

Monday, 13 May 2024

1
2 (10.00 am)
3 **LADY HALLETT:** Ms Dobbin.
4 **MS DOBBIN:** My Lady, please may I call the first witness for
5 today.
6 **MR ROBIN SWANN (sworn)**
7 **Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2C**
8 **MS DOBBIN:** Can I ask you to give your full name to
9 the Inquiry, please.
10 **A.** Robert Samuel Swann.
11 **Q.** You ought to have before you two witness statements, one
12 of which you signed on 25 January 2023, and I think
13 which should run to some 93 pages; is that correct?
14 **A.** That's correct.
15 **Q.** And I think you've signed that on the final page; yes?
16 **A.** Yes.
17 **Q.** Are you content that that witness statement is true to
18 the best of your knowledge and belief?
19 **A.** I am.
20 **Q.** I think, Mr Swann, you then signed a second witness
21 statement on 19 March 2024; yes?
22 **A.** That's correct, yeah.
23 **Q.** Again, are you content that that witness statement is
24 true to the best of your knowledge and belief?
25 **A.** I am.

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1 I think it's right that you are health minister once
2 again, power-sharing arrangements having resumed quite
3 recently?
4 **A.** That's correct, yeah.
5 **Q.** Just turning then to the role of health minister in
6 Northern Ireland, it is correct, isn't it, that it's
7 an extremely broad brief, covering, as it does, both
8 health and social care?
9 **A.** It does, that's -- I suppose that's the differential
10 from other jurisdictions as well, we have that combined
11 service.
12 **Q.** So again, we've asked other witnesses about that, but it
13 isn't just the provision of primary and secondary
14 healthcare, for example, it extends into the oversight
15 and responsibility of old people's homes or care homes
16 as well as the provision of ordinary adult social care
17 services and children's social care services as well?
18 **A.** That's correct, yes.
19 **Q.** The whole gamut.
20 The Inquiry has received an expert report from
21 Professors Gray and O'Connor, and part of it covers the
22 role of the health minister in Northern Ireland.
23 They've given evidence that, under the d'Hondt formula,
24 the health minister is ordinarily one of the positions
25 that comes near to the bottom of the list of ministerial

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1 **Q.** Mr Swann, I think it's right that you were first elected
2 to the Northern Ireland Assembly in 2011; is that right?
3 **A.** That's correct, yes.
4 **Q.** And you were re-elected in 2016, 2017 and 2022?
5 **A.** That's correct.
6 **Q.** And I think during your time as a member, you served as
7 the deputy chair or chair on a number of Assembly
8 committees, and that from April 2012 you served as the
9 Ulster Unionist chief whip until you became party leader
10 in April 2017; is that right?
11 **A.** That's correct, yes.
12 **Q.** I think it's also right that you resigned from that
13 position in November 2019, and then became the Minister
14 of Health from 11 January 2020 onwards; is that also
15 right?
16 **A.** Yes.
17 **Q.** I think it's right that you remained a minister until
18 27 October 2022?
19 **A.** Correct, yeah.
20 **Q.** And I think that it's right that that period of your
21 being a minister ended whenever the power-sharing
22 arrangements once again collapsed --
23 **A.** That's correct, yes.
24 **Q.** -- in 2022, so you were more or less in position for the
25 entire period that the Inquiry's considering.

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1 positions that parties want to take; is that right?
2 **A.** That would be correct, apart from my own party.
3 My Lady, the Ulster Unionist party has selected health
4 when it had the option to do that. It would have had
5 the option to select other departments, even in 2011
6 when we did come back. Even when we restored again at
7 the start of this year there were other departments that
8 could have been available from my party to select, but
9 we selected health because we do believe it is
10 an important department, we do believe we can deliver
11 for the people of Northern Ireland and it's what we
12 actually want to do, my Lady.
13 **Q.** All right. So not a popular department in terms of
14 other parties, but nonetheless a crucial one in
15 Northern Ireland?
16 **A.** I think it would be fair to say it would be one that
17 would be avoided by other parties, as we've seen through
18 the runs of d'Hondt in previous elections.
19 **Q.** All right. I am going come in a moment, if I may, to
20 some of the challenges involved in running the
21 department. I wanted to ask you, though, just by way of
22 general introduction, a bit about the Ministerial Code
23 in Northern Ireland. We haven't taken anyone to this,
24 we have it on screen.
25 It's INQ000262764, and I was just going to start at

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1 page 5, if I may.
 2 I think we can see, if we -- sorry, that's just
 3 to -- I'm sure you're familiar with it, Mr Swann. If we
 4 could go, please, to paragraph 1.4, this is the pledge
 5 of office that ministers take. I'm not going to go
 6 through all of it, Mr Swann, but ministers pledge:
 7 "(a) to discharge in good faith all the duties of
 8 office ..."
 9 Correct?
 10 **A.** Correct, yeah.
 11 **Q.** Then we see at (c):
 12 "to serve all the people of Northern Ireland
 13 equally, and to act in accordance with the general
 14 obligations on government to promote equality and
 15 prevent discrimination ..."
 16 And then:
 17 "(ca) to promote the interests of the whole
 18 community represented in the Northern Ireland Assembly
 19 towards the goal of a shared future ..."
 20 **A.** That's correct, yes.
 21 **Q.** If we go to page 9, please, and paragraph 2.3, I just
 22 wanted to introduce through you, Mr Swann, the functions
 23 of the Executive Committee, and I think that it's right
 24 that this provides guidance, and I should say it's
 25 statutory guidance of course, as to what the role of the

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1 **A.** -- it's actually about the rigidity, what is
 2 cross-cutting but also requires prioritisation and
 3 a common purpose.
 4 **Q.** Yes, I was going to come to that.
 5 And perhaps if we could just bring that up.
 6 Thank you.
 7 So, yes, so it is expressed as a duty, first of all,
 8 to bring to the committee anything that cuts across the
 9 responsibilities of two or more ministers, requires
 10 agreement on prioritisation, and requires the adoption
 11 of a common position; yes?
 12 **A.** That's correct, yeah.
 13 **Q.** And again, I think it must be right, Mr Swann, that
 14 during the pandemic that was -- those were the
 15 principles upon which you brought matters related to the
 16 response of the pandemic to the Executive Committee?
 17 **A.** Very much so, my Lady. It was actually that
 18 paragraph 2.4 which was my core thrust, my driver to
 19 actually anything that I was doing in regards to
 20 decisions being made that would have affected not --
 21 outside of health but the continent and the people of
 22 Northern Ireland because any of those decisions and
 23 regulations, the recommendations that we were making as
 24 Department of Health to the whole Executive were having
 25 a wide range or would have a wide-ranging impact, and

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1 Executive Committee is; is that right?
 2 **A.** That's correct, yes.
 3 **Q.** We see that it provides a forum for, at (i), the
 4 discussion and agreement on issues which cut across the
 5 responsibilities of two or more ministers; correct?
 6 **A.** That's correct, yes.
 7 **Q.** And, at (iv), to recommend a common position where
 8 necessary.
 9 **A.** Yes.
 10 **Q.** At (v), we've heard a bit about this, but agreement on
 11 budgets and the programme of government as well?
 12 **A.** That's correct, yes.
 13 **Q.** Thank you.
 14 If we could go over, please, to page 10, and then at
 15 (vi):
 16 "discussion of and agreement upon significant or
 17 controversial matters that are clearly outside the scope
 18 of the agreed programme [of government] ..."
 19 So is that a sort of catch-all provision for all of
 20 the things that fall outside the programme of
 21 government?
 22 **A.** I think it is, my Lady, as well paragraph 2.4 I think is
 23 particularly pertinent during the discussions as well,
 24 but moving -- maybe you're moving on to that --
 25 **Q.** I am.

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1 that's why I always felt that 2.4 was that -- that
 2 driving duty that I had was actually to bring everything
 3 that required that to the Executive for decision on
 4 discussion as well.
 5 **Q.** Just before we leave this, I think again (v) is probably
 6 quite important, because the duty extends to anything
 7 which is "significant or controversial"; yes?
 8 **A.** Yeah.
 9 **Q.** And perhaps "significant" is the more important of those
 10 in relation to the pandemic; would that be correct?
 11 **A.** Well, I would also say that "controversial", in regards
 12 to the fact that we were a five-party mandatory
 13 coalition just re-established after three years of there
 14 not being a government in Northern Ireland. So in
 15 regards to some of the decisions that I was making or
 16 the proposals I was making, they were controversial
 17 because we were -- unlike other voluntary coalitions
 18 that are established across these islands, we were
 19 an Executive that covered from the left to the right,
 20 from Nationalist, Unionist and other, from Socialist to
 21 Conservative, my Lady, so it was quite an eclectic mix
 22 of ministers. So what may have seemed or not seemed
 23 controversial to some was controversial to others, so
 24 that's why I think 2.4, and especially point (v), not
 25 just significant but also controversial, it was

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1 important to be running things to the Executive.
 2 **Q.** I think we'll come in the course of your evidence
 3 perhaps to examine some of the things that were more
 4 controversial perhaps than others, but just in terms of
 5 again, and I'm just asking you about the general
 6 position -- I think that can come down, thank you --
 7 the Inquiry has heard that although you occupied this
 8 central and pivotal position during the response to the
 9 pandemic, that you were the lone minister for your party
 10 on the Executive Committee. In general terms, can you
 11 explain whether that did impact upon your position or
 12 the way that it impacted upon your position?
 13 **A.** My Lady, I think in regards to that, it was
 14 a challenging position to be there as the sole
 15 Ulster Unionist minister and under even the
 16 reconstituted Executive I'm still the sole
 17 Ulster Unionist minister, so there are challenges that
 18 come with that position, but from a personal reflection
 19 I actually think entering the pandemic it was
 20 a strength, because, as has been already laid out in my
 21 political history, I didn't hold either a leadership
 22 position within my party at the point I took up
 23 minister, so I wasn't, I suppose, bound by the
 24 constraints of having to answer to party political
 25 pressures from outside, my other -- other Executive

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1 leadership positions also had to be conscious of what
 2 was going on elsewhere, which I felt I was unencumbered
 3 by that, as the structure of my party, the way we work,
 4 in regards to the autonomy that is actually given to
 5 some of our ministers, or given to our ministers.
 6 **Q.** We'll look at some specific examples, perhaps, you've
 7 characterised it as a strength, but did it also present
 8 challenges to your position that you had no colleagues
 9 on the committee?
 10 **A.** Well, it did in regards to, I had no party colleagues as
 11 well, but in my statement I actually refer that I felt
 12 well supported by my other Executive colleagues,
 13 especially in the early days, and now I've seen from
 14 other evidence and some statements as well that that may
 15 not have been the entire perception through the pandemic
 16 as well, but when it came to how I personally felt
 17 within, as an Ulster Unionist minister within the
 18 Executive, it was a lonely position at times, it was
 19 a challenging position at times, but I think it was one
 20 that I believed at the time that I did have the support
 21 of my other ministers -- ministerial colleagues in doing
 22 what we had to do.
 23 **Q.** All right. I'm going to come on, and I will take you
 24 through some of the material I think to which you've
 25 referred, but again, just focusing on some of the

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1 colleagues tend to hold party positions as well, but
 2 being the sole minister in there I think allowed me to
 3 step outside some of the constitutional challenges that
 4 faced the two larger parties, where at times they could
 5 have been seen to be more antagonistic or -- especially
 6 in regards to where they looked for, I suppose, their
 7 ultimate direction in regards to that. There were
 8 challenges, I think as has already been mentioned,
 9 whereas we had the tendency -- Sinn Féin did take a look
 10 and keep an eye on what was happening in the
 11 Republic of Ireland, and likewise the DUP were focused
 12 on what was happening in Westminster, whereas, being
 13 bound by neither of those, I believe I was able to take
 14 a direction which best suited the response in
 15 Northern Ireland.
 16 **Q.** Maybe we'll come on to this in a bit more detail in
 17 a little while, but did you perceive that your Executive
 18 colleagues who had, who held those sorts of positions
 19 were then under political pressure in terms of factors
 20 external to the Executive Committee or because of the
 21 positions that they held?
 22 **A.** My Lady, I do believe that in regards to other ministers
 23 coming from those bigger parties, those bigger groupings
 24 as well, had to look to party structures and party
 25 guidance. Other ministers holding actually party

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1 generalities, perhaps, to begin with, Ms Naomi Long, who
 2 was a minister during that period, has identified some
 3 of the difficulties that she perceived she and
 4 Minister Mallon faced at the time, they not having
 5 colleagues either, although obviously they were in
 6 a different position from you, because you were driving
 7 much of the response. But let me just put some of the
 8 points that she made to you, and ask you if you
 9 recognise them.

10 What she has said is, first of all, that she became
 11 concerned that there was sometimes a pre-negotiation
 12 between the First Minister, the deputy First Minister
 13 and you about the recommendations that would be put to
 14 the Executive Committee, so in other words that
 15 a pre-negotiation effectively conditioned what came
 16 before the Executive Committee.

17 Now, there may be good reasons if that was the case,
 18 but is that correct, was there a process of
 19 negotiation --

20 **A.** No, I wouldn't classify it as negotiation. I think, as
 21 elsewhere, in other jurisdictions, prior to -- I think
 22 it was actually June when the Executive Office picked up
 23 the responsibility of bringing papers to the Executive
 24 meetings in regards to recommendations there would have
 25 been pre-meetings where I would have engaged with the

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1 First and deputy First Minister in regards to what we
 2 thought was -- what was needed, what was going to be
 3 required for us, they drafted the paper then, because
 4 those recommendations came forward from June onwards,
 5 actually as an Executive paper, rather than a Department
 6 of Health paper.

7 **Q.** I'm just going to ask you to slow down perhaps a touch.

8 **A.** Apologies.

9 **Q.** So, sorry, I'm just going to -- I didn't want to
 10 interrupt you, but I could tell you were going a bit
 11 fast. Would you mind just repeating the final part of
 12 what you said.

13 **A.** No, sorry, it wasn't as much as a negotiation in regards
 14 to what was going to be presented in papers. From June
 15 onwards the recommendations coming to the Executive were
 16 Executive Office papers, so they had been brought
 17 forward by the First and deputy First Minister, so it
 18 was more of us having input and -- as to what those
 19 recommendations were. And I don't think that would have
 20 been any different from any other jurisdiction or
 21 government where health was actually feeding into
 22 government recommendations.

23 **Q.** I think what this goes to, and I'll take you to some
 24 other points that she made, I think perhaps overall
 25 a sense of, perhaps, a lack of control over what it was

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1 the Executive meeting.

2 **Q.** Can I just explore that a bit more with you. Do you
 3 mean that colleagues would leak it to the press because
 4 they wanted effectively to whip up a narrative in the
 5 media about it, to put ministers under pressure once
 6 they were in the Executive Committee?

7 **A.** Very much so, but, you know -- and again, that's where
 8 I expressed my frustration, and I often expressed it at
 9 Executive meetings, because what could have been robust
 10 meetings confidentially had around an Executive table,
 11 likewise they were having across other governments as
 12 well, where we could have come to a joint united
 13 position and actually presented that to the media,
 14 people were already being driven into sides or silos,
 15 or -- in support of their stakeholders or in their
 16 department responsibilities prior to being able to
 17 either have the wider conversation or actually receive
 18 the presentations or the evidence that was maybe coming
 19 from the CMO or the CSA as to why those decisions were
 20 actually being asked for or actually recommended.

21 **Q.** The Inquiry has also seen that not only were papers
 22 leaked or options leaked to the media but often it
 23 seems, perhaps it's not often, you will know and be able
 24 to tell the Inquiry, but meetings were being leaked
 25 whilst they were going on as well. Is that correct?

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1 that the Executive Committee was being asked to sign off
 2 on, but if I could just take you through some of the
 3 points that she made sequentially. I think first of all
 4 she said that she would regularly hear via the media the
 5 options that would be coming to the Executive for
 6 decision. Again, is that something that you were
 7 conscious of at the time, that that was being, I assume,
 8 leaked in advance of the meeting?

9 **A.** My Lady, I think it was one of my largest frustrations,
 10 in regards to how Executive papers were handled, how
 11 they were leaked, when they were leaked, because I often
 12 felt that it was actually deliberate, in regards to
 13 either conditioning what -- the conversation that was
 14 going to be had at the Executive, and also to bring
 15 stakeholders -- you know, when those papers were
 16 presented or shared through Executive colleagues, often
 17 late, on the night before, that they were already with
 18 the media before the Executive had been -- had actually
 19 met to discuss them. So there was already a narrative
 20 established and public discourse established in the
 21 media to either support or mostly undermine
 22 recommendations that were actually coming to the
 23 Executive. So before those conversations could be had,
 24 those decisions could be made across the five parties,
 25 there was already pre-conceived positioning going into

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1 **A.** That is correct, and again, as I've expressed my
 2 frustration, frustration was also expressed greatly
 3 around the Executive table as well, that at times there
 4 was almost a live feed coming from the Executive,
 5 especially when it came to those more -- challenging
 6 those more robust decisions that would have to be taken,
 7 that it was actually being portrayed live time on
 8 Twitter in regards to who had said what, who was saying
 9 what as well. So not only was there political or
 10 stakeholder pressure being put on that as well, it was
 11 also being clearly portrayed by some about personal
 12 positions being taken, who was saying what.

13 So it left it extremely challenging, I think at
 14 times, for some ministers to be clearly open or even
 15 step outside the bounds of what would have been their
 16 own party position, because there was that perception if
 17 they said too much or strayed too far, that it was
 18 already going to be received and portrayed in the media
 19 as well.

20 **LADY HALLETT:** Did anybody think to ban the use of personal
 21 devices during Executive meetings?

22 **A.** My Lady, there was all sorts of attempts made but the
 23 fact that our Executive meetings were being held
 24 remotely by Zoom there was challenges as well --

25 **LADY HALLETT:** Of course.

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1 A. -- about who actually was behind the screen, there were
2 recommendations made by the head of Civil Service at one
3 stage even that while ministers were on they should have
4 their cameras at some time -- all times, not just when
5 they were speaking as well so they could be seen. So it
6 was a very challenging time as well in regards to how we
7 managed that, but that frustration of leaks and actually
8 pre-perceiving or pre-trying to diagnose where
9 an Executive would go or take a decision was hardly --
10 highly challenging for all of us.

11 **MS DOBBIN:** I think it might be thought, Mr Swann, that that
12 need for confidentiality is so important that, first of
13 all, ministers would all appreciate and understand the
14 importance of that to them as individuals, and that that
15 need -- the collective responsibility to provide
16 confidentiality to each other, that, you know, serious
17 questions would be asked and raised about this ongoing
18 leading, but it just seems to have been tolerated.

19 A. I do recall and I referenced it in my statement there
20 was one attempt at a leak inquiry that was undertaken by
21 the then permanent secretary at the Department of
22 Finance, there was questions put out, but there was
23 never, that I can recall, a finding that actually came
24 from that enquiry as well. It became a frustration but
25 I also believe at one point it was so endemic that it

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1 different or the perception of pressure could be
2 different.

3 A. There was pressure -- I think there was pressures on us
4 all in regards to coming forward with those
5 recommendations or following them as well, but to
6 perceive that anyone round that table, and my Lady,
7 you've met some of our Executive ministers already
8 through this Inquiry, I can assure you I've never found
9 any of them shrinking violets, or without personality or
10 strength that wouldn't make their own opinions or
11 decisions known, that it was simply a rubber-stamping
12 exercise, and I think when I reflect, you know, on that,
13 those hand-transcribed notes, and that was actually
14 something I didn't know was actually taking place when
15 I was a minister in the Executive, when you see them
16 going on to 30, 40 pages Executive meetings that lasted
17 four, five, six hours, I don't think it could be
18 perceived as simply a paper being presented,
19 rubber stamped and we moved on to the next item. There
20 was robust decisions around the Executive table in any
21 of the recommendations that were being brought forward.

22 Q. All right. I think we might examine some of those --
23 I suppose the decisions that were taken or positions
24 that were adopted in a bit more detail. Again, just
25 staying on the general position, if we may, and moving

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1 became tolerated rather than challenged in regards to
2 what was actually happening.

3 Q. I'm going to move on to the next point, if, if I may,
4 that Ms Long made. She said that at times she felt as
5 though decisions had already been taken by the point
6 that her input was sought and that she was
7 rubber stamping discussions that others had had but
8 expected to take full responsibility for them.

9 Again, is that something you recognise or perhaps
10 understand may have been the perception on the part of
11 other ministers?

12 A. I could see where that may have been a perception, but
13 having worked with Ms Long and the Executive prior to
14 this, I don't ever think she could be characterised as
15 someone who would simply rubber stamp something that she
16 didn't agree with. In regards to that she would make
17 her position known, she would make her objections known
18 in regards to that, but I don't think she would be
19 simply one who would accept something because that was
20 the paper that came forward without challenging it
21 herself.

22 Q. In ordinary times I suppose that might be the case but
23 in the context of a pandemic where ministers might feel
24 under enormous pressure to provide agreement quickly,
25 for example, one might see that the perception could be

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1 on to the impact that the absence of power-sharing had
2 had between 2017 and 2020 on the response to the
3 pandemic, so not preparedness, whether or not it
4 continued to impact thereafter. You said on
5 13 April 2021 that:

6 "The pre-existing fragilities in our system also
7 undoubtedly hampered our response to the pandemic. They
8 also underline the particular need for caution in
9 Northern Ireland, as we emerge from lockdown."

10 And that was a statement, I think, that you made to
11 the Assembly, if I remember correctly.

12 So you do appear to have been saying there that the
13 response was conditioned by the state that health
14 services perhaps had been left in. Is that correct?

15 A. That's correct, very much so. When I came into office
16 in 2011, after those three years of not having
17 an Executive, not having a minister, my Lady, were
18 actually -- at that point we were -- industrial action,
19 our nurses were on strike, the first time the Royal
20 College of Nursing had ever taken industrial action.
21 This is before anything we've seen across the rest of
22 the UK.

23 So my key challenge and the Executive's key
24 challenge was actually ending that industrial dispute on
25 the return of the Executive. That had broken down,

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1 I think, relationships across health and social care.
 2 But it also had a dramatic effect on the morale of our
 3 health staff and our health workers in regards to what
 4 needed to be done then. So we did find our health
 5 service workers in a very fragile, undervalued state.
 6 I think that there's -- what I tried to do when I came
 7 in as minister was actually to re-engage with them and
 8 build up that and show that not only did I appreciate
 9 what they were doing but Northern Ireland appreciated
 10 it, but the Executive did as well. And I think we
 11 managed to restore that.

12 Also, in regards to the fragility of our health
 13 service, we did three years of single non-recurrent
 14 budgets, where civil servants who were in charge at that
 15 stage weren't able to take those large-scale strategic
 16 decisions, again because of a single-year budget,
 17 non-recurrent, which didn't allow the change to be made
 18 that we needed to be made.

19 So in regards where we actually came during the
 20 pandemic, where there was recommendations to have green
 21 site hospitals, where hospitals could actually continue
 22 to deliver day case procedures, cancer treatments, part
 23 of the reviews that we've now been able to undertake --
 24 you know, the creation of day case procedure units,
 25 overnight stay units, post-aesthetic care units, which

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1 Part of the agreement that brought the Executive
 2 back in January 2011, and, my Lady, *New Decade, New*
 3 *Approach*, which was negotiated or presented by the Irish
 4 and British governments, was actually one of the targets
 5 and it was actually another 900 nursing training places
 6 over three years. So that was a clear indication that
 7 during 2017/2020, that we had under-recruited, we'd
 8 under-trained, to a point that our health service
 9 actually needed that further injection of additional
 10 training places. So there was an indication of that
 11 need.

12 So the fragility just wasn't how we were able to
 13 react there, it was about that lack of investment in our
 14 core service, that lack of investment in our healthcare
 15 workers. And that had been ten years in the making,
 16 my Lady, it just wasn't overnight.

17 **Q.** All right. Now, obviously we've focused on healthcare
 18 services. When you made that speech, when you addressed
 19 the Assembly, you talked about the "system". Were you
 20 also talking about social care as well or were you
 21 focusing on health, or do the same considerations apply
 22 as regards --

23 **A.** It was the same considerations, and I also at one point,
 24 in regards to -- I think it was when I addressed one of
 25 the health committees at one point, I actually referred

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1 have all been developed now, I believe, and this is
 2 a personal belief, that we've -- if we had had
 3 a minister in place through those 2017/2020, and the
 4 strategic direction, the funding that we'd had, we could
 5 have had some of those opportunities, those
 6 transformational pieces of healthcare actually in place,
 7 so that when it came to the steps that we needed to take
 8 during lockdown, we could have had some green site
 9 hospitals already established in Northern Ireland where
 10 we could have designated those for the procedures that
 11 we needed to do, that were normal red flag emergency
 12 procedures, while designating other hospitals to be
 13 Covid centres and the rest of that. We didn't have the
 14 opportunity to do that in that period between 2017 and
 15 2020 so there was a lot of opportunity lost.

16 **Q.** So is, in effect, what you're saying, it was that the
 17 impact was really on the services, for example, that you
 18 had to cancel during the pandemic because you didn't
 19 have sufficient capacity within hospitals and other care
 20 in order to be able to do both --

21 **A.** It was actually in regards to the overall resilience of
 22 health and social care, not just in the structures and
 23 where we could carry out certain procedures, and those
 24 transformational pieces not having been made, but also
 25 the resilience of our staff.

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1 to social care and our domiciliary care as our
 2 Cinderella service. It was -- it had been one that
 3 I believe had been undervalued, underrepresented in
 4 regards to the finance, the input and the support,
 5 especially of the key workers in it as well, because,
 6 my Lady, it's a workforce that isn't as unionised as our
 7 other recommendations as well -- or our other health
 8 facilities or other health services as well. So it was,
 9 I believe, and I still do, one of the -- again, moving
 10 forward, one of the things when I came back in as
 11 minister again was actually to put an injection of
 12 £70 million this time into our social care services to
 13 make sure that we could bring those workers up to
 14 a living wage level as well.

15 So this was about steps that should have been taken,
 16 could have been taken, had we had ministers in place at
 17 2017/2020 or even still in the past two years as well.

18 **Q.** Northern Ireland obviously has an integrated health and
 19 social care system as well. The Bengoa report in 2016
 20 had effectively said that that integration was illusory,
 21 that it didn't really amount to much in practice or the
 22 benefits of it weren't seen in practice. Is that
 23 something that you agree with?

24 **A.** I think that when Bengoa actually set that out, there
 25 was a transformational piece (inaudible) workstream

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1 (inaudible) review of our social care workforce in
2 regards to how we could actually strengthen it. It
3 hasn't. The reform of adult social care was actually
4 something I launched prior to leaving in 2022 in regards
5 to how that could be changed, how it could be
6 strengthened, and it was part of the driver as to where
7 that £70 million actually came at the start of this
8 year.

9 In regards to some of the recommendations that were
10 made coming out or coming through the pandemic, there
11 was actually the establishment of a social care
12 collaborative forum where we were bringing together
13 providers and the trade unions and other workers as well
14 so we could make sure that those -- that section of our
15 healthcare service could be supported.

16 The Bengoa I think highlighted the issue that
17 I think many recognised, and when I referred to our
18 social care workers -- our social care service as that
19 Cinderella service, that was the perception I got when
20 I came in as minister in 2021 in regards to what work
21 needed to be done, really, to boost that.

22 Because, my Lady, with the benefit of having
23 a social care or an integrated system, one of the
24 strengths that I believe, if we truly empowered and
25 enforced it, is when we look at that flow of patients

25

1 actually to look where people -- and actually some --
2 actually a large cohort of retired nurses came back into
3 the workforce appeal and were actually laying -- put
4 into care homes who were struggling to staff as well.

5 It also enabled us to get our care homes as part of
6 the PPE supply chain a lot, I think, quicker than other
7 areas. Not entirely in regards to the quantum that we
8 currently had, but also to make those delivery stream
9 lines -- or those delivery processes a lot easier and
10 a lot more streamlined.

11 It also, I think, allowed us to be more agile in
12 regards to especially when it came to vaccinations and
13 the vaccination scheme. We were the first part of the
14 United Kingdom able to get vaccines into care homes, we
15 did that on the first day, as well as delivering to the
16 general public as well. So that interconnectedness,
17 although not perfect, I think also strengthened what we
18 were able to do.

19 **Q.** All right, I think care homes is a separate topic that
20 I'll come back and ask you about. So some benefits
21 there of integration, but again, in terms of the
22 condition of health and social care services in
23 January 2020, how is it best to characterise those? Is
24 saying that they were extremely precarious or fragile
25 putting it too high, or how would you characterise it?

27

1 through the entirety of our health service -- the
2 pressure that we see in our emergency departments
3 currently is because we can't move patients quickly
4 enough on to a hospital ward, we can't move patients on
5 to a hospital ward because we can't move those patients
6 who are in a hospital ward quickly enough out either to
7 be supported by a domiciliary care package or into
8 a care home as well. So it's about that integration
9 that I actually think is a strength to our system, if it
10 worked well, was properly supported.

11 **Q.** I think, just coming back to January 2020 and the
12 overall state of the system in Northern Ireland, is the
13 Inquiry correct to proceed on the basis that the
14 supposedly integrated approach in Northern Ireland
15 didn't really afford any benefit at that stage?

16 **A.** Actually, there was benefits in regards to how we could
17 actually utilise -- you know, we saw pressures on
18 workforce, especially in domiciliary care homes, and
19 I think because of the interconnected -- between trusts
20 and care homes, we were actually able to see where
21 nursing and healthcare workers would actually be able
22 to -- re-purposed from our secondary care, from
23 hospitals, actually, into care homes, to make sure they
24 were properly staffed and supported as well.

25 So when we put out our workforce appeal, it was
26

1 **A.** I don't think that puts it too high at all, I think it
2 was a service that was fragile, it was undervalued, had
3 been under-supported, and it needed the recognition of
4 an Executive actually saying health was a priority that
5 not only we were going to invest in but we were going to
6 see as a strategic response to what we needed to do
7 across Northern Ireland.

8 So we came back in 20 -- and this was even
9 pre-pandemic, there was a focus on our health service in
10 its entirety to bring it up to standard as where it had
11 been neglected.

12 **Q.** All right. I'm going to -- sorry, I thought you were
13 going to ask something, my Lady.

14 **LADY HALLETT:** No, no.

