proved so useful that it has continued in operation and has since been used to engage with the faith sector by

major policy initiatives including the draft Executive Strategic Framework on Ending Violence Against Women and Girls and more recently the Covid Commemoration.

52. Stakeholder engagement was important in tracking the impact of the pandemic on people and communities, but also in understanding the supports required to protect different social and economic sectors and in plotting our way out of pandemic restrictions safely. By October 2021, the majority of Coronavirus restrictions had been removed or translated into guidance. TEO in conjunction with all other departments developed the Executive's Autumn/Winter Covid Contingency Plan 2021. Extensive engagement took place with the arts, entertainment and hospitality sectors and there was a positive response to taking additional steps to ensure the safety of customers, staff and the wider community.

***Flexible and informed responses to a changing situation – the autumn/winter contingency plan***

53. The Executive meeting on 7 October 2021 [**Exhibit JB2/050 - INQ000048544**] was a key date, as I brought the ECT update and the 2021-22 Autumn / Winter Contingency Plan for consideration. Numbers were going down, and the Executive, with my support, in line with moves across the UK, sought to safely relax our restrictions. However, we were also aware that the numbers could go up again (as in fact they did when the Omicron wave hit). The development of a 2021-22 Autumn/Winter Covid-19 Contingency Plan was our first opportunity to move from a reactive to a proactive approach to pandemic planning both for the situation directly ahead of us (relaxing restrictions) and for any future need to tighten them again.
54. The ECT Update [**Exhibit JB2/051 - INQ000438289**] outlined that meetings had taken place with events, arts and culture stakeholders to consider the implementation of the proposed relaxations and the adoption of the guidance around voluntary use of Covid-status certificates. Feedback at the time indicated high levels of compliance. Engagement had also taken place, in conjunction with the CMO and CSA, with a broad range of sectors to discuss Autumn/Winter contingency planning in order to seek views on potential baseline measures; contingency measures; levels of compliance and messaging.
55. Development of the 2021-22 Autumn / Winter Contingency Plan [**Exhibit JB2/052 - INQ000065667**] involved extensive engagement with a range of sectors and included a range of measures to help keep society and the economy open as much as possible. The Plan recognised the benefits of the early implementation of 'low cost' interventions to reduce transmission of the virus whilst minimizing economic and social impacts. The aim

was to avoid having to implement more disruptive measures later and high hospital pressures. The low-cost interventions were:

- **More robust communications** – Communicating clearly and urgently to the public that the level of risk had increased, and with it the need to behave more cautiously. The ongoing public information campaign was flexed in line with risks.
- The potential enhanced use of **COVID-status certification** in certain settings. At time of publication there was a voluntary arrangement in place and an alternative approach through the use of regulations that was kept under review in case required.
- Changes to **self-isolation arrangements** with proposals to strengthen advice for social contacts to self-isolate until they have a negative PCR test were set out. At time of publication everyone with symptoms were asked to self-isolate and take a PCR test.
- Re-imposition of a **legal requirement for social distancing** in settings which gave rise to greatest risk of transmission. For most settings, social distancing advice was in guidance at time of publication.

56. The statutory requirement in relation to face coverings remained in the 2021-22 Autumn / Winter Contingency Plan as a baseline measure. The plan advised that there would need to be some adjustment of the current arrangements on face coverings to take account of recently announced relaxations for hospitality and other indoor settings.

57. In addition, good ventilation was identified as an important element in reducing the risk of transmission of the virus during the Autumn/Winter period, whether numbers continued to go down or increased. The ECT established a ventilation group led by Peter May under its Adherence workstream, which included members from key areas such as Health, Education, the Health and Safety Executive for NI and Local Authorities, whose aim was to develop guidance for businesses on how to identify both good and poor ventilation systems.

58. The Group developed guidance [**Exhibit JB2/053 - INQ000190946, Exhibit JB2/054 - INQ000191018, Exhibit JB2/055 - INQ000438312**] for business and individuals which was published on NIBusinessinfo (a free official online channel for business advice and guidance in Northern Ireland) and NI Direct (the official government website for Northern Ireland citizens. providing information from government departments) respectively. The guidance was very much about informing people of the practical steps that could be taken in order to maintain good levels of ventilation whilst taking account of barriers to ventilation

such as thermal comfort or building design and the ability to identify poorly ventilated areas through the use of CO<sub>2</sub> monitors.

59. The group was also able to review actions being taken in other jurisdictions in relation to ventilation, such as the provision of grants in Scotland and whether similar programmes should be considered for deployment in NI to promote good ventilation in areas where some remedial action may be required.
60. At the meeting on 7 October 2021, the Executive endorsed the 2021-22 Autumn / Winter Plan, which was subsequently published on 19 October 2021 [**Exhibit JB2/056 - INQ000104468**] along with a covering Ministerial statement [**Exhibit JB2/057 - INQ000438290**].

***Flexible and informed responses to a changing situation – the Omicron surge***

**Variant of Concern – Omicron**

61. Omicron became a variant of concern towards the end of 2021 and into early 2022.
62. The emergence of the Omicron variant and its spread at an exponential rate created exceptionally challenging circumstances and the pressures created by the Omicron variant had a direct impact on the work of departments. The matter was discussed at Permanent Secretaries' meetings in late November and early December 2021. See an example note from a Permanent Secretaries' meeting at [**Exhibit JB2/058 - INQ000438296**].

**Omicron - Effective Executive Decision Making**

63. The Executive pre-briefings with the First Minister, deputy First Minister, Health Minister, CMO and CSA were very useful in ensuring Ministers had full understanding of the up-to-date position. During Executive meetings Ministers tended to align on agreed party positions. This had the consequence that Ministers from the DUP, Sinn Féin and Ulster Unionist parties had a more informed position going into the Executive. However, as a consequence Ministers from the smaller parties were not in the same position (Nicola Mallon of SDLP and Naomi Long of Alliance).
64. An example of this is that in October 2021, I received correspondence from the then Minister for Infrastructure, Nichola Mallon, dated 13 October 2021, regarding her concern that at the Executive meeting on 7 October 2021 [**Exhibit JB2/050 - INQ000048544**] the Chief Medical Officer and Chief Scientific Adviser were not given the opportunity to

provide her with the advice she had asked for at that meeting [Exhibit JB2/059 - INQ000438288].

65. At the start of Omicron surge, I was increasingly concerned that at this important decision-making moment, when restrictions were once more being considered, we should take measures to ensure effective and well-informed decision-making in a rapidly changing environment. I believed factual meetings at which each Minister could be fully briefed on the most up-to-date evidence would be helpful in this context.
66. I discussed this issue with the First Minister and deputy First Minister and on 20 December 2021, I held a pre-Executive briefing with Minister Long [Exhibit JB2/060 - INQ000438372] and another with Minister Mallon on 21 December 2021 [Exhibit JB2/061 - INQ000438375], to ensure all Ministers had an opportunity to discuss information and data prior to a critical Executive meeting on 23 December 2021 [Exhibit JB2/020 - [INQ000207224]]

#### Omicron - Surge Preparedness

67. When the Omicron variant emerged, case numbers increased rapidly, and with the increased transmissibility and vaccine evasion of this variant, it was feared that this would present an extremely challenging wave. Northern Ireland at this time had high Covid numbers and our health system was under considerable pressure, so the impacts of this would be extremely worrying. In the event, the impact of Omicron, though significant, did not reach the worst case scenarios which were being considered at the time.
68. With such potentially devastating impacts and a high degree of uncertainty I felt that surge planning was vital to ensure that the Department of Health in particular had increased resilience. That Department remained at the forefront of responding to the pandemic and in my view needed a mechanism to draw on more staff from other areas of NICS on to ensure associated policies and legislation could continue to be rolled out and therefore protect society from the potential impacts of the Omicron variant.
69. I decided to establish a Cross-Departmental Surge Team, whose role was to identify and pool resources and allocate them as required. On 14 December 2021, I wrote to all Permanent Secretaries regarding the Omicron variant [Exhibit JB2/062 - INQ000438281], noting that while the full effects of the variant were not known it was likely to impact directly on public services, the wider economy and therefore societal resilience. The memo advised of the planned NICS response to help navigate any potential disruption to services brought about by the Omicron variant.

70. The immediate tasks for Departments were to:

- Ensure we had capacity in place to cover key posts in order to maintain the machinery of government.
- Ensure there was enough cover to support immediate acceleration of Booster roll-out.
- Provide wider Omicron surge capacity to deal with issues if they arose.

71. Following the Executive Covid Taskforce meeting and Permanent Secretary Stocktake meeting on 17 December 2021 [Exhibit JB2/063 - INQ000188139] it was agreed that NICS needed to proceed to the next stage in implementing the Cross Departmental Surge Response.

72. Volunteers were sought under four headings:

- i. Legislation;
- ii. Policy Development;
- iii. Programme and Project Management;
- iv. Service Delivery and Support (to include customer service such as call handling, payment processing and verification; grant programme administration).

