

Witness Name:

Statement no:

Exhibits:

Dated:

UK COVID-19 INQUIRY

WITNESS STATEMENT OF DR JANE HOLMES

I, Dr Jane Holmes, will say as follows:

1. I confirm that I have written this statement, the facts stated are all known to me, or believed by me to be true and the opinions stated, and inferences drawn are mine and mine alone.
2. I am the Grade 5 Director of the Covid Strategy and Recovery Division. I am currently responsible for the day-to-day management of The Executive Office's (TEO's) response to the UK-wide Covid-19 Public Inquiry. I also manage Covid Inquiry-related matters that cut across Northern Ireland Civil Service (NICS) departments to help ensure an aligned approach can be adopted. For example, the handling of redactions of junior civil servant names.
3. As Grade 5 Director of the Covid Strategy and Recovery Division all staff in the Division report to me through their line managers. Maria Hannon is my Grade 7 Head of Branch and reports directly to me. Hannah Murphy is a Staff Officer within my Division and reports to a Deputy Principal who reports to Ms Hannon. This makes Ms Hannon the countersigning officer for the purposes of performance management. There is another Staff Officer within my Division who reported directly to Ms Hannon. This meant that I was his countersigning officer for the purposes of performance management. He provided the secretariat function to the NICS Covid Inquiry Assurance Framework. I report to Karen Pearson, Grade 3 Director of Covid-19 Strategy and Recovery, Civil Contingencies, and Programme for Government in TEO.

The NICS Covid-19 Inquiry Compliance and Assurance Group

4. The NICS Covid-19 Inquiry Compliance and Assurance Group forms part of the NICS Covid-19 Inquiry Oversight and Assurance Framework **[Exhibit JHO/1 INQ000409593]** that was established in June 2022. This framework included the establishment of three groups:
 - HOCS Reference Group **[Exhibit JHO/2 INQ000409594]** chaired by Jayne Brady, the Head of the Civil Service (HOCS),
 - an NICS Public Inquiry Compliance and Assurance Group **[Exhibit JHO/3 INQ000409595]** chaired by Karen Pearson, and a
 - NICS Preparedness and Coordination Group **[Exhibit JHO/4 INQ000409596]** chaired by myself.
5. TEO also has an Inquiry Preparedness Group **[Exhibit JHO/5 INQ000409597]** that I chair and that is attended by all TEO business areas.

The Meeting of 11 May 2023

6. The Compliance and Assurance Group meeting is normally chaired by Karen Pearson, Director of Covid-19 Strategy and Recovery, Civil Contingencies, and Programme for Government in TEO, who I report to. For a period in 2023, including on 11 May 2023, Ms Pearson was absent from work on sick leave. At that time, it was not anticipated that Ms Pearson would be off for 6 months (mid-March to September 2023). I, therefore had no direct reporting line manager and during this period I went to Dr McMahon, the then Permanent Secretary for TEO, to discuss issues that arose. Michael Kennedy was temporarily promoted to Grade 3 Director of Covid-19 Strategy and Recovery, Civil Contingencies, and Programme for Government in June 2023 in Ms Pearson's absence. From this date Michael Kennedy was my line manager, until Karen Pearson returned.
7. In the event of a chair being unavailable for a meeting, it is normal practice for it to be chaired by a deputy, who at that time was me.
8. In addition to me, the members of the Covid Inquiry Compliance and Assurance Group at that time (May 2023) were:
 - Karen Pearson, TEO (not present at 11 May 2023 meeting)
 - Jayne Byrne, TEO (not present at 11 May 2023 meeting)

- Chris McNabb, TEO
- Maria Hannon, TEO
- Emer Morelli, Department of Finance (DoF)
- **NR** DoF
- DSO Senior Principal Legal Officer (In addition, meetings of the Covid Inquiry Compliance and Assurance Group were routinely attended by junior officials of the Covid Strategy, Recovery and Inquiry Division, TEO as Secretariat to the group).

9. The 11 May 2023 meeting was attended by me (chair), Emer Morelli (Department of Finance (DoF)), **Name Redacted** (DoF) Chris McNabb (TEO), the DSO Senior Principal Legal Officer (SPLO) (DoF), Maria Hannon (TEO) and Hannah Murphy (TEO) who took the note of the meeting.