15 **MS DOBBIN:** I'm going to move on, if I may, Mr Swann to
16 a different but related topic, I'm not going to take you
17 to these documents because I don't think you saw them at
18 the time, but if you do want to see them I can bring
19 them up on screen. You've addressed them in your
20 witness statement, so these are not new documents, but
21 the Inquiry knows that, for example, on 23 January 2020,
22 an official at the Executive Office provided
23 a submission to the TEO addressing a critical lack of
24 resources in the civil contingencies branch in
25 Northern Ireland.

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1 Now, first of all, were you aware at the time that
2 there were serious concerns or issues within civil
3 contingencies in Northern Ireland about lack of resource
4 or capability?
5 **A.** I wasn't, my Lady, in regards just to the -- I suppose,
6 the extent as to what was actually -- the challenging
7 point at that stage as well, in regards to it, I don't
8 know what document you are referring to in regards to
9 that but there are other documents before we move on
10 that I would like to refer to in regards to that.
11 **Q.** All right. I will ask you about those. I just want to
12 focus on three quite important ones, first of all, to
13 ask if you were aware of them. The other was a futures
14 report that had been written in autumn 2019 that made
15 85 separate recommendations about civil contingencies
16 capability in Northern Ireland. Do you recall whether
17 or not you were made aware of that whenever you took up
18 office?
19 **A.** That's not a document was ever brought to my attention,
20 and I suppose to acknowledge, as well, that civil
21 contingencies, that branch CCPB(NI) actually sits within
22 the Executive Office not within the Department of
23 Health, so even in the first day brief I don't think it
24 would have been something that would have been brought
25 to my attention.

29

1 if I do have your permission, in regards to the
2 documents that have been presented as well, there was
3 also an exchange that has come to light in regards on
4 4 March, I can give a reference number if that's ...
5 **Q.** Well, if you --
6 **A.** -- useful.
7 **Q.** -- perhaps explain what it is that the exchange is that
8 you're referring to.
9 **A.** It's an exchange between Bernie Rooney to Chris Stewart
10 and then picked up by the head of the Civil Service.
11 It's where myself and the Chief Medical Officer actually
12 visit -- follow up in regards to what should have been
13 the hub, where -- the exchange goes:
14 "Minister Swann and Dr McBride called in to brief me
15 post COBR. They are going to contact David Sterling to
16 request ramping up the [Northern Ireland] hub to support
17 the Executive!"
18 A response then from David Sterling to
19 Chris Stewart, and this was on 4 March, noted:
20 "Thanks. We'll have to be smart about how we
21 respond to this. A flat note to DoH will likely get
22 back to FM and dFM and will be received badly."
23 **Q.** Yes.
24 **A.** So it's not only at that stage, my Lady, in my remit,
25 it's when I was out -- when myself and the Chief Medical

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1 **Q.** All right, and the other document that I wanted to ask
2 you whether you were aware of is a paper that was sent
3 to the TEO departmental board in February 2020 that set
4 out to the board that civil contingencies arrangements
5 in Northern Ireland hadn't been reviewed for 20 years,
6 and wanted to commission the review to ensure that
7 effective arrangements were in place to enable the
8 Executive to support wider citizens and wider society in
9 the event of an unforeseen emergency event or situation.
10 **A.** I wasn't aware at the time. I am now, through papers
11 that have been provided to the Inquiry.
12 **Q.** All right.
13 In terms of, and we will see obviously that the
14 Department of Health became the lead department very
15 quickly in Northern Ireland in response to the pandemic,
16 it might be thought surprising that you weren't aware or
17 didn't know that there were those concerns about the
18 overarching infrastructure of civil contingencies in
19 Northern Ireland?
20 **A.** My Lady, having read this, I suppose as a Minister of
21 Health, I always expected those processes, those parts
22 to be in place, they were outside or outwith my remit,
23 so there are some, I suppose, worrying and startling
24 facts that have been presented now to me in regards to
25 what was actually the practicality and I think, my Lady,

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1 Officer visited. Now, this is the start of March that
2 there was also an indication that they knew that they
3 weren't match ready at that point, but they were more
4 concerned about actually telling us that they weren't
5 ready, not that they needed to do something, but that
6 concern would actually get back to FM and dFM.
7 **Q.** All right. You've jumped quite a long way ahead.
8 **A.** Apologies.
9 **Q.** Because I was going to come back and ask you about that.
10 The Chair knows the email to which you were referring,
11 because it was put to Sir David Sterling, and I was
12 going to ask you about that and about the point in time
13 when you started perhaps communicating to colleagues
14 that there was a need for a broader stand-up, but I want
15 to go through the picture that was building before then
16 so that we can put that in context. So I will come back
17 to it, but if we could maybe take it steadily through
18 the chronology until we get there.
19 In fact I wanted to start, then, with what I think
20 is probably the point in time at which you raised
21 Covid-19 to your officials to ask them about it, because
22 I think -- it would appear you raised it before anybody
23 raised it with you. But perhaps if I show you that, and
24 I can ask you about it.
25 It's INQ000425549, and it's page 4, the last email

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1 in the chain. So I think this is 22 January, and it
2 would seem that you're the person asking your officials
3 if they could brief you about Covid-19. And I think,
4 then, "Coronavirus" -- if we could scroll up, please, to
5 the reply. Just slightly up, please, and to the reply
6 above, please.

7 I think we can just see, so this is an email from
8 the Chief Medical Officer on 22 January, and I think
9 that his -- he, I think, refers to giving you an oral
10 briefing.

11 Then second paragraph says:

12 "I fully anticipate we are likely to see suspected
13 and/or confirmed cases in the UK and the
14 [Republic of Ireland] in coming weeks. Restrictions in
15 travel and flights from Wuhan may delay."

16 So, I mean, it would certainly appear from that
17 reply that he was proceeding on the basis that it wasn't
18 a question of if, but when, so there was no question
19 about it. Do you agree?

20 **A.** I agree, yeah.

21 **Q.** All right, thank you, that can come down.

22 I think that you then very quickly, and perhaps this
23 was why you were seeking a briefing, attended COBR on
24 24 January?

25 **A.** That's correct, yeah. That was the start, yeah.

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1 I was there along with them at other meetings as well,
2 whereas, you know, at those early stages it wasn't
3 about, I think, it solely had to be me. I think the
4 invitation initially came through to CCPB(NI) and the
5 Executive Office and HOCS in regards, and then it was
6 delegated to me to attend at that point.

7 **LADY HALLETT:** At that stage COBR was being chaired by the
8 Health Secretary --

9 **A.** Yes, Matt Hancock, yes.

10 **LADY HALLETT:** -- of the UK Government?

11 **A.** Yeah.

12 **MS DOBBIN:** If we just look, please, at the COBR notes,
13 INQ000056214.

14 If we just look at page 1 to orientate ourselves, we
15 can see that it's Friday 24 January, and at this stage
16 I think a few other ministers were attending alongside
17 and then other ministers were dialling in.

18 If we just scroll down a bit, please, and keep
19 scrolling down, please, I think we can see that the
20 first CRIP had been circulated as well, and the
21 escalation paper. Yes?

22 **A.** Yeah.

23 **Q.** And would you have read those papers beforehand,
24 Mr Swann, or would your officials have read them? How
25 did it work?

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1 **Q.** Perhaps if we could just have a look at what was
2 discussed that at that, but first, if I could ask you,
3 were you invited to attend COBR? How does it work in
4 Northern Ireland in terms of it involving you in those
5 kinds of bodies?

6 **A.** My Lady, again from my understanding from papers that
7 I've now received and read, the invitation came -- comes
8 through to or came through to the Executive Office,
9 there was an exchange then between, I'm not sure whether
10 the First and deputy First Minister were involved, but
11 there's definitely an exchange between the head of Civil
12 Service and my permanent secretary, who suggested
13 I would be the best minister to attend at that point.
14 So that was how the invitation was extended to me at
15 that point in regards to that first COBR meeting.

16 **Q.** That's really what -- I wanted to ask you about that,
17 whether or not it necessarily had to be you or
18 exclusively you or whether or not, for example, other
19 ministers could have attended alongside you?

20 **A.** I think other ministers could have attended, my Lady,
21 I think actually in my statement I say that I think in
22 hindsight it would have been useful that if the
23 invitation had have included the First and deputy First
24 Ministers, even from those early points as well. As we
25 worked our way through the pandemic it was often that

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1 **A.** They were shared with the Executive Office, CCPB and
2 then eventually through my own department as well, so
3 I would have had sight of them, yeah.

4 **Q.** All right. I think this is probably not controversial,
5 but I think that you were the only minister from
6 Northern Ireland in attendance, I think we can see that
7 if we just carry on scrolling up.

8 Thank you. We can see, I think, that those were
9 your counterparts in the other devolved administration.

10 Thank you. If we just scroll down, please, again,
11 I don't think at that stage anyone else attended; is
12 that right?

13 **A.** That's correct, yeah.

14 **Q.** It was just you?

15 **A.** It was just us.

16 **Q.** I won't go through the whole of this, but I don't
17 think -- well, it's certainly been said that it was
18 highly unusual for ministers from Northern Ireland to be
19 invited to attend COBR; is that right?

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

21 **Q.** And how much significance did you attach to the fact,
22 first of all, that COBR had been instituted and second
23 that you had been asked along with your counterparts to
24 attend?

25 **A.** At that point I didn't know it was unusual for

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1 Northern Ireland ministers not to attend especially when
 2 a COBR was called at that point. I've since found out
 3 that it was the fact that the Scottish and Welsh
 4 counterparts were there as well. I did find these,
 5 I suppose, they were challenging at that stage, my Lady,
 6 because this was pre-Zoom, pre-online virtual meetings,
 7 so we were dialled in, so it was very much, it almost
 8 felt like we were there as observers listening to what
 9 was actually going on, rather than actually being full
 10 participants as to what was actually happening round the
 11 table.

12 **Q.** The Inquiry has seen that the Northern Ireland civil
 13 contingencies central arrangements appear to foresee
 14 that they play a part in COBR so, in other words, that
 15 those arrangements feed into COBR and it might be
 16 thought therefore that they're an analogue to COBR in
 17 Northern Ireland. Did you have any understanding or had
 18 anyone briefed you at that stage about the civil
 19 contingencies arrangements in Northern Ireland? I mean,
 20 the overarching ones rather than Department of Health
 21 ones.

22 **A.** Not so much in regards to the overarching one, but I was
 23 aware that there was a CCPB(NI), a TEO official who was
 24 in attendance at these meetings. My assumption was that
 25 they were there from that section, from TEO, to make

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1 wasn't something that was front and centre of
 2 a first-day brief.

3 **Q.** Yes, I think that's really what I wanted to understand,
 4 whether or not it was any part of your initial,
 5 you know, that first period of time that you had in
 6 office, that you would get a briefing about civil
 7 contingencies?

8 **A.** Not to the extent of that. There is a part of my
 9 first-day brief that covers civil contingencies but not
 10 to the extent of overarching structures and how they
 11 interact with -- especially at COBR level.

12 **Q.** All right, and at this stage, coming towards the end of
 13 January, you hadn't been given that briefing?

14 **A.** Not at that point.

15 **Q.** All right. Again I'll come to deal with how, what
 16 happened as time moved on.

17 I mean, obviously we've seen from the 2016 protocol
 18 and also I know that there's an emergency response plan
 19 that sits within the Department of Health, and that both
 20 of those documents set out the concept of a lead
 21 department.

22 Was there actually any decision that health would be
 23 the lead department or was it just automatic because
 24 this was a pandemic, potential pandemic situation at
 25 that stage?

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1 sure there was a direct feed-in from what was happening
 2 in COBR -- because, as you say, that -- not direct
 3 analogy across from COBR --

4 **Q.** It's not.

5 **A.** -- and what was happening. But there was, I suppose,
 6 a synergy there.

7 **Q.** I don't think anyone from TEO was at that meeting,
 8 I think we see in due course that Ms Rooney starts to
 9 attend, but I think just going back to my question,
 10 I was asking you if you had any understanding at that
 11 time about those central arrangements or whether or not
 12 you would have been dependent, for example, on the TEO
 13 informing you about them or informing other ministers
 14 about them?

15 **A.** The structure, the invite, from my understanding from
 16 the beginning, actually came through TEO --

17 **Q.** Yes.

18 **A.** -- in regards to attending these. So that was the
 19 formal arrangement in regards to that.

20 **Q.** Again, just coming back to whether or not you did have
 21 any knowledge about the overarching civil contingencies
 22 arrangements, so, for example, the 26 protocol, is that
 23 something you would have known anything about?

24 **A.** Not at this initial point in regards to, only being in
 25 office a matter of days at that point as well, so it

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1 **A.** I think, and again from the documents, it is about
 2 health being the lead department for the health response
 3 in regards to a pandemic, so I think that structure was
 4 understood and that's where, you know, our emergency
 5 response plan kicked in at that point, so there's no
 6 designation and I don't think there is, you know, that
 7 the Department of Health would lead the Executive
 8 response because, my Lady, I think that would be highly
 9 challenging in Northern Ireland for that ability, for
 10 any health minister, never mind me as an Ulster Unionist
 11 health minister, to actually step into the likes of the
 12 Department of Economy and actually start to direct what
 13 should be happening there in regards to business
 14 supports.

15 So my reading, my belief, and in regards to my
 16 understanding is that health was the lead department for
 17 the health response in regards to the pandemic.

18 **Q.** All right. I think we will see that you were the lead
 19 department in terms of the 2016 protocol, in other words
 20 you were the lead department for the response to the
 21 pandemic. That doesn't mean that you tell other
 22 departments what to do, rather that you're generally
 23 leading the response. Do you agree?

24 **A.** Well, I think it's in regards to a lead department able
 25 to be -- are able to identify and manage the risks in

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1 the area of our responsibility. I don't think we would
 2 have had the expertise to step into other departments to
 3 say: these are the risks you need to be considering
 4 specifically in regards to taking it forward. So it's
 5 how that overarching piece actually works in regards to
 6 tying in a lead department, and I go back to our
 7 analogies in regards to Cabinet, you know, we're talking
 8 about COBR and NICCMA, if you look at where TEO, the
 9 Executive Office and the Cabinet Office actually sit,
 10 it's about that overarching co-ordination piece.

11 **Q.** I think I understand the point that you're making,
 12 Mr Swann, I also -- I think the Inquiry understands the
 13 point that you're making about your limited ability to
 14 tell other departments what to do, but I just want to be
 15 crystal clear about this, if I may. Do you accept that
 16 under the overarching, the central contingency
 17 arrangements for Northern Ireland, that the Department
 18 of Health was the lead department for the response to
 19 the pandemic?

20 **A.** In regards to as so far as what was in our capabilities
 21 and within our powers, but I do believe that the
 22 Executive, as I say, when it comes to I suppose that
 23 piece of -- that recommendation in 2016, it also says
 24 there can be more than one lead department in regards
 25 to --

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1 precludes other departments from also exercising their
 2 powers or discharging their responsibilities. The
 3 concept of a lead department foresees, I think, as it
 4 simply says, that that department will lead the response
 5 and obviously help inform the response across
 6 government. Again, do you take any issue with the fact
 7 that that's what the Department of Health's role --

8 **A.** I don't take any -- I don't take any challenge in
 9 regards to that, but what I'm -- I'm trying to identify
 10 what I perceived as our role and remit as lead
 11 department and what our responsibilities were, from my
 12 understanding at that point.

13 **Q.** Okay.

14 Just again coming back to the question of whether or
 15 not there was any sort of formal designation or a formal
 16 decision that the Department of Health is the lead
 17 department, under the 2016 protocol, was there ever any
 18 such decision or discussion?

19 **A.** Not that I'm aware of, and again I think in regards to
 20 the identification of a lead department, that's
 21 a requirement from the Executive Office as well, that
 22 they are to designate a lead department and that formal
 23 notification to me, a request to me, never was made.

24 **Q.** We'll look at some of the underlying material that's
 25 generated over time about this. Just again I'm just

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1 **Q.** Yes.

2 **A.** -- that response, to something as serious as the
 3 pandemic as well. So it becomes where the lead actually
 4 is taken and overall direction is given from in regards
 5 to how actually different departments interact and how
 6 different arm's length bodies interact to make sure we
 7 have a coordinated response.

8 **Q.** Forgive me, maybe I'm not asking the question clearly
 9 enough. Again, the Inquiry understands that other --
 10 there's not necessarily one lead department, there can
 11 be more than one lead department. But in terms of the
 12 central contingency arrangement and the provision made
 13 for a lead department, do you accept that the Department
 14 of Health was the lead department for the response to
 15 the pandemic?

16 **A.** And as I've said in regards to the lead department
 17 response for the health outcomes or the health responses
 18 to the pandemic, yes, and that's why I believe my
 19 officials, my permanent secretary were engaging with
 20 their counterparts as to alerting them of the
 21 seriousness of what was coming that we saw from a health
 22 point of view so they could put their responses into
 23 place as well, so that they could step up to be -- and
 24 take on their responsibilities and duties.

25 **Q.** Yes. I don't think that being the lead department

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1 dealing with the chronology and what happened after the
 2 COBR meeting. The Inquiry has seen, and it's been
 3 raised in, I think, the other modules under Module 2,
 4 the email that was sent from Professor Woolhouse to
 5 Scotland's Chief Medical Officer. Is that an email that
 6 you're familiar with?

7 **A.** It's not one I'm familiar with, apart from Sir Michael's
 8 evidence on --

9 **Q.** Okay. So that -- Professor Woolhouse had emailed
 10 Scotland's Chief Medical Officer in respect of the basic
 11 reproduction rate of Covid-19 as provided by WHO and the
 12 case fatality rate, and in his email he set out that if
 13 you put those numbers into an epidemiological model for
 14 Scotland, you would predict -- and he set out
 15 predictions about what would happen and went on to say
 16 that the health system would become completely
 17 overwhelmed, and he said that these were the ballpark
 18 numbers based on an information from WHO and that it
 19 wasn't a worst-case scenario. He went on to say that
 20 the worst-case scenario is considerably worse.

21 Were you aware from your Scottish counterparts that
 22 that ability to do that sort of modelling and forecast
 23 what might happen in Scotland was going on?

24 **A.** I wasn't, my Lady, in regards to that specific
 25 calculation, and I think it wasn't actually until later,

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1 I think probably mid-March, that those figures were
 2 actually put into a Northern Ireland population in
 3 regards to what it could actually mean.

4 **Q.** Again, we're probably jumping ahead in time, because I'm
 5 going to come to the provision of those figures to the
 6 Executive Office in March, but can you explain why, in
 7 Northern Ireland, similar exercises weren't going on, in
 8 so far as Scotland appears to have just been using the
 9 WHO central estimates and case fatality rate to generate
 10 these figures?

11 **A.** I'm not sure as to why, but I do know that -- well,
 12 I know from watching the evidence on Friday, that that
 13 evidence had been shared with Sir Michael in regards
 14 to --

15 **Q.** Yes.

16 **A.** -- case fatalities and that. There was never anything
 17 that -- that black and white calculation, as to an exact
 18 figure, that was ever presented to me at that point in
 19 time.

20 **Q.** Well, I was going to just ask you that, whether or not
 21 you were being advised at this time that these were the
 22 sorts of figures being provided to Scotland and
 23 potentially informing the Scottish response to the
 24 pandemic?

25 **A.** I think in regards to -- and again, looking back at

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1 **A.** So I am not saying that it hadn't been done elsewhere or
 2 presented elsewhere within my department.

3 **Q.** I think, Mr Swann, what I'm just focusing on is the
 4 advice that was being provided to you and whether it was
 5 being conveyed to you at this stage, and I will take it
 6 incrementally, but whether or not at this stage at the
 7 end of January you were being advised as to the
 8 potential, for example, in the way that your Scottish
 9 counterpart may have been advised about the potential,
 10 as I say, for health services to be overrun or for the
 11 sorts of strain that the health services in
 12 Northern Ireland might be put under --

13 **A.** I think there was an understanding that no matter what
 14 level of infection or pressure that Covid was going to
 15 bring, my Lady, that our health service was already
 16 under pressure, so anything additional had the potential
 17 to look at the collapse of some of our services. So
 18 there was a realisation that even at the lower figures
 19 that had been presented that this was going to have
 20 a significant -- and that's why we instigated -- sorry,
 21 as a department we instigated our emergency response
 22 plan pretty early on in regards to what we needed to be
 23 doing and standing up in regards to preparation for
 24 that, because we were aware that we had a particularly
 25 fragile health service.

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1 presentations that were given, I think by Dr Chada in
 2 regards to expected percentage infection rates to
 3 mortality, you know, early February it was expected, if
 4 my memory serves me right, in Dr Chada's presentations
 5 he was talking about -- there was talking -- I assume it
 6 came from World Health Organisation -- of a 40%
 7 infection rate with a 1% mortality, which changed
 8 I think towards the start of March where we were
 9 actually looking towards an 80% infection rate and a 1%
 10 mortality.

11 So there was -- I am aware of those changes in
 12 percentages in regards to infection rate,
 13 hospitalisation, but I'm not aware that anybody prior to
 14 March actually sat down and put that against as
 15 a calculation to the Northern Ireland population as to
 16 what that would actually mean, that I'm aware of.

17 **Q.** I mean, because we've obviously talked about the lack of
 18 modelling capability in Northern Ireland but it's not
 19 clear that that would require any modelling necessarily
 20 rather than a calculation --

21 **A.** No, I don't think that would require the modelling of
 22 any regards, but, as I say, and I need to be clear, not
 23 that was presented to me at that time in regards to
 24 that.

25 **Q.** Yes.

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1 **Q.** All right.

2 So would you say then from the end of January you
 3 were working on the basis that this was an eventuality,
 4 and again, that health services might be overrun,
 5 for example, that you were planning and working towards?

6 **A.** I would say not only that I was doing it but, you
 7 know -- and the Inquiry will be aware that our health
 8 service silver command had already been stood up on
 9 22 January, our emergency response plan. And gold,
 10 I think, then stood up about a week later in regards to
 11 that. So there was a level of preparation. And to
 12 stand up our gold command is a significant step to take,
 13 so there was a realisation across our service in regards
 14 to what was going to be necessary.

15 **Q.** Okay, I'm going to come back and ask you what was being
 16 done, but again, just focusing on this period of time,
 17 we've also seen an email, and I'm not going to bring it
 18 up because it wasn't an email sent to you but, again,
 19 it's just to ask about your general awareness at this
 20 point in time, that on 28 January the Chief Medical
 21 Officer for the United Kingdom, Professor Sir
 22 Chris Whitty, had sent an email to Downing Street
 23 effectively saying that there were two scenarios in
 24 play, one was that China would have a major outbreak but
 25 be able to control it, or the alternative was that the

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1 opposite, effectively, that China would have a major
2 outbreak and not be able to control it. So
3 a dichotomous situation.

4 Again, was that something that you were aware of at
5 the end of January?

6 **A.** I wasn't aware of the email that had been sent to
7 Number 10, but I was aware that, I think, we were
8 preparing for the second scenario and that's why at the
9 end of January we'd already instigated our -- Health and
10 Social Care had stepped up silver, we'd instigated our
11 emergency response plan in regards to that, but also
12 standing up gold. So I think we were preparing for that
13 worst-case scenario that China wasn't going to be able
14 to contain it.

15 **Q.** So at that point, if there was that appreciation, were
16 you being advised then as to the type of infrastructure
17 that would be required in order to respond to that
18 second scenario? So, for example, the sorts of
19 surveillance that might be required in health services,
20 what capacity for testing there was, what capacity for
21 tracing there was?

22 **A.** Not to that level of detail at that point, but I was
23 aware that there were -- surge plans had been
24 instigated. So, having stood up health gold, I'm now
25 aware that Sir Michael, as chair of gold, had already

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1 other departmental officials as well, across all
2 departments.

3 **Q.** You're referring to the meetings that Mr Pengelly would
4 have with his counterparts --

5 **A.** Yeah.

6 **Q.** -- I think on a weekly basis?

7 **A.** Yeah.

8 **Q.** Okay. I'll ask you, we've also seen some of those, and
9 I'll ask you about, perhaps, the message that was being
10 conveyed at that time.

11 Just before we move on, then, you've obviously
12 mentioned the silver response and the Inquiry knows that
13 that involved the PHA, and I think the health boards as
14 well; is that correct?

15 **A.** Yeah.

16 **Q.** Were you aware then that issues had been raised about
17 the capability of the PHA to fulfil its statutory duties
18 from 2017 onwards?

19 **A.** Not from 2017 onwards. I am aware, you know -- and
20 again, through correspondence that has been shared by
21 the Inquiry with me last night -- in regards to
22 challenges of the PHA that were actually there in
23 regards to where they seen. I think from the
24 correspondence that I've seen that they were giving the
25 reassurance again to Sir Michael, as chair of gold, as

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1 instigated and started those conversations across Health
2 and Social Care Board, Public Health Agency, BS -- our
3 business service organisations, to make sure that all
4 those parts were aware of their responsibilities but
5 also the challenges that some of them may face in
6 certain areas.

7 **Q.** All right. I'm going to go to a bit of correspondence
8 about the surge plans when we come to it
9 chronologically.

10 Again, if that, if there had been that
11 crystallisation, as it were, at the end of January, did
12 you speak then to the First Minister and the deputy
13 First Minister about that to make them aware that that
14 was the position or the view that had been taken in the
15 Department of Health, in other words that you clearly
16 regarded the situation as very serious and were planning
17 accordingly?

18 **A.** I reported to the Executive meetings as to the steps
19 that we were taking in regards to health and where
20 the -- where Covid actually was in regards to case
21 numbers across the UK as well, but that was also being
22 reinforced, and, my belief, not just at my level, at
23 a ministerial level, but also in regards to the
24 engagement that my permanent secretary was having with
25 permanent secretary groups in regards to the briefing of

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1 to what steps they were going to take to make sure that
2 they were ready for what they were being required to do.

3 **Q.** Again, I'm just going to focus on what you knew at that
4 time and the question was whether -- and I think maybe
5 the answer is no -- you knew that there might be quite
6 serious question marks over the PHA's capabilities --

7 **A.** I wasn't, at that particular point.

8 **Q.** All right.

9 So again, just taking this chronologically, you
10 attended COBR, I think the next meeting was on
11 20 January, a relatively short time later.

12 And perhaps if we just go to the minutes of that,
13 that's at INQ000056226.

14 Again, just briefly at page 1, I think there's now
15 a much longer, a much greater body of ministers in
16 attendance.

17 If we go, please, to page 3, I think we see that
18 from Northern Ireland the Chief Medical Officer is
19 there, and I think it's right that Ms Rooney was also
20 there.

21 If we could just look at paragraph 1, please.

22 So I think here it's being conveyed that there was
23 human-to-human transmission and that it was certainly in
24 Germany. I think if we could just go down, please, to
25 paragraph 3, so again I think the mention there of the

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1 sort of dichotomous eventualities; yes?

2 **A.** Yeah.

3 **Q.** Then, at paragraph 6, please, that government should
4 prepare for the reasonable worst-case scenario, and that
5 there should be a ministerial tabletop exercise in the
6 following fortnight.

7 Again, we'll come back and deal with that exercise,
8 but again, were you clear -- thank you, that can come
9 down -- or did you understand the message being conveyed
10 by government at that time to be a reinforcement of that
11 message that the situation was becoming ever more
12 serious?

13 **A.** It was, in regards to, you know, you talk about the
14 dichotomy there, and if you go back to that paragraph,
15 you know, it says it will take weeks or months, prior to
16 that.

17 **Q.** Yes.

18 **A.** So there was that, I think it's been described as that
19 rising tide awareness of what was potentially going to
20 happen.

21 **Q.** All right, but I think going back to my question whether
22 or not you regarded that as a reinforcement of the
23 message that this was becoming increasingly serious?

24 **A.** And it was, but it's still going back to, as you
25 presented, that dichotomy as to what the two scenarios

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1 same information that I have because at that point
2 I didn't know of the structures of papers or the flow of
3 papers that they were actually coming through the
4 Executive Office.

5 **Q.** I think in fact the first meeting of the Executive
6 Committee was on 2 February, so I don't think there had
7 been a meeting by that stage. But I suppose, just
8 putting aside the question of briefing, in terms of the
9 relationship that you had with the First Minister and
10 the deputy First Minister, was it the sort of
11 relationship where you would go and informally speak to
12 them about things like this, or was there a greater
13 formality to communications with them and your
14 relationship with them?

15 **A.** At that point in time there would have been a greater
16 formality, because again, you know, it's 29 January, we
17 were only re-established as an Executive a few weeks
18 prior to that, so there wasn't the interaction that we
19 later developed, and again that's why I was able to say,
20 my Lady, that I thought I had good support from the
21 First and deputy First Minister, because we had that,
22 I believed, that relationship where there was an open
23 exchange of views and conversations.

24 **Q.** All right.

25 So again just coming back then to the chronology and

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1 were, that it would be contained in China or not
2 contained in China and I think at that point there's
3 a realisation or an acceptance that it's no longer going
4 to be contained in China because the minutes already
5 indicate that there was four cases in Germany.

6 **Q.** I think that after this meeting, and again we've seen
7 internal email correspondence about this, that you asked
8 if the First Minister and the deputy First Minister had
9 been briefed, and just coming back to that, I don't
10 think we've seen any briefings to the ministers before
11 then. Would that tend to suggest that you hadn't spoken
12 to the deputy First Minister and the First Minister
13 about Covid by that stage?

14 **A.** No, I think, sorry, the date of that --

15 **Q.** That's 29 January.

16 **A.** Well, I'd already -- we'd already, I think, raised it at
17 an Executive meeting, in regards to that, in general
18 conversations, I think it would be part of a general
19 conversation that I would have had, and they would have
20 been aware of what other steps were being taken.

21 I think my point in raising that was, are the FM and dFM
22 being briefed --

23 **Q.** Yes.

24 **A.** -- is the fact that are they receiving -- it was more
25 a question from my point of view, are they receiving the

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1 why at that particular time you thought that they should
2 be or were asking had they been briefed, again can we
3 take it that that's because of the increasing
4 understanding that this would require for a significant
5 scale of response from government in Northern Ireland?

6 **A.** Very much so, but also, I suppose, the question I was
7 asking at that point is to make sure that I was
8 satisfied myself that they were receiving the same
9 information coming out of those COBR meetings.

10 **MS DOBBIN:** All. Right. We'll go back to that.

11 My Lady, I think it's time for a break.

12 **LADY HALLETT:** Certainly. We shall break until 11.30.

13 I hope you were warned, Mr Swann, about breaks, I'm
14 afraid it's a long day for you but we will complete you
15 today, I promise.

16 **THE WITNESS:** Thank you.

