

**Statement No:**

**Exhibits:**

**Dated:**

## **UK COVID-19 PUBLIC INQUIRY MODULE 2C**

### **WITNESS STATEMENT OF ANDREW MCCORMICK**

I, Andrew McCormick, will say as follows:

I confirm that I have written this statement, the facts stated are all known to me, or believed by me to be true and the opinions stated, and inferences drawn are mine and mine alone.

#### **My roles and experience relevant to the Pandemic and to all the events in the Specified Period.**

1. During the Specified Period, I held the post of Director General, International Relations in the Executive Office (TEO) - I took on that role in February 2018 and continued in it until my retirement (formally from 31 August 2021, but in practice from 28 May 2021, because of illness). I had previously been: Director and then Second Permanent Secretary in Department of Finance and Personnel (DFP - renamed as Department of Finance (DoF) from May 2016) from 1998 to 2005; Permanent Secretary of Department of Health, Social Services and Public Safety (DHSSPS - renamed as Department of Health (DoH) from May 2016) from 2005-2014; Permanent Secretary of Department of Enterprise, Trade and Investment (DETI) from 2014 to 2016, and then of the new, larger, Department for the Economy from 2016 to 2018.
2. The content of this statement reflects the distinct phases of my involvement in issues relevant (directly or indirectly) to the Covid-19 pandemic and/or to other activities that affected the business of government in Northern Ireland during the Specified Period.
3. Paragraphs 5-16 below give a summary of all the key stages, with relevant detail added in later sections of this statement. Paragraphs 17-24 then seek to explain fully my core role in the Specified Period. The table exhibited as **[Exhibit AMCC/01 - INQ000466478]** summarises the distinct phases of work from my perspective – my attention and priorities changed as a result of both changes at political level (primarily the return of Executive Ministers in January 2020) the phases of work both on EU exit and on the pandemic, and the dislocation at leadership level in the NICS following the retirement of David Sterling as HOCS at the end of August 2020. I will indicate in each section the context and time-period that applies. From paragraph 25 on, I then set out the stages of my involvement in the issues most relevant to (to the best of my

judgement) to Module 2C of the Inquiry, in broadly chronological order starting with my time in Department of Health, Social Services and Public Safety (DHSSPS) from 2005 to 2014.

4. I am providing exhibits or cross references to documents I mention throughout the Statement, and I have also provided to the Inquiry:
  - a. contemporaneous notes that I recorded on my iPad during meetings I attended (one key group of these notes is explained at paragraph 77 below);
  - b. some emails that have been retrieved from my office account (see also paragraph 164 below); and
  - c. transcripts of all the text messages from my iPhone that are either from the Specified Period or potentially relevant to my evidence to the Inquiry.

### **Summary of Key Stages**

5. From 2005 to 2014, I was Permanent Secretary of the Department of Health, Social Services and Public Safety (DHSSPS – renamed as Department of Health in 2016), and Chief Executive of Health and Social Care (Northern Ireland). During that period, I was involved in the H1N1 (swine flu) pandemic of 2009 (though I was off work between March and July 2009 following cancer surgery). In that capacity, I was a member of the Permanent Secretaries Group (PSG) (later called Permanent Secretaries Stocktake (PSS) which met each Friday morning, and of the NI Civil Service Board, which met monthly (displacing the weekly PSG/PSS meeting) to address NICS-wide governance and management issues. Permanent Secretaries of departments in the NI Civil Service are at a level equivalent to Grade 2 of Director General in the Home Civil Service, and the post of Head of the NICS is at a grade equivalent to the Permanent Secretaries of Whitehall Departments and of the Scottish and Welsh Governments.
6. I moved to Department of Enterprise, Trade and Investment (DETI) on 1 July 2014. In May 2016, that Department merged with Department of Employment and Learning to form the Department for the Economy (DfE) and I became the Permanent Secretary of that new department.
7. The EU exit referendum took place soon after the merger, and very quickly work arising from that issue began to dominate the agenda of DfE. However, the autumn of 2016 was also the time when the Assembly's Public Accounts Committee was taking evidence on the Renewable Heat Incentive (RHI), which consumed a very large proportion of my time.

8. The RHI scandal precipitated the collapse of the NI Executive in January 2017, though many other factors (including the difficulties of EU exit) contributed to the breakdown. For the remainder of 2017, I was overseeing the work of DfE without a Minister. As EU exit work was continuing to increase in complexity, I discussed with Malcolm McKibbin, who was then Head of the NI Civil Service (HOCS), and later with his successor David Sterling, the possibility that I might move from DfE to work more fully on EU exit.
9. In February 2018, I moved from DfE to become Director General for International Relations in TEO. A job description for the post [Exhibit AMCC/02 – INQ000466479]. The post was approved on the basis that it could operate on reduced hours and I took partial retirement on 1 January 2019, to aim to work a four-day week. During 2018, there was no scope to reduce my hours, because I was a key witness at the RHI Public Inquiry, and as well as having to devote large amounts of time to the preparation of witness statements, I gave oral evidence over several days between 4 September and 26 October 2018. I took partial retirement (to reduce to a four-day week working pattern) with effect from 1 January 2019.
10. Between February 2018 and January 2020, my role in TEO was dominated by EU exit work. I chaired the interdepartmental EU Future Relations Programme Board, as Senior Responsible Office (SRO) for EU exit matters. In addition, as I was responsible for the NI Executive Offices in Washington DC and in Beijing, I did travel to North America and China several times in that period (there was considerable interest in EU exit issues in the USA). From summer 2018 until October 2019, the EU exit work included contingency planning and preparation in relation to the risk of a “no deal” exit. After the Withdrawal Agreement was in place and the European Union (Withdrawal) No 2 Act (2019) had been passed, the risk of no deal was removed: my focus shifted to the pressing need to understand the implications of the Ireland/Northern Ireland Protocol.
11. The return of the Executive in January 2020 was founded on the commitments set out in *New Decade, New Approach* (NDNA), as published by the UK and Irish governments on 9 January 2020. This included the establishment of a sub-committee of the Executive to address EU exit issues, and I became the Secretary to the sub-committee (as a corollary of David Sterling’s conventional role as Secretary to the Executive). I continued in that role when, in late February 2020, it was decided that a sub-committee model was not appropriate, and instead the Executive would meet in the format “Executive dealing with EU Exit Matters”.

12. With the onset of the pandemic, it was necessary to redeploy staff from EU exit onto Covid-19 duties, but, with the remaining small team, my role remained focussed primarily on EU exit issues (the core EU exit team had been Grade 3, two Grade 5s and four Grade 7s, but the Grade 3, one of the Grade 5s and some other staff were redeployed). In addition, Tim Losty, who had travelled back from China on 20 February 2020 from his post there as Head of the NI Bureau in Beijing, was redeployed for a number of months from 23 March 2020 to cover the post of Principal Private Secretary to the deputy First Minister. I attended some of the early CCG meetings between March and May 2020, simply because the pandemic affected all aspects of the work of the NICS, and as a member of the NICS senior team, it was necessary and appropriate for me to attend, not through any specific role that related to the pandemic. In that period through to the end of August 2020, I kept up a reasonable awareness of Covid-related developments.
13. As well as attendance at some CCG meetings, a few specific aspects of liaison and communication were integral to my international relations role. As this was the Transition Period between EU exit day (31 January 2020) and the effective date for the operation of the Withdrawal Agreement (1 January 2021) – the latter date was applicable whatever happened on the negotiations between the UK and the EU on the future relationship. The pandemic seriously delayed those main negotiations, and also the important work on the detailed implementation of the Ireland/Northern Ireland Protocol. The Executive met only once as “Executive dealing with EU Exit Matters” before the pandemic (on 4 March 2020), with specific EU exit meetings recommencing on 8 June 2020. In the intervening period, EU exit matters became agenda items in the main Executive meetings (in some cases as substantial elements of the agenda), and I attended and contributed to those discussions (for example on 21 May 2020 and 1 June 2020, though, to the best of my recollection, I only joined these meetings for the EU exit items and was not present for the Covid-19 discussions.
14. The report of the Public Inquiry into the Renewable Heat Incentive (RHI) was published on 13 March 2020. From that date, and especially from 9 June 2020 (when I received a letter from the Cabinet Office on disciplinary charges against me), to 29 January 2021, the civil service disciplinary process that followed on from the Inquiry absorbed a very large proportion of my personal time and hence limited my capacity outside normal hours to contribute to my ongoing responsibilities for EU exit or to any work on the pandemic.
15. David Sterling retired as HOCS on 31 August 2020. Between that date and the arrival of Jenny Pyper as Interim Head of the NICS (HOCS) on 1 December 2020, I was the

most senior officer in TEO. In the absence of a HOCS, I sought to cover aspects of the gap, to the extent that was reasonably possible and acceptable to Ministers – not because I was asked, but as a responsible act of personal initiative in the vacuum left by David Sterling’s retirement. This included giving some support and cover to the Covid-19 team, which was led by Karen Pearson, who had been redeployed from my EU exit team, by seeking to address the strategic organisational issues, such as prioritisation of resources, and filling in at meetings where it was necessary – including occasionally chairing CCG and other meetings. I was not involved in formulating or approving advice to Ministers, or in operational issues arising from the pandemic oversight. In that period, I normally attended the full Executive meetings as well as the meetings “dealing with EU exit issues” and worked closely with the Covid-19 and civil contingencies teams.

16. When Jenny Pyper took up post as Interim HOCS in December 2020, she assumed the over-arching responsibilities, including in particular the role of leading the Covid Task Force. The First Minister and the deputy First Minister specifically agreed that I would remain as Senior Responsible Officer for the work on EU exit. I was a member of the team dealing with the combined impact of the resurgence of Covid-19 in December and the end of the EU exit Transition Period (the work on “D20” - i.e. December 2020 led by Whitehall). I continued to assist Jenny Pyper to some extent on some aspects of communication and liaison on Covid-19, but this was limited as the period between January 2021 and my retirement at the end of May 2021 involved intense work on the practical outworking of the Ireland/Northern Ireland Protocol, which was characterised by a downward spiral of relationships within the Executive, and between political leaders in Northern Ireland, Ireland, the UK and the EU.

#### **My Post and Role during the Specified Period**

17. My post in TEO post was created to fulfil the demands on the NICS for leadership and co-ordination in relation to the implications of EU exit. Up to January 2018, international relations, including the initial response to the EU exit referendum, had been led by a Director (Grade3) in TEO (Colm Shannon).
18. While I was the second most senior officer in TEO (after Sir David Sterling as Head of the NI Civil Service (HOCS)), I was not the Accounting Officer for the Department, nor were the key management and governance responsibilities within my terms of reference. This was an important departure from convention, in that those functions are normally carried at my level. The reason for this change from convention was that a central objective in creating the post was to have capacity to focus strongly on the

new challenges of EU exit, with as few as possible of the other roles that are normally associated with someone working at my level in the NICS – the job title “Director General” was a way of underlining that distinction. For example, while I was a member of the TEO Departmental Board, I did not attend any of the Board meetings in 2019.

19. The units of staff which became my responsibility following Colm Shannon’s retirement were:

- International Relations Unit – 3 staff, Grade 7, Deputy Principal and Staff Officer;
- EU Exit team – 10 staff (one Grade 5 and two Grade 7s) as of March 2018, rising to 29 staff (Grade 3, two Grade 5s, four-five Grade 7s) by August 2021. From 9 July 2018, Graeme Wilkinson filled the Grade 3 post on temporary promotion; from 29 April 2019 to 17 March 2020, Karen Pearson was the Grade 3, and from 1 September 2020, Tom Reid was appointed to the Grade 3 post to cover while Karen Pearson was still required for the work on Covid-19. Gail McKibbin was one of the Grade 5s on this work – like Karen Pearson, she was redeployed to Covid-19 on 17 March 2020, but was able to carry some EU exit related work from the latter part of 2020 onwards, and beyond my retirement in May 2021;
- Office of the NI Executive in Brussels (3-4 NICS staff, including a Grade 5 and one or two Grade 7s, and a few locally employed support staff)
- North South Ministerial Council Northern Secretariat (approximately 10 staff)
- Northern Ireland Bureau in North America (based in Washington DC) (2 NICS members (Grade 5 and Grade 7) and 2-3 locally employed staff)
- NI Bureau in China (based in Beijing) (1 NICS member – first as an Acting Grade 3, later a Grade 5) and 2 locally employed staff)
- European Policy and Co-ordination Unit (EPCU) (approximately 4 staff)
- My personal secretary and office support (2 staff).

