

MODULE 2C DRAFT WITNESS STATEMENT REGARDING A POTENTIAL DATA LOSS INCIDENT - DEPARTMENT FOR INFRASTRUCTURE

Dr Denis McMahon, Permanent Secretary

1. My name is Dr Denis McMahon and on 4 September 2023 I was appointed as the Permanent Secretary in the Department for Infrastructure (Dfi). Prior to my appointment in Dfi, I was the Permanent Secretary of TEO from 26 July 2021 to 4 September 2023. I was also the Permanent Secretary of the Department of Agriculture, Environment and Rural Affairs (DAERA) between February 2018 and June 2021.
2. During my Civil Service career, I led a series of major organisations and programmes including multi-billion programmes in capital investment for the Department of Health and Department of Education, the reform of benefits and the transition through EU Exit in the Department of Agriculture, Environment and Rural Affairs.
3. As I was not in the Department during the relevant period, I have based this statement on a review of the materials available to me and discussions with Dfi officials. I have also consulted with the former Permanent Secretary, Katrina Godfrey, and Private Office staff. This statement has been signed on the basis that it is true to the best of my knowledge.

Main responsibilities of the Department for Infrastructure

4. The Department for Infrastructure (Dfi) was created in 2016. It has just under 3,000 staff working in locations across Northern Ireland. The Department is headquartered at Clarence Court, Adelaide Street, Belfast.
5. Dfi delivers essential services every day to those living in, working in and visiting Northern Ireland. The Department provides and maintains the connections for safe travel and the transport of people and goods; it supports

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economic growth and sustainable development; and it ensures that the creation of living places is planned properly and supported by the necessary infrastructure.

6. DfI maintains the road and rail networks to enable daily travel and transport of goods. It sponsors the NI Transport Holding Company, an Arm's Length Body (ALB) of the Department, and the parent company of the publicly owned bus and rail companies in the region, collectively known as Translink, which delivers over 80 million passenger journeys each year.
7. DfI also sponsors, and is the sole shareholder in, Northern Ireland Water, which is the statutory water and sewerage undertaker. NI Water provides sewerage management and 560 million litres of drinking water every day to 840,000 households and businesses.
8. DfI co-sponsors Waterways Ireland, together with the Department of Housing, Local Government and Heritage (a Department of the government of the Republic of Ireland). This cross-border body is responsible for the management of navigable waterways throughout the island of Ireland.

Relevant policies and practice regarding the use of personal and private devices

9. In addition to the NICS-wide policies relating to the use of private or personal devices for government-related work or business during the Specified Period identified by the Inquiry team in their Rule 9 request, I can confirm that the following Departmental policies were also in place during this time:

- DfI Guide to Good Record Keeping – published on Intranet in December 2019 – [Exhibit DMC/1 INQ000408474]. This advises that:

“If a phone call, text or social media exchange relates to a substantive discussion or a decision, ensure a record is kept.”

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- Dfi Information Management Guidance for Dfi staff working remotely – issued to all staff in March 2020. [Exhibit DMC/2 INQ000408485]. This advises that:

*“Personal PCs or tablets must **NOT** be used for Departmental work”.*

10. In relation to the policy, *NICS Official Information Held in Non–Corporate Communications Channels*, (Inquiry is aware of this policy), this did not apply to Minister Mallon and her Special Adviser (Tanya McCamphill). It was not published until 16 June 2022, one week before the Inquiry began, and both left office on 5 May 2022. However, Minister Mallon was subject to the following policy in relation to information management - *Guidance for Ministers in the exercise of their official responsibilities* (Inquiry aware of this policy). Her Special Adviser was subject to the following policy in relation to information management - *NICS Guidance On Records Management for Special Advisers* (Inquiry aware of this policy). In addition, the policy on non-corporate communications channels was preceded by the NICS Mobile Device Security Policy, first published in March 2020 (Inquiry aware of this policy). The policy *“provides the reasoning and processes for minimising the risk associated with handling (accessing, storing, processing, transmitting, discussing or recording) Official information on mobile devices”*.
11. The *NICS Official Information Held in Non–Corporate Communications Channels* policy, published 16 June 2022, defines non-corporate channels and outlines records management responsibilities if these channels are used. In defining non-corporate channels, the following communication channels are provided as an illustration of what may be considered to fall within the policy:
 - Personal email accounts e.g., Hotmail, Gmail, ProtonMail or Yahoo Mail;
 - Private messaging accounts e.g., WhatsApp, Signal or Telegram;
 - Direct messages sent on apps such as Twitter or via Facebook messenger; and

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- Personal mobile devices, including text messages on mobile phones and voice recordings.
12. The policy mandates that information relating to departmental business should be recorded on Content Manager (CM) and erasing, destroying or concealing information with the intention of preventing its disclosure is an offence. It also mandates that as a rule, civil servants should not be processing official information using anything other than official devices and official channels. Where this is not possible, the official information must be saved onto corporate systems as quickly as possible, e.g., Outlook or Content Manager, and removed as quickly as possible from non-corporate channels.
13. Regarding the use of personal or private devices for communication via Messaging platforms for government work or government-related business the following policies were in place:
- Dfl Guide to Good Record Keeping – published on Intranet in December 2019 – advising that records of important discussions and decisions in text messages or social media should be kept, [Exhibit DMC/1 INQ000408474].
 - Dfl Collaboration Tools Guidance – issued to all staff in April 2020 – contains guidance on how information in WhatsApp messages must be retained. [Exhibit DMC/3 INQ000408505]. Specifically:

“Whatsapp is not part of the NICS network. Any Departmental information communicated via Whatsapp must be retained within the Department and deleted from Whatsapp after the communications have ended.”
14. In respect of the recording or retention of information and communications stored on private or personal devices, including via the Messaging Platforms the following policies were in place:

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- A Guide to Physical, Document and IT Security – relating to the use of NICS approved devices for remote working (for example, section 8: *Working Away from the Office*) and the storage of Official Sensitive material on approved devices only. [Exhibit DMC/4 INQ000408622]. For example, section 3 (*Working with Security Classifications*) advises the following for documents in the sensitive category:

“Only use approved encrypted devices to store information (see NICS Laptop and Mobile Device Security Policy)”.

- Dfl Records Management Policy – mandating that records (defined as “...recorded information, in any format, created or received and maintained by an organisation in the transaction of business or the conduct of affairs which provide evidence of actions taken and decisions made”) should be stored in the official records management system where possible, or on paper or other approved shared drive storage. [Exhibit DMC/5 INQ000408650].
 - Dfl Collaboration Tools Guidance – issued to all staff in April 2020 – containing guidance on how information in WhatsApp messages must be retained. [Exhibit DMC/3 INQ000408505].
15. The destruction of information on these private or personal devices, as appropriate, is covered under the following policies:
- Several policies mandate that any relevant information on such devices should be moved to the NICS records management system. Specifically: Dfl Record Management Policy [Exhibit DMC/5 INQ000408650], Dfl Guide to Good Record Keeping [Exhibit DMC/1 INQ000408474] and Dfl Collaboration Tools Guidance [Exhibit DMC/3 INQ000408505].
 - The Dfl Disposal of Records Schedule [Exhibit DMC/6 INQ000408651] (October 2016) was developed to ensure compliance with the requirements of the Public Records Act (NI) 1923 and the Disposal of

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Documents Order (S.R. & O. 1925 No 167). That policy framework identifies the arrangements for retention of records created or received by the Department in the execution of its responsibilities that should be stored on the NICS record management system.

16. The back-up of data held on personal and private devices; if they were used for government related work/business; is covered by:
 - Dfi Collaboration Tools Guidance [**Exhibit DMC/3 INQ000408505**] – issued to all staff in April 2020 – contains guidance stating that WhatsApp is not part of the NICS network and that any departmental information communicated via WhatsApp must be retained within the Department and deleted from WhatsApp after communications have ended.

Compliance with policies and practice regarding the use of personal and private devices

17. For each of the above categories, compliance with the relevant statements is assessed as detailed below on the basis of available evidence.

Minister (Nichola Mallon)

18. On the evidence available, it is not possible to determine with accuracy and certainty whether the Minister complied with the relevant policies in relation to the use of personal and private devices. My reasons for coming to this conclusion are as detailed below.
19. The Minister has clearly stated that she conducted business via her Ministerial email account, which would only have been accessible from an official NICS device. I expect that Private Office staff stored these on the content management system. An email was sent to IT Assist to confirm that the Minister only had used one, official, email account and we followed up to see if additional emails can be accessed and recovered from that account – they can not. She

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also communicated via WhatsApp on the NICS mobile and stated that when she handed the devices back “all communications were retained and recorded”. There is no evidence that the Minister also used a personal or private device to do government work. The former Minister has been asked the question directly (**Annex 2**) and, stated she did not.

20. It is also worth noting, however, that according to both the former Minister and officials, their main avenue of communication with the Minister was via the Private Office e-mail account. The former Permanent Secretary, Katrina Godfrey has also added that Minister Mallon was an extremely diligent Minister who was very careful to follow guidance.
21. While the former Minister has clearly stated that she did not use a personal or private device, there is no independent evidence to verify compliance. Since I do not know whether a personal device was used for government work, I cannot comment on whether other provisions in relation to the protection of official information were complied with regard to personal or private devices.

Special Adviser (Tanya McCamphill)

22. On the evidence available, it is not possible to determine with accuracy and certainty whether the Special Adviser complied with the relevant policies on the use of personal and private devices. My reasons for coming to this conclusion are as detailed below.
23. The Special Adviser has stated that during the time she was employed as a Special Adviser, email was used for official business. Her statement does not specify that this was NICS official email, although my expectation is that it was. The Special Adviser also states that WhatsApp and text messaging were used but again does not specify whether this was on an NICS device. She does however confirm that NICS devices were returned in May 2022 when her role was terminated.

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24. The former Permanent Secretary, Katrina Godfrey, has advised that she recalled the Special Adviser, Tanya McCamphill, having some problems at one stage with her work phone. Exhibit [Exhibit DMC/7 INQ000408652] details conversations between the former Permanent Secretary and the Special Adviser when the Special Adviser was using her personal phone. We have corresponded with the Special Adviser as to whether there were work messages on the personal mobile device, whether these were saved to Content Manager and whether all relevant documents created or stored on her mobile device have been disclosed for transmission to the Inquiry. The responses to these questions are provided at **Annex 2**. Again, I do not have independent evidence to verify compliance.

Permanent Secretary (Katrina Godfrey)

25. I have consulted with the former Permanent Secretary, Katrina Godfrey and she has confirmed that she kept two phones and applied a strict separation policy. She advised that she did not conduct work business on her personal mobile and that work colleagues would have been unaware of her personal number. While I believe this position to be true, I have not independently verified it and cannot therefore reach a definitive conclusion.

Senior Civil Servants

26. The remaining Civil Servants have not indicated, nor were they asked, whether or not they had used a personal mobile device during the period specified. We have also written to all SCS members who completed **Annex 1** asking them to confirm (a) whether they used a personal mobile device for government business during the specified period; and (b) whether all government information was transferred to the Content Manager from those phones; or (c) transferred to the Department under disclosure. The responses to these questions are at **Annex 2**.
27. Overall, there is no evidence of systematic monitoring or enforcement of these policies and procedures.

