

Statement No.:

Exhibits:

Dated:

UK COVID-19 INQUIRY

WITNESS STATEMENT OF EMMA LITTLE-PENGELLY

I, Emma Little-Pengelly, will say as follows: -

Background, role and qualifications

1. I am deputy First Minister of Northern Ireland. In terms of political experience, I worked as a Special Adviser in the Office of First Minister (OFMDFM) from 2007 to 2015, I was an MLA from 2015 to 2017, and within that period was Junior Minister to the First Minister in OFMDFM from 2015 to 2016. I was Member of Parliament from 2017 to 2019 and was Special Adviser to First Minister Baroness Arlene Foster from 2020 to June 2021. My professional background is that I am a Barrister at Law.
2. In my role as Special Adviser, I gave advice on a range of departmental and Executive matters and policy. I became a Special Adviser in the relevant period from January 2020 until end of June 2021. I was not the Special Adviser to the First Minister with policy responsibility for Covid-19 or Health department related issues. The Special Adviser who had policy responsibility for that in the First Minister's office was Dr Philip Weir.
3. I had not served as a Special Adviser to FM Arlene Foster before January 2020. The post of Special Adviser is a political appointment. I was asked to serve in this role by Arlene Foster following the election outcome in December 2019 and negotiation process that concluded in early January 2020.
4. Special Advisers are political appointments. The role involves assisting the Minister to deliver the Minister's priorities with a specific role of adding a political dimension to the

advice given to the Minister and liaison with the Minister's political party. My role during the period I served as Special Adviser, was to advise and support the Minister in whatever way I was asked to, in line with my job description and duties. However, I was not the Special Adviser responsible for Health policy in our Special Adviser team. My primary responsibility at this time was Brexit and the Northern Ireland protocol and its implications for Northern Ireland. This was a significant body of work. The division of responsibilities as between Special Advisers is agreed, and the Civil Service officials are advised as to the division. The details ought therefore to be held within the system. It was common for all papers to be copied to all Advisers. However, it makes sense for a lead to be put in place so that work is not duplicated unnecessarily. It would be singularly unhelpful to officials if they were unclear as to whom to deal with on an issue, or if more than one Adviser, possibly with different approaches, engaged with officials on a particular issue.

5. Advisers do however give both specific and general advice. It is therefore of course the case that we would be expected to attend and be across significant issues in the department, and this included Covid-19 during the Specified Period. Indeed, in the initial stages, and at times throughout the Covid-19 emergency, there was a clear "all hands to the wheel" approach and everyone helped out. This would have particularly been the case at times of significant workload and when the bandwidth of key individuals was under particular pressure. My role was therefore to be as useful as I could be, ensuring a broad and detailed knowledge base, but respecting that there was a lead for Covid-19 issues. This would have included dealing with specific tasks I was asked to carry out, and dealing with drafting of communications lines when necessary. This meant making sure I was aware of all the issues. It would be the usual approach to have all Advisers involved, this provided an extra view, and "eyes" on the issues. It also helped to provide a "sense-check" on issues from a perspective slightly outside the direct issues perspective. I was one of the most experienced Advisers and had held a number of political roles. My more general advice was from that perspective and in my view, it was welcomed. That is why I was included in most meetings. I would therefore have been aware of all the advice given to the Minister and the source of that advice, but the detailed engagement with the structures was largely taken forward by Dr Weir. My advice was given after observations of the advice and subsequent discussions between officials, Ministers and Spads
6. As such, particularly in the early stages as the Covid-19 pandemic developed, I would have been present with the First Minister at most meetings and calls, along with the rest of the Special Adviser team. I was present at briefings from officials and I recall,

for example, being present while the First Minister attended a COBR meeting in London on 9 March 2020. I was present at the Executive Committee meetings during the Specified Period. As time went on, I would have continued to attend Executive meetings and other general briefings but, as I was not the lead Special Adviser on Covid-19 -related issues, I did not routinely attend Covid-19 specific meetings. I believe I was present for all but a few very Covid-19 specific DoH briefings.