20. I took partial retirement from 1 January 2019, with the intention of fulfilling the responsibilities of the role on a four-day working pattern. In practice, that did not prove practicable, and I was returned to fulltime working on the basis of the provision that was made for re-employment of retirees or partial-retirees as part of the response to

the pandemic (Employer Pension Notice 12/2020) – this was applied retrospectively to the period from 20 March 2020.

21. While EU exit was the dominant responsibility, the role also involved managing and advising on the wider aspects of international relations, including strategy development, and oversight of the Executive's offices in Brussels, Washington DC and Beijing. I was also the line manager of the northern side secretariat of the North South Ministerial Council (NSMC), and hence had a broad responsibility for work on north south co-operation, although until the restoration of the Executive in January 2020, that was very limited in scope as NSMC by definition can only function normally when Ministers are in post. There were no Plenary meetings of the NSMC between 18 November 2016 and 31 July 2020, though there was a meeting in Institutional format (attended by the Junior Ministers in TEO) on 11 March 2020; sectoral meetings only resumed in October 2020, after the hiatus that began in 2016). This was itself a controversial consequence of the absence of Ministers.
22. In addition, I was affected by the internal disciplinary process that followed the publication of the report of the Public Inquiry into the Renewable Heat Incentive (RHI) on 13 March 2020. This process was announced in an oral statement to the Assembly on 16 March 2020, wherein it was confirmed that cases related to members of staff at Permanent Secretary level and above would be considered by the Cabinet Secretary. During the debate, I was named by a backbench MLA – [Exhibit AMCC/03 – INQ000466480] and [Exhibit AMCC/04 – INQ000466481]. The process was completed in January 2021 as recorded in Minister Murphy's Written Ministerial Statement of 9 December 2021 [Exhibit AMCC/05 – INQ000466482] which confirmed I had no case to answer. I mention this because the process involved substantial demands on my time: between 9 June and 2 September 2020, I had to devote large amounts of time and energy (outside office hours) to preparing a defence in response to the charges (I sent 66 pages of defence with a large number of supporting documents). Further work on that issue was necessary from time to time between 2 September 2020 and 29 January 2021 (again outside office hours).
23. The Specified Period coincided with critical stages of the EU exit process and my focus throughout that period was on
  - **understanding** what was happening between the UK and EU negotiators,
  - **advising** Executive Ministers on the implications for Northern Ireland and on their input and influence (both bilaterally, and through the machinery of the Joint Ministerial Council (EU Negotiations) (JMC(EN)) alongside the Scottish and

Welsh Governments. This involved both formal submissions, with most of the primary drafting done within the team, but with significant personal input from me; formal presentations at key meetings including the Executive dealing with EU Exit; and informal advice in person and via messages, including WhatsApp, for example during Zoom meetings;

- **chairing** the EU Future Relations Programme Board, the interdepartmental group within the NICS that was managing all the implications and potential implications of various EU exit scenarios, and other formal and ad hoc meetings; and
- **representing** Northern Ireland's interests in official level engagement with both the UK government, counterparts in Department of Taoiseach and Department of Foreign Affairs and Trade in Dublin, the EU institutions and some contacts in key Member States. In the period when Northern Ireland had no Ministers, this included attending meetings that would normally have been for Ministers, including the Joint Ministerial Committee (European Negotiations) (JMC(EN)), and Cabinet Committee meetings dealing with no deal planning (called EUXT (P) or (O) under Theresa May or XO (i.e. EU exit (X) related operational (O) issues) – it was unprecedented for an NICS official to attend, never mind speak at such collective meetings, because unlike all previous periods when devolution not been in place, the NICS was not directed by the Northern Ireland Office (NIO) Ministers. After the restoration of the Executive, I continued to attend some such meetings, usually, but not always in the conventional role of supporting Ministers. I was also the official representative of the NI Executive at the first x meetings of the Specialised Committee on the Ireland/Northern Ireland Protocol, which was co-chaired by the UK (Cabinet Office) and the EU Commission, and attended by representatives of most Member States of the EU.

24. When the pandemic began, and throughout the Specified Period, my core responsibilities were unchanged, and I was not given any formal role in relation to the work on Covid-19, other than occasional ad hoc tasks, all of which are covered below.

#### **Health Policy and Operational Issues, including the previous recent Pandemic**

25. My personal experience of, and insight into policy development in health dates back to the nine years when I served as Permanent Secretary of the Department of Health, Social Services and Public Safety between 2005 and 2014. During that time, the other Departments and Ministers (including the Office of the First Minister and the deputy First Minister (OFMdfM)/TEO and Department of Finance and Personnel (DFP, or



Department of Finance (DoF) as it became from May 2016)) had only had a very limited interest in health policy matters. Even from the point in time when I arrived in DHSSPS, it was known and understood by the senior team in the Department, and the senior managers, clinicians and other professionals across Health and Social Care (NI), that there was a need for:

- radical reform and re-configuration of many aspects of service delivery. The Hayes Report (*Delivering Better Services*, 2003) had recommended changes in the number and structure of acute hospitals and had proved extremely controversial, especially in relation to the downgrading of Omagh Hospital; the study by John Appleby (which I commissioned when in DFP in early 2005, and received as Permanent Secretary of DHSSPS soon after taking up post there in August 2005) had offered challenging advice on the efficiency and productivity of the health and social care service in Northern Ireland; consultancy advice by McKinsey and Company, completed in 2011, had also benchmarked many aspects of service provision; and *Transforming Your Care* (2011) had set a more comprehensive vision of radical change. After I left DHSSPS further studies (notably the Bengoa Report of 2016) have developed many of the key ideas in well-argued recommendations; and
- a much stronger emphasis on early intervention and prevention. This was known to require engagement and cooperation across all parts of the public sector and indeed across society.

26. However, it always proved difficult to make substantial progress, despite review after review. The officials in DHSSPS, and the senior managers in Health and Social Care (NI) knew what was needed to make the system more effective, but radical change was elusive, most significantly because it involved difficult political decisions. When I was in DHSSPS, the system had to undergo administrative re-organisation in the Review of Public Administration, which streamlined the management structure, but left little capacity for the necessary system and service reforms. It also proved impossible (especially in 2014 around *Transforming Your Care*) to secure the transitional funding to make change actually possible. I was involved in the work on the Swine Flu pandemic in 2009 after my return from recovery from major surgery in August 2009, so I recall the principles and key elements of the actual response in that context and the conventional approach to that type of crisis. The response to the Swine Flu pandemic appeared to be effective and hence I have no reason to consider that any limits on policy development or contingency planning from the period before 2014 had a continuing impact in 2020. As health Permanent Secretary, I was a contributor to the

Hine Review (“An independent review of the UK response to the 2009 influenza pandemic” [Exhibit AMCC/06 - INQ000145901]).

27. I was not involved at all in health service policy or operations after 2014. My impression from strategic discussions at meetings with Permanent Secretary colleagues and from general knowledge of the context is that undoubtedly the major deficiency in the process of modernisation and transformation of health services, which was the subject of so many reviews continued: the consequence was that all facets of the health and social care system in Northern Ireland were more stretched (notably with resources spread too thinly) than if change had been effective. I would not be in any doubt that a fully reformed system would have been markedly more resilient had it been in place before 2020.
28. As I see it, the critical locus of communication, engagement and mutual understanding in general preparedness for health-related emergency planning is between Department of Health and the Civil Contingencies team in the Executive Office (or, in the specific context of the pandemic, the Covid-19 team once it had come together). However, I had no line of sight into that relationship before the pandemic and only very limited insight, mainly between David Sterling’s retirement and my own, as apart from that time, I did not need to have any material involvement.

#### **Emergency Planning and EU Exit preparations**

29. Before I worked on EU exit and before the Covid 19 pandemic, my involvement in emergency planning and response had been primarily through the H1N1 (swine flu) pandemic of 2009, together with at least occasional awareness of other crises (for example Storm Ophelia in October 2017).

#### **Background – EU Exit between June 2016 and Spring 2018**

30. The decision by Prime Minister Theresa May to trigger Article 50 of the Treaty on the European Union on 29 March 2017 set the timetable for the negotiations on the withdrawal of the UK from the EU. It became increasingly clear from that point onwards that an immense amount of preparatory work was required to secure an orderly transition. At first, it was reasonable to assume that there would be time for a negotiated settlement to be secured and transitional arrangements agreed well ahead of the deadline of 31 March 2019. During 2017, it became clear that the negotiations would be much more difficult and protracted, and also that issues affecting Northern Ireland would be at the heart of the process. Yet from January 2017, when the deputy First Minister resigned Northern Ireland did not have a functioning government, and

after the Assembly election of 2 March 2017, no Ministers in post, a position that prevailed until January 2020.

31. In the period between the referendum and the collapse of the Executive early in 2017, the NI Civil Service created structures to ensure coordinated organisation of the multi-faceted work that was needed. A top-level group was established - the EU Future Relations Programme Board, which brought together all the Departments, supported by HR and legal experts. Sir Malcolm McKibbin, who was then HOCS, asked me to co-chair the group with David Sterling, who was then Permanent Secretary of Department of Finance. I later assumed sole chairing responsibility after David Sterling succeeded Malcolm McKibbin, and my move to TEO. These structures were focussed on the policy and regulatory issues that would arise through a negotiation where our concerns focussed on trade in goods and services, and the way the operation and obligations facing public authorities would evolve. The structures were not designed at the early stages to assess the risk of unplanned or unanticipated impact from the changes in regulations on social and economic conditions. One aim was to influence the negotiations by ensuring that the UK and the EU understood and recognised the implications of the positions they were taking for the unique circumstances of Northern Ireland. Neither the UK nor the EU negotiating teams, which were drawn together primarily during 2017, were recruited or assembled with Northern Ireland in mind: the UK saw the Northern Ireland issues as relatively minor in the context of the momentous and very broad agenda for such a radical change. The EU were at a further remove from Northern Ireland, but Ireland, as a Member State, more than made up for that obvious detachment, and, by perseverance and force of argument, drew the attention of the EU Commission, Council and Parliament to focus on the issues affecting Ireland.

### **Operation Yellowhammer and No Deal Planning**

32. As early as December 2017, the UK government had identified that “domestic preparedness” would be a key issue in the EU exit, and had begun to look at the many issues arising through a “Heat Map” in relationship to the risks and impacts from the possible scenarios that might arise (see contemporaneous notes from a meeting between Cabinet Office and the devolved administrations **[Exhibit AMCC/07 – INQ000472152]**). From the middle of 2018 onwards, it was clear that the EU exit issue had to be seen as an issue for formal treatment under the established procedures for emergency planning, because the Article 50 deadline of 31 March 2019 was approaching and the negotiations had not produced an agreement, or even made sufficient progress on the withdrawal issues (citizens’ rights, the UK’s financial obligation to the EU at the point of exit, and the issue of the Irish border) to secure

agreement to begin the detailed negotiations on the future relationship between the EU and the UK. The difficulties in the negotiations made it essential to take seriously the potential implications that would arise if there was no agreement on the terms of withdrawal ahead of the end of the Article 50 period. Hence from the summer 2018 onwards, TEO led and coordinated work on the preparations for all possible scenarios, including the “reasonable worst-case scenario” which was based on the core assumption of a “no deal” outcome.

33. Project Yellowhammer was a programme of work led by the Civil Contingencies Secretariat in the Cabinet Office to address the challenges of preparation for EU exit, with particular emphasis on the risks that would arise if the negotiations on the terms of exit concluded without agreement, bearing in mind that the consequence of the notification of Article 50 by the UK government created a fixed deadline of 31 March 2019 for the UK’s exit from the EU. Yellowhammer was a major aspect of the work, and I was responsible for leading the NI Civil Service’s part in it. The NI Civil Service was asked to participate in the work in September 2018 (see paragraph 2 of the brief for a meeting on Yellowhammer on 29 October 2018 [**Exhibit AMCC/08 – INQ000466483**], which refers to a letter from the Secretary of State for Northern Ireland to the Chancellor of the Duchy of Lancaster dated 17 September 2018. The project was concluded formally on 23 December 2019 [**Exhibit AMCC/09 – INQ000469465**]
34. A key component of the work was the UK-wide project called Co-ordination, Control and Command (C3) Project, which began in September 2018. The Project was supported by the Civil Contingencies Secretariat in the Cabinet Office and undertook to review, redesign and test the C3 structures required to manage the potential impacts of a ‘No Deal’ EU exit. The UK Government included Devolved Administrations in the national C3 Project. The lead responsibility for civil contingencies in the NI Civil Service sits with the TEO Civil Contingencies Policy Branch (CCPB), which was in Chris Stewart’s area of responsibility in TEO during the period covered by Yellowhammer and subsequently.
35. The oversight of the work on Yellowhammer and related issues had two distinct but related components:
- co-ordination **within** the NICS, through the EU Future Relations Programme Board; and
  - joint work between the NICS and Northern Ireland Office (NIO), through regular meetings between the Permanent Under Secretary (PUS) of the NIO and HOCS. In the autumn of 2018, these were referred to as PUS/HOCS

Checkpoint meetings. Later, they had the more formal title of the Exit Preparedness Board which was co-chaired by the PUS and HOCS, and my team and their counterparts in the NIO provided a joint secretariat. (the acronym EPS means "Exit Preparedness Stocktake").