17 (11.14 am)

(A short break)

18
19 (11.30 am)

20 **LADY HALLETT:** Ms Dobbin.

21 **MS DOBBIN:** Thank you, my Lady.

22 So, Mr Swann, I think before that short adjournment
23 we had just gotten to about the end of January 2020, and
24 we've gone through what your state of understanding was
25 by that point and I think we're probably agreed, or at

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1 least it appears on the face of the documents, first of
 2 all that there hadn't been any meeting of ministers in
 3 Northern Ireland at that stage. I think you're nodding,
 4 is that correct?
 5 **A.** Yeah.
 6 **Q.** It doesn't appear that there had been any sort of formal
 7 or minuted meeting between you and the First Minister
 8 and the deputy First Minister to discuss Covid-19
 9 either, is that correct?
 10 **A.** (Witness nods)
 11 **Q.** Putting that to one side and putting formality to one
 12 side, do you recollect having any discussions with them
 13 at this stage about Covid-19, or maybe even any
 14 discussions with them at all, or would you have been
 15 doing quite separate things?
 16 **A.** No, no, there will have been discussions, as I said, at
 17 that point in time the main thrust was actually bringing
 18 our health service workers out of industrial action, so
 19 there was, you know, there was joint press conferences
 20 in regards to doing that. So I can't honestly recall if
 21 Covid was discussed as a -- at those points as well, but
 22 if you're pointing, there is no formal record of
 23 a formal meeting had at that point in time towards the
 24 end of January, there's not that I am aware of.
 25 **Q.** Just, again, in terms of just understanding how you were

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1 a paper came in it would have been backed up with
 2 engagement with the Chief Medical Officer before
 3 attending especially the COBR meetings because the two
 4 of us were joining those together.
 5 **Q.** Again, I'm going just to take it chronologically. As
 6 far as the Inquiry can see, the first time that the
 7 Executive Committee met since power-sharing resumed was
 8 on 3 February, I may have said 2 February earlier but it
 9 was 3 February and we know that Covid-19 was listed
 10 under "Any other business" rather than constituting
 11 a subject of its own at that stage.
 12 Does that reflect that it wasn't regarded as
 13 a principal issue at that time or why would it have only
 14 come under "Any other business"?
 15 **A.** That would be for -- again, that would be for the
 16 secretariat of the Executive but I don't think we should
 17 read too much into the fact that there was -- where it
 18 sat on the agenda, it was the fact that it was on the
 19 agenda and was being talked about and we were able to
 20 raise it and have those conversations in regards to
 21 that.
 22 **Q.** All right.
 23 I'm just going to look, if I may, with you at
 24 a briefing for that meeting that you were provided with,
 25 and this is INQ000425586, please.

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1 being advised about the pandemic, obviously as time
 2 moved on there was a much greater proliferation of
 3 papers and advice; yes?
 4 **A.** Yes.
 5 **Q.** SAGE advice, SPI-M papers, all of that. Were you
 6 reading those yourself or were those papers being
 7 synthesised for you or were you receiving oral
 8 briefings? How was that information being conveyed?
 9 **A.** When it comes to those SAGE or SPI-M that you're
 10 talking -- those were being synthesised through Chief
 11 Medical Officer's office in regards to his support staff
 12 and were -- you know, the briefing notes that I would
 13 have had pre-COBR or even pre-Executive meetings were
 14 that document that I was working from. And as you
 15 already indicated, that request that I had made,
 16 you know, "Can't I have a briefing?", Chief Medical
 17 Officer indicated there was already one on its way to me
 18 at that point.
 19 **Q.** Again, sorry, I'm just trying to understand, because
 20 we've seen some of the written briefings, whether or not
 21 the information was principally conveyed in writing to
 22 you or whether or not you would have received oral
 23 briefings or was it a combination?
 24 **A.** It would have been a combination of both based on, based
 25 on those papers as well as regards to, you know, if

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1 The Inquiry has seen this, Mr Swann, but we can see
 2 it's addressed to you and the CMO. We can see, can't
 3 we, that it's a briefing for the Executive Committee
 4 meeting? If we go over the page, please, it would
 5 appear that you were being provided, as it were, with
 6 an update, for example, as to the number of infections
 7 across the world and the number of deaths as well;
 8 correct?
 9 **A.** Yes.
 10 **Q.** We see there a reference to the fact that -- of the
 11 announcement that had been made on 30 January; yes?
 12 **A.** Yeah.
 13 **Q.** It was a public health emergency of international
 14 concern. Thank you.
 15 At 4, reference also to the fact that cases were now
 16 being seen in England as well. Yes?
 17 **A.** Yes. Sorry.
 18 **Q.** No, don't worry.
 19 I think we can see as well -- we don't need to go to
 20 this -- but reference to there having been two tests in
 21 Northern Ireland.
 22 If we could go to page 7, please, these were your
 23 lines to take, and we can see at 2:
 24 "I want to reassure colleagues that while the risk
 25 has been raised from low to moderate ..."

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1 And we saw reference to that, didn't we, at
 2 paragraph 3?
 3 **A.** Yeah.
 4 **Q.** That it was "no cause for alarm".
 5 Didn't mean that risk to individuals had changed,
 6 but "we should plan for all eventualities".
 7 In terms of the significance that you attached to
 8 the raising of the risk from low to moderate, does that
 9 paper reflect what you understood?
 10 **A.** It does, but -- and again, my Lady, probably with the
 11 benefit of hindsight -- where I understood the raising
 12 of risk from low to moderate was the fact that we'd
 13 already instigated our silver command and were starting
 14 to go through our structures, I think maybe a weakness
 15 was that there wasn't an explanation or an understanding
 16 what actually moving to moderate means in regards to
 17 possibly the strength of what -- maybe in my feeling and
 18 what I was explaining that to my Executive colleagues
 19 and actually what it mean -- meant, that we should plan
 20 for all eventualities.
 21 But in regards to that, there was also those -- you
 22 know, the further briefings that the permanent
 23 secretaries were having, the Chief Medical Officer or
 24 the Deputy Chief Medical Officer was providing as well.
 25 So if there's a feeling at that point in regards to

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1 **Q.** But of course -- but, again, and I'm not -- I'm -- this
 2 is being approached on the basis this was advice to you
 3 as to what you should convey.
 4 **A.** Yes.
 5 **Q.** I suppose, first of all, whether or not how this is put
 6 is also how you understood it?
 7 **A.** Yes.
 8 **Q.** In other words, that raising it to moderate didn't
 9 necessarily change the dial very much?
 10 **A.** But this should have meant, sorry, and again it's
 11 looking at that point in time with what I know now .
 12 **Q.** Yes.
 13 **A.** It should have been not changing the dial but it should
 14 have been actually telling people to be prepared to turn
 15 the dial up in regards to: we've moved from low to
 16 moderate, get ready for the next step, I think was what
 17 that, what should have been portrayed at that point.
 18 **Q.** It's really -- it's useful to have reflections on how
 19 things were, you know, looking at it now and perhaps
 20 seeing this could have been sounding alarm bells to
 21 a much greater degree, and it's helpful that you're
 22 doing that, but again I just want to focus, and I don't
 23 want to inhibit you from doing that, but I just want to
 24 focus for a moment on what this might have conveyed,
 25 first of all, to you, Mr Swann, and then of course to

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1 how strong a position I was positioning, my Lady,
 2 I think it's that understanding for others as to what it
 3 actually meant by moving from low to moderate, because
 4 that is quite a significant step and the crux of it
 5 being that we should plan for all eventualities,
 6 I actually think is the key line in that.
 7 **Q.** Again, if I may just unpick this. First of all,
 8 Mr Swann, this was advice that was being provided to
 9 you, wasn't it --
 10 **A.** Yes.
 11 **Q.** -- rather -- you have said "Maybe it's my fault", but
 12 this was what you were being told you should convey to
 13 colleagues, correct, by your expert advisers?
 14 **A.** That's correct, but -- and I'm sorry, and I think what
 15 I mean in that, my Lady, is maybe that, you know,
 16 I didn't, or the understanding of what "moderate" meant
 17 maybe wasn't strongly enough conveyed to Executive
 18 colleagues. It may have been disseminated through their
 19 permanent secretaries in other standings as to actually
 20 what that meant, but round the Executive table -- and
 21 I think it was our first Executive meeting since --
 22 **Q.** Yes.
 23 **A.** -- since restoration, so I'm sure ministers' heads were
 24 in other places as well, having just picked up their own
 25 portfolios.

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1 your colleagues.
 2 I mean, do you accept that framing it in this way
 3 wasn't sufficient and didn't make it clear enough why
 4 changing to moderate was significant?
 5 **A.** Yeah, and I think that, and sorry, apologies, my Lady,
 6 if I'm not portraying it -- I think that's where that
 7 step-up, where it is significant, in retrospect, about
 8 whether it was being conveyed at that point in time, but
 9 I think it is important just to stress again that last
 10 part of that bullet point that we should start to plan
 11 for all eventualities, I think that's the point that
 12 I suppose should have been reinforced and really driven
 13 home.
 14 **Q.** I wonder as well, Mr Swann, telling people to plan for
 15 all eventualities and particularly ministers who may
 16 not, you know, most of whom -- I know that it's not
 17 correct of the deputy First Minister but who may have no
 18 background in the Department of Health or understanding
 19 how a response to a pandemic works, that might not
 20 necessarily mean a great deal, to tell them to plan for
 21 all eventualities. That's quite different from saying
 22 "We're facing a very significant risk and here are the
 23 things we really need to be thinking about now". Do you
 24 accept that?
 25 **A.** I do, but I also think it reflects back to that exchange

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1 at the Executive Office -- maybe you'll come on to
2 that -- in regards to where it was said that
3 Northern Ireland was 18 months behind in preparing for
4 those civil contingencies --

5 **Q.** Yes.

6 **A.** -- and aspects outside health. So in regards to the
7 preparing for all eventualities, it's where that gap had
8 maybe been established that there could have been
9 an alarm bell ringing at this stage, go back to your
10 departments and make sure --

11 **Q.** Yes.

12 **A.** -- that that gap is closed or at least been tried to be
13 closed.

14 **Q.** I think we'll come, I don't want to shut you out from
15 making that point, but I think again as we go on and
16 consider how the picture developed I think that we will
17 be able to come back to that question of whether or not
18 there was sufficient understanding on the part of other
19 departments.

20 Again just trying to understand, we're now at the
21 start of February, what was being done in
22 Northern Ireland at this point, either to prevent,
23 for example, transmission into Northern Ireland or
24 transmission amongst the public in Northern Ireland.
25 Were there any steps that were being taken to address

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1 rather than actually wider preparation for what became,
2 you know, our non-pharmaceutical interventions and NPIs
3 as they spoke about.

4 **Q.** So obviously the Inquiry understands that
5 Northern Ireland had no power to unilaterally shut its
6 border or anything like that but does that mean that you
7 were proceeding on the basis that it was just inevitable
8 that it was going to arrive on Northern Ireland's shores
9 in due course?

10 **A.** I think there was an acceptance that it was going to be
11 when not if in regards to that.

12 **Q.** All right.

13 Now just trying to focus then on what actually was
14 being done, you've referred, I think, to the fact that
15 surge planning was going on. And I think that we see --
16 and perhaps if I can take you to this, INQ000137326.

17 The Inquiry has seen this already, Mr Swann, and
18 I think it has been provided to you as well. It's
19 a letter from the Chief Medical Officer. I think we
20 understand that Ms Watts was from one of the health
21 boards; is that right?

22 **A.** Ms Watts was actually chief executive of Health and
23 Social Care Board and PHA at that time.

24 **Q.** Right. So, in other words, I think the person who would
25 then be operationally responsible for your silver

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1 that, rather than, for example, surge planning in the
2 event that it happened?

3 **A.** Not in regards that were Northern Ireland-specific in
4 regards to prevention of, you know, I suppose people
5 coming to our shores, in regards to that, because of it
6 being a non-devolved issue in regards to international
7 travel. So in regards it was big preparation, it was
8 a big discussion, it was a bigger surge plans and making
9 sure that we were getting ready for what potentially may
10 come.

11 **Q.** So that's obviously addressing what may come, but does
12 that mean that there was -- again, just in terms of what
13 you knew, what might be being done to stop it coming in
14 the first place to Northern Ireland or to try and
15 inhibit transmission when it arrived?

16 **A.** I don't think there was any preparation been done across
17 these islands, my Lady, in regards to the ability to
18 stop it coming here and, again, there was the two
19 scenarios that were painted earlier on in regards to
20 China would contain it or it would become worldwide, so
21 I think in that recognition we were moving towards the
22 second part as well. But in regards to, you know,
23 preparing, I suppose, Northern Ireland for the
24 prevention of what could actually happen, I think our
25 focus was mainly on preparing health service for it,

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1 arrangements?

2 **A.** That's right, yeah.

3 **Q.** I think, I won't read out all of this, Mr Swann, but
4 I think we can see that the CMO wanted to know about
5 what the arrangements would be for the command and
6 control arrangements at silver level; yes?

7 **A.** Yes.

8 **Q.** Sorry, I should have said before I went any further,
9 this is 17 February, isn't it?

10 **A.** Yeah.

11 **Q.** Thank you.

12 If we just scroll down a bit, we can see that he was
13 raising capacity within the PHA, and if we could scroll
14 down, please, we can see, and just moving on, having
15 raised the question of PHA capability, he refers there
16 to surge planning and the fact that robust modelling
17 would take some time.

18 Do you see that, Mr Swann?

19 **A.** Yeah.

20 **Q.** Then I think the third paragraph, that he was seeking
21 details of surge planning to be provided by 13 March;
22 correct?

23 **A.** Yes.

24 **Q.** I think it's right, isn't it, that when those surge
25 plans initially were provided to the Department of

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1 Health, they were deficient and had to be -- I think had
 2 to be the subject of or sent for much more or much
 3 greater detailed consideration; is that right?
 4 **A.** That's correct, yes.
 5 **Q.** So, again, I'm just --
 6 **A.** I'm not sure -- I know it says by 13 March at latest.
 7 I'm not sure if they were presented actually earlier
 8 than that.
 9 **Q.** I'm sure we can find the date for you, but again,
 10 I think the issue may be that when they were provided it
 11 would appear that PHA and the health boards had not,
 12 were not capable of providing the sort of surge planning
 13 that the Department of Health expected; is that correct?
 14 **A.** That would be correct, from conversations with the Chief
 15 Medical Officer, he challenged those again.
 16 **Q.** Again, just trying to understand where this fits in, in
 17 terms of the planning, this is being sought on
 18 17 February, so that's obviously a number of weeks down
 19 the line. Is this, as you understand it, the first
 20 substantive step that was taken towards surge planning
 21 in Northern Ireland?
 22 **A.** Well, in regards to that the formal request coming from
 23 Chief Medical Officer as chair of gold, yes, that's,
 24 you know, the first documented request of those
 25 specifics that I have seen, but we'd already stepped up

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1 **A.** But I think it possibly speaks to the detail that was
 2 required, the fact that he asked for them to go back
 3 again, again from my understanding, and what you've said
 4 here as well, so when they did come in at that point
 5 that he challenged them to go back again to make sure
 6 they were fit for purpose at that point in time.
 7 **Q.** All right.
 8 So other than this, what's set out in this letter,
 9 what were the other aspects of the response in
 10 Northern Ireland at this point, say, in mid-February?
 11 **A.** Around February, in regards to, I suppose, the
 12 interactions from my own department, I do know my
 13 permanent secretary, as I said earlier, had alerted the
 14 permanent secretary stakeholder group in regards to
 15 making sure they were to get ready as well. I'd made
 16 an urgent written statement, I think as you referred to
 17 earlier on as well, to the Assembly to make sure there
 18 was a public awareness of what was being done and what
 19 was expected as well. So in regards to that as well.
 20 I'm also aware from, and I suppose from Executive
 21 papers, maybe a jumping a bit further into February, was
 22 that paper to the TEO Executive board in regards to
 23 their concerns about the Executive in Northern Ireland
 24 not being prepared.
 25 **Q.** All right. I'm going to come back and just try and deal

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1 silver and instigated our emergency response plan which
 2 asks for those surge plans to develop, so as
 3 the chronological order of that.
 4 **Q.** So why would that have required the CMO to ask for
 5 plans?
 6 **A.** Because he is chair of gold.
 7 **Q.** Yes, sorry, I'm probably misunderstanding. Do you mean
 8 that there had been an initial request for plans?
 9 **A.** That's what I'm saying, I don't know if there had been
 10 a request, but I think this is him interacting -- if we
 11 go back to the start of that document again, I only
 12 received it this morning in regards to that, and there's
 13 a follow-up from a meeting actually on 11 February from
 14 what I -- I received from that, so that seems to be the
 15 initial engagement that he had at that point.
 16 **Q.** All right. Yes, I think we can see that, can't we, that
 17 there had been that initial meeting?
 18 **A.** Yeah.
 19 **Q.** And I think in fact the Inquiry has seen reference to
 20 that already, that it was a follow-up from that on
 21 11 February and this was the request.
 22 Again, the fact that he was seeking plans and asking
 23 for them to be provided by 13 March at the latest might
 24 suggest that, I mean, that doesn't speak to urgency
 25 about the need to have these surge plans in place?

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1 chronologically with things, then, because I think
 2 that -- and again, I'm going back in time a bit, we've
 3 jumped ahead to 17 February, but you went to a COBR
 4 meeting on 5 February.
 5 And again I just wanted to bring that up, please.
 6 That's INQ000056215.
 7 Again, I think we can see a host of ministers
 8 present, Mr Swann, and if we could just go over the
 9 page, please, we can see that again you've dialled in
 10 with your counterparts. If we could just check again.
 11 If we could scroll down, please.
 12 Yes, so I think at this meeting there wasn't anyone
 13 from the TEO, I hope you'll take that from me.
 14 **A.** Yeah.
 15 **Q.** I've checked, I can't see that there was. But the Chief
 16 Medical Officer did attend.
 17 I think if we could just look, please, at page 5 and
 18 paragraph 2, I think, Mr Swann, this is a reflection of
 19 the growing information that was now available, and we
 20 can see, for example, that the two most high risk groups
 21 appear to be the elderly and those with pre-existing
 22 illnesses, and that the fatality rate remained at 2 to
 23 3%; yes?
 24 **A.** Yes.
 25 **Q.** Sorry, if we could just please go to page 8, I think

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1 it's the final bullet on page 8. Yes. So again --
 2 I just want to pick this up -- again, reference there to
 3 the invitation to the upcoming ministerial exercise.
 4 Yes?
 5 **A.** Yes.
 6 **Q.** Now, the Inquiry has already heard from senior officials
 7 in Northern Ireland that they did understand through
 8 information that was coming from UK central government
 9 that China had in fact lost control of the virus at that
 10 stage. Was that also your understanding?
 11 **A.** Not clearly at that point in time, in regards to any
 12 briefing that I received in regards to what we were all
 13 seeing what was happening, you know, on TVs and across
 14 the world, but there was no, I don't think there was any
 15 direct paper or alert to say "China's lost control in
 16 regards to where it is".
 17 **Q.** All right.
 18 So whatever understanding or information they had,
 19 that wasn't shared or provided?
 20 **A.** Not that I can recall.
 21 **Q.** All right.
 22 If we, sorry, could just stay on this document,
 23 please, and go back to page 6 as well, we can see,
 24 Mr Swann, the planning for a reasonable worst-case
 25 scenario. Yes?

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1 Northern Ireland as well?
 2 **A.** My assumption would have been that there was
 3 cross-communication as well, rather than just what was
 4 being conveyed at COBR, that when it comes to civil
 5 contingencies and their request for that to happen,
 6 there would have been read-across into the Executive
 7 Office as well rather than just a simple reliance on
 8 that set of minutes and the request coming from it.
 9 **Q.** Just to be clear about that, you would have taken it as
 10 read it didn't require COBR to say that, it should have
 11 been happening in Northern Ireland in any event?
 12 **A.** Well, in regards to if that was what was happening in
 13 the discussions at COBR, there should have been
 14 a read-across --
 15 **Q.** I misunderstood then. So you would -- so even though it
 16 appears that no one from Northern Ireland other than you
 17 and the CMO was at that meeting, that nonetheless there
 18 should have been an awareness in Northern Ireland that
 19 that was the position?
 20 **A.** Yeah, because, my understanding, those papers again were
 21 still being shared through the CCPB(NI) so they were
 22 picking up in regards to the civil contingencies
 23 response.
 24 **Q.** Again, to my second point whether or not that should
 25 have been taken as a given in Northern Ireland by this

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1 **A.** Yes.
 2 **Q.** Again, I'm not going to read out all of it, but we can
 3 see that you must have been provided with slides about
 4 planning work that was going on around that; yes?
 5 **A.** Yes.
 6 **Q.** Then I just wanted to pick up at paragraph 11, that the
 7 chair said it was appropriate for all departments to
 8 privately engage with trusted partners on the reasonable
 9 worst-case scenario planning assumptions; yes?
 10 **A.** Yes.
 11 **Q.** Again, reference to the ministerial tabletop exercise,
 12 which again we'll come back to.
 13 Again, just to finish this off, at page 8, please,
 14 and paragraph 7, sorry, it's page 7, we can see that
 15 paragraph 7 said:
 16 "ALL DEPARTMENTS to rapidly advance planning for the
 17 reasonable worst case scenario, centrally co-ordinated
 18 by the Civil Contingencies Secretariat."
 19 Yes?
 20 **A.** Yeah.
 21 **Q.** Mr Swann -- thank you, that can come down -- did you
 22 understand in terms of the planning that was going on at
 23 central government level, and that instruction that all
 24 departments should start to prepare their planning, that
 25 that was something that equally should be being done in

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1 stage anyway that that sort of departmental planning
 2 should be going on, is that also your position?
 3 **A.** That would have been my assumption and my understanding.
 4 But in hindsight, my Lady, maybe it was an assumption
 5 too far in regards to some points --
 6 **Q.** All right.
 7 **A.** -- in regards to that.
 8 **Q.** We know, and it's a letter that the Inquiry has seen
 9 many times, that on 6 February an official from the
 10 Department of Health advised officials in the TEO that
 11 it wasn't necessary to activate the NICCMA arrangements
 12 unless and until the infection appears in
 13 Northern Ireland, and its impacts were experienced in
 14 Northern Ireland.
 15 So I suppose the first question is whether or not
 16 you were aware that officials from your department were
 17 providing that advice to TEO?
 18 **A.** I wasn't at that point.
 19 **Q.** Is that advice that you would have agreed with or
 20 thought that your department ought to be giving to TEO?
 21 **A.** At that point in time -- again, my Lady, from the
 22 understanding of the briefings that I have received in
 23 regards to what we've -- the department thought was
 24 necessary -- no, it wasn't necessary to stand up NICCMA
 25 at that point. And you have heard from Richard Pengelly

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1 in regards to the permanent secretaries' point of view
 2 but also from the Chief Medical Officer's point of view.
 3 I do go on, my Lady, and actually say in my own
 4 statement that there was a potential gain we could have
 5 had if we'd have stood up NICCMA. I think I would
 6 reflect more what David Sterling actually said: you
 7 know, if we'd have stood up NICCMA slightly earlier, it
 8 may have raised the red flag to those other departments
 9 that, as of that point, actually hadn't -- hadn't taken
 10 up the -- taken up the baton at that point in time.

11 And apologies if I've jumped forward again on you.

12 **Q.** You have jumped forward a little bit.

13 But again, I suppose that the real issue here,
 14 Mr Swann, is the fact that the Department of Health was
 15 actually giving that information -- or, sorry, giving
 16 that advice. So rather than, as it were, raising the
 17 red flag and saying, "You really need to be clear, the
 18 position that has been reached", we have the Department
 19 of Health saying, or advising, "We don't think that the
 20 protocol needs to be stood up".

21 **A.** And I think in that regards, from -- from my analysis
 22 and from my point of view, it was advice. It's not to
 23 be taken by NICCMA or CCPB(NI) as a direct instruction
 24 not to stand it up, it still falls within the remit
 25 of -- and I think the Inquiry has heard, my Lady, that

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1 **LADY HALLETT:** -- have consulted you about that?

2 **A.** Potentially, my Lady, yes, in regards to that. And
 3 again in regards to the advice and guidance that I've --
 4 and, my Lady, if the advice and guidance coming from my
 5 permanent secretary and the Chief Medical Officer was
 6 that it was premature to stand it up, after challenging
 7 them and interrogating and asking them, I may in all
 8 likelihood have probably agreed with the both of them.

9 **LADY HALLETT:** But at least you'd had a chance to challenge
 10 and test.

11 **A.** Yes.

12 **LADY HALLETT:** So they should have asked -- so it's not just
 13 potentially, they should have asked you?

14 **A.** In regards to -- and again, I'm at the level of that
 15 correspondence at that point of time, I don't know if it
 16 was being -- it wasn't being brought to my attention.

17 **MS DOBBIN:** I think this comes back to a point I asked you
 18 at the start, Mr Swann, about your understanding of
 19 civil contingencies arrangements in that 2016 protocol,
 20 and whether or not you would have understood by this
 21 stage what those arrangements were and what potentially
 22 the role of the Department of Health was in them.

23 **A.** And I think it goes back to that early point in regards
 24 to from the first-day brief in regards to the role in
 25 civil contingencies, you know, and I think that has been

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1 it's -- there's a number of options as to who can
 2 actually instigate NICCMA or when it should be stood up
 3 or under what conditions it's stood up.

4 So rather than, I think, CCPB(NI) or TEO officials
 5 taking that as a direct instruction not to, I think
 6 there's an opportunity where they could possibly have
 7 used their own initiatives in regards to when NICCMA
 8 could be -- NICCMA was stood up I think prior to that,
 9 in 2017, for Storm Ophelia, my Lady --

10 **LADY HALLETT:** They're not likely -- forgive me for
 11 interrupting, but they're not likely to go against the
 12 advice of the Department of Health in a health
 13 emergency, are they, Mr Swann, to be fair?

14 **A.** To be fair, my Lady, probably not, but there is an
 15 opportunity, I think, where they could have, if they
 16 were getting other indications from other departments
 17 that there was a possibility that NICCMA should be or
 18 could be stood up in regards to pressures coming from
 19 other areas. And again, it's only through engaging with
 20 the papers that I think there was a request or at least
 21 an indication that came from the permanent secretary of
 22 education in regards to that. So I think from
 23 a Department of Health point of view, it was more in
 24 regards to timing in regards to when it would be most
 25 appropriate to be stood up, as I --

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1 provided to the Inquiry as well, which actually says
 2 about the Department of Health being the lead for
 3 health-related issues.

4 **Q.** But I suppose, sorry, forgive me, I just mean --

5 **A.** The -- no, it doesn't go into the detail of activation
 6 of NICCMA or CCPB(NI) in their role and responsibility
 7 or actually who can instigate NICCMA as well. I'm not
 8 even sure if that was contained in other first day
 9 briefs either.

10 **Q.** Do you think at this stage there was actually a lack of
 11 clarity as to who was responsible for what in government
 12 in Northern Ireland in response to this unfolding --

13 **A.** I do. And I think the more that I've read into this and
 14 the more I have listened over the past few days in
 15 regards to that as well, I think there is
 16 a misunderstanding as to who can take that co-ordination
 17 control, that overarching, that -- you know, that
 18 umbrella, almost, view of what's being done across all
 19 departments.

20 I think it is clear -- I think it is delineated in
 21 NICCMA in regards to who can take the responsibilities.
 22 Whether they were taken by the appropriate people -- and
 23 I think TEO and the Executive Office, where CCPB(NI)
 24 actually sits, I'm not sure were actually stepping
 25 forward to assume their command and control -- or,

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1 sorry, their oversight control even -- in regards to
2 what needed to be done on a Northern Ireland-wide basis,
3 rather than solely seeing the Covid pandemic through the
4 prism of it being a health issue.

5 **Q.** Yes.

6 **A.** It was going to be solely maintained within health, but,
7 as we now know, it expanded into every aspect of
8 government in Northern Ireland and every aspect of human
9 life.

10 **Q.** Again, I'm just focusing for the moment on the message
11 perhaps that officials in your department were giving at
12 that time.

13 And I wonder if we could go to INQ000254430.

14 Again, the Inquiry has seen this, Mr Swann., it's
15 not a letter from you, it's a letter from the Chief
16 Medical Officer, and I think that this relates back to
17 the COBR meeting and the idea that trusted partners
18 should be told about getting planning assumptions in
19 place for the reasonable worst-case scenario.

20 Is that what you think about this letter, that
21 that's what it relates to?

22 **A.** That's my understanding. And if I'm correct again from
23 what I've read, my Lady, it was at the request of
24 CCPB(NI) that the Chief Medical Officer actually drafted
25 that letter for circulation, using his knowledge and

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1 public authorities in general."

2 I mean, Mr Swann, just looking at that, obviously it
3 doesn't begin to deal with reasonable worst-case
4 scenarios or planning assumptions, does it?

5 **A.** No, but again, it is the start of February in regards to
6 the timeline of that. And I suppose it's based on the
7 understanding of where Covid may actually be at that
8 point in time in regards to the -- the seriousness in
9 regards to that, in regards to the infection and also
10 the effects of it, in regards to when it actually
11 arrives in Northern Ireland. But I think it's clear
12 there in regards to that. And, as you say, it's not
13 a letter that I sent out, but it clearly says it
14 shouldn't -- all public authorities should ensure that
15 all relevant staff are acquainted with the plans, and
16 those are the plans for infectious diseases and pandemic
17 influenza, because at that stage I think -- and
18 whether -- and probably incorrectly, we were still
19 working on the basis that pandemic flu preparedness
20 plans were going to be the key building block of our
21 response.

22 **Q.** I mean, what about the public authorities that didn't
23 have any such plans? I mean, there's nothing to tell
24 them that maybe they should think about getting them.
25 I mean, it's premised on getting organisations with

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1 experience as to what was required coming out of that
2 COBR meeting.

3 **Q.** I think we see here in terms of who it's addressed to --
4 and again, sorry, just focusing on the date, again, it's
5 6 February 2020 -- it's to all Northern Ireland
6 departments for onward distribution to all public
7 authorities.

8 So, first of all, it doesn't appear to be restricted
9 to trusted partners, so to speak -- I'm not sure what
10 "trusted partners" means; I don't know if you do?

11 **A.** I'm not aware of the phrase having any standing in
12 Northern Ireland, my Lady.

13 **Q.** But do you agree this letter was -- I mean, it's
14 unequivocal, isn't it, it is to all public authorities?