73. Volunteers were offered from seven departments [see example at Exhibit JB2/064 - INQ000274808]. Six staff from the Department of Agriculture, Environment and Rural Affairs (DAERA) were temporarily deployed to work in the DoH to build capacity to draft the necessary legislation that would be required. Chris Stewart, a Grade 3 in TEO who reported to me, also provided assistance to DoH from December 2021 to January 2022. This included co-ordination of the surge team arrangements.

74. Given the nature of the emergency, and the potential severity of the impacts on public services and society, TEO worked with colleagues in Central Procurement Division in the Department of Finance to source additional support. Ernst Young (EY) were successful in the award of the provision of support such as programme management, analytical support and administrative support, which NICS Departments could call on from this contract as initiatives/support requirements emerged. This contract, managed by Karen Pearson, has now expired.

75. On 22 December 2021, I provided an ECT positional paper [**Exhibit JB2/065 - INQ000065662**] to the First Minister and deputy First Minister proposing interventions that the Executive could consider implementing. In that paper I advised that the exponential growth of the Omicron variant meant that rapid delivery of the required regulations was required. Given that we were in Christmas recess, the normal processes of prior consideration by the relevant Assembly Committee would need to be set aside in contravention of the 21-day rule, to facilitate this.
76. The 21-day rule applies only to statutory rules that are subject to Negative Resolution procedure. It is the well-established parliamentary practice that a minimum of 21 calendar days should ordinarily elapse between the date on which a statutory rule is laid before the Assembly, and the coming into operation of the statutory rule.
77. The purpose of the 21-day rule is to allow the Assembly, including the relevant Committee and the Examiner of Statutory Rules carrying out technical scrutiny on the Committees' behalf, an opportunity to consider the statutory rule before it comes into operation.
78. The 21-day rule also acts to protect those who may be affected by changes in the law from being subject to those changes before they have had a reasonable opportunity to understand the effect of the changes and what they must do to satisfy any requirements of the new law.
79. The 21-day rule is a convention and so can be set aside if required. However, if breached, the Examiner of Statutory Rules will comment upon that and will be critical of the department if she is not content there was good justification for the breach.
80. The pressures created by Omicron had already impacted on the work of all Departments. I was aware through briefings that I received that the Omicron variant would impact much of the population [**Exhibit JB2/066 - INQ000286726**], which would also have the potential impact of high numbers of staff not available for work during the upcoming weeks. To mitigate against this issue, I actioned a number of items below with the objective of creating capacity within the system should it be needed.
- i. In a submission to First Minister and deputy First Minister, also dated 22 December 2020, I recommended that they write to the Speaker of the Assembly to consider modifying business, for example, Priority Written Questions and the priority accorded to debates on No-day Named motions, in order to reduce pressure on staff arising from Assembly business [**Exhibit JB2/067 - INQ000438254**].

- ii. On 23 December 2021, I also asked the Comptroller and Auditor General in the Northern Ireland Audit Office to consider pausing work programmes that Northern Ireland Audit Office planned to deliver in the period from January to March 2022 **[Exhibit JB2/068 - INQ000286756]**. I made this request in light of the emergency measures that the Executive and NICS were putting in place. I asked the Comptroller and Auditor General to review their work programmes to ensure that it presented no risk of diverting NICS staff from the necessary focus on emergency business continuity and surge planning.
  
81. Fortunately, the impact of Omicron was below the worst-case scenarios and the contingency plans outlined for the Assembly and NIAO were not required to be pursued.
  
82. On 20 January 2022, because of the improved outlook on hospital pressures, the Executive agreed relaxations of some of the restrictions that had been implemented to help reduce the impact of the Omicron variant **[Exhibit JB2/069 - INQ000048555]**. The relaxations took effect on 21 and 26 January 2022.
  
83. The Executive released a press release on 20 January 2022 **[Exhibit JB2/070 - INQ000214805]** setting out the relaxations that had been agreed and that restrictions would be reviewed on 10 February 2022. The First Minister, however, resigned on 3 February 2022 with effect from the following day and so the Executive was not able to meet on 10 February.
  
84. Following consultation by formal Ministerial correspondence with remaining Ministers **[Exhibit JB2/071 - INQ000308879]**, on 14 February 2022, Minister Swann announced the removal of all restrictions by way of repeal of the regulations **[Exhibit JB2/072 - INQ000271158, Exhibit JB2/073 - INQ000438258, Exhibit JB2/074 - INQ000438259, Exhibit JB2/075 - INQ000190995, Exhibit JB2/076 - INQ000271162]**. Only the Executive's working from home guidance remained in place.
  
85. On 15th February 2022, restrictions in Northern Ireland in relation to Covid-19 were entirely removed by the Health Protection (Coronavirus, Restrictions, Wearing of Face Coverings) (Revocation) Regulations (Northern Ireland) 2022, which entirely revoked the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2021 and the Health Protection (Coronavirus, Wearing of Face Coverings) Regulations (Northern Ireland) 2020.
  
86. On 18th March 2022, international travel restrictions in Northern Ireland were entirely removed by the Health Protection (Coronavirus, International Travel, Operator Liability

and Information to Passengers) (Revocation) Regulations (Northern Ireland) 2022, which entirely revoked the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 and the Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021.

**Review of Civil Contingency Arrangements In NI**

87. When I took up office in September 2021, the new Civil Contingencies Framework for NI had been published on TEO's website for a month. Detail on Civil Contingencies arrangements in NI is provided in TEO corporate statements for Modules 1 and 2C. The genesis of the new Framework was that during the first activation of the Hub in response to the pandemic from 18 March to mid-June 2020, the Chief of Staff for the Hub, Anthony Harbinson commissioned a number of reviews. These complemented several pieces of work previously completed in relation to Civil Contingency arrangements in NI from which recommendations remained outstanding, namely the Business Consultancy Service review of civil contingencies in 2015 **[Exhibit JB2/077 - INQ000201707]** and the PwC Futures Report in November 2019 **[Exhibit JB2/078 - INQ000258531]**.

88. The reviews commissioned by Anthony Harbinson, comprised:

- A Capability Review of the NI Hub in April 2020 to assess its readiness at Initial Operating Capability and its readiness to move to Full Operating Capability. **[Exhibit JB2/079 - INQ000279310]**
- A Departmental Operation Centres (DOCs) Effectiveness Review in April 2020 to assess the effectiveness of the nine DOCs within the C3 structure. **[Exhibit JB2/080 - INQ000279311]**
- A "point in time" review in May 2020 of the CCG arrangements, providing a rapid assessment of the working arrangements and effectiveness of the group over the seven-week period it had convened to oversee the initial response. **[Exhibit JB2/081 - INQ000279312]**.

89. In June 2020, a formal "lessons learned" exercise of the civil contingencies arrangements was commissioned to Ernst Young (EY) to take stock of the early experience of the pandemic and to establish if future improvements could be made. The terms of reference **[Exhibit JB2/082 - INQ000308830, Exhibit JB2/083 - INQ000308831]** and the resulting lessons learned report from EY **[Exhibit JB2/084 - INQ000287144]** are exhibited here.

90. In June 2020, a programme of work commenced, led by Andy Cole, to address a series of short-term improvements arising from the recommendations outlined in the various reviews. These were structured across 13 areas such as HR/staffing, NI Hub design, IT and estates and training and exercising [**Exhibit JB2/085 – INQ000279314, Exhibit JB2/086 - INQ000279315**]. This programme concluded around September 2020.
91. There was then a “strategic reset” of civil contingencies arrangements and a pressing need to update the TEO guidance on civil contingencies to modernise the approach across Northern Ireland. A submission to the NICS Board in March 2021 from Andy Cole [**Exhibit JB2/087 - INQ000289765**] set out a focused programme of an overarching new framework for civil contingencies in NI.
92. The NI Civil Contingencies Framework was published and launched by Jenny Pyper in July 2021 with Ministers approving publication on TEO’s website in August 2021 [**Exhibit JB2/088 - INQ000258944**].
93. I was briefed on Civil Contingency arrangements in NI on 30 September 2021 by Andy Cole [**Exhibit JB2/089 - INQ000438392**]. I subsequently participated in Exercise Gathering Storm, aimed at demonstrating how the NIHub and CCG(O) would be stood up in the event of a “no notice” emergency on 8 November 2021 [**Exhibit JB2/090 - INQ000438376, Exhibit JB2/091 - INQ000268565, Exhibit JB2/092 - INQ000268564** (incorrect date on document, should be 2021), **Exhibit JB2/093 - INQ000268561** (incorrect date on document, should be 2021)].
94. Karen Pearson and Doreen McClintock (Director of Civil Contingencies) provided an update on civil contingencies and the risk register at the NICS Board meeting on 29 November 2022 [**Exhibit JB2/095a – INQ000421702, Exhibit JB2/095b – INQ000421701, Exhibit JB-095c – INQ000421700**] and on 28 November 2023 [**Exhibit JB2/096a - INQ0004377467, Exhibit JB2/096b - INQ000437468**]. More recently, the First Minister and deputy First Minister received a briefing on civil contingencies on 13 February 2024, this included the Resilience Framework, the current Civil Contingencies Risk Assessment and the Learning and Development Strategy [**Exhibit JB2/097 - 0 INQ000421710, Exhibit JB2/098 - INQ000421711, Exhibit JB2/099 - INQ000421712, Exhibit JB2/100 - INQ000421713**]. The Executive Ministers will be briefed on the civil contingencies’ arrangements in-person in more detail at an information event.

