

Witness Name:

Statement No.:

Exhibits:

Dated:

UK COVID-19 INQUIRY

WITNESS STATEMENT OF RIGHT HONOURABLE BARONESS ARLENE FOSTER OF AGHADRUMSEE DBE

I, Arlene Foster, otherwise Baroness Foster of Aghadrumsee, will say as follows: -

My background and role in the pandemic

1. I am presently a member of the House of Lords having assumed this office on 24 November 2022. I was First Minister of Northern Ireland from 11 January 2016 to 10 January 2017 and again from 11 January 2020 until 14 June 2021. I was a Member of the Legislative Assembly (MLA) for my constituency, Fermanagh and South Tyrone, from 2003 until I resigned from the Northern Ireland Assembly in October 2021. I was leader of the Democratic Unionist Party ("DUP") from December 2015 to June 2021.
2. During the first period when I served as First Minister, from 11 January 2016 to 10 January 2017, I served with deputy First Minister, Martin McGuinness. He resigned his position on 10 January 2017, collapsing the Northern Ireland Executive. The Executive was reinstated on 11 January 2020 following the 'New Decade, New Approach' agreement. Between 11 January 2020 and 14 June 2021, I served alongside deputy First Minister, Michelle O'Neill.

3. Prior to becoming First Minister in January 2016, I held the following Ministerial posts:

- Minister for Finance and Personnel: 11 May 2015 – 12 January 2016
- Minister for Enterprise, Trade and Investment: 9 June 2008 – 4 May 2011 &
16 May 2011 – 11 May 2015
- Minister for the Environment: 8 May 2007 – 9 June 2008

I was also acting First Minister for short periods in each of 2010 and 2015, when then First Minister Peter Robinson stepped aside temporarily.

4. I am a solicitor by profession.

5. During my tenure as First Minister, my role and responsibilities in relation to the UK Government's response to Covid-19 and 4 nations decision-making in response to Covid-19, were in my capacity, along with the deputy First Minister, as joint-Chair of the Northern Ireland Executive ("Executive"). The Executive exercises Executive authority on behalf of the Northern Ireland Assembly.

6. Section 28A of the Northern Ireland Act 1998 ("the Act") provides for a Ministerial Code (AF1) ("the Code"). The Code sets out the rules and procedures for the exercise of the duties and responsibilities of Ministers and Junior Ministers of the Northern Ireland Assembly as specified in the Belfast Agreement, the Northern Ireland Act 1998, the St Andrews Agreement and the Northern Ireland (St Andrews Agreement) Act 2006 (AF01/01 INQ000397204). The Junior Ministers during my second tenure as First Minister were Gordon Lyons and Declan Kearney.

7. It is a condition of appointment that the First and deputy First Ministers, and Junior Ministers affirm the terms of the Pledge of Office (AFO1/02 INQ000397204). As a result of the unique circumstances in which Northern Ireland's system of government was created, the Pledge of Office requires Ministers and Junior Ministers including the First and deputy First Ministers, to pledge, *inter alia*:

(a) *"To discharge in good faith all the duties of the office;*

(b) *Commitment to non-violence and exclusively peaceful and democratic means;*

(c) To serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote quality and prevent discrimination;

(ca) To promote the interests of the whole community represented in the Northern Ireland Assembly towards the goal of a shared future...

... (cc) to observe the joint nature of the offices of First Minister and deputy First Minister...

(d) to participate with colleagues in the preparation of a programme for government;

(e) to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly;

(f) to support, and to act in accordance with, all decisions of the Executive Committee and Assembly;

(g) to comply with the Ministerial Code of Conduct”.

8. The Pledge of Office also requires commitment to uphold the rule of law, with specific commitments to challenge paramilitarism, recognising that it should have no role in a democratic society.

9. With the Pledge of Office and the seven principles of Public Life as foundation stones, as First Minister, and with deputy First Minister, Michelle O’Neill, my role was to jointly chair the Executive Committee pursuant to Section 20 of the Act. Paragraph 2.2 of the Ministerial Code sets out that:

“Section 20 of the Act provides that the First Minister and the deputy First Minister shall be chairmen of the Executive Committee. Under the Belfast Agreement their duties include dealing with and co-ordinating the work of the Executive Committee and the response of the Northern Ireland administration to external relationships”.

10. My role in relation to the Covid-19 pandemic was to lead, jointly with the deputy First Minister, Northern Ireland’s Executive decision-making. Section 20 of the Act in

conjunction with Paragraph 2.2. of the Ministerial Code requires that matters which are “significant or controversial” or which are ‘cross-cutting’ i.e. which affect the exercise of the statutory responsibilities of one or more other Ministers more than incidentally, should be brought to the Executive Committee for consideration. As will be developed, this meant that during the specified period, the most significant decisions were taken by the Executive Committee, rather than by individual Ministers.

11. During my tenure I worked predominantly with the Heads of the Civil Service: David Sterling, followed by Jenny Pyper. Other Senior Civil Servants with whom I engaged fairly regularly included Andrew McCormick, Karen Pearson, and Chris Stewart. I was supported very effectively by officials within the First Minister’s Private Office. My Special Advisers from January 2020 were Dr Philip Weir and Emma Little-Pengelly. Lee Reynolds joined the Special Adviser team in November 2020. Dr Philip Weir is a medical doctor. He took the lead on advising on health issues arising during the pandemic.
12. As was outlined in my statement to Module 2 to the Inquiry, as First Minister, another key duty was to engage with UK Government and the other devolved administrations.
13. I also took the opportunity in my statements to Modules 1 and 2 to the Inquiry to reflect on my role. For the benefit of those who have not had sight of my previous statements, I wish to extend my sincere condolences to those who were bereaved during the Covid-19 pandemic or who were affected in other ways. It was clear at the time that people’s lives were being irreversibly altered: through bereavement; loss of life and illness; reduced access to treatment for health conditions; loss of respite; loss of opportunities within education; negative financial and economic impacts; loneliness and many other ways. I was made aware of some of the tragedies people faced at the time and these stories have stayed with me. I therefore took very seriously the responsibility of trying to protect people within Northern Ireland from the worst effects of the pandemic. However, I do know now that some of the measures, despite being implemented with good intentions, themselves resulted in significant suffering for some people. I will repeat that, regrettably, there was at times insufficient consideration given to the unintended, but sadly predictable, consequences of lockdowns and other restrictions. All I can say is that I worked hard to try to minimise the worst of the pandemic’s effects while trying to ensure a balance was also struck to assuage the negative impacts caused by the interventions introduced.

14. I have endeavoured in this statement, and those made previously, to provide a faithful account of my involvement in the response to the pandemic to assist the Inquiry. This was a particularly intense period in which to serve as First Minister and therefore I have relied, where I have been able, on documents made available to me, and my own notes (which I have provided to the Inquiry) to support my recollections.

Chronological consideration of how the pandemic developed and the response to it

Impact of absence of power-sharing.

15. When power-sharing resumed on 11 January 2020, it was after a period of three years of suspension. There was therefore a significant amount of work to do and, in particular, a need to agree a Programme for Government to guide the work of Ministers and the Executive moving forward. In terms of the pandemic, the main impact of the absence of power-sharing was on the implementation of the recommendations in the Bengoa report. As the Inquiry heard in Module 1, this report, which was published in October 2016, made clear that the health and social care system in Northern Ireland required (and still requires) to be radically transformed to improve quality and sustainability. While some preparations could be made in the absence of Ministers, the bringing down of the Executive in January 2017 no doubt significantly hampered design and delivery of reforms in the period leading up to January 2020, as there was a resulting lack of political accountability and decision-making. In the period between the publication of the report in October 2016, and the suspension of the Assembly, it had been possible to secure commitment from all the Ministers across the political spectrum to deliver the proposed reforms over a 10 year period. That commitment was very significant and may be difficult at this remove to once again achieve. As such, the main long term consequence of the suspension which continued to shape the response to the pandemic after January 2020, was that opportunity was lost to begin the process of dismantling the embedded structural inefficiencies within the health care system in Northern Ireland. While by early 2020 we would have only been three years into a planned 10 year programme of reform, I believe that the process of implementing both substantive transformation, and cultural change would have begun by 2020 had there not been a suspension of government in Northern Ireland. The pandemic would therefore have met a health service that was (at least to some extent) more efficient and agile in its thinking.

16. Otherwise it is very difficult to speculate as to how the response might have differed had power-sharing continued between January 2017 and January 2020. There are

any number of unknowns, for example, if there had been an election or a change in the composition and identity of Ministers, this would also have affected the dynamics within the Executive.

17. I do consider that it was useful that when the Executive was re-formed that many of the Ministers appointed had had previous ministerial experience. On the DUP side, Diane Dodds was the only minister who had not served previously but she come with extensive experience in politics. The DUP ministers therefore knew the difficulties involved in decision-making in a mandatory coalition. There was a different dynamic within the Executive Office in 2020 compared with previously as Martin McGuinness had been in post from 2007 until his resignation in 2017 and therefore knew the post well. Michelle O'Neill had been a minister prior to the collapse of the Executive in 2017 but she was new to the deputy First Minister role and therefore it was perhaps natural that she felt some pressure to prove herself and 'make a mark'. There was therefore a 'bedding in' period while each side worked out how to make the joint office workable and effective.
18. The restoration of the Executive also followed three years of attempts (on and off) to get the Executive up and running. These were tough negotiations coming to a climax with the decision to return to power-sharing. Once that agreement was reached, the parties very quickly had to come together in government. There was inevitably therefore a need for a period of rebuilding trust and cohesion and to develop a steady pattern of operation. Unfortunately we did not have the luxury of that time before the Covid-19 pandemic arrived. This meant we were quickly in an emergency situation requiring decisions to be taken very quickly.
19. Having said that, it is difficult to gauge the significance of the relatively recent reformation of the Executive on the substantive pandemic response, particularly as in the weeks between January and March 2020, the Department of Health ("DoH") was leading on preparations for the pandemic.
20. There were a number of non-Covid-19 related decisions that were awaiting ministers upon the return of the power-sharing arrangements. Most notably, 'Brexit Day' was just two weeks after our return on 31 January 2020. Brexit was a fundamental constitutional change to intergovernmental relations, and it was (and is) critical to get the arrangements as they pertain to Northern Ireland right. As such, discussions around Brexit were a backdrop throughout the period from January 2020 to February

2022, and indeed concern over the Northern Ireland protocol ultimately led to the suspension of power-sharing in February 2022.

21. I also consider that the impact of the RHI Inquiry should not be overlooked. The Inquiry and its findings had a chilling impact on the Northern Ireland Civil Service, particularly in the department directly affected, the Department for the Economy (“DfE”). It made civil servants very cautious and less flexible about what it might be possible to achieve. Moreover, as the Inquiry examined the nature and detail of discussions between certain ministers, Senior Civil Servants, and Special Advisers, this led to a level of unease and caution as we each returned to roles in the Executive.
22. In terms of the Health Service, as I said above, the recommendations flowing from the Bengoa Report were essential to implement. I am aware that the Health Minister indicated to the Health Committee in November 2020 that during the pandemic the health system was trying to run three services: an elective and registered operational health service; part of the transformational health service, and a Covid-19 Health Service. From my perspective, I believe that, for the most part, the health system was largely shut down during the first phase of the pandemic and was slow to reopen. I do understand that, as we went into the first lockdown, there was a real and legitimate concern that the health service might be overwhelmed and that therefore there was a need to concentrate resources on the Covid-19 response. However, as the worst effects of the pandemic did not come to pass, the health service should have quickly adapted to reintroduce services so that the operational health service could resume, perhaps initially at a reduced scale, but then gradually ramp up. Unfortunately, as I mention above, I feel the health system was very rigid and culturally resistant to change. There were innovative individuals within the system but, generally, I believe it was difficult for the health service to flex and adapt, particularly as there were many inefficiencies, for example, too many hospitals trying to run the same services in a small jurisdiction which spread expertise too thin. This might have been improved had more of the Bengoa report recommendations been implemented prior to 2020.
23. Part of the difficulty, with the benefit of hindsight, is that the Nightingale hospitals were not set up quickly enough. In the event, these were used more as ‘step down’ facilities but it would have been more effective if they had been in place to deal with Covid-19, and allow the rest of the system to continue in a manner as close to normal operation as possible. My sense, although I am not aware of the detail, is that very little by way of a transformation health service was happening particularly in the period between March and November 2020.

The outset of the pandemic – initial understanding and readiness

24. I do not believe coronavirus was initially a matter that was brought to my attention in my official capacity when the Executive was reinstated on 11 January 2020. The priority in the first weeks following reinstatement of the Executive was establishing the Programme for Government. There was, for example, no mention of coronavirus in my First Day Brief or the accompanying Headline document dated 10 January 2020 (AF01/03 [INQ000203347]).
25. On 30 January 2020, the deputy First Minister and I received a submission detailing that the Health Minister, Robin Swann (“the Health Minister”) and Chief Medical Officer for Northern Ireland, Dr. Michael McBride (“CMO”) had attended a COBR meeting on 29 January 2020 chaired by Matt Hancock. I therefore believe that Northern Ireland was represented at COBR from this early stage. In that submission, we were advised that the Department of Health (“DoH”) was the lead Department; that coronavirus was likely to lead to a pandemic and COBR was likely to raise the risk to the UK public to ‘moderate’. Notably, each devolved administration was also advised to review “*Reasonable Worst Case Scenario (RWCS) pandemic plans for preparedness.*” (AFO1/04 [INQ000232515]).
26. From review of the papers available to me, I believe the first time that Covid-19 was raised to the Executive as a matter for discussion or consideration was in or around 10 February 2020 at an Executive meeting. It may have been mentioned earlier but I am unable to confirm that. In TEO Handwritten draft Executive notes dated 10 February 2020 (AF01/05 [INQ000232517]) there is discussion about an Executive ‘Away Day’ planned for 12 February 2020. The purpose of the ‘Away Day’ was for Executive Ministers to discuss and agree the Programme for Government. The Health Minister indicated that he may have to leave the Away Day for a meeting on coronavirus. This in itself would have demonstrated that planning was being taken very seriously by DoH, and that Covid-19 was being treated as an emergency.
27. At the same meeting, the Executive was also given a briefing by the Health Minister which included that DoH was receiving daily updates about Covid-19 and that, at that time, there had been 4 confirmed cases in the UK but no confirmed cases in Northern Ireland (albeit 16 people in Northern Ireland had been tested). The Executive was told that DoH officials were considering public health legislation in the event of a case arising in Northern Ireland, and that the risk level was now moderate. I am recorded as asking the Health Minister whether Northern Ireland would have the same powers

as England to deal with the virus, and therefore my mind was also turning to ensuring that Northern Ireland, as a devolved administration, would be able to properly legislate for the response.

28. The Health Minister was also recorded as explaining at the 10 February 2020 meeting that “international super spreaders” had been identified, and that in the UK some people were in isolation.

29. By 17 February 2020, the number of cases in the United Kingdom had risen to 9 (TEO Handwritten draft Executive notes dated 17 February 2020 **(AF01/06 [INQ000065692])**) and by the meeting on 24 February 2020 the Executive was informed by the DoH that there were 13 cases in the United Kingdom (TEO Handwritten draft Executive notes dated 24 February 2020 **AF01/07 [INQ000065693]**). There were no reported cases in Northern Ireland although 49 people had been tested. I cannot recall precisely when I became aware that the virus was capable of asymptomatic transmission. On review of the handwritten minutes from Executive meetings at this time, I cannot see any direct reference to this. However, by 2 March 2020, the Health Minister briefed the Executive that the first positive case had been detected in Northern Ireland (**AF01/08 [INQ000065694]**). The CMO then advised that there was community transmission and explained that for most people it would be a “*minor illness – like cold*” and that 98% would get better but that with a “*more severe version*” the case fatality rate could be 2-3% and there was “*lots of info we don’t know*”. I am now aware that reports from the Diamond Princess cruise ship in or around the end of February 2020 showed a significant number of asymptomatic cases, but while I have had a general awareness from the media and wider discussion of the possibility of asymptomatic transmission, I am not clear when or if the implications of this were formally set out in a briefing to the Executive.

30. Certainly, the figures outlined by the CMO in the Executive meeting of 2 March 2020 **[INQ000065694]** the fact that I was invited to a COBR meeting, and the information then communicated at that meeting, underscored that Northern Ireland would face significant challenges in dealing with the spread of Covid-19.

31. By 16 March 2020, there were 45 confirmed cases in Northern Ireland (TEO Handwritten draft Executive notes dated 16 March 2020 **[INQ000065689]**). At the Executive meeting that day, the Health Minister explained that testing had changed so that only those in hospital would be tested, and mentioned a “*surge sub-group*” being formed. We were advised that hospitals were redeploying wards as required and that

there would be a shortage of ventilators. We were also told that there would be an impact on surgery with no operations taking place and elective procedures would be cancelled. Up to this point, my recollection is that we were being advised that DoH had been preparing and that while the pandemic would no doubt be challenging, I had not previously had a sense that there was a real risk that the health system would be overwhelmed. For example, on 2 March 2020 at the Executive meeting, the CMO advised that Health and Social Care Boards and Health Trusts were coordinating; including planning to place single cases in side rooms; that staff were being trained to support patients outside of intensive care; discussions were taking place on "*prioritisation – clinical decisions, ethical issues*"; and that regular work to test systems was taking place. Banning mass events to prevent spread was not advised.

32. The principal source of information available to me during January and February 2020 as to the likely spread and impact of Covid-19 was the briefings from the DoH, communicated by the Health Minister and CMO at the Executive meetings. To the best of my recollection, there was no additional information brought to me or the Deputy First Minister in between Executive meetings, aside from the request for an Urgent Decision on 15 February 2020 seeking Northern Ireland clauses for submission to the UK-wide draft coronavirus bill. Rather, as the Executive was newly re-formed, each department was largely focused during this period on getting their own policies up and running.