36. My team led and co-ordinated the detailed preparatory work across the NI Departments. Graeme Wilkinson (on temporary promotion to Grade 3 in my EU exit team) represented the NICS on the Yellowhammer Project Board. It is important to note that during most of September and October 2018, I was called to give oral evidence over several days to the public inquiry into the Renewable Heat Incentive, which was very time consuming and demanding. David Sterling was also a key witness in this period.
37. It was recognised at an early stage that this work would place very significant demands on the departments affected, especially TEO. The update provided for the Checkpoint meeting on 29 October 2018 between the NIO and the NICS (lead by the Permanent Under Secretary, Jonathan Stephens and David Sterling as HOCS) [Exhibit AMCC/08 – INQ000466483] advised that:
- "The late agreement to NICS involvement, the more recent agreement to PSNI involvement and the low level of detail provided and engagement by NICS departments, mean there remains much to do in a short period."
  - "The level of resources required from the NIO, TEO/NICS to meet the YH demand is greater than can be met without causing high priority departmental work, including concurrent civil contingency delivery, to be impacted."
  - ***"There is a concern that we have insufficient suitably experienced and trained resources to operate an appropriate C3, particularly if there is a need to respond to concurrent incidents. [emphasis in original]"***
38. Urgent work during the Autumn of 2018 allowed significant progress to be made. Chris Stewart sought and obtained some additional capacity for the work on Yellowhammer (see email of 26 November 2018 [Exhibit AMCC/10 – INQ000466485]). The key document that set out the conclusions of the key first phase of work undertaken in Project Yellowhammer was the "NI Cumulative Impact Plan" [Exhibit AMCC/11 – INQ000466486] as submitted to the Secretary of State on 13 December 2018 [Exhibit AMCC/12 – INQ000466487]. On 19 December 2018, the Cabinet Secretary wrote to all Head of Departments across Whitehall [Exhibit AMCC/13 – INQ000466488] that

letter states that "... all non-essential, non-EU exit activity will need to pause or cease as required." He also wrote separately to David Sterling [**Exhibit AMCC/14 – INQ000466489**]. David Sterling attended the meeting of Heads of Departments that day and followed up with a letter on 20 December 2019 [**Exhibit AMCC/15 – INQ000466490**]. He expressed concern at the absence of UK government planning assumptions about the potential specific impacts of a "no deal" exit at the Northern Ireland border.

39. In steering and overseeing the work on Yellowhammer, it was my responsibility to ensure that the NICS identified and addressed the key challenges that would arise in a "no deal" EU exit scenario, and develop the best available contingency plans. Much of the sectoral detail of the work was fulfilled by the individual departments of the NI Executive, but it was essential to draw all the key issues to develop an assessment of the cumulative impact, and that required awareness of the impact of issues in the non-devolved sphere (that is, the functions of government in Northern Ireland that are the responsibility of UK departments such as HMRC and the Home Office), and in turn, the NICS had to supply our detailed information and analysis to NIO and the Cabinet Office, so that they could also take a view on the combined impact of all the issues and contingencies. The process involved working with Whitehall to understand the emerging assessment of the "reasonable worst-case scenario" (RWCS).
40. The "no deal" preparations sought to address comprehensively the implications of EU exit for all sectors of the Northern Ireland economy and society. The work on Yellowhammer involved developing and applying the procedures and structures of civil contingencies and assessing the preparedness and potential effectiveness of the Civil Contingencies Group (CCG), creating the Northern Ireland Hub, and the associated arrangements for communication and reporting, including liaison with local government, with other parts of the UK and with the Irish government and its agencies. As EU exit was the key issue requiring the application of civil contingencies planning and management, my understanding and recollection is that, at least at some stages of Yellowhammer, Civil Contingencies Policy Branch (CCPB) were involved in the work, inevitably meaning that less capacity was available to consider other possible risks (as would be the case in any other crisis situation). I did not have a line management responsibility for CCPB, though I attended (and sometimes chaired) meetings (especially those relating to Yellowhammer) attended by Julie Cuming of CCPB, and my general recollection is that she contributed to the work in fulfilment of CCPB's responsibility in relation to that, as to any other civil contingency.
41. During the period when there were no NI Executive Ministers, as the NICS was working without political oversight, one of my key responsibilities was to contribute to the advice

to, Ministers in the NIO and at times discussion with them. An important element of this work was in relation to legislation, which was a particularly difficult issue in the absence of both NI Executive Ministers and the (legislative) Assembly. A large volume of secondary legislation required attention as a consequence of EU exit, as there would have been difficult consequences for business and wider society if the statute book was not updated. It was the responsibility of the NIO Ministers to take all necessary provisions through the relevant procedures at Westminster. To co-ordinate that work, there were regular meetings with the Minister of State in the NIO, (Shailesh Vara until November 2018, followed by John Penrose until July 2019, and Nick Hurd for the remainder of the period before a “no deal” outcome was a possibility). Less frequently, but importantly, David Sterling and I were in the unprecedented situation of attending Cabinet Committee meetings, for example in January 2019, when I had to explain what a “no deal” scenario would mean in Northern Ireland to a Cabinet Committee chaired by the Prime Minister and attended by most of the relevant Secretaries of State. Because the meeting was specifically focussed on Northern Ireland, it was not attended by the Scottish or Welsh Governments, though many other Ministerial meetings were more fully representative. I do not have either a manuscript or iPad note of this meeting - it was formally recorded by the Cabinet Office, but I have never had any access to Cabinet Office records at any time.

42. While a cumulative impact plan had been prepared in December 2018, the Exit Preparedness Stocktake (EPS) meetings continued regularly through the whole of 2019 (the final meeting as far as I am aware was on 27 November 2019 [**Exhibit AMCC/16 – INQ000466491**]).
43. Because the first extension of the date for EU exit was only formally effected on 22 March 2019, and was very short, the need for continued realistic planning was critically important. Even after the longer extension (to 31 October 2019) was agreed on 10 April 2019, the short time available for preparation, and the great difficulties that would arise in a “no deal” scenario made this a major task. The Reasonable Worst-Case Scenario that was developed during Yellowhammer is [**Exhibit AMCC/17 - INQ000023061**]. This version is dated 2 August 2019, but most of the key assumptions would have applied from the summer of 2018 onwards (except the reference to “EU exit fatigue” in the fourth bullet point). The main specific reference to Northern Ireland is in relation to electricity costs (paragraph 5 of the key planning assumptions). I think this does not reflect some of the most substantial concerns that had been identified and discussed with NIO and other UK government officials. David Sterling’s letter of 20 December 2018 [**Exhibit AMCC/18 - INQ000466490**] had set out the NICS’ concerns.

44. The risk of “no deal” was at the top of our concerns in most of 2019. I met David Frost privately twice in the summer of 2019, during the period of the contest for the leadership of the Conservative Party, when he was part of Boris Johnson’s campaign team, and emphasised strongly that, whatever might be decided on the core EU exit issues, I and colleagues in the NI Civil Service were advising strongly that a “no deal” outcome would have very serious consequences.
45. The passing of the European Union (Withdrawal) (No. 2) Act 2019 reduced the risk, and hence from that point onwards the focus shifted to addressing the implications of the Withdrawal Agreement as settled in October 2019, including the Ireland/Northern Ireland Protocol

**Implications of Yellowhammer for the Covid-19 Pandemic and the Impact of EU Exit Work on Preparedness for the Pandemic**

46. Yellowhammer involved building the structures (notably the NI Hub) and mobilising staff (as volunteers to step away from normal and routine responsibilities in order to manage emerging crises) which yielded some key learning points that could be carried forward for the next crisis. Chris Stewart’s paper of 25 February 2020 to the Departmental Board is an important summary of TEO’s thinking after the crisis of EU exit had passed (with the Withdrawal Agreement in place). I do not recall focusing on this paper at that time, though it was obviously copied to me as a member of the TEO Departmental Board. I was not, however aware of the lessons learned review by Chris Matthews [Exhibit AMCC/19 – INQ000183595] as submitted by Chris Stewart to David Sterling on 17 April 2019 [Exhibit AMCC/20 – INQ000466494], as civil contingencies was not within my role and remit, and both the circulation list and my lack of any recollection of those papers indicate that they were not copied to me.
47. Yellowhammer made more of us familiar with some of the principles and practices of contingency planning, which was undoubtedly helpful. These lessons included understanding of the structures and roles that need to apply in a command and control environment, where it is essential to prioritise and streamline operational responses to the issue that arise in whatever unforeseen context arises, and the need for rigorous analysis of risks and assumptions (notably about the capacity and resilience of essential services) in any contingency planning exercise. I am not aware of any negative consequences from the work.
48. One clear point is that Yellowhammer (and indeed the wider work on EU exit) established some key working relationships, and as the pattern of staff being redeployed from EU exit to Covid was not unique to the NICS, there were many instances where people who had become used to working together were able to bring



the mutual understanding and trust that had been built up through 2018 and 2019 into the new context (examples include Karen Pearson and Gail McKibbin in TEO, Simon Ridley, Helen Williams and Kate McGavin in Cabinet Office, and John Callinan in the Department of the Taoiseach) .

49. “Sector resilience” is essentially the question of whether each sector of the public sector would cope with the potential “reasonable worst-case scenario” (RWCS) in a possible crisis situation and be able to fulfil and deliver business continuity of essential public services. The EU exit preparations addressed the implications of the defined scenarios for all sectors. However, the scope of that work, understandably, did not include assessing their resilience should the personnel required be affected by a flu pandemic, as Yellowhammer was not addressing a comparable context. As it was not within my remit, I was not aware of any issue around deficiencies in the work on sector resilience as a part of contingency planning for a (flu) pandemic: that was a matter for CCPB. I was not aware of the assessment that the relevant work had become an issue, and I am not aware of the evidence behind the comment in **[Exhibit AMCC/21 - INQ000092712]** that Northern Ireland was 18 months behind the rest of the UK as a consequence of the preparations on EU exit. In theory and principle, it could be argued that Operation Yellowhammer should have included assessment of the possibility of a combination of the issues around EU exit with another civil contingency such as a flu pandemic, but I do not remember any such consideration at the Exit Preparedness Board. The issues around EU exit were so dominant and challenging that they probably crowded out some other aspects of work. However, a fundamental difference between the challenges presented by EU exit and any pandemic is that the former did not involve risk to the availability and sustainability of any aspect of the economy or public services through the absence of staff through illness – so the contingency plans were distinct in nature.
50. One harder question, which is also outside my remit, is whether liaison between CCPB or Department of Health in Northern Ireland and their counterparts in Whitehall might have identified the issue before January 2020. Also, the issue of prioritisation of resources within TEO was and is a matter for the Departmental Board, on the advice of the central management team (that is, the TEO Finance Directorate, and the NICS HR business partner who worked with TEO) to the TEO Accounting Officer. I was a member of the TEO Departmental Board from February 2018 onwards, but my focus in relation to staffing issues was seeking to ensure that the EU exit team which I was leading was adequately resourced. If there was a concern about the under-resourcing of CCPB, I have no recollection that that came to my attention before Chris Stewart’s

paper of 25 February 2020 [Exhibit AMCC/22 - INQ000205712] nor am I aware of any evidence that the issue was raised before that date.