**POWER SHARING ARRANGEMENTS AND THE ABSENCE OF AN EXECUTIVE**

95. The system of government established by the Belfast / Good Friday Agreement 1998 is a system, which facilitates power-sharing by accommodating the competing political views and aspirations of the Unionist and Nationalist communities and those who designate themselves as “Other”.
96. In reflecting on the power sharing arrangements, I note that these were fully in place from 11 January 2020, partly in place from 4 February 2022 following the resignation of the First Minister and loss of office by the deputy First Minister, and not in place from 28 October 2022 until 3 February 2024, when the Assembly resumed.
97. The Northern Ireland Act 1998 as amended by the Ministers, Elections and Petitions of Concern Act 2022 had sought to provide continuity of governance by enabling the First Minister and deputy First Minister and Departmental Ministers to remain in office until either their successors were appointed following an Assembly election or until the end of four periods of six weeks. Before this, Departmental Ministers ceased to hold office at the close of the poll on the day of the Assembly election; the First Minister and deputy First Minister remained in office until reappointed or replaced after the election.
98. From 4 February to 28 October 2022, therefore, Departmental Ministers remained in place and were able to take decisions within their own Departments. During this period, I briefed Departmental Ministers regularly together on emerging issues. However, in the absence of a First Minister and deputy First Minister there was no functioning Executive Committee and Ministers therefore had no mechanism for obtaining Executive agreement to significant, controversial or cross-cutting issues (which must be considered by the Executive under s. 28A of the Northern Ireland Act 1998). For example, during this period it was not possible to set a budget for NI.
99. From 4 February 2022 to 28 October 2022, the Executive Office unlike the other departments was without Ministers and while the other departments could make Ministerial decisions (subject to the limitations noted above) the Executive Office could not. Junior Ministers remained in place but as before, had no decision-making powers.
100. In Northern Ireland statutory powers are for historic reasons customarily given to Departments, rather than to Ministers, as in the UK Government. However, Northern Ireland Departments, in exercising their functions, do so under the direction and control of Ministers (Art 4 of the Departments (NI) Order 1999 [Exhibit JB2/101 -

**INQ000183644**]. Ministerial authority is in turn subject to the requirement for certain matters to be referred to the Executive for consideration.

101. In the absence of a functioning Assembly, Departments cannot bring forward primary legislation, although some subordinate legislation can be made [**Exhibit JB2/102 - INQ000438306, Exhibit JB2/103 - INQ000438307**]. Additionally, the Committees of the Assembly, which provide an important accountability mechanism for Departments, do not function.
102. In the previous period between 2017-2020 without Ministers, in two important court decisions; Re Buick [2018] [**Exhibit JB2/104 - INQ000438284**] NIQB 43; [2018] NICA 26 and JR80's Application [**Exhibit JB2/105 - INQ000147506**] [2019] NIQB 43; NICA 58 [2019] the courts found that Departments could exercise a very limited range of powers when Ministers were not in place. As a result, the UK Parliament passed the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018. This gave a wider power to civil servants to act for a time-bounded period, having regard to statutory guidance, including that it would be in the public interest to act, rather than await the return of Ministers. Legislation on this model was used again for a statutorily time-bounded period, when the Departmental Ministers ultimately left office on 28 October 2022, i.e., the NI (Executive Formation, etc.) Act 2022 made on 6 December 2022.
103. For the majority of the Module 2C specified period, therefore, and as described above we were not in the position of having no Ministers.
104. Departmental Ministers were not able to represent NI at those inter-governmental meetings, including COBR, where an invitation would have issued to the First Minister and deputy First Minister because of the subject matter, for example the war in Ukraine and I was, therefore invited to attend such meetings. However, as an official, I was permitted only to provide factual information and not to express opinion or seek to influence the direction of debate.
105. The absence of an Executive during this period also meant that the Strand Two institutions of the Belfast/Good Friday Agreement, namely the North-South Ministerial Council, were unable to meet. While the Strand 3 arrangements (the British-Irish Council) continued there was no First Minister and deputy First Minister participation in Summit meetings. Other Ministers, when still in office, could decide to attend, for example, the Minister for the Economy and the Minister for Communities both attended a BIC Energy Ministerial meeting on 4 February 2022 and the Minister of Infrastructure and the Minister of Finance both attended the BIC Summit meeting in June 2022. After 28 October, no

Ministers were in office to attend these meetings. This limited the opportunities to share good practice and learning between jurisdictions. I attended Summit meetings with TEO colleagues in an observer capacity and on a basis of providing factual information only.

106. Another implication of the collapse of the Executive in February 2022 was in relation to the NI Budget.
107. The Assembly passed the Budget Act (Northern Ireland) 2022 [**Exhibit JB2/106 - INQ000147500**] in March 2022 which authorised the cash and use of resources for all departments for the 2021-22 year, based on the Executive's final expenditure plans for the year. Following the resignation of the First Minister and the subsequent lack of an Executive, a Budget for 2022-23 could not be finalised. The Finance Minister wrote to departments to set out a way forward in the absence of an Executive to agree a Budget. This process involved DoF issuing departments with contingency planning envelopes for the 2022-23 financial year. These envelopes provided departments with an assessment of the minimum funding they could reasonably expect for 2022-23 and allowed departments to plan expenditure until such times as a Budget could be agreed. The Budget Act (Northern Ireland) 2022 authorised departments' access to cash and use of resources for the early months of the 2022-23 financial year. The cash and resource balance for the remainder of 2022-23 was authorised by the Northern Ireland Budget Act 2023, which received Royal Assent on 8 February 2023.

#### **IMPACT OF THE ABSENCE OF MINISTERS AND A FUNCTIONING ASSEMBLY**

108. The absence of a legislature, Ministers and an Executive gave rise to a profound and damaging governance gap in Northern Ireland.
109. In the absence of a functioning Assembly, no primary legislation could be made. Subordinate legislation could be made if the enabling provision provided for Regulations to be made and to come into operation unless a negative resolution was passed in the Assembly. This was used, for example, to make Regulations to update welfare payments to maintain parity with Great Britain. The absence of an Assembly also meant that statutory scrutiny Committees could not operate.
110. In the absence of Ministers, Departments could continue to exercise certain functions, by virtue of the provisions in the Northern Ireland (Executive Formation etc.) Act 2022 (the 2022 Act) [**Exhibit JB2/107 - INQ000279216**]. However, as was the case under the previous Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 [**Exhibit JB2/108 - INQ000438280**], the effect of the 2022 Act was to reduce (but not

eliminate) the constraints arising from the Buick and JR80 judgements (see above). It did not provide for the exercise of functions that were specifically vested in Ministers (as opposed to Departments) by statute, nor did it provide for Departments to bring forward primary legislation, or major new (or altered) policies, strategies, programmes, or projects.

111. The absence of an Executive did not, of itself, prevent the exercise of functions by individual Departments (as section 3 (3) of the 2022 Act had set aside the need for Executive consideration before the exercise of a function). However, the absence of an Executive meant that key collective actions could not be taken, such as the development of a Programme for Government. It also meant that key challenges such as the cost-of-living crisis, post-Covid-19 recovery, and service transformation, that would have benefited from joined up governance and political leadership, were left to individual Departments to address.
112. After 28 October 2022, when Departmental Ministers were no longer in office, the powers in the 2022 Act from December allowed senior civil servants to make decisions if they were satisfied that it was in the public interest to do so having taken into consideration the Secretary of State's guidance [**Exhibit JB2/109 - INQ000438378**]. However, as noted above this reduced but did not eliminate the governance gap. The limits of the Act were reached in a matter of months and on 4 July 2023 I wrote to the Secretary of State [**Exhibit JB2/110 - INQ000438398, Exhibit JB2/111 - INQ000438399**] to set out in detail my profound concerns.
113. In particular, I noted that Permanent Secretaries had taken approximately £1 billion of challenging budget decisions. Many of these were controversial, and would normally have required Ministerial or Executive consideration, as a matter of law.
114. Notwithstanding those decisions, there remained an unfunded pay pressure of approximately £600 million, and a further c£450 million of pressures requiring Ministerial decisions.
115. I also noted that the damaging effect of the decisions taken to that point had been profound. Many public services were, by that point, unable to meet the basic needs of citizens. Indeed, for services such as elective surgery and special education, the level of unmet need was already the highest in any of the UK nations.
116. Notwithstanding the level of risk and pressure to which public services in Northern Ireland were exposed, the fact that they continued to operate during the governance gap is a testament to the dedication of all those involved. I am also grateful to my Permanent

Secretary colleagues for taking a range of difficult decisions in the most challenging of circumstances.