Permissibility of Personal or Private phone use

28. The policy and guidance framework does not provide a clear definition of when it was permissible for Northern Ireland Government Ministers, Senior Civil Servants within the Department, and/or Special Advisers to use official devices for their official roles. Key requirements and references to exceptions are stated in the following documents.
29. Guidance for Ministers in the Exercise of their Official Responsibilities (Inquiry is aware of this) which states that: *“Ministers must use official email systems for all communications relating to official business. Exceptionally, where this is not possible, the Minister must copy any message to their official email account.”*
30. For Special Advisers, the relevant policy is NICS Guidance On Records Management for Special Advisers (Inquiry is aware of this) which states that *“Special Advisers must use official email systems for communications relating to official business. Exceptionally, where this is not possible, the Special Adviser must copy any message to their official email account...”*
31. In both cases, the nature of exceptional circumstances where it is not possible to use official emails is not specified.
32. For Department for Infrastructure officials, the Information Management Guidance [**Exhibit DMC/2 INQ000408485**] for DfI staff working remotely notes that guidance “is designed to ensure staff are aware of their continued obligations in applying good records management, protecting personal data and departmental information.”
33. The same guidance advises that: *“Personal PCs or tablets must NOT be used for Departmental work”*. The guidance does not refer to a specific restriction on the use of personal mobile phones, although the broader principle might be inferred to apply to all personal or private devices.

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34. The *Dfl Collaboration Tools Guidance*, issued to all staff in April 2020 [**Exhibit DMC/3 INQ000408505**], contains guidance on the use of WhatsApp stating that it is: “*Useful for short, secure messaging to users and trusted stakeholders*” and noting that “*WhatsApp provides an encrypted end to end service*”. In a sample scenario, it notes group chats “*can be set up across a team on smart phones (either personal or work) and this is good for including staff in conversations, organising work or just ensuring everyone is okay.*” It also notes that: “*Whatsapp is not part of the NICS network. Any Departmental information communicated via Whatsapp must be retained within the Department and deleted from Whatsapp after the communications have ended.*”
35. There does not appear to be guidance to provide for seeking permission to use personal or private devices. I have seen no evidence of anyone in the Department for Infrastructure seeking, or being granted, permission to use a personal device.
36. Although not directly required for this statement, I have used my personally owned device for work calls, text messages and WhatsApp. I have also forwarded relevant, retained messages from my personal phone from my time in the Department of Agriculture, Environment and Rural Affairs (DAERA) and The Executive Office (TEO) to the relevant teams in those respective Departments, for onward disclosure and transmission to the Inquiry.

Governance Arrangements

37. In line with the policies mentioned in paragraphs 28 to 35 and in conjunction with the overarching NICS Records Management Policy and NI Executive Codes of Conduct, individuals have a responsibility (whether Minister, Special Adviser or NICS staff) to ensure that all relevant official information is extracted and retained on Content Manager (CM), the official Electronic Document and Records Management System (EDRMS) of the NICS. The definition of records held by the department are set out in Section 3 of The Dfl Disposal of Records Schedule [**Exhibit DMC/6 INQ000408651**].

“Section 3: Definition of Records Held by the Department

Accommodation and Services

This category includes information relating to the management of accommodation and the provision of related services. Includes activities associated with the acquisition, operation, allocation and disposal of premises, equipment, supplies and vehicles.

Audit and Accountability

This category includes information relating to the examination and reviewing of operational and financial records to ensure they correctly record events, decisions, processes, transactions and activities undertaken during the course of business as well as ensuring that records meet organisational and legislative requirements.

Financial Management

This category includes information relating to the management of financial resources. Includes activities associated with financial planning, accounting, budget allocations and submissions, allowances, asset management.

Flood Defence & Drainage

This category includes information relating to watercourse and coastal flood management.

Human Resource Management

This category includes information relating to controlling, monitoring and managing employees and includes activities associated with working conditions, salaries, resourcing requirements and employee development and performance.

Information and Communication

This category includes information relating to managing information and communication resources and includes liaisons and interactions with other areas of government and the community, the maintenance of departmental records and publications, the handling of enquiries received from the public.

Inland Waterways

This category includes information relating to the development of the recreational and navigational potential of designated inland waterways.

Network Development

This category includes information relating to the development of the network infrastructure for which the Department is responsible (e.g. roads, rail, air- and seaports).

Network Maintenance

This category includes information relating to the maintenance of the infrastructure for which the Department is responsible including roads, bridges, footways, car parks, street lighting, harbours etc.

Network Management

This category includes information relating to the management of the infrastructure for which the Department is responsible. Includes activities associated with traffic management, traffic calming, blue badge scheme, planning applications etc.

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Statistics & Research Management

This category includes information associated with the collection, organization, and interpretation of data in support of decisions made by the Department.

Strategic Management

This category includes information relating to the planning, managing and monitoring the long-term corporate objectives, performance and structure of the department. It includes activities associated with business planning, quality assurance, business continuity and improvement processes.

Technology and Telecommunications

This category includes information relating to acquiring, developing and managing electronic information systems and communication technology. It includes activities associated with maintaining hardware and software, the implementation of new systems, and managing the technical aspects of communication systems such as telephones and Websites.

The above descriptions are not exhaustive.”

38. Any official records created using collaborative systems identified for retention must also be extracted and retained on Content Manager. Examples of collaborative systems given in the relevant policy, the Dfl Collaboration Tools Guidance, include Microsoft 365 or WhatsApp. The requirement to ensure that documents are held within Content Manager is supported by an NICS-wide email retention policy, where emails are deleted automatically after 90 days. (They are available for a short period and can be retrieved during that time if necessary).
39. Ultimately, however, it is for the Department to ensure that the necessary systems of control are in place to ensure compliance. This is a huge challenge in an information-rich organisation such as Dfl, with 3,000 staff. Like other areas

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of governance, however, the principal mechanism for providing assurance is management oversight, supported by formal assurances **[Exhibit DMC/8 INQ000408653]** provided up through the management hierarchy to the Minister and Accounting Officer. In practice, the need for a consistent flow of information to support Departmental work means that line managers will be aware of missing documents in the course of business, and this often leads to problems being identified and rectified. Such day-to-day mechanisms clearly need to operate within a wider framework of governance and control.

40. Furthermore, each Branch within a Department has an Information Asset Owner (IAO), usually at Grade 7 level. IAOs are senior officials whose business areas use one or more registered NICS information assets. Their role is to ensure that information is protected appropriately, and where the information is shared that the proper confidentiality, integrity and availability safeguards apply. IAOs ensure that the assets' value to the organisation is fully realised, and that they are used appropriately, and within the law, for public good. Their role requires them to understand what information is held, and for what purpose; what is added, what is removed, how information is moved, who has access and why; **[Exhibit DMC/9 INQ000408654]**.
41. As a result they can understand and address risks to the information. IAOs need to manage information assets to comply with statutory obligations such as the General Data Protection Regulation (GDPR) and Data Protection Act (DPA) 2018, Freedom of Information Act (FOI), the Environmental Information Regulations (EIR), in addition to departmental records management and information assurance and security policies.
42. The IAO is accountable to the Senior Information Risk Owner (SIRO), Declan McGeown, who is at Deputy Secretary (Grade 3/Board) level. They are accountable to the Accounting Officer (usually the Permanent Secretary), familiar with information risks and lead the Department's response in managing these. The SIRO is the focus for the management of information risk at Board level. The SIRO must be named and trained on appointment, take the lead in

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the Department's strategic approach for managing the organisation's information risks, including maintaining an information risk register.

43. Additionally, there is one Departmental Information Manager (DIM) at Deputy Principal/Grade 7 level. They lead on information governance and records management. Their roles include:

- providing information governance advice;
- providing advice and guidance on records management matters;
- raising awareness on records management;
- producing records management related policies;
- managing Freedom of Information and Environmental Information Regulations;
- overseeing the administration of the departmental content management system; and
- managing the department's retention and disposal schedule;

44. Information governance is the management of information within the Department, balancing access to, and use of information with the security of that information. The Information Management Team work closely with the Data Protection Officer (DPO) and colleagues across the Department to ensure the Department meets all its responsibilities in information security and protection, records management, compliance with legislation, risk management, consideration of privacy issues, appropriate storage and archiving, and touches on open government and open data strategies. They also work with colleagues from other Departments in tackling NICS-wide record management issues and this work is overseen by the Information Governance Board (IGB) which is chaired by the Permanent Secretary of the Department of Finance.

Governance Actions

45. A series of specific actions underpin the governance arrangements set out above:

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Staff training – A range of training resources are available to staff on managing information and Freedom of Information. Furthermore, all non-industrial staff were required to undertake an e-learning package on Managing Information Effectively in 2021.

Completion of Bi-annual Assurance Statements - Assurance Statements [Exhibit DMC/8 INQ000408653] are populated by the Grade 7 of each business area and are issued to the Information Asset Owner (IAO) of their Division. In each statement the IAO confirms, upon receipt of the information detailed in the statements from their Grade 7 managers they certify whether they:

- are satisfied with the Risk management status of the business area and that that the measures/controls in place to manage the risks for which they are responsible are appropriate and operating effectively;
- have implemented any Public Accounts Committee, Northern Ireland Audit Office and Internal Audit Reports received during the reporting period; and that they are satisfied that they have made specific, sharp, evidence-based, realistic and affordable commitments in response to recommendations;
- have proper financial controls in place;
- are satisfied that appropriate Business Planning, Legislative Compliance (including Equality and Rural Needs), Performance Monitoring and Business Continuity (including Brexit preparedness) arrangements are in place; and:
- are satisfied that appropriate information management controls are in place and in compliance with GDPR requirements, including having taken assurance from Information Asset Owners within the business area in question.

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46. A key aspect of the governance and assurance framework is Internal Audit. Internal Audit within government primarily provides Accounting Officers with an independent and objective evaluation of, and opinion on, the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control. Within DfI, at the start of every year, the Head of Internal Audit (HIA) for the Department meets with Directors to discuss any concerns within their business areas, identify areas that have not been audited recently and report back on any audits that have taken place within the last year to develop an Audit Plan (for example, **[Exhibit DMC/10 INQ000408475]**). They also meet with the Accounting Officer (Permanent Secretary) and prepare a plan which will be scrutinized by the Audit and Risk Assurance Committee (ARAC) which is chaired by a Non-Executive (Independent) Board Member. The Audit Plan will also be informed by the Departmental Risk Register, for example: **[Exhibit DMC/11 INQ000408476]**.
47. Internal Audit reviews require the identification and verification of documents on the system to support decisions that have been made. When these documents are not present on the content management system, it results in one or more audit recommendations to management. This in turn is an important mechanism for raising a flag if documents are not being properly retained. As detailed in the sections below, these actions would not, and did not, flag missing documentation held as informal messages.

Relevant policies and practice regarding the use of government-issued devices

48. The policies and rules (both NICS-wide and applicable within the Department) which applied to:
- (a) The use of government-issued devices for government-related work by Northern Ireland Government Ministers, Senior Civil Servants within the Department, or Special Advisers from January 2020 onwards are:

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Ministers

- The most relevant requirement in *Guidance for Ministers in the Exercise of their Official Responsibilities*, published March 2020 (Inquiry is aware of this) states that: “*Ministers must use official email systems for all communications relating to official business. Exceptionally, where this is not possible, the Minister must copy any message to their official email account.*”

Special Advisers

- For Special Advisers, the most relevant requirement in *NICS Guidance On Records Management for Special Advisers* (Inquiry is aware of this) states that “*Special Advisers must use official email systems for communications relating to official business. Exceptionally, where this is not possible, the Special Adviser must copy any message to their official email account...*” The requirements set out below for officials apply to Special Advisers.