51. To the best of my knowledge and recollection, I was not involved in the specific response of TEO management to the concerns raised on 22 January 2020 [Exhibit AMCC/21 - INQ000092712], nor of whether or not the continued work on EU exit continued to exacerbate the deficiencies after that date, nor if corrective action was taken. Because I was not directly responsible for any aspect of the work on the response to the Covid pandemic, I have no awareness of how sector resilience was viewed by the time that became a real issue, when the effects of the pandemic began to hit staffing levels. From a very narrow point of view, TEO had significant concerns about the resilience of the ongoing work on EU exit. It was extremely fortunate that the beginning of the pandemic was after the Withdrawal Agreement had been ratified, and a Transition Period (to end on 31 December 2020) was in place so that a time-critical risk issue of “no deal” did not apply at that time.
52. The strategic determinant of the risks that the NICS (as well as Whitehall) had to manage was the Prime Minister’s firm decision not to seek any extension of the EU exit Transition Period as a consequence of the pandemic. That left us no alternative but to keep work moving on the issues of EU exit, and precluded more complete redeployment of staff from EU exit to the pandemic.
53. While not directly focussed to the issue of sector resilience, the TEO team were aware of the possible combined risks from the pandemic and the continuing work on EU exit. David Sterling asked me and Karen Pearson on 2 March 2020 for a view on whether the C3 Hub would be able to cope with Covid 19 and “No Deal” planning (see text message exchange on page 12 of the chain [Exhibit AMCC/23 - INQ000417168] my response was that the risks from the latter had been diminished by the ratification of the Withdrawal Agreement, and that “no trade deal” was not likely to lead to a hard land border (which had been our gravest concern in the work on Yellowhammer). The contingencies that were identified in that exchange of texts did not materialise – while there were many high-risk stages to the trade negotiations, the UK government did not actually renounce or repudiate the Ireland/Northern Ireland Protocol, and hence our most important mitigation against the worst risks remained in place. By the time firm and detailed preparations for the end of the Transition Period were required in the Autumn of 2020, the coordination of work on EU exit and the pandemic had stabilised. Sector resilience in the Covid pandemic was not within my remit.
54. As I was not deeply involved in the detailed work on the pandemic (though I was in regular contact and discussion with many colleagues who were), I hesitate to comment in detail on the specific value or relevance of lessons learned from, or practices that

were tested in, Operation Yellowhammer for the different context that arose from the pandemic from February 2020 onwards. More generally, considering the political context, my impression and opinion are that undoubtedly the tensions over EU exit were an important factor in the background of the work of the Executive on Covid-19.

55. It is necessary to consider this theme on a long-term perspective, as the most remarkable steps were the positive commitments by the DUP and Sinn Féin to work together from 2007 onwards. However, the antagonism between the two main parties was never far below the surface – before moving to TEO, I had no direct experience of working in a department led by a Sinn Féin Minister, but I did see at first hand DUP behaviour that in my opinion did not reflect commitment to engage with true sharing of responsibility. An illustrative example was the DUP’s approach in the summer of 2016 to a proposed subsidy to United Airlines in respect of the direct service between Belfast and New York. When this idea first came to attention in the early summer of 2016, it was soon clear that a subsidy would not be approved under EU state aid rules. Following detailed examination, this was confirmed in authoritative legal advice. It followed that I was obliged to indicate to Minister Simon Hamilton that any payment would require a formal Ministerial Direction to me as Accounting Officer. However, following discussions within the DUP team of Ministers and Special Advisors, I was asked to work with Minister Hamilton on a submission to seek the urgent formal approval of the First Minister and the deputy First Minister to the Ministerial Direction. On the Minister’s instructions that submission omitted some material considerations relevant to the decision: also, time pressure was put onto on the then deputy First Minister, Martin McGuinness to agree. I was told explicitly by Minister Simon Hamilton that the DUP’s motive was to ensure that they could blame the EU for the closure of the service when the subsidy was overruled, which suited their tactical political position in the aftermath of the EU exit referendum, but did not respect the spirit of power sharing – and when, as expected, the EU did rule the subsidy to be illegal state aid, the DUP responded with strong public criticism of the EU. I do not have access to the relevant official records, and hence cannot provide an exhibit to support these recollections.
56. In the autumn and winter of 2016, there were several other examples of tension between the DUP and Sinn Féin, and while the resignation of the deputy First Minister in January 2017 was linked to the issues arising from the Renewable Heat Incentive (RHI), the wider picture included serious concerns in Sinn Féin that power-sharing was not operating as had been intended in 1998. And the issue of EU exit was mentioned in the deputy First Minister’s letter of resignation, as even then Sinn Féin could foresee that that issue would be difficult and divisive for the Assembly and the Executive. There

was much mutual blame for the absence of the Executive between January 2017 and January 2020. The restoration of devolution in January 2020 came soon after the December 2019 General Election, and I would not be alone in inferring that devotion to power-sharing was secondary to electoral considerations as a driving reason for the restoration. David Sterling and Karen Pearson are better placed to provide authoritative accounts of the way in which Executive business was conducted between the beginning of the pandemic and David Sterling's retirement at the end of August 2020. I have only a few additional comments to make, focussing mainly on the interaction between the EU exit issues and the pandemic. The minutes of the Executive meetings in the autumn of 2020, and the WhatsApp chat in the TEO Covid Group **[Exhibit AMCC/24 - INQ000381035]** are relevant to these comments.

57. Against the background of long-term tensions and deep distrust, the EU exit issue did indeed prove very challenging. Especially during the first part of 2020 there were substantial discussions at the Executive's meetings in the EU exit format (for which I was the Secretary). But by the spring of 2021, the discussions had become at best perfunctory, and my inference is that both DUP and Sinn Féin had concluded that discussion at these Executive meetings was pointless, and they had more scope to influence the issues through their channels in London and Dublin/Brussels respectively.
58. The NI Executive was restored on 11 January 2020, almost immediately after the publication by the UK and Irish Governments of *New Decade, New Approach* (NDNA), which set out the agreed basis for the new beginning. Six of the new Ministers (including the two Junior Ministers in TEO) were new to office and five had previously been Ministers, namely the First Minister, the deputy First Minister, Conor Murphy (Finance), Edwin Poots (Agriculture, Environment and Rural Affairs (DAERA)), and Peter Weir (Education).
59. NDNA included a commitment to create a sub-committee of the Executive to address EU exit issues. On 20 January 2020, I sent a submission to the First Minister and the deputy First Minister with advice on the approach and draft terms of reference for the sub-committee. As EU exit was a controversial issue on which all political parties had different perspectives it was essential that all of the five Executive parties were represented on the sub-committee, even though, for example Department of Health was less affected by EU exit than others such as DAERA or Department for Economy. The sub-committee held its first meeting on 4 February 2020. I gave a presentation to that meeting setting out my advice on the core issues for discussion, and looking ahead with thoughts on the future work programme.

60. When devolution was restored, the focus of the UK government reverted to its own main priorities. Julian Smith was replaced as Secretary of State for Northern Ireland on 13 February 2020, as the Johnson Government was seeking to move its new agenda forward after the completion of the legislative processes for EU exit, and the ratification of the Withdrawal Agreement. It appears to have been assumed that the position in relation to Northern Ireland was settled, as unionist opposition to the Ireland/Northern Ireland Protocol was relatively low-key. Working in TEO, under the direction and control of the First Minister and the deputy First Minister, my role, and that of my team, was to take forward the work on understanding the implications of the Protocol and to work closely with counterparts in the UK government on the way forward, while also maintaining effective liaison with contacts in the Irish government, and in the EU institutions through our Brussels office. That phase of work, was of course, very short, as the onset of the pandemic changed the context suddenly and radically.
61. Work on the pandemic began in earnest less than two months after the appointment of the new Ministerial team, so the key impact of the absence of an Executive until January 2020 was that by March 2020 Ministers had very limited experience of dealing with routine matters, and there had only been a very short time to build relationships between Ministers and between Ministers and officials. In addition, unlike any previous restoration of the Executive, the very controversial issues of EU exit were at the centre of attention, following the rapid agreement to the Withdrawal Agreement, including the Ireland/Northern Ireland Protocol, and its parliamentary approval and ratification on 24 January 2020. There had been neither time nor opportunity for Ministers to establish normal working patterns, nor effective working relationships with their counterparts in London, Dublin, Edinburgh and Cardiff, nor for the machinery of the NSMC to resume normal working. No NSMC meetings took place between the restoration of the Executive on 11 January 2020 and the outbreak of the pandemic, which was a departure convention as in previous restorations an NSMC Plenary meeting was prioritised. Also, there was only one face-to-face EU exit meeting between in that period, a meeting of the Joint Ministerial Committee (European Negotiations) (JMC(EN)) which was held in Cardiff on 28 January, and was attended by the First Minister, the deputy First Minister, the Scottish and Welsh Ministers who had responsibility for EU exit issues, with Ministers from the UK government, including the Chancellor of the Duchy of Lancaster, who chaired the meeting.
62. In the early days after the restoration of the Executive, there was not much specific mention of either the issues that had caused the breakdown of the Executive in January 2017, nor the protracted and frustrating attempts to re-engage over the intervening

three years, but in my considered opinion there was undoubtedly a legacy of distrust over and above the distance between the parties, (especially the two largest, the DUP and Sinn Féin) that is a normal and continuous feature of our politics. The sharp disagreement between the two main parties on the EU exit issue itself was both visible and significant, in exacerbating the pre-existing tensions.

63. In short, the context was not favourable so it is actually remarkable that, when the pandemic hit, there was not more fractious and difficult behaviour than there was. It is impossible to know how events might have unfolded had there been an optimum level of trust between the parties, and continuity of government in the years before the pandemic. But, all things considered, my assessment is that the deep tensions over EU exit did have some negative impact on relationships at Executive level.
64. Ahead of March 2020, my team devoted much planning and energy was devoted to the preparations for a Ministerial visit to the USA, which was to culminate in the key events at the White House (the President's reception) and in Congress (lunch hosted by the Speaker of the House of Representatives). I had attended the parallel events in 2019, which was the third year when no Ministers had been available. While the strongest focus was on the Irish delegation, and the Taoiseach has the very best access, these events are uniquely valuable, as they provided much greater access and opportunity for representation (formal and informal) at high political level. It was by the best opportunity for engagement each year, and Invest NI organised a series of meetings for the DfE Minister, Diane Dodds in both New York and Washington DC. Some other Ministers and senior NI politicians also travelled. The NI Executive Office in North America organised our annual breakfast event, which was always well attended – David Sterling had been the host and lead speaker in 2019, so there was great anticipation of the positive impact of the presence of the First Minister and the deputy First Minister at that event on 12 March 2020.
65. I travelled to the US on 8 March 2020, and accompanied Minister Dodds in the programme of meetings in New York on 9 and 10 March. While we were of course aware of the development of the pandemic, especially from Tim Losty, who was in China until mid-February 2020, there was no official or informal advice not to travel, indeed when we travelled on 8 March, we were expecting the normal sequence of events around St Patrick's Day to go ahead. On Saturday 7 March, there were the first clear indications of concern (see my WhatsApp exchanges that day with Andrew Elliott of the NI Bureau in Washington [Exhibit AMCC/25 - INQ000472153].) but this did not prove sufficient to cancel the whole visit. Over the following few days almost all of the events were cancelled, and I updated the Special Advisors to the First Minister and the deputy Minister on that point on 10 March 2020, and referring to the possibility of

cancelling the NI Bureau Breakfast (see my text message [Exhibit AMCC/26 - INQ000472154]). In the end, the Breakfast went ahead, with Minister Dodds as the main speaker. The First Minister and the deputy Minister did not travel (I had travelled at the same time as the Minister Dodds). The delegation travelled back to Northern Ireland on 13 March 2020.

66. Just after the US trip, a new unit was created in the Executive Office to respond to the crisis to be headed by Karen Pearson who would from that time report directly to HOCS. David Sterling spoke to me to say that he considered it necessary to redeploy Karen Pearson from her duties on EU exit to work on the pandemic for a number of weeks (though, of course, the need for the unit remained throughout the period up to my retirement). To the best of my knowledge, this call took place on 14 March 2020, the day of my return from the USA. Karen Pearson attended the Executive meeting on Covid-19 on 19 March (see TEO Module 2C Corporate Witness Statement, paragraph 240). At the same time, Gail McKibbin, one of the two Grade 5s in the EU exit team was also redeployed to work with Karen Pearson on Covid-19.