7. The Office of First Minister and deputy First Minister is a joint one. Therefore, all decisions, correspondence and press statements required joint agreement. This required full cooperation and coordination on all relevant issues.
8. The priorities of the First Minister on the restoration of the Northern Ireland Executive were largely set out and contained within *the 'New Decade New Approach'* document and included issues of public sector pay, stabilisation of public services, health care reform and Brexit-related issues.
9. The nature of the working relationship between First Minister and deputy First Minister is a professional one based on the requirements of the Joint Office. As is the case with all Governments, there were a number of issues to be dealt with at the same time as the emerging Covid-19 situation. However, both First Minister and deputy First Minister had served as Ministers for some time and were experienced.

Initial understanding and response to Covid-19 (January 2020 to March 2020)

10. Northern Ireland operates a mandatory coalition system of Ministers from politically and ideologically different perspectives. This brings with it the challenges that one would expect from a coalition or power-sharing arrangement, and in January 2020 this was against a backdrop whereby there had been an intense period of negotiations leading up to the restoration of power-sharing, I cannot give an informed opinion as to the view of Ministers as to the level of trust or cohesiveness between them but certainly it would be natural to expect a period of adjustment to the new roles, and to develop working relationships. There had been no Government for 3 years, so there were a significant number of decisions required across a wide range of issues. The issues for to be included within the Programme for Government were numerous and were discussed at the Executive 'Away Day' in February 2020.
11. I likely became aware of Covid-19 some time in January from media reports. I do not recall January and February briefings on Covid-19 within the First Minister's office clearly or as distinct from the overall period of the emerging pandemic and therefore

cannot pinpoint when Covid-19 was first raised as a concern to the First Minister. I do recall that in the early stages, it was a developing situation with good communication and updates from the Department of Health as and when it was developing. We were also getting information through open data and news sources throughout this period as the pandemic developed globally. TEO records would be the most appropriate means to confirm these dates in relation to notification of the First Minister on the key developments of the pandemic such as: when it was understood that Covid-19 was being transmitted in the UK and Northern Ireland; that it would become a global pandemic; and that there was asymptomatic transmission. TEO records will also show the sources and nature of briefings to Ministers in relation to the pandemic. However, I do not remember a distinct point in time when the First Minister was made aware that Northern Ireland would face significant challenges.

12. As above, I was present during most briefings, discussions and on calls, zooms and Executive meetings. We operated as a close-knit team, but respected the policy leads in each area. Therefore, I was not involved with the giving of specific advice. Dr Weir read the detail of each submission or policy document and advised the First Minister accordingly. However, I was of course keeping a close eye on developments and I did contribute when I was involved in meetings or other discussions between the Special Adviser team when the management of Covid-19 was discussed.
13. Officials would be best placed to comment on the operation within the departments, and the process of putting together advice and submissions, and what sources of advice those relied on. However, from my perspective, the principal sources of advice were the Chief Medical Officer and Chief Scientific Adviser. As I was not the Adviser leading on the pandemic response, I am unable to comment on whether and from when the views, advice or minutes from SAGE were conveyed to the First Minister, and whether this was effective. The primary means by which SAGE advice was conveyed was via the Chief Medical Officer (CMO), Chief Scientific Adviser, senior officials and the Health Minister either orally or in briefings or submissions from the Department of Health. While I was present at meetings at which such advice was conveyed and would have been aware of the source of the advice, the detailed engagement with the papers and with officials on the issues, was led by Dr Weir.
14. The Executive Office will have a record of the dates of all meetings and briefings (including UK wide ones); the list of who attended and the minutes of said meetings. There will also be a record of all submissions and responses to those submissions on

the system. There will be a record of all discussions and decisions arising from the Executive meetings.