Officials (including Special Advisers)

- Use of Electronic Communications – 6.11 of the NICS HR Handbook. (Inquiry aware of this policy). The key provisions are about: (a) acceptable use, including online behaviours; and (b) not taking actions that “*could pose a substantial threat to the integrity of the NICS or its systems...*”. In this context, the latter is the most relevant.
- NICS Mobile Device Security Policy – IT Assist policy - (Inquiry aware of this policy). This notes that users “*are responsible for the physical security of all mobile devices provided for work purposes, AND for the information stored on them.*”

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- A Guide to Physical, Document and IT Security – relating to the use of NICS approved devices for remote working and the storage of Official Sensitive material which should be on encrypted devices **[Exhibit DMC/4 INQ000408622]**.
 - Dfl Guide to Good Record Keeping – published on Intranet in December 2019 – advising that records of substantive discussions or decisions in text messages or social media should be kept on Content Manager **[Exhibit DMC/1 INQ000408474]**.
 - Dfl Information Management Guidance for Dfl staff working remotely – issued to all staff in March 2020 advising not to use personal computers or tablets for Departmental work **[Exhibit DMC/2 INQ000408485]**.
- (b) The use of government-issued devices for informal methods of communication (including the Messaging Platforms) for government work or the conduct of government related business. Including whether the Messaging Platforms were used not only on mobile devices, but also laptops, tablets, or any other electronic device are:

Ministers

- The most relevant requirement in *Guidance for Ministers in the Exercise of their Official Responsibilities* (Inquiry is aware of this) states that: “*Ministers must use official email systems for all communications relating to official business. Exceptionally, where this is not possible, the Minister must copy any message to their official email account.*” While requirements are set out for officials below, several of them will also apply to the devices used by Ministers.

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Special Advisers

- For Special Advisers, the most relevant requirement in *NICS Guidance On Records Management for Special Advisers* (Inquiry is aware of this) states that “*Special Advisers must use official email systems for communications relating to official business. Exceptionally, where this is not possible, the Special Adviser must copy any message to their official email account...*” The requirements set out below for officials apply to Special Advisers.

Officials (including Special Advisers)

- A Guide to Physical, Document and IT Security – relating to the use of NICS approved devices for remote working and the storage of Official Sensitive material on approved computers or tablets only. **[Exhibit DMC/4 INQ000408622]**.
- Use of Electronic Communications – 6.11 of the NICS HR Handbook. (Inquiry is aware of this policy). The key provisions are about: (a) acceptable use, including online behaviours; and (b) not taking actions that “*could pose a substantial threat to the integrity of the NICS or its systems...*”.
- NICS Mobile Device Security Policy – IT Assist policy. (Inquiry is aware of this policy, focusing on responsibilities for keeping devices and data secure.
- Dfi Collaboration Tools Guidance – issued to all staff in April 2020 – contains guidance on how Departmental information in WhatsApp messages must be retained on Content Manager **[Exhibit DMC/3 INQ000408505]**.

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- (c) The recording or retention of information and communications stored on these government-issued devices, including those exchanged via the Messaging Platforms are:

Ministers

- The most relevant requirement in *Guidance for Ministers in the Exercise of their Official Responsibilities* (Inquiry is aware of this) states that: “*Ministers must use official email systems for all communications relating to official business. Exceptionally, where this is not possible, the Minister must copy any message to their official email account.*” This covers retention because official email systems for Ministers are set up to record Departmental information on the content management system. While requirements are set out for officials below, several of them will also apply to the devices used by Ministers.

Special Advisers

- For Special Advisers, the most relevant requirement in *NICS Guidance On Records Management for Special Advisers* (Inquiry is aware of this) states that “*Special Advisers must use official email systems for communications relating to official business. Exceptionally, where this is not possible, the Special Adviser must copy any message to their official email account...*”. Official email systems, supported by Private Office staff enable Departmental information to be recorded on the content management system. The requirements set out below for officials apply to Special Advisers.

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Officials (including Special Advisers)

- The key provisions are about: (a) acceptable use, including online behaviours; and (b) not taking actions that “*could pose a substantial threat to the integrity of the NICS or its systems...*”.
[Exhibit DMC/4 INQ000408622].
 - Dfl Record Management Policy – published on Intranet on 9 January 2019 – mandating that records (defined as “recorded information, in any format, created or received and maintained by an organisation in the transaction of business or the conduct of affairs which provide evidence of actions taken and decisions made”) should be stored in the official records management system where possible, or on paper or other approved shared drive storage **[Exhibit DMC/5 INQ000408650]**.
 - Dfl Guide to Good Record Keeping – published on Intranet in December 2019 – advising that records of important discussions and decisions in text messages or social media should be kept **[Exhibit DMC/1 INQ000408474]**.
 - Dfl Collaboration Tools Guidance – issued to all staff in April 2020 – contains guidance on how Departmental information in WhatsApp messages must be retained on Content Manager **[Exhibit DMC/3 INQ000408505]**.
- (d) The deletion of such records after any period of time are addressed in the following policies:

Ministers

- The most relevant requirement in *Guidance for Ministers in the Exercise of their Official Responsibilities* (Inquiry is aware of this)

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states that: *“Ministers must use official email systems for all communications relating to official business. Exceptionally, where this is not possible, the Minister must copy any message to their official email account.”* This is relevant because the system of retention is based on holding the Departmental information on the official content management system. While requirements are set out for officials below, several of them will also apply to the devices used by Ministers.

Special Advisers

- For Special Advisers, the most relevant requirement in *NICS Guidance On Records Management for Special Advisers* (Inquiry is aware of this) states that *“Special Advisers must use official email systems for communications relating to official business. Exceptionally, where this is not possible, the Special Adviser must copy any message to their official email account...”* This is relevant because the system of retention is based on holding the Departmental information on the official content management system. The requirements set out below for officials apply to Special Advisers.

Officials (including Special Advisers)

- Further, policies mandate that any relevant information on such devices should be moved to the NICS records management system. These include the Dfl Record Management Policy **[Exhibit DMC/5 INQ000408650]**, Dfl Guide to Good Record Keeping **[Exhibit DMC/1 INQ000408474]**, and Dfl Collaboration Tools Guidance **[Exhibit DMC/3 INQ000408505]**.
- The Dfl Retention and Disposal Schedule **[Exhibit DMC/6 INQ000408651]**(October 2016) was developed to ensure compliance with the requirements of the Public Records Act (NI)

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1923 and the Disposal of Documents Order (S.R. & O. 1925 No 167). That policy framework identifies the arrangements for retention of records created or received by the Department in the execution of its responsibilities that should be stored on the NICS record management system.

- (e) The resetting of these government-issued devices is governed by following policies and customs, practices and procedures:

Ministers

- The most relevant requirement in *Guidance for Ministers in the Exercise of their Official Responsibilities* (Inquiry is aware of this) states that: “*Ministers must use official email systems for all communications relating to official business. Exceptionally, where this is not possible, the Minister must copy any message to their official email account.*” Compliance with this would ensure, as far as possible, that official documents are held securely and appropriately. This is because official Ministerial emails are normally transferred into content management systems by Private Office staff.

Special Advisers

- For Special Advisers, the most relevant requirement in *NICS Guidance On Records Management for Special Advisers* (Inquiry is aware of this) states that “*Special Advisers must use official email systems for communications relating to official business. Exceptionally, where this is not possible, the Special Adviser must copy any message to their official email account...*”. Compliance with this would ensure, as far as possible, that official documents are held securely and appropriately. This is because Special Adviser emails are normally transferred into content management

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systems by Private Office staff. The requirements set out below for officials apply to Special Advisers.

Officials (including Special Advisers)

- The NICS Mobile Device Security Policy – IT Assist (Inquiry is aware of this policy). Section 3 of the policy clearly establishes the responsibilities for each user of any NICS issued mobile devices. This includes:
- *Where a mobile device is no longer required by its original recipient, it must be returned to IT Assist for secure erasure, reloading of software, re-encryption and redeployment. It must not be retained by the Branch as a spare;*

The standard procedure when returning devices is for the device to be handed back to the line manager of the person that operated the device. The line manager, in conjunction with the NICS Leavers Checklist, should ask if all business-related records held on Departmental email accounts, generic email accounts (including calendar and sub folders), business shared drives, iron keys, memory sticks, local drives, external hard drives etc that they are responsible for, have been recorded on Content Manager. This approach is in line with NICS Records Management Policy, Dfl Guide to Good Record Keeping and Dfl Collaboration Tools Guidance. I do not have evidence, however, as to the extent to which this approach is adopted – see also below.

The NICS Leavers Checklist [**Exhibit DMC/12 INQ000408477**], as currently formulated, does not specifically state that the person handing back the device should be asked if there are business related records on their mobile device. Furthermore, it is only possible for the line manager to critically inspect the device to ensure that relevant material

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has been transferred to Content Manager if the pin number to the device is disclosed.

In my experience, when phones are handed back the leaving employee is not consistently asked to disclose the pin number. The general advice on IT security is not to provide anyone with access to your work email account and, without guidance to the contrary, many managers would not feel it appropriate to access somebody's account unless as part of a structured investigation or a process involving witnesses. For these reasons, I believe that, unless there are particular concerns (e.g., suspected fraud), managers would assume that the official record has been updated appropriately and would not ask for a pin number.

In writing this, I recognise that, in light of the Inquiry, these processes will need to be looked at again. Specifically, to ensure that if compliance with record keeping is to be checked when a person leaves the NICS, these checks are completed via a properly audited, independent process which appropriately protects everyone concerned. I also recognise that my experience cannot be assumed to represent a comprehensive picture of what happens across the service.

- (f) There are several methods utilised by the Department to ensure general compliance with policies and procedures. These are set out in detail in paragraphs 37 to 44.

Key requirements in the policy framework

- 49. Key requirements set out in the policy framework, for the purposes of this statement are, in summary:
 - (i) use of official systems for Departmental work;
 - (ii) respecting the security of devices and information;
 - (iii) transfer of Departmental information from social media to official content management systems;

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- (iv) not using personal computers or tablets for Departmental work;
- (v) use of messaging platforms on mobile devices, laptops, tablets or any other electronic device;
- (vi) storage of data on official systems;
- (vii) retaining and deleting documents in line with the official guidance;
- (viii) resetting of devices when an official is leaving after confirming official information has been properly retained in official systems.

Was there monitoring and enforcement?

50. The question on monitoring and enforcement in the use of personal mobile devices is covered under two categories below, namely: *Minister and Special Adviser*, and *Senior Civil Servants*. As a general point, it is worth re-stating that there are governance mechanisms in place to provide assurance on information management generally as set out in paragraphs 37 to 47. There is also the potential to follow-up on compliance at an individual level. The NICS Human Resources Policy 6.11 on the use of electronic communications (the Inquiry is aware of this) states:

“All electronic communications on NICS ICT equipment are logged. You should note that, as is permitted by legislation, NICS Departments may monitor and review electronic communications activity, analyse usage patterns and publish resultant traffic monitoring data when this is deemed necessary for compliance or other reasons. This includes the prevention or detection of illegal activities.”

“Departments may also monitor the content of emails, files, instant/ text messages or other electronic communications as and when this is considered necessary in order to ensure both the integrity of NICS systems and user compliance with all of the relevant usage policies and guidance. Any attempt to disrupt Departmental monitoring could amount to misconduct or gross misconduct and may result in disciplinary action.”

51. These mechanisms are used when problems are suspected and systematically in those parts of the NICS which work in areas with a very high risk of fraud (e.g.

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payments in the benefits system). I do not know how frequently they are used in the normal line of business and have not seen evidence of them being used in the Department for Infrastructure in the specified period.

52. In conclusion, therefore, I have not seen evidence of comprehensive monitoring and enforcement of compliance with the relevant policies at an individual level.

Minister and Special Adviser

53. I have not seen evidence of comprehensive monitoring and enforcement of Ministerial and Special Adviser compliance. This is caveated by the following:

54. Private Office staff monitor and manage the Minister's emails as a matter of course. Ministerial requests and decisions were consistently communicated through the Private Office staff by email. In some cases Ministers communicate directly with officials outside the Private Office - for example the Permanent Secretary. When this happens, it is my experience and expectation that Private Office staff are either copied into this at the time or are briefed later by those officials. Ministerial requests would also have been incorporated into formal submissions to the Minister, confirming with the Minister what they had requested.

55. These mechanisms would have ensured that key decisions and information were formally recorded on the content management system. They would also have provided for monitoring of at least some of the Special Adviser email communications. The former Permanent Secretary, Katrina Godfrey, has confirmed she does not recall the Special Adviser ever using a personal e-mail account. Where these communications were copied to Private Office staff, it is my expectation that they would have been recorded on the information management system.