117. However, it is important to emphasise two invidious characteristics of the arrangements under the 2022 Act. Firstly, decision-making by officials without political accountability is fundamentally at odds with the constitutional principles of a parliamentary democracy.
118. Secondly, the limitations of the 2022 Act (and key Court decisions) combined with acute budget pressures, resulted in short-term decision making that was necessarily expedient, but profoundly damaging.
119. These concerns were outlined through correspondence with the Northern Ireland Office [Exhibit JB2/110 - INQ000438398] with excerpt from July 2023 letter below.

***“Immediate impact and long-term scarring of cuts***

*The damaging effect of the decisions taken to date is profound. Many public services are now unable to meet the basic needs of citizens, to a degree that would not be acceptable in any other jurisdiction. Indeed, for services such as elective surgery and special education, the level of unmet need was already the highest in any of the UK nations. These services were uniquely vulnerable to sudden and severe financial shock, and the risk of collapse of those (and other) services is now at critical level. Public sector pay parity is being lost, increasing the difficulty (in an all-island labour market) of attracting and retaining the staff required to deliver service level transformation.”*

*The cumulative effect of the cuts is also significant. Cuts to services such as housing, discretionary welfare support, early years and support for the third sector have a wicked synergy. Their effects are inevitably concentrated on our most vulnerable citizens, causing real distress in the short term, as well as adding to future needs and pressure on services.”*

*These cuts impact the most vulnerable at a time when Northern Ireland does not have the resilience to mitigate their impacts. In Northern Ireland; one in five children is living in poverty, disposable incomes are the lowest in the UK and we have the highest UK rates of femicide; 16+ population with low or no qualifications and children with special educational needs.”*

*The long-term socio economic and environmental damage of the cuts will reverse many years of progress which was marked recently on the 25th*

*Anniversary of the Belfast Good Friday Agreement and will be in stark contrast to the image we want to portray at the upcoming Investment Summit.”*

*Furthermore, there is an increasing body of evidence and external scrutiny on the negative effects of the cuts. The most recent example is: ‘A report on The Consequences of the Cuts to Education for Children and Young People in Northern Ireland’. This report was published by eight academics from Stranmillis University college, Queens, Newcastle & Ulster Universities outlining how the recent cuts to programmes aimed at addressing educational disadvantage are borne by those children who are already most disadvantaged and likely to be dwarfed by the costs to society that will be generated in the long run.”*

### **Removal of the Executive’s Working From Home Guidance**

120. I would now like to turn to specific difficulties which arose as a result of being without the elected Institutions. When the Executive collapsed in February 2022, there were difficulties in lifting the Executive’s guidance on working from home. This was imposed by the Executive on 23 November 2021. In other parts of the UK, the direction was lifted on 28 January 2022. However, without Ministers in place, we could not take this decision because it was Executive guidance and therefore should only be amended or removed following a decision to do so by the Executive.

121. Following consultation by formal Ministerial correspondence with remaining Ministers **[Exhibit JB2/071 - INQ000308879]**, on 14 February 2022, Minister Swann announced all restrictions would be repealed from regulations made by the Department of Health **[Exhibit JB2/072 - INQ000271158, Exhibit JB2/073 - INQ000438258, Exhibit JB2/074 - INQ000438259, Exhibit JB2/075 - INQ000190995, Exhibit JB2/076 - INQ000271162]**.

122. This removed the great majority of restrictions; only the Executive’s Working from Home (WFH) guidance remained in place. An overview of WFH guidance from March 2020 to January 2022 is available at **[Exhibit JB2/112 - INQ000438298]**. The Working from Home Guidance that had been agreed by the Executive on 21 January 2022 was:

*“It is strongly recommended that you should work from home where possible.”*

123. Employers were encouraged to facilitate this.

124. This created issues for business and public sector organisations as the impact of people continuing to work from home was having economic impacts, such as inability of some businesses to provide a full range of services and impacts of reduced numbers of people in town centres on the retail and hospitality sectors. However, support for businesses had been withdrawn as all restrictions had been lifted. Businesses also required clarity on the continued validity of the WFH guidance. For example, on 27 January 2022, a representative from Barclays contacted TEO Private Offices seeking clarity on the WFH guidance, in light of announcements elsewhere in the UK **[Exhibit JB2/113 - INQ000438297]**.
125. In the absence of the Executive, the routine mechanism for amending or removing the Executive's WFH guidance was not available. This is an example of a situation where I had to use influence and generate a novel solution instead of using normal government processes that were available when a government was fully functioning.
126. On 22 February 2022, an ECT discussion paper on WFH guidance was considered by the Task and finish group on Working From Home Guidance **[Exhibit JB2/114 - INQ000438299]** along with a paper outlining the economic considerations of the WFH guidance in place at the time **[Exhibit JB2/115 - INQ000438300]**.
127. On 18 March 2022, DoH officials provided a submission to Minister Swann asking him to consider an ECT proposal that he was best placed to progress a review of the WFH guidance and any changes arising from that review **[Exhibit JB2/116 - INQ000438301]**. The response from Minister Swann on 22 March 2022 advised that he did not agree that the WFH policy sat solely with him and that prior to agreeing any change, TEO should write to all Ministers **[Exhibit JB2/117 - INQ000271154]**.
128. An email exchange on 22 March 2022 between Chris Stewart and Karen Pearson set out the difficulties in progressing this issue in the absence of a First Minister and deputy First Minister **[Exhibit JB2/118 - INQ000438302]**.
129. On 24 March 2022, I issued further submission to Minister Swann regarding WFH guidance **[Exhibit JB2/119 - INQ000438303]**. In this, I advised Minister Swann that the ECT had written to all Permanent Secretaries requesting Ministerial views on the proposal to remove the recommendation to 'work from home' from official guidance. All Permanent Secretaries had confirmed that their Ministers were content that the policy could be changed in line with the recommendation from the ECT, some adding the caveat that they were content if Minister Swann was content with this change. Ministers also confirmed that such a decision could be taken without referral to the Executive.

130. In his response on 25 March 2024, Minister Swann stated the following:

*“I’m still of the opinion that it is not for me as Health Minister to change WFH guidance, if HoCS has received confirmation of other Minister’s opinions and views and their agreement that any amendment doesn’t need referred to the Executive, it would be in the remit of the Minister of Finance to change work from home guidance for NICS and then for. HoCS/ECT to make appropriate amendments for other sectors.”*

131. Work on amending the WFH guidance continued throughout the remainder of March and April 2022. The delay in amending the guidance had a knock-on effect on being able to implement hybrid working arrangements in NICS [Exhibit JB2/120 - INQ000438383]. On 1 April 2022 [Exhibit JB2/121 - INQ000438385], I issued correspondence to all NICS staff explaining the delay to implementing the Hybrid Working Policy and encouraged staff to continue to work at home where possible. Links to resources to aid staff were included [Exhibit JB2/122 - INQ000438386, Exhibit JB2/123 - INQ000438379, Exhibit JB2/124 - INQ000438380, Exhibit JB2/125 - INQ000438381].

132. On 11 May 2022, Jane Holmes, Deputy Director of Covid Strategy and Recovery, wrote to the Chief Medical Officer and Chief Scientific Adviser asking them to consider whether the health picture then supported a proposal to revise the Working from Home (WFH) guidance in place in advance of Permanent Secretaries considering this issue again at PSS [Exhibit JB2/126 - INQ000438285]. The proposed guidance reflected the risk from COVID at the time and reinforced that the removal of WFH messaging should not be interpreted as meaning there was no risk, and that employers should carefully consider what practical mitigations might be put in place to make workplaces safe.

133. Professor Young responded on 12 May 2022, advising that in light of declining community transmission of the virus and a reduction in Covid hospital pressures, he and the CMO thought “a decision to change guidance would be reasonable taking account of the totality of considerations.” [Exhibit JB2/127 - INQ000438308].

134. On 27 May 2022, I wrote to Permanent Secretaries thanking them for their responses to the ECT proposal to revise the Working From Home (WFH) guidance [Exhibit JB2/128 - INQ000269351, Exhibit JB2/129 - INQ000438360, Exhibit JB2/130 - INQ000438361], noting that all Ministers were content with the proposed revisions to WFH guidance. I advised colleagues that the change in the WFH guidance would take effect on 6 June 2022 and that TEO would make the necessary arrangements.

135. A Working From Home briefing pack (June 2022) was also developed [**Exhibit JB2/131 - INQ000269362**] to provide lines in response to queries raised by staff.
136. I also wrote to all officials on 6 June 2022 to provide an update on the change in WFH guidance, setting out what this meant for the NICS [**Exhibit JB2/132 - INQ000438310**]. In this, there were a number of links to additional guidance and information [**Exhibit JB2/123 - INQ000438379, Exhibit JB2/124 - INQ000438380, Exhibit JB2/125 - INQ000438381, Exhibit JB2/133 - INQ000438382**].