33. I was not aware at the time that, in January 2020, an internal TEO memo [INQ000092712], suggested that, as a result of competing priorities and planning for a so-called 'No Deal' EU Exit Northern Ireland was more than 18 months behind the rest of the United Kingdom in terms of ensuring sector resilience for a flu pandemic. Whether or not this is accurate in terms of planned 'sector resilience' preparations for a flu pandemic, contingency planning arrangements were in place in January 2020. Indeed, Northern Ireland Civil Service ("NICS") officials had thoroughly planned and prepared for emergencies that might have arisen, and had recent experience of using these arrangements in the context of preparing for a possible crash out of the EU. Broadly, I understand that officials had prepared in 2019 for the possibility that there would be significant disruption if a Withdrawal Agreement was not agreed. The concerns centered around the movement of people and the supply chains for certain goods, such as fresh food, and medicines. The framework for dealing with civil contingencies was therefore in place; officials were trained in how it should operate; and able to deploy/ scale up its use as required. In the event, this stream of work was

stood down by the UK Government on 23 December 2019 following the successful vote at Second Reading of the Withdrawal Agreement Bill.

34. In summary, I believe the experience of preparing for a 'No Deal' exit from Europe was in fact useful as it meant there was recent institutional experience in how the Civil Contingencies Structures and the NI Hub in particular should operate. See for example, Chris Stewart's comment to the Executive on 16 March 2020: "*No Deal planning – experience helped*" [AFO1/
35. It is also important to highlight that the 'sector resilience' preparations, in my understanding, related only to the TEO aspect of response planning. This statement from TEO does not therefore provide any insight into the state of preparedness of DoH and the strategic planning going on in that department.
36. As it was, from the end of January to the end of February, pandemic planning was squarely within the remit of DoH. We were receiving briefings in February from DoH at Executive meetings and being advised in a general way of the various preparations that were being undertaken. This culminated in the Health Minister advising on 16 March 2020 that DoH had been preparing for the last 7 weeks. As this was a matter that was largely being dealt with by DoH, issues such as the implications of Covid-19 being a coronavirus rather than an influenza virus were not raised to the Executive, save for the CMO's comment on 2 March 2020 that the "*virus [was] not like flu*" (TEO handwritten minutes). There was also no consideration at Executive level of the appropriateness or otherwise of flu pandemic plans for managing the challenges a coronavirus might present.
37. During the period from January 2020 to the first lockdown, the views and advice of SAGE were conveyed to the Executive by the Health Minister and the CMO. We were not provided with SAGE minutes, and I believe that the advice we were given was essentially SAGE advice synthesised so as to be appropriate to the Northern Ireland context. The briefings were generally oral and given at Executive meetings. In the very early stages, the updates were given under 'Any Other Business' which indicates that there was no Executive paper and the matter had not been placed formally on the agenda for the meeting. I had no reason to doubt the information and advice being provided. This was a developing situation and I had no alternative expertise or experience to draw on. I therefore had no option but to rely on the advice from the CMO and DoH. If, in those circumstances, the advice of the CMO had been rejected, there would rightly have been significant criticism.

Overarching policy and strategy between January 2020 and March 2020

38. As set out above, DoH was driving the policy and response at this early stage. In TEO by end of January, NICCMA was being set up and I believe officials were looking at those aspects of emergency arrangements that fell outwith the Health portfolio and instead were the central coordination civil contingency aspect of the response.
39. I cannot recall precisely but believe there was some discussion within TEO and the Executive (perhaps not minuted) of a need or desire to produce a strategy that would result in a single peak closer to the summer months, specifically I recall a conversation about ‘squashing the sombrero’ but am not sure whether this was a Northern Ireland government meeting, it could also have been at COBR. Certainly, at a COBR meeting on 2 March 2020, I have noted “phase 2 – delay peak – easy to cope in Summe – pull peak down – minimise loss of life” **AFO1/08a [INQ000232519]**. Similarly, on 12 March 2020, I have recorded in my own notes that the aim of interventions was to “*change the shape of the epidemic and soften the peak to allow the NHS to cope and protect the most vulnerable*” (**AFO1/09 [INQ000232535]**). We were advised about the introduction of individual isolation rules and that, while the pandemic was likely to “*go right across population*”, the focus was on protecting the most vulnerable.
40. I am also not sure to what extent the concept of ‘herd immunity’ was the UK Government’s stated strategy during this period, but I have noted a recognition by UK Government advisers that this was a new virus to which the population had ‘no immunity’. I have also noted that the aim was to change the shape of the epidemic to allow the NHS to cope until the Summer months; to protect the most vulnerable and elderly; and that once measures were lifted the virus will spread again creating a rebound. I specifically made the note: “*Most vulnerable are those we need to protect – herd immunity*” (**AFO1/10 [INQ000232535]**).
41. While I do not recall expression discussion on the strategy, the UK Government’s general approach was relayed to the Executive and this likely led to its adoption in Northern Ireland in the absence of any significant discussion or alternative means of proceeding being presented. Thus, for example, at the 16 March 2020 meeting, the Justice Minister said: “*delay until after Winter pressures*” [**INQ000065689**].
42. The Justice Minister also said “*Herd immunity – not our policy*”. This chimes with my clear understanding that herd immunity was never a strategy adopted by the Northern Ireland Executive. As I stated in my statement to module 2, herd immunity was raised

at a meeting between the deputy First Minister and me, and the Taoiseach and Tanaiste of the Republic of Ireland and each country's respective Health Ministers and Chief Medical Officers at a meeting on 14 March 2020 (AFO1/11 [INQ000203348]). I have a note saying the following: "*herd immunity – cant keep people cocooned for 16 weeks... reduce too much – no herd immunity – risk will see second peak – winter months*". I cannot recall who said this though because I have made a good note, it is unlikely I was the speaker. It is also not clear to me at this remove if this was communication of UK Government strategy, Republic of Ireland strategy, or general discussion of ideas around how to manage the developing situation.

43. By March 2020, the spread of Covid-19 had become inevitable and therefore, given what we were being told about the likely infection and hospitalisation rate, it made sense to try to reduce the pace at which the virus was spreading to ensure that those infected could get the treatment they needed, and hospitals did not become overwhelmed. If it was not possible to completely stop the spread (and at that point there was no suggestion that it could be stopped in the absence of a vaccine), then this strategy would in turn mean that rather than having a high volume of cases in a short period of time, the volume of cases would be spread over a longer period of months, see for example, the CMO's comments to the Executive on 30 March 2020 as recorded in the TEO handwritten notes where he says "*spread pressure – reduce demand on health service*" [INQ000048450]. At the same time, it was recognised that those most at risk of serious illness should be protected from getting the virus to the extent that was possible. I do not think that this leads to the conclusion that the intention was to build herd immunity, but rather reflects the sense of inevitability that the virus would spread regardless.

44. My recollection is that in March, I did expect that the peak in Northern Ireland would likely be in May or June. This was likely due in part to the fact that Northern Ireland was behind the rest of the United Kingdom in terms of case numbers and we did not fully appreciate the rate of spread of the virus, which ultimately led to the peak in Northern Ireland for the first wave coming earlier than May and June. The lockdown, with which the public were highly compliant, combined with the anticipated reduced spread in the Summer months, led to a significant drop in the rate of spread so that by the end of June, the R number was between 0.5 and 0.7. This in effect meant that we did not see the spread of cases (which would have led to a peak in May/June) that had been anticipated, but rather an earlier peak in cases with a subsequent drop-off. I do

not recall being concerned about suppression leading to infection rates accelerating upwards thereafter.

45. Between January and March 2020, I do not believe that concerns about a second wave were shaping the thinking of the deputy First Minister and me. Rather, we were concerned primarily about preventing the potentially devastating impact of Covid-19 in the first wave. Having said that, we were also largely accepting of the advice from the Health Minister and CMO as to what steps should be taken and when to best manage the response. This was particularly critical in the two-to-three-week period leading up to the lockdown being announced on 23 March 2020. Therefore, for example, the Health Minister advised the Executive on 16 March 2020 INQ000065689

“I’m following the advice of my CMO. Spikes/clusters – not same here as ROI. Medical advice. Timings different to ROI and GB... Danger – countries which flattened COVID – will come back again. Withdraw from society. Isolate over 70s? Have we system to support this.... Modelling behaviours – 80%/20% - should drive behaviour of 80%. If we do it too early – effect on families etc. Have to be sustainable – if introduced too early, can’t sustain. What is best decision to take? Now is not right time to do it”.

To this extent, while not described in those terms, concern about a second wave and behavioural fatigue was a factor in the timing at this stage. In the absence of any other recommendations or advice, I considered that it was important to listen to the health advice on the timing of the introduction of measures and was clear in my support of the CMO and Health Minister at this meeting. I do not recall any separate or freestanding advice on behavioural fatigue being specifically made available and I can only assume that the CMO’s advice at this stage reflected the advice and position being provided to UK Government by SAGE and discussed at COBR.

46. I note that at the 10 March 2020 SAGE meeting, it was agreed and minuted that modelling at that stage suggested that the UK was 10 to 14 weeks from the epidemic peak if not mitigations are introduced, and 4 to 5 weeks behind Italy with transmission underway in both community and hospital settings. I do recall this information being relayed to the Executive, and it likely affected the advice and thinking of the CMO and Health Minister, and therefore would have had an impact upon the thinking of the Executive as we relied upon the DoH/CMO advice and recommendations.

Early understanding of data, testing and tracing capabilities in Northern Ireland

47. DoH were responsible for test and trace capability. In the period between the restoration of the Executive and the end of February 2020, there was no concern brought to, or raised within, the Executive, so far as I can recall or is apparent from the Executive minutes, about the scalability of test and trace capability. Perhaps naively, I believe that during this period there was an assumption within DoH and more widely that the capability would be sufficient to identify cases as they arose, for example, it is recorded in the handwritten minutes of the Executive meeting on 24 February 2020 that there had been *“49 [tests] in NI – all negative – if confirmed – held in isolation in Royal”* [INQ000065693]. By early March, despite a rise in cases in the United Kingdom, and concern over the potential scale of the pandemic, the issue of scalability, or any concerns about it, was not raised to the Executive. The decision was taken by DoH to halt testing in the community on 12 March 2020 without any consultation with the Executive Committee. This was only raised to and discussed within the Executive on 16 March 2020 after the decision had been implemented. This did lead to concern within the Executive as to how spread would be managed in the absence of contact tracing. At that stage, the testing capacity was only 100 tests per day, and DoH's position was that it was better to *“use resources to combat Covid-19 rather than count – self-isolate for 7 days first rather than testing”* [INQ000065689]. In short, I believe that the numbers of cases outstripped testing capacity much more quickly than DoH envisaged.

48. In terms of the detail as to the work being done on testing capacity, and the reason why more was not done at an earlier stage to scale up testing, those are matters best addressed by DoH.

49. In the early stages, Northern Ireland did not have its own specific modelling and therefore we relied on the figures being produced by central UK Government. I was not made aware of, or concerned about the reliability of the data or modelling at this time.

Specific aspects of decision-making

50. The timing for activation of the NICCMA arrangements was a matter that DoH was considering and was leading on, as is made clear in the letter from the Director of Population Health at DoH to TEO on 6 February 2020 where she states:

“I do not consider it necessary to activate NICCMA arrangements at this time, unless or until the infection appears in NI and impacts are experienced here...”. [INQ000218470]

As such, this was not a strategy that was raised to the Executive ministers, although the letter suggests that it may subsequently have been discussed between Senior Civil Servants.

51. With the benefit of hindsight, it does appear that the steps taken by DoH, as the department leading the preparations for the response, did not include consideration or planning of ways to prevent transmission into Northern Ireland, albeit I do think it would have been very difficult to limit the movement of people from Great Britain, the Republic of Ireland or farther afield before the true scale of the pandemic emergency became apparent in mid to late March 2020. The Executive followed the advice and recommendations of DoH and the CMO. On 2 March 2020 the advice was that we should *“continue to plan – but balanced approach -accurate info”* and that it was still *“not inevitable”*. **INQ000065694**

52. I am not sure whether there was an *“assessment of sector resilience preparedness, capacity and capabilities across NI departments and agencies and the emergency services”*, following the recommendation set out in the 6 February 2020 letter from the Director of Population Health **[INQ000218470]**. However, if there was not, this might have reflected the fact that the preparations for EU exit had recently involved the civil contingencies structures, as to which see the *“C3 Covid-19 Response Lessons Learned Review, June 2020”* **[INQ000023223]**.

53. I am aware that on 24 February 2020, the WHO advised that countries should activate the highest level of national Response Management protocols to, *inter alia*, ensure an all-of-government and all-of-society approach to containing Covid-19. The Executive were discussing the position at this time at Executive meetings, and DoH were leading the response. While I do not believe this advice from WHO was formally or specifically brought to my attention on 26 February 2020, I likely would have been aware of it from media reports. It was acted upon, however, as I attended my first COBR meeting a short time after this - on the Monday of the following week, 2 March 2020, and on 3 March 2020, a submission was brought to the DFM and me on *‘Covid-19: Civil Contingencies Preparedness and Response Arrangements’*. **AFO1/11 [INQ000289210]**

54. In general, in or around the end of February 2020, the Executive Committee's role in relation to the civil contingency arrangements across Northern Ireland was to oversee the response. DoH were leading the health response and as such the Executive were heavily reliant on the information and advice being brought to it by DoH. I understand a paper was sent to the TEO Board on 25 February 2020 [INQ000205712] that stated that *"the Executive and wider society may not be prepared for, or have the capacity and capability to deal effectively with, an emergency situation should a major contingency present"*. This paper was not brought to me and the DFM. I therefore do not know what steps were taken to address any perceived structural weaknesses, nor any steps taken on foot of the paper to prepare the public. I will say that in the events that transpired, if there were any perceived structural weaknesses, it would have been very difficult to implement structural change within the time available before the pandemic hit.

55. By the time of my attendance at my first COBR meeting on 2 March 2020 and the briefing given by the CMO to the Executive meeting on the same date, there was a real sense of urgency developing. The fact that the DFM and I were invited to attend a COBR meeting, when previously only the Health Minister had been invited, was a clear signal that the situation had escalated. The figures outlined by the CMO were also stark and concerning although it was tempered by the CMO also indicating that there needed to be a *'balanced approach'* and later saying it was *'not inevitable'* and advising that we were still in the containment phase, and advising against a rush to cancel events and that it was necessary to *'see what impact decisions would have'*

INQ000065694

56. By the 10 March 2020 Executive meeting, I am noted as saying *"civil contingencies – have we got plans to handle – advice to organisations/companies"* [INQ000065695]. I was therefore concerned by this stage to ensure that the wider civil contingencies response was operating effectively and would be able to deliver on issues of communication outside the health space. I had previously been made aware that the CCG (Covid-19) had been meeting since 20 February 2020 and that one of the NI Hub's responsibilities was to *"facilitate co-ordination of media and public communications"*. At this meeting of the Executive, my comments were intended to form part of the Executive's oversight and challenge function. I imagine the deputy First Minister's comments were intended to emphasise that the pandemic response would now require action from all departments to feed into the central civil contingency arrangements.

57. At that same meeting, I asked: “*who leads on advice... some trying to use politics to give advice*” [INQ000065695]. I was concerned that Sinn Fein Ministers were intent on using the issues arising with Covid-19 to further a ‘one-island’ agenda by looking at what was happening in the Republic of Ireland (“RoI”) and trying to skew Executive decision-making to follow the RoI regardless of the scientific advice. This was a particular issue in relation to the closure of schools.
58. While on 11 March 2020 COBR(M) took the decision to move from the ‘Contain’ to the ‘Delay’ phase, the Northern Ireland SitRep indicated that this would in practice result in little change, with those showing mild symptoms now simply being advised to self-isolate at home for 7 days rather than phoning 111 [INQ000083097]. As such, I do not believe or recall that any significant changes were made in terms of the Executive’s response for Northern Ireland. However, that decision may have played into the DoH decision the following day to limit testing to the hospital setting, and no longer test in the community.
59. On the same date RoI announced various measures, including, significantly, the closure of school, colleges and childcare facilities. The advice from the CMO was that school closures were not recommended. However, the issue became politicised by Sinn Fein who nevertheless advocated for school closure. At the Executive meeting of 10 March 2020, school closure had been discussed, and the Education Minister highlighted that there would be knock-on effects of school closures with parents having to stay at home including doctors and nurses, and the impact on children with, for example, special needs or medical requirements required consideration. I was also very concerned about the impact on young children, including those on free school meals, and those living with abuse or neglect. I therefore believed it was sensible to take some time to consider the impact of such a measure. The deputy First Minister and I received further advice from both DoH and HOCS on 12 March 2020 that said that containment measures were working and that closing schools would cause unnecessary panic and fear [INQ000232525]. On foot of this advice, we each agreed to follow the advice that it was not the right time to close schools. However, the deputy First Minister did a complete overnight volte-face on the issue and unilaterally gave a press conference the following day saying that Northern Ireland should follow RoI and close schools immediately.
60. The advice we were being given at this time also indicated that it was not necessary to adopt other measures such as banning mass events. Again, I considered it important to follow the advice being given which would allow time for the impacts on

businesses and livelihoods to be considered and, if possible, mitigated before implementation.

61. Northern Ireland was largely dependent at this time on following the lead of UK Government. This was largely because most of the scientific advice and modelling was stemming from SAGE, with central government having access to a much wider pool of experts and data than was available in Northern Ireland. It would have been difficult for the DoH to replicate this expertise and thereby diverge significantly from the UK Government guidance. Northern Ireland also had comparatively low case numbers and was therefore 'behind' in terms of the modelling. Therefore, advocating for a significantly more stringent approach, and introducing measures that would have affected people's lives and livelihoods would have been very difficult to justify, let alone secure Executive agreement for, when UK Government had not taken that step. Moreover, and significantly, Northern Ireland did not have the economic levers or capability in terms of civil service capacity to put in place bespoke measures, even if that had been contemplated. Northern Ireland was dependent on Her Majesty's Treasury and the Barnett consequential for funding. The Executive could not have implemented any NPI that would have required a financial package to make it viable, without knowing that funding from Westminster would be available to support it.

62. As mentioned previously, in or around 12 March 2020, testing and tracing was halted in Northern Ireland. I believe this was likely because there was no longer capacity to carry out tests in the community, nor the resources to carry out contact tracing. This certainly seems to be the thrust of the reason put forward by the Health Minister at the Executive meeting on 16 March 2020 when challenged about the decision. The Health Minister was concerned that *"people [would] present [for testing] for no reason – just in case..."* and said: *"prefer to use resources to combat Covid-19 rather than count"* [INQ000065689]. I am not sure whether community testing would have been of less value by that stage, for example, because of the prevalence of Covid-19 in the community, but I suspect that testing would still have been advantageous, in terms of understanding the spread, assisting with modelling, and providing the public with accurate advice about steps to take. Northern Ireland still had comparatively low numbers (in terms of cases confirmed positive by testing) i.e. on 10 March 2020, before community testing was halted there were only 16 confirmed cases and by 16 March 2020, there were 45 confirmed cases from 1083 tests.