56. There were no specific, separate procedures for officials to monitor Ministerial or Special Adviser's devices or to enforce Ministerial compliance with information rules in the course of everyday business. The wider governance and

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assurance processes as set out in paragraphs 37 to 47 do, however, apply to the Private Office and these are subject to audit. Typically, also, if Private Office staff have specific concerns about information management it is my expectation that these would be raised with the Permanent Secretary. This would not, however, flag up problems with mobile device messages.

Senior Civil Servants

57. While there are wider governance processes to provide assurance on information management, there do not appear to be specific procedures for regularly monitoring and enforcing the compliance of individual officials with the requirements of the policies in their use of electronic devices in the normal course of business. If a specific concern is identified with an official, however, this may be subject to an investigation involving, as necessary, an examination of relevant electronic devices.

Compliance with policies and procedures

58. Taking each group of individuals in turn, and based on the evidence available:

Minister (Nichola Mallon)

59. On the evidence available, it is not possible to determine with accuracy and certainty whether the Minister complied with the relevant policies in relation to the use of government-issued devices. Specifically based on the evidence provided:

- (i) official systems were used for Departmental work;
- (ii) the security of devices and information appears to have been respected – with no reports of data breaches or loss;
- (iii) transfer of Departmental information from social media to official content management systems was facilitated by handing in devices before they were re-set;

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- (iv) no evidence of using personally owned computers or tablets for Departmental work. Officials contacted the former Minister and asked her if she used any personal devices for government related work during her time as Minister. She has responded by stating that she did not use any personal devices for government related work during her time as Minister. Please see **Annex 2**.
 - (v) data on messaging platforms on mobile devices, laptops, tablets or any other electronic device is likely to have been handed to officials intact, as stated by the Minister, although this has not yet been independently confirmed;
 - (vi) there was storage of Departmental data on official systems, other than those messages which were lost when devices were reset – this was not due to the actions of the Minister;
 - (vii) official documents retained and deleted in line with the official guidance, except for those lost when devices were reset – again this was not due to the actions of the Minister;
 - (viii) however, confirmation was not sought from the Minister, before the resetting of devices, that all of the Departmental documents on the devices were stored in official systems – again this was not due to the actions of the Minister.
60. While these conclusions are supported by the evidence available, they cannot be confirmed using this evidence. My reasons for coming to this position are as follows:
61. There is evidence to support the Minister’s statement that she “conducted official covid response business via [her] Ministerial email account” in the form of emails which would have been held in Content Manager. The former Permanent Secretary, Katrina Godfrey, has confirmed that it is “*absolutely her experience from working with Minister Mallon from January 2020 to March 2022*”. My expectation and experience is that officials consistently entered Ministerial emails on to Content Manager in line with the relevant policies. For example, the Department for Infrastructure *A Guide to good record keeping* [Exhibit DMC/1 INQ000408474] states:

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“Store business related information directly in the appropriate area of the records management system [Content Manager]...”

...and...

“Save key emails (e.g. submissions, key decisions or steers, minutes and final products) directly in the appropriate area of the records management system.”

62. Had any messages been deleted, however, officials would not have sight of these to assess whether they should have been retained as Departmental documents in line with the policy framework. Accordingly, I cannot independently verify that all relevant information was recorded on official content management systems.
63. With regard to the use of mobile devices, the Minister has stated that *“...when I handed [the devices] back all communications were retained and recorded”*. I do not doubt the truth of this statement, but I am unable to independently verify the position as the results of a technical examination of the relevant devices did not provide additional information – see also paragraph 118.
64. My conclusion is that the Minister used official communications channels for government business and ensured that messages were kept. With regard to this, the Minister also stated that she *“did not use ‘auto-delete’ and did not routinely manually delete informal communications”*. Again, I am unable to independently verify the position.
65. On the use of WhatsApp, the DfI collaboration tools guidance, states:

“Whatsapp is not part of the NICS network. Any Departmental information communicated via Whatsapp must be retained within the Department and deleted from Whatsapp after the communications have ended.”

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66. There is a question here about when the communications ended in relation to the Covid-19 related texts. The answer to that question depends on the definition of how communications end.
67. For example, since the Inquiry is looking into the wider work pressures and how they impact on the Covid response, it could be the case that the communications did not actually end because they were all part of a wider set of discussions, particularly in the period of immediate response to Covid-19. Defining the question on this basis, it could be established that the Minister fulfilled her responsibilities on confirmation that, as she has stated, when her phone was handed back, *“all communications were retained and recorded.”*
68. On the other hand, it could be the case that each individual exchange ends when a specific issue has been addressed. With regard to this, the collaboration tools guidance does not clearly state – but this and other guidance would imply – that Departmental information communicated via Whatsapp should not be retained over an extended period of time in WhatsApp but should be quickly moved to official content management systems. If this is the intent, the policy should be clarified, perhaps including maximum timescales for the transfer of information and deletion from WhatsApp following its creation or deletion.
69. We also need to ensure that everyone is fully aware of the requirements. From my own experience, I do not believe that this was the case. Preparing this statement, and in particular answering this question, has highlighted the need to simplify and consolidate all of the different policies and requirements on information into one place.

Special Adviser (Tanya McCamphill)

70. On the evidence available, it is not possible to determine with accuracy and certainty whether the Special Adviser complied with the relevant policies in relation to the use of government-issued devices. Specifically on the basis of the statements provided:

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- (i) official systems were used for Departmental work;
- (ii) the security of devices and information was respected – with no reports of data breaches or loss;
- (iii) transfer of Departmental information from social media to official content management systems was facilitated by handing in devices before they were re-set;
- (iv) some evidence implying use of personally owned computers or tablets for Departmental work due to a problem with her government-issued device. Officials contacted the former Special Adviser and asked her if she used any personal devices for government related work during her time as Special Adviser. She stated that there are no government related work messages on her current personal or private mobile devices. During the time that her NICS device had issues, she stated that “Any messages would have been retained through the communication to the NICS device owned by the Civil Servant(s) during the time my NICS device was experiencing issues”. Please see **Annex 2**.
- (v) data on messaging platforms on mobile devices, laptops, tablets or any other electronic device is likely to have been handed over to officials as stated, although this has not yet been confirmed;
- (vi) there was storage of data on official systems, other than potentially messages which were lost when devices were reset – this was not due to the actions of the Special Adviser;
- (vii) official documents retained and deleted in line with the official guidance, except for those lost when devices were reset – again not due to the actions of the Special Adviser;
- (viii) however, confirmation was not sought from the Special Adviser, before the resetting of devices, that all of the Departmental documents on the devices had been stored in official systems. Again this was not due to the actions of the Special Adviser.

71. While these conclusions are supported by the evidence available, they cannot be confirmed using this evidence. My reasons for coming to this position are as follows:

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72. There is evidence to support the Special Adviser’s statement that “*email was used for official business*”. The former Permanent Secretary, Katrina Godfrey has advised that in her experience the Special Adviser only used her official e-mail account. My expectation is that officials consistently entered Special Adviser emails onto Content Manager where they were copied into these; this should have been all or most emails and in line with the relevant policies. Had any emails been deleted, however, officials would not have sight of these to assess whether they should have been retained as Departmental documents. Accordingly, I cannot independently verify that all relevant information was recorded on Content Manager.
73. With regard to the use of mobile devices, the Special Adviser has stated that “*...information required was recorded with the Department*”. I do not doubt the truth of this statement, but I am unable to independently verify it; we are awaiting the results of a centralised approach for the technical examination of the devices.
74. My conclusion is that the Special Adviser used official communications channels for Departmental business, although potentially not exclusively. The Special Adviser also stated that she “did not use ‘auto-delete’ or routinely delete informal communications on government business”. Again, I am unable to independently verify the position.
75. The points made above in relation to the policy on handling of WhatsApp messages (under the section on the Minister) also apply here.

Permanent Secretary (Katrina Godfrey)

76. On the evidence available, it is not possible to determine with accuracy and certainty whether the Permanent Secretary complied with the relevant policies in relation to the use of government-issued devices. There is, however, evidence in support of that conclusion. Specifically on the basis of the statements provided:
- (i) official systems were used for Departmental work;

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- (ii) the security of devices and information was respected;
- (iii) transfer of Departmental information from social media to official content management systems was facilitated by retaining messages;
- (iv) no evidence of using personally owned computers or tablets for Departmental work;
- (v) mobile devices taken to subsequent roles and messages retained;
- (vi) there was storage of data on official systems, other than messages which were retained;
- (vii) official documents retained in line with the official guidance;
- (viii) official has not left the Civil Service so no evidence of messages being lost on resetting phone.

77. My reasons for coming to this position are as follows:

78. The evidence available clearly supports the probability of compliance but does not permit its confirmation. A question also remains as to the specific requirements of the policy on WhatsApp messages as raised above for the Minister, which is also relevant to point (vii) above. For these reasons, it is not possible to answer the question definitively. My reasons are set out below.

79. The Permanent Secretary has advised that: *“It would in my experience be normal practice to ensure that any conversation or decision of any significance that was discussed via phone calls or via WhatsApp or iMessage was followed up in writing by email and where appropriate also in a formal memo to ensure that it was captured on the official record.”* This accords with my own experience and I expect that the Permanent Secretary used that approach.

80. Furthermore, the Permanent Secretary retained and released a large number of messages which had been retained. These provide an ongoing commentary on the issues arising and the formulation of proposals most of which I believe was subsequently incorporated into official submissions and documents. While I cannot independently verify that all relevant emails or messages have been retained, the messages that have been handed over do appear to me to be

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comprehensive. That in turn would imply compliance with the need to ensure that official information is recorded in line with information management policies.

81. The Permanent Secretary has noted that *“because of the Inquiry, I was careful to keep anything that might be of relevance. In a more normal circumstance (and in the case of messages that were not Covid related) I would not have seen the need to keep messages that were incidental or just conversational or indeed anything that was significant but that had been followed up by email or in a more formal record”*.
82. While this is evidence of compliance, since I do not have access to any messages which may have been deleted, I cannot independently verify that the materials supplied include all relevant messages that were created or transmitted.
83. The points made above in relation to the policy of handling of WhatsApp messages also apply here.

Senior Civil Servants who retained and supplied messages

84. Messages were retained and forwarded by Julie Thompson and Jackie Robinson. In these two cases, on balance, it is probable that there has been compliance with the relevant policies. Similar considerations apply in this case, as in the case of the Permanent Secretary. Specifically on the basis of the statements provided:
 - (i) official systems were used for Departmental work;
 - (ii) the security of devices and information was respected;
 - (iii) transfer of Departmental information from social media to official content management systems was facilitated by retaining messages;
 - (iv) no evidence of using personally owned computers or tablets for Departmental work. Officials have asked DfI SCS if they used personal devices for government related work and they have all responded by saying that they did not use their personal devices for government related work. Please see **Annex 2**;

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- (v) mobile devices taken to subsequent roles and messages retained;
- (vi) there was storage of data on official systems, other than messages which were retained;
- (vii) official documents retained in line with the official guidance;
- (viii) officials have not left the Civil Service so no evidence of messages being lost on resetting phone.

85. On the evidence available, it is not possible to determine with accuracy and certainty whether the officials complied with all the relevant policies in relation to the use of government-issued devices. The evidence available supports the probability of compliance in both cases but I cannot independently confirm this position. A question also remains as to the specific requirements of the policy on WhatsApp messages as raised above for the Minister.

Senior Civil Servants who reported that they did not have messages to communicate about the pandemic

86. The remaining Senior Civil Servants advised that they did not use the messaging platforms to communicate about the management of the pandemic. In one case (Tom Reid) stated that there was limited use of messaging, but these were not retained. While I do not doubt the accuracy of the statements, I do not have enough evidence to be able to make an independent assessment as to whether the policies were complied with or not.