### **Challenges To Agreement of Measures at Executive Committee**

137. I have described the way in which measures were agreed by the Executive during the part of the specified period when the Executive was in place. To summarise, after the First and deputy First Minister were briefed on the Health Minister's proposals on which Executive Committee agreement was sought, papers were put before the Executive by agreement of the First Minister and deputy First Minister. This meant that any disagreements were usually brokered in advance. Voting at Executive meetings, while possible, was the exception rather than the rule, with the majority of decisions being taken by consensus. This is our normal way of doing business in Northern Ireland. In my experience during this period, the Executive Committee, comprised as it was of Ministers from different parties, met the challenges of agreeing pandemic measures adequately. Having a power-sharing Executive with a wide range of views and experience around the decision-making table ensured that the propensity for 'Group Think' was ameliorated and it was my experience that Ministers felt able to robustly present their views which made for a more diverse airing of perspectives around the Executive table which enriched decision making. Below, I set out in more detail two specific challenges. In the first, Ministers took different views, and in the second, practical experience and external stakeholder views challenged a measure which the Executive introduced but then agreed to remove. These illustrate my view that power-sharing itself did not create a challenge to or cause delay in the effective delivery of the Autumn/Winter 2021 package of measures.

### **Mandatory Covid Status Certification**

138. Implementation of mandatory Covid Status Certification was one of the measures included in the Executive's 2021-22 Autumn / Winter Covid-19 Contingency Plan [**Exhibit JB2/065 - INQ000065662, Exhibit JB2/134 - INQ000208766, Exhibit JB2/135 - INQ000269095**] that could be taken if the situation deteriorated to slow the spread of the virus and protect the health service. The Plan allowed for the potential to move from voluntary use of Covid Certification to mandated deployment if required to provide a

targeted and proportionate means to reduce risk while maximizing the ability to keep open certain settings and events where the risk of transmission of coronavirus was higher.

139. Covid Status Certification was a means by which people wishing to enter large events, sporting events and hospitality settings could evidence their vaccination status or that they had a negative PCR or lateral flow test within a specified time. Voluntary versions were used by organisers of large outdoor events in summer 2021 and major event organisers in autumn 2021.
140. The legal requirement for social distancing was removed for indoor seated venues on 27 September 2021 and Executive guidance encouraged the application of a range of other mitigating measures including COVID-status certificates based on vaccine or negative LFD test, or positive PCR test. Mandatory (statutory) Covid status certificates were included in the basket of measures which could be deployed if needed as part of the 2020-21 Autumn/Winter Covid-19 Contingency Plan. Mandatory certification was seen as a targeted and proportionate way to reduce risk while maximising the opportunity for certain events and settings which carried a greater risk of transmission to remain open. It was also anticipated to be an incentive to take up the offer of a vaccine for those who had not yet done so. At my meeting with First Minister and deputy First Minister on 28 September 2021, we discussed Vaccine Certification, including which department should lead and the type of certification that would be appropriate. I commissioned officials to prepare a draft paper with advice and Covid Status Certification was discussed in detail on 1 October 2021 at the Executive Covid pre-brief meeting **[Exhibit JB2/136 - INQ000291357]**.
141. Further information gathering, including observation of sporting events at which voluntary certification was being used and extensive engagement with affected sectors took place in November 2021 and in December, with case numbers rising, especially among the young, work commenced to agree festive messaging and communications about risks and mitigating measures. To combat the rising case numbers and the risk of the health service being overwhelmed, on 17 November 2021, the Executive considered and agreed an Executive paper on the use of the use of Covid status certification in certain settings in NI **[Exhibit JB2/137 - INQ00023217]**. At this meeting, the then First Minister advised that the DUP was not in a position to support the paper introduced by Minister Swann on the introduction of mandatory Covid Status Certification. The matter was put to a vote with six voting in favour and four against **[Exhibit JB2/138 - INQ000207226]**. The agreement was that Covid Status Certification would be made mandatory in certain

settings from 29 November 2021 and that there would be a grace period of 14 days for businesses.

142. On 22 November 2021, the Executive discussed other contingency measures in the Autumn / Winter Plan and how these could be deployed in tandem with Covid-status certification [Exhibit JB2/139 - INQ000207227]
143. TEO Officials drafted a Customer information webpage hosted on NI Direct [Exhibit JB2/140 - INQ000279323] and a Business and event guidance hosted on NIBusiness info [Exhibit JB2/141 - INQ000279324] to provide public information about the scheme.
144. The mandatory introduction of certification was implemented on 29 November 2021, with an initial two-week grace period followed by enforcement beginning on 13 December 2021 [Exhibit JB2/142 - INQ00023217, Exhibit JB2/143 - INQ000190857]. From that date, individuals had to prove their COVID status for access to nightclubs, licensed hospitality premises, including 'bring your own' alcohol venues, cinemas, theatres, conferences and exhibition halls, indoor events with 500 or more attendees with some or all of the audience not normally seated, outdoor events with 4,000 or more attendees with some or all of the audience not normally seated and events where more than 10,000 people will be present regardless of whether they are seated.
145. Initially a paper-based approach was used to demonstrate Covid Status and subsequently a local enabling infrastructure to underpin a system of digital Covid-status certificates, i.e., an App for use in NI, was developed by the Department of Health [Exhibit JB2/144 - INQ000304950]. I understand that this was the first digital Covid certification system in place across more than one jurisdiction. It could be used to gain entry to venues in NI or in neighbouring jurisdictions.
146. From 26 January 2022, the requirement was relaxed, so that individuals had to prove their COVID status for access to nightclubs and indoor events with 500 or more attendees with some or all of the audience not normally seated.
147. The legislation was amended in February 2022 removing the mandatory requirement for COVID Certificates in any setting. Guidance remained in place to encourage conducting a risk assessment for gatherings, events, entertainment, leisure, and sporting activities.

## Face coverings

148. Considering the emerging Omicron variant, a proposal [Exhibit JB2/065 - INQ000065662] was put to the Executive to mandate the use of face coverings in public spaces on 22 December 2021 [Exhibit JB2/145 [INQ000207230]] It was agreed that increased statutory requirements for wearing face coverings would be introduced on 27 December 2021 with a grace period to 7 January 2022. There was robust discussion of the proposal in Executive and the First Minister asked that his opposition to mandatory face coverings be recorded whilst acknowledging that other Ministers supported the proposal, but ultimately the matter did not require a vote, and was agreed.
149. Following the meeting on the 22 December 2021, further analysis on the deliverability of increased statutory requirements for wearing face coverings was undertaken by officials. I was increasingly concerned as to the ability to operationalise the Executive agreement and facilitated an urgent Executive Decision on 31 December 2021, to enable Ministers to consider a paper [Exhibit JB2/146- INQ000213747, Exhibit JB2/147 - INQ000213746] proposing an extended grace period on the strengthened regulations for wearing face coverings to allow more time for engagement with key stakeholders, such as organisations representing people with disabilities, GPs, the PSNI and Translink. It was intended to help to ensure that the arrangements could operate effectively, when introduced.
150. An ECT update on the extension of the grace period before enforcement of strengthened regulations for wearing face coverings was considered on 6 January 2022 [Exhibit JB2/148 - INQ000065615]. The engagement referred to above with stakeholders and practical experience demonstrated that the original advice from officials on the ability to operationalise the scheme within the timelines was unachievable. Nonetheless, face coverings remained an important mitigation measure. After some weeks, during which officials explored possible alternatives, the Executive reversed the measure.
151. At a meeting of the ECT on 13 January 2022 [Exhibit JB2/149 - INQ000188188], it was confirmed that the preferred model of delivering the proof of exemption scheme through GPs was not deliverable and set out an alternative model, similar to that which operates on a voluntary basis on Scotland, whereby citizens could obtain proof of exemption through an online solution hosted on NI Direct or similar platform. Other delivery channels would be available to support those not able to access a digital service.

152. The ECT noted that this solution remained a form of self-declaration and, while it would deliver on a number of the policy objectives set out in the paper, it would not significantly strengthen the framework for face coverings to support more effective enforcement where necessary.
153. Following discussion of the options there was an emerging view that, given the limitations of the proposed solution, it would be preferable to revert to the pre-22nd December position and reverse the requirement to produce proof of exemption. Ministers also highlighted a range of scenarios where individuals may have genuine reasons to not wear face coverings that fall short of the Disability Discrimination Act requirement. One example referred to was victims of sexual assault for whom wearing a face covering could result in further trauma. It was, therefore, considered that there would be merit in reinserting the 'severe distress' limb into the reasonable excuse test.
154. However, Ministers wanted to ensure that in taking such decisions it was vital to preserve the core message that wearing face coverings remained an essential element of the public health advice.
155. Face coverings were identified at that time as a baseline measure, and it was considered that they were likely to continue to be a requirement or recommendation after the immediate challenge of Omicron variant receded.
156. The relevant clauses in the regulations were, therefore, not commenced and were ultimately removed because they were not workable [Exhibit JB2/150 - INQ000065658, Exhibit JB2/151 - INQ000048555].

**ASSESSMENT OF THE IMPACT THAT THE PANDEMIC WAS HAVING ON DIFFERENT GROUPS OF PEOPLE WITHIN NORTHERN IRISH SOCIETY AND THE IMPACT THE STEPS TO COMBAT THE PANDEMIC WERE HAVING**

157. Data on the spread and impact of the pandemic was available from several sources in relation to the pandemic and its impact and could be disaggregated in various ways, as summarised below. Data from these sources was collated into a "Covid Dashboard" and was presented to Executive Meetings. The data sources were collated into the Covid Daily Dashboard and the ECT Dashboard. The Covid Daily Dashboard was published and could be used by any public body, business, organisation or individual to guide their actions. The ECT Dashboard was not published but was used by ECT to guide its deliberations and was shared with the Executive in advance of each meeting and discussed at the pre-meetings.