15 And I think that we've seen -- again, I won't go
16 through this whole letter with you, Mr Swann, but if we
17 go to paragraph 20.

18 So the advice being given to all public authorities
19 in Northern Ireland that:

20 "... those ... that already have contingency plans
21 for ... infectious diseases, such as pandemic influenza,
22 should ensure that all relevant staff are acquainted
23 with [them]."

24 Then at 21 -- thank you:

25 "No other action is recommended at this time to

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1 plans to get their staff to have a look at them.

2 **A.** I can't comment on, in regards to what was included in
3 this letter, but I suppose again it depends on the
4 circulation list as to who it was going to in regards to
5 was there an expectation that they would have those
6 plans in place. I can't comment to that on this --

7 **Q.** I think it's going to all public authorities and I think
8 given the way this is written, those public authorities
9 that already have the plans would suggest that it was
10 understood that they might not all have plans.

11 **A.** Yeah.

12 **Q.** In terms of paragraph 21, "No other action is
13 recommended at this time", again, this was going to all
14 public authorities in Northern Ireland; do you have
15 concerns about that?

16 **A.** In regards to, I suppose, at that point in time, in
17 early February, it wouldn't have been a concern at that
18 time, and again it's putting things into perspective,
19 my Lady, in regards to time of when the letter was
20 actually written and circulated, in regards to what
21 other actions public authorities may have been able to
22 take in regards to being prepared for a pandemic at that
23 point.

24 **Q.** I mean, again do you agree that in terms of highlighting
25 to public authorities that there's this building picture

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1 of concern and a need to really make sure that they are
2 planning for this possible eventuality, that this isn't
3 really, again, raising any kind of flag to them?

4 **A.** It wouldn't be raising a flag but again taking -- and
5 again it's not a letter I --

6 **Q.** No, of course.

7 **A.** -- I drafted, I circulated, I had sight of prior to
8 the Inquiry, so the point in time, point of inflection,
9 the -- or the general context as to where we are,
10 whether the paragraph is even needed at that point in
11 time may be a reflection in regards to it that the
12 author may make at this point, my Lady.

13 **Q.** Well, all right, we'll carry on, if we may, just looking
14 at how this developed.

15 Just going back for a second to the COBR meeting,
16 obviously it was flagging up, wasn't it, as well, the
17 concern that elderly people and those with existing
18 illnesses might be or certainly appeared to be more
19 vulnerable to Covid-19 as well, and do you recollect
20 whether or not that understanding was informing what the
21 Department of Health was doing at that time, and if so
22 what it was?

23 **A.** I do know in regards to that specific issue there was
24 general, I suppose, guidance, high-level guidance, sent
25 out to care homes towards the end of February in regards

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1 to ministers via you, and I think if we could please
2 just scroll down a little.

3 Then we see there, I'm just looking at the final
4 couple of lines, Mr Swann:

5 "Risk level moderate, but not complacent.

6 "Working hard in [the] background."

7 Accepting, of course, that this handwritten note may
8 not set out everything that you say, it nonetheless
9 looks like a fairly short update and certainly perhaps
10 a fairly generalised one at that point?

11 **A.** I think, my Lady, as I said earlier, it was only through
12 the Inquiry that I became aware that these notes were
13 actually being taken and retained, so I can't speak to
14 whether that was a reflection as to what was actually
15 said, the duration, whether it's the highlights of what
16 was actually said rather than actually a verbatim minute
17 of what was said, so whether it's all that I presented
18 at that time, I can't recall, but I'm --

19 **Q.** No.

20 **A.** -- if that's the note that has been taken, as the
21 highlights that are there ...

22 But I also think this goes back to the first point
23 where it actually indicates in the first page that I may
24 be leaving the Executive meeting to attend a Covid
25 briefing --

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1 to that from Chief Social Worker and Chief Nurse, if I'm
2 correct, but I can check on that, in regards to, you
3 know -- and again, it goes back to that point of
4 preparing your plans for flu, influenza, you know, those
5 pandemic preparedness that a lot of care homes and care
6 home providers would already have had in place, not at
7 a high level but again for influenza outbreaks and other
8 outbreaks as well.

9 **Q.** Okay. As I say, we will look, have a look at care homes
10 maybe in a little bit more detail and as a specific
11 topic, but just following on, so we've seen the COBR
12 meeting and the exhortation, perhaps, that all
13 departments should start planning on their reasonable
14 worst-case scenario basis. I think it's right, then,
15 that after that a few days later there was an Executive
16 meeting.

17 Perhaps if we could just have a look at the
18 handwritten note, that's INQ000065706.

19 I think we can see this is 10 February. And
20 I should say, Mr Swann, we don't have the handwritten
21 notes from 2 February, so this is the first point at
22 which we can, as it were, pick up what was being
23 conveyed to ministers.

24 I think if we could go to page 5, please.

25 So I think this was the information that was given

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1 **Q.** Yes.

2 **A.** -- I think should also indicate to those who were in
3 attendance at that meeting that it was a serious enough
4 issue that I was leaving the Executive meeting to go and
5 receive Covid briefings.

6 **Q.** But again, just coming back to the point that we
7 discussed or that you stated a little while ago about
8 perhaps not -- that it wasn't being conveyed to your
9 colleagues about how significant a development it was,
10 that the risk had gone up to moderate, we can see that
11 it is mentioned here but, and I think these were the
12 words that I wanted to ask you about "working hard in
13 the background", which must be obviously a reference to
14 what the Department of Health was doing, but just the
15 idea that it's working in the background, that would
16 suggest that again this isn't a prominent issue,
17 Covid-19 isn't in the foreground of what the Executive
18 Committee is --

19 **A.** But I think that that's an update as to what -- sorry,
20 and again, it's taking that, I suppose, one sentence of
21 a handwritten note and putting it into context, "working
22 hard in the background". And, again, in regards to the
23 preparation for the Coronavirus Act, there was a lot of
24 work being done in the background between departments to
25 make sure that they were actually prepared for the

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1 powers that would be required or the actions that would
 2 be required in -- and in general in regards to that
 3 there would be cross-departmental work. So I can't
 4 unfortunately put that into context.

5 **Q.** Of course, and I don't want to pick over tiny, you know,
 6 words and isolated words, but I think that this is
 7 something that you say in your statement, and it's
 8 obviously a very important point, and we will come back
 9 to it once we have moved on in the chronology a bit, but
 10 this idea that the response at this time was very much
 11 seen as being a matter for the Department of Health, as
 12 opposed to other departments, do we see here the sort of
 13 nutshell of that or an early indication of that?

14 **A.** I'm not sure, I'm not sure that does at that point in
 15 time, because, as I say, my Lady, in regards to the
 16 development of the Coronavirus Act, it was very much
 17 about working across departments to see what they needed
 18 put into it to make sure they were happy with it, and
 19 again that was taken under, you know, the urgent
 20 procedure through the Executive.

21 **Q.** Yes.

22 **A.** So Executive colleagues were aware of it. And again
 23 that may be, and I don't recall this handwritten
 24 transcript but, you know, that may be an opening
 25 statement and then the way these meetings usually

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1 recollection that I had. And when I looked back as to
 2 the actions that were taken out of it, I think it was at
 3 such a level that I didn't -- that's possibly why
 4 I didn't actually remember -- at that point I actually
 5 hadn't been added.

6 **Q.** Can we assume from that that you obtained no benefit or
 7 particular insight from it?

8 **A.** I honestly, and this may sound blunt, but I found no
 9 benefit, no beneficial takeaway from it that actually --
 10 that actually made it stick out in my memory as having
 11 an impact or an effect or any benefit to the things that
 12 was happening in Northern Ireland.

13 **Q.** Did it generate any papers within your department or any
 14 learning points or --

15 **A.** I think there was notes that flowed from it but there
 16 was no actual takeaway learning points that actually
 17 came out of it in regards to it.

18 **Q.** All right. So just coming back then to the legislation,
 19 and the paper that you provided in respect of that,
 20 I think we have that at INQ000390947.

21 So I think, again, this is what you're referring to,
 22 I think, Mr Swann, in terms of this, the introduction of
 23 this Bill, as it were, helping to inform your
 24 ministerial colleagues about the position --

25 **A.** Yeah.

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1 worked, my Lady, I remember the First Minister
 2 Arlene Foster referring to them at one point as "Now we
 3 will move into the 'Ask Robin' section", because it did
 4 move actually out into a quite engaging conversation in
 5 regards to what was happening in regards to what we were
 6 doing and what other departments were doing.

7 **Q.** I think, I mean, we can scroll down and see what the
 8 discussion was, and if -- so, I mean, there doesn't seem
 9 to have been much from the First Minister.

10 "[Deputy First Minister]: Keep us up to date?"

11 "DOH: Yes."

12 We move on to different topics.

13 So, I mean, it does seem to have been -- I mean,
 14 certainly you may have briefed them, but any discussion
 15 thereafter, going by the notes, would appear to have
 16 been quite limited?

17 **A.** But -- and again -- and I wasn't aware of those notes or
 18 how much of a verbatim record they actually are.

19 **Q.** So I think in time then you attended the exercise that
 20 we've seen reference to on a couple of occasions, the
 21 Operation Nimbus exercise, and from your statement you
 22 said that you haven't -- you have no real memory of that
 23 exercise at all. Is that right?

24 **A.** That is correct, my Lady, when I was drafting my
 25 statement it wasn't something that was actually in any

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1 **Q.** -- that was presenting itself.

2 Is it your evidence that this is -- that this ought
 3 to have been a moment perhaps when the penny dropped for
 4 other ministers as to the gravity of the situation?

5 **A.** I think that would be a very -- I think it would be
 6 a very accurate description as to where I saw the
 7 import, the importance actually of this Bill.

8 This was UK-wide draft legislation that I was asking
 9 other ministers -- even just at paragraph 2:

10 "... Minister for Education ... Finance ... Justice
 11 have confirmed to me that they are content with the
 12 clauses as drafted ..."

13 So, to me, it was already saying -- well, it was
 14 saying to me: there's a major piece of legislation that
 15 has been brought forward as to how the UK will actually
 16 respond to the coronavirus, and I've already had input
 17 from those other ministers.

18 For those other ministers to say they're content
 19 with the clauses would -- you know, to me, I know,
 20 within the Department of Health, my Lady, I wouldn't be
 21 saying I'm happy with those clauses for emergency
 22 legislation without having had an understanding as to
 23 what they were going to mean to my department and also
 24 the responsibilities that they were going to bring at
 25 a legislative point of view.

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1 I would also say, you know, this is still early
2 February, so the Executive is still weeks old at this
3 point, when I'm asking not just the First and the deputy
4 First Minister to proceed with this through urgent
5 procedure but also other ministers for a very quick and
6 rapid input into it.

7 **Q.** So I think we can see here reference to you taking the
8 lead because it's a cross-cutting issue, I think that's
9 specific to this piece of legislation, isn't it?

10 **A.** Yes.

11 **Q.** So you're effectively sponsoring --

12 **A.** Yeah.

13 **Q.** -- the legislation. I think it's correct that what you
14 were inviting them to do was effectively to -- and
15 forgive me if I'm not accurate about this -- but you
16 were effectively saying that the regulations that would
17 apply in Northern Ireland would be those that were
18 applied -- that were going to be applied in England but
19 amended where they needed to be Northern Ireland
20 specific; is that right?

21 **A.** Well, it was a UK-wide piece of legislation and that
22 certain clauses within that Bill would have specific
23 responsibility to education, finance, justice, and from
24 recollection and from reading this that we'd actually
25 written to them with the paragraphs or clauses that we

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1 **Q.** -- that the Department of Health was the lead government
2 department.

3 **A.** Okay.

4 **Q.** Correct?

5 We can -- you've set out that your department
6 continued to work closely with relevant authorities, and
7 again reference to the fact that there had been that
8 declaration on 30 January, as we've already seen,
9 appropriate to a plan for a reasonable worst-case
10 scenario. Yes?

11 **A.** Yes.

12 **Q.** Then, again, I think at 5, updating your ministerial
13 colleagues about the number of cases; yes?

14 **A.** Yes.

15 **Q.** And that there had been spread into the United Kingdom
16 as well; correct?

17 **A.** Correct, yeah.

18 **Q.** I think that's -- yes, that's fine, thank you very much.

19 Can I just, Mr Swann -- at this point in time, it
20 doesn't appear that the Executive Office had any other
21 form of advice on the clinical or the medical or the
22 health aspects of the pandemic other than that which you
23 were providing to them, and I think you were also
24 conveying obviously the advice that you were receiving
25 from officials in the Department of Health. Is that

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1 felt were relevant to their role and their remits and
2 their responsibilities to ask them to make sure that
3 they were content with the inclusion of those, not just
4 those clauses within the Bill but also the effect that
5 they would have in Northern Ireland.

6 **Q.** All right, and if we can just go to paragraphs 3, 4 and
7 5, please.

8 So again, reference to you as the "Lead Government
9 Department". I think, again, that's a reference to you
10 being --

11 **A.** (inaudible).

12 **Q.** Well, I was going to say I thought that that was
13 a reference in fact to the response to Covid-19.
14 I mean, that's what the sentence says. Correct?

15 **A.** I think "collaboration with other Executive
16 Departments", yeah.

17 **Q.** I don't want to quibble.

18 **A.** Okay.

19 **Q.** But it does say:

20 "The Department of Health, as Lead Government
21 Department, in collaboration ..."

22 I'm not suggesting for a moment, Mr Swann, that this
23 was entirely on your shoulders, I think it's just
24 important that there's clarity --

25 **A.** Yeah.

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1 your understanding as well?

2 **A.** Well, in regards to, I'm aware, there was
3 correspondence, again we've mentioned it, between my
4 permanent secretary and other permanent secretaries in
5 regards to what they needed to be doing as well.

6 There was also -- and sorry, again, I've jumped on,
7 was that letter from the TEO board in regards to the
8 Executive in Northern Ireland being prepared as well.

9 **Q.** Yes. Sorry, forgive me if I'm not being clear enough.

10 The question was whether or not you accept that your
11 department was the primary provider of information and
12 advice to the TEO and indeed to other departments about,
13 first of all, the response to the pandemic and the
14 clinical picture --

15 **A.** Yeah.

16 **Q.** -- about the pandemic as well?

17 **A.** No, I would accept it because that's where -- I suppose
18 that's where the information was coming from, you know,
19 from all other sources, was coming through us, yeah.

20 **Q.** But I think just to be clear, so that it is understood,
21 it is not as though the TEO had any other body of
22 advice, advice that covered that.

23 **A.** Not from a health -- from the health perspective it
24 would be coming from the Department of Health, yes.

25 **Q.** Obviously I accept your point that when it comes to

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1 civil contingencies there is a broader picture that
2 needs to be looked at but I think the important point is
3 that, as it were, the -- conveying the advice and the
4 information did in fact fall I think on your shoulders
5 and then the CMO as well; is that right?

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

7 **Q.** All right.

8 So, just again, I think that taking this in stages,
9 you then again attended COBR on 18 February, I don't
10 think we need to bring it up, but the understanding that
11 this might escalate to a global pandemic does appear to
12 have crystallised in and around that time. Do you agree
13 with that?

14 **A.** If that's what's recorded in the minutes, yeah, it was
15 around that time that there was an understanding that
16 China wasn't going to be able to control it.

17 **Q.** Yes, and I think in fact we probably should just bring
18 that up just so that we're clear about that.

19 So if we could go to the COBR minutes, it's
20 INQ000056227, please. And if we could go to
21 paragraph 1, please.

22 Again, Mr Swann, I just do this to set the scene.

23 Thank you. I think that's lovely, that can come
24 down, thank you -- oh, just that paragraph, please. If
25 we could go back to the document.

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1 **A.** Yes.

2 **Q.** And is that information that you would have provided or
3 is that something that would have been provided from the
4 Executive Office, do you think?

5 **A.** I think that was -- if I am correct, I think that was
6 the meeting that Dr Chada, as the Deputy Chief Medical
7 Officer, made the presentation to.

8 **Q.** Yes.

9 Thank you, that can come down.

10 It appears to the Inquiry that that meeting that
11 took place on 20 February was the first civil
12 contingencies meeting that took place at all across
13 government in Northern Ireland. Is that your
14 understanding?

15 **A.** That would be my understanding, yes.

16 **Q.** Did you have any concerns at this time about the slow --
17 and I say this, I'm not suggesting that it was your
18 responsibility, but the fact that there hadn't been any
19 sort of cross-departmental meeting until this date?

20 **A.** It wouldn't have been a concern at that point in time,
21 because I -- you know, I suppose I'm looking at it from
22 a health point of view, of what we were doing, the
23 information that we were providing to other departments.
24 But in hindsight in regards to that Executive Office
25 civil contingencies -- CCPB(NI) responsibility, would

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1 Sorry, I think you might have just caught it, it was
2 set out underneath, the fact that the two scenarios
3 I think at that stage were regarded as plausible. I did
4 not want to mislead you, Mr Swann.

5 Thank you, if we could look at paragraph 2.

6 So I think at that stage what was being said was
7 that both --

8 **A.** Both remained, yeah.

9 **Q.** Again, just understanding that from a Northern Ireland
10 perspective, obviously when presented with those two
11 contingencies, as we understand it, and as you've said,
12 you were preparing for, as it were, the worst case.

13 If we could go, please, to page 7, and the final
14 bullet, please.

15 And again we've -- just above paragraph 17,
16 Mr Swann, we can see again this was planning for
17 a reasonable worst-case scenario.

18 And if that could just come down, please.

19 We can see reference to the Northern Ireland
20 Strategic Civil Contingencies Group meeting. Yes?

21 **A.** Yes.

22 **Q.** And I assume that what was being -- what COBR was being
23 informed was that this was the meeting that was going to
24 address the reasonable worst-case scenario in
25 Northern Ireland.

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1 have been concerned that it was taking them longer to
2 stand up and actually getting into gear than I would
3 expect now.

4 **Q.** Yes.

5 If we could just look at the -- and we've seen this,
6 but again, I would just like to ask you about it, the
7 minutes of that meeting -- INQ000023220.

8 We've seen, and I think we probably only need to
9 look at the priorities.

10 Again, given that this was 20 February, and that the
11 departments regarded this as being the priorities, would
12 that or the fact that it -- I mean, it certainly appears
13 that this is a very limited set of considerations, given
14 all that had been said by COBR about planning for the
15 reasonable worst-case scenario, that this, in
16 Northern Ireland, is what the priorities are identified
17 as at the first meeting?

18 **A.** I think in regards to the briefing, that -- and again
19 that was actually presented to that group -- and I think
20 if you read through the full presentation that was
21 actually given by the Deputy Chief Medical Officer in
22 regards to our concerns or the Department of Health
23 concerns. And I'm slightly, I would say, surprised as
24 regards that -- of the officials who were present that
25 this was the four that they identified, but maybe it

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1 was -- in regards to those were priorities that they saw
 2 stretching across each department rather than being from
 3 a Health point of view, in regards to that, that's
 4 something that all departments should be aware of.
 5 **Q.** We've seen Dr Chada's presentation, and I won't take you
 6 to it, but we've seen that he does, for example,
 7 identify the possibility of excess deaths and his
 8 presentation might be thought to have been quite
 9 realistic in that it set out, for example, the case
 10 fatality rate, so it's not an issue about the
 11 information that he provided, I think, but more perhaps
 12 that this appears to have been the response to it?
 13 **A.** Yeah, and I think that -- sorry if I'm not conveying
 14 that clearly --
 15 **Q.** Yes.
 16 **A.** -- but I think when it comes to the cross-departmental
 17 response to what Dr Chada had actually presented that
 18 these are the four priorities that are pointed out but,
 19 again, I think the last point, "All organisation[s] to
 20 review business continuity plans in light of reasonable
 21 worst case parameters", should be an indication then --
 22 if that's been raised at CCG(NI), surely the
 23 department -- so, in my view, that those
 24 cross-departmental officials who were present at that
 25 meeting should actually be going back to their
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1 increasing concern because of, for example, transmission
 2 into Italy and other -- and what was happening as well
 3 in Italy as well?
 4 **A.** Yeah.
 5 **Q.** Is that, was that something that you were conscious of
 6 or --
 7 **A.** It is, my Lady, because by that stage I'd already made
 8 a number of statements to the Northern Ireland Assembly
 9 as well, so it was in such, I suppose, in my perception
 10 that it was important enough to be doing that.
 11 **Q.** Can I just take you to one of those, please.
 12 Let's go to INQ000425519.
 13 This is the -- this is an announcement, if that's
 14 the correct way to put it, that you gave.
 15 Just, again, for the date, it's 28 February.
 16 If we could go, I think, to page 3 of this.
 17 I may need someone to help me with where we find it,
 18 but this said -- and it may be that I need to take you
 19 to another page, Mr Swann, but this announcement said
 20 that whilst the situation was serious, that it was
 21 far -- and that it was far from certain that it would
 22 happen -- thank you -- "detailed plans" were in place
 23 should the virus become a pandemic.
 24 That idea that by the end of February, and this was
 25 for a speech or an announcement that you were going to
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1 departments, to their ministers and saying, "Look, this
 2 is what was discussed, this was what a priority from
 3 CCG(NI) actually is, as of 20 February".
 4 **Q.** Can I just ask you, that final paragraph refers to
 5 "business continuity plans"; is that about their
 6 internal ability to --
 7 **A.** Probably in regards to Civil Service speak but, again,
 8 as I'm saying it, if you're going back -- if you're
 9 a civil servant going back to a permanent secretary or
 10 a minister and saying "We have to get our house in order
 11 because this is the reasonable worst-case scenario", to
 12 me that should be ringing an alarm bell.
 13 **Q.** Yes. "Should" might be the operative word, but looking
 14 at that, do you agree that that might be regarded as
 15 an underwhelming response to the level of concern that
 16 ought to have been sounding around departments at this
 17 stage?
 18 **A.** In regards to, and my Lady, having seen Dr Chada's
 19 presentation, which you say was a realistic briefing as
 20 to the current situation, it would be, yes.
 21 **Q.** All right.
 22 I think, again, I'm not going to go back, I won't
 23 take you to this, but you attended another COBR meeting
 24 on 26 February, and what I wanted to ask you was whether
 25 you agree that again the picture building was one of
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1 give on 1 March 2020, that it was far from certain that
 2 it would happen, that it would become a pandemic, was
 3 that your understanding at the time?
 4 **A.** Well, I think it was still, you know, going back to the
 5 two options, still being considered even at the minutes
 6 of the COBR meeting, there was still -- the options were
 7 still there. And again, at this case, it's not about --
 8 I suppose, again, as in regards to wording of
 9 a statement that was being made to the Northern Ireland
 10 Assembly rather than going into the detail that the two
 11 options are still in play, even though -- that I am
 12 saying that it is -- the situation is no doubt serious,
 13 but stressing the point that in relation cases were very
 14 much still in containment phase.
 15 **Q.** No one was saying at that stage, were they, that it was
 16 far from certain that it would develop into a pandemic,
 17 were they?
 18 **A.** Well, not, not generally, but again in regards to the
 19 wording of that statement, it may have been
 20 an underestimation in regards to where we were at that
 21 point but not to be, I suppose, alerting or causing
 22 unnecessary alarm either in regards to the wording
 23 of it.
 24 **Q.** Almost immediately after this there was another
 25 Executive Committee meeting, and others who have
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1 attended that meeting have said that that was the first
 2 substantive discussion that took place about Covid-19.
 3 So that was 2 March. Does that also accord with your
 4 recollection?

5 **A.** I think it was, we had had -- and again, I suppose it's
 6 the use of the adjective "substantive", my Lady, in
 7 regards to it's the first time it moves into
 8 a standalone agenda item rather than being discussed as
 9 an update under "Any other business". So in regards to
 10 that, yes, but I think we had -- and again the
 11 handwritten notes of those other meetings show that
 12 there has been an exchange in regards to ministers
 13 interacting or asking questions.

14 **Q.** I haven't taken you back through all of the notes of the
 15 meetings in February because that would probably take
 16 quite a lot of time, but I think it's right, isn't it,
 17 that by and large it's a question of you providing
 18 an update to your colleagues about the position, the
 19 notes would suggest it's fairly short and that there
 20 isn't a -- there's no detailed discussion afterwards.
 21 Do you accept that?

22 **A.** And I suppose that's, when I said earlier on in regards
 23 to, you know, me not raising it as a serious enough
 24 issue, at that stage I was still on the understanding
 25 that I was -- as you say, you're, you know, providing

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1 **Q.** Do you think, and again maybe this is a judgement in
 2 retrospect, that throughout February 2020 there was
 3 a failure to understand quite how serious the picture
 4 was that had accrued and the information that had
 5 accrued over that period of time?

6 **A.** And again, asking from a retrospective point of view,
 7 I wouldn't agree there was a lack of understanding
 8 I may -- and I've said this, I think that the failure
 9 may have been in the level of the alert or the
 10 seriousness that was moved up, and again it goes back
 11 to -- I think it was the Chief Medical Officer who
 12 sort of coined the phrase -- of that rising tide event.
 13 I'm not sure as each level went up that we were ringing
 14 the bell loud enough as it went on, for other
 15 departments, other ministers in other areas actually to
 16 take up their actions and their responsibilities as
 17 well.

18 **Q.** Again, just getting a sort of, coming to the end of
 19 February, what was being done in your department --
 20 again, I'm just coming back to what must have been
 21 a growing understanding on your part that this would
 22 require surveillance infrastructure, that it would
 23 require testing infrastructure, tracing infrastructure;
 24 what was your understanding about capabilities in
 25 Northern Ireland to deal with that?

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1 an update to ministers because I was aware that there
 2 was engagement being had by permanent secretaries at
 3 CCG(NI), you know, so, in my view, at that point I was
 4 updating ministers as to what I thought they already
 5 should have been aware of from their officials, but now
 6 in retrospect, and I've seen the evidence from
 7 Minister Weir, my Lady, and I think whereas that
 8 actually hadn't been the case in his case.

9 **Q.** We also know from Mr Pengelly's evidence that in fact
 10 I think up until about 21 February he was still giving
 11 the advice that there was no need for the civil
 12 contingencies arrangements to be stood up in
 13 Northern Ireland, I think, again, that idea unless and
 14 until the virus arrived in Northern Ireland.

15 Again, were you aware at that time that that was the
 16 advice that was being given by the permanent secretary?

17 **A.** I was -- sorry, I wasn't aware, as I said, specifically
 18 at that time that we were saying don't stand up NICCMA
 19 but on reflection in regards to -- as I've said to the
 20 previous answer, as to when it was necessary to stand it
 21 up and move into that response phase, I do think we
 22 could have possibly moved earlier, again to raise that
 23 red flag to other departments, to other Executive
 24 bodies, and I'm very much in agreement with what
 25 David Sterling was saying in his evidence.

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1 **A.** Well, and I suppose at that stage it was -- in regards
 2 to testing capabilities there was no test, I suppose in
 3 the early days in regards to Covid and I'm not sure of
 4 work in February being done to develop tests, but once
 5 the genome became available I know our virology lab in
 6 Belfast was actually one of the first 13 sites across
 7 the UK that was able to test.

8 So those sort of steps and preparation were being
 9 put in place in regards to test and -- you know, the --
 10 tracing capability, and I think, my Lady, you know, it
 11 was often portrayed that tracing was a new development
 12 just because of Covid but we already had a division
 13 within our PHA in regards to actually that tracing
 14 capability, although not large in regards to that.

15 I do know now, and again from the Inquiry,
 16 unfortunately, that the PHA wasn't in a robust
 17 situation, a robust enough situation, to scale up at
 18 pace as was necessary or could have been done when the
 19 tests became available as well.

20 So there was much work being done. And again, it's
 21 the phrase "in the background" in regards to the
 22 preparation, the letter in the document you've shared
 23 from the Chief Medical Officer indicates, you know, as
 24 we moved from the establishment of silver, the
 25 activation of gold, as to where those responsibilities

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1 and asks were actually coming.
 2 **Q.** Just, first of all, testing, obviously I think a test
 3 was -- I will get the exact date, but I think tests were
 4 available at a point in January, but obviously that's
 5 a different question from the ability to scale up
 6 testing, and what was being done by your department to
 7 understand what challenges there might be to doing that?
 8 That's the first question.

9 Then the second question is obviously the PHA was
 10 an extremely small organisation; correct? And its
 11 ability to carry out tracing and the limitations must
 12 have been very obvious from an early stage.

13 Sorry, those are two separate questions.
 14 **A.** And again in regards to testing -- you know, the early
 15 test that was developed, there is no -- and again, not
 16 coming from that laboratory/scientific background that
 17 was -- but the analysis that those tests were --
 18 you know, and I think, my Lady, we now become used to,
 19 you know, the lateral flow tests that everybody expects,
 20 that is where it was, and we were using highly
 21 complicated equipment within our virology lab in
 22 Belfast. We were able to expand that out across lab
 23 equipment elsewhere, you know, from our universities,
 24 actually AFBI as well. Part of our Department of
 25 Agricultural provided their lab facilities as well. So

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1 when I talk about investment in health, it's not just
 2 about the hospitals, it's the wider structure as well,
 3 so also our arm's length bodies as well in regards to
 4 that.

5 **Q.** But taking that as read, and going back to the planning
 6 that was going on, can we assume then that in the
 7 planning and at this critical phase you didn't
 8 understand that there were likely to be quite serious
 9 limitations, for example, on what the PHA could actually
 10 do?

11 **A.** No, it wasn't that, because I do remember, I think it
 12 was the first case we had, it was -- I actually visited
 13 our contact tracing centre in Belfast, Linenhall Street,
 14 and was very impressed with the set-up they had, the
 15 ability to scale it up as to a small number of cases but
 16 not to the extent that we eventually saw.

17 **Q.** Right.

18 **LADY HALLETT:** Is that a convenient moment?

19 **MS DOBBIN:** It's a good time to break, thank you.

20 **LADY HALLETT:** Very well, I shall return at 1.45.

21 (12.45 pm)

(The short adjournment)

23 (1.45 pm)

24 **LADY HALLETT:** Ms Dobbin.

25 **MS DOBBIN:** Thank you, my Lady.

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1 there was work being done, I'm not sure if it was
 2 specifically in that stage in early February or where
 3 that kicked in, but we did establish an expert advisory
 4 group on testing that looked at the different avenues
 5 and different opportunities that we had across
 6 Northern Ireland in regards to PHA and the testing.