Policies, procedures, or rules governing the return of government-issued devices

87. The policy framework is set out above under paragraph 48 (e) “*The resetting of these government-issued devices is governed by following policies and customs, practices and procedures*”. A key element of this framework for employees, including the Special Adviser, is the need to check that official information has been transferred onto the content management system. The evidence does not provide for detailed procedures for doing this when Ministers or Special Advisers hand mobile devices back. Likewise, I am not aware of

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special procedures in other Departments. This is potentially a significant gap in governance arrangements.

88. It is worth noting that the main policy governing the return of government issued devices is the NICS Mobile Device Security Policy (Inquiry is aware of this policy). Section 3 of the policy clearly establishes the responsibilities for each user of any NICS issued mobile devices. These include:

- *“Users are responsible for the physical security of all mobile devices provided for work purposes, AND for the information stored on them;*
- *The mobile device remains the property of the NICS and must only be used in accordance with official guidelines;*
- *Where a mobile device is no longer required by its original recipient, it must be returned to IT Assist for secure erasure, reloading of software, re-encryption and redeployment. It must not be retained by the Branch as a spare; and*

In exceptional circumstances there may be a requirement for a mobile device to be reallocated to another member of staff within a Branch.....It is also their responsibility to ensure that this is recorded in an auditable, business process and that IT Assist are informed.”

89. I believe that all devices are reset by IT Assist when they are returned by officials.

90. The Minister’s Private Office maintained an asset register that recorded details of laptops and mobile devices used by the Minister and Special Adviser. Once the devices were returned to IT Assist, this should normally have been recorded on the register. While this appears to be the case on the basis of **[Exhibit DMC/13 INQ000408478]** the date of when the devices were returned was not recorded.

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91. Following the Northern Ireland Assembly elections on 5 May 2022 Nichola Mallon lost her seat. Nichola Mallon was the only incumbent Minister not to be elected following this election. This was an exceptional circumstance with one Minister losing their seat. When there is a new mandate following an election, there are a considerable number of changes made to Ministerial positions, but there will be time to prepare for this. Occasionally, a Minister will change within a term, but usually the replacement Minister will come from the same political party. In this case, unusually, the former Minister's party chose not to select a replacement Minister on 9 May 2022; therefore the Ministerial selection under the D'Hondt system passed to Sinn Féin. They did not make their Ministerial selection until 16 May 2022.

92. As in all other cases, when a new Minister arrives it is crucial that they have the necessary equipment ready and waiting for them so that they can operate as soon as they take up the Ministerial role. This creates particular pressures for Private Office staff who need to ensure that the Minister is getting the support she or he needs and who also wish to create a good impression. In this case the handover was unusual, in terms of process, because of the nature of the hand over. When John O'Dowd was appointed Minister, and Dara O'Hagan was appointed his Special Adviser, they requested mobile devices (phones and iPad), in order to help them discharge the functions of their respective roles. Due to these exceptional circumstances and with such a short turnaround, officials needed to secure electronic devices for the incoming Minister quickly.

93. The phones and iPads that were used by the former Minister Nichola Mallon and her Special Advisers Tanya McCamphill were returned to IT Assist in accordance with the NICS Mobile Device Security Policy. The details of what happened with the former Minister and Special Adviser's devices before they were handed back to IT Assist and up to when they were returned to the Department following the NICS Internal Audit review are listed below. This is based upon the information that officials have received from NICS Internal Audit and the Department's Digital Service Branch:

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Nichola Mallon's iPad – Handed back by the Minister on 9 May 2022 to her former Private Secretary at the Minister's home. The iPad was then transported to and stored in Clarence Court, on the 7th Floor in a safe, until it was returned to IT Assist for the purpose of being reset so that it could be utilised by John O'Dowd, as per the service request exhibited above.

Nichola Mallon's phone (Samsung) - Handed back by the Minister on 9 May 2022 to her former Private Secretary at the Minister's home. The phone was then transported to and stored in Clarence Court, on the 7th Floor in a safe, until it was returned to IT Assist. The phone was subsequently reset and allocated to an official so that it could be re-used. The Department's Digital Service Branch has confirmed this via e-mail - **[Exhibit DMC/14 INQ000408479]**.

The phone was then retrieved by the NICS Internal Audit Team from Digital Services Branch as part of their investigations and returned to the Department on 12 December 2023.

Special Adviser Tanya McCamphill's iPad - Handed back by the Special Adviser on 9 May 2022 to Private Office in Parliament buildings. The iPad was then transported to and stored in Clarence Court, on the 7th Floor in a safe, until it was returned to IT Assist for the purpose of being reset so that it could be utilised by Dara O'Hagan, as per the service request exhibited above.

Special Adviser Tanya McCamphill's iPhone - Handed back by the Special Adviser on 9 May 2022 to Private Office in Parliament buildings. The iPad was then transported to and stored in Clarence Court, on the 7th Floor in a safe, until it was returned to IT Assist.

The Department is unable to provide specific dates when the devices were returned to IT Assist. IT Assist are also unable to provide specific dates of when the devices were handed back to them. I can confirm that the phone contracts were terminated on 10 May 2022 and it is our understanding that the phones were returned to IT Assist on 23 May 2022 when the laptops were returned - **[Exhibit DMC/14 INQ000408479]**.

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94. The iPad's were reset shortly after their return, as the new Minister for Infrastructure, John O'Dowd and his Special Adviser, Dara O'Hagan, requested iPads. Normal practice would be that an incoming Minister and Special Adviser would be allocated available devices as per the specification that they requested; e.g. Apple iPhone or Samsung. Officials have informed me that there were new phones available for allocation to the incoming Minister and Special Adviser, but there were no new iPads available for allocation by IT Assist. Therefore, the most expedient way to obtain an iPad was for the previous iPads to be reconfigured in line with the NICS Mobile Device Security Policy.
95. This request had to be approved by a Grade 7. I attach the service request e-mail that was issued to the DfI Service Request Team who normally issue this request, along with Grade 7 approval, to IT Assist – **[Exhibit DMC/15 INQ000408480]**. This process would have involved the devices being brought to IT Assist for the devices to be reset. Private Office would have been notified when this process was completed, so that the devices could be picked up and provided to the Minister and Special Adviser.

Contact with individuals regarding the disclosure of communications, preservation of relevant evidence, and prevention of any standard deletion, or factory resetting of devices.

96. A series of correspondence to staff reinforced the disclosure of communications, preservation of relevant evidence, and prevention of any standard deletion, or factory resetting of devices. It is also my expectation that this will have been discussed in the Department. The evidence does not indicate additional steps, over and above this guidance, to preserve evidence or to prevent any standard deletion or factory resetting of devices. This reflects a focus on Content Manager as the primary source of information held on the public record.
97. On 2 July 2021, the head of DfI's Information Management Unit issued a memo **[Exhibit DMC/16 INQ000408481]** to Information Asset Owners, Grade 3

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Deputy Secretaries and Directors within DfI, confirming that the Prime Minister had announced the Inquiry into the UK Government's response into the pandemic. This memo details, the likely areas of where the Department's response may be of interest, the best place for storing records (CM), the identification of records likely to be of interest to the Inquiry and that if records can't be stored on CM that provision be made to make them easily identifiable as being relevant to Covid. This does not refer to social media or mobile devices explicitly but states that:

*"In practical terms, the best place for storing any records is the Content Manager (CM) system. This will ensure that the records are retained, and will give business areas assurance that there will be no unintentional deletions. **Emails in particular must be stored in Content Manager, to eliminate the chance of being deleted automatically.**"*

...and:

"Where records, information or data are unable to be stored in CM, business areas must ensure they are stored in a secure, approved Shared Drive or other application, and that they can be easily identified as being relevant to Covid. You must of course satisfy yourself that there appropriate (and documented) reasons why CM cannot be used."

98. The Department received correspondence from the Head of the Civil Service (HOCs), Jayne Brady, on 16 September 2021 [**Exhibit DMC/17 INQ000408482**] which provided specific guidance around data held on mobile devices. Paragraph 3 of the cover letter states... *'I am writing to ask that you take steps to assure yourself that your Department and ALBs will be ready to meet its obligations to provide relevant records, information and data to an inquiry as it is requested. This includes ensuring that no material of potential relevance is destroyed'*.
99. On 1 October 2021, Declan McGeown – Deputy Secretary, wrote to directors advising all business areas to begin the identification of information likely to be

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required at a Covid-19 Inquiry. The memo also included practical guidance on how this could be done. Directors then disseminated this memo within their business areas in order to prepare for the identification of relevant records, information and data that might be requested by the Inquiry. **[Exhibit DMC/18 INQ000408483] & [Exhibit DMC/16 INQ000408481].**

100. On 20 October 2021, Katrina Godfrey – previous Permanent Secretary Dfl - responded to Jayne Brady's letter of 16 September 2021 stating that, within Dfl and the Driver and Vehicle Agency, steps have been taken to ensure all potentially relevant material is preserved and not destroyed **[Exhibit DMC/19 INQ000408484]**. On 25 April 2022, Sian Kerr and Linda MacHugh – G5 Directors, wrote to all Directors highlighting Declan McGeown's correspondence of 1 October 2021 and advising that the COVID Inquiry's draft 'Terms of Reference' had now been published. In the memo business areas were asked to undertake preparatory work to identify records that are likely to be sought by the Inquiry. Directors then disseminated this memo within their business areas in order to prepare for the identification of relevant records, information and data that might be requested by the Inquiry **[Exhibit DMC/20 INQ000408486]**.
101. On 10 May 2022, Dfl's Covid 19 Inquiry Team issued an e-mail to all Directors seeking assurance that all relevant records in Content Manager are labelled appropriately. Guidance was once again attached to the e-mail explaining the process for identifying and labelling relevant material. Directors then disseminated this memo within their business areas in order to prepare for the identification of relevant records, information and data that might be requested by the Inquiry **[Exhibit DMC/21 INQ000408487] [Exhibit DMC/21a INQ000408491]**.
102. On 17 August 2022, an internal communication issued to Dfl staff via the Dfl intranet site highlighted that the COVID Inquiry was now underway. It also detailed that the Inquiry had published a *Protocol for the Transfer and Handling of Documents*. Business areas were advised they would find this helpful in understanding what documents (that is, "anything in which information of any description is recorded, whether on paper or electronic form") they may be

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asked to provide and how they will be expected to go about making them available; [Exhibit DMC/22 INQ000408493] and [Exhibit DMC/23 INQ000408494]. It is also worth noting that the online update provided the following advice:

“In relation to Retention Periods, it is vital that information is not destroyed pre-emptively and is assessed according to the legislative / business need of the Inquiry. Records should be retained as long as the Inquiry is ongoing, including beyond their due destruction date on the Department’s Disposal Schedule. The schedule will be amended to reflect the different retention period for Inquiry records.”

103. It is notable that in the above communications the focus was on information held in the content management system rather than on social media or mobile devices. On the evidence available, therefore, it is my view that no additional actions were taken to preserve data by the Department on mobile devices other than the guidance referred to above and in the exhibits above.

Other Messaging Systems

104. It is important to note that there are a number of messaging systems which have been adopted to support remote or multi-site working, and these became particularly important during Covid-19. They include MS Teams, Webex, Zoom and Jabber. These platforms are provided by IT Assist and messages in them are automatically deleted after exiting the programme or overnight. I am not aware of any of these systems being used to transmit official data in text form. MS Teams, Webex and Zoom meetings are typically minuted in the normal way, or are followed up in writing. Jabber is described in the Collaboration Tools document [Exhibit DMC/3 INQ000408505] as follows:

“Jabber is useful for quick chats with staff to ask questions, update on work being carried out or phone calls with staff members and this reduces mailboxes getting filled up with emails to and fro.”

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105. It is important to note that these chat functions are not designed to be saved, and therefore have no permanence. The use of such programmes is dictated by NICS-wide policies and as such is the responsibility of IT Assist and Department of Finance.