158. In addition, departments had regular meetings with stakeholders and representative groups, ranging from faith groups to sporting bodies and industry and retail representative groups. Information from these meetings was used to inform discussions at the CDWG and proposals that were out forward for consideration by the executive on potential relaxations or imposition of restrictions.

159. In particular, TEO officials had regular meetings throughout the pandemic with faiths groups and industry representatives. I felt that stakeholder engagement was important to my own understanding of the issues, and so joined these meetings personally at key decision points. For example, with the Faiths Leaders forum prior to Executive consideration on 7 October 2021 of the 2021-22 Covid-19 Autumn-Winter plan, with various sectors when mandatory Covid Status Certification was being developed in late November / early December 2021 and in January 2022 when relaxations to the restrictions implemented in response to the Omicron variant were being considered.

### **Daily Dashboards**

160. The 'Covid-19 in Northern Ireland Daily Dashboard' was produced by the Department of Health and the Information Analysis Directorate [**Exhibit JB2/152 - INQ000438314, Exhibit JB2/153 - INQ000438315, Exhibit JB2/154 - INQ000438316**]. It recorded the following:

161. The doubling period (including the rate of change, the doubling for deaths and cases by country comparisons).

- Mortality rates.
- Testing overview, trend analysis and cumulative total of lab confirmed tests.
- Covid death and setting details.
- Covid hospital admissions, including admissions at midnight and daily admissions by Trust.
- Hospital bed capacity.
- Covid care home outbreaks.

162. The Dashboards were primarily focused on population level data but this data was disaggregable, and more specific details of the impact the pandemic was having on

different groups of people was drawn out to focus on the impact by gender, age and geographical location, as follows:

- Covid testing information is broken down by Local Government areas and by postal districts.
- Covid testing is broken down by 5-year age groups with specific information recorded for the highest percentage of individuals testing positive in terms of age and gender.
- Covid admissions are recorded as a seven-day rolling average by age group.
- Cumulative Covid deaths can be broken down by Local Government District by age, gender and previously reported deaths and deaths in current reporting period by date of death.
- Death statistics could be broken down by where deaths took place (hospital, home, nursing home etc settings).
- Covid-19 care home outbreaks are recorded by geographic area.

#### **Covid 19 – Population Polling**

163. As stated in the TEO Module 2C statement, Covid-19 population polling was undertaken from June 2021 to March 2022, producing 12 sets of polling data to ascertain attitudinal adult-only opinions towards the Covid-19 restrictions. This information was key to confirming or challenging the approach that would be taken towards restrictions and/or enforcement.

164. The first six waves of polling were undertaken on a fortnightly basis from June to August 2021, after which the polling moved to one survey per month commencing at the end of September 2021 [**Exhibit JB2/155 - INQ000188639, Exhibit JB2/156 - INQ000188644**].

165. From wave seven of the polling, alterations were made to the questions being asked to respondents, moving away from questions that related to regulations and restrictions as most of these had been removed. Instead, there was a heavier focus on social interaction such as the use of hospitality and the remaining baseline measures that people were being asked to take, such as use of face coverings, social distancing and testing.

166. The population polling was set up to gather rapid insights and consisted of a cross section of adult only population, with a baseline minimum of 500 persons being interviewed in each wave, allowing for broad observations of behavioural trends to be determined and where the population base became low, it would be noted where caution should be taken when determining reviewing the figures provided.
167. The polling work considered demographics such as age, gender and local council area whilst looking at vaccination status and reasons for refusing vaccination if offered. In addition, when looking at self-isolation, respondents were asked to consider their willingness to self-isolate and what factors may cause them to break their self-isolation before the end of the designated period.
168. Likewise, the polling was able to look at how safe people felt in particular surroundings as well as their perception of personal risk from Covid-19.
169. From the data, there was an ability to identify age groups that required further interventions to drive vaccine rates or to highlight the risks not only to them, but to close contacts.

#### **ECT Dashboard**

170. The dashboard covered Health, Societal and Economic indicators related to the impacts of the pandemic on the general population, including data from DoH reports, such as daily dashboards and R number reports and included input from DfE on economic issues [**Exhibit JB2/157 - INQ000438317, Exhibit JB2/158 - INQ000438318, Exhibit JB2/159 - INQ000438325**].
171. Data provided in the ECT updates would come from various sources, such as the Department of Health, Office of National Statistics, UK Government surveys, Department of Education, Police Service for NI, to reflect ongoing issues and highlight concerns related to the restrictions / relaxations in place at the time.
172. To compliment local issues, the dashboard would also show a 5-nation comparison or vaccination rates, cases per 100k and inpatients.
173. The dashboards did not have a designed focus on specific groups; however, data incorporated highlighted areas of concern, such as cases by age group, children's attendance at school, and male / female breakdowns.

## R Number Papers

174. The R Number papers (R stands for “Reproduction”, the reproduction number is a statistical measure of the transmission rates of an infectious disease) were used to record and model the Covid-19 epidemic using the Reproduction Number – R. The papers provided:

- Estimates of the current R number for new positive tests and hospital admissions.
- Information on the dominant variant at that time, the prevalence of Covid-19 in Northern Ireland and the Office for National Statistics (ONS) Coronavirus (Covid-19) Infection Survey (CIS) results.
- Information on regional variation in cases.
- Daily cases recorded by age groups.

175. The R papers were primarily focused on population level data. Due to the impact of transmission or their role in transmission some groups such as children (closure and re-opening of schools) and older people (household, community transmission and impact on hospital services) were specifically mentioned in the papers. The information recorded also helped to assess the impact of Covid restrictions in place at that time and the importance of vaccination.

Examples:

- The impact of the return of schools was noted. For example, in the R paper for 14 September 2021 [**Exhibit JB2/160 - INQ000438332**] it was noted that ‘in terms of modelling, an increase in cases was seen following the return of schools and has now stabilised; this will be followed by an increase in hospital admissions if secondary spread of cases into older age groups takes place.’
- On 28 December 2021 [**Exhibit JB2/161 - INQ000438333**] the R paper recorded that ‘there has been a dramatic increase in cases in 18-30s, followed by 30 – 50s. However, there are also significant increases in older age groups which is likely to be a result of within family/household spread given the increased transmissibility of the omicron variant. Cases have remained stable in 0-15s following the closure of schools.’
- On 4 January 2022 [**Exhibit JB2/162 - INQ000438334**] the R paper recorded that ‘very high levels of community transmission may result in significant staff absences with the

potential to reduce capacity in Health and Social Care as well as in other areas...The frequency of severe illness requiring hospital admission after omicron infection remains uncertain, though is reduced by 20 – 80% compared with delta. We will continue to monitor this closely and advise accordingly on potential hospital pressures which may result from a large number of omicron cases, particularly in older people. It is likely that booster vaccination will continue to offer protection against severe disease with omicron, and rapid uptake of booster doses remains a key priority.'

### **Mobility Reports**

176. The Covid-19 Mobility Report was an assessment of social distancing in Northern Ireland. It was produced by the Department of Health and the Information Analysis Directorate. The reports were part of a series of publications which showed movement trends in Northern Ireland across different categories of places. The reports which were primarily focused on population level data recorded the following:

- Mobility changes for NI Council areas for:
- Retail
- Public Transport
- Parks
- Workplace
- Supermarket and Pharmacy
- Residential
- Timeline of Covid-19 restrictions in NI.
- Patterns in mobility changes based on a Council average. For example, the Mobility Report dated 30 September 2021 [**Exhibit JB2/163 - INQ000438335**] records 'an increase in retail and recreation in August for a number of LGDs, most notably Causeway Coast and Glens [which] coincided with the implementation of the 'Eat Out to Help Out Scheme.'

177. For Friday 4th March 2022, activity in Northern Ireland was above normal levels for time spent at home (residential) where activity was 5% above normal levels, supermarkets (13% above normal levels), and park visits (26% above normal levels). Notable decreases

in activity remain in Northern Ireland for public transport and workplace where activity was 29% and 20%, respectively, below normal levels.’ **[Exhibit JB2/164 - INQ000438336]**.

### **Restriction Timeline**

178. The timeline, prepared by the TEO Covid Strategy and Recovery Team, provided a 5-nation comparison of restrictions and relaxations by date on an ongoing basis, allowing for comparison of restrictions in place across nations (NI, Scotland, England, Wales and ROI) and where possible the inclusion of proposed relaxations. **[Exhibit JB2/165 - INQ000270701, Exhibit JB2/166 - INQ000438337]**.

179. The table does not break down or analyse how the restrictions / relaxations would impact on any groups. It was a means by which the pace of relaxations / alignment could be tracked.