15. Submissions and papers relating to the pandemic were circulated to the Special Advisers and to the First Minister. However, the working arrangement within the office is that the Special Adviser with policy lead (in this case, Dr Weir) was the Adviser who considered the paper and who gave advice to the Minister. This was to avoid duplication and multiple advisers giving advice on the same issue. This was the way the team operated in relation to all submissions and papers.
16. It would therefore be more appropriate for Dr Philip Weir to comment on the detailed specific issues relating to submissions and briefings. My involvement was in a more general sense, and as a participant in more general discussion, usually after having observed the discussions. I would therefore have offered my view, and did so on the basis of the information available. Moreover, while decisions were not made on WhatsApp, I would have shared views and offered advice on potential ways forward with colleagues on that forum. This would have been supplementary to the advice from the primary policy lead and offered simply in a bid to be helpful i.e. it was not the primary advice on which the Minister relied.
17. However, in terms of the initial strategy, my view was that the Executive was largely following the advice of the CMO and Department of Health. I recall the Health Minister explaining that the science was evolving and that the situation was being monitored to understand how it would develop. I also remember discussion about the need to 'flatten the curve' and advice from the CMO that measures needed to be introduced carefully and at the right time due to the likelihood of behavioural fatigue. The thinking was that if restrictions were introduced too early, compliance would be likely to drop off as it was most needed i.e. during the peak in cases. It was also considered that a significant percentage of people would not comply with significant restrictions. This stands out to me, as, when lockdown was introduced, I remember being surprised that the compliance levels were as high as they were.
18. I would have been present at all key meetings and when policy was being drawn up. I would not have been present at smaller more technical briefings. Those would have been attended by Dr Weir who would have then reported back. I am clear that herd immunity was never discussed as a policy option. I also consider that while we were generally aware of winter pressures on the health service, as these were always an issue with or without a pandemic, I do not remember express discussion about trying to produce a single peak closer to the summer months, or avoiding a second wave.

The main concern, to the best of my recollection, was the preservation of life, and to reduce the peak so that hospitals would be able to cope. In tandem, the most vulnerable – the elderly and immunocompromised – were to be protected as far as possible. This was achieved with shielding. I do not remember much if any discussion about a policy based on suppression causing infection rates to accelerate upwards thereafter but there was always a general awareness that a second wave was possible.

19. I do recall the Health Minister's press conference on 19 March 2020 where he gave a stark warning about the possible worst case scenario if no mitigations were taken of 15000 deaths within Northern Ireland. This was a worst case scenario and the purpose of the announcement was to emphasise that the numbers could be brought down by mitigations. Indeed, I recall advice in or around this time that included the worst case scenario but also charted other possible scenarios. There were no certainties but the possible worst case scenario was taken very seriously; I recall, for example, discussions about the need to prepare for temporary morgues so the situation was clearly potentially very grave. There would also have been briefings in or around this time from the Health Minister and/or the CMO about the potential impact of the Covid-19 pandemic on the health service.
20. I am not sure when this peak was expected, but, in the event, mitigations were introduced and the worst case scenario did not come to pass. The spread was reduced and the peak of the virus came in April.
21. In general, I consider that as the pandemic developed, the understanding about it evolved day by day and the Executive followed the advice from the scientific and medical experts as to how to respond and when. I do not believe there was a point at which the virus was 'out of control' in Northern Ireland but rather restrictions were introduced to prevent a worst case scenario situation in which the case numbers could rise to the extent that the health service would not be able to cope.
22. Northern Ireland did not have the capacity to implement test and trace as a means of limiting transmission in Northern Ireland between January and March but I believe that work was done to scale up testing capacity quickly thereafter. As I was not the Special Adviser most closely involved in the pandemic response, I cannot remember what work was done in the early stages on assessing test and trace capability or discussions around community testing capability. I also am not aware of specific issues with the reliability of data or modelling used to predict the peak of the pandemic nor which planning documents were principally relied upon, or the whether these were sufficiently detailed. I knew that especially in the early stages, the figures being produced were

predominantly from UK government i.e. SAGE albeit tailored by the Department of Health and CMO or CSA to the Northern Ireland context. In general terms, I remember the First Minister and the Executive being provided with a range of possible outcomes. I was always aware that modelling was not 'an exact science' but my view was that, where possible, and particularly where it is proposed to impose restrictions on people's liberty, decisions should be based on the best scientific evidence and advice available.