Instructions to delete messages or emails

106. There is no evidence of any instruction or other form of communication, nor am I aware of one, given to Ministers, Civil Servants or Special Advisers to delete messages or emails from their government provided mobile devices. Good record management does, however, allow for deleting material which is not relevant to the official record. For example, see the above reference to Jabber.

The resetting of devices

107. The Head of the Civil Service issued correspondence on 24 August 2023 *Re: Erasure of evidence potentially relevant to the Covid-19 Inquiry on mobile devices used by former Ministers and Special Advisers - [Exhibit DMC/24 INQ000408495]*. Following subsequent receipt of the Inquiry's e-mail to DSO and TEO (dated 15 August 2023) on 29 August 2023 [Exhibit DMC/25 INQ000408496], the Department began to work on identifying the location of the devices and whether the devices had been reset. As the issue had come to light in The Executive Office at an earlier stage (my recollection of hearing this was when I was in TEO in June 2023). To assist the Inquiry in understanding the series of events before, during and after the resetting of devices, a timeline is provided below:

Timeline for the Resetting of Devices	
5 May 2022	Minister Mallon and Special Adviser Tanya McCamphill left office
9 May 2022	Minister Mallon hands back iPad and phone to former Private Secretary at her home
9 May 2022	Tanya McCamphill hands back iPad and iPhone to Private Office in Parliament Buildings

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Timeline for the Resetting of Devices	
10 May 2022	Phone contracts cancelled – IT Assist email – 26/10/23
16 May 2022	John O'Dowd appointed as Minister and Dara O'Hagan as Special Adviser
16 May 2022	Service request for iPads for Minister O'Dowd and Special Adviser Dara O'Hagan – previous Minister and Special Adviser's iPads returned to IT Assist and reconfigured for the current Minister and Special Adviser – service request email dated 16/5/22 (iPads had been retained in Private Office pending return to IT Assist)
18 May 2022	Service request 164693 – laptops to be returned – IT Assist email 26/10/23
23 May 2022	IT Assist confirms receipt of laptops – it is presumed phones returned at same time - IT Assist email 26/10/23
10 August 2023	Hugh Widdis, DSO, issued a memo to Perm Secs titled "DSO Refresher Guidance on Retention and Disclosure to Covid 19 Inquiry" which included the said guidance. [Exhibit DMC/26a INQ000408497], [Exhibit DMC/26b INQ000408498], [Exhibit DMC/26c INQ000408499].
15 August 2023	The document and guidance were then issued to DfI's Information Management Unit (IMU) who distributed it to all Deputy Secretaries and Directors within DfI. IMU asked that Dep Secs and Directors disseminate amongst their teams [Exhibit DMC/27 INQ000408500].
15 August 2023	The Inquiry wrote to TEO requesting that they provide information on the resetting of phones and confirmed that a formal rule 9 would follow [Exhibit DMC/25 INQ000408496].
24 August 2023	The Head of the Civil Service issued correspondence to all Perm Secs <i>Re: Erasure of evidence potentially relevant to the Covid-19 Inquiry on mobile devices used by former Ministers and Special Advisers</i> - [Exhibit DMC/24 INQ000408495]. Unclear if this was actually disseminated from the perm secs office to SCS / Private Office.

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Timeline for the Resetting of Devices	
29 August 2023	Dfl's solicitor Ross Thompson, made the Dfl's covid team aware that it is likely that Dfl will receive a Rule 9 from the Covid Inquiry and that work should start on locating the whereabouts of the devices [Exhibit DMC/25 INQ000408496] .
8 September 2023	Service request issued to It Assist/Digital Services Branch (DSB) asking for the following details: "Were the handsets delivered to IT Assist and if so, when? Can you disclose if a factory re-set was performed on the devices, before you got them back? The exact time of any factory re-set? What happened to the devices when they were handed back to IT assist i.e. re-purposed and sent back out to another user? Any service request/approval made in relation to these two phones (whether made to IT Assist or the Mobile Devices Team) from January 2020 onwards. This needs to reflect any names in Private Office at that time." [Exhibit DMC/14 INQ000408479] .
11 September 2023	Dfl Covid Team emailed IT Assist/DSB asking for a reply to the service request of 8 September. [Exhibit DMC/28 INQ000408503] .
12 September 2023	Response received from IT Assist / DSB in relation to the service request of 8 September. [Exhibit DMC/14 INQ000408479] .
12 September 2023	Further email issued to IT Assist / DSB requesting further information. [Exhibit DMC/14 INQ000408479] .
13 September 2023	Terms of Reference for NICS Internal Audit investigations issued to all Covid Teams.
19 September 2023	Dfl Covid Team emailed IT Assist/DSB asking for a reply to the service request of 8 December. [Exhibit DMC/14 INQ000408479] .
26 September 2023	IT Assist confirm Minister Mallon's phone has been reset a number of times since return – now stored in locked drawer – IT Assist email 26/9/23 [Exhibit DMC/14 INQ000408479] .

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Timeline for the Resetting of Devices	
26 September 2023	IT Assist confirm Special Adviser's phone returned but unable to locate – IT Assist email 26/9/23
10 October 2023	Dfi Covid Inquiry Team meet with NICS Internal Audit to discuss the upcoming investigation into Ministers/Special Adviser's mobile devices. It was agreed that Internal Audit would pick up Minister Mallon's phone from DSB and the iPads from Private Office.
11 October 2023 to 22 October 2023	Devices picked up by IA in preparation for the IA Investigation (exact dates not provided).
23 October 2023 to 21 November 2023	Fact finding interviews conducted by Internal Audit (IA) with former/PO staff.
30 November 2023	NICS Internal Audit fact finding report into mobile devices is published.
8 December 2023	HOCS issued a memo requesting that all departmental covid teams collect the devices that were handed over to IA. The devices were then to be interrogated by the respective departmental covid teams and to inform TEO of the devices current state (Reset etc). [Exhibit DMC/29 INQ000408504] .
13 December 2023	Minister Mallon phone, John O'Dowd and Dara O'Hagan's iPads and phones collected from IT Assist by Dfi Covid team. Devices were inspected and update on the current state of the devices were issued to TEO as per HOCS letter of 8 December 2023 [Exhibit DMC/30 INQ000408506] , [Exhibit DMC/30a INQ000408705] .
20 December 2023	HOCS issued a memo requesting that departmental covid teams prepare the devices for collection by Digital Security and Finance shared services for technical examination by Nihon. [Exhibit DMC/31 INQ000408508] .
4 January 2024	Minister Mallon's phone, Minister O'Dowd's phone and iPad and Dara O'Hagan's phone and iPad handed over to Digital Security and Finance shared services for technical examination by Nihon.

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108. On the basis of this, I would expect everyone who needed to know (principally Senior Management and Private Office staff) would have known at the latest by 29 August 2023. It appears from the evidence available to me that the only actions taken related to participation in the central investigation and the subsequent exercise for a central exercise for the purposes of seeking to restore and recover messages.
109. Given the emphasis on official documents held in Content Manager systems, the guidance did not focus on the resetting of devices and the potential for loss of evidence. There is no evidence of actions to protect mobile evidence or prevent deletion.
110. It is likely to be the case, but I am unable to confirm this, that former Minister Mallon's mobile device was reset sometime after it was handed back to IT Assist. IT Assist have been unable to provide us with the exact date that the device was handed back.
111. I am also unable to confirm as to whether Tanya McCamphill's (Minister Mallon's Special Adviser) phone was reset before she handed it over to Private Office. The device was returned to IT Assist in line with the NICS Mobile Device Security Policy, but IT Assist have been unable to provide us with the exact date that the device was handed back; and the device cannot be located by IT Assist. Mobile devices returned to IT Assist are routinely reset and reallocated or destroyed (depending on their age and condition).
112. Therefore, it is likely that the devices were reset in line with standard operating procedures at that time. As a result, this may have inadvertently led to potentially relevant information on this device being lost for further analysis, **[Exhibit DMC/14 INQ000408479]**.
113. I do not have the information necessary to confirm the following in respect of the former Minister and Special Adviser's devices: who made the decision to reset the devices; when the decision was made to reset and when the devices were reset; and: the identities of those involved in the decision to reset and the

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resetting. From the evidence available, including discussion with Private Office staff, it is likely that the phones were reset because of extant procedures at the time, without considering the requirements for disclosure to the Inquiry.

114. It is likely, but I cannot confirm, that the former Minister and Special Adviser were not informed that their phones were to be reset. Therefore, no consent to perform the reset would have been obtained.
115. With regard to data relating to the Inquiry's Terms of Reference and Module 2C's Outline of Scope. On data from the devices of officials, we have received relevant messages from three officials (Katrina Godfrey, Julie Thompson and Jackie Robinson), with a comprehensive disclosure from the Permanent Secretary. All DfI's Senior Civil Service team that were incumbent during the period of 11 January 2020 to 15 February 2022 have confirmed that they did not perform a reset of their respective devices. We will be following up with one official (Tom Reid) who believed that his phone may have been reset after leaving DfI. He has stated that he made: "Limited use of WhatsApp and iMessage"). Other officials have stated that they did not use messages to communicate about the management of the pandemic. My assessment, on the basis of the evidence available to me therefore is that there has not been a substantial loss of data at an official level, but further actions will need to be taken to confirm this.
116. With regard to the former Minister's phone, I expect that between the messages provided by the Permanent Secretary (many of which were between her and Minister), and the official record which follows up Ministerial decisions, a substantial amount of the relevant information from the Minister will be available to the Inquiry. There is, however, a risk of data loss because the former Minister's phone and iPad, as well as the former Special Adviser's iPad have been reset.
117. Assuming that some data could be lost (or is yet to be recovered) it is not possible to assess in detail what this is. The available evidence does not indicate that the Minister and Special Adviser have yet been informed by the

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Department of the resetting of their mobile devices and I can confirm I have not done so since coming into post in September 2023.

118. The former Minister's phone and iPad, as well as the former Special Adviser's iPad were collected for technical examination. This is on foot of a memo issued by HOCS, Jayne Brady, on 20 December 2023 [**Exhibit DMC/31 INQ000408508**] stating that a centralised approach would be taken to manage the extraction of potentially relevant information from the devices of former Ministers and Special Advisers for onward disclosure to the COVID Inquiry. The NICS centralised approach for the technical examination of the devices is making use of the services of Nihon Cyber Defence (Nihon Cyber Defence interrogated the devices on 24th January 2024. Officials have received the reports back on the devices from Nihon Cyber Defence, who stated that it was not possible to obtain any extraction from the devices at the time of the examination, therefore no data has been provided. It has also been confirmed by IT Assist that Nichola Mallon and Tanya McCamphill did not operate personal departmental e-mail accounts and that their government accounts have been closed since May 2022, with no access to them being possible. I do not believe, based on the evidence available, that the Department has taken other actions to restore or recover data.

Mitigation

119. To mitigate against any potential risk around the destruction of relevant evidence, the Department has policies in place in relation to document retention and disposal as detailed previously in this statement. Following the receipt of the Inquiry's e-mail to DSO and TEO on 15 August 2023, received by Dfl on 29 August 2023 [**Exhibit DMC/25 INQ000408496**], the Department began to work on identifying the location of the devices and whether the devices had been reset.
120. The Department also contacted the former Minister, Special Adviser, former SCS and current SCS within the Department, asking them to provide answers

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to the below questions that were put to the Department on foot of the Inquiry's letter of 31 July 2023 to TEO:

Q1. *Did you have an official DFI mobile phone during the Covid pandemic period specified above?*

Q2. *Were you part of a WhatsApp/SMS messaging group with Senior Civil Servants, and/or other Ministers that discussed or considered the response to the pandemic during the period specified above?*

Q3. *Do you have you any records on a phone, either a personal or an official DFI device, that is pertinent to the Covid 19 Inquiry?*

121. These questions were answered by the Department via letters issued to the Inquiry on 22 September 2023 and 16 October 2023. Officials have checked with each of the people who answered the questions and they have confirmed that their answers would be the same if they explicitly considered the Terms of Reference of the Inquiry. The Department also fully co-operated with NICS Internal Audit Services investigation into the mobile devices that was initiated on foot of HOCS, Jayne Brady's, memo of 24 August 2023, [**Exhibit DMC/24 INQ000408495**]. The Department handed over all available devices for the investigation. The devices were subsequently returned to the Department, stored in a secure location and have now been handed over to DoF for technical examination by Nihon Cyber Defence.