### **NISRA Coronavirus Covid 19 Opinion Survey**

180. This relates to opinion surveys carried out by NISRA on a wide range of Covid 19 related issues. Contained within this folder are Survey Key Findings January – March 2022. Opinion Survey Technical Report and the Summary of results which provides figures for April – June 2021, July - September 2021, October – December 2021 and January – March 2022. The results of these are provided in a number of figures and tables. These include references to protecting older and vulnerable people. **[Exhibit JB2/167 - INQ000438338, Exhibit JB2/168 - INQ000438339]**.

### **PHA Epidemiological Bulletin**

181. This published weekly report outlined the epidemiology of the Covid-19 virus in Northern Ireland (NI), along with information about the genomic lineages (variants) of cases, the number of Covid-19 outbreaks in care homes and excess deaths. It links to other sources of information about SARS-CoV-2 genomics and Covid -19 vaccinations. **[Exhibit JB2/169 - INQ000438340, Exhibit JB2/170 - INQ000438341]**.

182. The reports include data on age, location, care home outbreaks, hospitalisations and death rates.

### **Covid 19 Related Deaths March 2020 – October 2021**

183. Contained within this folder is a report detailing Covid 19 related deaths in the period March 2020 – October 2021. **[Exhibit JB2/171 - INQ000438342]**. This report provides a

number of tables/charts which break down the number of deaths in the period and includes references to

- Age groups
- Gender
- Area of NI
- Rural/Urban
- Country of birth
- Occupational group

#### **Deaths and Equality - November 2021**

184. The report uses age-standardised mortality rates (ASMRs) to directly compare mortality rates in 2020 and 2021. The report also uses statistical models to examine the extent to which risk of Covid-19 and non-Covid-19 death in 2020 and 2021 was explained by age, sex, area of residence, socio-demographic and self-reported health characteristics. Also included is the accompanying press release which provides an overview of the data contained within the report. [Exhibit JB2/172 - INQ000438343, Exhibit JB2/173 - INQ000438344].

#### **Covid-19 related deaths and pre-existing conditions in Northern Ireland: March 2020 to November 2021**

185. This report provides a detailed breakdown of Covid-19 related deaths and pre-existing conditions. This information is provided in a number of tables, which include references to age, gender and medical conditions. The associated press noticed is also included [Exhibit JB2/174 - INQ000438345, Exhibit JB2/175 - INQ000438346].

#### **Excess mortality and Covid-19 related deaths in Northern Ireland: March 2020 to December 2022**

186. This report [Exhibit JB2/176 - INQ000438347] contains information in relation to excess mortality, the information is largely provided in table format, which included references to:

- Gender

- Local Government District
- District Electoral Area
- Rural, urban and mixed urban/rural areas
- Age group
- Deprivation quintile

### **Weekly deaths registered/press releases**

187. These bulletins [**Exhibit JB2/177 - INQ000438348, Exhibit JB2/178 - INQ000438349, Exhibit JB2/179 - INQ000438350**] provided details on the provisional number of deaths registered in Northern Ireland during the weeks 28th August to 3rd September 2021 (referred to as week 35) through to 25 December to 31 December 2021 (referred to as week 52). These bulletins provided a breakdown of deaths in table format, and include references to:

- Deaths registered in NI by Local Government District
- Deaths registered in NI by Sex
- Deaths registered in NI by place of death, e.g., hospital/care homes.

188. Also included are press releases which provided an overview of the data contained within the bulletins.

## **ASSESSMENT OF PANDEMIC IMPACTS**

### **Engagement With Stakeholders**

189. Prior to my taking up of the post of HOCS there was extensive engagement with Faith Groups and the retail and hospitality sectors, attended by senior TEO officials and often led by Junior Ministers, and on occasion First Minister and deputy First Minister. This continued during the remainder of 2021 and into 2022 on a range of challenging issues.

190. A key issue that required intensive stakeholder engagement was the introduction of mandatory Covid Status Certification in response to the emergence of the Omicron variant. Meetings in relation to Covid status certification were held at Ministerial and Official level with the retail, hospitality and events sectors as well as PSNI and Local Government.

191. Over and above this engagement, I convened meetings with a range of sectors as shown below:

- i. 26/11/2021 with the retail sector to discuss Mandatory Covid Status Certification [Exhibit JB2/180 - INQ000271201].
- ii. 09/12/2021 with the retail sector [Exhibit JB2/181 - INQ000438256], events and sporting bodies [Exhibit JB2/182 - INQ000438377], and hospitality [Exhibit JB2/183 - INQ000438304] sectors to discuss the emergence of Omicron variant.
- iii. 20/12/2021 with multiple sectors to provide an update on xxx [Exhibit JB2/184 - INQ000268974].
- iv. 23/12/2021 with the retail sector [Exhibit JB2/185 - INQ000279438] to provide an update on the package of measures agreed by the Executive the day before [Exhibit JB2/186 - INQ000271227]. There was also a lengthy discussion on messaging around the various restrictions in place, such as social distancing and working from home guidance.
- v. 20/01/2022 with the hospitality and events sectors to provide an overview of relaxations agreed by the Executive for 21 and 26 January 2022 [Exhibit JB2/186 - INQ000271227].
- vi. 21/01/2022 with the retail sector to discuss Executive decisions for 21 and 26 January 2022 [Exhibit JB2/187 - INQ000308883].

192. The Executive Covid Taskforce held eight engagement sessions with a range of sectors, including hospitality and arts, in the week before mandatory Covid Status Certification was introduced. For example, on 22 November 2021, senior TEO officials met with representatives of the Events sector to discuss the need for earlier than intended introduction of mandatory Covid Status Certification because of an increase in Covid-19 case numbers [Exhibit JB2/188 - INQ000438255]. This is an example of TEO engaging with sectors on specific issues using existing engagement fora led by other departments.

193. I am informed that these sessions were followed up with further sectoral engagement on 2 December 2021 [Exhibit JB2/189 - INQ000271208, Exhibit JB2/190 - INQ000279300, Exhibit JB2/191 - INQ000271207, Exhibit JB2/192 - INQ000452488, Exhibit JB2/193 - INQ000279303] when feedback on practical implementation was received.

194. I attended a meeting convened by Junior Ministers with representatives of the hospitality sector on 9 December 2021 that was also attended by Minister Long and the Chief Scientific Adviser [**Exhibit JB2/183 - INQ000438304**]. The meeting was called to discuss concerns over the emergence of the Omicron variant of the coronavirus in light of evidence that that it was more transmissible than the Delta variant and its impact in terms of severity was unknown. The purpose of the meeting was to identify preventative measures that could be taken to slow down the spread of the virus. The conversation turned to frustrations by the sectors over the messaging around Covid Status Certification. TEO assured the group that work on messaging was in progress and that the detail on that would be shared.
195. I attended a meeting, convened by Junior Minister Middleton and Junior Minister Kearney, with representatives of the Events sector on the same day at which an update on the Omicron variant was provided and the practical steps to reduce transmission were discussed [**Exhibit JB2/182 - INQ000438377**].
196. At a further meeting with the retail sector, again on 9 December 2021, [**Exhibit JB2/183 - INQ000438304**], concerns were raised about an increase in abuse towards retail workers as the public are not so accepting of restrictive measures. Messaging was again raised as an issue.
197. Six further engagement sessions were held with the hospitality sector between 10 and 23 December 2021 to discuss emerging operational issues, enforcement and funding [an example is provided at **Exhibit JB2/194 - INQ000438389**, **Exhibit JB2/195 - INQ000438257**].
198. Concerns had been raised by sporting event organisers that requiring individuals to prove their vaccination status prior to entry would create significant queues and crowd control issues. TEO officials attended a Gaelic Football match and an Ulster Rugby match in November 2021 to observe the operation of Covid certificates on the ground and to test the practical out-workings of domestic Covid Status Certification. Through this, officials and the event organisers were able to agree the best process by which Covid certificates could be implemented with minimum delays for fans entering the grounds.
199. The Department of Health set up mobile testing facilities at large events so that ticket holders who could not provide evidence of a negative lateral flow test could be tested prior to entering the grounds.

## Covid Recovery

200. Following publication of the Covid Recovery Plan on 2 August 2021 [**Exhibit JB2/196 - INQ000268538**], I approved the establishment of the Covid-19 Recovery Taskforce to steer implementation of the Recovery Plan in September 2021. The Recovery Plan Taskforce was established to drive delivery and monitor, encourage and support implementation of the Covid-19 Recovery Plan. The Taskforce has representation from all nine departments at Senior Civil Service level. Since its first meeting on 29 September 2021, which I attended [**Exhibit JB2/197 - INQ000259411**], the Taskforce has met six times, the most recent meeting taking place on 31 March 2023 [**Exhibit JB2/198 - INQ000438295**].
201. Building forward: Consolidated Covid-19 Recovery Plan, was developed with the emphasis on cross-departmental collaboration to achieve the greatest good. The integrated Recovery Plan informed our priorities to accelerate recovery over a 24-month period through focused, collaborative working. It detailed 83 interventions that were progressed over the 24 months to deliver accelerated recovery for all our citizens under four strategic outcomes: sustainable economic development, green growth and sustainability, tackling inequalities and health of the population.
202. TEO monitored the occurrence of the virus in our community and coronavirus restrictions as we moved along the pathway of recovery, alongside progression of a number of activities:
203. Progress reports on the Recovery Plan were compiled from Departmental returns commissioned by TEO. Draft reports were shared with the Covid Recovery Taskforce for approval. To date, four Progress Reports have been completed. In the absence of the Executive, the First Progress Report was shared with the Executive Covid Taskforce, the Second Progress Report was shared with the TEO Committee, and the Third and Fourth Progress Reports were shared with NICS Board to note.
204. The Covid-19 Recovery Plan was subject to Equality Screening, with the screening finalised in September 2021 and published on TEO website on 6 October 2021. The link to the document was also shared with S75 stakeholders at that time.
205. The Equality Screening included a commitment that it would be reviewed, and this was completed in June 2022 [**Exhibit JB2/199 - INQ000279584**].