23. Consideration was not given to the closure of Northern Ireland's border to prevent transmission into Northern Ireland from Republic of Ireland or closing all borders to prevent travel into both Northern Ireland and Republic of Ireland. To the best of my knowledge, this was never advised and, in any event, it would have been extremely difficult in practice to implement.. However, there was concern within the Executive around the border. A significant difficulty arose due to a lack of communication from Ireland to Northern Ireland about incoming visitors arriving on planes and not sharing relevant information regarding which country the person had travelled from or their intended destination. It was also acknowledged that work and family relationships existed across the border and that cross-border issues therefore needed to be considered and managed.
24. In similar vein, there was also consideration of issues related to continued UK- wide internal movement. However, in my view, the communication and engagement with UK Government was good. I do not recall an example of Northern Ireland being taken by surprise by any announcement of UK Government.
25. While I do not recall express discussion or advice as to adopting a policy of alignment with the UK Government, this was the obvious and natural course in the early stages of the pandemic. UK Government were providing Northern Ireland with much of its scientific data and modelling with SAGE being comprised of scientists who were well regarded not just nationally but also internationally and had a broad pool of information and expertise. I received the papers in which such data and modelling advice was presented. I don't think funding was a significant factor when considering whether to follow UK Government's lead, rather the advice on how to respond from SAGE to UK Government and what the Executive was receiving was the same. We were always aware, though, that we were behind where England was in relation to the pandemic, so Northern Ireland was different in that respect. We were not afraid to tailor local solutions, and indeed did.
26. At this remove, I cannot remember the detail of the various options discussed by the Executive between January and the introduction of lockdown, but my overall sense is

that options such as social distancing, hand hygiene, and closing schools were discussed. There was also a general awareness that lockdowns had been adopted by other countries. There was no precedent and it was important to gain as much of an understanding as to the evolution of the pandemic as possible. I therefore consider that the advice and planning about possible options was the best available at the time. Ideally, there would have been more time to plan including for the needs of those who stood to suffer disproportionate disadvantage but, my view (without having been involved on advising on the issue or being across the detail of the types of work that were done) is that this was simply not possible within the time available.

27. As such, lockdown was influenced by the decision at Westminster to introduce it but taken on the evidence presented about Northern Ireland to the Executive. I cannot remember precisely when this was communicated to the First Minister's office but the announcement did not come as a surprise to me. In terms of communication channels, there would have been communication between central government and TEO through the First and deputy First Minister's private offices, and through phone calls and meetings, including group calls.
28. It might have been possible to avoid lockdown if a system for test-trace-isolate had been available but I say this in retrospect as, at the time, most countries in the Western World were not able to rely on this method of pandemic control.
29. I believe in the event, the ability of the Northern Ireland Civil Service to quickly scale up in terms of putting in place structures for testing capability, and the civil contingency response, was impressive. Northern Ireland also has a large third sector in the community that stepped up quickly to provide support to those in particular need.
30. After the introduction of lockdown, and as the pandemic response proceeded, I would assess that I probably had less specific input into Covid-19 related matters. As the situation settled somewhat, each Special Adviser began to spend more time on their own areas of responsibility, with Dr Weir continuing to take the lead on the Covid-19 response. However, I was aware that the NI Hub was operational and shared situational awareness with the Executive by coordinating information from the various departments and presenting it to the Executive. This was useful and helped ministers understand the situation 'on the ground' which in turn facilitated decision-making. The CCG was also functioning. It was comprised of senior civil servants who had responsibility for operational decisions on a day-to-day basis that did not require escalation to the Executive, and was effective in this role. I am not aware of any significant issues as to the sharing of situational awareness. The NI Hub and CCG

continued before being scaled down according to need in May 2020. . I am not aware of the detail of changes made to the NI Hub from summer 2020. Overall, I believe the civil contingency arrangements worked effectively.