122. The priority for the Department, once the Inquiry was announced, was to ensure that the formal official record was comprehensive and accurate. The actions that the Department took in relation to information held on mobile devices is detailed in paragraphs 107 to 118 of this statement, which demonstrate how the Department disseminated the relevant information and instructions on how to preserve data for the Inquiry. (No other actions were taken).

123. In **Annex 1** of this statement, the former Minister, former Special Adviser, former SCS and most of the current SCS have advised that, in their view, they had little

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or no relevant data on their devices. This could be at least partially explained by the limited role of the Department in the overall response to the pandemic and key decision making within the Executive on Covid response measures.

124. The former Minister and former Special Adviser have also stated that they conducted official business via their government e-mail accounts, which were saved by officials onto Content Manager, (see supporting evidence - [Exhibit DMC/32 INQ000408509], [Exhibit DMC/32a INQ000408510], [Exhibit DMC/32b INQ000408511], [Exhibit DMC/33 INQ000408512], [Exhibit DMC/34 INQ000408472], [Exhibit DMC/34a INQ000408473], [Exhibit DMC/35 INQ000408513], [Exhibit DMC/35a INQ000408514], [Exhibit DMC/35b INQ000408515], [Exhibit DMC/36 INQ000408516] and [Exhibit DMC/37 INQ000408517], [Exhibit DMC/37a INQ000408518]). This would have been in accordance with the NICS Record Management Policy (Inquiry aware of this policy). This is a NICS strategic policy and applies to the management of all documents and records, in all formats or media, created or received by NICS Departments in the conduct of their business activities. It also applies to all staff, contractors, consultants and third parties who may be given access to NICS documents and records and information processing facilities. The policy states that:

“all employees of the NICS (permanent and temporary), contractors, consultants and secondees must ensure that the records for which they are personally responsible are complete and accurate. They must also ensure that records are maintained and disposed of in accordance with the Departmental records management policies and procedures”.

Use of messaging platforms to communicate about the management of the pandemic.

125. In relation to retention of any communications by a Dfi Minister, Special Adviser or employee on government provided devices during the pandemic, it is each individual's responsibility (whether Minister, Special Adviser or NICS staff) to ensure that all relevant official information was extracted and retained on

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Content Manager (CM), the official Electronic Document and Records Management System (EDRMS) of the NICS. This is in line with the overarching NICS Record Management Policy and NI Executive Codes of Conduct (Inquiry aware of these policies). Any official records created using collaborative systems identified for retention must also be extracted and retained on Content Manager - examples of collaborative systems given in the relevant policy are Microsoft 365 or WhatsApp. If records were not able to be saved to Content Manager, they were retained on a phone. The effectiveness of these policies depends, however, on the systems of control in place to ensure compliance with them. On the basis of the evidence in this statement, those systems will need to be looked at carefully across DfI and wider government.

126. As per section 10, Annex B of the Rule 9 request, the table at **Annex 1** of this statement displays the responses of each individual concerning their use of Messaging Platforms to communicate about the management of the pandemic during the specified period including former Minister Mallon, her Special Adviser and DfI Senior Civil Servants.
127. It is clear from the evidence in this statement, that some of the systems in place in DfI and across government will need to be modified; particularly as messaging systems have now taken on a far greater role in communications following the onset of Covid 19. As a Department – and across the NICS – we will need to learn from this process to identify ways to improve our policy framework; recognising that, on the one hand collaborative communications were central to getting government up and running when lockdowns began; while recognising on the other hand that we need policies, systems and procedures that will ensure all substantive information is systematically captured. This will inevitably require new ways of thinking about the challenge but also innovative new information systems.

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Declaration of Truth

128. I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court 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 in its truth.

SIGNED:

PD

DATE: 5 March 2024

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ANNEX 1

Name of current/former SCS member, Minister and SPAD	6. Were any of your government issued devices (phones/tablets/i Pads) subject to a reset during the period 11 Jan 2020 to 15 Feb 2022	10a Did you use any of the Messaging Platforms to communicate (between each other or between groups of each other) about the management of the pandemic during the Specified Period, and if so, which of the Messaging Platforms were used	10b Identify any “group” of which you were part in the Messaging Platforms which was used to comment upon the management of the pandemic and the purpose of such group;	10c The individuals with whom you communicated about the management of the pandemic by way of one-to-one “chats” and the purpose of such communication	10d If any of the individuals mentioned did use any of the Messaging Platforms to communicate about the government response to the pandemic, whether the Department considers that use to have been in accordance with relevant rules and policy;	10e The extent to which each individual retained messages exchanged or whether such messages were deleted, either by way of an auto delete function, manually or otherwise;	11 Aside from the resetting of devices, can you explain if you used ‘auto-delete’ functions, for example ‘disappearing messages’ functionality on WhatsApp, or routinely manually deleted informal communications which related to government work or business? 11a If you answered ‘yes’ to the above, was this deletion pursuant to any policy or guidance of the Department?	11b Was any instruction (or any other form of communication) given to you to delete any messages or emails from your government provided mobile devices
Nichola Mallon	No	During my time as Infrastructure Minister, I conducted official covid response business via my Ministerial email account, emails which should all be saved by officials. I did communicate via WhatsApp on the NICS mobile if I needed instantaneous statistics or information, during a meeting for example, from my Permanent	I was not part of any such WhatsApp or SMS group in my capacity as Minister.	My Permanent Secretary, Private Secretary, senior DFI officials and Special Advisor if I needed instantaneous statistics or information for example during a meeting.	N/A	I did not factory reset my NICS devices before returning them to DFI so when I handed them back all communications were retained and recorded.	I did not use ‘auto-delete’ and did not routinely manually delete informal communications.	No.

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		Secretary, Private Secretary, senior DFI officials or Special Advisor. I cannot recall exactly but there may have been infrequent text messages when reception was poor. I also remember sending general queries via WhatsApp from my NICS mobile to other Ministers as a follow up, for example, to Private Office issued correspondence to see if they had any issues or would like to meet to discuss my Executive papers.						
Tanya McCamphill	I do not recall any reset. I know my phone went to IT due to some issues during my time as an advisor and I recall the PS asking us for anything needing to be recorded and checking that was complete when returning.	For the period I was employed as a Special Advisor, email was used for official business and should be recorded with the department. WhatsApp was used for instant communications including with the DFI Minister, Permanent Secretary, Private Secretary, and officials for example when requiring information for	I was not part of any WhatsApp or text group on the management of the pandemic in my capacity as Special Advisor.	DFI Minister, Permanent Secretary, Private Secretary, and officials and on occasion other Special Advisors – If information was needed or follow up for example during a meeting.	N/A	NICS devices were returned to DFI when my role was terminated following the election in May 2022 and information required was recorded with the Department.	My NICS devices did not use 'auto-delete' or routinely delete informal communications on government business.	No.

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		the Minister during a meeting. On occasion communication with other Special Advisors. Text messages may also have been used on occasion if the internet connect was poor, I cannot recall exactly.						
Alistair Beggs	No resets to my work devices in that period.	No	N/A	N/A	No	N/A	No	No
Katrina Godrey	I can confirm that no such reset was applied during the period referenced.	Yes – WhatsApp and iMessage	We had a Top Leadership Team Group within DfI and there was also a PSS (Permanent Secretaries) Group	Nichola Mallon Tanya McCamphill Individual members of the DfI senior team depending on relevance of the issue Occasionally chief executives of the NDPBs for which DfI was accountable. Occasionally other senior colleagues in other departments [Exhibit DMC/38 INQ000408519], [Exhibit DMC/38a INQ000408520], [Exhibit DMC/38b INQ000408521], [Exhibit DMC/38c INQ000408522], [Exhibit DMC/38d INQ000408523],	Yes – to alert Minister or senior colleagues to any issues in advance of or following Executive meetings as part of the process of informing the discussion and ensuring that decisions were implemented.	It would in my experience be normal practice to ensure that any conversation or decision of any significance that was discussed via phone calls or via WhatsApp or iMessage was followed up in writing by email and where appropriate also in a formal memo to ensure that it was captured on the official record. It would not have been normal practice to save what were essentially conversational exchanges by iMessage or WhatsApp that, in any normal circumstance,	No because, as explained above, most exchanges on messenger functions were incidental or conversational in nature. Where there was, out of necessity, a need to convey anything of significance, our approach was to follow this up in writing and put on the public record. 11a - Yes – records management policies support the creation and retention of records that are adequate, accurate and complete and make efficient use of space and storage facilities for	No