10. At the meeting of the Compliance and Assurance Group on 11 May 2023, Maria Hannon advised the group that there was a potential loss of data from a ministerial phone as it had been reset and that it may apply to more than one phone. Ms Hannon advised the group that we knew very little of the matter at that stage and that she would be looking into it further so that we could advise the Inquiry. The third revision of the meeting note at 10:32 on 11 May 2023 [**Exhibit JHO/6 – INQ000452594**] states the following:

“Noted that WhatsApp messages from Former Ministers phones have been wiped as the phones have been returned to a factory reset position. Maria is discussing this issue so that we can inform the Inquiry that all reasonable steps have been taken in relation to this information.”

11. This text aligns with my recollection of the discussion on this matter during the meeting on 11 May 2023.

12. Ms Hannon had contacted Ms Griffith and Ms Morrow, the Principal Private Secretaries in First Minister and deputy First Minister Private Offices, via email on 9 May 2023 to gain an understanding of what had occurred with mobile devices allocated to former Minister and SpAds. These emails are the subject of the reference to *“Maria is discussing this issue so that we can inform the Inquiry that all reasonable steps have been taken in relation to this information.”*

13. The final note of the meeting [**Exhibit JHO/7 INQ000409609**] was circulated to members on 17 May 2023 [**Exhibit JHO/8 INQ000409610**] and agreed at the following meeting on 18 May 2023 [**Exhibit JHO/9 INQ000470946**]. The meeting of 18 May 2023 was

attended by me, Emer Morelli (DoF), DSO SPLO, Ms Hannon and a junior member of the Covid Strategy Recovery and Inquiry Division TEO attending as Secretariat to the group.

Audit Events and Revision History of the 11 May 2023 meeting note

14. There are 13 revisions of the 11 May 2023 meeting note.
15. By way of background, information on Content Manager and how revisions are made in Content Manager is available at **Exhibit JHO/10 INQ000470931**. In addition, information provided by the TEO Departmental Information Manager [**Exhibit JHO/11 INQ000152562**] states:

“Content Manager is the official repository for all NICS records, including those of TEO. The Content Manager system records details of all instances where a document is accessed or updated. This information is known as the active audit events of a document. The audit events record the event type, the date of the event and the user performing the action.

An active audit event is recorded each time a document is amended. This is known as a document revision on the content manager system. A revision of a document is created every time a user makes changes to and saves an existing document. These revisions can be viewed at any time and if necessary an earlier revision can be promoted to become the main and current document. This feature of content manager is useful when drafting a policy or procedures document as each time the document is edited and saved, a revision is created.”

16. The Audit Events and Revision History document [**Exhibit JHO/12 INQ000452562**] provides a record of the underlying metadata confirming the dates and times upon which they were created/amended and who accessed each of the versions. The active audit event report is a download from Content Manager of actions in relation to the meeting note. The metadata in Content Manager can be thought of as a sort of digital fingerprint that shows how and when a document is accessed on the NICS records management system, known as Content Manager.
17. The Audit Events and Revision History document shows that the template for the meeting note was saved into Content Manager on 10 May 2023 at 13:29. I have been advised by the Staff Officer responsible, Hannah Murphy, that this was done in preparation for the meeting the following day. Ms Murphy is a proficient typist and therefore took the record of the meeting as it took place in the document that she had opened from Content Manager as shown in the Audit Events and Revision History document. Therefore, there

is no handwritten version of the minutes as it was entered directly into the MS Word document within Content Manager.