206. One of my first roles after taking up office was to provide Ministers with advice on the strategy to Tackle Violence Against Women and Girls [**Exhibit JB2/200 - INQ000438291, Exhibit JB2/201 - INQ000438292**]. This was a direct action from the Executive's Building Forward: Consolidated Covid Recovery Plan. Under the heading Tackling inequalities the following action is included:

*"79. Contribute towards addressing violence against women and girls through prioritized interventions to bring about meaningful change to their lived experience."*

207. This was important because there was data showing increased vulnerability to domestic abuse during the pandemic, and the public and legislators were very aware of the need for this Strategy as part of our post-Covid future.

208. On 3 November 2021, I provided an introductory briefing to the Executive Office Committee [**Exhibit JB2/202 - INQ000438294, Exhibit JB2/203 - INQ000438305**], which included an update on the Covid Recovery Plan. Following the meeting, I provided further information to the committee on Civil Service Reform, Covid-19 Recovery and Staffing within the Northern Ireland Civil Service [**Exhibit JB2/204 - INQ000438362, Exhibit JB2/205 - INQ000438363**].

209. The fourth Covid Recovery Taskforce Report in March 2023 [**Exhibit JB2/206 - INQ000279598**] highlighted that 18 interventions were complete, 59 were progressing, 3 were on hold due to financial constraints, 2 had been closed by their owning Departments, and 1 intervention was on hold, awaiting the return of an Executive.

210. At the Covid Recovery Taskforce meeting on 31 March 2023, the closure date of 2 August 2023 for the Covid Recovery Plan was discussed. The Taskforce agreed that, following the Fourth Progress Report, commissioning returns for a Final Report for the Covid Recovery Plan would be the most efficient use of Departmental resources.

## **FEATURES OF NORTHERN IRISH SOCIETY**

211. I have been asked to consider whether there were features of Northern Irish society (e.g. its relatively small population) that made identification of particular hardship within communities and its alleviation easier to achieve. While in trying to address same two distinctive features of Northern Ireland society occur to me, I am however unsure how much help I can provide to the Inquiry on this specific point, as I am uncertain what comparator the Inquiry may have in mind.

212. First, Northern Ireland is the only part of the United Kingdom with a land border with another State. When we were considering changes to Covid restrictions, we considered the comparative position in all our neighbouring jurisdictions. The consideration of the position in the Republic of Ireland was particularly relevant where, for example., there were curfews or restrictions on hospitality under consideration in either jurisdiction, especially in border areas. Different rules could have the perverse disincentive of encouraging people to cross the border so as to avoid the more stringent regulations. One can see this factor in the Dashboards we used at Executive meetings, for example, **[Exhibit JB2/207 - INQ000438353]**.

213. Second, as a small jurisdiction, many of our authorities such as the Police Service of Northern Ireland, the Education Authority and the Northern Ireland Fire and Rescue Service are unitary. This means that conversations with authorities can take place more easily, our decision-making chains are shorter and the risk of differing behaviour by different authorities may be less than in a larger jurisdiction.

214. Anecdotally, one might say that Northern Ireland is a small place with a relatively strong community infrastructure and a thriving civil society, and that these factors may have assisted us in identifying and alleviating hardship.

**COMMUNICATIONS WITH MINISTERS, ADVISERS, POLITICAL PARTY OFFICIALS AND SENIOR CIVIL SERVANTS VIA ELECTRONIC DEVICE(S) CONCERNING THE PANDEMIC DURING THE SPECIFIED PERIOD**

215. On taking up the post of HOCS, I was issued with an iPhone, an iPad and a laptop. I am still using those devices.

216. It is my recollection that I did not use any of my private or personal devices to communicate with Ministers, advisers, party officials or senior civil servants concerning the pandemic during the Specified Period. I only used devices issued to me by NICS.

217. During the specified period, I used the following Messaging Platforms:

- i. WhatsApp
- ii. Text message (SMS)
- iii. iMessage

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- iv. Teams / Zoom – I attended virtual meetings on Teams and Zoom. It is not my practice to use chat facilities and I do not recall using the chat functions and certainly not for important discussions.

218. I have provided 12 WhatsApp strings and 21 strands of text messages that I was involved in during the specified period from my NICS issued mobile phone to the Inquiry. These are exhibited at:

[Exhibit JB2/208 - INQ000365898, Exhibit JB2/209 - INQ000438260, Exhibit JB2/210 - INQ000365902, Exhibit JB2/211 - INQ000365905, Exhibit JB2/212 - INQ000365906, Exhibit JB2/213 - INQ000365910, Exhibit JB2/214 - INQ000365917, Exhibit JB2/215 - INQ000365918, Exhibit JB2/216 - INQ000365925, Exhibit JB2/217 - INQ000365928, Exhibit JB2/218 - INQ000365929, Exhibit JB2/219 - INQ000365931]; [Exhibit JB2/220 - INQ000438261, Exhibit JB2/221 - INQ000438262, Exhibit JB2/222 - INQ000438263, Exhibit JB2/223 – INQ000438264, Exhibit JB2/224 - INQ000438265, Exhibit JB2/225 - INQ000438266, Exhibit JB2/226 - INQ000438267, Exhibit JB2/227 - INQ000438268, Exhibit JB2/228 - INQ000438269, Exhibit JB2/229 - INQ000438270, Exhibit JB2/230 - INQ000438271, Exhibit JB2/231 - INQ000438272, Exhibit JB2/232 - INQ000438273, Exhibit JB2/233 - INQ000438274, Exhibit JB2/234 - INQ000438275, Exhibit JB2/235 - INQ000438276, Exhibit JB2/236 - INQ000438277, Exhibit JB2/237 - INQ000438278, Exhibit JB2/238 - INQ000438279].

219. The details of who I messaged, the groups and purpose are provided at [Exhibit JB2/239 - INQ000452489] and [Exhibit JB2/240 - INQ000452490]. It is my recollection that I only used my NICS-issued phone for work-related communication concerning the pandemic during the Specified Period. I did not use my personal phone for any work-related communication concerning the pandemic during the Specified Period.

220. I have no recollection of experiencing any instances of key decisions about the response of the government in Northern Ireland to Covid-19 being discussed or made outside of formal government processes. There may have been informal discussions at the edges of meetings or in corridors about issues related to Covid-19 but these were unlikely to have been of such a nature or threshold as to have required separate recording and retention as required by the June 2022 policy on Official Information Held on Non-Corporate Channels [Exhibit JB2/241 - INQ000409674].

221. Meetings on key decisions or issues about the response of government in NI were minuted and these have been provided to the Inquiry.

222. To my knowledge, there were instances during Executive meetings when informal messaging platforms, for example, WhatsApp, were used to make sure officials attending the meetings in order to be aware of developments had picked up an instruction from the Executive and were actively working on that instruction. For example, the Executive would have asked for further research to be carried on a particular paper or to ensure an agreed Written Ministerial Statement would be drafted for agreement by First Minister and deputy First Minister to issue as soon as possible after Executive meetings setting out what had been agreed. For example, there was correspondence in the Executive WhatsApp group **[Exhibit JB2/242 - INQ000365906]** on 23 September 2021 in relation to drafting a Written Ministerial Statement so that it could be agreed for publication as soon as possible after the Executive meeting.
223. I recall occasions when the chat function in Zoom was used by officials to provide information to Ministers during the course of Executive meetings.
224. I am not aware of other video meeting messaging platforms being used prior to or during formal meetings.
225. I have retained and provided informal messages to the Inquiry. I have reviewed all messages to ensure none required to be stored on the NICS record management system.
226. In compliance with the June 2022 policy on Official Information Held on Non-Corporate Channels **[Exhibit JB2/241 - INQ000409674]**, if anything had come to me via informal channels that should have been saved onto Content Manager, I would have ensured that happened. Nothing reached that threshold and having reviewed messages again, I remain of the view that none require to be retained on the NICS records management system.
227. I have not deleted any messages sent or received by me on any of the Messaging Platforms with any Ministers, advisers, party officials or senior civil servants concerning the pandemic during the Specified Period, from my government-supplied devices.

**Statement of Truth**

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

Signed Personal Data

Dated: 21 March 2024