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			<p>[Exhibit DMC/38e INQ000408524], [Exhibit DMC/38f INQ000408525], [Exhibit DMC/38g INQ000408526], [Exhibit DMC/38h INQ000408527], [Exhibit DMC/38i INQ000408528], [Exhibit DMC/38j INQ000408529], [Exhibit DMC/38k INQ000408530], [Exhibit DMC/38l INQ000408531], [Exhibit DMC/38m INQ000408532], [Exhibit DMC/38n INQ000408533], [Exhibit DMC/38o INQ000408534], [Exhibit DMC/38p INQ000408535], [Exhibit DMC/38q INQ000408536], [Exhibit DMC/38r INQ000408537], [Exhibit DMC/38s INQ000408538], [Exhibit DMC/38t INQ000408539], [Exhibit DMC/38u INQ000408540], [Exhibit DMC/38v INQ000408541],</p>		<p>would not belong on the public record.</p> <p>Prior to being made aware of the request to retain any Covid-related messages, I would regularly have tidied conversational exchanges to keep my phone and its storage capacity manageable because those exchanges would not be of a nature that would be retained for the public record and there was therefore no need to retain them</p>	<p>both manual and electronic systems. Conversational messages by WhatsApp/iMessage grew during the pandemic as a replacement for conversations themselves (which weren't possible for obvious reasons) and, as is the case with actual conversations, most were not of the quality or relevance to be retained on the formal records.</p>	
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				<p>[Exhibit DMC/38w INQ000408542], [Exhibit DMC/38x INQ000408543], [Exhibit DMC/38y INQ000408544], [Exhibit DMC/38z INQ000408545], [Exhibit DMC/38aa INQ000408546], [Exhibit DMC/38ab INQ000408547], [Exhibit DMC/38ac INQ000408548], [Exhibit DMC/38ad INQ000408549], [Exhibit DMC/38ae INQ000408550], [Exhibit DMC/38af INQ000408551], [Exhibit DMC/38ag INQ000408552], [Exhibit DMC/38ah INQ000408553], [Exhibit DMC/38ai INQ000408554], [Exhibit DMC/38aj INQ000408555], [Exhibit DMC/38ak INQ000408556], [Exhibit DMC/38al INQ000408557], [Exhibit DMC/38am INQ000408558], [Exhibit DMC/38an INQ000408559],</p>				
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				<p>[Exhibit DMC/38ao INQ000408560], [Exhibit DMC/38ap INQ000408561], [Exhibit DMC/38aq INQ000408562], [Exhibit DMC/38ar INQ000408563], [Exhibit DMC/38as INQ000408564], [Exhibit DMC/38at INQ000408565], [Exhibit DMC/38au INQ000408566], [Exhibit DMC/38av INQ000408567], [Exhibit DMC/38aw INQ000408568], [Exhibit DMC/38ax INQ000408569], [Exhibit DMC/38ay INQ000408570], [Exhibit DMC/38az INQ000408571], [Exhibit DMC/38ba INQ000408572], [Exhibit DMC/38bb INQ000408573], [Exhibit DMC/38bc INQ000408574], [Exhibit DMC/38bd INQ000408575], [Exhibit DMC/38be INQ000408576], [Exhibit DMC/38bf INQ000408577],</p>				
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				<p>[Exhibit DMC/38bg INQ000408578], [Exhibit DMC/38bh INQ000408579], [Exhibit DMC/38bi INQ000408580], [Exhibit DMC/38bj INQ000408581], [Exhibit DMC/38bk INQ000408582], [Exhibit DMC/38bl INQ000408583], [Exhibit DMC/38bm INQ000408584], [Exhibit DMC/38bn INQ000408585], [Exhibit DMC/38bo INQ000408586], [Exhibit DMC/38bp INQ000408587], [Exhibit DMC/38bq INQ000408588], [Exhibit DMC/38br INQ000408589], [Exhibit DMC/38bs INQ000408590], [Exhibit DMC/38bt INQ000408591], [Exhibit DMC/38bu INQ000408592], [Exhibit DMC/38bv INQ000408593], [Exhibit DMC/38bw INQ000408594], [Exhibit DMC/38bx INQ000408595],</p>				
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				<p>[Exhibit DMC/38by INQ000408596], [Exhibit DMC/38bz INQ000408597], [Exhibit DMC/38ca INQ000408598], [Exhibit DMC/38cb INQ000408599], [Exhibit DMC/38cc INQ000408600], [Exhibit DMC/38cd INQ000408601], [Exhibit DMC/38ce INQ000408602], [Exhibit DMC/38cf INQ000408603], [Exhibit DMC/38cg INQ000408604], [Exhibit DMC/38ch INQ000408605], [Exhibit DMC/38ci INQ000408606], [Exhibit DMC/38cj INQ000408607], [Exhibit DMC/38ck INQ000408608], [Exhibit DMC/38cl INQ000408609], [Exhibit DMC/38cm INQ000408610],</p>				
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				[Exhibit DMC/39 INQ000408611], [Exhibit DMC/39a INQ000408612], [Exhibit DMC/39b INQ000408613], [Exhibit DMC/39c INQ000408614], [Exhibit DMC/39d INQ000408615], [Exhibit DMC/39e INQ000408616], [Exhibit DMC/39f INQ000408617], [Exhibit DMC/39g INQ000408618], [Exhibit DMC/39h INQ000408619], [Exhibit DMC/39i INQ000408620], [Exhibit DMC/39j INQ000408621], [Exhibit DMC/40 INQ000408623], [Exhibit DMC/41 INQ000408624], [Exhibit DMC/41a INQ000408625], [Exhibit DMC/41b INQ000408626], [Exhibit DMC/41c INQ000408627], [Exhibit DMC/41d INQ000408628],				
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				<p>[Exhibit DMC/41e INQ000408629], [Exhibit DMC/41f INQ000408630], [Exhibit DMC/41g INQ000408621]</p>				
<p>Julie Thompson</p>	<p>I can confirm that I did not personally perform a physical reset on my phone or iPad.</p>	<p>Whatsapp was used to occasionally communicate informally but not for decision making or advice on the pandemic.</p>	<p>I was a member of DSAD, Planning, Water and DVA group during the pandemic – it was used to confirm logistics about phone calls or meetings or advise of IT difficulties. It did not contain anything about the management of COVID.</p>	<p>I had occasional contact with the SPAD via Whatsapp/SMS over that time generally to ask her to contact me/arrange meetings or to provide an update and not for COVID decision making or advice thereon. I communicated via Whatsapp with Katrina Godfrey (my Permanent Secretary) informally to update each other. The communication was not for COVID decision-making – anything of that nature would have been recorded formally on the system. For transparency, I attach screen shots of the COVID related messages during that time. [Exhibit</p>	<p>The informal communication was not for COVID advice and decisionmaking – anything of that nature would have been recorded formally on the system.</p>	<p>My messages on Whatsapp were retained. All my SMS messages were on auto delete. No formal business was conducted through these channels and all COVID advice and decision making was on the formal records, not on Whatsapp/SMS.</p>	<p>Yes All my SMS messages were on auto delete. No formal business was conducted through these channels and all COVID advice and decision making was on the formal records, not on Whatsapp/SMS. Departmental guidance is that official channels should be used for the carrying out of official business. As advised above, any COVID advice and decision making would have been recorded in formal records.</p>	<p>No</p>

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				<p>DMC/42 INQ000408632], [Exhibit DMC/42a INQ000408633], [Exhibit DMC/42b INQ000408634], [Exhibit DMC/42c INQ000408635], [Exhibit DMC/42d INQ000408636], [Exhibit DMC/42e INQ000408637]</p>				
Angus Kerr	To be honest I don't remember.	No	N/A	N/A	No	N/A	No	No
Alison Clydesdale	No – none of my devices were reset during that period.	No	N/A	N/A	No	N/A	N/A	No
Colin Woods	Not to my knowledge, No.	No	N/A	N/A	No	N/A	N/A	No
Susan Anderson	I am not aware that my devices were subject to any resets during this period.	No	N/A	N/A	N/A	N/A	No	No
Liz Loughran	I think I changed my phone in Dec of 2020 or Jan 2021. It is likely that the old phone was subject to a	No. SMS/iMessage and Whatapp were used to communicate with individuals but not about the management of the pandemic.	None	None	No	All messages have been retained since phone was changed. I think this was in Dec of 2020 or Jan of 2021. Some Whatsapp messages older than this.	Auto-delete not used. No routine manual deletion.	No

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	factory reset then.							
Sian Kerr	To the best of my knowledge, my mobile wasn't subject to a reset.	No	N/A	N/A	No	N/A	N/A	No
Damian Curran	No my device was not subject to a reset.	No	None	None	No	N/A	N/A	N/A
Declan McGeown	I can confirm that none of my devices were subject to a reset during this period.	No	None	None	No	N/A	No	No
Chris Hughes	No government devices allocated to me were subject to a reset during the period 1 Jan 2020 to 15 Feb 2022	No	N/A	N/A	No	N/A	No	No
Jeremy Logan	I can confirm there were no government devices issued to me that were subject to a reset during the period from 11 January	No	N/A	N/A	No	N/A	N/A	No

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	2020 to 15 February 2022.							
Jackie Robinson	I don't recall any of my devices being reset	I used Whatsapp to message individuals	I do not recall being part of any group chat	Katrina Godfrey then Perm Sec in DfI and Karen Pearson (TEO) Conversations were generally about timing of exec paper.	Discussion on face coverings for use on public transport	Messages retained - [Exhibit DMC/43 INQ000408638], [Exhibit DMC/43a INQ000408639], [Exhibit DMC/43b INQ000408640], [Exhibit DMC/43c INQ000408641], [Exhibit DMC/43d INQ000408642], [Exhibit DMC/43e INQ000408643], [Exhibit DMC/43f INQ000408644], [Exhibit DMC/43g INQ000408645], [Exhibit DMC/43h INQ000408646], [Exhibit DMC/43i INQ000408647], [Exhibit DMC/43j INQ000408648],	N/A	No
David Porter	As far as I'm aware my government issued devices were not subject to a reset in this period, certainly not one that I triggered.	No	N/A	N/A	No	No messages exchanged	No such functions were used	No

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Jonathan McKee	I may have had a replacement phone during this period but I'm not sure of the date. However, to the best of my knowledge I didn't send texts or whatsapp messages re covid, nor did we set up a covid group	No, not to the best of my knowledge.	None	None to the best of my knowledge.	No	None to the best of my knowledge.	No	No
Simon Richardson	I can confirm that my work mobile was not subject to a reset during the period 11 Jan 2020 to 15 Feb 2022.	No	N/A	N/A	No	N/A	No	No
Paul Duffy	I can confirm that none of the devices that were assigned to me during the period I was in Dfl (up to 26 April 2020) were subject to a reset.	No	N/A	N/A	No	N/A	N/A	no
Tom Reid	Not that I'm aware of. Both phone and laptop	Limited use of WhatsApp and iMessage to	My team within Public Transport Division	Ian Campbell Translink	To the best of my knowledge no	I transferred from Dfl on promotion to TEO in September 2020.	Whilst messages were not retained I had not set WhatsApp to auto-delete	No

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	<p>replaced when I moved to TEO</p>	<p>communicate with my team and Translink once we moved to home working</p>	<p>and Translink senior officials</p>			<p>WhatsApp messages were not retained and I assume this was due to a reset of my account or possibly auto delete function as no steps were taken on my part to delete nor to set up an auto-delete function.</p> <p>My phone was subsequently replaced sometime after joining TEO as part of the normal replacement of mobile devices and iMessages were not retained.</p>	<p>nor manually deleted messages. I assume the WhatsApp messages were lost when my account was reset following a move from Dfl to TEO</p>	
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ANNEX 2 - FORMER MINISTER, FORMER SPAD AND SCS RESPONSE TABLE – RE: PERSONAL DEVICES FOR GOVERNMENT WORK

T. McCamphill	A) are there any government related work messages on any personal or private mobile devices from your time as Special Advisor to Nichola Mallon from January 2020 to March 2022	B) if so, were these messages transferred to the department for the record	C) whether all relevant documents created or stored on your personal mobile device have been disclosed / will be disclosed for transmission to the Covid Inquiry
Response 31/01/24	No there are no government related work messages on my personal or private mobile devices as I got a new contract in 2022.	Any messages would have been retained through the communication to the NICS device owned by the Civil Servant(s) during the time my NICS device was experiencing issues.	As indicated in B
Nichola Mallon	(a) whether you used any personal devices for government related work during your time as Minister	b) if so, can you confirm if there are any government related work messages on any personal or private mobile devices from your time as Minister from January 2020 to March 2022;	C) if there are any messages, have they already been transferred to the department for the record, or will they be forwarded to the DfI Covid Inquiry team.
Response	No	N/A	N/A
SCS responses	A)-Whether you used a <u>personal mobile device</u> for government business during the specified period.	B) if you did, whether all government information was transferred to the record from those phones	C) or, whether all government information was transferred to the Department under disclosure.
Julie Thompson	No	N/A	N/A
Alistair Beggs	No	N/A	N/A
Angus Kerr	N/A	N/A	N/A
Alison Clydesdale	No	N/A	N/A
Jackie Robinson	I did not have a personal mobile during this period.	N/A	N/A
Liz Loughran	I didn't use a personal mobile device for government business.	N/A	N/A

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Sian Kerr	I did not use my personal mobile for government business during this time.	N/A	N/A
David Porter	I would have received work calls on my personal mobile device during the specified period. Other than phone calls, no government information was transmitted using my personal mobile device, so there were no records to be transferred from my phone.	N/A	N/A
Declan McGeown	I can confirm that I did not use a personal mobile device for Government business. My personal mobile number is, however, available to staff should they wish to make contact with me outside of normal business hours.	N/A	N/A
Simon Richardson	I can confirm that I did not use a personal device for government business during the specified period.	N/A	N/A
Jonathan McKee	I did not use a personal mobile device.	N/A	N/A
Katrina Godfrey	For the record, I keep two phones and apply a rigid separation policy (I don't do work business on my personal mobile and people in work wouldn't even know my personal mobile number))	N/A	N/A
Damian Curran	No	N/A	N/A
Chris Hughes	No	N/A	N/A
Paul Duffy	No	N/A	N/A
Tom Reid	I can confirm that I did not use any personal mobile device for government business during the specified period.	N/A	N/A
Colin Woods	I only joined DfI on 7 February 2022 as part of a handover process with my predecessor, Andrew Murray; I took up post	N/A	N/A

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	substantively on Monday 14 February 2022 after Andrew had retired. I can confirm that during the specified period I only had a personal device but I didn't use it for government business between then and 15 February 2022.		
Jeremy Logan	I can confirm I did not use a personal mobile device for government business during the specified period.	N/A	N/A
Susan Anderson	I can confirm that I did not use a personal mobile device for government business and that my original response is accurate.	N/A	N/A