18. I was not involved in the drafting of the 11 May 2023 meeting note until I discussed it with Ms Hannon on 15 May 2023.
19. Revision 7 of the 11 May 2023 meeting recorded: "*Noted that WhatsApp messages from Former Ministers phones have been wiped as the phones have been returned to a factory reset position and Maria is discussing this issue.*" I am not aware of what discussions took place regarding the amendment to Revision 7 of the meeting note to omit reference to informing the Inquiry that all reasonable steps had been taken to determine what has occurred with mobile devices allocated to former Ministers and SpAds. I had not seen the draft note at this stage.
20. Ms Hannon and I were in the office on 15 May 2023, as were others from my team but I cannot recall who. At that stage, Revision 11 of the meeting note recorded: "*Noted that WhatsApp messages from Former Ministers phones have been wiped as the phones have been returned to a factory reset position and Maria is discussing this issue.*" **[Exhibit JHO/13 – INQ000452578]**.
21. On discussion with Ms Hannon on 15 May 2023, I made the decision to amend the text to more concise wording for the purposes of the final minute. Revision 12 of the 11 May 2023 note **[Exhibit JHO/14 – INQ000452579]** recorded: "*The meeting noted the position of TEO Former Ministers and SpAD phones.*" I made the decision to remove the reference to phones being wiped and being returned to factory reset position because I was aware that this was a sensitive issue but one that we knew little about. I cannot recall why the reference to SpAd phones was added. It was, however, important that the issue was recorded in the system in a manner that did not inadvertently prove to be factually incorrect on further investigation. The changes resulting in the final version of the meeting note were made on 15 May 2023 by Ms Hannon on Content Manager as she and I discussed it. No notes were taken of that discussion.
22. The other members of the NICS Compliance and Assurance group were not aware of the decision to omit reference to the wiping of phones and / or informing the Inquiry from the 11 May 2023 meeting note. The group only received the final revision of the meeting note that I had approved on 15 May 2023. It is normal practice that secretariat and chair of a meeting agree a final draft of a meeting note prior it being shared with attendees of the

meeting for consideration. At the meeting, the chair asks attendees if they agree with the content of the minutes of the previous meeting.

23. The Audit Events and Revision History document also shows who accessed the document after it was agreed by the Compliance and Assurance group on 18 May 2023.
24. As a result of the template for the meeting note being saved onto Content Manager and then all changes to the document being made in Content Manager, there is one dated and time stamped record **[Exhibit JHO/12 INQ000452562]** of who did what with the meeting note within Content Manager as it was drafted during the meeting, amended after the meeting and then shared in final form with the Compliance and Assurance group on 17 May 2023 (Revision 13 **[Exhibit JHO/7 INQ000409609]**).
25. The Staff Officer in my Team, referred to in paragraph 3 of this statement, reviewed the 11 May 2023 meeting note on 12, 15, 16 and 17 May 2023. Part of his role was to provide the secretariat function to the NICS Compliance and Assurance group, but he was attending a training course on 11 May 2023, which is why another Staff Officer, Ms Murphy, from my team took the note of the meeting. The “usual” Secretary to the group reviewed the note of the meeting for the purposes of preparing for the next meeting on 18 May 2023 and did not raise any issues regarding the content of the minutes of the 11 May 2023 meeting.
26. The final revision (13) of the meeting note of 11 May 2023 **[Exhibit JHO/7 INQ000409609]** was ‘extracted’ from Content Manager by a junior member of the Covid Strategy, Recovery and Inquiry Division for the purposes of emailing the meeting note on 17 May 2023 at 12:29 **[Exhibit JHO/8 INQ000409610]** to the members of the Covid Inquiry Compliance and Assurance Group in advance of it meeting on 18 May 2023.
27. I did not share, nor did I instruct anyone to share any revision of the note of the meeting with anyone between 11 May 2023 and 17 May 2023. This is confirmed by the Audit Events and Revision History document **[Exhibit JHO/12 INQ000452562]**.

Timeline of awareness of the potential data loss:

28. In early May 2023, during a discussion on disclosure to the Inquiry, I was advised by Deirdre Griffith, Principal Private Secretary to the First Minister, that the NICS-issued mobile phone returned to Private Office by Dame Arlene Foster when she stood down as First Minister had been reset in June 2021 and reallocated to Ms Griffith because her

phone was broken. A note of this meeting was not taken as it was an ad hoc internal discussion.

29. On 9 May 2023, Ms Hannon emailed Deirdre Griffith and Carol Morrow, the Principal Private Secretaries in First Minister and deputy First Minister Private Offices **[Exhibit JHO/15 INQ000409608]** noting her understanding that Ministerial and SpAds' electronic devices (Phones, iPads, Laptops) had been reset and requesting confirmation as to who had provided the instructions to do so. On the same day, Ms Griffith and Ms Morrow responded **[Exhibit JHO/15 INQ000409608]** to the request providing information on the status of the devices as following:

From Ms Morrow:

"Obo the former dFM Office -

iPhone & iPad– Both dFM & JMKs phones have been reset, as have Stephen's and Johns. They were returned to us reset.