31. After summer 2020, cases began to rise again. This was not unexpected but the cases rose more quickly than had been anticipated or hoped. While I was not the Special Adviser with direct responsibility for Covid-19, I know from submissions presented to the First Minister, that advice was being provided to the First and deputy First Minister throughout this period and this advice was being acted upon and decisions being taken based on the evidence, but I am not across the detail of the modelling work being produced at that time.
32. By 8 October 2020 it was clear that cases were once again beginning to rise and that the measures that had been introduced had not mitigated spread sufficiently.
33. I do not believe there was any sensitivity around identifying the geographical areas with higher rates of infection but rather the DAERA Minister's comments about *"not going after where problem exists. Afraid to say where problem is"* was most likely focused on his concern that young people were gathering at house parties. Certainly that seems to be the context in which his comment was made i.e. immediately after *"House -parties – any effort to prevent?"*
34. The decision of 16 October 2020 to implement the 'circuit breaker' was likely the best option available at the time. My approach generally was that it was important to follow the scientific evidence and advice, not simply in terms of the health advice from the CMO but also more broadly in terms of the impacts on economic and educational outcomes and on those disproportionately affected by restrictions. In short, I was supportive of a balanced approach. I believe that people's liberty should only be constrained if necessary. It did seem that in Autumn 2020 lockdown was considered as a default rather than a last resort i.e. the approach was to be extra cautious and keep people in lockdown rather than making a balanced judgment based on the evidence, and only impose restrictions where necessary to do so. At times the scientific evidence was not clear as to the benefit of restrictions and this heightened tensions. There was no clear scientific pathway to follow. The DUP were in a particularly difficult position as DUP Ministers held both the Economy and Education portfolios as well as the First Minister position. The fundamental aim was protection of life. In the absence of clear scientific advice that the proposed steps were necessary to do that, then proposals had to be balanced with consideration of other physical and mental health issues, economic and quality of life issues, and the potential long-term

impact on the educational outcomes of children and young people for example. The proposal to extend the restrictions for a further two weeks was thus controversial as the public had already been subjected to four weeks of lockdown, and expected the restrictions to be lifted and now a further two weeks was being mooted. This was in the context where it was very difficult to weigh the various factors in the balance. The modelling was not, by its very nature, able to provide the type of specificity and detail that Ministers were seeking in order to make decision, for example, regarding the impact of closure of certain sectors such as close contact services.

35. There was huge public pressure and lobbying on issues such as school closures (especially from schools, teachers and parents who wanted schools closed). This gave rise to serious concerns within the DUP Ministerial team as to the balance and the potential impact of closing schools on the educational outcomes for children. There was frustration that some other Ministers did not appear to give this concern any weight.
36. There was also serious concern by DUP Ministers on the wider health outcomes and mental health impacts of diverting of health services, suspension of areas of medical services and nature and length of lockdown. These were articulated frequently to Executive colleagues.
37. The Executive meeting of 9 November 2020 was exceptionally tense. A decision as to how to move forward was needed but consensus could not be reached. Leaks were adding to the pressures and it was clear that relationships were tense between the Ministers.
38. The Executive considered it important to 'protect' Christmas both from an economic and social perspective.
39. I am aware that an Executive paper *E (20) 267 (C) Modelling the course of the COVID epidemic* and the impact of interventions and recommendations did not contain a recommendation from the Health Minister. This was likely as a result of the awareness following the previous meeting on 9 November 2020, that ministers required to balance the health factors with non-health factors, rather than relying on the recommendation from the Department of Health. Having said that, I do not recall the Department of Health or CMO and CSA advice being definitive, it was not "you must do X to prevent y" rather it was based on a "best guess" at what was likely to happen. This meant there was not a clear "follow the science" route. It was instead a balanced judgement in light of all the competing issues and impacts.

40. Overall, the management of the response in Autumn 2020 reflected the difficulties of reaching consensus in a five party mandatory coalition when there was no clear pathway and significant downsides to each possible course. I believe this led to more protracted and difficult discussions than what ideally would have had to be the case in a more simple governmental structure.
41. In the approach to Christmas, I understand that there were amendments to the proposals for the restrictions that would apply over the Christmas period. While I saw papers on these issues, I was not the lead adviser and, aside from my understanding that the rationale throughout was to permit families to spend time together at Christmas, and allow businesses to benefit from Christmas sales in advance of Christmas, I am unable to assist on the detail of policy development on issues such as travel, bubbling arrangements and whether the developments were in line with the advice from the CMO and CSA at each stage. However, my understanding is that Christmas did proceed on the basis of the reduced bubble advised by the CMO as this had a personal impact on me. As part of a nuclear family (stepsons), the change meant I could not see my parents in their homes that Christmas, nor could they come to mine. While I understand that the case numbers did subsequently rise, I am not in a position to assess whether this was as a result of the approach adopted in November and December.
42. I am aware that a joint statement was proposed to be issued by all UK jurisdictions regarding restrictions then proposed on 16 December 2020. The deputy First Minister did not agree it. I was present when this was discussed and I recall speculation and a view that this was because she didn't want Northern Ireland to be part of a UK-wide statement. I do not recall specifically why on this date. It would have been better to have had a consistent approach across the four jurisdictions of the United Kingdom for clarity particularly for those travelling between jurisdictions for Christmas.
43. The Executive Covid-19 Taskforce ("ECT") was established in December 2020 to allow greater coordination and decision-making across departments. I do not have any specific recollections of the discussions around the reasons for the establishment of this.