#### **My Role During Phases 1 and 2 of the Pandemic (18 March to 16 September 2020)**

67. The onset of the pandemic required radical and immediate redeployment of staff to respond to the enormous organisational challenges. While DoH carried the heaviest demands, TEO had a very large role in convening and co-ordinating the response of the whole system. There had not been time for the strategic review of civil contingency arrangements (as proposed in Chris Stewart's paper of 25 February 2020 to the TEO Departmental Board) to have been carried out and hence to have impacted on the state of readiness.
68. The redeployment of effectively about half of the small EU exit team (leaving just one Grade 5, instead of a Grade 3 and two Grade 5s) I led that was dealing with the EU exit agenda led to much higher workloads for those who remained – especially as the UK government did not seriously consider seeking an extension to the EU exit transition period: because of the political necessity to “get EU exit done”, many time critical actions had to be carried through in a new and untested political environment, without the normal context of face-to-face meetings. As explained at paragraph 12 above, some key members of the small EU exit team that had been brought together in 2018-19 were redeployed to Covid related tasks from March 2020 onwards, I and the remaining team had limited capacity to deal with the full range of the demands that TEO faced, and hence I had only very limited scope to contribute directly to the work on Covid-19. I attended the meetings of CCG that were convened at the start of each

day in the early weeks of the pandemic, as a member of the Permanent Secretary group, though I do not recall contributing much to the discussions.

69. On 17 March 2020, at the very beginning of the work on the pandemic, David Sterling created a WhatsApp group (PSS (Covid 19) to facilitate communication among the Permanent Secretaries and a few key advisors [**Exhibit AMCC/27 - INQ000381081**]. Within that group, on 17 March 2020 Peter May raised an issue about an announcement by the Minister for Department for Communities about the closure of public-facing offices, and expressed concern at the possible difficulties that could arise if different Departments adopted different protocols. I contributed to the exchange with a comment that the First Minister and the deputy First Minister could make such announcements subject to collective agreement through CCG. David Sterling saw merit in this idea, but said he would raise the topic with the senior Special Advisors.
70. Against that background, my comment was a suggestion as to how conventional principles on decision-making could be applied to the new context, though probably my reference to CCG NI was not based on full understanding of the operational approach to decision making in the context of managing an emergency. I had no particular locus or expertise on the issue, and I was responding to concerns expressed by others rather than initiating an issue – and I was commenting from general experience as a member of the group, not fulfilling a responsibility.
71. While I was in close and regular touch with that team and with HOCS, and had to be aware of and sensitive to the implications of all that was happening on the pandemic, I was not a participant in the work on policy development or operational management of the implications of the pandemic. I did cover some aspects of liaison and communication, and attended many meetings on Covid-19, often just to help out in a crisis, as an extra pair of hands, or as eyes and ears, given the limited capacity of the core Covid team and my familiarity with some of the networks that operated.
72. I was aware during the period from March to August 2020 (from day-to-day contact with David Sterling, Karen Pearson and others) that the Executive settled into a pattern where there were very frequent and detailed discussions on all aspects of the pandemic, with Michael McBride as Chief Medical Officer, and Ian Young as the Chief Scientific Advisor making regular contributions of expert analysis and advice. David Sterling would be in a position to provide a much fuller account of the work of the Executive in that period.
73. In June 2020, as the position on Covid-19 appeared to ease somewhat, David Sterling and I sought to bring Karen Pearson back closer to the work on EU exit: in a text



message on 4 June 2020 [Exhibit AMCC/28 - INQ000472155] referred to Karen reporting to me “on all she will be doing” – which would imply that I would be taking responsibility for her work at that time on Covid recovery. My text message to David Sterling on 11 June 2020 [Exhibit AMCC/28 INQ000472155] refers to pressure from DoH that prevented Karen Pearson from moving across to work on EU exit. In actual fact, Karen continued to work primarily on the issues around the management of the pandemic, and the opportunity to progress work on recovery was limited and Karen Pearson did not return to a position where she was under my line management. As explained in the TEO Module 2C Corporate Statement (paragraphs 381-401), both Chris Stewart and Karen Pearson as Grade 3s were involved in this work, and I did not play a major role.

74. There was no explicit interaction between the EU exit issue and the pandemic apart from the unique issue when, on 29 January 2021, the EU invoked Article 16 of the Ireland/Northern Ireland Protocol in relation to vaccine exports – this is described in full at paragraphs 132-139 below.
75. On the EU exit front, in the period from March to August 2020 some very challenging issues arose. The most difficult of these was the most direct and challenging implication of the Ireland/Northern Ireland Protocol, the creation of Border Control Posts at the ports of entry to Northern Ireland from Great Britain. These were specifically mentioned in the UKG proposals on EU exit as sent by Prime Minister Johnson to the EU on 2 October 2019 to break the deadlock on the negotiations [Exhibit AMCC/29 – INQ000466495] and [Exhibit AMCC/30 – INQ000381081] – paragraph 7 (a) of the latter include the following: “Agri-food goods entering Northern Ireland from Great Britain would do so via a Border Inspection Post or Designated Point of Entry as required by EU law, building on the provisions that already exist to support the SEU [Single Epidemiological Unit].
76. The UK government highlighted the fact that only that NI Executive had the statutory powers to implement this aspect of the Protocol, and this was communicated in stern terms by Cabinet Office and NIO officials to me and by DEFRA in Whitehall to the Permanent Secretary of the Department of Agriculture, Environment and Rural Affairs (DAERA). This led to extremely challenging discussions with the DUP Ministers who were very reluctant to accept the obligation to approve work by DAERA on this task. They believed that the Prime Minister had promised “unfettered access” for goods entering Northern Ireland from Great Britain (though the Prime Minister’s public – and any similar private - communications had no foundation in law, as well as being contrary to what UK government officials were saying both to me and to the European

Commission, and more importantly, to what was stated in the UK government's Command paper on the Protocol of May 2020). There were very difficult discussions at the Executive meetings in EU Exit mode, especially in May 2020 (and later again in September 2020 – see paragraph 128 (d) below). While these events did not coincide with the worst stages of the pandemic, they were nevertheless divisive and controversial, and consumed fully my time and energy, and that of my team.

77. From June 2020 onwards, the Cabinet Secretary organised weekly meetings on Zoom which were open to the Top 200 across Whitehall (a long-standing group that comprised all Permanent Secretaries and Directors General in the Home Civil Service). For most of the preceding ten years, I had been a regular attendee at Top 200 (or "Civil Service Leadership Group") meetings, and was familiar with the group, unlike most of my peers in the NICS. Thus, while in theory all or any of the Northern Ireland Permanent Secretaries (who, like me were at the equivalent of Director General level in the Home Civil Service) could have attended, David Sterling and I agreed that I would to attend the meeting regularly to represent Northern Ireland with a watching brief, and I produced an email each Monday to pass on the main items that had been discussed at the meeting. As is clear from my text of 4 June 2020 to David Sterling (page 62 [Exhibit AMCC/28 - INQ000472155]) the initial reason for my attendance was the supposition that I would get more deeply involved in the work on Covid recovery, though as explained at paragraph 73 above, the opportunity to work on recovery did not develop as had been hoped. Initially these were called Cab Sec (O), but in practice the Cabinet Secretary rarely attended and eventually the name was changed to Perm Sec (O), acknowledging that it was James Bowler, as the Covid Permanent Secretary in Cabinet Office who was in the lead. I continued to attend these meetings and to report on them until my retirement in May 2021. My role was to listen to the updates and share the information gleaned with the NICS team, and only very occasionally to contribute factual information about the position in Northern Ireland. I have provided to the Inquiry:

- 38 sets of contemporaneous notes, taken on my iPad during these meetings;
- 25 of the email versions of these notes, and
- one email which shows my notes from a meeting (on 29 September 2020) for which my original iCloud notes do not appear to have survived – they may have been accidentally deleted

78. I did support TEO Ministers in a series of meetings in the late Spring of 2020 led by Foreign and Commonwealth Office (FCO) Ministers, which ensured that the devolved administrations were aware of actions being led or taken by the FCO in relation to Covid-19, such as organising re-patriation of UK citizens from outside the UK, or co-operation on vaccine development. My small international relations team drafted the briefing for Ministers for such discussions, and ensured that all relevant information was passed on as necessary with the Northern Ireland system. My note of one of these meetings is at **[Exhibit AMCC/31 - INQ000466497]**. Tim Losty (Director of the NI Bureau in China) and Anne Tohill in the international relations team maintained good liaison with the Chinese Consulate in Belfast on issues such as procurement of PPE etc.
79. Hence, to the best of my recollection, I only attended (by Zoom, or in Parliament Buildings), a small proportion of the many hours of Executive or other related Ministerial meetings on Covid before David Sterling retired on 31 August 2020. (Line 6 in the summary table at **[Exhibit AMCC/01 – INQ000466478]**). The meetings of the Executive in EU Exit mode were my direct responsibility, but those meetings were usually at clearly distinct times during this period, or were organised so that I could be on standby to join when required rather than attending the whole meeting. My detached position made me sufficiently independent to sponsor the Lessons Learned Review initiated by Anthony Harbinson.

### **C3 Covid-19 Response: Lessons Learned Review and Future Roadmap**

80. In May 2020, I was asked by the NI Hub Chief of Staff, Anthony Harbinson, to sponsor a review of the lessons learned (“the LLR”) from the deployment of the C3 structures to manage the Northern Ireland response to the COVID-19 pandemic and how these lessons learned could shape the future roadmap for our civil contingency capability. My sponsorship role was to chair the oversight group, and provide leadership and direction to the work. The Report is exhibited with this statement **[Exhibit AMCC/32 - INQ000023222]**
81. **[Exhibit AMCC/33– INQ000466498]** is the note of a meeting held on 13 May 2020 with EY on, the consultants who assisted with the LLR, and that note provides a useful summary of the approach that was taken, and the basis of my personal involvement. Both my prior knowledge of the C3 arrangements through Operation Yellowhammer and my minimal involvement in the detail of the work on the response to Covid 19 allowed be to bring a degree of independence to the LLR. The report itself, and the detailed record of the background data etc **[Exhibit AMCC/34 - INQ000301971]** set

out the approach and methodology that was adopted. A central element of the work was structured discussion with many of the key participants in the process (see interview log at page 91 [Exhibit AMCC/34 – INQ000301971]. The email [Exhibit AMCC/35 – INQ000466499] shows the form of the invitation to the interviews which I led, and the names of those invited (though because of limitations on availability in the short time available for this task, in practice it was not possible to meet all those who I had planned to see).

82. Arising from the interviews and analysis carried out by EY, and the discussions I had with the team about the draft report between 5 and 12 June 2020, I was satisfied with the advice and conclusions that were presented in the report. The three points that I and the team collectively judged to be most important were highlighted in the introduction to the Report [Exhibit AMCC/36 – INQ000466500] shows my personal amendments to that draft). First, the report highlighted the need for a capability in the C3 network across the NI Civil Service that would be available and adaptable in relation to a diverse range of risks. Second, the analytical work had highlighted the absence of a risk register at the cross-government/Executive level, which would have a wider perspective than the Departmental or other organisational risk registers such as I had been familiar with in my previous roles as Permanent Secretary in Department of Health, Social Services and Public Safety (DHSSPS) Department of Enterprise, Trade and Investment (DETI), or Department for the Economy (DfE). Thirdly, it was essential to prepare for the need to be ready quickly for the next issue that would arise. The introduction to the Report formed the body of my minute to Permanent Secretaries [Exhibit AMCC/37 – INQ000466501] which led to endorsement of the approach at the meeting on 24 July 2020 [Exhibit AMCC/38 – INQ000466502].
83. Chris Stewart's submission of 24 August 2020 [Exhibit AMCC/39 – INQ000279313] to the First Minister and the deputy First Minister endorsed the conclusions in the LLR, and built on its recommendations to take forward wider review and development of the C3 arrangements. Andy Cole's minute of 25 August 2020 to HOCS and the Permanent Secretaries [Exhibit AMCC/40 – INQ000466504], paragraph 2 (c)) makes the explicit link between the LLR and the possibility of a step up in the autumn or winter of 2020. Hence the key recommendations of the LLR had already been accepted before the Northern Ireland Central Crisis Management Arrangements were reactivated on 26 October 2020 – though of course much remained to be done on the longer-term aspects of the conclusions of the LLR such as the need for investment in professional training for the C3 functions.