63. At the same meeting the Finance Minister is recorded as saying that *"people following own science"* [INQ000065689]. I cannot speak as to his precise meaning i.e. whether

he was referring to the public or to Ministers charting their own course (perhaps based on ideas put forward in the media), but I certainly did not receive any clinical or scientific advice from any other source. As such, the information I relied upon was the information provided to the Executive Committee.

64. The Health Minister also advised the Executive at this meeting that his department had been preparing for 7 weeks [INQ000065689]. At the time, I believed that those preparations were adequate. However, now, knowing how matters developed, it does appear there were some inadequacies in the preparations. For example, the issues that arose around the supply and distribution of PPE has led me to question whether the 'right' preparations were made.
65. Also at the 12 March 2020 Executive meeting, the Justice Minister commented that the "*Exec always seem to be reacting not leading*". I don't agree with this comment. We were in a devolved administration that had re-formed just 2 months previously after a 3 year suspension. We were relying heavily on advice from UK Government, and were reliant on HM Treasury to fund any measures that we might have considered taking. We therefore were doing the best we could with the information and advice we had, and within the constraints we faced, at the time. For the same reasons, I do not agree with the comment from the Minister for Infrastructure's comment that the Executive was "*mismanaging*".
66. It is worth highlighting at this juncture that, in a mandatory coalition, decisions have to be agreed between people from a range of different political backgrounds, and from different political parties. At times, those around the Executive table, particularly those from the less well-represented parties tended to drift into 'opposition mode', because there is no formal opposition. This was particularly acute during the pandemic response as there was no space to have discussions outside the Executive Committee to explore or narrow issues, and therefore there was no opportunity for those to air their concerns except at the meetings. Moreover, as one might expect, the Executive was comprised of very strong characters who felt strongly about certain issues, and had clear opinions to express, and individual ministers were each keen to have their voices heard. Added to this was the fact that most Ministers were personally very worried which at times made rational discussion and decision-making more difficult.
67. It was my function as the joint Chair of the Executive to promote decision-making for which it was necessary to reach consensus. I was also very aware that it was important for the public to have confidence in the decisions reached by the Executive. As such,

I wanted to minimise public disagreements or the undermining of decisions taken by Ministers in public, and therefore encouraged Ministers to have the disagreements at the Executive table so that, insofar as possible, we were able to reach a decision that each Minister felt able to support. With this being the case, the Inquiry, by virtue of the detailed, well-taken handwritten minutes, is now able to 'see inside the tent' with all the cut and thrust of the discussions, and rumination, before a decision was reached laid bare.

68. As DoH was leading the pandemic response, NICCMA was to be activated when DoH asked for it to be activated. However, TEO had been making preparations prior to this. As set out in the Submission of 3 March 2020 on Covid-19 Preparedness and Response [INQ000289210], TEO convened a meeting of the CCG on 20 February 2020, and had begun daily engagement with Cabinet Office, Civil Contingencies Secretariat, and other devolved administrations. We were advised that the level of activation of the NI Hub would be "scaled according to need". With hindsight, I do believe it would have been better if NICCMA had been in place earlier. This might have stimulated a greater degree of strategic thinking across departments about what preparations were required. Central coordination of preparatory work might have assisted to streamline that work and identify gaps or opportunities. Having said that, while I am aware that an Actions Log produced by the civil contingency structures dated 6 April 2020 stated that the first actions were generated on 18 March 2020, I believe that departments had already been taking their own preparatory steps prior to 18 March; this was only the date on which the central coordination and logging of such preparations began.
69. At the Executive meeting of 19 March 2020, the then Head of the Civil Service ("HOCS"), David Sterling briefed the Executive about how the NICCMA arrangements would operate with the Executive [INQ000065737]. This was in effect the plan for: how the Executive would function to respond to the pandemic, for example, by meeting daily and receiving a daily SitRep; how the Assembly would function; and a daily media briefing. Prior to this the Executive was dealing with issues as they arose on a more *ad hoc* basis and HOCS had not perceived a need for a more detailed plan. The plans outlined at this meeting therefore put some structure around how the Executive would function going forward.
70. At that same meeting the Health Minister outlined that the worst case scenario for Covid-19 was by then 32,000 new cases per day with 9,500 deaths and commented that these were 'scary numbers' [INQ000065737]. I think that, while possible numbers

had been outlined at the meeting on 2 March 2020, this was the first time that the numbers had been presented in such stark terms, and the full scale of what we were facing was understood by the Executive. The tone had changed. Whereas previously the figures presented were obviously a cause for concern, we were also advised to take a balanced approach, act cautiously, and that the impacts were 'not inevitable'. Suddenly it was made clear that significant action would be required if Northern Ireland was to avoid devastating outcomes.

71. The DAERA Minister commented that in his view Ministers were 'behind the curve' and said that the Executive needed to take 'tough decisions'. I do not agree that we were 'behind the curve' but clearly action was required at this juncture.
72. Overall, the Executive's approach was to listen carefully to the advice we were being given at this early stage to best respond to the threat posed by the virus. DoH were leading the response, including the preparations and the provision of advice to the Executive Committee. In turn, my understanding is that Northern Ireland was 'plugged into' the UK Government scientific advice, and relying primarily on the broader level of skills and expertise available via SAGE, for which Northern Ireland had no equivalent at that time. As the approach of the UK Government, on the basis of its scientific advice, was to respond gradually, so too the approach advocated to the Executive was to respond in an incremental manner, i.e. to take the right decisions at the right time. As politicians facing a novel coronavirus and threat of a pandemic, we did not have the experience or expertise to challenge that advice. However, with hindsight, we probably should have locked down earlier. Given that this was a novel threat and the information and modelling was developing all the time, a more precautionary approach might have avoided many deaths. In the event, Northern Ireland had lower case numbers than parts of England, and in particular London, when the national lockdown was announced, which meant that in comparative terms, Northern Ireland's lockdown took place when we were at an earlier stage. This helped to minimise the loss of life in the first wave, albeit I appreciate this will provide no comfort to those who did lose loved ones at this time.

The first lockdown in Northern Ireland

73. I gave a press conference in the afternoon of Monday 23 March 2020 urging the public to adhere to the guidance then in place (**AFO1/0X [INQ000232533]**). I have a note of the same day in which I have recorded that SAGE were advising the R number was between 2.6 and 2.8 but needed to be less than one. The same note sets out the

impact of the social distancing measures but, despite the fact that I believe this meeting was at 1700 hours on 23 March 2020, my note does not record that the Prime Minister would announce a full lockdown later that evening. (AFO1/0X [INQ000232534]). I cannot recall precisely when or by what means I was first made aware that a lockdown was to be announced, but it appears from the note taken by officials, and now made available to me (AFO1/X [INQ000255844]), that the decision to announce lockdown imminently was discussed with the devolved administrations at the COBR meeting on the afternoon/early evening of 23 March 2020. There was also a high level of fairly informed speculation in the media that day. I had no direct lines of communication to the Prime Minister's office, or any other person or office in UK Government in the days leading up to the announcement about the development of the strategy.

74. The following day, the deputy First Minister and I gave a press conference supporting the national lockdown, providing some clarification on the rules and communicating a list of essential retail services that were permitted to remain open. This had been agreed earlier that day by the Executive. As such, UK Government had announced broadly what was required, but it was then up to Northern Ireland (and each of the other devolved administrations) to produce regional legislation and guidance.
75. In terms of the expert advice up to this point, the Executive had not been advised that a lockdown was, or would be, required. Rather the strategy was to take decisions on the basis of the advice being given, at the right time, to minimise transmission of the virus. This is exemplified by the Executive's decision-making in relation to school closures which followed the advice from DoH/CMO that it was not the right time to close schools in or around 12 March 2020, both from the perspective of this not being necessary at the time to reduce transmission, and because of the lack at that stage of consideration as to the adverse consequences that would flow. The Executive was receiving advice on the case numbers throughout and were not taken unawares by the data indicating the extent of transmission of Covid-19 in the latter period leading up to the lockdown. However, as time went on, the way in which that information was presented, and the advice about what was required to stop transmission, changed, alongside the rise in public concern.
76. In the week leading up to the lockdown there was growing concern within Northern Ireland government about the threat posed. DoH then did activate the NICCMA arrangements and we were advised in a paper to the Executive '*E (20) 34: Emergency Response to Covid-19*' that the CCG was meeting, and we were presented with information about impacts and associated mitigations. We were not provided with any

advice suggesting a change in approach. It was only on 23 March 2020 itself that I became aware that UK Government had decided there needed to be a lockdown.

77. 'Lockdown' was not a word or phrase used within official advice during January, February or early March in Northern Ireland. There had been discussions about school closures, working from home, and different aspects of the rules around self-isolation, and how people would be paid if they had to self-isolate. As such, there was some planning underway in relation to some elements of what later comprised 'lockdown', but no overarching plan was made about how to implement and manage the lockdown that was ultimately introduced, before it became necessary to introduce it. Rather, the plan had been to deal with transmission in line with the advice being given, but the situation developed more quickly than anticipated. In the days leading up to 23 March 2020, the media was reporting about other countries having gone into lockdown, and there was therefore increasing awareness of the use of lockdown as a tool to prevent spread, but this was a draconian measure that had never been used before. It was very drastic and as such it was difficult to comprehend that we found ourselves in a situation where a lockdown was necessary.

78. When it was introduced, I considered that lockdown was inexorable and necessary given where we were. There was simply no viable alternative. With the benefit of hindsight, if there had been capability to operate a sufficient test, trace and isolate system we might have been able to handle the situation differently. Similarly, later lockdowns might have been handled differently, but the first lockdown was required to control the spread, reduce pressure on hospitals, and permit some time and space to understand the virus while limiting its spread. A lot of learning was required.

79. Consideration was given to Northern Ireland responding differently to the United Kingdom, particularly in relation to the issue of closing schools. For example, the Executive voted on 16 March 2020 on whether to close school immediately, or to close schools in line with the CMO advice. My view was that, as taking a different approach to the UK Government was not advised by the DoH/CMO, and was not without potential adverse consequences, such a departure could not be justified.

Alignment with central government (January to lockdown)

80. In general, I do not consider it would have been possible, given the dependence on UK Government for funding Non-Pharmaceutical Interventions ("NPIs"), and for scientific advice and expertise, particularly in the limited time between Covid-19 being

raised as a concern to the imposition of the first lockdown, for Northern Ireland to have formulated a bespoke overarching strategy to respond to the pandemic. This is particularly so given that the Executive had been newly re-formed, Ministers were still finding their feet, and the fact that in a mandatory coalition it would have been very difficult to achieve consensus within the Executive for novel interventions.

81. Rather, as indicated above, the Executive was highly reliant on the advice of the CMO and Chief Scientific Adviser ("CSA"). My understanding is that they received the advice put forward by SAGE and at COBR meetings, and were engaging with their UK counterparts. When they then advised the Executive, this was usually the advice of UK experts synthesised to make it relevant to the Northern Ireland context, but on other occasions, they would have relayed directly the views of SAGE. The CMO also engaged with his counterpart in RoI and fed that information back to the Executive.
82. Given the heavy reliance on UK Government, in particular for advice and funding, the reality was there was no realistic alternative but to follow the UK Government's lead. Northern Ireland simply did not have independent access to the information, data, analysis and expertise that would have been required for Northern Ireland to formulate its own policy. For example, Northern Ireland did not have its own 'SAGE'. I would not therefore describe the following of UK Government as an express 'policy election' but rather it was the only viable and realistic option for Northern Ireland. It was incumbent on me, and other Ministers, to do the best we could with decision-making in difficult circumstances, and that involved relying on what was considered the best available advice. Put simply, Northern Ireland did not have the resources and expertise, particularly in the early part of the pandemic, to come to an independent view.
83. Having said that, with the benefit of hindsight, and with regret, I do not consider that between January 2020 and the first lockdown there was sufficient and informed debate about the available options for responding to the pandemic. While the reasons for that are outlined above, having lived through the experience, I now have, and would hope others would share, a better understanding of what might be required in the future. There was no template at the time for how best to put matters before the Executive for decision. I consider that in any future pandemic there should be a list of options presented at an early stage as to the various possible ways to proceed, or plans that could be made.

84. As the matter developed quickly in March towards the imposition of the first lockdown, all the options then open to us were bad. While I was aware in a general sense that imposition of restrictive measures would have negative adverse consequences, it would have been much better to have had a full and clear understanding of the implications of implementing certain options. As such, while it was obvious that lockdown would be particularly difficult for (and would require specific consideration of) particular groups of people within Northern Ireland society, it was upon us before we had a chance to drill into the detail of what was required. If we had been aware at an earlier stage that lockdown would become necessary, we would either have taken steps (if possible in the time available) to try to avoid it, or sought information and advice on the myriad ways that people might be adversely affected. This might have allowed for restrictions when introduced to be more nuanced and balanced, and for better mitigations to have been designed and implemented at an earlier stage.
85. Overall, Northern Ireland benefitted greatly from being part of the United Kingdom. While I have noted that Northern Ireland did not have its own SAGE, I consider even if we had, it would still have been very important to understand the advice from SAGE to the UK Government. Northern Ireland is a small jurisdiction and there will therefore always be a limit to the resources and expertise available here, as well as a smaller population from which data can be obtained. We are also reliant on central Government for finance, and the funding throughout the pandemic was extremely generous and indeed much greater than many of us in the Executive in Northern Ireland might have envisaged in the early stages. Therefore, being part of the United Kingdom was undoubtedly a positive for the pandemic response. On the other hand, there were issues at times with the involvement of, and consideration given to, the devolved administrations when the UK Government was formulating its response. It is also clear from having listened to some of the evidence given to the Inquiry, that the political leadership at Westminster was not as balanced and inclusive as it might have been, and that at times there was a lack of professionalism in the approach and unhelpful political tensions between the different actors in Downing Street and the Cabinet Office. However, administrations and their composition change, and while some of the internal workings of the Government during the pandemic which have now been laid bare were no doubt unhelpful, I do not believe that this would lead to a conclusion that Northern Ireland would have been better off taking its own approach. As a devolved administration it is right and sensible that Northern Ireland relies on its sovereign government.

Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 (“the Regulations”)

86. DoH brought the draft Regulations to the deputy First Minister and me for urgent approval, and, after consideration, these were duly approved. The Request for Decision by Urgent Procedure was dated 28 March 2020 and the reason that a decision had to be made urgently was that if the regulations were not made urgently:

“there will be a delay before we are in a position to enforce the social distancing and other measures that are required to tackle the pandemic; businesses will be left in a state of uncertainty at the start of the working week; and Northern Ireland will lag behind other jurisdictions that have already made similar Regulations”. [INQ000048450]

87. The letter also made clear that the decision had been circulated to other Executive colleagues to also give their urgent consideration and submit any comments to me, and to the Health Minister himself, by 6:30pm that day. Thereafter, there was concern that there was inadequate scrutiny of these Regulations but, at the time, given that we were following the direction of travel set by London, I was content that the use of the urgent mechanism was necessary to get the Regulations onto the Statute book as soon as possible.

88. The Regulations were borne of the UK-wide Coronavirus Act 2020 which achieved Royal Assent on 25 March 2020, 2 days after the imposition of the national lockdown, and then brought to the deputy First Minister and me on 28 March 2020. The time period for assessment of how the Regulations would impact upon groups with protected characteristics in Northern Ireland or those who might suffer disproportionate disadvantage was therefore, by necessity, very short. We were in a crisis situation, and focused on minimising the risk to life posed by the spread of the virus. This meant that, as outlined above, regrettably, there was insufficiently detailed consideration given to the impacts of the Regulations, and how best to mitigate them, at this stage. Moreover, having reviewed documents available to me at present, I am unclear to what extent (if at all) DoH screened the legislation as it was required to do by Section 75 of the Northern Ireland Act 1998.

89. Given the speed at which the Regulations were introduced, the position from the outset was that it might become necessary to amend some restrictions as issues came light.

Therefore, as Ministers including myself were made aware of some of the distress restrictions were causing, in some cases without any apparent good reason, I felt it was important to raise those issues. Hence at a Civil Contingency Group (Covid-19 Response) meeting on 6 April 2020, I raised the issue of making provision for individuals to access churches and graveyards. At that time it was permissible to go for a walk in the countryside but not go into municipal graveyards, which were locked. I thought this was disproportionately cruel to those who gain comfort from visiting the graves of loved ones as it was causing huge distress without a clear rationale. I was also aware that many members of the Catholic community and other faiths attend churches to pray each day and this was also being prevented, hence my proposal that these aspects of the restrictions be reconsidered. This also reflected the principle that the restriction on personal freedoms by Government should only ever be to the extent necessary.

90. Thereafter the approach adopted to the amendment of restrictions by the Executive was that set out in the paper *E (20) 90 (C) Planning for Recovery: Second Review of Health Protection (Coronavirus, Restrictions) (Northern Ireland) Regulations 2020*:

“... subsequent reviews should be conducted according to the terms set out above, in particular by timely re-appraisal of specific restrictions and requirements; and the incremental approach described in paragraphs 9 – 12 of the Executive paper should be adopted; (v) that the guiding principles set out in paragraph 13 of the paper should be adopted; (vi) that the arrangements for managing the process of review, including the qualitative risk-benefit framework and the structured process, should be adopted...” [INQ000048464].

91. A review was undertaken and provided to the Executive in advance of its meeting on 4 June 2020. The paper was entitled: *E (20) 128 (C) Point in Time Review of the Executive’s COVID 19 Strategy [INQ000065637]*. As its title makes clear this was a ‘Point in Time’ Review. It was not intended to be a full review of the pandemic response to that point. However, I note that input was not sought from the DoH for the review, and I consider that this was likely a missed opportunity but I also recognise that officials had been working extremely hard for months on the pandemic response which was still ongoing. Therefore, while it was important to take stock by way of review, and check to make sure the processes in place were working, this had to be balanced with the additional pressure that such a review would place on officials. As such, while this

Point in Time Review *could* have gone wider and deeper, I consider that, in the main, it was sufficient for the purpose for which it was intended. Later, there were many and varied other 'lessons learned'-type reviews from which a fuller assessment of the strategy was made.