7 I think in regards to those initial phases as to how
 8 we did contact or the follow-up tracing wasn't -- was
 9 there but not there as a facility that could be expanded
 10 quickly enough. But then again, it was reliant on
 11 testing as well. But again, I know there are some
 12 challenges and deficiencies within the PHA in regards to
 13 that testing capability, which weren't brought to my
 14 attention at that point in time, as we moved on again --
 15 and I am jumping quite a bit --

16 **Q.** I suppose what I'm asking you about is your awareness of
 17 that and your understanding of that in this crucial
 18 planning phase, that key parts of the response to the
 19 pandemic in Northern Ireland were actually quite
 20 seriously understaffed and --

21 **A.** Yeah.

22 **Q.** -- at subpar capability?

23 **A.** Yeah, and I think, my Lady, that does go back to,
 24 I think, some of the opening comments in regards to that
 25 lack of investment that we actually had in health. And

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1 Mr Swann, before the adjournment, we had just looked
 2 at what you said to the Northern Ireland Assembly on
 3 1 March, and that you had conveyed that it was far from
 4 certain that Covid-19 would develop into a pandemic.

5 I think where we had gotten to then was what you
 6 conveyed on 2 March to the Executive Committee meeting.

7 If we could perhaps, please, bring that up at
 8 INQ000065694, please.

9 Again, just to see the date of that, it's 2 March,
 10 and we can see that you provided an initial update
 11 confirming that the first positive case had been
 12 recorded in Northern Ireland. We can see reference to
 13 the legislation.

14 If we go over the page, please, I think we can see
 15 that the CMO attended this meeting.

16 If we go over the page, please, to page 3, I think
 17 that we can see then some of the information that was
 18 being provided at the top:

19 "Most people -- minor illness -- like [a] cold.

20 "98% will get better."

21 I think we also see at the bottom, the Chief Medical
 22 Officer continued:

23 "Tough decisions."

24 I think if we just go over the page, please, I think
 25 we see reference to not being inevitable either.

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1 Sorry, I think it's at the bottom of that page.
 2 Yes:
 3 "Modelling ...
 4 "Contain ..."
 5 So that's a reference to Northern Ireland being in
 6 the contain phase, isn't it?
 7 **A.** Yeah.
 8 **Q.** And:
 9 "Not inevitable."
 10 Again, was that part of the same message that was
 11 being conveyed, that Northern Ireland was in the contain
 12 phase and that it wasn't inevitable that this would
 13 become a pandemic?
 14 **A.** Yeah.
 15 **Q.** So even at 2 March that was still the message being
 16 conveyed to your ministerial colleagues?
 17 **A.** From the same(?) at that point, yes.
 18 **Q.** Okay.
 19 **A.** But again, because, you know, we:
 20 "Need to ... prepared for weeks ..."
 21 This would be for weeks, at most months.
 22 "... [very] Transmissible virus ..."
 23 **Q.** Yes. I think, again, it's just understanding what the
 24 understanding of your colleagues would have been at this
 25 stage, based on the advice that was being given to them

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1 **Q.** -- to prepare for the pandemic?
 2 **A.** Sorry, that's the point, at 16 March, where those NPIs
 3 were starting to be talked about across COBR as well in
 4 regards to actually that preparation for what was going
 5 to become the national lockdown, in regards to that
 6 a week later on 23 March. So I think taking that one
 7 paragraph in context, and the rest of the document,
 8 my Lady, is actually saying that, although it has been
 9 now announced that the World Health Organisation is
 10 describing it as a pandemic, it's not having any
 11 material impact on the other actions that are actually
 12 happening.
 13 And if you look down through the rest of the paper
 14 there, paragraph 4 now expands as to what is actually
 15 being talked about there in regards to what had been
 16 talked about at the ministerial meeting on 12 March in
 17 regards to no school closures as of yet.
 18 "FCO and DHSC will change travel advice for those
 19 over 70 and/or with underlying health conditions ..."
 20 So it's really about getting ready for that, and
 21 that announcement from World Health Organisation hasn't
 22 changed that direction of travel.
 23 **Q.** Again, I'm just going to focus on, I suppose, what alarm
 24 bells were, as it were, being rung in Northern Ireland
 25 in and around this stage. You had previously said in

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1 by the CMO.
 2 I think that can come down, please.
 3 I think just in terms of again what was being
 4 advised or what you were being briefed about in and
 5 around this time, I think if we could go, please, to
 6 INQ000425611, please.
 7 So, again, this was a briefing for the Executive.
 8 I think if we go over the page, please, to page 2,
 9 and if we look at paragraph 2:
 10 "WHO have announced that the outbreak has reached
 11 a stage where it can be described as a pandemic. This
 12 does not have any material implications for how we
 13 respond to the outbreak in Northern Ireland."
 14 **A.** I think --
 15 **Q.** Can you explain that, because that might seem like
 16 an extraordinary thing to have been said in a briefing?
 17 **A.** I think what that is attempting to describe in regards
 18 to that document is that although WHO have now announced
 19 that the stage can be described as pandemic, it hasn't
 20 made any changes as to how Northern Ireland is currently
 21 responding or the preparation work that is being done.
 22 **Q.** Just again, help us with what that work was, in actual
 23 fact, and what was being done on any sort of
 24 cross-departmental basis --
 25 **A.** Well, again, that's --

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1 the course of your evidence about the gold group being
 2 convened, and are we to understand that that was
 3 a significant step as well within the Department of
 4 Health?
 5 **A.** It is, it's a significant step, yeah. It's a reaction.
 6 **Q.** I think what you say in your witness statement, though,
 7 and I just want to check that this is correct, and I'm
 8 looking -- if we need to go to it I will -- and this is
 9 your, I think, January -- it's your statement of
 10 15 January. You say at paragraph 27:
 11 "An extraordinary meeting of the Top Management
 12 Group was held on 4 March 2020."
 13 And you refer to a note that:
 14 "... confirmed [that] the Top Management Group's
 15 agreement to the full activation of the Health Gold
 16 Command was circulated the following day, advising that
 17 the Strategic Cell had been convened and would have its
 18 first meeting on 9 March 2020."
 19 So can you just help, then, was that the strategic
 20 group being convened on that date?
 21 **A.** In regards to, I think, paragraph 27, regards to that
 22 the strategic cell had been convened.
 23 **Q.** So it seems to suggest that the top management group's
 24 agreement to the full activation of the health gold
 25 command in fact took place on 5 March 2020; is that

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1 correct?

2 **A.** And again, that's the full activation. There's a number
3 of steps that had been taken in regards to building that
4 up, in regards to, you know, the correspondence had
5 already been evidenced earlier on in regards to coming
6 from the Chief Medical Officer, to Valerie Watts, to the
7 Health and Social Care Board, as to the gradual increase
8 as to the full activation of gold.

9 **Q.** Having looked at this strategic cell that had been set
10 up, that is in fact, isn't it, the -- or part of its
11 role was to provide strategic direction and advice to
12 HSC organisations and to you; is that correct?

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

14 **Q.** So why was that cell providing strategic advice to you
15 not set up until this point in time in March? Again,
16 that might be thought to be very late in the day indeed.

17 **A.** Again, I suppose in retrospect, my Lady, I was receiving
18 that strategic advice from my permanent secretary and
19 the Chief Medical Officer and his team, the Chief Social
20 Worker and the Chief Nurse, in regards to what needed to
21 be done, but it is the formalisation and the step-up of
22 that cell at that point in time, whereas it -- it's
23 a formalised structure rather than the more one-to-one
24 briefings that I had been receiving.

25 **Q.** So are you suggesting that the activation of the cell in
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1 a possibility within your department at this time?

2 **A.** I wasn't part of that meeting, and as I've said earlier
3 on, and in my statement, I agree with David Sterling as
4 where I could have seen a possibility of the benefit of
5 standing NICCMA up earlier than it actually did, to
6 actually raise alarm bells or raising issues across the
7 rest of the other departments.

8 So, again, it goes back to, again, the position at
9 that point being taken by the permanent secretary and
10 the Chief Medical Officer, as that wasn't the right
11 point in actually activating NICCMA. Although, as
12 I said, you know, in previous engagements this morning
13 that there was other options, other bodies who could
14 activate NICCMA, my Lady, in regards, but not being part
15 of that meeting or that context as to why it was still
16 being considered only a possibility at that stage,
17 I can't comment further, because then it moves on to say
18 that that issue should be discussed further with the
19 CMO.

20 **Q.** Yes, well, I think maybe that's the point, that whether
21 or not Northern Ireland's civil contingency arrangements
22 in the TEO ought to be set up is a matter of discussion
23 with the CMO.

24 Again, that might be thought quite surprising, that
25 the Chief Medical Officer would have a role in
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1 fact made no difference to the advice that you were
2 receiving at that point in time in any event?

3 **A.** It was the more formalised structure in regards to that
4 advice coming through, so it gave it a structure to be
5 delivered to me as gold strategic cell rather than
6 coming from those individual chief officers and policy
7 leads.

8 **Q.** What does that add that wasn't there previously?

9 **A.** I think it's the formal structure, that the actions has
10 actually been taken at a gold level rather than coming
11 from the individual cells that had been previously
12 activated.

13 **Q.** But in substance what difference does it make?

14 **A.** In substance the briefing papers still come, I suppose
15 it's the culmination of where they come from, whether
16 it's an overarching body or from a single cell or policy
17 lead as an individual.

18 **Q.** Can we look at the note, I think, that was generated by
19 the first meeting of that group on 9 March -- it's at
20 INQ000433481 -- and look at the actions. We see there
21 the first action:

22 "Possibility of invoking NICCMA to involve TEO
23 further, to be discussed further with CMO."

24 This is 9 March, Mr Swann. Why was the possibility
25 of invoking NICCMA still being discussed only as
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1 potentially deciding whether or not the arrangements
2 should be stood up or whether or not even TEO ought to
3 be involved further at this point in time.

4 **A.** Well, I think, as has been discussed in earlier evidence
5 sessions, the TEO has the ability to initiate NICCMA on
6 its own and I think there is commentary around from the
7 head of Civil Service at that time and officers with
8 CCPB(NI) in regards to actually they would wait on the
9 Chief Medical Officer's request, which I think is
10 incorrect in my understanding, that they could have
11 actually invoked NICCMA on their own at that point.

12 **Q.** But do you agree what this reflects is that your
13 department thought that it was its role to decide
14 whether or not or that it was in the driving seat as to
15 whether or not Northern Ireland's civil contingency
16 arrangements should be stood up?

17 **A.** No, I -- sorry -- and again it's difficult, my Lady,
18 because I wasn't at the meeting and it's -- you know,
19 it's a two -- not even two full lines of what was there,
20 so -- from an action point. I still think it indicates
21 that there's a possibility of invoking NICCMA by the
22 Department of Health and to involve TEO further and that
23 was to a point that was actually to be discussed further
24 with the CMO.

25 **Q.** If we go on, please, to the meeting that took place the
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1 next day at the Executive Committee, INQ000065695.
 2 This is now on 10 March. I think we can see that,
 3 again, you're updating the Executive Committee as to
 4 what was going on, and I think you do say there a couple
 5 of points up from the bottom:

6 "Looking to other [departments] for co-ordination."

7 Then if we go over the page, I think we see
 8 reference to organisations taking their own advice and
 9 reference to St Patrick's Day.

10 I think to the deputy First Minister saying:

11 "[Executive] approach needs to kick in -- all need
 12 to contribute."

13 That's just a few lines up from the bottom of the
 14 page.

15 Then if we go over the page to page 3, the
 16 First Minister asking:

17 "Civil Contingencies.

18 "-- have we got plans to handle?"

19 And references to departments needing advice.

20 It does appear that even by 10 March 2020, that
 21 there was no sense of any sort of cross-departmental
 22 response to Covid-19 in Northern Ireland; do you agree?

23 **A.** I would agree that that is what is clearly demonstrated
 24 here, and I think it comes on actually later on,
 25 my Lady. And apologies for jumping forward, but I think
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1 undertaking -- we'd raised our surge plans, we'd moved
 2 from silver, we'd moved to gold, we were issuing advice
 3 and guidance to our arm's length bodies and to those
 4 organisations that were relying on us to do that, we
 5 were providing briefings to Northern Ireland civil
 6 contingencies, CCG(NI), my permanent secretary was
 7 engaging --

8 **LADY HALLETT:** Slower, please.

9 **A.** Sorry, apologies.

10 **LADY HALLETT:** I appreciate you trying to save time.

11 So I got to "briefings to civil contingencies". You
 12 then said your permanent secretary ...

13 **A.** My permanent secretary was engaging with his
 14 counterparts as well as regards to that. So I think
 15 from a cross-government response, I honestly cannot
 16 answer to that but I know what we were doing within the
 17 Department of Health. And I referred earlier on,
 18 my Lady, to that -- that point that minute, that it gets
 19 exchanged between TEO officials in regards to 4 March in
 20 regards to when the Chief Medical Officer and myself
 21 visited the Northern Ireland hub as to see what was
 22 there, and it's obvious now from what I've seen, from
 23 what I know from this briefing, that that central
 24 organisation was understaffed, it was struggling. That
 25 would have been highlighted continually, I think, at
 123

1 that -- there's a letter I sent to FM and dFM, I think

2 it's about 29 March --

3 **Q.** Yes --

4 **A.** -- where I actually highlight that.

5 So, I think the note -- and again, I stress the
 6 handwritten notes from this meeting aren't verbatim, but
 7 I think it shows the deputy First Minister and
 8 First Minister actually looking to their officials,
 9 looking to HOCS, saying, you know, "Where is our
 10 co-ordinated -- where is our co-ordinated response?
 11 You know, have we got plans to handle this? Where's the
 12 advice to the organisations?"

13 So it's the First Minister and deputy First
 14 Minister, you know, asking out loud in an Executive
 15 meeting to officials who are there, you know, "What are
 16 we doing in regards to this?"

17 **Q.** Mr Swann, it might be thought, again, I don't want to
 18 overstate this, but utterly extraordinary that by
 19 10 March questions were being asked about: do we have
 20 plans for civil contingencies, a cross-departmental
 21 approach needs to kick in?

22 I mean, what was actually being done across
 23 Northern Ireland at this point by the government?

24 **A.** Well, my Lady, I can speak on behalf of the Department
 25 of Health in regards to what was being done. We were
 122

1 that TEO level, but it wasn't until the First and deputy
 2 First Minister actually raised these issues, I think
 3 quite rightly at that point, that the rest of
 4 government, the rest of that civil contingencies
 5 approach actually kicks in.

6 **MS DOBBIN:** First of all, going to the hub, there wasn't
 7 a hub until much, much later in March, so, I mean, there
 8 isn't even a question of there being a hub in
 9 existence --

10 **A.** Sorry, there's a physical -- there is --

11 **Q.** There's a space?

12 **A.** There is a physical hub that has computers and all the
 13 rest of it and different stalls and sets, so that is
 14 where we actually went at that point in time. So there
 15 is a physical entity.

16 **Q.** Yes, but obviously having a room that's empty and that
 17 isn't playing any sort of part in co-ordinating
 18 departments across Northern Ireland isn't going to be
 19 much good to anyone?

20 **A.** No, and it wasn't and I think that's the point, and
 21 I think, knowing what I know now, I had expected that to
 22 be staffed up, I had expected it to be functional and
 23 ready to kick in as and when it was asked for, but in
 24 regards to evidence I have received, evidence this
 25 Inquiry received, that wasn't the case.
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- 1 Q. But, Mr Swann, you've said on a number of occasions
2 "what I know now", but you knew at the time that those
3 arrangements hadn't been called for or instituted, and
4 also you knew that your department had advised that they
5 didn't need to be set up as well?
- 6 A. But what I -- what I didn't know then was that there
7 wasn't an ability, there wasn't a structure to stand up
8 in regards to that, so it was always moving up to that
9 point. If we had have asked for them -- and again, it
10 goes back to that correspondence -- if we'd asked for
11 the hub to activated, that there is a clear indication
12 that the staff wasn't there to do that, that's the bit
13 that I still find, and do find concerning, that that
14 staff, during that time, during February -- end of
15 January, February, even into the start of March, that
16 there wasn't a central effort being made. I actually
17 did put processes and people into place so that when it
18 was called for that it was actually being able to be
19 activated.
- 20 Q. So can we just be clear about this, and not as a matter
21 of retrospect, but at 10 March when ministers were
22 starting to say an Executive approach needs to kick in,
23 do you agree that there had been no cross-departmental
24 response to Covid-19?
- 25 A. There had been cross-departmental working, we were able
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- 1 secretary, also by the Deputy Chief Medical Officer
2 briefing civil contingency branches as well. So there's
3 a range of engagements. But if you're talking about the
4 physical -- or, I suppose, that point where there's
5 a point you can actually look at and say "That's where
6 Northern Ireland cross-government kicked in, here's the
7 demonstration, here's the paper, here's the piece of
8 evidence that is at that point", I would agree with you.
- 9 Q. All right.
- 10 When you say that, are you referring to 16 March
11 whenever NPIs came in or are you referring to 10 March?
- 12 A. I'm actually referring to 10 March where the First and
13 deputy First Minister actually come forward and,
14 I suppose, become engaged in that.
- 15 It's also possibly at that point where the First and
16 deputy First Minister prior to this meeting actually
17 started to attend COBR as well.
- 18 Q. That's right.
- 19 A. Because it was being led by the Prime Minister at that
20 stage. So I think that indicates that -- that
21 involvement of TEO structures as well as an overarching
22 body, as actually the Executive Office, as an approach
23 to a co-ordinated response.
- 24 Q. I just want to pause before we go further and just to
25 ask you about, again, your statement. And please, if we
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- 1 to do that and, again, sorry to belabour the point, but
2 in regards to the Coronavirus Act, you know, in regards
3 to the interaction between departments as to what was
4 actually being done at that level, so there was
5 engagement across departments but as to that central
6 response, there wasn't the detailed work that I would
7 have expected when we actually moved to calling for the
8 activation of NICCMA.
- 9 Q. So forgive me, if the Inquiry was seeking to identify
10 the main thing that was done before this date to
11 demonstrate a cross-departmental response, it would be
12 the fact that some departments had commented on the
13 draft legislation; is that right?
- 14 A. It's more than simply a comment. When it comes to draft
15 legislation in regards to what the Coronavirus Act -- it
16 was actually quite a significant piece of legislation,
17 so it's not just the fact that they commented on it,
18 it's the fact they would have been analysing their part
19 to it, their response to it, and actually what it would
20 have meant to them.
- 21 Q. So we should focus on that, that should be what we look
22 to in order to understand what the cross-departmental
23 response was; is that right?
- 24 A. But not only that, my Lady, I think it's also the
25 interactions that were being had by my permanent
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- 1 could have this up, it's your 24 January statement at
2 paragraph 66, it's on page 26, and that's INQ000412903.
- 3 So, again, does that capture your evidence that it
4 was 10 March --
- 5 A. Yes.
- 6 Q. -- whenever there was an understanding in
7 Northern Ireland?
- 8 A. Yes, but --
- 9 Q. Do you accept responsibility, Mr Swann, for the fact
10 that it was only at 10 March that there was that
11 understanding on the part of your ministerial colleagues
12 that this is what was required?
- 13 A. I have said, I think, my Lady, at the beginning of this,
14 if I hadn't been sounding the alarm bells early enough
15 with that level of seriousness, alarm, as has been
16 I suppose perceived here that my other colleagues
17 weren't picking up on -- other Executive colleagues
18 weren't picking up on the briefings that were being
19 given to their permanent secretaries that weren't being
20 fed through, if that was a failing on my behalf at that
21 time, I'm perfectly willing to accept that
22 responsibility as a failure on my behalf.
- 23 Q. You said "if".
- 24 A. Oh, sorry, I'll remove the "if", sorry --
- 25 Q. I'm asking you rather than more than that, whether or
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1 not you accept that you do have responsibility for
 2 colleagues not understanding until this very late stage?
 3 **A.** I don't think I'm responsible for colleagues not
 4 understanding the seriousness of Covid in regards to the
 5 outworkings of what actually happened. What I'm saying,
 6 my Lady, I think, I've always accepted my responsibility
 7 and accountability for the office that I hold. It's
 8 something that I hold very serious and something that
 9 I've a great honour and privilege to actually hold. So
 10 if there's a failure on my part, my behalf, to alert
 11 other ministers as to what was coming down the line,
 12 I'll accept that.

13 **Q.** If we please go forward in time to 16 March, to
 14 INQ000065689.

15 This is the meeting of 16 March, Mr Swann, and
 16 obviously we can see from the information that you're
 17 providing, I think, that there was obviously, I think,
 18 a real escalation in concern by the point of this
 19 meeting about the situation. Do you agree?

20 **A.** Yes.

21 **Q.** So, for example, the fact that there may not be enough
 22 ventilators, we can see that being referred to.

23 If we go over the page, please, I think we see as
 24 well reference to -- yes, it's what you're saying --
 25 Covid, just looking at the mid-point, in what you were

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1 **A.** Yes.

2 **Q.** Again, insofar as you could see from what had been done
 3 by your colleagues or their reaction, did you have any
 4 understanding or any insight into what was being done by
 5 other departments at this stage?

6 **A.** I hadn't, no.

7 **Q.** Do you think that your ministerial colleagues had been
 8 planning in a robust way, as you might have expected by
 9 this stage?

10 **A.** By this stage I think it becomes apparent that some of
 11 them hadn't been, in regards to what had been expected,
 12 but it's also -- you know, the implication of that
 13 cross-departmental working as well, where everyone had
 14 a role to play.

15 **Q.** All right.

16 I'm not going to go through everything that happened
 17 in this meeting, because this is also the meeting at
 18 which consideration was given to whether or not to close
 19 schools. Is it right by 16 March that there weren't any
 20 plans in Northern Ireland that schools might close?

21 **A.** No, we were still following the SAGE advice at that
 22 point in time, which was to keep them open.

23 **Q.** And that's why, for example, there's reference to the
 24 fact that if schools were to close, and I think we've
 25 seen reference to this in another minute of 12 March,

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1 conveying:

2 "COVID 19 is now with us.

3 "Now real."

4 I think we can see at page 6, for example, reference
 5 to it being a "nightmare".

6 I think, page 7, there's reference to
 7 Northern Ireland having "Lost control".

8 On page ...

9 **(Pause)**

10 It may not be on that page, Mr Swann, but let me --
 11 it's just to help remind you of what the tenor of that
 12 meeting was like, that it was now real, it was
 13 a nightmare, that Northern Ireland had lost control,
 14 that people were terrified and there was a need to show
 15 leadership.

16 There's a reference to ministers not being shouted
 17 down, to the Minister for Justice, Ms Long, saying the
 18 Executive always seems to be reacting not leading, the
 19 Minister for Infrastructure having said "We're
 20 mismanaging", and I think we see reference in those
 21 notes to you having said:

22 "We have been preparing for [the] past 7 weeks."

23 That reference to "We have been preparing for past
 24 7 weeks", presumably that was just a reference to the
 25 Department of Health?

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1 your concern that it might, for example, collapse the
 2 health system because there wasn't any contingency
 3 arrangements in place?

4 **A.** I think it's not just in regards to the pressure it
 5 would have on the health system but at that point I was
 6 also concerned at the implications of those children who
 7 actually relied on school for free school meals,
 8 my Lady, and all the rest of it.

9 So at that point, as has become, I think, aware that
 10 we didn't have the preparations to be able to close
 11 schools in a managed and controlled sort of way, so
 12 there was no -- as far as I was aware at that point, no
 13 mitigations or no opportunities where we could still see
 14 those essential workers' children being able to go and
 15 access to free -- those children who relied on free
 16 school meals, those provisions actually hadn't been made
 17 at that point. And that's why the Executive, I think
 18 rightly, agreed that it would take a week actually to
 19 bring about school closure rather than closing them
 20 overnight.

21 **Q.** Well, I think that the vote was, first of all, whether
 22 to close schools. That was voted against. And then the
 23 vote that won the day was to close schools when the CMO
 24 advised.

25 It might be thought inappropriate that the decision

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1 whether to close schools would just be contingent upon
 2 what the CMO advised. Did you have any concern at that
 3 meeting that decisions like that were being regarded as
 4 a matter essentially for him rather than --

5 **A.** I did. And I don't think it's recorded in the minute,
 6 but it was one of those meetings where that vote was
 7 called, my Lady, as a spur of the moment vote that was
 8 called. I didn't think it was right that we did it.
 9 The counter that left it in the hands of the CMO
 10 I thought was better than moving immediately to closing
 11 schools, which I don't think we had, as a society, as
 12 Northern Ireland, had actually prepared for the
 13 consequences in doing that. It could have been -- and
 14 I think if it had been portrayed or kept going along
 15 those lines, I think it was an unfair position to put
 16 the CMO in at that point in time.

17 **Q.** I'm going to come back to the CMO and his position in
 18 just a second, but when we get to 19 March, and again
 19 I won't go to it, but you've set out in your statement
 20 of 24 January at paragraph 82 that it was only on
 21 19 March that you realised the numbers of people that
 22 might potentially lose their lives in Northern Ireland
 23 on account of the virus and the numbers of people that
 24 might be affected; is that correct?

25 **A.** That's correct. And that's going back to I think it was
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1 a calculation I sat and done -- I'm not saying myself,
 2 but, you know, and that's -- it was at that, really, as
 3 I say, I can't explain why it wasn't in a previous
 4 briefing as to an exact number that was there. We
 5 worked out the reasonable worst-case scenarios and other
 6 scenarios were put out and presented as well, but
 7 I think it was at that point that that clarification of
 8 that black and white number that really brought things
 9 into a very sharp focus.

10 **Q.** Again, it might seem really stark, Mr Swann, that on
 11 25 January Scotland was able to provide an overview or
 12 advice was provided to Scotland about the potential
 13 ramifications on its health system based on WHO figures,
 14 that the Scottish Government should have that level of
 15 understanding at a very early stage and that in
 16 Northern Ireland we're talking about, first of all, it's
 17 19 March, and it's you who's working out the figures
 18 rather than those who advised you. I mean, it might be
 19 thought, I mean, that might be thought really
 20 extraordinary now.

21 **A.** Well, in hindsight, yes, but again in regards to some of
 22 the preparation I don't think it was solely reliant on
 23 that number in regards to what they were doing and what
 24 other departments were doing in standing up their
 25 responses as well from Department of Justice, to the
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1 the briefing at COBR where they set out, you know, it
 2 was a very clear slide in regards to an 80% infection
 3 rate and a 1% mortality rate. And I've said this
 4 before, my Lady, I did the calculations, set them on
 5 a piece of paper, and -- when I realised the number that
 6 we were talking about.

7 So until then we'd been talking about percentages
 8 and all the rest of it, but it wasn't until I saw that
 9 number and what potentially we could have been facing in
 10 regards to the number of deaths, the number of
 11 bereavements, that we could be facing in
 12 Northern Ireland alone that really brought it to a level
 13 that, you know, and I think it's referred to, that just
 14 was -- took it to another level.

15 **Q.** But, Mr Swann, the percentages and the number -- the
 16 percentages of people who might get infected and the
 17 percentages of people who might die had been set out
 18 a considerable time before this, so why did it take
 19 until then, first of all, for you, for the penny to drop
 20 with you and for you to convey that to your ministerial
 21 colleagues?

22 **A.** Because those percentages I think changed from February
 23 through to the end of March and at no time -- and I've
 24 checked documentation, there's nowhere is that
 25 calculation actually done. So it is actually
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1 Economy, to ourselves.

2 **Q.** Again, I mean, I won't go back to the notes of 19 March
 3 but I know you've said that you think the penny drops at
 4 around 10 March, but, I mean, again it is right that
 5 ministerial colleagues didn't have the sorts of numbers
 6 that -- the numbers of people who might or who were at
 7 risk of losing their life at this point. That was the
 8 first time that that was spelt out to them, wasn't it?

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

10 **Q.** I don't think, and we'll hear from the First Minister
 11 and the deputy First Minister when they give evidence,
 12 but it doesn't appear that they were in receipt of any
 13 sort of detailed medical or scientific advice before
 14 this point either. Do you agree?

15 **A.** I'm not sure in regards to what advice, I can't speak to
 16 that.

17 **Q.** I won't press you on that.

18 I want to go to a different point, though, that
 19 links to this.

20 If we could go, please, to INQ000308444, and to
 21 page 3 of this, please.

22 This is a message -- I'm looking at 24 March -- it's
 23 not a message that was sent to you, Mr Swann, it's
 24 a message between Sir David Sterling and the Chief
 25 Medical Officer, and it relates to a meeting that took
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1 place on 24 March, and we can see that the CMO referred
2 to the Executive having "lost the run" of itself, and
3 that "it turned into a cross examination", but perhaps
4 this is the most important point:

5 "They are now frankly getting in the way of
6 a co-ordinated effective response and making demands on
7 my time and our ... team in health that we simply can't
8 facilitate."

9 That can come down, please.

10 I'm sure that you accept, Mr Swann, that no response
11 to a pandemic can be driven entirely by officials?

12 **A.** Yes.

13 **Q.** And that ultimately these -- I mean, that these matters
14 couldn't be more grave, that they were a matter for the
15 collective responsibility of the Executive Committee.
16 Do you accept that?

17 **A.** I would, and -- as it started, my Lady, that's when we
18 were talking about the Ministerial Code and I referred
19 to paragraph 2.4 in regards to --

20 **Q.** Yes.

21 **A.** -- my responsibilities as to what I was actually
22 bringing back to the Executive. And again, my Lady, I'm
23 not sure what the conversation was in regards to where
24 that point or that exchange was during an Executive
25 meeting or what specifically it referred to as, I think,

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1 Officer, we know that the Chief Scientific Adviser only
2 came back into his post at around this time. Is it
3 right to see the Chief Medical Officer as being the
4 principal figure responsible for providing all of the
5 advice up until this point to you and then to the
6 Executive Committee?

7 **A.** And I think on Friday's presentation with the Chief
8 Medical Officer, he was supported by a strong team of
9 deputy chief medical officers and the assistance of the
10 senior medical officers in there as well and that was
11 synthesised, it was the direction of travel, it was the
12 path of, I suppose, communication and engagement was
13 through the Chief Medical Officer.

14 **Q.** Yes, but from your perspective, I mean, obviously that
15 then means that I think the Chief Medical Officer is the
16 person who decides what advice and information goes into
17 the briefings provided to you; correct?

18 **A.** I'm not sure if he was signing off on all the briefings,
19 my Lady, in regards to where -- they could have come
20 from the Chief Social Worker, Chief Nursing Officer,
21 Chief Pharmaceutical Officer -- you know, there are
22 other avenues of getting advice and guidance to me. In
23 regards to the specifics round the pandemic, and at this
24 point in time, I do believe that the point of travel and
25 the point of engagement was through the Chief Medical

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1 has been indicated. I wasn't part of that exchange.