84. As I had completed my role as sponsor of the Review, I had no further responsibility for the follow-up actions, and I did not follow systematically the approach that Chris Stewart, Karen Pearson and Andy Cole took to the detailed implementation of the recommendations from September 2020 onwards – however, the evidence cited above shows that there was clear and specific follow up action. In the thick of the very challenging combination of challenges in December 2020 and January 2021, when Phase 4 of the pandemic coincided with the end of the EU exit transition period, the D20 arrangements were put to the test. My experience of those arrangements in relation to EU exit was that they were robust and that in the event, in some respects our preparations proved better prepared than some aspects of what happened in GB, notably in relation to advice and guidance to businesses affected by the changes in the regulation of the movement of goods, as explained below (paragraph 131 ).
85. The approach adopted from September 2020 onwards was that TEO should from that point onwards act to ensure that resilient, fit-for-purpose C3 arrangements are in place, and that the need for continuity and expertise in the core team is getting higher priority. That should prevent the kind of issues identified in January 2020 by CCPB [**Exhibit AMCC/41 - INQ000092712**]. Since retiring, I have noted the signals (in the public domain) that the resourcing and staffing of the NI Civil Service has been constrained and it is important that that issue is approached with regard to the core principles of contingency planning.
86. The meetings of CCG (NI) in the spring of 2020 were in the format of CCG (O), as defined at paragraphs 132 of the TEO Module 2C Corporate Statement. As I understand the process, it had been agreed that Ministerial decision making should not be through the convening of CCG(M), but should be at Executive level. In practice, from March 2020 onwards, Ministers attended meetings of CCG. While Ministerial attendance at these meetings was unconventional, it became clear at the time that Ministers found the meetings useful.
87. It is clear from some of the WhatsApp exchanges in the PSS (Covid 19) group, for example the comments on 25 March 2020 - see page 9 of the record of that chat [**Exhibit AMCC/27- INQ000381081**] - that by some members of CCG that the presence of Ministers was inhibiting discussion.
88. This issue came up in some of the interviews that took place as part of the LLR, including my meeting with Junior Minister Kearney. Hence the LLR Report recommended ([**Exhibit AMCC/42- INQ00002322**] page 7) separation of two strands of work in CCG, to ensure that there could be more open debate among Departments

than was possible if Ministers were present, with the second strand to ensure that, as in the spring of 2020, Ministers could hear updates in this uniquely broad forum.

### **My Role in September to November 2020**

89. Between David Sterling's retirement and the arrival of Jenny Pyper as Interim Head of the NICS (HOCS) on 1 December 2020, I was the most senior officer in TEO, and also the longest serving member of the Permanent Secretary cadre. David Sterling had expected that the open competition for his successor as HOCS would have concluded quickly after his departure, and hence he did not make any formal plan for a temporary arrangement, though he later told me that he had said to the First Minister and the deputy First Minister that could turn to me if someone was needed to cover a gap. However, on 23 September 2020, the First Minister and the deputy First Minister did not agree on a candidate to succeed David, and it became clear that there would be a vacancy for some time.
90. I knew that the Ministers were aware of the fact that I was at that time still subject to the disciplinary process following the RHI Inquiry (see paragraph 22 above). I said to the senior special advisors (Philip Weir and Stephen McGlade as advisors to the First Minister and the deputy First Minister respectively) that I recognised that it would be difficult for the Ministers to ask me to act as HOCS at that time, but that I was willing to help cover the gap as far as I could. However, they did not indicate any support for me doing so. I did not talk to others in those terms, though some TEO colleagues (notably Jill Minne in NICS HR and Roisin Coleman in HOCS' Office) were aware of the issues and context and supportive of the idea that I should help to cover some aspects of the role of HOCS. The First Minister and the deputy First Minister decided to seek an external candidate to be interim HOCS, through a secondment process, and hence there was no resolution of the gap until 1 December 2020 when Jenny Pyper took up post as interim HOCS.
91. This meant that throughout the period from September to November 2020 there was no-one with the authority or responsibility to redefine jobs or roles either within TEO or among the group of Permanent Secretaries and hence the NICS Board. While I had a degree of respect as a result of my seniority, I had no formal standing or responsibility and the very fact that the First Minister and the deputy First Minister did not give me any overt status (even as *primus inter pares*) left me knowing that I could not and should not assert any primacy (i.e. attempt to instruct or direct any Permanent Secretary, or claim the right to have the last word on advice to the Executive). I was available to chair some senior level meetings, including occasionally CCG, but the

chairing of meetings of Permanent Secretary Stocktake and the NICS Board were rotated among the peer group at Grade 2 Group.

92. It was primarily by my own choice, and a sense of duty to beleaguered colleagues, that I gave some time and attention to Covid-19 issues and sought to fill, to the extent that was reasonably possible and acceptable to Ministers, the absence of anyone covering the duties of HOCS. That involved seeking to draw together a strategic view of the key issues affecting the NI system such as the interaction of the pandemic and EU exit, and issues of resource deployment. However, I was not involved in formulating or approving advice to TEO Ministers on policy, organisational or operational issues arising from the pandemic as it was clear that Karen Pearson and her team had both self-confidence and the confidence of the First Minister and the deputy First Minister, and I did not have the personal capacity to take on the level of detail that would have been necessary for that purpose.
93. I attended Executive meetings in this period in an undefined capacity, partly to fulfil the necessary role of making connections between Covid-19 and other issues (including EU exit) and also to show support for the TEO Covid team who faced continuing and growing workload pressures. I created a WhatsApp Group called "TEO Covid Group" **[Exhibit AMCC/24 - INQ000381035]** to facilitate communication in a core team, and this was particularly helpful to me in this unusual period.
94. Also, in discussion with Roisin Coleman who was the head of HOCS' office (equivalent to Principal Private Secretary), I identified the possibility that I might be allowed to engage at the top level in the civil service across the UK. HOCS' office secured the agreement of the newly appointed Cabinet Secretary (Simon Case, who I knew personally from his previous role in the negotiating team on EU exit in the autumn of 2017) that I could attend some meetings of the Wednesday Morning Colleagues and of the (UK level) Heads of Departments, contrary to the normally strict "no deputies" rule. I recorded some contemporaneous notes when attending these and some other meetings in that period and I have provided these iPad notes (equivalent to personal notebooks) to the Inquiry.
95. These contacts gave me some access to senior level meetings when Covid 19 was discussed. I sought to pass on emerging information as appropriate to colleagues within TEO, in DoH, or more widely across the NICS. For example:
- On 25 September 2020, I attended a routine call between Chris Wormald of Department of Health and Social Care (DHSC) and the

Permanent Secretaries of the Scottish and Welsh Governments (see notes [Exhibit AMCC/43 - INQ000466505]);

- On 20 October 2020, I passed on some information from a call with Whitehall and the Permanent Secretaries of the Scottish and Welsh Governments (as I do not have a note of that meeting, it is not clear if that was led from Whitehall by Chris Wormald (Permanent Secretary of the Department of Health and Social Care) of Alex Chisholm (Chief Operating Officer for the Civil Service, both of whom held periodic discussions with the three devolved administrations (see text message to Richard Pengelly and CMO (Michael McBride) [Exhibit AMCC/44- INQ000417218]. That exhibit includes some other indications of my opportunities to share information gleaned from Whitehall contacts;
- On 20 December 2020, I passed on to Richard Pengelly some questions and information arising from requests from or discussion with the First Minister and the deputy First Minister (see text messages at page 9 of the document [Exhibit AMCC/45- INQ000417292]

#### **Prioritisation of Resources (Money and Staff) in Autumn 2020**

96. A very important issue during this period was the acute pressure on civil service resources and the need to focus on the most essential demands. The sequence of key events in relation to that is issues is set out in paragraphs 97 to 123 below.
97. At the Permanent Secretary Stocktake (PSS) meeting on 18 September 2020, which was chaired by Hugh Widdis, the Grade 2 Departmental Solicitor (Permanent Secretary level), several departments raised concerns relating to the resource pressures they were facing, and Richard Pengelly of DoH provided an update on developments on the pandemic (PSS minutes [Exhibit AMCC/46 - INQ000466506]). It was agreed that fuller collective discussion was needed as a priority. I raised specific concerns from Karen Pearson and Gail McKibbin with Mark Browne in his role as Accounting Officer (and hence responsible for the corporate management issues within the Department) (see text messages [Exhibit AMCC/47- INQ000472156] page 1)
98. In following up to this agreement at PSS, HOCS' office sought to arrange an "away day" to facilitate full discussion of the issues, but it proved very difficult to get a date. Richard Pengelly said that his Department was ",,, at or beyond crisis point, given events of the past few days". Mike Brennan (DfE) said he agreed (see emails on pages 5 and 6 in the chain [Exhibit AMCC/48 – INQ000466507]);



99. Hugh Widdis followed up the meeting earlier that day with a proposed approach to this fuller NICS Board discussion on these critical issues (that is the acute resource pressures on several departments arising from the resurgence of the pandemic and other issues including EU exit preparations) (see email at page 2 in the same chain **[Exhibit AMCC/48 – INQ000466507]**); On 21 September 2020, Karen Pearson suggested a meeting on 22 September 2020 “a structured discussion with senior colleagues.. re Covid numbers”) (see first email in the chain **[Exhibit AMCC/49 – INQ000466508]**). As indicated in Karen Pearson’s email, there was a pressing need to bring together consideration of the new trends in the pandemic and the balance between easing and tightening of restrictions. The meeting brought together some or most of the Permanent Secretaries with the Chief Medical Officer (CMO) and the Chief Scientific Advisor (CSA). This was arranged for 22 September 2020: the agenda, and the notes by Roisin Coleman of HOCS’ office notes are **[Exhibit AMCC/50 – INQ000466509]** and **[Exhibit AMCC/51– INQ000466510]**;
100. On 23 September 2020, I suggested that the NICS Board meeting on 25 September was the opportunity for this discussion, because it had proved impossible to find any better date (top email in the chain **[Exhibit AMCC/48 – INQ000466507]**) – also the issues that needed to be addressed were within the governance locus of the NICS Board. It was not necessary to involve others such as CMO and the CSA who were not members of the Board, but whose advice several of us had heard at the meeting on 22 September 2020. That email refers to me having raised the issues with the Special Advisors to the First Minister and the deputy First Minister, as is confirmed in the text messages **[Exhibit AMCC/52- INQ000472157]**; The email refers the “... need to secure clear authority and mandate to focus on only: Covid; EU exit; business continuity; and the top priority (only) (New Decade New Approach NDNA commitments”. I recall that the latter point was added at the insistence of the dFM’s SpAd, because the whole basis of the Executive’s return in January 2020 had been the agreement around NDNA;
101. On 23 September 2020, the First Minister and the deputy First Minister interviewed three candidates for the position of HOCS. On 24 September, they confirmed that they had not reached an agreed position, and that no appointment would be made from the competition (see BBC report **[Exhibit AMCC/53– INQ000466511]**);
102. I chaired the NICS Board meeting on 25 September 2020. The original plan had been for Alex Gordon (First Legislative Counsel) to have chaired the meeting, but I contacted HOCS’ office to suggest that either I or Derek Baker should chair the meeting agreed as it was anticipated that the discussion would be difficult (see texts on page 5 in the

chain [Exhibit AMCC/54 - INQ000472158] With the active support of HOCS' Office (who provided the secretariat) it was agreed that I would chair the meeting. This was a long and very challenging meeting, because colleagues had very serious concerns to raise and the effects of several months of intense working had drained energy and morale. There was some tension within the group as the fact was that there was no easy way ahead, and members were apprehensive that Ministers would not respond positively to the issues (as was borne out by subsequent events). All I could do was to seek to give leadership based on building consensus as I had no authority. The agenda and minutes of the NICS Board meeting are [Exhibit AMCC/55 – INQ000466512] and [Exhibit AMCC/56 – INQ000466513]. The note [Exhibit AMCC/57 – INQ000466514] shows the structured approach I took to the discussion, augmented and formalised by my reflections after the meeting. The key action points that I thought had been agreed included the need for “*consideration of possible reallocation of resources*” with any necessary “*additional workforce capacity... covered by specific financial allocations...*”. I circulated this with a covering email (top email in the chain [Exhibit AMCC/58 – INQ000466515]). It is clear from the text exchange with Michael McBride (CMO) on 27 September 2020 (page 1 [Exhibit AMCC/59 – INQ000417275] that he shared my concern at the need for prioritisation;

103. Andy Cole flagged up concerns about the resourcing of the work on civil contingencies to the NICS Board and the TEO Departmental Board on 28 and 29 September 2020 respectively [Exhibit AMCC/60 - INQ000287258] and [Exhibit AMCC/61 - INQ000287244], but received no substantive response, because, in the absence of any mandate from Ministers, neither Board had authority to redeploy resources. Andy Cole had expected that, following the work on the pandemic in Phases 1 and 2, and the Lessons Learned Review, that it should have been possible to secure volunteers for the NI Hub and ensure readiness for further difficult times ahead – but in fact, in the absence of overall leadership, and decisive intervention by the Finance Minister, the First Minister and the deputy First Minister, this did not happen and neither the TEO Departmental Board or the NICS Board had the authority or responsibility to act, as the issue of prioritisation of resources is a Ministerial responsibility;
104. Karen Pearson and I discussed the issues, and in particular the urgent need for Ministers to adopt a narrow, focussed view of priorities, with the Special Advisors to the First Minister and the deputy First Minister on 29 September 2020 as recorded in the email [Exhibit AMCC/49 – INQ000466516].
105. On 30 September 2020 Chris Stewart sent a submission to the First Minister and the deputy First Minister addressing the issues of prioritisation of New Decade, New

Approach (NDNA) commitments **[Exhibit AMCC/62 – INQ000466517]** This was one of the action points that had been agreed by the NICS Board on 25 September 2020, as part of the approach to seeking to make the situation manageable – the point being that if Departments were obliged to pursue all the many commitments in NDNA alongside Covid, EU exit and other essential statutory obligations, resources would be seriously overstretched.