Civil contingency arrangements in the first part of the pandemic

92. The office of the First and deputy First Minister is a joint position. One cannot function without the other. We each had our own private office, but in terms of division of responsibilities as between us, everything had to be done jointly. We met regularly, with these meetings being coordinated by our respective private offices. If we were in Stormont Castle we met in person on a daily basis. We received the same briefings. If we were talking to the CMO and CSA we would have been on the same call together. When we instigated the joint daily press conferences, there was liaison as to who should say what, and Chris McNabb in the TEO Executive Information Service would have been involved in the messaging. There were also frequent Executive meetings during this period for which the agenda was required to be agreed by us. Often the matters to go on the agenda would have been negotiated by our Special Advisers in the first instance. We also received advice from DoH or HOCS as to issues arising and whether any particular issue needed to be dealt with urgently.

93. The NI Hub coordinated information from each department into daily 'SitReps'. These SitReps gave an overview as to the situation on the ground and were very helpful. Given the speed at which the pandemic progressed, and lockdown introduced, it did take some time for the NI Hub to establish a rhythm, presumably as it was necessary to recruit staff and develop agile and effective ways of working - *C3 Covid-19 Response Lessons Learned Review, June 2020 [INQ000023223]*. This review indicated that "*CCG meeting was seen as useful and informative, particularly for Ministers, however, it was not described as an effective forum for debate and decision making*". The review also suggested separating the CCG "*into a two-strand process in future deployments – one to allow debate amongst Departments and the second a forum to ensure Ministers are regularly updated*".

94. This accords with my view of the CCG which was that it was not intended to be a forum for decision-making by Ministers. Aside from certain urgent decisions, Executive decisions had to be agreed by each member of the Executive at an Executive meeting and therefore the CCG was not capable of facilitating ministerial decision-making. As I outlined in my statement to Module 1 to the Inquiry, while the CCG was conceived to

comprise members of the Senior Civil Service only, the deputy First Minister and I began to attend the meetings during the first wave of the pandemic. The situation was changing rapidly in the early weeks of the first wave from the end of March into April and attending the CCGNI meetings allowed the dFM and me to hear the information at source and prevent any time lag between the information becoming available and us being briefed. This negated the potential for issues to arise as to the sharing of situational awareness.

95. The suggestion of separating the work of the CCG into two strands perhaps echoes the concern that I raised in my statement to Module 1 of the Inquiry where I stated:

“I was however conscious at times that the Senior Officials may have preferred meetings to be limited to officials only so that they could speak more freely. This might be something that the structures might be adapted to accommodate. There is a balance to be struck between ensuring Ministers have as much information as possible, or that they feel they need, to make decisions for which they are accountable, and potentially hampering the operational work of officials.”

96. As such, it may have been the case that Departmental officials did not feel able to freely debate decisions while the deputy First Minister and I were present. This may have been out of concern about the Ministerial time being taken up listening to debate about matters that were not ready to be, or did not need to be raised to us at that time, or because they might have felt unable to openly discuss how some of the policies under consideration might be viewed by, or might best be presented to, Ministers, taking the varying personalities and political perspectives into account.

97. My only concern about the recommendation to separate the work of the CCG into two strands is the additional burden that might result in for officials. My experience was that during the pandemic much of the operational work was borne by a comparatively small number of hard working individuals. I can't recall if any changes were made to the NI Hub after the publication of the Lessons Learned Review.

98. In or around May 2020 the CCG was stood down and the work of the NI Hub was scaled down. I believe this was because the initial 'crisis' period had passed and all actions were closed. There was therefore no need to continue with daily updates, which although necessary in the initial period, took a huge amount of resource away from general operational work within Departments. The decision was therefore taken

by HOCS to revert to normal processes. The NI Hub and CCG could then be stood up again as required. Between June and October 2020, the Executive and the Departments returned to a 'business as usual' pattern of working whereby submissions would be raised within Departments to Ministers, and in turn, where required, papers would be submitted to TEO to be placed on the agenda for consideration by the Executive. We still had regular Executive meetings where we were updated by the CMO, CSA and Health Minister as to the situation with Covid-19.

Overarching view

99. Overall, the approach of the Executives was to follow the national lockdown strategy introduced by UK Government. Thereafter, the strategy of the Executive was to only keep those restrictions in place for as long as necessary. Following advice, we therefore developed a pathway out of restrictions, and then applied that. This was a comprehensive strategy, although at times it may have felt somewhat incoherent, as we tried to deal with inconsistencies and anomalies in the restrictions as we encountered them. The coherence of the Regulations was tested by public experience in the absence of having had time to fully consider the various restrictions, and receive proper and fulsome advice on their potential impact, particularly on groups who might be vulnerable or disproportionately impacted. In terms of the work of the TEO, within which responsibility for the CCG and NI Hub fell, the C3 Lessons Learned Review was completed [INQ000023223].

100. I am not sure what work was done to assess and learn from the experience of those adversely impacted by restrictions after the first wave. Specifically, I do not believe any work was commissioned by TEO on this, but I stand to be corrected. However, there would have been work done by individual Departments on issues within their remits, for example, by the Department of Education and Department for Communities but I am not able to refer to any specific examples. It is also true that, while wanting to learn from the experience of the first lockdown, Ministers and Officials were also looking ahead to the potential of a second surge. In addition, everyone had been working at pace under extremely stressful conditions for months, and resources were therefore very stretched. As such, while I cannot directly recall express discussion on the point, there was likely a sense that the system was not yet in a position to perform comprehensive reviews which involved looking back at what had taken place.

Decision-making after March 2020

101. It was apparent from the advice the Executive had been receiving about modelling from an early stage, that while restrictions that had been introduced to limit transmission and reduce case numbers, once restrictions were once again lifted, in the absence of a vaccine, case numbers would once again rise. Preparations did therefore begin but officials were working very hard on delivering the response to the first wave, and therefore the available 'bandwidth' to develop a comprehensive strategy and undertake preparation for a second surge may have been limited.
102. When the Executive published its '*Coronavirus Executive Approach to Decision-making*' document on 12 May 2020, the Executive was aware of the potential for a second surge. The document was discussed at the Executive meeting on 11 May 2020 and HOCS stated that the CMO/DoH view was that we "*can't be precise re timing*" but rather the decisions would be "*science driven*" and "*remain as is for next few weeks*". On the one hand, this reflected a sense that if the Executive were to put a date to something but then change it, it would be worse than if no indication as to date had been given. On the other hand, the counter view was that the public would rather have a date for relaxation to work towards or look forward to. There was therefore a tension about whether to provide dates, and, at this stage in May, the document did not provide indicative dates. This did change as time went on. Hospitality, for example, needed to be able to order food and ensure sufficient staff were available, and members of the public were keen to return to some form of more normal services for weddings and funerals, as to the latter see [INQ000207260].
103. At the Executive meeting on 15 June 2020, a move to less than 2m for social distancing was discussed, and the CMO indicated that he was "*extremely uncomfortable*" with the proposal [INQ000065730]. This led to commentary from the DAERA Minister around the lack of certainty of the science in this area. From my perspective, the scientific advice in this area was not sufficiently certain but that was through no fault of the scientists or indeed science itself. At the outset of the pandemic, the scientific and medical advice was *a priori* but as time went on, other factors came into play, most notably economic and social issues. In terms of the rules around social distancing, I understood that it was impossible for the CMO or CSA to provide definitive advice on the impact of reducing the distance from 2m to 1.5m or indeed 1m. There simply were no suitable studies or other specific evidence available for the scientists to be able to draw on in giving their advice. The advice was therefore by necessity "best guess" and applying common sense i.e. the risk of spread would be greater if people spent more time closer together. It was therefore the job of politicians to weigh

that increased risk against the socioeconomic benefits when determining what measures to impose or relax and when.

104. I believe the most significant catalyst for the increased rates of Covid-19 in Northern Ireland in August 2020 was a lack of compliance driven primarily by the actions of the deputy First Minister, and other members of Sinn Fein, at the funeral of Bobby Storey on 30 June 2020. The public had complied with onerous restrictions from March to the end of June on the basis of a level of public confidence in the measures we had introduced to try to keep people safe. The public understood what was being asked of them and were overwhelmingly compliant even as they began to get weary about restrictions going on for much longer than most had anticipated. The very public display of disdain for the rules and guidance displayed at the Bobby Storey funeral broke the trust of the public. People questioned why they were sacrificing their personal life and relationships when people at the highest level of authority in Northern Ireland did not do so. This was compounded by the fact that by the start of July case numbers were very low, with just 4 recorded cases per day. The public therefore decided to disregard the need for ongoing caution and make their own decisions based on the level of perceived personal risk at the time. It was very difficult to regain the authority and trust the Executive had previously enjoyed and meant there was resistance to, and non-compliance, with protective measures thereafter.

105. I do not believe that the subsequent increases in case numbers in August 2020 means that restrictions were eased too quickly. As I have said, by the beginning of July case numbers for the whole country were down to less than 4 per day, and the R number was down to between 0.5 and 0.7. The Executive had taken advice and acted on it. The difficulty we faced was that, because of the issues set out above, as well as fatigue with restrictions, the NPIs in place over the Summer were not being adhered to and case numbers began to increase faster than had been predicted. By 6 August 2020, I made a note that the CMO was “concerned at level of community transmission” (AF Notes 6 August 2020 **AFO1/0X [INQ000238110]**.) The Executive continued to take advice during this period as to what measures would be required to bring case numbers back to more manageable levels. By August 2020, the Executive was advised that contact tracing was now operational and effective and there was good uptake of the Stop COVIDNI app. Thus at the meeting of 20 August 2020, the Health Minister explained that there was a 95% hit rate for positive contacts in the system, with 80% being considered successful (Executive handwritten notes 20 August 2020

AFO1/0X **INQ000065709**

106. At the same meeting, my focus is on getting back to basics to get the R Number down including social distancing, hand hygiene, and to target the cohorts considered to be causing problems such as house parties and pubs and expressed my view that the fine of £50 was too low. The Health Minister and CMO expressed their view that there hadn't been sufficient enforcement of the Regulations in place. As such, there was active consideration of how to manage the escalating case numbers.
107. I am aware that the civil contingencies structures were not reinstated at this stage but I do not know why – the activation of these structures were a matter for HOCS. Similarly, I am not aware of the role or operation of the NI Hub in respect of the second wave of the pandemic and whether it differed to the way it operated in the first wave from March to June 2020.
108. Throughout September, concern was rising. Northern Ireland introduced localised restrictions to manage the spread. We were not the only administration affected as, for example, I made a note on 17 September that there was to be a “*UK Gold meeting on outbreaks*” and that “*NI now in that meeting*” **AFO1/0X [INQ000238141]**. The situation was therefore being closely monitored and, within Northern Ireland, more areas were being added to the list of postcodes with restrictions. I have also noted that “*curfews/workplaces etc. are next stage*” (AF notes 17 September 2020 **AFO/0X [INQ000238141]**).
109. By October 2020, there had been a continual rise in cases. The Executive was briefed by the Health Minister on 1 October 2020 that there were 70 patients in hospital with Covid-19, and 9 in ICU. The increases in case numbers in the Londonderry/Strabane areas were described as ‘*exponential*’ (Handwritten minutes of Executive meeting 1 October 2020 **AFO1/0X [INQ000238153]**). The rationale for the ‘reset’ discussed at that meeting was to try to get the public to sit up and take notice of the seriousness of the situation. Northern Ireland was no longer in the same position as it had been at the end of June, but people had not once again started to behave more cautiously. It was therefore critical to get a clear, fresh message across to the public about the need for compliance with the restrictions in place, in order, hopefully, to avoid the need for more stringent restrictions. The reset was primarily around renewed messaging (and the Executive Ministers were agreed there should be a collegiate approach to this), but there was also emphasis placed on ensuring that the Regulations were being properly enforced. As such, there was a ‘reset’ but, in the event, it was not as successful as we might have hoped as further restrictions did become necessary.

110. I do not think that there was a significant under-estimating of numbers leading up to early October 2020, but it became clear that the more conservative measures to limit spread i.e. emphasising the need for compliance and enforcement, was not working. We were not blindsided by the increase in numbers, but they had risen more quickly, and been more resistant to, the various measures we had implemented to curb them. They had risen further and more quickly than we had anticipated, and hoped.
111. On 8 October 2020, I therefore considered the position to be very grave. The situation was clearly deteriorating, and we were going to have to take stronger action to prevent a further rise in cases, and limit pressure on hospital capacity.
112. At the Executive meeting of 8 October 2020, the DAERA Minister comments that *“people are not listening to us... not going after where problem exists. Afraid to say where problem is”* [INQ000065756]. I believe the DAERA Minister was concerned because he felt that case numbers were peaking in predominantly nationalist areas – Londonderry and Strabane - and was trying to establish what was going on in those communities to drive spread. In addition, and tied to this, the DAERA Minister voiced his concern on a number of occasions about the fact that off-licences remained open while pubs and other licensed premises were subject to restrictions. He made the point that this had the effect of facilitating house parties where there was less likely to be social distancing taking place. I do not recall any reluctance to identify locations by reference to transmission rates.
113. In terms of enforcement, there was a meeting between the deputy First Minister, the Justice Minister, Assistant Chief Constable Todd and me on 9 October 2020 (AF noted 9 October 2020 **AFO1/0X [INQ000238166]**), and between 9 October and 16 October there was a series of meetings in which the deputy First Minister and I discussed the increasingly concerning situation and the options available to the Executive (AF Notes CDL and Cx and Das 9/10/20 **AFO1/0X [INQ000238165]**; DFM/FM and Officials 11/10/20 **AFO1/0X [INQ000238167]**; CMO/CSA Min Health 11/10/20 **AFO1/0X [INQ000238168]**). We were advised at the meeting of 11 October 2020 with DoH and the CMO and CSA, that if we *“don’t take decisive intervention Health Service overwhelmed past tipping point”*.
114. Ultimately, therefore, the Executive had little option to implement the ‘circuit breaker’ lockdown on 16 October 2020. Great Britain had opted to proceed by way of tiered restrictions, which were similar in some ways to the Postcode restrictions the Executive had implemented in September, but which had not proven effective enough.

As such, recognising the transmission of the virus at the time and the pressure on the health service, the Executive, acting on DoH and CMO advice, had to take stronger action by way of introducing the 'circuit breaker' lockdown

115. I am aware that there were concerns in or around this time about the extent to which the scientific advice was based on evidence and data. This was particularly acute when the Executive were considering the potential impact of certain restrictions. For example, in respect of a particular restriction, the CMO and CSA might have indicated that the effect would be to lower the R number by a figure such as 0.2 or 0.3. When the Executive was tasked with making decisions, some Ministers, including the DAERA Minister, found it very frustrating that there was no solid basis for these assessments, and felt they were at times really educated guesses or common sense. I understood the limitations in this regard and while it would have been preferable to have more certainty, the Executive had to make decisions on the basis of what was available. Put simply, doing nothing while waiting for more information or greater clarity was not an option.

116. Later on, at the Executive meeting of 19 November 2020, after restrictions had been extended for a further two weeks, there was discussion about whether the correct decision had been taken at this time. The Infrastructure Minister commented: *"presented with medical/scientific advice 5 weeks ago. We chose not to act"* to which I responded that we: *"had advice 5 weeks ago, made different decision. We had hoped R would fall, stay down during restrictions"*, and the CSA noted that we *"thought R would reduce further, stay down longer"* INQ000065739 I consider the right decision was made in October. A four week circuit breaker was deliverable at that time in a way that a six week lockdown was not. It was necessary to achieve consensus and four weeks struck a balance between the competing factors and different views, and reflected (as the CSA later said) that we had hoped that the restrictions introduced would have a bigger impact than they did.

Executive meeting of 9 November 2020

117. The Executive meeting of 9 November 2020 was particularly difficult and controversial. The public and businesses believed that the circuit breaker restrictions were coming to an end. Any extension would therefore be very difficult and there was real concern about the impact on businesses and society if the restrictions were not lifted as planned. As against that, DoH was seeking a further two week extension to the restrictions to ease the pressures on hospital capacity. As I have set out above,

the public had grown weary of restrictions and the messaging no longer had the same effect. The virus was by now better understood. In particular, there was an understanding that not everyone would be seriously affected, and that young people in particular, tended not to get seriously ill. Moreover, some people had already had Covid and therefore considered themselves to have a level of immunity. These factors together already meant that it was more difficult to get across the message that individual members of society needed to abide by restrictions to prevent an increase in case numbers that would in turn create hospital pressure. The Economy Minister was understandably very concerned about the impact on businesses and the economy from continued closures particularly as we edged closer to the pre-Christmas period.

118. Moreover, when the circuit breaker was proposed in October, DoH had sought a period of six weeks but, following negotiations, Ministers had agreed to four weeks, with a two week closure for schools. In short, six weeks was simply considered too long for a circuit breaker lockdown at that time. On 9 November 2020, the Executive were then in position where a further two weeks was nevertheless being sought. My DUP colleagues felt this was a breach of trust, and that extending the circuit breaker would not only be damaging for businesses (particularly for small business such as close contact services), and those on low incomes, but would also erode public confidence in the Executive. It was my role to try to find consensus to bring along my own colleagues as well as other Ministers and reach a position that could be agreed. This was very difficult hence the length of the meeting.

119. Another issue which was there were some inconsistencies in the modelling being presented, and that it was not sufficiently specific to be able to understand the potential impact of choosing one restriction over another, for example, the impact of closing wet pubs, as opposed to closing coffee shops or close contact services. The CSA considered that the close contact services would have a modest impact on the R number of 0.05, but also indicated that, in line with my understanding as set out above, that *“nobody has conducted ‘experiment’ of opening close contact and nothing else”* [INQ000116294, page 4].

120. Overall, the tone of the meeting was very poor and disrespectful. This was largely borne out of frustration. There was also briefing to the press by individual ministers, and parties, against other ministers. I can only assume the intention was to ‘bounce’ Ministers into making certain decisions i.e. if a proposal or particular standpoint was briefed to the press, public pressure mounted so that it became very difficult for a Minister to hold his or her alternative position. I do not know what Minister

it was, but the leaking clearly came from inside the Executive meeting. This was very disrespectful and did not help with reaching any sort of consensus. It perhaps did reflect the fact that emotions were running high, and that time was tight – it was not possible to postpone decision-making to allow tensions to settle. Having reflected I believe that, whereas in the first wave of the pandemic, decision-making was more straightforward as the focus was on the health response, by this stage there was much better understanding of the other factors that required to be weighed in the balance. As such, it was very difficult for the joint Chairs of the Executive to ourselves agree, and to bring eight departmental Ministers with different personalities, and from across the political spectrum also to an agreed position. The way this meeting played out effectively demonstrates the difficulties with mandatory coalition.