Dara's iPhone we believe is reset, we need her log in details to confirm this. (I have asked her for these log in details to confirm this but no response yet. Her iPad has been reset.

All laptops are reset but as I understand it this is an IT issue as the accounts would have been closed automatically.

We all hold WhatsApp messages with Ministers/Spads but these are primarily diary related or zoom related messages."

From Ms Griffith:

"Phones, computers and ipads are ready for incoming Ministers and SPADS and therefore were all reset some time ago. This would also have been the case when Ministers or SPADS left during the mandate.

I don't have any WhatsApp's with Ministers or Spads. Whatsapps were used primarily for logistical purposes. Any Ministerial decisions in electronic format ie emails would have been saved in KN for the record.

[Junior officials] are both on leave so it will be next week before I can confirm final position.

Deirdre"

30. The Compliance and Assurance Group met on 11 May 2023.
31. UK Module 2C Legal Team attended an in-person meeting with TEO Covid Inquiry Officials and TEO's Legal representatives on 1 June 2023 **[Exhibit JHO/16 INQ000409635]**. At that meeting, a number of issues were discussed including the disclosure of material by TEO including messages from mobile devices. I confirmed at

the meeting that there were relevant WhatsApp Groups for the period under consideration and that material was being gathered. I did not raise the potential loss of data from devices allocated to former Ministers and SpAds during the course of this meeting as we still knew little about the issue. To not raise it at that meeting was an error on my part and it is something I regret. I have outlined at para 36 below the other issues and the competing priorities that I was working on at the time.

32. Ms Hannon and I informed Dr Denis McMahon, the then TEO Permanent Secretary, of the issue in relation to the potential loss of data and advised that work was underway to determine what had happened. It is my recollection that this conversation took place while Dr McMahon, Ms Hannon, the DSO SPLO and I were travelling back home from the hearing centre at Dorland House, Paddington on 6 July 2023. A note was not taken of that discussion.
33. UK Module 2C Legal Team met virtually with TEO Covid Inquiry Officials and TEO Legal representatives again on 31 July 2023 when informal communications were discussed and following that meeting a letter issued from the UK Covid Inquiry dated 31 July 2023 requesting information on those communications **[Exhibit JHO/17 INQ000470934]**.
34. I subsequently emailed Deirdre Griffith and Carol Morrow on 1 August 2023 highlighting that it was important to gain a full understanding of what had happened and the possibility that the information held on former Ministers' and SpAds' phones and other mobile devices would fall within the definition of potentially relevant information **[Exhibit JHO/18 INQ000470932]**. Ms Morrow responded, asking for a copy of the 31 July 2023 correspondence, which I provided.
35. On 4 August 2023, Michael Kennedy, the then Grade 3 acting Director of Civil Contingencies, Covid Strategy and Recovery and Programme for Government (covering for Ms Pearson who was absent at the time) verbally briefed Ms Brady, advising her that there was a problem in that some mobile devices for former ministers and SpAds had been reset. At this stage, we had also become aware that this was not just an issue for TEO. Mr Kennedy subsequently collated more information from departments and provided Ms Brady with a written update on 11 August 2023 **[Exhibit JHO/19 INQ000409691]**.
36. On 7 August 2023, the DSO SPLO and I met with Deirdre Griffith, Principal Private Secretary to the First Minister, to discuss the circumstances around the resetting of the mobile phone that had been returned to Private Office by Dame Arlene Foster when she

stood down as First Minister in June 2021. The purpose of this meeting was to provide legal advice to Ms Griffith. Privilege is asserted over the record of this meeting.

Delay in Advising the Inquiry of the Potential Data Loss

37. I and my team initially knew little about the potential data loss and we were keen to find out more before escalating the matter. This was an evolving situation against a backdrop of also working on a range of high priority competing workstreams for the Inquiry. My team and I were preparing disclosure for Module 1 public hearings, which at this stage was critical given public hearings were imminent whilst concurrently working to draft the TEO corporate statement for Module 2C, complete disclosure and manage a range of cross-cutting issues. The TEO Covid Inquiry Team is a small team, and we were under significant pressure during summer 2023 with multiple urgent workstreams ongoing. My team was also heavily involved in assisting Dr McMahon in his preparation for providing evidence at the Module 1 public hearing on 6 July 2023. There was no decision made to not update the Inquiry Legal Team. During this period the position of mobile devices allocated to former Ministers and SpAds was a live issue but other timebound issues came in on an almost daily basis that meant this issue was not dealt with when it should have been.