106. On 1 October 2020, I had a further text exchange with Mark Browne, arising from additional demands being placed on Karen Pearson, and highlighting the possible need for assistance (see page 2 **[Exhibit AMCC/47 – INQ000472156]**).
107. On 6 October, I sent advice to the First Minister and the deputy First Minister **[Exhibit AMCC/63 – INQ000466518]** seeking specific approval to the approach to be taken in TEO itself, and advising of the need for prioritisation across all Departments – the proposal was to deploy resources with a narrow focus on essential activities at the expense of others that were discretionary;
108. I am aware that the First Minister and the deputy First Minister asked Derek Baker, Permanent Secretary of Department of Education to cover the role of interim HOCS, but he did not take that role on. On or around 15 October, Derek Baker, agreed to assist with the work in TEO by taking responsibility for civil contingencies (he was due to retire in November);
109. During October 2020, I was very concerned at the degree of stress on the TEO Covid team. The need to shore up the limited resources available in TEO was second only to those of DoH in the efforts we were making to secure the redeployment of resources. There are some references in my text messages that reflect that concern:
- Text on the morning of 18 October 2020 to Peter Toogood “Karen is close to exhaustion” – **[Exhibit AMCC/64 – INQ000415387]** As the later texts in that exhibit show, Peter Toogood was also under severe pressure, and the signals from political level were against me taking any stronger role;
  - Late that same evening I sent a text message to Derek Baker **[Exhibit AMCC/65 – INQ000417141]** referring to my concerns about both Karen Pearson and Peter Toogood;
110. On 28 October 2020, Derek Baker and I sent a further submission to the First Minister and the deputy First Minister, covering a draft letter from to the First Minister and the deputy First Minister to the other Ministers **[Exhibit AMCC/66 – INQ000466519]**. This

set out a proposed approach to urgent work on prioritisation, that is to ask all departmental Ministers to limit the range of issues requiring attention to the top priorities and for all to be engaged in aligning resources (especially deployment of NICS staff) to those priorities. This was essential because (as I had been told by a number of Permanent Secretary colleagues) some Ministers were insisting that their own agenda should be followed even (in practice) at the expense of the most essential tasks. I do not recall specific details or examples, but the strategic imperative was crystal clear throughout the period from September 2020 until the position on the pandemic began to ease in March 2021;

111. On 30 October 2020, Derek Baker had a meeting with the Special Advisors (presumably Philip Weir for the First Minister and Stephen McGlade for the deputy First Minister). Derek Baker told me that the SpAds had listened but did not respond to a reminder about the submission about the pressures on Departments (see text exchanges on page 6 [Exhibit AMCC/65 - INQ000417141]).
112. In response to our advice, Ministers commented that they would need to communicate the approach to the Assembly TEO Committee. On 5 November 2020, I provided a draft letter for that purpose (submission [Exhibit AMCC/67 – INQ000466520] and draft letter at [Exhibit AMCC/68 – INQ000466521]).
113. On 27 November, TEO announced that Jenny Pyper had been appointed by the First Minister and the deputy First Minister as interim HOCS;
114. On 4 December 2020, in a WhatsApp message, I said to those attending the XO meeting that Jenny Pyper planned to raise resources issues affecting contingency planning with the First Minister and the deputy First Minister (see chat [Exhibit AMMC/69 - INQ000381071]).
115. The resourcing and prioritisation issues remained acute into January 2021. There was a further discussion at the NICS Board meeting on 29 January 2021, and within TEO, Karen Pearson was seeking assistance from Mark Browne, but there were vacancies she could not fill, and there was a risk of losing key staff. These points are mentioned in my text exchange with Karen Pearson that day (see pages 64-65 [Exhibit AMCC/70 - INQ000472159]) which also includes reference that DoH was “really struggling”.
116. On 15 February 2021, Jenny Pyper put a submission to the First Minister and the deputy First Minister [Exhibit AMCC/71 – INQ000466522] repeating and amplifying the advice that it was necessary to adopt a clear and strict view of priorities, and highlighting serious concerns at the effects of under-resourcing on the morale and health of staff.

117. My personal involvement in the issues of civil service prioritisation and management diminished when Jenny Pyper took over as interim HOCS, and I was able to revert to focusing on EU exit issues, which was very necessary as the two major negotiations (see paragraph 128 below) concluded in December 2020, and the transition period ended on 31 December 2020. However, three key points are essential to convey why the process that had been identified as time critical (see paragraph 98 above) on 18 September 2020 had not solved the major problems facing the NICS.
118. First, the approach to addressing the issue as set out in my note to NICS Board of 29 September 2020 (paragraph 102 above) depended critically on action by Department of Finance (DoF). I had liaised closely with Jill Minne, the Director of NICS HR in DoF, as a key element of the problem was that Departments were seeking action from her team, but she had no legitimate basis to prioritise any one Department's needs over another– that could only have been possible if NICS HR had a mandate. Had the issues solely concerned personnel management, a clear agreement at NICS Board might have sufficed. But it became increasingly clear that redeployment of finance was also required, and only DoF could initiate any such action and seek agreement at Ministerial level I also spoke to the DoF Permanent Secretary, Sue Gray about this. The actions (especially the third and fifth bullet points in my note at **[Exhibit AMCC/59 - INQ000417275]**) pointed clearly to the need for DoF to make proposals to its Minister to move the issues forward – based on the information that was to be sought systematically by DoF.
119. However, in fact, DoF did not act in line with the approach discussed at the NICS Board meeting and as summarised in my paper. To have done so would have required the HR and finance teams in DoF to have worked in concert. My text exchanges with Jill Minne of NICS HR between 2 and 8 October **[Exhibit AMCC/72 INQ000415385]** show that:
- a) The finance side of DoF headed by Joanne McBurney (“Joanne McB” in the text exchange) was unaware of the task until 2 October (page 8 of exhibit);
  - b) There was still no sign of substantive action by the finance side on 6 October (page 9 of exhibit);
  - c) On 7 October I spoke to Sue Gray about the issue (also page 9 of exhibit).
120. In the end DoF did not act on this issue – had there been active follow up of the approach agreed by the NICS Board on 25 September 2020, I would have known either

through personal conversations with DoF officials, and/or from correspondence from the Finance Minister, which I would have received as part of the routine management of such correspondence within TEO. My recollection is that at some stage Sue Gray indicated that she did not regard it as DoF's responsibility to advise on the reallocation of resources. I did not have direct contact with others in DoF, but my clear understanding is that this was Sue Gray's personal view. That contradicts the reality that DoF (or DFP) had reviewed allocations either systematically or in response to particular circumstances many times in my 40 years in the NICS. Both Richard Pengelly of DOH and Mike Brennan of DfE, who had worked with me in DFP twenty years previously knew this and shared my exasperation – see my text exchanges from 2 October 2020 with Richard Pengelly [Exhibit AMCC/45; INQ000417292] page 5 and Mike Brennan [Exhibit AMCC/73; INQ000472160] page 10.

121. Secondly, no action was taken by the First Minister and the deputy First Minister. As the weeks unfolded, Permanent Secretaries increasingly held to the view that they could not and would not release staff for redeployment. Only either action initiated by DoF or by the First Minister and the deputy First Minister could have made a difference. [Exhibit AMCC/74– INQ000466524] is a draft of what became Jenny Pyper's submission of 15 February 2021 which includes drafting notes that I provided as comment to Jenny Pyper. These notes show:

- (Paragraph 2) - none of the submissions I had put to the First Minister and the deputy First Minister in October and November 2020, nor the discussions with their Special Advisors had led to any action;
- (Paragraph 8(a)) – my drafting note confirms the point that it had been necessary to include reference to commitments in New Decade New Approach in the priorities (see paragraph 100 above). The same note shows that the First Minister and the deputy First Minister had not issued either the draft letter to other Ministers (paragraph 110 above) nor the letter to the Assembly TEO Committee that had asked for (paragraph 112 above).

122. Thirdly, in the period September to November 2020, no-one had any mandate or authority to have either instructed DoF in any way, or to assert a stronger locus over the issues in advising the First Minister and the deputy First Minister. This arose because of the absence of a HOCS. They had turned to Derek Baker to cover part of that gap which helped for a few weeks. Jill Minne provided advice to them on their options which, of course, I did not see at any time. Jill Minne did include a reference to me in one of the submissions, see text exchanges [Exhibit AMCC/73 - INQ000472160]

page 13 and the emails [Exhibit AMCC/75 – INQ000466525] and [Exhibit AMCC/76 – INQ000466526], but it is clear from what emerged soon thereafter that the First Minister and the deputy First Minister had decided to proceed with the process that led to Jenny Pyper's appointment as interim HOCS.

123. The absence of decision making on priorities had significant impact, in that there was no relief from stress for some of the staff who were most involved in the work on the pandemic – I do not have details, as after Jenny Pyper took up post as interim HOCS, the teams that were most acutely affected reported to her, and the impact in other Departments (notably DoH) was a matter for the respective Permanent Secretaries. I do not have a sufficiently clear picture of all that was happening at political level, but I would suggest that there was at least a degree of disfunction that delayed key decisions and prevented positive and decisive interventions to address the key problems.

#### **Executive Meetings in September, October and November 2020**

124. I attended most of the Executive meetings in this period, not in response to any specific invitation from Ministers, but as the most senior official then in post in TEO. – I thought it would be useful in the absence of a HOCS, given all that was going on for me to be as aware as possible of the range of issues that the Executive was dealing with. I also attended some ad hoc Ministerial discussions on Covid-19 during this period, for example a meeting on 11 October 2020 between the First Minister, the deputy First Minister and the Minister for Health, with the CMO, CSA and TEO officials in support action (see minutes [Exhibit AMCC/77 – INQ000466527]): as for the Executive meetings, I was attending without a specific designated role, but I would infer that I was again lending general support role as the most senior official then in post in TEO. I do not recall the circumstances that led to me being asked to attend this meeting. On some occasions, I took the lead in ensuring that information on key developments arising from the Executive meetings could be passed on from the Covid team who had been present to other officials across the NICS – for example, after the long and difficult meeting on 13 October 2020 (which finished after midnight) I organised a Zoom meeting of Permanent Secretaries to provide for follow up communication (see WhatsApp chat in the PSS group [Exhibit AMCC/78 INQ000381086] page 1).
125. The most difficult Executive meeting that I witnessed was the much-adjourned meeting which began on 9 November and only concluded on 12 November 2020 (formal minutes [Exhibit AMCC/79 – INQ000048497], handwritten notes [Exhibit AMCC/80

– INQ000116294]). I did not contribute personally to the discussion as the key advice was being presented by the CMO and the CSA, with the TEO team (primarily Karen Pearson) also contributing as necessary. The difficult issue was finding the best available balance between the advice from Department of Health (DoH) to tighten the restrictions in the face of the evidence about the second main wave of the pandemic, and the deep concerns about the impact of the restrictions on the economy. There was acute time pressure, because in the absence of a decision to the contrary by the Executive, the default was that some very important restrictions would lapse, in accordance with the terms of previous decisions.