121. The difficulties encountered at the 9 November 2020 also likely go some way to explaining why at the next Executive meeting on 19 November 2020, the DoH Executive paper did not contain a specific recommendation [INQ000048498] despite this being a requirement in a paper to be brought to the Executive for consideration in order for a decision to be taken.

122. It was a frequently cited source of frustration at the 9 November 2020 meeting that Ministers felt that there was not sufficient cognisance being taken of non-Covid issues. When a paper was placed on the agenda by DoH, its natural focus was on the health/Covid impacts. However, by this time it was necessary for the Executive to take a more balanced approach to decision-making in and including a wide range of potential impacts and competing factors such as the risk of businesses and the economy collapsing; the impact of restrictions on mental health; and the disproportionate impact of closures on, for example, low paid workers.

123. At the 9 November 2020 meeting, DoH had stuck by the recommendation put forward in its paper but a further paper was then submitted by the Justice Minister proposing a compromise. It may be that the decision of DoH not to include a specific recommendation was intended to permit wider examination of the various factors at play, and reflected the fact that at that stage we were in a further period of restrictions so that DoH did not have a clear recommendation to make. Another possibility is that DoH felt that, given the criticisms levelled at the previous meeting, it would be better not to make a recommendation and allow some of the burden of formulating a recommendation fall elsewhere, bearing in mind the need to weigh other factors in the balance. This may have been particularly directed at SF Ministers who, in particular, relied heavily on the DoH position and appeared to take great comfort in rowing in

behind DoH on particular issues so they could say they were *“following the science”*, without which they felt exposed.

124. While the lack of a specific recommendation did not particularly concern me at the time, under the system of mandatory coalition in Northern Ireland, in order for a decision to be taken by the Executive, there needs to be a paper to the Executive to form a basis for the decision. For example, it is not possible for the Executive to make a decision on an issue raised in ‘Any Other Business’. As such, there should have been a clear recommendation made.

125. Overall, the management of the response to the second wave in Autumn 2020 was in many ways more challenging in terms of the decisions that required to be taken, than those during the first wave. By Autumn, there was shift in thinking required. Whereas in the first wave, lockdown was a necessity, by this time there was a much better understanding of the negative impacts of restrictions and the public were overall less compliant. The Executive was therefore trying to balance pressures and frustrations and, as Joint Chair, it was my joint responsibility to find consensus, if at all possible. In short, mandatory coalition is inherently difficult and, at times, as aptly exemplified by the 9 November meeting, decision-making within this style of government can be tortuous.

126. In terms of the strategic response, we had a framework i.e. a pathway out of restrictions, but we did not have an agreed strategy for imposing restrictions again. In hindsight, decision-making might have been more straightforward if there had been a strategic framework in place in advance, with clear guiderails as to how to handle the response as the second wave developed. The capacity of the health service to cope was a key factor in our decision-making but we also needed to make sure that the economy was not decimated, and that people were able to live a quality life. I do have a sense that, by July, both Ministers and the NICS were just hugely relieved to have breathing space. We were collectively exhausted from the pressure of the first wave, and therefore perhaps not enough focus was placed on having a clear strategy for the second wave. Having said that, while it is important to have an overriding strategy, it is only useful if it is adhered to, and it is difficult to know to what extent a strategy would have substantially reduced the tensions in Autumn 2020 in the circumstances we found ourselves in.

127. The approach of Christmas formed a backdrop to many of the discussions about restrictions, particularly from mid-November onwards. Across the United

Kingdom, each administration considered that it was important to 'protect' Christmas and allow people to celebrate in as normal a way as possible. This was in large part to give people some hope, and something to look forward to, after a very difficult year in which a lot of personal sacrifices had been made, but also to mitigate the damage to the economy to some extent. On 11 November 2020, there was a call between the devolved administrations and the Chancellor of the Duchy of Lancaster ("CDL") Michael Gove in which the desire to have aligned messaging around what was allowed for Christmas was discussed (AF notes CDL call DA's 11/11/20 **AFO1/0X [INQ000238219]**). It was intended that there would be a joint statement issued by each of the four administrations across the UK. It was discussed on another call with CDL on 16 December 2020 (**AFO1/0X [INQ000286602]** AF notes) and at that meeting I had to explain to CDL that Northern Ireland could not sign the joint statement as the deputy First Minister refused to sign it because it was UK-wide. I was more than content to sign it but because I was in a joint office, I could not do so unilaterally. In the end, I believe that the Health Minister joined with the other Health Ministers to issue a statement instead. It would have been preferable to have aligned the approach across the UK, particularly for those travelling.

128. By 18 November 2020, it was recognised that there would need to be limits placed on Christmas. On a call between the devolved administrations and CDL on that date we were advised there would be a "*tighter period 24/28 Dec*" and travel restrictions were discussed to enable a common approach to travel to be agreed **AFO1/0X [INQ000238223]**.

129. Within Northern Ireland, I attended a meeting on 1 December 2020 with the Minister of Health and the deputy First Minister. The aim was clearly expressed at this meeting, and on other occasions around this time, as being to keep the R number below 1 and sustain the health service (AF Notes 1/12/20 Mtg with Health/DFM **AFO1/0X [INQ000238250]**). There were fewer people in hospital at this time but they were staying in longer. The reopening on 11 December 2020 and the heightened risk that posed was discussed, and we were made aware that, if after Christmas the R Number was at 1.6, there would need to be severe restrictions. As we moved forward through December, it became apparent that we would have to further restrict what was allowed at Christmas. At a meeting with CDL and the leaders of the other devolved administrations on 15 December 2020, there was discussion about either reducing the number of days on which families could come together, or reducing the number of households that could come together. Northern Ireland chose the latter.

130. The detail of the restrictions was discussed at the Executive meeting of 17 December 2020 when we were advised that the R number was now at 1.1, and that R had not fallen below 1 following the additional two week restrictions (AFO1/0X [INQ000238273]). On or around 19 November 2020, there was discussion of the new variant but DoH advised that the *“threat risk hasn’t changed since Thursday”* (AFO1/0X [INQ000238223] AF Notes DFM and Health CMO/CSA 19/12). By 21 December 2020, concern had risen still further, and the position was set out in an Oral Statement to the Ad Hoc Committee on Thursday 21 December 2020 which I retained with my notes (AFO1/0X [INQ000232594]). However, notwithstanding the concern, and the agreement to therefore introduce special, even more stringent, restrictions between 26 December and 2 January, there remained a sense that the public would simply not countenance the cancellation of Christmas completely, and were unlikely to abide by the rules if that was imposed, particularly as many had travel arrangements already in place. We did not want to undermine the trust we had built up with the public on the issue, particularly as further restrictions were going to be imposed thereafter. I believe the CMO and CSA also recognised the need to preserve Christmas and therefore provided modelling and recommendations around it.

131. In terms of international travel in the Christmas period, the Executive had limited involvement. Northern Ireland is part of the Common Travel Area between UK and RoI and therefore decisions regarding travel would have been for UK Government to take in the first instance. Regarding travel from GB to Northern Ireland, by in or around 20 and 21 December 2020, most Christmas travel plans would have been in place, and a pragmatic approach was taken to issue advice rather than to ban travel. This was in line with the CMO and CSA’s advice that restrictions on travel would have a small impact as the new variant had already arrived within Northern Ireland.

132. The decisions taken were very difficult. While clearly the aim was keep the R number below 1 and reduce spread, the Executive also had to weigh the wider health and socioeconomic consequences when making decisions. I sincerely regret each and every death from Covid but I believe the Executive was doing the best it could with the information we had at the time and with the confines of the form of government we had to work within in Northern Ireland.

133. The Executive Covid Taskforce (“ECT”) was established in December 2020 consequent to the decisions taken in November, with the aim of allowing for a broader consideration of factors in the response to Covid-19. I do not believe it was linked to changes at a UK Government level. I am aware that the Health Minister was initially

concerned about the ECT being established. There was a sense that it was an attempt to usurp DoH's role or trespass into his territory and lead to duplication of work. From the Executive's perspective, the ECT was part of a genuine desire to have a more coordinated approach across government and greater transparency so that departments were not working in silos. There was also a recognition that the burden of DoH and the Health Minister was significant so that, for example, TEO Junior Ministers had assisted by taking Health papers through the Assembly on behalf of the Health Minister. Once the ECT was established DoH were protective of data and information. The ECT's remit was to work within the *Recovery Framework: Moving from Response to Recovery* and provide advice and recommendations.

134. For the period in time I remained in office, I felt that the ECT provided the Executive with a useful structure to try to understand the different elements, and departmental views on Covid restrictions to allow us to come to collective decisions.

2021 and beyond

135. The ECT was tasked to assess the impact of the restrictions imposed at the end of December on vulnerable groups and those who stood to be disproportionately affected by them. In addition, individual departments were carrying out work on issues within their portfolios, for example, the Department for Communities assessed the impact of those in poverty.

136. On 2 March 2021, the Executive published its "*Moving forward: The Executive's pathway out of restrictions*" ("the pathway document") [INQ000104467]. I considered the approach set out in the paper was appropriate. However, while the ECT ought to have been considering the effect on disadvantaged groups of people within the community such as the vulnerable, children or persons with a disability, I am not sure whether there was a specific workstream within the ECT focused on these effects.

137. The pathway document considered a wide range of factors and the CMO's input had been specifically sought and his imprimatur given. There was concern expressed by some Ministers that the pace of easing was too slow. For example, the Economy Minister was concerned about the impact on businesses and the economy if restrictions were not eased quickly enough, and she wished to ensure that the Executive did not get bogged down by process. To this end, on 25 March 2021, the Economy Minister requested that her concern be recorded that the length and

complexity of the Executive's review process was threatening the continued existence of business already heavily impacted by the ongoing restrictions. In reply the CMO advised the Executive that, in light of the new Covid variants, he was advocating a phased, cautious approach to easements [INQ000048522]. Economy was directly Mrs Dodds' responsibility, and she was right to ensure that the Executive took proper account of those concerns. However, this inevitably led to tension as between health and economic considerations. These tensions had been apparent from relatively early in the response to the Covid-19 pandemic i.e. in or around Summer 2020. The pandemic became, in a sense, both a health and an economic emergency, and each aspect needed to be handled. The difficulty was that the measures required to deal with one aspect generally had negative consequences for the other.

138. I left office on 14 June 2021 but until my departure I believe the pathway was broadly adhered to.

139. I am aware that the Justice Minister commented shortly after the pathway was published that it had been undermined within hours and that the document had been "*shot in the knees*". I think the Justice Minister was probably referring to negative briefing to the press by some Executive ministers which tended to undermine the collective messaging around the approach set out in the document.

Overarching and thematic issues

Retirement of Sir David Sterling

140. While the retirement of Sir David Sterling happened at a critical period in terms of the response to the pandemic, in August 2020, I do not think that his departure had a huge impact. It was certainly not ideal to lose an experienced HOCS at this time but the remaining Senior Civil Service team were experienced and able to step up to mitigate the impact of the vacancy. I recall Karen Pearson as being particularly effective in the way she responded generally, but also specifically during this period. It took time to find a suitable replacement. The NICS has a specialised recruitment team called HR Connect, within the Strategic Investment Board, who were responsible for ensuring that due process was followed, and the right candidates selected. In Northern Ireland, once a candidate has been identified through this selection process, the candidate then needs to be agreed by both the FM and dFM in order for him or her to be appointed. However, agreement could not be achieved. This led to the process

being abandoned at that time, and an interim HOCS was appointed to ensure that there was a HOCS in place at this critical time in the pandemic.

Scientific and medical advice to Ministers

141. At the outset of the pandemic, the approach of 'following the science' became the principal and foremost consideration. In practice, it meant listening to the advice of health officials and making decisions based upon it. It did not in my view lead to a 'reactive' approach. We were taking advice on projections as to what would happen in the future based on modelling and taking decisions proactively on how best to respond. Indeed, particularly in the first wave, when there was much uncertainty about how the pandemic would develop, it would have been difficult to do anything else. 'Following the science' became something of a comfort blanket for society in general – a way of ensuring that we were acting rationally and doing what was best, on the basis of the best available evidence. Having said that, at the very early stages, and as outlined above, Sinn Fein's approach was to seek to follow RoI for political reasons despite there being no evidence for it at that stage. In subsequent weeks, their strategy changed when it became apparent that the Health Minister had the support of the public at which point Sinn Fein became very reliant on the 'follow the science' mantra, even when there should have been more challenge from the Executive on the negative impacts that might have. Indeed, knowing what we know now, after the very early stages of the pandemic, there should have been robust advice provided, whether by scientists or others, on the other impacts of decisions we were taking. All too often, DUP Ministers, who were challenging the advice being given in order to consider the position from all angles, and make the best decisions for all the people in Northern Ireland, were criticised for not 'following the science' closely enough.

142. There were issues with the gathering of data within Northern Ireland although this was primarily an issue that DoH dealt with internally and the Executive had limited involvement. I do not know, for example, what role the Public Health Agency played in relation to this. However, my understanding is that Northern Ireland initially produced (through NISRA) statistics on the number of deaths related to Covid-19 on a weekly rather than a daily basis. I presume that this was due to capacity issues and the systems then in place for recording. The Northern Ireland data also did not sync with the way data was collected and presented in GB and I recall there being criticism because, in the early days, Northern Ireland's data was not on the dashboard and this was causing a lot of confusion.

143. However, I do not believe that this impacted on the Executive's response as we were taking direct advice from the CMO and CSA. This was usually by way of receiving a paper submission from DoH, to which the Health Minister would speak at Executive meetings. The CMO and CSA then gave oral updates to the Executive and made themselves available for questioning by Ministers at Executive meetings. By this route, we received information from SAGE. This was generally very useful, but there was concern around the timeliness of this information as there was a time lag in getting relevant information on occasion. I also recall concerns that the advice emanating from SAGE was too 'England-centric' at times, and did not expressly consider the positions of the devolved administrations. However, I still believe it was appropriate to rely on information and advice from SAGE given the expertise of the scientists sitting on it, and the fact that the modelling was based on a population of 60 million people, whereas Northern Ireland-specific modelling, that would have been based on a much smaller population of 1.8 million, would have been less robust.

144. The R number was a particularly important tool in assessing and preparing the response. In Northern Ireland, we did rely on a Northern Ireland-specific R number notwithstanding our low population, because it allowed us to form a view as to the spread of the disease and the likely trend at a local level. Given the variations in virus spread across the United Kingdom, relying only on a UK-wide R number would have been of less assistance for decision-making. However, we were advised that the R number for Northern Ireland became less reliable when case numbers and hospitalisations fell. This is why the use of the R number was suspended on or around 9 July 2020. I do not recall any issues caused by the publication of two R numbers, rather this gave us a view of the wider picture. Indeed, as Ministers, I consider we had a clear understanding of how the R number was calculated and why it was important.

145. In or around April 2020, the Strategic Intelligence Group ("SIG") was established by DoH. I believe its primary purpose was to have a broader range of expert opinions brought into the system. However, its composition and work was not transparent from a TEO perspective. For example, to the best of my recollection, I do not believe that SIG minutes were provided to the Executive. Rather, I believe the SIG reported mainly to the CMO who then funnelled their advice through to the Executive. It is therefore difficult to gauge the effectiveness of SIG's role but, having now seen some published SIG minutes, I believe it would have been useful for these to have been made available to the Executive.

146. In addition to the R number, modelling was also used as part of assessing how best to respond to the pandemic. Modelling projected what might happen in the event of certain measures being taken, or not taken, and was therefore a key tool for decision-making. However, it was not used in isolation; Ministers also took on board a range of information and advice to inform decision-making. As above, Northern Ireland-specific modelling was not available in the early stages of the first lockdown but became available thereafter and was therefore relied upon more in the later stages. As with the R number, at times there was concern that modelling was not sufficiently reliable because of insufficient data, but we were advised when that was the case so that this could be factored into the weight placed upon it in decision-making.
147. Behavioural science was also relied upon in decision-making, particularly in relation to messaging. The CMO and CSA provided advice on behavioural science considerations as part of their overall presentation to the Executive, and I remember behavioural science being referred to at COBR meetings that I attended. I do not recall any specific behavioural science expert being referred to, nor any papers specifically on behavioural science being presented to the Executive. At the outset of the pandemic, the advice was that when restrictions were brought in, the public would not comply indefinitely, hence this fed into the advice that restrictions needed to be introduced “*at the right time*”. TEO did also commission Red Circle Communications to carry out focus groups to get a sense of how the public were reacting and responding to aspects of the pandemic response.
148. Overall, at the time, I considered that the scientific and expert advice I received was sufficiently timely, detailed and reliable to provide a proper foundation for decision-making by the Executive. At the outset of the pandemic, I felt that Northern Ireland would have benefitted from more information from central UK Government, but this did improve as time went on.
149. However, now that I am more aware of the role of SAGE and the SIG in decision-making and the differences in opinion that were expressed particularly within SAGE, I consider that it would have been better to have a fuller understanding of what was discussed and how the advice was formulated. I believe there was a reticence within DoH to give Ministers access to the raw material, i.e. before it had been synthesised by the DoH and/or the CMO and CSA. This may have had some benefits in terms of presenting the Executive with clear advice (and thus minimising the scope for disagreement within the Executive), but I do believe that the elected representatives

tasked with the decision-making should be entitled to greater transparency in terms of access to minutes, and an understanding of the basis for dissenting views.

150. I felt that I was able to understand the concepts being discussed, and was always able to ask questions of the CMO and CSA to further my understanding. Other Ministers did likewise. As such, I cannot comment as to whether my colleagues had a sufficiently 'scientific mindset' to understand the issues, but I do consider that there was opportunity to have anything that was unclear, clarified.