Coordination with the Republic of Ireland

44. It was clear that Sinn Fein were heavily influenced by the decisions of Republic of Ireland, and keen to follow them. This included on issues such as the closure of schools. This created tension at times, as we were part of the UK framework but it

was clear that Sinn Fein had resistance to UK wide approaches and preferred to try and follow an All-Ireland agenda. This was frustrating as Sinn Fein wanted to follow Irish Government decisions, without actually hearing or seeing what the professional, medical or scientific advice was to the Irish Government. By contrast, the First Minister was keen to rely on the scientific evidence in terms of the advice she was being given by the CMO, the Health Minister and officials. In relation to school closure, the advice in or around 12 March 2020 was that closing schools was not recommended. I cannot recall what specific advice I provided on the issue but it is likely that the primary advice on this aspect of the Covid-19 response would have been from Dr Weir.

45. I do not recall if I attended the meeting on 14 March 2020 between the First and deputy First Ministers and the Taoiseach and Tanaiste and therefore I cannot assist as to what was discussed. I also do not believe I was involved in direct consideration of the impact of the shared border with Republic of Ireland nor in providing any political advice to the First Minister with regard to engagement and/or coordination with the Republic of Ireland with respect to Covid issues. I am also not in a position to comment on the operation of the Memorandum of Understanding. The Irish Government made their decisions (presumably based on their own medical and professional advice to which we were understandably not privy) unilaterally without consultation with NI or any attempt to work in coordination, despite the land border between the two jurisdictions.

Advice in relation to public health communications

46. After the announcement of the first lockdown, the First Minister and deputy First Minister quickly instigated joint press conferences to keep the public informed as to the position within Northern Ireland. These were necessary to alleviate early confusion among the public as to the geographical extent of restrictions, particularly those that had been announced by Westminster. I do not believe the same confusion arose when announcements were made by the Republic of Ireland government as the public in Northern Ireland would not expect to be affected by measures implemented in Republic of Ireland. I believe their communications were largely coordinated by Dr Weir and his counterpart in the deputy First Minister's office.

47. The attendance of Michelle O'Neill at the Bobby Storey funeral on 30 June 2020 had a hugely significant impact on public confidence in the Executive's response. It undermined the authority of the deputy First Minister, and as the office is joint, it was extremely difficult for the First Minister. This was especially the case in terms of then trying to present joint messaging and provide joint leadership, when one party had not complied with what they were jointly asking others to do.

Leaks

48. My understanding of my obligations as a Special Adviser with regard to confidentiality of official documents and discussions are as set out in the Code of Conduct for Special Advisers namely that I should not disclose official information which had been communicated in confidence or received in confidence. I did not leak any information whether about Executive papers or the contents of an Executive meeting, and I have no knowledge of other individuals who may have done so. Leaks were (and are) extremely unhelpful as they undermine relationships by increasing suspicion and diminishing trust, but ultimately I do not think they inhibited decision-making during the Specified Period but they did impact on public confidence.