38. At the beginning of December 2023, I asked my team to set up meetings to progress drafting of the TEO Corporate Statement on Informal Communications. Two meetings took place on 4 December 2023 and another on 8 December 2023. From 11 – 13 December 2023, I was in London for the purposes of attending the Module 2C Preliminary Hearing on 12 December 2023 and Module 2 closing statements on 13 December 2023. At the meetings of the week commencing 4 December 2023, I had asked my team to progress drafting of the Informal Communications statement in my absence and to have a draft ready for me to review when I returned from London. I reviewed the draft Informal Communications statement on the afternoon/evening of 14 December 2023. In this there was a timeline that set out the gap between me being notified in early May 2023 of the potential loss of data from mobile devices, and HOCS and the Inquiry being notified in August 2023. Seeing this set out in writing drove home to me how long the delay in notifying HOCS and the Inquiry had been. The following morning, I rang my line manager, Ms Pearson, to advise her of the delay in notifying HOCS and the Inquiry. I also rang Dr McMahon, who had been TEO Permanent Secretary until early September 2023, Mr Chris Stewart, a Grade 3 in TEO and Ms Brady to also advise them of the delay.

Reviewing the minutes on 9 or 10 January 2024

39. In progressing the drafting of the HOCS Informal Communications statement, a consultation with Senior and Junior Counsel was scheduled to take place at 15:00 on 9 January 2024. I had booked that day off to attend the funeral of my aunt and Ms Pearson had agreed to attend the consultation in my place. At around lunchtime I received a call from Eugene O’Loan, DSO to advise me that due to unforeseen circumstances, Ms Pearson could not attend the meeting that afternoon. This meant that there was no senior policy official available to attend the meeting in my absence. I did not expect the meeting to last more than one or two hours, so I made arrangements to attend it at 15:00. The meeting concluded at about 19.30.
40. In attendance at the meeting on 9 January 2024 were Jayne Brady, Neill Jackson (TEO), Tracey McCavigan (DoF), Maria Hannon, Louise Crilly (DSO), Eugene O’Loan (DSO), the DSO SPLO and Junior and Senior Counsel.
41. During the course of this meeting, Junior Counsel to TEO questioned the “metadata” associated with the note of 11 May 2023. It became apparent that Junior Counsel was referring to the data associated with the word document that had been extracted from Content Manager on 14 December 2023 and placed into the shared drive for the purposes of saving the document as an exhibit for the TEO Informal Communications statement and not the metadata of the document contained in Content Manager, the NICS record management system.
42. Although the document had been saved onto the shared drive on 14 December 2023, the MS Word metadata associated with that document showed the document as being created on 15 May 2023 by a junior member of my team. This does not tally with the Content Manager metadata, which shows the meeting note was initially created on 10 May 2023. It is possibly not a matter that I can comment on, but it may be that an explanation for this is that the metadata for the meeting minute uploaded to the shared drive is a snapshot of when the final version was saved into CM.
43. There are, therefore, two sets of metadata associated with the 11 May 2023 meeting note – (i) the metadata for the document stored on Content Manager and (ii) the metadata for the document that saved onto the shared drive on 14 December 2023.
44. At the meeting on 9 January 2024, it is my recollection that the DSO Senior Principal Legal Officer (SPLO) advised that she had checked her handwritten notes of the 11 May

2023 meeting and had no record of the potential data loss from Ministers' phones being discussed. She advised the group that she did not agree with the record of the meeting.