Timing of Executive papers

151. During the pandemic, many decisions were time-critical and also depended on the Executive Ministers, as decision-makers, having the most up to date information and advice before us to guide the response. There was therefore an 'in time' approach taken to much of what we were trying to achieve i.e. things, such as papers, needed to be ready 'just in time'. Unfortunately, on occasion, this meant that Executive papers were not available much ahead of the meetings at which they were to be discussed. Officials and Ministers were working at pace. Thus, for a DoH paper to the Executive, there might be a DoH meeting in the morning with time spent by officials thereafter writing up the meeting and creating a paper submission, which would then be submitted to the private office of each of the deputy First Minister and me. The submission then needed to be considered by each of us, with a view to it being agreed and signed off for placing on the agenda for the next Executive, if appropriate. Only at that stage would the paper be distributed to the private offices of the other Executive Ministers. This meant that, in a fast-moving scenario like such as faced during the first wave of the pandemic, some Ministers did not receive the submission in sufficient time to be able to properly consider its contents before the meeting. A process that would ordinarily take a number of days was being compressed into less than a day. While Ministers were understanding to a point, they did express frustration when it happened repeatedly, or asked for the start of the meeting to be put back to allow some time for consideration. Indeed, sometimes we in TEO were the ones waiting for papers and had to make the decision whether to put the paper on the agenda despite not having had sight of it, or risk delay decision-making by deferring consideration of the paper until the next meeting.

Relationship with the United Kingdom

152. Northern Ireland benefitted from being behind other areas, in particular London and the South East of England, in terms of case numbers when the first lockdown was announced. It meant that, in real terms, Northern Ireland locked down earlier than other parts of the United Kingdom, and therefore, comparatively, experienced fewer of the devastating impacts that were experienced elsewhere. Northern Ireland then accordingly had some breathing space in which to learn from the way in which the pandemic had developed in terms of Covid-19 spread, and make preparations.

153. Northern Ireland had also benefitted from being included from an early stage in COBR meetings. I do not consider these meetings to have been a forum for decision-making. I was not given an opportunity to speak at most meetings and there was no scope for discussion or challenge. However, from my perspective as First Minister, they were effective for obtaining the most up to date and relevant information about the pandemic, and the UK Government's approach to responding to it. I also attended Ministerial Implementation Group meetings (MIGs) in the period just after the first lockdown was announced until mid-May but, again, these were mainly information sharing platforms, and often, given various competing pressures, TEO Junior Ministers attended instead of the DFM and me.

154. This did change as time went on. The meetings between CDL and devolved administrations (also called '4 nations calls' or 'Quad meetings') were introduced to allow discussions and more meaningful engagement with the devolved administrations. Michael Gove as CDL was effective in chairing these meetings, communicating information as required to the devolved administrations and taking on board, with a view to communicating back, any input or concerns we had in relation to the matters discussed. It was useful and important to have one main point of contact for continuity of communication between the leaders of the devolved administrations and UK Government. The discussions at these meetings helped to inform the response of the Executive by giving an understanding of how the pandemic was developing in other areas, what the other nations were intending to do, and would be announcing, and allowed the administrations to learn from each other as to what might be effective in managing the response.

155. However, I would not describe the engagement between UK Government and the devolved administrations as being imbued with a sense of cohesiveness. As I suggested in my statement to Module 2 of the Inquiry, this likely reflected the 'realpolitik' in that each devolved administration, and the leaders thereof, had their own political considerations to bring to bear. In Scotland, Nicola Sturgeon was pursuing

independence for that administration, Wales had a Labour party in leadership, and Northern Ireland was in a mandatory coalition led by two parties with diametrically opposed philosophies as to whether, and to what extent, the United Kingdom should be involved in the affairs of Northern Ireland.

156. I also set out in my statement to Module 2 to the Inquiry that, while it was important to have a broad understanding in advance of decisions being made that might affect Northern Ireland, even if indirectly, I would not necessarily have expected to have a significant input into UK Government decision making. This is because, as a devolved administration, Northern Ireland is not on an equal footing with the UK Government, which remains sovereign. In addition, I would not have expected Northern Ireland to have had access to *all* the information and advice to which Westminster had access, as some of it (at least) would likely to have been England-focused.

157. However, undoubtedly in the very early stages as the pandemic developed, there was very little inclusion of, and discussion with the devolved administrations, apart from being informed as to what UK Government was intending to do. The practical outworking of this was that there was not enough consideration given to ensuring that messaging was clear about the jurisdictions affected. UK Government took the approach, as I have noted in my note of the COBR meeting of 16 March that there would need to be *“bespoke comms for different regions”* i.e. it was acknowledged that while measures would be announced UK-wide and implemented in England, regional variations would have to be considered, with communication tailored accordingly. In the event, however, there was some confusion about the geographical extent of announcements made, and there needed to be a concerted effort thereafter to ensure that people in Northern Ireland understood how they were to be affected. The daily press conferences were an important tool in ensuring that the NI-specific position was properly communicated.

158. I do not agree with Michelle O'Neill when she said in her statement to Module 1 of the Inquiry, that: *“actions by the British government, at times, hindered our ability to reach consensus. For example, regarding travel restrictions on the island of Ireland”*. This is a political statement. Sinn Fein wanted to restrict movement of people between Ireland and Great Britain. This entirely ignored the reality that there is a Common Travel Area across the British Isles, and an interdependence between people in Northern Ireland and Great Britain. It also would have significantly undermined the Belfast agreement. It would therefore have been impossible to reach consensus on

this type of proposal, which was never seriously made in any event, and therefore it is entirely incorrect to say that the UK Government's actions in any way affected the Executive's ability to reach consensus. Reaching consensus in a mandatory coalition is inherently difficult given the political reality in Northern Ireland and I cannot recall a specific occasion when the actions of UK Government further hindered our ability to reach agreement.

159. Bilateral meetings between SOSNI and the dFM and me were useful in facilitating intergovernmental relations between Northern Ireland and the UK Government at Westminster, and also with the RoI. I found the SOSNI engagement to be beneficial. Issues raised would be taken forward effectively and we were often given useful updates as to the UK Government position. The engagement between SOSNI and TEO was facilitated by his Department, the Northern Ireland Office ("NIO").

160. At times, I think there was a mutual lack of trust between the United Kingdom Government and representatives of the devolved administrations. This goes back to the political composition of the devolved administrations as discussed above at paragraph 155. The tension would have been between Wales, Scotland, and from Northern Ireland's perspective, the DFM with UK Government. One clear example is Nicola Sturgeon as leader of Scotland, having been told of UK Government's plans, announcing a change in Scottish regulations before the Prime Minister's announcement that was scheduled for later that day. However, I have no evidence of truthfulness being called into question. From my perspective, I did have a level of trust and understanding with UK Government and was overall content with the level of engagement.

Relationship with Republic of Ireland

161. For political reasons, Sinn Fein wanted to adopt a 'one-island' approach to the pandemic response. However, this ignored the clear realities. First, RoI is a different legislative jurisdiction and is itself a sovereign government. To align the policies and approach between RoI and Northern Ireland, a devolved administration, would have been incredibly difficult. By way of example, communication with RoI should be handled by UK Government at Westminster, rather than by the Executive, as UK and RoI are each sovereign nations. Secondly, Northern Ireland is part of the United Kingdom. It receives funding from HM Treasury; was cooperating with and benefitting from the United Kingdom Government's work on vaccine development and roll-out; and was able to provide Northern Ireland with high calibre scientific and medical advice

and modelling. As such, adopting a position where Northern Ireland attempted to align closely with RoI was therefore not feasible from a practical perspective. It would have been virtually impossible to set up a system for mirroring RoI legislation, for example, given the differences in the two legislative systems, and the need to reach some form of agreement.

162. Moreover, our way of life in Northern Ireland, and our economy is heavily integrated into the UK system. To have imposed controls on movement across the Irish Sea would have been practically (and politically) very difficult. One only has to look at the issues surrounding the Northern Ireland protocol in the context of EU exit to understand this. Therefore, while there may have been a theoretical epidemiological justification for harmonisation (if, for example, one was to consider taking an approach akin to New Zealand and closing the borders completely), given the political context and the free movement of people within the Common Travel Area (which RoI itself never sought to prevent), this would not have been deliverable. In summary, even if there had been the means and structures to provide for greater cooperation (which there was not), there were practical, political and constitutional reasons why greater alignment with RoI was not possible, and whether such alignment was needed is debatable in any event.

163. As such, I therefore took the view that it was much more practical and realistic to coordinate with RoI, and engage where possible, particularly on issues affecting border areas. The respective CMOs had a close working relationship and, as far as I am aware, good information sharing. However, there were difficulties with RoI sharing information about passengers entering into RoI for onward travel to Northern Ireland by way of 'Passenger Locator Forms'. If information sharing on this relatively minor issue was problematic, one can only imagine how difficult it would have been to share information routinely with a view to achieving close alignment as between Northern Ireland and RoI. I have previously expressed my view that the difficulty in information sharing was perhaps due to a concern that, because Sinn Fein was the official opposition in the Irish Government, there was concern about information being leaked, and briefed against, before it could be announced. This in turn is likely to have led to announcements being made without reference to, or discussion with, Northern Ireland (or, more properly, the UK Government on Northern Ireland's behalf), but it must also be remembered that the RoI Government is itself sovereign and therefore is entitled to take its own decisions without discussion with a third party government.

164. At times, this was perceived as a source of (perhaps unavoidable) pressure for Northern Ireland because of the need to respond if there would be a potential impact on constituencies along the border. Thus, for example, if RoI took a decision to close wet pubs, but Northern Ireland pubs were still open, it was likely that this would drive the movement of people across the border.
165. In any event, as I have indicated, the two CMOs worked closely together and the commitment to cooperation was underpinned by the signing of the Memorandum of Understanding (“MoU”) between Northern Ireland and RoI. The MoU was intended to put in place the means and structures required to facilitate a greater degree of cooperation. While I am aware that the deputy First Minister called for a review of the MoU in 13 October 2020, I do not know whether such a review took place as this would have been a matter for DoH to undertake.
166. The Single Epidemiological Unit (“SEU”) that operates in respect of animals is not an appropriate or sound comparator in this context. For all the reasons set out above, there are very real practical and political differences that relate to the movement of people, which do not relate to the movement of animals.
167. The Executive, as well as individual Departments, were very alert to what was happening in RoI and particularly to issues in border areas. While this was not alignment, *per se*, this awareness allowed Northern Ireland to plan as required. I am not sure, however, whether research aimed at understanding the impacts of Covid-19 along the border was undertaken. There may have been research commissioned by Health Trusts or at Department level of which I am not aware.
168. I am aware of a suggestion by Deirdre Heenan that comparative analyses of health outcomes as between Northern Ireland and the RoI was ‘actively discouraged’. I do not agree with this suggestion. There was and is a huge amount of academic time spent comparing data and outcomes as between the two countries. If there is a relative lack of analysis, I would suggest that this is more likely due to the fact that the data is not readily comparable. Northern Ireland’s data was fed in to the UK system as that is from where our scientific and medical advice was primarily emanating. Accordingly, our data was in line with the United Kingdom’s approved systems. RoI had different systems for data capture and analysis, so far as I understand. As such, I am cautious about reaching any view as to whether overall RoI had better outcomes from Covid-19 as compared to Northern Ireland, in terms of the rate of infection or in terms of the numbers of people who died as a result of having Covid-19, or vice versa.

169. The North South Ministerial Council (“NSMC”) is a useful forum to facilitate and foster relationships between the Executive in Northern Ireland and the RoI Government, and is one of the structures formed pursuant to the Belfast Agreement. However, it is not a suitable structure for frequent and substantive liaison. The arrangements tend to be bureaucratic and highly orchestrated. The two administrations did meet on an *ad hoc* basis on 14 March 2020 (at which I took notes [INQ000203348]), but thereafter the more suitable vehicle to facilitate information sharing was as between the respective health departments under the MoU.

Legislation and regulations: their proportionality and enforcement.

170. Criminal sanctions were considered necessary to improve compliance and act as a deterrent, particularly after the first lockdown. The enforcement strategy of the PSNI was also termed the “4Es”: Engage; Explain; Encourage and Enforce. Therefore enforcement, for example, by the issuing of a Fixed Penalty Notice, was considered a last resort. As such, the aim was not so much to prosecute people but to have PSNI visibility to deter people from breaking the rules. Having said that, officers did have the power of arrest if necessary.

171. Other forms of enforcement were used such as Covid Marshalls for whom money was provided to Councils from the Department for Communities (see for example my note of the Executive meeting on 17 December 2020 when I have stated “*Covid Marshalls v helpful*” AFO1/0X [INQ000238273]).

172. Increased emphasis was placed on enforcement when non-compliance started to become a live issue in the Summer of 2020. There had been generally good compliance during the first wave. This changed after the Bobby Storey funeral when not only had the deputy First Minister and other very senior figures in Sinn Fein flouted the rules, but the PSNI also very quickly confirmed that it had engaged with the organisers prior to the event taking place. This gave rise to an allegation of bias against PSNI in their handling of the event which likely made the PSNI’s role more difficult in some sectors of the community. Moreover, generally, the political landscape is such that historically Sinn Fein are sensitive to the idea of police enforcement, and would have preferred not to give a role to PSNI. They were therefore keen that behaviour change should drive compliance rather than enforcement. My view, and that of my DUP colleagues, was that behavioural change was important, and communication on the need for compliance was particularly important, but we also needed police visibility to act as a deterrent. The restrictions were put in place to save

lives, and therefore needed to be respected. As such, the Chief Constable joined the deputy First Minister and I on some press conferences to underscore the compliance message.

Scrutiny by the Assembly

173. Overall, I believe that Assembly scrutiny was at times insufficient. However, I do not believe Northern Ireland was unique in this regard. The legislation was brought in to deal with an emergency. It therefore needed to be introduced, and then changed once a decision had been made to ease restrictions, as soon as possible. This meant that, on occasion, Assembly scrutiny took place after the relevant legislation was passed which is obviously not how the system is intended to work. The Ad Hoc Committee did help with scrutiny to a degree. It could be called at short notice and there were no standing orders associated with it which meant it was a more flexible arrangement than a sitting of the Assembly. The deputy First Minister and I attended to answer questions.

174. I reiterate that this period exposed the shortage of legislative draftspeople in Northern Ireland. Those that we had were under great pressure.

Funding the response to the pandemic

175. The level of funding in Northern Ireland made available by the UK Government was significant and permitted a wide range of measures and support schemes to be put in place.

176. The total cost of the Covid-19 response in Northern Ireland to 31 March 2021 was estimated by the Northern Ireland Audit Office to be over £6.2 billion, much of which was funded by UK Government either as a result of Barnett consequentialia (including £3.3 billion to fund NI departmental response initiatives), or support provided at a national level and outside of the block grant, estimated at that stage to amount to £2.35 billion (AFO1/X [INQ000128638]). The support at national level included funding of schemes such as the Coronavirus Job Retention Scheme (“the furlough scheme”); the Self-Employment Income Support Scheme (“SEISS”); the ‘Eat out to Help Out’ scheme; and increased payments to cover additional benefits claimants. Northern Ireland would simply not have been able to cover the cost of initiatives that made imposition of restrictions such as lockdown possible, without UK Government funding.

177. This did mean that at times there was concern voiced about ensuring that Northern Ireland (and the other devolved administrations) would receive appropriate funding via the Barnett consequential to permit the implementation of response measures. As set out in my module 2 statement, by way of example, in the email to TEO from the Scottish Government dated 11 March 2020 (**AF2/13 [INQ000232523]**), express reference was made to the need to ensure that the Covid-19 interventions in the UK Budget were “Barnettised” i.e. that each of the devolved administrations would receive funding for the interventions in line with the Barnett formula. An email from Joanne McBurney of the Department of Finance in response to this email chain explained that Northern Ireland had that day received a small Barnett consequential in the budget for Covid 19 preparations of around £1.3m Capital DEL and then said:

“My understanding is that handling in the finances around the response is still evolving but that the starting point would be that DAs will receive Barnett on any allocations to Whitehall departments but can make a case where we have disproportionate or unique costs. This would be similar to the approach taken for No Deal EU Exit.

We are having weekly calls with HMT so it would be helpful to be kept in the loop on any potential or emerging costs”. (**AFO1/X [INQ000232523]**)

178. Similarly, in October 2020, when ‘circuit breaker’ lockdowns were being considered, it was recognised that these would be dependent on UK Government funding. Thus on 12 October 2020, at a PM Recovery Summit and Pre-Brief meeting there was discussion about the availability of financial support to support compliance. (**AFO1/X [INQ000232537]**). This discussion reflects the fact that it would have been preferable at times to have had greater certainty at an earlier stage about the funding available to facilitate planning at regional level.

179. However, the absence of certainty around funding was only one factor that affected consideration of introduction of NPIs in Northern Ireland before the UK Government, in March 2020. The primary reason was that NPIs were not advised by DoH and the CMO before the UK Government announced lockdown.

180. On 17 December 2020, at the Executive meeting I am recorded as having said:
“terrible position – asking business to close – 4 weeks, review for 2 further weeks –

but don't know how we can pay – need to reflect on that". My recollection is that this statement was intended to convey concern about the mechanism of providing support and compensation to businesses who would, for example, be left with an abundance of stock that would usually have been sold in January sales. I was not concerned about the availability of funding from UK Government *per se*.

Controlling Northern Ireland's borders.

181. There was no consideration given between January and March 2020 to closing Northern Ireland's borders to prevent transmission into Northern Ireland. As an Executive, we were very reliant on the DoH/CMO advice, and there was no recommendation to close borders. This possibly reflected the fact that neither the UK generally, nor RoI, restricted travel in such a way. As set out above, it would have been very difficult if not impossible to close the border between Northern Ireland and RoI. There would have been political, diplomatic and constitutional challenges to overcome, particularly as other countries in Western Europe were not doing it. In theory, I believe it could have been done - there was a hard border introduced to deal with Foot and Mouth disease many years ago – but in practice it would have been extremely difficult and likely engendered significant contention that would have been ultimately very distracting from the key task in hand – saving lives. In any event, the issue never arose.

182. The Executive did have latitude to implement restrictions on those arriving into Northern Ireland from the Common Travel Area, and internationally. This became more of a feature for discussion in late 2020 and early 2021 as travel began to open up, and when new variants or particularly high case levels were identified in certain countries. During the Summer of 2020, DoH were attending 4 nations travel meetings that discussed the imposition of quarantine on travellers from certain countries. The methodology adopted was that of characterizing countries as 'Green/Amber/Red' in terms of Covid risk and this was explained in a paper to the Executive on 30 July 2020 **INQ000065639** I consider the methodology adopted was fairly straightforward although there were occasions when, for example, Scotland placed Spain on the Red list while UK Government did not, and in those circumstances, the Executive was keen to understand the reasons to ensure that we acted appropriately for the protection of Northern Ireland.