Communications and documents

49. I was issued with an iPhone; an iPad and a laptop computer by the Northern Ireland Civil Service ("NICS"). I used the NICS devices for government business during the Specified Period. I also used my personal mobile phone for speaking to my contacts. I have had the same mobile number since in or around 2007. It was the number I used for work from 2007 to 2015 and thereafter I retained the number for personal use. My colleagues and others therefore regularly call and message me on this phone number and it would have been entirely impractical to switch to using a different number each time I take up a new appointment. In addition my contact numbers were all stored on my personal device. I believe it is common practice for politicians and Special Advisers to continue use of their personal devices for this reason and until now it has never been suggested to me that there is any difficulty with so doing.
50. Whatsapp was used for personal engagement and for logistics. No decisions would have been made via social media messaging but views were shared and I would have occasionally offered advice on potential ways forward on WhatsApp. Any online discussions were only to inform real life discussion prior to other meetings including Executive meetings taking place. I also would have used text/imessage on my personal device. I did not use Slack, Signal or Microsoft Teams chat channels.
51. In or around June 2021, I dropped my personal device and lost my messages prior to that point. Indeed, I have a message sent to a friend in or around this time in which I explain what happened [ELP1/1 [INQ00000000]]. I can see the titles and participants of some of the groups I was a part of but cannot tell whether the content was Covid-related or not. I also would have used Whatsapp to communicate with individuals but I also no longer have these messages. All Special Advisers would have been members

of a WhatsApp group with the First Minister. The relevant groups were entitled "FM Private Office & Spads"; "Arlene, Phil and Emma"; and "Executive". The content may be available from other individuals.

52. All Government papers and submissions were communicated through work email using my NICS devices and recorded on the system as required. Similarly, my advice on such papers would have been recorded (if any) and the decision formally recorded on the system.
53. In addition, our system of Government is such that all decisions have to be made following consideration and discussion at the Executive meeting. These are minuted and formal. Messaging platforms are therefore not used as an alternative to formal meetings.
54. Meetings are minuted by a civil servant, allocated that task. Special Advisers are political and therefore would never have been allocated the task of taking the minutes in a meeting. The lead adviser on the policy area would have been the most engaged Special Adviser and would probably have taken their own notes of that meeting. I was there in a more general capacity, often simply observing, but often also asking questions and challenging the reasoning which is a good way to ensure good policy and decision-making.
55. There is a requirement to forward and record any decisions, papers or submissions on the relevant civil service system, since Whatsapp was not used for those purposes there were no relevant messages to forward or record.
56. In accordance with data protection requirements, anything not relevant to be forwarded and recorded from my NICS devices would have been deleted prior to handing back or at the point of being handed back. This is because such devices are accessible to third parties after been returned (passwords are given over) and all personal data etc was deleted as a matter of best practice. In addition, devices are reused and therefore restored to factory settings to allow the new person to have a phone without content of a previous user. As indicated above, I no longer have access to the content of messages from the Specified Period and no longer have this device.

Personal notebooks

57. I did not keep my own notes in relation to this issue.

Leadership, key challenges and lessons learned

58. I believe that for most of the Covid 19 handling, there was strong and united leadership. Many decisions had to be taken jointly, and quickly. The vast majority of decisions were taken in this way. It was a fast-paced and challenging environment. I believe that there was a shared drive to protect lives. The joint press conferences required coordination and the agreement of joint lines and messages – this worked well for a significant part of the pandemic (albeit, there were some occasional issues). Despite challenging conversations, the differences rarely bubbled to the public space. It is however regrettable that some did. I believe this undermined confidence. The Storey funeral issue therefore came as a huge surprise and disappointment. It was fundamentally against the spirit of what we were trying to do together, and it deeply undermined the joint effort and made working relationships unnecessarily difficult. Fundamentally it was, and looked, deeply hypocritical.

59. In terms of lessons learned, there is a need to ensure that there are comprehensive plans in place for a contingency and good awareness as to how to put these plans into action. There also needs to be better guidance on decision making in the space of lack of clear evidence or scientific "follow the science". Guidance almost akin to that in a summing up and direction to the jury by a Judge to a jury. It was clear to me that some in the Executive were not attributing sufficient or any weight to some considerations, and none to those that ought to have had weight. Some thought "following the science" simply meant following CMO for example, even when CMO was making clear this was a political decision and his advice was only a recommendation based on his best assessment rather than clear evidence. It was also apparent there was a "just in case", "better safe than sorry" approach of continuing restrictions, despite a lack of evidence as to either necessity or proportionality. My observations around the weighing of advice related largely to Ministers outside my own party and is based on my experience and legal training on the value of evidence and opinion.

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 March 2024.