45. Ms Hannon was able to access the metadata for the 11 May 2023 meeting note on Content Manager during the meeting on 9 January 2024 and show the various dated and time stamped revisions of the 11 May 2023 meeting note to the attendees of the 9 January 2024 meeting.
46. I am aware from the Audit Events and Revision History document for 11 May 2023 meeting note that Ms Hannon and the Staff Officer who recorded the note for the 11 May 2023 meeting viewed the document a number of times on 10 January 2024. I did not instruct Ms Hannon or Ms Murphy to review the revisions of the 11 May 2023 meeting note on 9 and 10 January 2024. Documents on Content Manager and their revisions are available to officials who have permission to view them as and when required. Permission or direction to do so is not required. Permission is only required to provide access to a document for an individual who does not have routine access. For example, access to the meeting note of 11 May 2023 and its revisions was granted to Ms McCavigan to enable her to carry out a review of the meeting note, and its revisions as requested by Ms Brady during the meeting on 9 January 2024 [Exhibit JHO/20 INQ000470935]. Ms McCavigan provided a report on 24 January 2024 [Exhibit JHO/21 INQ000409611]. Ms McCavigan had obtained previous revisions of the note of the meeting held in Content Manager and provided a timeline of the revisions. Ms McCavigan noted in her report that earlier revisions show the following wording:

“Noted that WhatsApp messages from Former Ministers phones have been wiped as the phones have been returned to a factory reset position. Maria is discussing this issue so that we can inform the Inquiry that all reasonable steps have been taken in relation to this information.”

My Awareness of the Disagreement Regarding the 11 May 2023 Note

47. I recollect that at the beginning of August 2023, the DSO SPLO verbally advised me that she had not been aware of the potential loss of data until 26 July 2023. This was during part of discussions that arose following receipt of the 31 July 2023 letter from the Inquiry regarding use of informal communications [JHO/17 – INQ000409636]. The next time this issue arose, as far as I am aware, was December 2023.
48. I have been advised that in and around 8 December 2023 my team initiated searches for discovery as evidence for the TEO Informal Communications statement. This included a

search for a record of when the issue regarding the potential data loss was first discussed. To the best of my knowledge, the 11 May 2023 meeting note is the first such record. It was extracted from Content Manager for the purposes of storing a copy in the Shared Drive on 14 December 2023 along with other discovery.

49. On 13 December 2023, a DSO Principal Legal Officer sent an email seeking instructions on a number of issues in relation to the drafting of the TEO Informal Communications statement, including information on when we had been informed that devices had been reset as well as further information regarding the circumstances around devices being reset. Ms Hannon responded on the same day. In that response, she made the following point: *“TEO inquiry team informed at meeting with Private Office Staff May 2023 this was shared with DSO colleagues and later discussed with Permanent Secretary”*. I am exhibiting a redacted version of the response at **Exhibit JHO/22 – INQ000470936** that shows that element above but do not waive the remaining privilege over the rest of the content of the document. The DSO SPLO emailed on 13 and 15 December 2023 requesting further information. I suggested on 15 December 2023 that we should meet to discuss the issues the following week.
50. In an email on 17 December 2023, TEO Junior Counsel flagged up an issue in relation to the potential loss of data from Ministerial and SpAd devices and advising that she had not been made aware of this until “now” even though TEO knew at the start of May. A redacted version of the relevant email exchange is available at **Exhibit JHO/23 INQ000470937**, but I do not waive privilege over the remaining legal advice content of the email.
51. On 19 December 2023, the DSO SPLO emailed Ms Pearson and me advising that she had not been aware of the potential loss of data until 2 August 2023. A redacted version of the relevant email exchange is available at **Exhibit JHO/24 INQ000470938**, but I do not waive privilege over the remaining legal advice content of the note including the attachment.
52. A subsequent discussion on the 11 May 2023 meeting note arose during a meeting on 19 December 2023 attended by TEO officials and the legal team to discuss the issues initially raised on 13 December 2023 (see paragraph 48 above). A redacted version of Junior Counsel’s note of the consultation is available at **Exhibit JHO/25 INQ000470939** but I do not waive privilege over the remaining legal advice content of the note. A redacted version of the note taken by the DSO The DSO Senior Principal Legal Officer is exhibited here

[Exhibit JHO/26 INQ000470940]. I do not waive privilege of the remaining legal advice content of the notes.

53. The note refers to agreement being reached regarding text for inclusion in the draft Informal Communications statement in relation to the 11 May 2023 note. I do not recall this agreement being reached, as my position at that stage was that DSO Senior Principal Legal Officer was informed at the meeting of 11 May 2023.