183. While each of the devolved administrations were able to impose their own restrictions, diverting from the approach of UK Government (and the advice from the

Foreign and Commonwealth Office) would have had implications for travel insurance (WhatsApp chat between FM/DFM and Robin Swann on 13 August 2020 **AFO1/0X [INQ000400597]**). In addition, and as an example of the need for good cooperation by RoI, in November 2020, a strain of Coronavirus was detected in Denmark, and therefore it was added to the list of countries from which travellers were required to quarantine on arrival. As Northern Ireland did not have any direct flights from Denmark, it was necessary for CDL to communicate with RoI Government to ensure that travellers arriving there for onward travel to Northern Ireland could be identified so that the measures could be enforced (See WhatsApp chat between FM/DFM and Robin Swann on 5 November 2020 **AFO1/0X [INQ000400597]**). I am unable to comment on what discussions in fact took place between the UK and RoI Governments, but I am aware that delays in the information from Passenger Locator Forms being provided to Northern Ireland was an issue about which the Health Minister was concerned.

Care homes

184. The Executive was concerned with two major issues in late March to early April in relation to the pandemic response: the supply of PPE and increasing testing capacity. While I cannot recall, and from a review of the Executive minutes I cannot identify, significant discussion specifically around the position in Care homes at this time, the two main issues were clearly important to the safe operation of both hospitals, the wider health service, and those being cared for in the community and in Care homes.
185. In terms of testing, on 19 March 2020 at the Executive meeting, the Economy Minister raised an issue highlighted by a constituent about whether a community nurse going into a care home will have been tested. At that stage, the answer from the Health Minister was “no” **[INQ000065737]**.
186. At the Executive meeting on 26 March 2020, there was discussion around the supply of PPE for domiciliary care workers, and particularly carers in the private sector. The Health Minister indicated that a report he had received, about a carer receiving 5 masks in an envelope, was “not acceptable” **AF01/X[INQ000065747]**. At the meeting on 6 April 2020, there was further discussion around testing and the need for “*nursing home guidance*” was raised (AF106 **AFO1/0X [INQ000237932]**).

187. We were regularly updated throughout the Executive meetings at this time about the steps being taken to increase testing capacity, including issues with global shortages of the reagents and the negotiations with Randox, see for example, the handwritten notes of the Executive meetings on 26 and 30 March 2020 **[INQ000065747]** and **[INQ000065748]**.
188. On 15 April 2020, at the Executive meeting I am recorded as having said: *“People coming out of hospitals back to care homes – confidence building, timing of testing”*, following which the Health Minister provided detailed information as to the prevalence within care homes at that time, and that work was being done in relation to care homes. The Executive was also advised about the role of the RQIA in relation to care homes during the response. Briefing as to the situation in care homes thereafter was regular as it was a matter that concerned Ministers because of matters raised by constituents, in the media, and on a human/personal level.
189. There was a concern about the supply of PPE generally from mid to late March. At the Executive meeting of 6 March 2020, I have made a note of a discussion about whether the items of PPE then secured were for health, or wider distribution to social care to which Conor Murphy replied that DoH were looking after hospitals *“not social care”* (AF106 **AFO1/0X [INQ000237932]**).
190. On 8 April 2020, there was a briefing specifically on domiciliary care and care homes and focused on the provision of PPE with input from Pauline Shepherd, CEO of the Independent Health & Care Providers. Throughout this time, the Economy Minister was exploring whether companies within Northern Ireland could repurpose to manufacture PPE locally which resulted in companies such as Hunter Apparel, and Bloc Blinds commissioned to do so. The BSO in DoH were coordinating the PPE supply and on 8 April at the Executive meeting we were advised that there was to be more PPE arriving that day and the next from GB (**[AFO1/0X [INQ000237935]**). Northern Ireland only had a stockpile of sufficient PPE for approximately 4 weeks and there was a concern about further supply given the global demand.
191. These examples given above demonstrate that there was awareness among Ministers, including myself, from an early stage about the risks to staff and residents in care homes and the need for testing and PPE to be properly prioritised and managed for, and within, those settings. Having said that, the operational response was being

handled by DoH, and the Executive was not substantively involved in decision-making save for Ministers taking steps to assist, for example, with procuring PPE.

Inequalities

192. I do not believe there was enough consideration given to vulnerable groups in light of existing inequalities. I consider that this was especially acute during the first phase of the pandemic in particular. I acknowledge that the UK Government decisions to implement NPIs such as the closure of schools and the national lockdown, which were then followed by the devolved administrations, were taken under time pressure and during a period of significant uncertainty as to the progress of the virus, for the 'greater good'. However, it was plain that such significant measures would have negative effects for many, and particularly those with existing inequalities. Specific and detailed modelling (of the type which UK Government was best placed to source during this period) as to the potential short and long-term negative impacts ought to have been carried out in order to inform decision-making on mitigating such consequences. This was especially so as time went on and it became clear that the national lockdown would be in place for longer than initially anticipated.

193. In Northern Ireland, there was certainly awareness that vulnerable people and communities would require additional support. For example, I have retained a document entitled "*Presentation to Executive's Covid-19 Crisis Management Committee – Support to Vulnerable People and Communities*" dated 24 March 2020. This presentation was concerned with the support that would be given by the Department of Communities to those receiving social security benefits, the homeless and 'most vulnerable' and outlined the role of the voluntary and community sector (AF1/0X [INQ000232600]). In addition, by way of reference to a sample NI Hub SitRep, (AF01/X- [INQ000065811]) issues of concern affecting those who stood to suffer a disproportionate impact were raised to the Executive. For example, in that SitRep we were advised that one Health and Social Care Trust had identified 30 children with disabilities whose home circumstances had come under immense pressure due to schools being closed. Further, in terms of indirect impact, the same SitRep and cites as an 'existing issue' the fact that Northern Ireland economic output was running at 30% below normal and that "*the impact of the virus has effectively decimated the [tourism] sector across NI*". This would clearly have significant consequences for those reliant on this sector for an income and push more families into a vulnerable position due to poverty.

194. As such, the impacts of NPIs on members of the population with particular vulnerabilities were being recorded and escalated albeit perhaps not in a sufficiently systematic and holistic manner. Nevertheless, I was acutely aware of the damaging impact of measures such as the national lockdown on people who were vulnerable as a result of existing inequalities.

195. As I have stated to the Inquiry previously in my statement for Module 1, it is a matter of deep regret for me that, unfortunately, I do not believe there was sufficient research into, or consideration given to, the unintended but in some cases sadly predictable consequences of restrictions, and especially lengthy periods of lockdown, prior to their imposition. While this had a negative impact for the population as a whole, those impacts were more acute in relation to minority and vulnerable groups. As such I do not believe UK Government gave sufficient consideration in advance of the pandemic, or as cases began to rise, as to how restrictions might disproportionately affect these groups. Once lockdown had been instigated as the primary means to manage the virus, it was very difficult to mitigate its effects, but efforts were certainly made by the Executive to do so.

196. It is, however, important to add that at the outset of the pandemic, certainly within the Executive in Northern Ireland, the primary consideration was to protect life. In the climate of acute uncertainty as to the extent of the impact the pandemic might have, I believe that imposing lockdown was the right decision; the right to life rightly took priority, and as a precautionary approach, it should have been imposed earlier. However, as 2020 went on, there was more time and space to consider the wider impacts, and more discussion as to how to take into those who were likely to be more affected in decision-making, and thereby mitigate the worst effects of the restrictions on people within vulnerable groups or who were otherwise likely to be disproportionately affected.

197. There were steps taken within the government of Northern Ireland to address some of the inequalities faced. One particular example was consideration of the Women's Policy Group document '*COVID-19 Feminist Recovery plan*'. The DFM and I received a submission from TEO's Equality, Rights and Identity division including the plan and the NICS response, as well as additional steps taken by TEO to seek further information about gender breakdown for part-time and full-time workers to provide a fuller picture. We indicated our support for addressing the gender pay gap that had been exacerbated by the pandemic (TEO 2962 SUB 1957-2020 Sub to Ministers regarding Embedding gender equality in future policy and the WPG Covid Feminist

Recovery Plan **AFO1/0X [INQ000277686]**). Indeed, from relatively early in the pandemic, the deputy First Minister and I were very concerned about the impact on women in terms of domestic violence, and we met with Women's Aid on 8 April 2020 to discuss the difficulties being faced by that organisation in helping women and families affected (**AFO1/0X AF handwritten notes [INQ000237934]**).

198. Moreover, the Executive has duties under section 75 of the Northern Ireland Act 1998 when making decisions about NPIs. However, on a recent review of some of the Ministerial submissions in the period, I note that, in some, the 'Equality implications' are not expressly addressed i.e. whereas it would be usual practice to have the 'Equality implications' set out as a separate heading on the face of the submission, this is not present in a significant number of the submissions to which I now have access. Alternatively, where there is a separate heading, it is simply said that there are no equality implications. This may have been due to an inability in the time available to fully assess the implications. I do add for completeness that the Section 75 duty relates to protected characteristics and while it is useful in that regard, it does not seek to address or protect against social and economic inequalities.

Government insight into Northern Irish society

199. I do believe that Ministers in Northern Ireland had sufficient diversity of background and experience to inform their decision-making. We had a particular advantage as, as a general rule, politicians, whether Ministers, MLAs or Council representatives in Northern Ireland tend to have a good understanding of our constituents and the issues they face. We tend to live in the communities we serve and are well-connected to community groups and others living and working in the community. This allowed us to have an 'ear to the ground' during the pandemic and many issues discussed by the Executive were raised to Ministers by direct contact from people affected.

200. Moreover, from a personal perspective, I am a mother and daughter as well as being First Minister. I therefore was acutely aware, from seeing at close range, of the issues affecting the older and younger generations and had an understanding of the issues affecting family life. I therefore believe I had good insight on a personal, as well as a political, level and tried to apply my insight to the wide range of circumstances that the public in Northern Ireland were facing. Other Ministers will no doubt answer for themselves but the difference was in application. As we moved past the early phase of the first lockdown, there were full discussions on the impacts being

experienced within the community and this exposed differences in how Ministers felt we should respond. Some sought heavy restrictions and were very cautious about lifting restrictions with a clear focus on the health impacts, whereas others were more worried about the negative impacts of restrictions, including on groups who stood to suffer disproportionate impact because of a protected characteristic, or some other factor such as the negative socioeconomic impacts.

Public health communications, behavioural management and maintaining public confidence.

201. The deputy First Minister and I played a key role in messaging through the daily press conferences. The Health Minister was also involved in the press conferences and usually led one per week assisted by a senior adviser. The Executive had a role insofar as we would have discussed the need for a change of emphasis at times or a 'reset' as discussed above, or the impact of leaks, or negative briefing by Ministers, but the Executive did not have detailed or routine oversight of, or discussion about, public health messaging, and its effectiveness.

202. I tried to stay on message and present a unity of purpose with the deputy First Minister during the daily press conferences with a view to delivering a clear message together such that the public could understand what was being asked of them. In practice, this was achieved through a process of daily brokerage between Special Advisers about what should be said, and who should say what. The media tried to find differences in our approaches, so it was necessary to be robust enough to protect my position while ensuring that the key message got through. These press conferences became untenable after the Bobby Storey funeral on 30 June 2020 and were therefore stopped for a period.

203. The Executive Information Service arranged the press conferences and Chris McNabb of that service worked closely with the designated FM and dFM Special Advisers to work out the lines, the impact they had, and therefore whether the message was getting through. The daily press conferences were also augmented by radio interviews and social media campaigns in a bid to reach different demographics.

204. The CMO and CSA were also frequently asked to give interviews or commentary. While the public were keen to hear from these advisers, this did sometimes create challenges as the CMO and CSA sometimes aired their views publicly as to what steps they considered the Executive should take, before the

Executive meeting at which the steps were due to be discussed. This tended to shape the discussion at the Executive and limited the options under consideration as it created a public expectation.

205. Messaging was also particularly difficult in or around the Executive meeting of 9 November 2020 when there was a lot of very obvious leaking to the press from within the meeting, and negative briefing to the press outside the meeting. It took a very long time to try to get agreement within the Executive; time that should have been spent on other things.

206. Another particularly difficult moment was when the deputy First Minister refused to issue a 4 nations press release concerning Christmas restrictions. Her consent was clearly withheld for political reasons.

207. There was a unit operating to combat disinformation within Northern Ireland but, in general, I do not think disinformation was as much of a problem in Northern Ireland as it was in other regions. There was a minority who did not agree with the mainstream views about Covid-19's existence and effects, but in the main I believe the Northern Ireland public recognised that we faced a dangerous virus that needed to be tackled. Similarly, there was a cohort of vaccine deniers and particular concern from some in the Evangelical Christian community who believed that the vaccine contained, or had been tested upon, aborted fetuses. However, the high uptake of the vaccine, particularly in terms of the first dose, demonstrated that the disinformation on this issue was not significant and/or widespread.

208. There was a concern as time went on that younger people were becoming more resistant to complying with the restrictions. I think this was in part because it became clear that the virus did not tend to have the same impact in terms of illness or causing death, on young people as it did on older people. To combat this, the Executive did media on radio stations with a young demographic, and worked to harness social media. This targeting was led by the Executive Information Service within TEO.

209. I do recall the Northern Ireland Commissioner for Children and Young People (NICCY) writing to the deputy First Minister and me regarding instigating press conferences for children and young people. However, while the Executive was cognisant of the need to communicate with younger people, and took steps to reach that demographic, there was a feeling that separate press conferences were not the best way to approach the issue and that rather there was a need for the communication

to be integrated into the wider approach. I dispute the idea that the voices of young people were not heard. Rather, we listened carefully to their voices. Indeed, from a personal perspective, I had young people in my own house at the time: one in university; one doing A levels; and one in junior school.

210. There was some inconsistency and difficulty with achieving clarity within Northern Ireland at the beginning of the first wave of the pandemic, and in the period shortly after the first lockdown was introduced. It was initially difficult for people to understand the way in which the systems of legislation as between Westminster and the devolved administrations interacted. As such, understanding the difference between devolved and non-devolved matters, and when the Prime Minister or other UK Government Ministers were speaking for the United Kingdom as a whole, rather than just England was not straightforward. Many people read, listen or watch nationwide rather than regional news and there likely was a sense among the Northern Ireland public in or around this time that the UK media was more authoritative about Covid-19, and reported more on the global effects. This meant that initially there was some confusion about the legislative and geographic extent of measures that were being introduced. Thus, when lockdown was announced by the Prime Minister, the public may not have understood initially that Northern Ireland would need to introduce its own regulations. This confusion would have been compounded by the fact that schemes such as Furlough and the Self-Employed Income Support Scheme were UK-wide, and local decision-making was not required for these to apply in Northern Ireland. It was for this reason that the deputy First Minister and I instigated daily press conferences to communicate directly to the people of Northern Ireland, to reinforce the local messaging around restrictions. As time went on, people understood that UK Government led the overarching piece, especially on funding and general approach, and that the more nuanced restrictions and their timing were decisions to be taken by the Executive.

211. I believe that, in general, public health messaging in Northern Ireland worked well. The press conferences meant that the public in Northern Ireland understood that we were delivering NI-specific information and guidance. As such, they were very important. However, as outlined above, it became untenable for me to deliver these press conferences with the deputy First Minister in the wake of her attendance at the Bobby Storey funeral. It is difficult to overstate the impact of the Bobby Storey funeral in Northern Ireland, particularly on public confidence and public health messaging. The enormity of the gathering and the fact that it quickly became known that the PSNI had

been engaged in its planning felt like a slap in the face for ordinary people, both Unionist and Nationalist, who had taken great care in very difficult circumstances to follow not just the letter but the spirit of the law. Many people who had lost loved ones in the period from March to June had foregone the rituals around gathering together for a wake and burial, from which the people in Northern Ireland gain comfort. This was hugely difficult for people who felt that their loved ones did not receive the funeral they deserved and was at great cost to the grieving process. For those people who had made deep sacrifices, to then witness such a public display honouring a significant figure in the IRA, was torturous. The message conveyed was that there was one rule for the Sinn Fein elite, and another for ordinary people.

212. The hurt felt was compounded by the refusal of Michelle O'Neill to apologise. Rather, she stood by her decision to attend the funeral of 'her friend' and only later gave a half-apology for the hurt that had been caused. In terms of comparison, when one considers the furore that resulted from the much less public and more confined breach by Dominic Cummings in driving to Barnard Castle, this involved bringing between 1000 to 2000 people out to line the streets of Belfast. It was deliberately planned and orchestrated. It was attended by Mary Lou McDonald, Gerry Adams and other high profile Sinn Fein figures in addition to the deputy First Minister. I therefore cannot over-emphasise how challenging this was in terms of carrying on in a joint office with the deputy First Minister but I felt strongly that I needed to carry on as we still needed to manage the response to the pandemic. As cases started to rise, the press conferences were introduced but were even more difficult than previously. The effect on both politics and compliance across the whole political spectrum in Northern Ireland was therefore enormous.

213. I did receive threats and abuse arising from the response of the Northern Ireland government to the pandemic, some of it abhorrent and reprehensible, but unfortunately this was nothing new for me. Regrettably, politicians, particularly female politicians, regularly receive abuse, and this continued during the pandemic. I am now involved in work around this issue, and for example, have engaged with the Jo Cox foundation and was supportive of the Online Safety Bill as it passed through the House of Lords.

Executive Committee decision-making

214. From my perspective, the system of mandatory coalition had a number of impacts on decision-making during the response to the pandemic. In my view, the

main challenge is that the system impedes fast decision-making. It is necessary to find consensus between the First Minister, deputy First Minister and eight other Ministers. Executive meetings were therefore often long, cumbersome and at times frustrating, but there was no other option. I cannot speak for other Ministers, but I personally tried to act in the best interests of the population given the threats posed. That was my overarching principle throughout. The Executive had recently been reformed and it was important to try to keep things on an even keel. This was particularly difficult due to the inherent democratic differences at play such that, as Chair, and therefore with my role being expressly to promote the reaching of consensus, this involved trying to find common ground between people with very little in common. Compromises therefore had to be made to make progress, and to reach a position where everyone was content (or at least as content as they could be). The system is certainly not ideal, but it was (and is) the only system presently available as the least worst option for ensuring democratic accountability in the political and historical context of Northern Ireland.

215. All politicians bring their own views to the table. They are elected to do so. Within the Executive, the Ministers were also members of political parties and elected on the basis of the party mandate which tells the public what the party represents. Within the DUP there were meetings within the party group between or before Executive meetings to discuss views, and broad positions on particular issues. For Sinn Fein this no doubt included discussion of the best way to promote alignment with RoI.