2 **Q.** But I think what might be thought of rather more concern
3 was the idea that the Executive were getting in the way
4 of a response as opposed to being the people who were
5 responsible and accountable for it, not the Chief
6 Medical Officer.

7 **A.** That's not my -- that's not my position, it's not my
8 comment, it's not my message, so, you know --

9 **Q.** No, quite so. I think I'm asking really whether you
10 agree, first of all, that that is right, that it was for
11 them and that they were both responsible and
12 accountable --

13 **A.** Yes.

14 **Q.** -- to the people of Northern Ireland for the response?

15 **A.** Yeah.

16 **Q.** And whether or not, I suppose, you have any concerns at
17 the CMO seeing them as potentially getting in the way of
18 the response?

19 **A.** And, as I say, I'm not sure of the context or when that
20 exchange was being made, if it was being made between
21 officials, Chief Medical Officer, permanent secretaries,
22 so it would be hard for me -- it's hard for me to judge.
23 But as far as being an elected representative, it was
24 for the Executive to make those decisions.

25 **Q.** Yes, and in terms of the role of the Chief Medical

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1 Officer's office, yes.

2 **Q.** Yes, and I am just focusing on the response to the
3 pandemic, as opposed to the other specific
4 responsibilities that people like the Chief Social
5 Worker might have had, but I just want to understand
6 whether or not you regarded him as being the principal
7 source of advice and information to you?

8 **A.** At that point in time, yes.

9 **Q.** And that he controlled essentially what was provided to
10 you, or did you see underlying papers, what other people
11 said?

12 **A.** Well, any -- I suppose any submission that was coming to
13 me, I'm not sure he had Executive approval or authority
14 to say yes or no, I would say that, my Lady, my
15 understanding, but that would have been coming from my
16 permanent secretary in regards to those structures as
17 well. So I'm not sure that that cut-off point or
18 ability to say yes or no rested solely with the Chief
19 Medical Officer. I can't speak to that.

20 **Q.** But even if you can't speak to that, it's a very
21 straightforward question: did you regard him as your
22 principal adviser on the response to the pandemic?

23 **A.** Yes.

24 **Q.** Can we move on, please, to the letter you've referred
25 to, Mr Swann, that you wrote on 29 March.

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1 It's at INQ000023229. We can pick it up at
 2 paragraph 3.
 3 You said that:
 4 "... we -- as a system -- have largely been in
 5 reactive mode."
 6 And that that wasn't intended as a criticism.
 7 I think if we just follow this on down, please, and
 8 at paragraph 3, that:
 9 "... colleagues [would] recognise that, whilst the
 10 Department of Health is at the forefront of many of the
 11 issues, this is an issue that impacts all sectors ..."
 12 If we could go over the page, please, and look at
 13 the final paragraph, you set out:
 14 "In that context, I feel it would be useful if, on
 15 Monday, we could hear from colleagues in the Executive
 16 Office about their own strategic planning work, and get
 17 a sense of that overarching regional strategy.
 18 "I look forward to the discussion ..."
 19 Yes?
 20 **A.** Yes.
 21 **Q.** So, again, does this demonstrate that lack of
 22 responsiveness on the part of departments up and until
 23 this point in time?
 24 **A.** I think it's -- I think it was a polite way of asking
 25 the First and deputy First Minister to ask other

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1 name of the paper, but we did present on 29 March, of
 2 all the steps that we had taken across health and social
 3 care.
 4 **Q.** My question was a different one, Mr Swann, it was
 5 whether or not before this point ministerial colleagues
 6 had been provided with that kind of detailed work to
 7 demonstrate what was being done in the Department of
 8 Health and in respect of all of social care in
 9 Northern Ireland as well?
 10 **A.** I don't think they would have received a detailed
 11 briefing from me on the operational work of my
 12 department up until that point, no.
 13 **Q.** Again, Mr Swann, in the context of a global pandemic
 14 that Northern Ireland was now feeling the full force of,
 15 and obviously at this stage there was also a lockdown,
 16 the idea that that planning and that that work just sat
 17 within your department, without, for example, the deputy
 18 First Minister or the First Minister understanding it,
 19 might be thought of as -- again, I'm afraid I'm going to
 20 use the word "extraordinary" again, that that should not
 21 be the subject of the most intense cross-government
 22 scrutiny and understanding?
 23 **A.** And I don't think it was any -- no intentional response
 24 from ours that it sat or was presented like that, I was
 25 always open to engagement and that's why I'm writing to

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1 departments, other ministers, to take on some of the
 2 work that we would be doing rather than -- and I still
 3 think around that time my frustration was that the
 4 pandemic, that Covid was still being seen solely through
 5 a health prism in regards to who -- how they react and
 6 what are -- the reaction actually fell on, and it was
 7 asking for that, I suppose, openness about the strategy
 8 planning work that was being done elsewhere.
 9 **Q.** I think what we said, and we may have skipped over it,
 10 on the first page, was that you said you would be happy
 11 to explain where the department had reached. Yes, it's
 12 the penultimate paragraph.
 13 **A.** Yeah.
 14 **Q.** That you would be happy to share with colleagues where
 15 the Department of Health had reached?
 16 **A.** Yeah.
 17 **Q.** So can we assume that up until that point in time, there
 18 hadn't been any sort of detailed briefing to ministerial
 19 colleagues about the planning, not just within the
 20 Department of Health, but across all of social care as
 21 well?
 22 **A.** No, I think in regards to there's actually a detailed
 23 paper and presentation that we made on 29 March to the
 24 Executive in regards to an update as to our Covid
 25 emergency response, I think, I can't remember the exact

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1 the First and deputy First Minister at that point in
 2 regards to, you know, here is what we have done to date,
 3 here is what we're doing, I'm happy to present it to the
 4 Executive for you actually to scrutinise, for you to ask
 5 what we'd done, what we were doing, in regards to that.
 6 **Q.** I think if we just, you've mentioned this presentation
 7 on 29 March.
 8 If we could just, please, go to INQ000065748,
 9 please.
 10 So I think this is the meeting of 30 March, and
 11 I think if we could go, please, to -- we can just see,
 12 sorry, forgive me, at the bottom of the page we can see
 13 that it's a presentation, I think by the head of the
 14 Civil Service.
 15 And if we just go on, please, to page 4, what
 16 I think we've seen is the presentation that was given by
 17 the head of the Civil Service.
 18 And then we can see -- just pick it up from the
 19 deputy First Minister -- that it was:
 20 "Useful -- [but there was a] need to populate it
 21 with health [information]."
 22 That it was a:
 23 "Collective [Executive] responsibility.
 24 "Joined up working.
 25 "[Executive] -- not just health alone ..."

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1 Reference to, I think, working together.
 2 "Look forward to populating."
 3 I think if we go on, please, to page 23, we see
 4 reference at the top to the department, and you can take
 5 it from me this is -- I think you already know this,
 6 this is the deputy First Minister referring to the
 7 Department of Health as seeing the Executive as a thorn
 8 in its side. Yes?
 9 **A.** Yes.
 10 **Q.** Isn't the reason for that, and what we've just picked up
 11 from those papers, that there was a departmental
 12 presentation and a cross-departmental presentation being
 13 given but that there wasn't any health information, as
 14 it were, in it, that the Department of Health hadn't
 15 contributed to this cross-departmental briefing?
 16 **A.** I think, and again I've said in my statement I wasn't
 17 aware the deputy First Minister had made that comment
 18 until I seen the hand transcribed notes, but to go back
 19 to the substantive parts, there was two presentations
 20 actually to that Executive meeting. There was the
 21 department itself's emergency response strategy, which
 22 was actually presented and at the same time the head of
 23 Civil Service presented a draft Executive strategy and
 24 plan for future work, so there was actually two
 25 documents presented at that stage. The one coming from
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1 shape or form.
 2 **Q.** Yes, and that you had had a number of phone calls, but
 3 I think just focusing on the first paragraph, that the
 4 document had been produced largely to placate the
 5 demands from other Executive colleagues, and again was
 6 that how you saw the integration of the Health response,
 7 or the information to be provided to ministerial
 8 colleagues, as something to placate them rather than
 9 something that was absolutely vital and necessary that
 10 they understood and integrated into the response?
 11 **A.** I think as regards that specific document that we
 12 presented there had been a lot of questions in regards
 13 to what we were doing, and it was always that focus on
 14 what's Health doing. And, again, I referred to it
 15 earlier on as that section at each Executive meeting,
 16 where it was: what's Health, where's Health, where's
 17 testing, where's PPE, in regards -- and that's what that
 18 document was actually to do. And "placate" isn't meant
 19 in that stage, I don't think, as an insult as to the
 20 requests of Executive colleagues but it was to meet the
 21 requests in a single document, single format, where we
 22 could actually demonstrate to other ministerial
 23 colleagues as to what we were doing, what we had done.
 24 So it wasn't about -- it wasn't about them and us,
 25 it was about here is -- it was actually about a physical
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1 the Executive Office was in draft format, it didn't
 2 actually finalise the presentation, I think the final
 3 presentation wasn't until 28 May where that final paper
 4 came together.
 5 So we'd two different presentations, with our
 6 Department of Health emergency response strategy and the
 7 Executive's draft strategy and plan for future work, and
 8 I think what was requested there that Health should
 9 merge its way into the Executive paper as well, because
 10 at that point we'd been asked to present where Health
 11 was, and we'd done that.
 12 **Q.** If we just go to what you said in response or after that
 13 meeting.
 14 It's at INQ000438904, and page 1, please.
 15 We can see that on -- we can see the time that you
 16 were emailing at, the early hours of the morning, and we
 17 can see that you were thanking those who had worked on
 18 a document over the weekend. You're referring to the
 19 CMO apologising for the time lost, reference to there
 20 not being a view of the strategic direction but rather
 21 ministers reverting to asking about testing and PPE; "It
 22 was disappointing that the ... parting dig", so it would
 23 appear that you did --
 24 **A.** That's right, I had -- sorry, I apologise, my Lady,
 25 I don't -- I did not mean to mislead the Inquiry in any
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1 presentation demonstration as to all the steps that had
 2 been taken.
 3 **Q.** Because, Mr Swann, this coincides with email
 4 correspondence that the Inquiry has seen, albeit that
 5 the deputy First Minister and First Minister haven't
 6 been asked to give evidence about it yet, whereby
 7 certainly the deputy First Minister was setting out her
 8 concerns to Sir Richard Sterling about their sense of
 9 lack of control over the response to the pandemic and
 10 specifically the concern about your department, and
 11 I think I'm going to summarise it, if I may, but
 12 essentially acting in quite a unilateral way and the
 13 First Minister, although not putting it in those terms,
 14 being concerned about the information that was coming
 15 from your department. What I was going to ask you is
 16 whether or not, in the course of your evidence today,
 17 you've in fact maybe demonstrated what the problem was,
 18 that you saw everything from a health perspective, and
 19 from a Department of Health perspective, without
 20 necessarily seeing any of the wider significance across
 21 Northern Ireland?
 22 **A.** I wouldn't say I didn't appreciate or understand the
 23 wider significance but in regards to, I think it was in
 24 your opening statement, the breadth of the portfolio,
 25 and the response that we were having to take, as health
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1 minister my focus in regards to presenting to the
2 Executive was as health minister on health issues, the
3 economy minister was responsible for economy, the
4 education minister responsible for education, and again,
5 my Lady, I am now aware of the frustrations of the First
6 and deputy First Minister through this Inquiry, I only
7 wish they'd expressed them at the time to myself in
8 regards to how they were perceiving how they thought
9 I was perceiving them, because that was in no way
10 intentional.

11 And if we go back to that email of the 29th, I am
12 actually asking in regards to how we can engage and
13 bring those two things together, so it wasn't about
14 trying to set up those mechanisms, I am now through,
15 I think, presentations and media reporting from last
16 week in regards to how there was actually such a concern
17 that senior civil servants were exploring ways of
18 allowing TEO to step in and either replace me as health
19 minister or take over that -- the running of the
20 department.

21 My Lady, if -- I think by this stage I'd an open and
22 honest enough relationship with the First and deputy
23 First Minister. If they had these concerns, I only wish
24 they'd have come to me and said, rather than it being
25 populated through emails and within TEO.

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1 the Secretary of State for Northern Ireland that there
2 were particular issues about the provision of PPE to
3 Northern Ireland, and that there were, I think it's
4 right, particular shortages in Northern Ireland as
5 regards to PPE. That's right, isn't it?

6 **A.** We had challenges, I think as every other part of the
7 United Kingdom had, my Lady, and I know there's
8 a specific workstream on PPE, but what we found when we
9 went, I suppose as a department, as a nation, I don't
10 think that -- in the market where we used to purchase
11 our PPE, we were at the very end of a very long supply
12 chain ordering what was comparatively small amounts. So
13 that's why the ability to work at a UK level was
14 important to us as well at that point and around PPE not
15 meaning to get sidetracked here.

16 **Q.** So again it might be thought -- well, it wouldn't be
17 remotely surprising, would it, that your ministerial
18 colleagues might be asking questions and pressing the
19 point about PPE in the meetings.

20 **A.** No, I don't think --

21 **Q.** Indeed, they might regard that as their -- an essential
22 part of their --

23 **A.** I think there had been meetings prior to that that is
24 actually covered in regards to where they had been
25 asking questions about PPE, but I think I've -- reading

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1 **Q.** Well, we can see that she described you as a thorn in
2 the side of the Executive -- sorry, that you saw the
3 Executive as a thorn in the side and that you knew that
4 --

5 **A.** But that's --

6 **Q.** I think that would tend to suggest, Mr Swann, that you
7 did know that there were concerns about your
8 department's unilateralism at that time?

9 **A.** I think I referred to it, and honestly, my Lady,
10 I didn't recall it through -- when it was presented to
11 me or when I saw it in the handwritten notes, but
12 obviously there it had irked me at that point, on
13 31 March, that I did refer to it. I think it was
14 unfair, reading the rest of it, as to the work that we
15 had, actually questioning the fact that the Executive
16 that has been rescheduled numerous times, rather than
17 looking to the strategic direction that was laid out,
18 began questioning and reverting to questions on testing
19 and PPE that we'd actually answered previously.

20 So there's, I think, possibly a demonstration of
21 frustration that we'd come with a document, a proposal
22 or a -- not a document but setting out where we actually
23 were in health that that was actually how it was
24 received.

25 **Q.** That, for example, the reference to PPE, we know from
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1 that email, it's that frustration in regards that,
2 rather looking at the document that we'd produced, that
3 the questions refer back to issues that I felt at that
4 point we'd already answered or answered elsewhere. It
5 wasn't that PPE wasn't an issue, of course it was an
6 issue that exercised us daily in regards to making sure
7 those supplies were there.

8 **Q.** I just want at this stage to just go back over just very
9 broadly what decisions, if any, had actually been made
10 in Northern Ireland.

11 I think, first of all, it's right, isn't it, that in
12 terms of the decisions to -- the decision to close
13 schools on 18 March, that that was effectively
14 a decision taken by the UK Government that effectively,
15 as it were, were definitive of the position in
16 Northern Ireland; is that correct?

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

18 **Q.** So, in other words, ministers didn't have to make
19 a decision about that, it was effectively made for them,
20 wasn't it?

21 **A.** No. At that point the Executive could have still made
22 a unilateral decision, I think the -- my Lady referred
23 to the vote that was taken at that meeting. If that
24 vote had went another way, we would have made
25 a different decision in Northern Ireland.

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- 1 **Q.** That was the vote on 16 March, wasn't it?
 2 **A.** Yes.
 3 **Q.** And the decision there, as we've already seen, was we'll
 4 move when the CMO advises us to, but that was taken over
 5 by events two days later; yes?
 6 **A.** By SAGE where the recommendation came for schools to
 7 close across the UK.
 8 **Q.** Are you suggesting there was a sort of debate and
 9 discussion amongst the Executive Committee on
 10 18 March --
 11 **A.** No, but --
 12 **Q.** -- whether to follow the UK lead?
 13 **A.** No, but there was the opportunity and there was a debate
 14 around whether to close schools on 16 March.
 15 **Q.** Yes.
 16 **A.** Sorry, I thought -- maybe I'm picking you up wrong,
 17 I thought you were inferring that we were simply
 18 following the UK lead in closing schools and hadn't made
 19 any other decisions or had any other debate round that,
 20 whereas actually on the 16th we had and it proved to be
 21 one that was quite controversial round that stage.
 22 **Q.** Yes, but you were obviously very clearly of the view,
 23 weren't you, on 16 March that schools didn't need to
 24 close?
 25 **A.** Yes.

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- 1 **A.** But also in regards and -- I think the CMO had raised in
 2 regards to those schools -- those children that needed
 3 access to free school meals and those other challenges
 4 as well and that was the debate we actually had on the
 5 16th in regards to --
 6 **Q.** That's a consideration about the impact of --
 7 **A.** Closing schools, yes.
 8 **Q.** -- closing schools but, I mean, above and beyond what we
 9 see on 16 March there wasn't any further or more
 10 deliberate or considered debate amongst you and your
 11 colleagues before the announcement on 18 March, was
 12 there?
 13 **A.** Not at the Executive level, no.
 14 **Q.** In terms of the decision to lock down, what you've said
 15 in your witness statement was that you can't find,
 16 I think, any record of you having been advised between
 17 18 March and 23 March about any -- whether or not
 18 a lockdown, for example, was required in
 19 Northern Ireland. Is that correct?
 20 **A.** That's correct because at that stage, you know, the COBR
 21 meeting on, I think it was the 16th, had discussed
 22 a series of NPIs, I think quite extensive NPIs but when
 23 I was writing the statement I wasn't able to find any
 24 detail where that decision point was actually reached.
 25 **Q.** Again, was that decision effectively one then, it was

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- 1 **Q.** That was your position --
 2 **A.** Yes, that was my position --
 3 **Q.** And the advice that you give --
 4 **A.** And that was the position that was coming through from
 5 SAGE, yes.
 6 **Q.** That's what I'm going to ask you about. That position
 7 then changed on 18 March, didn't it?
 8 **A.** Yes.
 9 **Q.** And that's really what I'm driving at. That change on
 10 18 March and the closure of schools in Northern Ireland,
 11 that was because of the UK Government's announcement,
 12 wasn't it, that schools would close?
 13 **A.** Well, it was on SAGE advice and the schools were closing
 14 across the UK, we took the decision at the Executive --
 15 sorry, at the Executive to announce that we'd actually
 16 close schools on the 23rd.
 17 **Q.** Yes.
 18 **A.** Not on the 18th so it gave schools time to prepare
 19 for --
 20 **Q.** Of course, a couple of days.
 21 But I don't think there had been any sort of proper
 22 considered discussion before then about what the
 23 ramifications of closing schools would be above and
 24 beyond some consideration of the impact on the
 25 workforce?

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- 1 taken by the UK Government without any consideration?
 2 **A.** It was a UK-wide lockdown, so yes.
 3 **Q.** But there had never been prior to that point any
 4 consideration or deliberation, had there, by the
 5 Executive Committee about whether a lockdown was needed
 6 in Northern Ireland and what the ramifications of it
 7 would be?
 8 **A.** No, and I don't think looking at, you know, again in
 9 hindsight in regards to the NPI, those
 10 non-pharmaceutical interventions of closing down
 11 schools, the effect on, you know, economy, shops and all
 12 the rest of it, I don't think that detailed conversation
 13 actually had been had at an Executive level because at
 14 that point I don't think anyone envisaged that we were
 15 going to the level of lockdown that we're actually going
 16 to see at the national level or for the duration that it
 17 was going to be held for.
 18 **Q.** And I think it follows from all of that that there was
 19 none of the planning or infrastructure in place in
 20 Northern Ireland to deal with the lockdown when it came?
 21 **A.** And I think that goes back to -- I know we didn't go
 22 back to it -- was that interaction at the Executive
 23 Office level which talked about Northern Ireland being
 24 18 months behind from a non-health point of view.
 25 **Q.** I'm going to come back because I know you've said that

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1 on a number of occasions, Mr Swann and I think I need to
2 give you the opportunity to explain that but let me do
3 it by way of questions.

4 Do you consider that those deficiencies or those --
5 or that lack of capability in civil contingencies in
6 Northern Ireland had a material impact on the response
7 to the pandemic from January onwards?

8 **A.** Yes, and I think that's the point. No, I don't think
9 there's any challenge in regards to that and in regards
10 to that civil contingencies preparedness on the
11 non-health related contingency planning that could have
12 been had should have been done even based on flu
13 pandemic preparedness plans at that point as well.

14 **Q.** When did the penny drop amongst ministers in
15 Northern Ireland that that capability was quite as
16 limited?

17 **A.** I think we've already touched on, I think it was round
18 that, I think it crystallised round that meeting on
19 10 March and the reactions and the comments from the
20 First Minister and deputy First Minister.

21 **Q.** All right, so is it your evidence that really until --
22 well, let me take this in stages.

23 Looking back over all of this, is it your evidence
24 that it really wasn't until 10 March that your
25 ministerial colleagues actually understood just how

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1 whole way through or the implications of the decisions
2 that were going to have to be taken. So, again, it is
3 up to them, I believe, for them to answer, it's not up
4 to me to speak as to when they realised that either the
5 response wasn't being met in their departments or
6 whether at a personal level that they were, became truly
7 aware of what needed to be done or what was being done.

8 **Q.** Can we take it from that, Mr Swann, that when you sat
9 down as a group of ministers on 10 March and were
10 looking at the -- this situation that was confronting
11 you, there wasn't a sense or any kind of, from what you
12 could see, any kind of coherent, muscular
13 cross-government response or understanding about what it
14 would take to respond to the pandemic?

15 **A.** I think that's fair, because that, I think, then becomes
16 reflected in the comments from the First and deputy
17 First Minister.

18 **Q.** That obviously all points to very serious issues about
19 planning, and I just want to ask you about two different
20 aspects of the planning.

21 We've already seen that, from a very early stage,
22 you were aware that the pandemic would more seriously
23 impact upon elderly people or people who had
24 an underlying illness, and it doesn't take any great
25 leap of imagination, does it, to also understand how

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1 grave a position Northern Ireland was in, in relation to
2 the pandemic?

3 **A.** I can't speak on their behalf in regards to their
4 personal understanding, what I am reflecting is as
5 health minister where I saw those departmental responses
6 coming so I'm sure there were some ministers who were of
7 a level of concern at that point but what I'm looking at
8 is the departmental response in regards to that and
9 I think it is really around that civil contingencies,
10 that NICCMA approach, around 10 March, where that
11 collectively crystallises.

12 **Q.** You say that you can't, you know, that that's a matter
13 for them to account for, but as the minister who is
14 leading the response or whose department is the lead
15 government response to the pandemic, it must surely be
16 obvious to you or you must be able to explain when you
17 think -- I'm going to use this phrase again -- the penny
18 dropped in Northern Ireland?

19 **A.** And as --

20 **Q.** About what was required to respond?

21 **A.** And I can't speak for each individual minister because
22 they did come with different perspectives as regards to
23 the five-party coalition from the parties they come
24 from, the stances they come from as well, so I'm not
25 sure whether they appreciated the seriousness of the

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1 non-pharmaceutical interventions might really seriously
2 impact upon the most vulnerable people in society? Do
3 you accept in the weeks that were leading up to the
4 lockdown, or even months, that there wasn't sufficient
5 attention paid or consideration given to those sorts of
6 impacts and what, for example, a lockdown might actually
7 do to people and their lives?

8 **A.** I do, and I regret that in regards to that level of
9 preparedness as well, and I think that's why I think the
10 seriousness, the intensity, my Lady, the duration of
11 that lockdown was not something that had been
12 contemplated or planned for, in regards to those
13 additional supports.

14 I think parts of government actually moved quickly
15 in regards to that, (inaudible) pay attention to my
16 colleagues in the Department for Communities in regards
17 to how they put certain steps in place as to supporting
18 those people who were being -- those people who were
19 even clinically extremely vulnerable or those people who
20 had been locked down as well, and in regards to that
21 they were extremely vulnerable. And also the other
22 steps that were being taken by other departments as well
23 as to how they could actually be supported.

24 I think that's when -- you know, following that
25 period of intense lockdown that the department actually

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1 asked their Patient and Client Council to do that piece
2 of engagement work as to -- to see what the implications
3 or the effect of the lockdown had, especially on those
4 people who were shielding in regards to that, and
5 I think that's why, as Northern Ireland, we actually
6 never went back to using that very technical phrase and
7 that very, I suppose, severe measure of enforcing
8 lockdown.

9 And within at my own department we worked with
10 Department of Communities to make sure that community
11 pharmacy were in place, to make sure that people were
12 able to get their medicines as well. But it was --
13 I think it was a depth and extent of lockdown that
14 hadn't been prepared for or planned I think across these
15 islands, never mind just here in Northern Ireland.

16 **Q.** Again just coming back to your department, because you
17 had responsibility for not just medical services in
18 general terms but also the full gamut of social care
19 services as well, so even including things like social
20 work, that, again, a huge amount of that fell within
21 your responsibility for those sorts of issues fell
22 within your department, didn't it?

23 **A.** It did, yes.

24 **Q.** I suppose, of course, it would require the involvement
25 of other departments as well, because it would require

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1 **A.** No, but there was also a realisation that we had limited
2 resources especially in regard to social workers.
3 There's also a piece of work between my department and
4 the Department of Justice as to access between,
5 you know, parents and children as well to make sure that
6 those children that had to travel between two houses
7 were also supported as well, that they weren't seen in
8 lockdown as being part of that closed bubble and that --
9 you know, a very specific piece of work but a very
10 necessary piece of work.

11 **Q.** Just coming back, then, Mr Swann, to the role of the
12 Executive Committee and your department, your deputy was
13 in charge of such a range of -- or had such a range of
14 responsibilities that went to perhaps some of the most
15 core functions of government -- for example ensuring the
16 safety of children; yes?

17 **A.** Yes.

18 **Q.** That it might be thought even more surprising that there
19 seems to have been so little of a cross-departmental or
20 cross-government responsibility until a very late stage
21 in the day in terms of responding to the pandemic.

22 **A.** I don't -- I don't disagree with that approach, but
23 I think it's -- no one perceived just how deep or how
24 long the lockdown would actually be or how total it
25 would be across society in regards to that.

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1 a whole-society response, wouldn't it?

2 **A.** Yeah, but also specifically in regards to social work it
3 also involved the change in regulations and legislation

4 --

5 **Q.** Yes.

6 **A.** -- as to their effects, so we actually did that piece of
7 work and that engagement as well, although not -- it
8 hadn't been done in preparation for the pandemic but
9 would have been done as part of this work as well in
10 regards to that, I suppose, once the direction of travel
11 had been established, that piece, and there was a large
12 piece of engagement work across stakeholders in regards
13 to that to make sure that fostering could be supported
14 to make sure that children going into care homes could
15 be provided as well, as well as other regimes around
16 that as well, so that piece of work was being undertaken
17 and led by the Chief Social Worker.

18 **Q.** Yes. I mean, we know obviously that things like the
19 amount of contact that children have with social
20 workers, it wasn't that extra provision was being made,
21 but obviously that provision was being made, I think, so
22 that children didn't -- the regulations that applied
23 were lessened; that's right, isn't it?

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

25 **Q.** So that's not about protection, that's about --

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1 So if you're asking me was the planning done for
2 that level, no, it wasn't. But I don't think it was
3 done anywhere else either. I stand to be proven wrong.
4 But in regards to that -- and I think it shows the
5 flexibility that we were able to work across departments
6 not having to be instructed by the Executive Office but
7 there was that interaction, my Lady, to make sure that
8 those actions were taken.

9 **Q.** I was going to say, that is something that is actually
10 really different about Northern Ireland, for example,
11 compared to central government, Mr Swann, because we've
12 seen that ministers from across government in the
13 United Kingdom were attending COBR from at least the
14 second meeting, there's a panoply of ministerial
15 responsibilities; do you agree?

16 **A.** I agree, and I say, and I've said in my statement, that
17 I would have had no objection with how -- other
18 Northern Ireland ministers attending COBR. It wasn't --
19 I wasn't in charge of the invite. In hindsight, should
20 I have been standing up and saying "But we need more
21 Northern Ireland ministers there"? And I'm sure my
22 Scottish and Welsh colleagues probably think the same in
23 retrospect, I don't know if they were being asked or ...

24 **Q.** I'm not really focusing on COBR, I'm reflecting on the
25 position in Northern Ireland and why it was distinct.

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1 So we can see, and I'm just going to use England or
2 central government as an example, we can see the
3 interconnected response by a number of ministers at the
4 outset, can't we?

5 **A.** Yeah, I can't speak from experience, it's not something
6 I've --

7 **Q.** All right, well, you can see that they're attending
8 COBR, can't you?

9 **A.** Yeah.

10 **Q.** And they're all being informed at the same time as to
11 what's going on; yes?

12 **A.** Yes.

13 **Q.** And when we come to Northern Ireland, there isn't
14 anyone, for example, who has the equivalent position of
15 the Prime Minister, do we?

16 **A.** No.

17 **Q.** There doesn't appear to have been anyone co-ordinating
18 the response to the pandemic, I mean, well into March;
19 do you agree?

20 **A.** But I do think that, if you're asking me: should there
21 should be?

22 **Q.** Yes.

23 **A.** Yes. And if you're asking me who it should have been,
24 I firmly believe that that should have been the role of
25 the Executive Office as that overarching body who

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1 Minister and deputy First Minister raised their issues
2 as regards around 10 March, I think it takes until,
3 I suppose, maybe June. Up until that point papers
4 coming to -- papers coming to the Executive in regards
5 to the pandemic were health department papers, and
6 I think it's round about June where FM and dFM take over
7 that responsibility and the options, the proposals or
8 recommendations being made to the Executive actually
9 come as an Executive Office paper.

10 **Q.** All right. I think what you're saying in your evidence
11 is that shouldn't have been the case, that ought to have
12 happened at a much earlier point in time; correct?

13 **A.** From a personal and from a departmental point of view,
14 yes.

15 **Q.** I think again, just thinking about what's different in
16 Northern Ireland from the rest of the UK, in addition to
17 having this lack of government response, we also have
18 the absence, don't we, of any kind of advisory body
19 to -- and I know we've touched on this already --
20 advisory body to the Executive Office about the response
21 to the pandemic; correct?