54. After the meeting on 19 December 2023, Junior Counsel added text in relation to DSO only being advised about Ministerial mobile devices being factory reset on 2 August 2023. This text was removed from the draft statement later that evening by Ms Hannon after discussing with me as I had no recollection of it being agreed. Privilege continues to be asserted over the draft statement.

55. Ms Brady was not present at the meeting on 19 December 2023. That evening, Ms Brady and I had a telephone conversation during which we discussed her preferred centralised approach in relation to the examination by a third party service provider of the mobile devices that had been allocated to former Ministers and SpAds to determine if there was any data on them and for that data to be extracted. Ms Brady asked me to draft a note that would issue from her to all Permanent Secretaries setting out the proposed centralised approach for progressing that exercise **[Exhibit JHO/27 INQ000470941]**. During that discussion I also provided Ms Brady with a brief update on progress on drafting the TEO Informal Communications statement. I did not mention that there were discussions in relation to when DSO was told about the potential loss of data from devices allocated to former Ministers and SpAds. On 19 December 2023, I sent an email at 22.13 advising that I had discussed progress on drafting of the TEO Informal Communications statement with Ms Brady and that *"HOCS has asked that progress on drafting the statement is taken forward as much as possible but that the content is based on facts and is evidenced."* **[Exhibit JHO/28 INQ000470942]**.

56. On 20 December 2023, a DSO Principal Legal Officer emailed TEO and its legal advisers raising the need for further input into the draft Rule 9 statement (**JHO/33** **INQ000472150**) in an attached word document. A redacted version of that the attached word document is exhibited at **Exhibit JHO/29 INQ000470943**. I do not waive privilege of the remaining legal advice content of the document or the email.

57. On 4 January 2024, TEO Junior Counsel commented on the draft Informal Communications statement. The comment states that *"KP instructions of 19/12/23 were*

that TEO told DSO on 2 August 2023 that phones might have been reset.” That comment relates to the dispute over DSO only being told on 2 August 2023. Although I waive privilege of Counsel’s comments, I do not waive privilege over the remainder of the draft statement.

58. To the best of my knowledge, there were no further discussions or exchanges with me about the disagreement after 20 December 2023 until 5 January 2024 when privileged discussions on drafting the TEO Informal Communications statement continued, which were advanced to the stage where a draft could be submitted to Ms Brady that evening, and senior counsel when appointed, for consideration. Privilege continues to be asserted over the draft statement.
59. On 8 January 2024, Junior Counsel emailed me and the DSO Senior Principal Legal Officer advising that she and I had discussed the issue of the meeting on 11 May 2020 as it was not settled and should be removed from the statement for now, or the statement should not be submitted until Senior Counsel had reviewed it. A redacted version of the email is at **Exhibit JHO/30 INQ000470944**. I do not waive privilege over the remaining legal advice content of the email.
60. I first became aware that there was a disagreement about the recollection of the meeting on 11 May 2023 at the beginning of August 2023 when the DSO Senior Principal Legal Officer verbally advised me that she had not been aware of the potential loss of data until 26 July 2023.
61. It was during the meeting on 9 January 2024 that I first became aware of a disagreement about the contents of the note of 11 May 2023 meeting. Although I was aware of the earlier dispute about when DSO was informed about the issue with potential data loss from Ministerial phones, first raised by the DSO Senior Principal Legal Officer in early August 2023, I felt that the discovery of the agreed minute had settled the issue. I was quite surprised that there was a question raised over the accuracy of the agreed 11 May 2023 minute during the meeting on 9 January 2024. It is worth noting that the DSO Senior Principal Legal Officer attended the meeting on 18 May 2023 at which the meeting note of 11 May 2023 was agreed by all attendees. No one at the meeting on 18 May 2023 questioned or raised any queries about the note of the meeting on 11 May 2023.
62. At all times, I have conducted myself in line with the NICS Code of Conduct [**Exhibit JHO/31 – INQ000400030**] and the seven principles of public life [**Exhibit JHO/32 – INQ000470945**]. I am pleased that the NICS records management system has been

correctly used and that I am speaking to events from this time, not solely from memory, but also from the official record of the NICS.

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: 15 April 2024