216. However, the DUP Executive Ministers did not agree pre-determined lines in advance of the Executive meetings and did not form blocs. Rather, we would have known broadly what others in the party thought, and the general approach we were each taking was discussed prior to the relevant Executive meeting. The practice among DUP Ministers was then to brief the Assembly group after decisions were taken (Executive business being confidential up to this point). One of the issues that came up frequently within the party, was that it was felt that we needed to listen more to the voice of business, from whom the DUP has historically enjoyed good support, instead of slavishly following a line from scientists.

217. One of the challenges as mentioned previously was that papers were often presented for placing on the Executive meeting agenda soon before the meeting was due to start. The process was that, in respect for example of a DoH paper, it would be sent from the DoH Private Office to the Private Offices of FM and DFM respectively.

The Special Advisers would then have considered it and a decision would have been taken as to whether the paper should go on the agenda for that meeting or not. This usually involved Philip Weir and I having a discussion about the paper and he also discussed issues arising with Emma Little-Pengelly as required. Once it was agreed that it would go on the agenda, the paper was sent to the Executive Secretariat. As we were working remotely for much of this period, most of this was done by email. The time pressure resulting from the late arrival of papers prior to the scheduled meeting, meant much of this was happening at speed, and had the unfortunate consequence that other Ministers sometimes did not have the opportunity to consider the paper much in advance of the meeting, or discuss it with their own Special Advisers. My view is that it is very important to have conversations on a topic, kick the issues around and stress-test them. The time available for me to do this with my Special Advisers was very limited (with papers often arriving the day of the meeting) and was even more limited for other Ministers. As such, I can understand their frustration.

The cross-community vote

218. I believe that the cross-community vote procedure was used appropriately during the Specified Period. It is designed and intended for use for significant decisions and is one of the checks and balances within the system of power-sharing to ensure that cross-community consensus is achieved. It protects minorities in the system, and in the case of the five decisions in which it was used during the period, Unionists were in the minority. It is always preferable to reach consensus without the need to invoke this mechanism as it inevitably leads to heightened tensions, hence it was only used in exceptional cases. It became necessary to use the mechanism at the 9 November 2020 Executive meeting because tensions had increased to a point where achieving consensus by any other means was not possible.

219. I believe that the cross-community vote procedure is an important safeguard provided for under Strand One of the Belfast Agreement; it is a cornerstone of the overall agreement and therefore cannot be viewed in isolation or changed unilaterally. Throughout negotiations since 1998, its use has been considered, including in the Stormont House Agreement in 2014 following which a number of agreements were reached with the intention of improving the efficiency of Executive business.

Executive collective responsibility

220. Collective responsibility within mandatory coalition does not work in the same way as Cabinet collective responsibility within the Westminster style of government. During the pandemic it was necessary to reach consensus among Ministers from five different political parties. There is no 'opposition' *per se* but often those from the less represented parties slipped into the opposition role. Moreover, Ministers are in the Executive as of right; they cannot be 'sacked' if they agree to a measure but later publicly come out against it. Ministers are therefore obliged to adopt a position and should publicly stand by it, despite having agreed reluctantly in the face of pressure to reach consensus. In practice, those Ministers who are less content with the decision reached, do not feel a sense of ownership over it and do not feel individually responsible for its successful implementation.

221. Having said that, during the pandemic, and particularly in the early stages when there was a particularly high degree of unity of purpose, there was a sense of collective responsibility for the decisions taken. This did break down at times, most notably in the November period. This is evidenced by the leaking from Executive meetings and the public airing of the disagreements as to the approach to be taken.

222. I am aware that on 30 March 2020, the deputy First Minister expressed her view that "*DoH see Exec as thorn in side*" [INQ000065748]. This wasn't my perception. Rather, I was keen to support the Health Minister who, along with his colleagues in DoH, were trying to ensure that decisions were taken effectively to best protect the public. However, there were some early tensions during pandemic management, for example, concerning the supply and management of PPE, and the deputy First Minister's comments perhaps reflect a concern that the Executive wanted more information from DoH as to what steps were being taken, and more discussion, on issues that DoH believed were operationally within its remit. Thus the Health Minister was challenged about matters within DoH papers. I do not believe this should be taken as a lack of support for the Health Minister, and the work of the DoH, but rather this scrutiny was an important aspect of the democratic process and intended to ensure transparency and that important issues were being given sufficient focus and attention.

223. Similarly, the CMO and CSA's work was widely supported by the Executive. They provided a vital function and I worked closely with them in managing the response to the pandemic. I was not concerned about the extent of their responsibilities although it was frustrating, from my perspective as joint Chair of the Executive Committee, that at times they would appear in the media and opine on matters in advance of the matter coming to the Executive for decision.

224. This, added to an environment in which there were often tensions between Ministers anyway, tended to make decision-making acutely challenging. Especially after the first wave of the pandemic, there were tensions that naturally arose between, on the one hand, protecting the public from the health impacts of Covid-19, and on the other, the economic wellbeing of individuals and the country and the societal issues particularly in terms of the impact on those likely to disproportionately affected. Those tensions arose time and again when determining how best to respond to rising cases, and how best, and how quickly, to relax restrictions as case numbers began to fall.
225. As mentioned above, leaking of Executive papers did become an issue from Autumn 2020 onwards, however, from my perspective, I do not believe there was any policy (whether informal or not) of leaking proposed policies to gauge public reaction – focus groups and research was available for that purpose.
226. However, leaking did mean that the press and therefore the public were made aware of the issues up for discussion before the Executive could take a decision. As with the briefing by the CMO and CSA, this also had the effect of setting public expectations. The leaks also seemed intended to stir up controversy about a particular decision. They therefore limited the ability of the Executive to consider the available options in a measured and reasoned way. It also did not help relationships between Ministers in the Executive, and diminished trust. As is often the case when something is leaked, it led to an atmosphere of suspicion whereby everyone was suspecting someone else and no one knew who to trust, whether that be Ministerial colleagues or NICS officials.
227. Leaking was also damaging for public confidence in the decisions ultimately taken, particularly when these differed from the approach that had been trailed in the media.
228. There was an inevitable tension between the roles of DoH and DfE in managing the response to the pandemic. Naturally, each of the Health and Economy Minister were focused on their respective portfolios, and each therefore brought forward papers with recommendations from their Departments; their role was to champion their respective areas. Indeed, to have not done so, would have been a failing. The Economy Minister therefore brought forward recommendations aimed at promoting small businesses and the economy, while the Health Minister's recommendations were aimed at minimising the impact of Covid-19 on individuals and the health service. I therefore consider the tension between the two departments was necessary and

important to allow both the health and the wider socioeconomic factors to be weighed in the balance in Executive decision-making.

229. Overall, despite the challenges presented by the system of mandatory coalition, I believe the Executive Committee is, within the historical and political context confines within which we operate, the best structure available for government decision-making in response to the pandemic in Northern Ireland. The Executive is highly democratic with each of the five main local parties each represented. Within that, it is comprised of democratically elected politicians who each live locally and understand the needs of Northern Ireland. I do not believe it would be appropriate to hand power for dealing with a pandemic to Westminster or to a non-democratically elected body, for example. It was a strength in our response that as local politicians we had a very clear grasp of the way in which the pandemic was affecting the public, and we could respond at a local level to needs as they were identified.

Public confidence in Executive decision-making

230. As I have mentioned, there were areas of tension between Ministers throughout the pandemic response. For example, when the deputy First Minister publicly contradicted, on 13 March 2020, the position that had been agreed, on advice, that schools in Northern Ireland should not close at that time, it was disappointing to me and I regret that it happened. It is always better to have a united front, but perhaps never more so when faced with a novel external challenge such as the pandemic. Having said that, the Northern Ireland public are used to mandatory coalition and the difference in emphasis as between politicians here. As such, people were likely frustrated by the apparent lack of accord on this issue, but they were probably not surprised.

231. Indeed, I was not particularly surprised when the deputy First Minister publicly criticised the Health Minister on 3 April 2020 regarding his handling of the outbreak but I do believe that it would have been better, particularly given where we were in the pandemic at that point, if she had not aired her views in public. I believe she was hoping to gain political capital by undermining a Unionist Minister but I believe there was pushback on that from her own community as the Health Minister enjoyed widespread support across Northern Ireland for the work he was doing. There was a common sense of purpose throughout Northern Ireland at the time and a feeling that it was not the time to score political points. My sense is that the deputy First Minister realized this had not played well with the public and thereafter opted instead to row in

behind the Health Minister. This was particularly evident after the Bobby Storey funeral when Sinn Fein lost any moral authority they might have once had.

232. There was also at times contradictory messaging stemming from Ministers publicly disagreeing with one another as to the best way to manage the pandemic, with some Ministers such as the DAERA Minister, publicly indicating on 30 April 2020 that more normality was needed, and on 21 September 2020, the Economy Minister warning that Northern Ireland could “*not afford another lockdown*”. While it would have been better to have collective messaging, as mentioned above, I do believe the Northern Ireland public is used to the difficulties presented by mandatory coalition, and in particular, the fact there is no official opposition. It is therefore inevitable that Ministers will on occasion voice their concerns publicly. While this can create difficulties for Executive decision-making, it does improve transparency and accountability and allows the public to understand the nature of the debate. As such, I do not believe these publicly aired views will have significantly impacted public confidence.

233. I am also aware that it has been suggested that a Minister indicated that rates of transmission were higher in nationalist areas as compared to unionist areas. While I don't recognise this as being accurate, I don't consider that it would have had a huge impact on public confidence.

234. I do believe very strongly that the actions of the deputy First Minister and senior Sinn Fein representatives in attending the funeral of Bobby Storey had the single biggest impact on public confidence throughout the pandemic. The funeral was held on 30 June 2020. The general public had been abiding by strict regulations in relation to funerals since lockdown had been imposed on 23 March 2020. Families were told to limit numbers attending funerals, and were not allowed to hold wakes. This led to immensely difficult decisions for families in the midst of their grief as to who to exclude from funerals, and led to a deep and abiding sense that their loved one had not been properly honoured by the gathering of friends and family members, as is the long-held custom and practice in Northern Ireland culture. It was therefore devastating for those families to then turn on TV screens on 30 June 2020 and witness hundreds of people lining the roadside in a highly organised event, followed by a procession from Mr Storey's home to Milltown cemetery (where no burial took place), and then to Roselawn crematorium. Outside the experience of those who had lost loved ones, there was general outrage that someone in leadership, who the public had listened to and obeyed during a highly stressful period, and at huge personal sacrifice in many cases, could

so blatantly breach the rules and guidance. I called for the Chief Constable of the PSNI to resign over the PSNI involvement in the scandal as the PSNI's involvement led to the inability to prosecute those attending. This also led to a loss of confidence in policing. There were also a number of high profile breaches in the United Kingdom which were widely reported. These also affected public confidence, but none were as public or as blatant as the Bobby Storey funeral.

Communications with ministers, advisers, political party officials and civil servants via electronic device(s).

235. I was issued with a mobile phone and laptop by the NICS during the period when I was First Minister. I returned the laptop when I left office and returned the mobile phone a short time later in mid-July 2021. However, I did not use the government-issued phone, preferring to use my personal mobile phone, which I still have. I used WhatsApp, text message/ismessage, but did not use Slack or Signal. I was never made aware of any policy or given any advice that I should not use my personal phone, whether on the basis of security concerns, or because the contents thereof required to be retained or recorded.

236. I communicated with the following individuals during the period:

Individual	Role
Gordon Lyons	Junior Minister
Dr Philip Weir	Special Adviser
Emma Little-Pengelly	Special Adviser
Diane Dodds	Minister
Edwin Poots	Minister
John Robinson	DUP Director of Communications

Timothy Johnston	DUP Chief Executive
Michael McBride	CMO
Michelle O'Neill	deputy First Minister
David Sterling	HOCS
Deirdre Griffith	Private Secretary
Jenny Pyper	HOCS
Naomi Long	Justice Minister
Nicola Mallon	Infrastructure Minister

237. I was also part of the following Whatsapp groups:

Robin Swann and Michelle O'Neill

Executive Ministers and SpAds Group.

238. Most of the Whatsapp conversations with DUP Ministers/groups I deleted when I left office. I have recently trawled back through my remaining messages and located the conversations with Robin Swann and Michelle O'Neill, with Michelle O'Neill individually, and other conversations with individuals outside the DUP. The purpose of the communications with other DUP Ministers, Special Advisers and party officials would primarily have been administrative i.e. arranging meetings. There may have been some communication about or discussion around issues touching on the pandemic but this would likely have been at a high/general level as my preference is to speak directly to people rather than to use messaging platforms.

239. I did not formally retain or record these communications, but I have now located the messages provided to the Inquiry. I did not formally or record the messages as I did not consider them to form any part of formal decision-making, and they were never an alternative to formal or minuted meetings. There was never any intention to

circumvent formal processes through this informal communication. Rather, in the system in Northern Ireland, all decisions were taken by formal process at Executive meetings supported by a paper, and with a minute taker present. As I have indicated to the inquiry previously, I periodically deleted messages while First Minister, and deleted remaining messages when I left post. It transpires that I did still have some messages on my phone and I have provided these to the inquiry. I did not delete messages pursuant to any policy or instruction but nor was I (or am I) aware of any policy or instruction whereby these messages ought to have been retained. I took the view that my role as First Minister and leader of the DUP had come to an end and therefore, out of concern for security, and in case, for example, I lost the phone, it was better to clear the messages from it (which also served as a reminder of a difficult period in my political career), as I moved on from that role.

240. While First Minister, I did take notes for my own use when I attended meetings. These have been provided to the Inquiry, and my solicitor retains the originals. Nothing was destroyed. The notes served as an *aide memoire* of what took place and the various positions being adopted. I found it was especially useful to take notes during long meetings and I was aware from my experience of the RHI Inquiry of the importance of keeping a note both as a contemporaneous record, and to aid later recollection.

241. I am aware that during Executive meetings taking place via Zoom, there was a 'chat' facility. I don't recall this being used to any significant extent.

Lessons Learned

242. Northern Ireland is distinct within the devolved administrations as a result of its unique power sharing arrangements. Mandatory coalition during the pandemic response meant there were five parties at the Executive table, and there was a need to reach consensus on a cross-community basis. The two major parties, the DUP, of which I was leader, and Sinn Fein, whose Northern Ireland leader, Michelle O'Neill, was the deputy First Minister, have diametrically opposed views as to the future of Northern Ireland with the DUP seeking to reinforce and enhance the Union, and Sinn Fein seeking to leave the United Kingdom. There is a long and difficult history in Northern Ireland that serves as a backdrop to power-sharing. The tensions between the two main parties are therefore ever-present but the long period of suspension, and the intense negotiations leading up to the restoration of power-sharing, tended to compound tensions upon the Executive being restored. There was a need to make a

'fresh start' and find a way of working together to make devolved government work. When the pandemic developed so quickly after restoration, my first priority was to work alongside the deputy First Minister in a cooperative manner, leaving politics to one side as far as possible, to focus on minimising the impact of the pandemic, and improving the outcomes for all of the citizens of Northern Ireland. However, the office of First and deputy First Minister is joint, and this can at times be very challenging. Instances such as the public U-turn on the decision not to close schools was an example of this which undermined coherent public health messaging and public confidence in the Executive's approach.

243. Moreover, in the first wave of the pandemic in particular, the deputy First Minister and her party regularly looked South to what the Republic of Ireland were doing, and often ignored the political and practical reality that Northern Ireland was receiving much of its information, advice, and, significantly, funding from UK Government, whereas there was a lack of free-flowing information sharing and engagement from the Republic of Ireland on key issues.

244. There is only so much one side of the joint office can do to present a united position when the other side publicly undermines the position reached. I felt this most keenly in the aftermath of the Bobby Storey funeral. The deputy First Minister's actions in attending the funeral made very clear, lest the events of the pandemic had led anyone to think otherwise, that Sinn Fein will always prioritise playing to the party's Republican base over the need to demonstrate strong Executive leadership for all the people of Northern Ireland. As such, I was initially not able in good conscience to continue with the joint press conferences after this event. I did however feel compelled to continue as First Minister rather than leaving Northern Ireland's public without a local government in the midst of a pandemic. I believe that while this was a very difficult decision to make, it was the right one for the country, and demonstrated leadership in the face of extremely trying circumstances.

245. In terms of the medical and scientific advice, I believe the Executive was well-served throughout the pandemic by the CMO and CSA, as well as the DoH. The Health Minister undertook a huge burden and handled it admirably. I do consider, with the benefit of hindsight, that it would have been preferable for the SAGE and/or SIG minutes to have been made available to the Executive in a more raw form. This may have alleviated some concerns about the reliability of the data and modelling, and permitted a wider understanding of the matters being discussed among scientists tasked with considering the pandemic response. My view is, and was, that the more

information we were equipped with to fight the virus, the better. There was therefore reliance on UK Government medical and scientific advice, but I was also supportive of the relationships developed between the Health Minister and CMO and their counterparts in the Republic of Ireland. Having said that, it was very frustrating that the Republic of Ireland's government did not engage with us to provide the Passenger Locator Form information which was required to implement and monitor restrictions on travellers.

246. The CCG and the NI Hub worked well to coordinate and direct the response, and it was useful to be able to hear first-hand at daily meetings during the first wave precisely what was going on by sitting in in these meetings. However, as I have indicated, care does have to be taken that these structures do not become too process and person-heavy, with too many meetings, and too many layers in the structure to allow for agility in response. However, there is a balance to struck in this respect because there is also a need to ensure that the same core civil servants are not being relied upon too heavily, and that the workload is spread to prevent burnout. It is therefore important to ensure that the system has an eye on the longer-term view, to make sure that a pandemic response can be sustained throughout multiple waves and thus that there is a team or teams of officials preparing for that even in the midst of a crisis response.

247. Notwithstanding some of the difficulties encountered, I do believe that on the whole the Executive pulled together to try to rise to the challenges we faced and do the best we could in the circumstances. I do regret that it was not possible to have done more to mitigate some of the worst effects, and that the impacts are still being felt by those who lost family members, or who were otherwise significantly affected by the pandemic, and continue to be affected to this day. I wish to reiterate my sincere condolences to those so affected.

Statement of Truth

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

Signed:

Personal Data

Dated:

28th February 2024.