22 **A.** Yes, (inaudible), yeah.

23 **Q.** It was all contingent upon the CMO attending
24 Executive --

25 **A.** Yeah, and --

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1 co-ordinates. They don't have the same authority or
2 remit as the Prime Minister but it is about
3 a co-ordinating, I suppose, umbrella organisation as to
4 where they sit.

5 **Q.** I think I just want to check, first of all, whether or
6 not there's any disagreement or anything controversial
7 about this, but I think you're accepting that -- and we
8 probably need to establish a date when you think this
9 happened by, but right up at least until -- later into
10 March? I mean, when would you put the date when there's
11 actually a whole-government response to Covid-19 in
12 Northern Ireland? When did that happen? Did it happen?
13 **A.** I think we made moves towards having a co-ordinated
14 response, but I think as has been demonstrated through
15 minutes, through Executive, there was never I think at
16 any time that we could say there was a whole
17 government -- there was departments coming together,
18 my Lady, and ministers working together but there was
19 always those who had a different opinion or a different
20 approach as to what it is. There was never that
21 perception, I think -- or that possibility at any time
22 where the Executive stood together and spoke as one
23 voice that often on every issue. But I think there was
24 a collective response.

25 If you're asking me when -- when TEO, when the First
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1 **Q.** -- Committee meetings --

2 **A.** But I don't think we can move on about what's different
3 from Northern Ireland to the rest of the United Kingdom
4 or even the Republic of Ireland without noting the
5 challenges that do come being a mandatory five-party
6 coalition, as I said at the early stages of my evidence,
7 coming from the broad spectrum of politics in
8 Northern Ireland, both in regards to constitutional but
9 also social, economic as well.

10 **Q.** Well, Mr Swann, I think the Inquiry understands that,
11 but I think it's about deepening the understanding of
12 why the response in Northern Ireland may look quite
13 different from other parts of the United Kingdom, having
14 regard to the lack of a whole-government response.

15 **A.** Well, I don't think the whole-government response made
16 some of the aspects -- the majority of our aspects any
17 different in regard to lockdown, school closures,
18 you know, all those sections I think we were doing the
19 same thing despite from what you term as not having
20 a whole-government response.

21 So departments were taking certain steps, in certain
22 areas the Executive were making those collective
23 decisions, although maybe not always unanimous, in
24 regards to what needed to be done, but we were taking --
25 we were taking a response in regards to what needed to

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1 be done.

2 **Q.** What collective decisions did you take in the first part
3 of the pandemic?

4 **A.** Well, I think in regards to those decisions especially
5 around March, you know, we were taking decisions -- the
6 decision to close schools was actually an Executive
7 decision, it wasn't a whole-government because not all
8 the parties -- or not all the participants actually
9 agreed.

10 **MS DOBBIN:** One second. **(Pause)**
11 Thank you.
12 I'm going to move on, Mr Swann, because another
13 important part of your responsibility -- I got that
14 wrong.

15 **LADY HALLETT:** Don't worry, Ms Dobbin, you're well into your
16 questions.

17 **MS DOBBIN:** We're going to break now, I think.

18 **LADY HALLETT:** Is a break now convenient to you?

19 **MS DOBBIN:** Yes.

20 **LADY HALLETT:** I'm afraid we're not going to be able to
21 finish your evidence before the break, Mr Swann, so
22 I shall return at 3.17 minutes or thereabouts.

23 **(3.02 pm)**
24 **(A short break)**
25 **(3.17 pm)**

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1 just to demonstrate that exact point, that it wasn't the
2 challenges that we received on the aspects of Covid
3 regulations being breached just in London but also from
4 both jurisdictions.

5 In regards to that time period around the
6 Bobby Storey funeral, it was extremely challenging for
7 the Executive, I think it was extremely challenging for
8 a lot of people in health and social care in regards to
9 what was perceived by many as a blatant breach of Covid
10 regulations. And I do appreciate and I acknowledge
11 Carál Ní Chuilín's, the former communities minister,
12 apology, during her evidence session at the start of
13 the -- and during last week as well.

14 But what made it particularly challenging from our
15 point of view, from a Health point of view, my Lady,
16 was -- and I say in my statement, I think the Executive
17 response -- and I know it has been challenged by
18 the Inquiry here today, but I think our Executive
19 response was strongest when the people of
20 Northern Ireland saw that cross-party response. There
21 was cross-party media briefings in regards -- I don't
22 mean this in any way to take away from other media
23 briefings, but those media briefings that portrayed the
24 difficult messages, where it was the First Minister,
25 deputy First Minister and myself, I think portrayed to

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1 **LADY HALLETT:** Ms Dobbin.

2 **MS DOBBIN:** My Lady, thank you.
3 My Lady, I've discussed with my learned friends the
4 apportionment of the remaining time, so I'm going to
5 deal with two more very short topics, and then my
6 learned friends will deal with those that are remaining.
7 Mr Swann, in terms, then, of those two final topics,
8 I think you fairly in your statement reflect in terms of
9 perhaps challenges to the Executive Committee in
10 Northern Ireland that you weren't helped by officials or
11 politicians across the United Kingdom being understood
12 to have potentially acted not in adherence with the
13 Covid regulations; correct?

14 **A.** Correct, yes.

15 **Q.** And you've also pointed to the fact that that was
16 a problem in both the Republic of Ireland and the
17 United Kingdom as well; is that right?

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

19 **Q.** May I ask you, please, just about the specific issue of
20 the funeral of Mr Storey and the attendance of the
21 deputy First Minister and two other ministers at that,
22 and ask you the question of whether you considered that
23 presented particular challenges to the ability of the
24 Executive Committee to function?

25 **A.** I used two examples in my witness statement, my Lady,

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1 the people of Northern Ireland a really strong, united
2 front of messaging, no matter what political spectrum or
3 belief people came from.

4 And I think the really demonstrable outworking of
5 that funeral, and that time as well, those joint
6 briefings ceased in regards to the First and deputy
7 First Minister being able to share that platform.
8 I think we lost part of the confidence of the general
9 public because those people who had been looking either
10 for the rationale or a reason not to follow guidance and
11 restrictions were given them, in regards to that.

12 But it also put then additional pressures on my
13 department as well, because where we had been doing,
14 you know, joint briefings or alternate briefings, those
15 briefings fell, then, back to the Department of Health
16 and myself and the Chief Medical Officer, Chief
17 Scientific Adviser, to pick up as well.

18 So from that point on -- and it was an outworking of
19 that that the response then was again perceived and
20 portrayed as being a Health response because we didn't
21 have that demonstrated -- you know, that united response
22 that we'd had previously, so that was I think the
23 real -- or one of the real outworkings of the aftermath
24 of that funeral was the lack of joint message that we
25 actually saw at that point.

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1 Q. All right, thank you, Mr Swann.

2 The other point that I wanted to ask you about,
3 please, if I may, and I'm not going to go back through,
4 because we've done this with a number of witnesses, to
5 understand how the pandemic progressed in
6 Northern Ireland through autumn and winter 2020, we've
7 explored that with the CSA and the CMO, but obviously we
8 understand that it culminated, so to speak, in that
9 difficult four-day meeting over the course of the
10 four days from 9 November onwards.

11 First of all, I wanted to ask you your view as to
12 the deployment of a cross-community vote in that
13 context, and whether or not that was something you, as
14 the minister who was proposing the recommendations,
15 agreed with?

16 A. My Lady, those -- I think at the start of the
17 proceedings this morning you read out my involvement in
18 politics in Northern Ireland, and there has been some
19 highs and there has been some lows. I think those
20 four days were the lowest I've ever experienced in
21 politics in Northern Ireland in regards to the
22 behaviour, the tenor and how those meetings were
23 actually portrayed and -- the point we touched on
24 earlier -- in regards to the almost live commentary as
25 to the discussions that were being had, as well, in

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1 your previous point, I think during that time as well,
2 because of the ongoings over those four days, the
3 portrayal, the use of the cross-community vote, we lost,
4 again, support of I think a section of Northern Ireland
5 society in regards to how they perceived the behaviour
6 or whether they should continue to respond to and follow
7 guidance and recommendations and restrictions as to how
8 it was actually being played out politically.

9 Q. I think that it's -- the counter-perspective to that
10 that has been -- that other ministers gave evidence
11 about, and I'm thinking, for example, of Lord Weir,
12 where he suggested that there wasn't really the space in
13 the meetings to raise the legitimate counterarguments,
14 for example, about the economic impact on
15 Northern Ireland or about the other consequences for
16 Northern Irish society and that the vote became
17 necessary in order to ensure that there could be
18 a proper debate about that.

19 A. I don't -- I think those debates were being had anyway.
20 I don't think that the deployment of the cross-community
21 vote was the end of the process, it wasn't to enable the
22 start of a process or a discussion as well, it was
23 actually to close down discussion on recommendations
24 that were being brought forward by myself at that point
25 in time.

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1 regards to what decisions were being taken, who was
2 saying what, and almost -- I wouldn't say targeting, as
3 being too strong a word, but where certain proposals
4 were being -- coming from during that period in time.

5 But the deployment of a cross-community vote
6 where -- as, my Lady, I think it is a legal position
7 that is and a legal tool that is available to be used in
8 a Northern Ireland Executive meeting following the
9 St Andrews Agreement, so whether it's legally right and
10 able to use, I question whether it was morally right and
11 able to use at that point in time as well.

12 I don't accept it was to prove a finite point at any
13 time in the response, it was done deliberately.

14 The larger challenge, and I think it has been talked
15 about and all the rest of it, my perception, personal
16 perception of a cross-community vote is to support one
17 community's rights or identity over another. The fact
18 that I, as a Unionist minister, was bringing forward
19 a recommendation that was then subject to
20 a cross-community vote from another Unionist party, to
21 me, steps outside the remit and rationale as to what
22 that mechanism was actually created for, and intended
23 for.

24 Q. And --

25 A. And again -- sorry, just going back and tying it in with

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1 And in regards to -- to talk about those
2 recommendations or actually to enable discussions at
3 an Executive meeting, it's during that period, towards
4 the end, where I took, my Lady, the personal decision
5 not to put recommendations into an Executive paper,
6 because I wanted to give the Executive space to have
7 a wider debate as to actually where we currently were in
8 regards to the pandemic in Northern Ireland, because my
9 concern at that point was if that paper had have come
10 forward towards the end of those four days with
11 a specific recommendation that a cross-community vote
12 would simply be deployed again and -- we wouldn't have
13 had the opportunity to actually have that wider
14 conversation or understanding as to where we actually
15 were.

16 Q. Two very short points to finish, then, if I may.

17 The Inquiry has obviously seen the number of people who
18 died in the second wave in Northern Ireland was greater
19 than in the first wave. I think the first and perhaps
20 obvious question is whether or not there had been
21 a failure to learn lessons from the first wave and
22 whether that contributed to what happened in the second
23 wave?

24 A. I think the lessons learned from, I think, from a health
25 perspective, were clearly in place and clearly being

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1 deployed, I think, coming into that from October really
 2 onwards. I think we lost the commitment of the people
 3 of Northern Ireland to follow some of the guidance and
 4 regulations that we had actually had in place and that
 5 were actually being observed in the first wave. Also in
 6 the first wave, you know, it's been talked about that we
 7 actually entered lockdown at an earlier point --

8 **Q.** Yes.

9 **A.** -- of the wave and the virus in regards to that, so
 10 that's why that happened, but I think we had lost a lot
 11 of the commitment and respect for what we were asking
 12 people to do towards the end of that.

13 **Q.** Do you think, then, the fact that Northern Ireland may
 14 possibly have been spared the very worst of the pandemic
 15 in the first wave may have meant that people in
 16 Northern Ireland just had their guard down when it came
 17 to the second wave?

18 **A.** There was also, and sorry, as I say, it's a culmination,
 19 it's not just about having their guard down but I think
 20 people had seen, I think, the behaviours of --

21 **LADY HALLETT:** So going back to the Storey funeral --

22 **A.** The impact of the Storey funeral on October and
 23 November, I think, maybe allowed people --

24 **LADY HALLETT:** Probably people driving to test their eyes,
 25 that kind of thing.

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1 evidence that on 28 January the UK Chief Medical
 2 Officer, Professor Sir Chris Whitty, told Professor
 3 Michael McBride, the Chief Medical Officer to your
 4 department, that notwithstanding any scientific
 5 uncertainties "we should now assume that asymptomatic
 6 transmission may be happening"?

7 **A.** I think in regards to -- and I listened to the CMO's
 8 response to that in regards to asymptomatic transmission
 9 in regards to the understanding of that at that point in
 10 time, so from a medical point of view I would accept
 11 what the Chief Medical Officer gave to the Inquiry at
 12 that point.

13 **Q.** Does it follow that the risk of asymptomatic
 14 transmission of Covid was recognised by the Department
 15 of Health, your department, as a concern since the Chief
 16 Medical Officer to the department received that message?

17 **A.** I think, or -- and again, not to speak on behalf of what
 18 the Chief Medical Officer's response was, but looking
 19 back in regards to papers and correspondence, I think
 20 the acceptance of asymptomatic transmission came about
 21 May of 2020.

22 **Q.** Notwithstanding what Professor McBride had been told in
 23 January?

24 **A.** I think in regards to that conversation the medical
 25 acceptance of asymptomatic transmission became,

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1 **A.** I couldn't possibly comment, my Lady.

2 **MS DOBBIN:** My Lady, those are my questions. I'll hand over
 3 to my learned friends, thank you.

4 **LADY HALLETT:** Thank you, Ms Dobbin.

5 Mr Wilcock.

6 **Questions from MR WILCOCK KC**

7 **MR WILCOCK:** Mr Swann, I ask you questions on behalf of the
 8 Northern Ireland Covid Bereaved Families for Justice.
 9 I've got five topics I have been given permission to
 10 cover.

11 Topic 1, I think, given your answers this morning,
 12 you'll agree, won't you, that it was very clear at
 13 a very early stage, probably even before Covid reached
 14 our shores, that the pandemic we were dealing with in
 15 early 2020 would disproportionately affect those who
 16 were older or disabled or medically vulnerable?

17 **A.** I think there was an acceptance that it would be, have
 18 a detrimental effect on large parts of society in
 19 Northern Ireland but there was also a realisation,
 20 I think as we moved through the understanding of the
 21 pandemic, that those particular groups that you refer to
 22 would be, yes.

23 **Q.** Disproportionately affected?

24 **A.** Yeah.

25 **Q.** And are you aware that on Friday the Inquiry heard

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1 I suppose, accepted about May of 2020, and that's my
 2 understanding.

3 **Q.** So the communication isn't about the medical acceptance
 4 or the medical certainty or the scientific certainty,
 5 it's about the assumption that measures should be
 6 proceeded on the assumption that it may be happening?

7 **A.** Well, in regards to the advice and guidance that I was
 8 given at that point in time, it wasn't until, as I say,
 9 May 2020 in regards that it was accepted.

10 **Q.** In the light of that answer, can we have INQ000065689 on
 11 screen. This is a document that we have already looked
 12 at in a different context today.

13 Can we go to page 6, please, and can you see that
 14 there is there an entry ... sorry, my eyesight's failing
 15 me.

16 **(Pause)**

17 Just there:

18 "DoH: Can be tested if they have symptoms.
 19 "Shared with [COBR], share with colleagues.
 20 "I will do everything to protect my workers."

21 **Q.** Do you remember giving that reply at that meeting?

22 **A.** Sorry, I don't remember giving that reply but I think,
 23 as I said to you in earlier statements, I wasn't aware
 24 of this transcript being taken, whether it's verbatim,
 25 but if it's there I do --

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- 1 Q. You accept it?
- 2 A. And it would be in response to the point made by the
3 deputy First Minister where she asks: are we testing
4 healthcare workers?
- 5 Q. Do you agree that by not following Professor Whitty's
6 advice to assume asymptomatic transmission was
7 happening, and by limiting the testing at that stage
8 only to symptomatic healthcare workers, you were
9 unfortunately not, to use the phrase in that minute,
10 actually doing everything to protect your workers?
- 11 A. And I think it goes back to the point of -- the date of
12 that meeting in regards to the availability of testing.
13 If I had the ability of the accessibility of testing
14 that we had towards the end of 2020, when lateral flow
15 devices were actually common and in use and in practice,
16 I would really have loved to have been able to
17 distribute and make testing more available than
18 currently the limited availability we had at that point
19 in time.
- 20 Q. Either way, the effect was that not -- the testing that
21 was required wasn't being done, was it?
- 22 A. But I think in response to that, the testing that was
23 available or the number of tests that were available
24 wasn't, and proportionate as to what I would have liked
25 to have done.

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- 1 haven't got a lot of time --
- 2 A. No, and I suppose, in reflection to the question you
3 actually asked was of what -- the document that I was
4 shared with on 17 March was what I was referring to on
5 27 February, and I'll be clear: no, those were two
6 different documents.
- 7 Q. Thank you.
- 8 Can I ask you then about the document you looked at
9 at lunchtime, which is the document dated the middle of
10 March. I can take it to you if you wish, but it's
11 right, isn't it, that just as you'd said the day before,
12 that document states that:
- 13 "Where a resident of a care home is showing symptoms
14 of Covid-19, steps should [and I emphasise "should"] be
15 taken to minimise the risk of transmission through safe
16 working procedures."
- 17 Do you remember that phrase in that document?
- 18 A. I've since seen that document and that's the phrase
19 that's in it, yes.
- 20 Q. Thank you.
- 21 Bearing in mind the use of the word "should" in the
22 guidance, can we have page 2 of INQ000397066 on screen.
- 23 This should be a letter written to you, Mr Pengelly,
24 Professor McBride and others, on 23 March, the day
25 before lockdown was announced, by a number of the

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- 1 Q. Topic 2. This morning you referred to high-level
2 guidance that was sent out to care homes in, you
3 thought, towards the end of February. I think you've
4 been shown over lunchtime some guidance that was sent to
5 care homes in the middle of March. Can I just check,
6 first of all, was that the guidance you were referring
7 to when you spoke this morning?
- 8 A. No, actually I did check. On 27 February guidance for
9 social and community care in residential settings was
10 sent out. It was based on what was known about the
11 virus at that point in time and the guidance provided
12 advice on how to help prevent spread, what to do if
13 someone was suspected of confirmed Covid-19, individuals
14 who had been travelling, actions to take and staff
15 coming -- if staff come into contact with someone who
16 was self-isolating in regards to that.
- 17 My Lady, if that hasn't been provided to the Inquiry
18 I will check with my team and make sure that it has
19 because that's the advice and the update that I was
20 given.
- 21 Q. I think that's a long way of saying: no, that wasn't
22 what I looked at over lunchtime.
- 23 A. Oh, no, sorry --
- 24 Q. Can you kindly confine yourself to the question. I know
25 it's difficult because you have got a lot to say, but we

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- 1 largest providers of home care in Northern Ireland.
- 2 Can you see in the first line of that letter that
3 they explain that they are writing to you to "express
4 [their] dissatisfaction" at the "insufficient leadership
5 and action" from your department and its associated
6 trusts in relation to the Covid-19 challenge?
- 7 A. That's what the letter states, yes.
- 8 Q. Now, if we go to the first bullet point of their
9 criticisms, you can see, can't you, that they assert
10 that homecare workers had been asked to deliver care to
11 symptomatic clients --
- 12 **[Technical issue - Inquiry video feed interrupted]**
- 13 A. -- but in regards to setting up, I think it was part of
14 the earlier evidence in regards to those lines of
15 supply, especially of PPE, through the independent care
16 home providers to our trusts as well as establishing
17 that single point of contact.
- 18 Q. The first bullet point asserts that:
- 19 "Homecare Workers are continually overlooked in
20 policy guidance with little or no regard to the risk of
21 contamination from delivering personal care."
- 22 Do you agree that simply telling care homes in your
23 guidance that where a resident is showing symptoms of
24 Covid-19 steps should be taken to minimise the risk,
25 failed to curtail the risk of contamination from

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1 delivering personal care to people you knew to be
 2 medically vulnerable?
 3 **A.** And I think it's taking those, I suppose, those two
 4 points in unison, and I think we had -- we were taking
 5 steps as to the supply of PPE. I also made it
 6 a priority not just in the supply of PPE but also
 7 testing, but also vaccines, vaccine deployment in
 8 regards to care home at that point in time it was
 9 challenging across the whole of health and social care.
 10 As I said earlier in my deliberations to
 11 the Inquiry, when I came into office in January
 12 I perceived our domiciliary care, our social work, to be
 13 the Cinderella service because I do think they have been
 14 undervalued and under-recognised up until that point,
 15 and I think they really became the focus of attention
 16 during Covid in regards to actually the support, the
 17 delivery they were giving to the most vulnerable in our
 18 society, and it's how we make sure and how we made sure
 19 that we support them.
 20 **Q.** I think to be fair to you, when you replied to that
 21 letter you said that you accepted you had -- the
 22 department, not you personally -- the department had
 23 more to do?
 24 **A.** Yeah.
 25 **Q.** But the letter does go on to set out a number of other
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1 in her statement, the stark reality for many of our
 2 members was that they could "maintain little or no
 3 contact with vulnerable persons who were in hospital
 4 care settings" from 2020 and for the remainder of the
 5 year, including after the -- long after Care Partner
 6 guidance, which should have enabled access to residents,
 7 was issued in autumn 2020.
 8 Could you tell us what steps your department took to
 9 ensure that the guidance enabling access to loved ones
 10 in residential or hospital settings was being
 11 disseminated and applied properly?
 12 **A.** In regards to the dissemination especially to resident
 13 homes that was being done through RQIA in regards to --
 14 at the start, because they had the direct contact with
 15 all the homes as well, so that's the steps that we were
 16 taking.
 17 The introduction of Care Partners was a frustration
 18 for me in regards to the delivery. It wasn't as uniform
 19 as we wanted it to be and there was also challenges
 20 from, I think, some providers who were being over -- not
 21 over-precautious but were being cautious in the
 22 delivery of that in regards to how it could be utilised
 23 and should be utilised.
 24 So, again -- and I'm sure you've investigated in
 25 regards to I think it's towards the October/November of
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1 criticisms, some of which are described as incredible,
 2 before ending with the words:
 3 "... we need leadership and actions which will allow
 4 our teams to slow the [progression] of the virus, [and]
 5 protect the most vulnerable [of] our people."
 6 Even allowing for the unique difficulties you and
 7 your department were working under, was the
 8 "dissatisfaction and frustration at the insufficient
 9 leadership and action from the Department [of Health]"
 10 expressed in this letter understandable?
 11 **A.** I do think -- and that that frustration that was coming
 12 from independent care home providers was being also
 13 expressed from different parts of our health and social
 14 care system, in regards from our nurses, our hospital
 15 provision as well, so unfortunately it wasn't unique
 16 solely to health or social care sector.
 17 **Q.** Can we have a look now at INQ000120717, and this time
 18 I'd like to look at paragraph 7, which is another aspect
 19 of the guidance that was issued in March, 17 March.
 20 Can you see in paragraph 7 that this states that:
 21 "Although there is no blanket ban on visits to
 22 nursing and residential homes at this stage,
 23 restrictions on visits are advised."
 24 Now, two weeks ago the Inquiry heard evidence from
 25 one of my clients, Marion Reynolds, that, as she put it
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1 2020 where I actually put additional monies into the
 2 support of care homes so they could deliver Care Partner
 3 arrangements as well, because I think it's crucially
 4 important, and it was personal for me as well, that we
 5 shouldn't just look at care homes as facilities, they
 6 were the residents' homes, they were places that they
 7 perceived as being safety and supportive as well but
 8 during the Covid pandemic it had become increasingly
 9 difficult in some aspects to be able to support them and
 10 keep them safe.
 11 **Q.** Do you accept Marion Reynolds' criticism that, sadly,
 12 whatever was done wasn't enough --
 13 **A.** Yes.
 14 **Q.** -- to keep people informed?
 15 **A.** I do in regards to those communications structures,
 16 especially going through, you know, RQIA and through the
 17 trust as well in those early days. I've -- and in
 18 regards -- and, my Lady, I don't mean this as a defence
 19 of those actions then, but the steps that have been
 20 taken in regards to how, before leaving office,
 21 I established a social care collaborative forum working
 22 out from I think the learnings of this, but at this
 23 point in time there was a weakness.
 24 **Q.** Topic 4, can we have INQ000023229 on screen, please.
 25 If we look at the second and third paragraphs of
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1 that document, we will see that you wrote to the First
 2 and deputy Ministers on 29 March that:
 3 "... despite the pace at which this issue has
 4 evolved, I feel [that] our overall response thus far has
 5 been effective ..."
 6 Will you accept from me that somewhere between
 7 20 and 30% of deaths involving Covid in Northern Ireland
 8 during the pandemic between 2020 and 2022 took place in
 9 care homes or residential settings?
 10 **A.** And I think that has been demonstrated through ONS and
 11 NISRA figures as well, unfortunately.
 12 **Q.** Of course those figures don't reflect the deaths of
 13 people who lived at home and who were receiving support
 14 from the care sector but who went home and died at home.
 15 Do these statistics not reveal that, rather than
 16 being "effective", the government response in
 17 Northern Ireland was the opposite, starkly ineffective,
 18 in protecting those in care homes?
 19 **A.** I think, and as I've said -- I say that we could have
 20 done more. We -- you know, in regards to the supply and
 21 the support of how we actually affected not just
 22 working -- those in care homes but those working in care
 23 homes and those providing care, especially in
 24 domiciliary care, and those people working and
 25 supporting vulnerable people within their own homes as
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1 know now in regards to certain individuals, was actually
 2 quite -- it was engaging but it was also one of those
 3 points which I actually think showed a political
 4 maturity, especially at a Health level.
 5 I as an Ulster Unionist health minister from
 6 Northern Ireland was able to interact on the same
 7 topics, the same issues, have the same discussion with
 8 Matt Hancock, Tory minister from London,
 9 Vaughan Gething, Labour and Co-operative Welsh health
 10 minister, and Jeane Freeman, the Scottish National Party
 11 health minister from Scotland, so there was a level of
 12 engagement that we were able to have at those meetings
 13 that wasn't available to, I would say, any of the four
 14 of us elsewhere.
 15 **Q.** The political maturity that you just described didn't
 16 happen in Northern Ireland during the political response
 17 to the pandemic, did it?
 18 **A.** In regards to, I think -- and it's part of, my Lady,
 19 I think, some of the challenges in Northern Ireland,
 20 that ability to develop personal relationships in
 21 politics in Northern Ireland, I don't think is there to
 22 the same extent, my Lady, as it would have been in the
 23 past, where we saw politicians from Northern Ireland
 24 coming up through council chambers together, working
 25 cross-community together, working on cross-community
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1 well.
 2 **Q.** So is the answer yes?
 3 **A.** Yes.
 4 **Q.** Finally, you told us this morning that your position as
 5 Minister of Health was "lonely and challenging at
 6 times", and given some of the evidence we've heard about
 7 political relationships at times during the response to
 8 the pandemic, we can perhaps understand what you mean.
 9 In that context, can we look at INQ000220391,
 10 please.
 11 We understand that this is an email dated
 12 17 December between two employees of the British
 13 Geriatric Society in which the last paragraph but two,
 14 you were described as describing your weekly meetings
 15 with Matt Hancock and the other health ministers in
 16 Wales and Scotland as "group therapy".
 17 Does the fact that you regarded even a meeting with
 18 Mr Hancock as therapy give us some insight into the
 19 extent of the political, administrative and policy
 20 stresses you were under at this time?
 21 **A.** I don't think too much should be read -- and again, it's
 22 not -- it's not -- it's not -- it's not an email that
 23 I written or had part of, but I will say at that point
 24 in time that the conversations of -- you know, of four
 25 health ministers at that point, taking aside what we
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1 projects together, whereas now I think there's a sad
 2 reflection that Northern Ireland politics, rather than
 3 becoming more collegiate, has actually become more
 4 insular.
 5 **MR WILCOCK:** Mr Swann, thank you very much.
 6 **LADY HALLETT:** Thank you, Mr Wilcock.
 7 Ms Davies, do you have a question?
 8 **Questions from MS DAVIES**
 9 **MS DAVIES:** My Lady, thank you, just one.
 10 Mr Swann, I ask a question on behalf of
 11 Disability Action.
 12 You accepted earlier in your evidence today that you
 13 regretted the lack of sufficient attention or
 14 consideration in planning for the pandemic response
 15 given to the impacts of NPIs on the most vulnerable
 16 people in society.
 17 You also referred in your January 2024 statement to
 18 the examples of your department's efforts to engage with
 19 groups disproportionately impacted by Covid-19. This
 20 included encouraging people to take part in a June 2020
 21 survey to understand the impact of shielding on
 22 individuals and to inform next steps. You referred to
 23 the survey as the start of a constant conversation to
 24 ensure that the voices of those impacted by shielding is
 25 heard.
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1 On 25 November 2021 Disability Action wrote to you
2 to request an urgent meeting to address the deficit
3 within the Department of Health in planning associated
4 with Covid-19, including the Covid-19 recovery plan, due
5 to concerns about the disproportionate number of
6 disabled people who had died from Covid-19, as well as
7 concerns about access to essential health and social
8 care.

9 You responded on 13 December 2021. You acknowledged
10 the disproportionate impacts of the pandemic on disabled
11 people, and the immediate work that needed to be done,
12 but you said that you didn't find that a meeting with
13 Disability Action would be helpful at that juncture.

14 Didn't refusing an urgent meeting requested by
15 Disability Action not undermine any commitment by your
16 department to meaningful engagement and that constant
17 conversation with impacted groups?

18 **A.** My Lady, I don't know. I have seen the letter. It's
19 one, on reflection, where I could have answered
20 differently at that time in regards to those engagements
21 that I had, those engagements that I was having.

22 I'm not sure in regards to the further engagement
23 that Disability Action actually had with leading
24 officials within my department based on that. That
25 response would have been part of a process of engagement

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1 too, whatever findings I make, Mr Swann, both you and
2 Sir Michael obviously had a huge burden placed upon you,
3 and you obviously worked enormously hard, both of you,
4 so thank you very much for all that you tried to do for
5 the people of Northern Ireland then, as I say, whatever
6 findings I may make.

7 And thank you for all the help that you have
8 provided. I know we make huge demands, especially on
9 a serving minister, so thank you very much.

10 **THE WITNESS:** My Lady, thank you.

11 **(The witness withdrew)**

12 **LADY HALLETT:** Now I think we've got to have two witnesses
13 to come in. I'm not going to rise, we're going to carry
14 on.

15 **(Pause)**

16 I'm sorry if we've kept you waiting a long time.

17 **PROFESSOR ANN-MARIE GRAY (sworn)**

18 **PROFESSOR KARL O'CONNOR (sworn)**

19 **Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2C**

20 **MS DOBBIN:** Can I ask you each, please, to give your full
21 name to the Inquiry.

22 **PROFESSOR GRAY:** Professor Ann-Marie Gray.

23 **PROFESSOR O'CONNOR:** Professor Karl O'Connor.

24 **MS DOBBIN:** I'm going to try my very best to manage this,
25 and I'll try and direct my questions to which of you

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1 and I can't comment in regards to what other further
2 engagements Disability Action actually had with
3 departmental officials in that commitment.

4 But there's no -- I can assure there's no slight or
5 offence meant in that response and I hope that you can
6 take that back in regards to Disability Action and who
7 you represent.

8 **Q.** Can I take that that you do accept that a meeting as
9 requested would have been helpful to both
10 Disability Action and also informing the next steps and
11 processes being planned by your department?

12 **A.** On reflection at this point in time, yes.

13 **MS DAVIES:** Thank you.

14 **LADY HALLETT:** Thank you, Ms Davies.

15 Mr Swann, those are all the questions we have for
16 you.

17 I think I need to explain the YouTube streaming at
18 the moment isn't running, but I'm going to carry on
19 because I think I'm fulfilling my duty to be accessible
20 because the webinar and transcript are still being
21 broadcast.

22 But that completes your evidence for the day.

23 I should have said this to Sir Michael McBride, so
24 I don't know if he's following or was trying to follow
25 until we had the technical hitch, could you relay to him

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1 I think is probably the best placed to answer, but if
2 I direct it to the wrong person, please let me know.

3 **LADY HALLETT:** Please don't worry, I will take into account
4 your written reports, so if there's something you wanted
5 to say afterwards you think about on the bus on the way
6 home, don't worry, I will be bearing it in mind.

7 **MS DOBBIN:** To start, please, with your report, I think that
8 you have it in front of you, and that both of you signed
9 that report on 20 April 2024; yes?

10 **PROFESSOR GRAY:** Yes.

11 **MS DOBBIN:** I think that you have also signed an expert
12 declaration in respect of that report, haven't you?

13 **PROFESSOR O'CONNOR:** Yes.

14 **MS DOBBIN:** I won't go through all of those preliminaries
15 with you, I am going to try, if I may, to just cut
16 through this, but obviously as part of your expert
17 duties you're also under a duty to draw to the attention
18 of the Chair if you've heard anything, for example, that
19 undermines the opinion that you've provided here. Okay?

20 **PROFESSOR GRAY:** Yes.

21 **MS DOBBIN:** I think as well if I can just take you through
22 your respective expertise, I'm going to try and do this
23 at a bit of a pace, but Professor Gray, I think you have
24 a doctorate in the development of health services from
25 the Ulster University; is that correct?

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1 **PROFESSOR GRAY:** Yes.
 2 **MS DOBBIN:** You're a professor of social policy at the
 3 School of Applied Social and Policy Sciences at
 4 Ulster University as well.
 5 **PROFESSOR GRAY:** Yes.
 6 **MS DOBBIN:** You have a special interest in terms of your
 7 research in health and social care, devolution and
 8 social policy, and gender and social policy; correct?
 9 **PROFESSOR GRAY:** That's correct.
 10 **MS DOBBIN:** You've also written two books, I think, which
 11 touch on social policy and welfare as well; is that
 12 correct?
 13 **PROFESSOR GRAY:** Yes.
 14 **MS DOBBIN:** I know that you've published a number of
 15 articles in journals, those are set out in the report as
 16 well. You were a member of the social work and social
 17 policy panel in 2022 as well. Is that within
 18 Northern Ireland?
 19 **PROFESSOR GRAY:** No, that's the UK research excellence
 20 framework panel.
 21 **MS DOBBIN:** I'm grateful. You're also the chair of the UK
 22 Social Policy Association as well.
 23 **PROFESSOR GRAY:** That's correct.
 24 **MS DOBBIN:** And the chair of Youth Action in
 25 Northern Ireland also, and you teach on policy in

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1 **PROFESSOR O'CONNOR:** Correct.
 2 **MS DOBBIN:** -- and you have that, that's one of your current
 3 responsibilities; yes?
 4 **PROFESSOR O'CONNOR:** Yes.
 5 **MS DOBBIN:** Now, I think between both of you, you probably
 6 cover the concept of good governance, would that be
 7 an accurate way to put your report?
 8 **PROFESSOR GRAY:** Yes.
 9 **PROFESSOR O'CONNOR:** Yes.
 10 **MS DOBBIN:** What I want to do is to touch upon perhaps some
 11 of the most significant issues that you touch upon in
 12 your report and perhaps to ask you whether or not any of
 13 the evidence that you have heard or seen or read in the
 14 course of the Inquiry has changed any of your opinions.
 15 Now, first of all, I think I need to establish that
 16 I think you have watched a number of the witnesses give
 17 evidence.
 18 **PROFESSOR O'CONNOR:** Yes.
 19 **MS DOBBIN:** Or read the transcripts.
 20 **PROFESSOR GRAY:** Yes.
 21 **MS DOBBIN:** Is that right?
 22 **PROFESSOR O'CONNOR:** Not all of them.
 23 **MS DOBBIN:** Not all of them. Can I just check, then, to be
 24 clear, whether or not between you, you have read or
 25 seen, for example, the evidence given by most of the

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1 government as well and on collaborative policymaking in
 2 health and social care as well. Yes?
 3 **PROFESSOR GRAY:** Correct, yes.
 4 **MS DOBBIN:** Professor O'Connor, I think it's right you have
 5 a doctorate from the University of Exeter and in fact it
 6 was awarded the Hutton prize for excellence in terms of
 7 improving standards of governance; is that correct?
 8 **PROFESSOR O'CONNOR:** Yes, that's correct.
 9 **MS DOBBIN:** You're a professor of public administration and
 10 public policy as well; is that right?
 11 **PROFESSOR O'CONNOR:** That's correct.
 12 **MS DOBBIN:** At Ulster University also. And you're the
 13 research director for social work and social policy at
 14 that university also; yes?
 15 **PROFESSOR O'CONNOR:** That's correct.
 16 **MS DOBBIN:** And you were the founding director of the Centre
 17 for Public Administration at the university as well;
 18 yes?
 19 **PROFESSOR O'CONNOR:** That's correct.
 20 **MS DOBBIN:** And you have a special interest in the role of
 21 the civil servant in conflicted societies as well; is
 22 that also right?
 23 **PROFESSOR O'CONNOR:** That's correct.
 24 **MS DOBBIN:** As well as that you remain, I think, the subject
 25 lead for public administration at Ulster University --

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1 senior civil servants?
 2 **PROFESSOR O'CONNOR:** Yes.
 3 **PROFESSOR GRAY:** Yes.
 4 **MS DOBBIN:** All right, and have you heard the evidence
 5 given, for example, by the Chief Medical Officer?
 6 **PROFESSOR GRAY:** Yes.
 7 **PROFESSOR O'CONNOR:** Yes.
 8 **MS DOBBIN:** And the Chief Scientific Adviser as well?
 9 **PROFESSOR GRAY:** Yes.
 10 **PROFESSOR O'CONNOR:** Yes.
 11 **MS DOBBIN:** Thank you.
 12 So one of the issues that's perhaps to the fore in
 13 your report, is the concept of collective government
 14 responsibility, and what you said at paragraph 27 of
 15 your report, I won't take you to it unless we need to,
 16 is that an attempt to encourage a convention of
 17 collective responsibility has been met with limited
 18 success in Northern Ireland.
 19 I think it's right that it follows from your report
 20 that because there is no government of the day in
 21 Northern Ireland, that's why there isn't a concept of
 22 collective responsibility; correct?
 23 **PROFESSOR O'CONNOR:** Yes.
 24 **MS DOBBIN:** But that nonetheless some of the principles that
 25 underpin it could nonetheless be applied in

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1 Northern Ireland; is that right?

2 **PROFESSOR O'CONNOR:** Yes.

3 **MS DOBBIN:** So turning, first of all, to one aspect of
4 collective responsibility is the principle of the
5 confidentiality of collective discussions on the part of
6 ministers.

7 In terms of any evidence you've heard, has your
8 opinion advanced in any way in your report about that as
9 a concept in Northern Ireland? Or do you have concerns,
10 perhaps that might be a better way to put it, in terms
11 of what you've heard in the course of this Inquiry about
12 the concept of confidentiality?

13 **PROFESSOR O'CONNOR:** Yes.

14 **PROFESSOR GRAY:** Go ahead.

15 **PROFESSOR O'CONNOR:** We were -- well, I'll speak for myself
16 and you can speak for you.

17 I was disappointed to see the lack of
18 confidentiality in the -- and respect for
19 confidentiality in that room, to allow ministers to have
20 an open and frank discussion about serious policy
21 consequences. The way Cabinet should work in our
22 system, the Westminster system and our version thereof,
23 is that we expect ministers from a broad background,
24 broad array of backgrounds, to be able to discuss openly
25 and frankly the possibilities and the different

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1 Another part of your report that you have linked to
2 there not being a formal concept of collective
3 responsibility is a possible tendency on the part of
4 departments to act in an autonomised or
5 compartmentalised way and, again, has any of the
6 evidence that you've heard in the Inquiry advanced the
7 opinions that you express in your report about that, or
8 again, added to concerns that you might have about how
9 departments operate in Northern Ireland?

10 **PROFESSOR O'CONNOR:** Yes, so it is unfortunate, but there
11 are good reasons for the Good Friday Agreement being set
12 up as it was, but each of our departments are a separate
13 legal entity, as you've heard on numerous occasions.
14 This can lead to siloing, more so than in Westminster
15 and other governments, and one of our frustrations was
16 that the arrangements for interdepartmental working in
17 times of a crisis were not initiated sooner, because
18 that could have helped bring information -- collate
19 information from across various different departments at
20 a mid-level, mid civil servant level, and senior civil
21 servant level, to allow for learning to happen across
22 departments before the pandemic actually took hold in
23 Northern Ireland.

24 **LADY HALLETT:** Before we go to, or Ms Dobbin takes you to
25 the triggering of NICCMA arrangements, can I just take

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1 recommendations that have been put to them by their
2 senior civil servants, and if we are to have confidence
3 in our governance system, that discussion needs to take
4 place at that table, not in pre-meetings beforehand, not
5 in -- and certainly not with a running commentary to the
6 media while these conversations are happening.

7 So I was disappointed, but not altogether surprised.

8 **MS DOBBIN:** All right. Well, it may seem like an obvious
9 question, but detrimental to good governance in
10 Northern Ireland that that should have been a feature
11 of --

12 **PROFESSOR O'CONNOR:** Yes.

13 **MS DOBBIN:** -- collective discussions throughout the
14 pandemic?

15 **PROFESSOR O'CONNOR:** Without a shadow of a doubt, yes.

16 **MS DOBBIN:** I can see you agreeing.

17 **PROFESSOR GRAY:** I completely agree, but also detrimental in
18 terms of the public perception and how those, that lack
19 of confidentiality presented to the public, perhaps,
20 a picture of a dysfunctional Executive, and the harm
21 that that may have created in terms of the public trust
22 in the messages being communicated, both by individual
23 members of the Executive but by the Executive as a whole
24 as well.

25 **MS DOBBIN:** All right.

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1 you back to, because of the particular circumstances in
2 Northern Ireland, you have the separate departments,
3 separate ministers, separate Civil Service, which
4 I confess came as a surprise to me when I started these
5 hearings. I can see, just about, why you might have
6 separate ministers who are autonomous in their
7 departments because of the particular circumstances in
8 Northern Ireland. What I still find hard to follow is
9 having separate Civil Service departments, and no
10 overall ... I still find that difficult to get.

11 **PROFESSOR O'CONNOR:** It is difficult, but the permanent
12 secretary is responsible to the minister, so if the
13 ministers don't have collective responsibility it would
14 be very difficult for the permanent secretaries to
15 respond to the Executive as a whole.

16 Now, they are responsible to the Assembly as
17 a whole, through ...

18 **LADY HALLETT:** But if you had, as we have in England, you
19 had a, what they call the Home Civil Service, the
20 permanent secretaries could be responsible to the chief
21 of the -- head of the Civil Service, surely?

22 **PROFESSOR O'CONNOR:** Yes.

23 **LADY HALLETT:** I appreciate that's not the case here, but
24 I still can't -- I can see how politicians might be
25 separate, I can't work out why the Civil Service has to.

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1 **PROFESSOR O'CONNOR:** Traditionally the head of the -- it's
2 different now, but traditionally the head of the Civil
3 Service was also the permanent secretary for the
4 Executive Office, which was under the First and deputy
5 First Minister, which may have meant that it would be
6 difficult for a permanent secretary from a department
7 that was not part of the two main parties to accept
8 direction from a head of the Civil Service.

9 **LADY HALLETT:** Anyway, we are where we are, and the only
10 answer -- and this is where I interrupted -- is to
11 ensure that you trigger the cross-government department
12 working in a time of emergency. That's the only answer.
13 Sorry I interrupted.

14 **MS DOBBIN:** No, I ...
15 Professor Gray, did you have anything to add on
16 that?

17 **PROFESSOR GRAY:** Very little, except to say that
18 unfortunately I think the lack of co-operation between
19 government departments really during this pandemic
20 really reinforced a history of an inability really to
21 co-operate effectively, particularly on substantive
22 issues of social policy and issues where there was
23 likely to be some ideological disagreement, and I think
24 that came to pass during the pandemic as well, with
25 regard to issues such as the easing of restrictions,
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1 is with the benefit of hindsight -- that it would have
2 been prudent to step up those civil contingencies
3 arrangements much earlier. While it would have taken
4 people away from other very important tasks, bear in
5 mind at this time our Civil Service has already been
6 pared down, so is only working on what it is statutorily
7 required to do, due to underinvestment for a number of
8 years. So to take -- to pull a resource from somewhere
9 is going to mean that we are going to stop doing
10 something, and it's very difficult to stop doing
11 something that you're more than likely obliged to do
12 by law.

13 So this redeployment of staff wouldn't have been
14 an easy decision, and where would the staff have come
15 from? Now, if we were able to do it for preparing for
16 EU exit, surely we would have been able to do it in
17 preparation for a pandemic.

18 **MS DOBBIN:** So is your point, Professor O'Connor, that
19 because there had been -- those preparations had in fact
20 been arranged for, or in the event of a no-deal Brexit,
21 and I think that that included the creation of this
22 special room that we heard about from Minister Swann,
23 and that very many people, for example, had been
24 trained, that the question you're posing is the one
25 you've just said, if you can in fact do all of that,
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1 for example.

2 **MS DOBBIN:** All right.

3 Just coming back, if I may, to the not standing up
4 of the civil contingencies arrangements for some time,
5 I think the point that has been made on behalf of some
6 civil servants was that there may not have been enough
7 people --

8 **PROFESSOR O'CONNOR:** Yeah.

9 **MS DOBBIN:** -- in order to do that, so that's what's been
10 said, but just putting that to one side, there appears
11 to have only been one civil contingencies meeting of
12 officials which took place on 20 February, I think until
13 about 18 March, and I think there was one meeting of
14 ministers on 12 March.

15 Does it surprise you that there should have been no
16 other meetings, if it's right, apart from those?

17 **PROFESSOR O'CONNOR:** I'm sure there would have been informal
18 meetings and I know that, from the evidence that was
19 presented here, that civil servants had been taking this
20 very seriously before 17 March, but -- and I know only
21 too well that our Civil Service has been understaffed
22 for many, many years, so I do accept that point.
23 However, given what we knew as February progressed was
24 happening in the rest of the world, and given how late
25 the virus came to Northern Ireland, I think -- and this
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1 what happened when it came to the pandemic? Why is
2 there not an equivalent response? Is that effectively
3 what you're saying?

4 **PROFESSOR O'CONNOR:** I agree.

5 **MS DOBBIN:** All right.

6 Professor Gray, do you have anything to add on that?

7 We've also seen, perhaps, in the course of
8 the Inquiry about the very important role that was
9 played by the Chief Medical Officer, and perhaps the
10 lack of other advisory structures that were available in
11 Northern Ireland as well, do you think that ought to be
12 a cause for concern? So in other words the fact that
13 there isn't perhaps a structural response but rather
14 a response to individuals to these circumstances?

15 **PROFESSOR GRAY:** If I could go first.

16 It does certainly seem, at least in the early days
17 of the pandemic, that there was a lot of responsibility,
18 a lot of weight on the Chief Medical Officer, and we
19 have heard from the CSA's evidence, for example, and
20 other evidence, that he was returning to work after some
21 time as well. I think one thing to note is that our
22 Chief Medical Officer has a very wide range of
23 responsibilities, you know, comparable, for example, or
24 compared, for example, to the Chief Medical Officer in
25 England. Now, the role, the responsibilities, the
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1 accountability of chief medical officers does vary quite
2 considerably between countries, but if we stick to
3 within the UK, then the Chief Medical Officer for
4 England, Sir Chris Whitty, is the UK Government Chief
5 Medical Officer, he is not a Department of Health Chief
6 Medical Officer in the way that Sir Michael McBride is
7 in Northern Ireland, for example.

8 And when we look at Sir Michael's -- the range of
9 responsibilities he carried, the range of policy and
10 strategic responsibilities, and alongside that then
11 responsibility as an independent public health adviser,
12 and as a -- the head professional for public health
13 responsible for communicating messages to the public as
14 well, I think it does raise questions about the weight
15 of responsibility being placed on that individual within
16 the Department of Health.

17 **MS DOBBIN:** Just in terms of, you said about the CMO
18 providing independent advice, but I think it's been
19 established that he is in fact, he's not just an adviser
20 to the Department of Health but is also part of the
21 management --

22 **PROFESSOR GRAY:** Yes.

23 **MS DOBBIN:** -- of the Department of Health as well. Again,
24 ought that to be a cause for concern, the fact that
25 there isn't, as it were, independent advice across
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1 response, and I wonder from the evidence that you've
2 seen and heard whether or not you have an opinion on
3 whether the evidence potentially points towards that.

4 **PROFESSOR O'CONNOR:** Yes.

5 **PROFESSOR GRAY:** I think it does, certainly in the early
6 phases of the pandemic it certainly does, it looks like
7 an unusually long delay in Northern Ireland in this
8 pandemic being accepted as something which has to have
9 a whole-system or a whole-government response.

10 **MS DOBBIN:** Professor O'Connor, I can see that you're
11 nodding.

12 **PROFESSOR O'CONNOR:** Yes, it's a cross-cutting issue across
13 government, while health was the lead department, the
14 clue's in the title there, the "lead" department,
15 they're not the sole department, and they should at one
16 point have been leading the response, but it is
17 a cross-cutting issue that was across all departments
18 and it required a response from every single department.

19 **MS DOBBIN:** Again, do you think that, is that something do
20 you think that ought to have been more obvious at
21 an earlier point in the pandemic?

22 **PROFESSOR O'CONNOR:** Yes.

23 **MS DOBBIN:** Just perhaps moving on, we haven't actually
24 heard very much about any other structures being
25 involved in the response to the pandemic, but we know
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1 government in Northern Ireland?

2 **PROFESSOR GRAY:** I think I would say that there are other
3 countries where that is also the case, where a Chief
4 Medical Officer would have those kind of dual
5 responsibilities. However, it is again, you know, more
6 unusual, if we compare Northern Ireland to the situation
7 in England, and I do think that in the context of
8 a pandemic, whenever things are moving quite rapidly,
9 whenever there's new information emerging, some of that
10 is going to be potentially controversial within
11 government, that it does raise questions about the
12 complexity of that role then in trying to disentangle
13 one set of responsibilities from another, and being able
14 to give or feeling able to give entirely independent
15 advice when you also carry policy responsibilities.

16 Now, I'm not saying that the Chief Medical Officer
17 did not have the ability to do that, what I'm saying is
18 that it would be quite a challenging thing to do,
19 I think, in those circumstances.

20 **PROFESSOR O'CONNOR:** Yes.

21 **MS DOBBIN:** It might be thought, and the deputy First
22 Minister and the First Minister have yet to give
23 evidence, that the response to the pandemic was seen
24 almost entirely through the lens of a health response,
25 and possibly as opposed to as a whole-government
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1 that there was the Civil Contingencies Group that after
2 18 March did start to meet, but wasn't a decision-making
3 group, and that most of the decisions were taken by the
4 Executive Committee. Again, in terms of your expertise
5 in governance, did you have any other concerns about the
6 way civil contingencies arrangements were configured, or
7 the sort of structural response once they were actually
8 stood up?

9 **PROFESSOR O'CONNOR:** My understanding was, and correct me if
10 I'm wrong, the CCG M for ministers and the Executive
11 Committee were one and the same.

12 **MS DOBBIN:** They became one and the same, yes.

13 **PROFESSOR O'CONNOR:** So I would ... the system as designed
14 could potentially have worked quite well, where
15 departmental operation centres --

16 **MS DOBBIN:** Yes.

17 **PROFESSOR O'CONNOR:** -- would have fed information to a hub,
18 based or responsible to the head of the Civil Service,
19 that hub would have collated that information and
20 presented it in an accessible format for permanent
21 secretaries to communicate to ministers, for ministers
22 to have an open discussion with all of the knowledge
23 from across the departments in front of them. That
24 sounds very simple, but in practice it's a lot more
25 difficult. But it all started from what we have read
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1 beforehand that the hub found it difficult to get
2 information out of the departments, they had no line
3 management responsibilities of people working in the
4 departments, so they could not command people -- not
5 that we should ever command people, but that we should
6 entice people to give us information so that it can be
7 collated effectively and presented effectively to
8 permanent secretaries and then to ministers in
9 a collated format.

10 For me, in the midst of a pandemic, that can put
11 a structural order on decision-making so that a number
12 of different eventualities are taken into account. It's
13 not about: this works for health so let's run with it.
14 What are the implications for communities? What are the
15 implications for the disadvantaged, the disabled, the
16 elderly, the young people? Everyone has an opportunity
17 around the Cabinet table or the Executive table to
18 contribute.

19 **MS DOBBIN:** In the evidence that you've seen or what you've
20 heard and what you've read, have you been able to locate
21 anywhere what the centralising co-ordinating part of the
22 response to the pandemic was, or who took on that role,
23 if anyone?

24 **PROFESSOR O'CONNOR:** I'll go first, and then you can ...

25 **PROFESSOR GRAY:** Yes.

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1 is with this political dominance a clearer instruction
2 to civil servants, and that's what civil servants crave,
3 they want direction from their ministers and from
4 government. They were very frustrated at the outset
5 that they didn't have that clear direction from
6 government. In what we call the second phase of the
7 pandemic or in the autumn of the pandemic, while there
8 was more political influence, that still didn't lead to
9 what we would call good government or clear direction.

10 **MS DOBBIN:** Professor Gray, sorry, do you have --

11 **PROFESSOR GRAY:** No, just briefly to concur with that and to
12 say I think we would have expected the lead to have been
13 taken in the early stages by the Department of Health,
14 you know, it was identified as a global health pandemic.
15 What we might then have expected to see was a more
16 co-ordinated response as the realisation struck that it
17 wasn't going to be short term, that it was going to
18 involve education, it was going to involve, you know,
19 issues around children's services, issues around
20 people's disability, domestic abuse and so on, and we
21 didn't see that scaling-up of a co-ordinated response
22 for quite some time, and then when it did happen we see
23 the political tensions creeping in which made it
24 difficult then for an efficient response to be activated
25 at times.

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1 **PROFESSOR O'CONNOR:** There was obviously a clear frustration
2 among our very, very experienced civil servants at the
3 outset of the pandemic that this was not being taken
4 seriously politically. I think that's what caused --
5 and this is my own assumption -- that's what caused them
6 to work around the normal structures, which is what we
7 always do in Northern Ireland, we never work through the
8 normal structures, whenever there's a difficult issue,
9 we try and work around them. But as we work around
10 them, because we're a small society, different lobbying
11 groups and action groups would be brought to the table
12 to discuss and input into the process. Given that this
13 was a fast-moving pandemic response, when civil servants
14 try to work around the blockages, there isn't the
15 opportunity for -- there may not be the opportunity for
16 these groups to input into that process.

17 So a long-winded answer to your question, I think in
18 the early days of the pandemic I think it was a very
19 strong Civil Service response and a very clear
20 frustration on the part of the Civil Service that there
21 was a lack of political direction at that time.

22 As the pandemic progressed, and we move into the
23 autumn, we see growing political dominance in the
24 process, which is usually to be welcomed, it is
25 a democracy, after all, and what we're expecting to see

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1 **MS DOBBIN:** Okay.

2 I'm going to move on to a different topic to ask you
3 about, this is a very specific topic, to ask you about
4 the memorandum of understanding that was signed with,
5 well, I think we're unclear it was signed, because we
6 have an unsigned copy, but we understand it was
7 concluded and agreed between the respective, I think,
8 departments of health, and I think the CMO in fact said
9 that he had signed it.

10 Again, just to ask you about that, the idea that
11 a memorandum would be signed between officials as
12 opposed to perhaps respective political leaders or
13 permanent secretaries; is that a surprise, or again is
14 that an inevitable consequence of the political
15 position?

16 **PROFESSOR GRAY:** Potentially both, I think, at that level of
17 what was attempting to be agreed at this time, one might
18 have expected to have seen political input. So for that
19 memorandum of understanding to have been signed by
20 officials, if that was the case, by the chief medical
21 officers, it potentially raises issues of political
22 commitment to the memorandum of understanding in the
23 first place, or to a -- or maybe a reflection of
24 historical collaboration as well, you know, it's one
25 thing to step up collaboration in an emergency if there

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1 has been fundamentally good and sustained working
2 relationships and processes in place, it's quite another
3 and challenging thing to do that if that hasn't been the
4 case, and I think, you know, witnesses have previously
5 spoken and written in evidence about the areas where
6 there has been, you know, really quite successful
7 North/South collaboration around cancer services,
8 children's heart surgery and so on, but I wouldn't say
9 it has been the case on a day-to-day basis that
10 officials, you know, have had that relationship or
11 politicians in the areas of health have had that
12 relationship.

13 **MS DOBBIN:** So, I mean, setting aside political leadership,
14 would you have expected perhaps even the sort of MoU
15 might have been signed by the Executive Office with
16 a counterpart in the Republic of Ireland?

17 **PROFESSOR O'CONNOR:** Certainly.

18 **MS DOBBIN:** Okay.

19 My Lady, those were all of the questions that I was
20 going to ask. Have you any questions?

21 **LADY HALLETT:** No, I haven't, thank you.

22 **Questions from THE CHAIR**

23 **LADY HALLETT:** Just one question: going back to collective
24 responsibility -- sorry, it's a long time since I did
25 constitutional law, so forgive me -- how do you have
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1 of collective responsibility as we would understand it
2 from, you know, the Whitehall model, for example, don't
3 apply.

4 **LADY HALLETT:** Going back to the question of leaking, which
5 I find extraordinary, and I did ask one witness,
6 I think, why do they bother to take the ministerial oath
7 if they're just going to disobey it, but, I mean, there
8 are practical ways, although not with remote meetings as
9 pointed out this morning, but there are practical ways,
10 like saying you can't be using your device when you're
11 physically present in a room, but has anybody looked
12 into whether there are any legal devices? Like is it
13 misconduct in a public office?

14 **PROFESSOR O'CONNOR:** Hm, I don't (inaudible), no.

15 **LADY HALLETT:** It's just a thought. If you take an oath --

16 **PROFESSOR O'CONNOR:** No, well, it does go against integ --
17 as a civil servant, it would go against your integrity,
18 and that is part of your code of conduct.

19 **LADY HALLETT:** But it must breach the Ministerial Code.
20 When you attend an Executive meeting, you're conducting
21 your public office. I just think it's something that
22 this country or this -- Northern Ireland should not have
23 to put up with, and I'm just trying to think of ways to
24 try and stop it.

25 **PROFESSOR GRAY:** Yes. Although we do have, you know, prior
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1 collective responsibility when you have a coalition of
2 five diametrically opposed political parties?

3 **PROFESSOR GRAY:** We don't have collective responsibility.

4 **LADY HALLETT:** No, you don't.

5 **PROFESSOR GRAY:** No, we don't, no.

6 **LADY HALLETT:** Ms Dobbin went from collective responsibility
7 to confidentiality. I think they're two different
8 concepts.

9 **PROFESSOR GRAY:** Yes.

10 **PROFESSOR O'CONNOR:** Yes.

11 **PROFESSOR GRAY:** Yes.

12 **LADY HALLETT:** So is basically collective responsibility
13 impossible if you have this kind of coalition?

14 **PROFESSOR O'CONNOR:** With difficulty. In Westminster, if
15 you had the SNP, Labour, the Lib Dems and the Tory party
16 governing the response -- the Conservative Party,
17 governing the response to the pandemic and you expected
18 Cabinet collective responsibility, it might be
19 difficult.

20 **PROFESSOR GRAY:** And we don't -- constitutionally, the
21 concept doesn't apply in Northern Ireland, because it's
22 accepted that in a mandatory coalition that would be
23 difficult. But they are -- I think the ministers' code
24 of practice is that they are supposed, where possible,
25 to achieve decision-making by consensus, but the norms
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1 to the pandemic we had, you know, a number of examples
2 of ministers speaking in public against another minister
3 or, on some occasions, a minister taking another
4 minister to court over decisions, and I think, you know,
5 as Professor O'Connor said earlier, it is just the
6 unique circumstances of our arrangements, our governance
7 arrangements here that such things are tolerated or
8 maybe expected.

9 **LADY HALLETT:** I think it's time they stopped being
10 tolerated, but there again I'm an outsider, so --

11 **PROFESSOR O'CONNOR:** No, we fully agree as well, yeah.

12 **LADY HALLETT:** Thank you both very much indeed.

13 As I say, thank you for your written report, I'll
14 make sure I read that with greater care; poor Ms Dobbin
15 had to canter through this afternoon.

16 **MS DOBBIN:** Yes, I apologise for that.

17 **LADY HALLETT:** Thank you very much for your help, very
18 grateful.

19 **PROFESSOR O'CONNOR:** Thank you.

20 **(The witnesses withdrew)**

21 **LADY HALLETT:** Very well, 10 o'clock tomorrow morning,
22 please.

23 **(4.28 pm)**

24 **(The hearing adjourned until 10 am
25 on Tuesday, 14 May 2024)**
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