126. As the minutes of the meeting show, there were two cross-community votes in which the DUP Ministers opposed proposals from the Minister for Health and hence the proposals fell as cross-community support was not demonstrated (paragraphs 16 and 48 of the formal minutes and pages 38 and 91/92 of the hand-written notes). Obviously, the (Ulster Unionist) Minister for Health voted for the proposals in both votes, as it was Department of Health that was proposing the tighter restrictions. My clear recollection is that I recorded the cross-community vote on 10 November 2020 (contrary to the hand-written notes, which indicate that “NJ” – Neill Jackson – did so), because, in the absence of a Head of the Civil Service, who would also have been Secretary to the Executive, I was the most senior official present.
127. The provision for cross-community votes at the Executive was not part of the Belfast/Good Friday Agreement in 1998, but was added to the checks and balances to protect the interests of minorities through the St Andrews Agreement in 2006. In a WhatsApp exchange in the TEO Covid Group on 12 October [Exhibit AMCC/24 - INQ000381035] page1), I had pointed out the extreme incongruity of the DUP Ministers claiming to have a concern based on the interests of the unionist community when the proposal was coming from another unionist Minister (the Minister for Health), but as Neill Jackson pointed out, the rules did not preclude that unusual action. The procedure caused significant tension in the meeting itself, with some mutual recrimination between the DUP Ministers and most of the non-Unionist Ministers. The issue was leaked to the press immediately. This was, as far as I am aware, one of the most politically challenging occasions in the Specified Period. One of the other votes taken was on proposals from the Minister for the Economy, with amendments proposed by the Minister for Justice. It is notable that the latter’s role in seeking to secure compromise attracted comment from a former DUP on social media [Exhibit AMCC/81 - INQ000472161]. I had a text exchange very late on 10 November 2020 with the CMO, Michael McBride, reflecting on the clear professional advice he and Ian Young had



provided during this meeting, and the limited acceptance of that advice (see page 3 [Exhibit AMCC/59- INQ000417275]).

128. The period from 1 September to 30 November 2020 was also both eventful and demanding in relation to EU exit issues:

- a) The main negotiations between the UK and the EU were only progressing slowly. Alongside colleagues in the Scottish and Welsh governments, I and my team attended briefings by the UK negotiating team, usually every Friday afternoon, which provided some insight into the process, and a basis for briefing TEO Ministers – but no material scope to influence the approach taken.
- b) In parallel, there were also detailed negotiations between the UK government and the EU on the implementation of the Ireland/Northern Ireland Protocol. I had attended a small number of the Zoom meetings in the summer of 2020 between the UK and EU negotiators, but was not directly involved in the September – November 2020 period, because the discussions became more intense and sensitive. I had to give priority to keeping in touch with my contacts in London, Dublin and Brussels in this period to ensure I was able to keep NI Executive Ministers informed and to understand the emerging political and operational issues in a very fraught period. Both this and the main negotiations did not come to a head until December 2020.
- c) Both of these processes were radically affected by the highly controversial proposals in the UK government's Internal Market Bill, which on its own admission would have breached international law. The rationale as stated was to prevent consequences for the regulation and movement of goods within the UK that the government claimed were unacceptable, even though they were the known and understood consequences of the Withdrawal Agreement as approved the previous January. This had very serious consequences for relationships between London, Brussels and Dublin. I had the responsibility to advise Northern Ireland Ministers (when the two main parties had radically different political perspectives on these events) and to seek to explain a Northern Ireland perspective on these events to my contacts in the EU and more widely.

d) the issue of Border Control Posts continued to be highly controversial, with the DAERA Minister remaining strongly opposed to proceeding with the tasks required to comply with the UK's international obligations. I had the duty and responsibility to provide advice, informed by legal opinions from the Departmental Solicitors' Office (DSO) and the Attorney General, on the options available to the Executive, and at times that led to sharp and challenging exchanges, especially with the DUP Ministers (see in particular the minutes of the Executive meeting on 10 September 2020).

#### **D20 – Phase 4 of the Pandemic and the end of the EU Exit Transition Period**

129. I was directly involved in the work on the combined challenges of the end of the EU exit Transition Period (effective from 1 January 2021) and Phase 4 of the pandemic (26 December 2020 to March 2021 (as described in the TEO Corporate witness statement, paragraphs 508 to 536). That necessitated flexible working arrangements with less regard for the delineation between EU exit issues and the pandemic as it was not possible to separate their respective effects and implications in the real world. The text exchanges in the D20 WhatsApp Group [**Exhibit AMMC/82 - INQ000380946**] give a flavour of the demands and actions needed during that period (“D20” stands for “December 2020”): there was a need for alertness across the group to pick up and share information about emerging developments, and the much-rehearsed preparations for EU exit were put to the test. So, in this period, I attended more meetings within the NI system and with Whitehall that included a Covid agenda than in Phases 1 and 2 in the spring and summer of 2020. It was in this phase that I also became aware of, and involved in Trilateral meetings involving the UK government (Cabinet Office and NIO), the Irish government (primarily Department of the Taoiseach) and the NI Executive (represented by TEO).
130. On Friday 18 December 2020, I told colleagues of an indication from Chris Wormald of DHSC that there was an acceleration in the transmission of Covid-19 in southern England and the possibility of further interventions (I am not sure where I heard this said by Chris Wormald, but it may have been the meeting of Heads of Departments that I attended that day. I attended (by Zoom) four COBR meetings in December 2020 and January 2021 (and one COBR (O) i.e. officials not Ministers). These meetings focused on the combined implications of the latest wave of the pandemic and the end of the EU exit Transition Period for practical and operational issues – the most acute difficulties arose in relation to the movement of lorries through Kent and the ports on the short straits (the Strait of Dover). There was also an XO “Star Chamber” meeting

(I do not recall the significance of that term) on 23 December 2020; a call on 24 December in which the Chancellor of the Duchy of Lancaster (Michael Gove) briefed the First Minister, the deputy First Minister (if I recall correctly alongside the Scottish and Welsh First Ministers), on the main points of the Trade and Cooperation Agreement as finalised that day. There were also XO meetings on 29 December 2020, on 4, 5, 6, 8, 11, 12, 14, 18, 20, 21, 25 and 26 January 2021, and 2, 4 and 11 February 2021. My iPad notes from three of these meetings [Exhibit AMCC/83 - INQ000421780] [Exhibit AMCC/84 - INQ000421781] and [Exhibit AMCC/85 - INQ000472162] and the relevant WhatsApp chat [Exhibit AMCC/86 - INQ000381069]. (I had changed the name of this group several times, and it is stored under the final name "XO 11 02 21"). While most of the attention was on the difficulties affecting the routes across the short straits (i.e. the Straits of Dover), attention was also paid to issues in relation to the Irish Sea routes (see for example the tweet from Stena line on 1 January 2021 which shows that some GB traders were not able to move freight from Holyhead to Dublin because of the new information requirements. The WhatsApp chat also includes reference (4 January 2021 at 13.57) to DAERA stopping lorries entering Northern Ireland where information requirements had not been fulfilled.

131. January 2021 was among the most intense and demanding times in my entire career, as the changes resulting from EU exit led to many confused and unnecessary inquiries. I and my team worked very closely with the Trader Support Service (led by Shanker Singham) and HM Revenue and Customs (Aidan O'Reilly and colleagues, as well as with the Department of Foreign Affairs and Trade in Dublin (Paul Sherlock and colleagues). In many meetings in the autumn of 2020, UKG officials had expressed doubts about the preparedness of the NI Civil Service, and I had to concede in some meetings that the NICS was not as fully prepared as we would have wished – one example of concern in Whitehall are the messages from Brendan Threlfall in the WhatsApp chat "ABC" [Exhibit AMCC/87 - INQ000472163] see messages on 13 November 2020 at 19.47, bottom of page 19 and top of page 20 of the exhibit. However, from the first few days of January onwards, it was clear that businesses in Great Britain who were moving goods to Northern Ireland (mainly via Cairnryan, but in some cases via Dublin port) had not been given clear guidance on what would be required. The emphatic political statements (examples at [Exhibit AMCC/88 - INQ000421782] and [Exhibit AMCC/89 - INQ000472164]) had been taken literally by some businesses who had concluded that they did not need to make preparations to comply with the requirements that had been agreed between the UK and the EU on 7 December 2020 and confirmed by the Joint Committee at its meeting on 17 December

2020. Mike Brennan of DfE alerted me to emerging issues for hauliers in a text exchange on 6 January 2021 (see page 12 [Exhibit AMCC/73 - INQ000472160]).

132. One important development when there was interaction between the work on EU exit and on the pandemic was the debacle over the invoking of Article 16 by the EU in relation to Covid-19 vaccine. The Withdrawal Agreement between the UK and the EU was ratified on 24 January 2020 following approval by the European Council, the European Parliament and the UK Parliament, and came into operation on 1 January 2021. In common with many international agreements, it included provision for intervention should circumstances arise where either party need to act to protect its essential interests. Article 16 of the Ireland/ Northern Ireland Protocol (extract [Exhibit AMCC/90 – INQ000466529]) determined how these safeguards would operate, and the procedures to be followed.
133. During the autumn of 2020, there were parallel negotiations between the UK on the EU on: firstly, the future relationship post-EU exit, culminating in the Trade and Cooperation Agreement of December 2020; and secondly the detailed implementation of the Withdrawal Agreement and of the Ireland/Northern Ireland Protocol in particular. The latter were completed on 7 December 2020. The outcome was set out in a statement to Parliament by the Chancellor of the Duchy of Lancaster, Michael Gove [Exhibit AMCC/91 – INQ000466530] and confirmed by agreement in the Joint Committee on the Withdrawal Agreement on 17 December 2020.
134. During the autumn, there had been calls for Article 16 to be invoked by the UK to protect the interests of Northern Ireland, but the UK government had never taken that step. When the Trade and Co-operation Agreement (and the position on EU exit more generally) were debated in the Northern Ireland Assembly on 30 December 2020, the Ulster Unionist Party proposed an amendment to the “take note” motion proposing that Article 16 should be invoked (see Hansard [Exhibit AMCC/92 – INQ000466531]). That amendment was supported in the division lobbies by the DUP as well as the UUP, but fell because all the non-unionist parties voted against it – the motion that was approved conveyed the support of the Assembly - by a clear majority – for the implementation of the Protocol. The key point is that there was awareness in the Northern Ireland political community of the significance of Article 16 as a safeguarding mechanism, and the perspective that it was seen as a last resort, from autumn 2020 onwards.
135. In late January 2021, as the roll-out of the Covid-19 vaccines began in earnest, concerns arose that vaccines produced in the EU might be exported out of the Union, potentially prejudicing supplies to Member States if there were shortfalls in delivery of

vaccines. This approach attracted criticism at the time from WHO (see BBC report exhibited as **[Exhibit AMCC/93 – INQ000466532]**). In the course of considering all the aspects of the situation, the Commission identified the risk arising from the fact that the land border between Ireland and Northern Ireland was open. In reality, there was no real risk of vaccine intended for Ireland as a Member State being moved across the land border because it would have been under the control of the Irish health authorities. Nevertheless, the EU invoked Article 16 on 29 January 2021 to seek to prevent such movement of vaccines. Within hours, there was an outcry from many sources, including both the UK and Irish governments (the latter not having been consulted on the step taken by the EU. Later on 29 January, President von der Leyen announced that the Commission had withdrawn the invocation of Article 16 (see BBC report **[Exhibit AMCC/94 – INQ000466533]**).

136. However, that was too late to prevent serious political consequences – indeed this date marked a shift in the political landscape in relation to the NI Protocol which was unresolved until February 2024. The Commission admitted that it had made a mistake, but the UK government and the DUP saw and took the opportunity to claim that the EU's statements of goodwill to Northern Ireland, and their commitment to avoid a hard border between Ireland and Northern Ireland, were exposed as false. Their statements did not acknowledge that the rationale for the Protocol included protection of the EU Single Market (which was the basis for the mistaken invocation of Article 16).
137. On the evening of 29 January 2021, an issue arose because a batch of vaccine was in transit from Great Britain to Northern Ireland via the Holyhead to Dublin ferry route. Department of Health was concerned that the invocation of Article 16 would mean that the vaccine would not be allowed to come north across the land border. I was involved in a series of phone calls: Brendan Threlfall, the lead on the Protocol in Cabinet Office pointed out that the Commission's action would not have affected vaccine in transit that evening, and in any case the issue was resolved when the Commission announced the reversal of its decision on Article 16. These events are set out fully in the emails **[Exhibit AMCC/95 – INQ000466534]**).
138. On 2 February 2021, the UK government wrote to the EU taking a radically different approach to the implementation of the Protocol from that which had been agreed and announced with such positive publicity on 9 December (letter **[Exhibit AMCC/96 – INQ000305450]**). At the same time, there was a palpable change in the stance of the DUP on the Protocol – before 29 January 2021, DUP opposition had been balanced by apparent recognition that the Protocol was here to stay and was not without some advantages for Northern Ireland. From 1 February onwards, the DUP position was of

uncompromising outright opposition. For a time, the DUP and the UK government's positions were closely aligned, but that changed again when the Windsor Framework was agreed in February 2023. In this period, the non-unionist parties remained committed to the implementation of the Protocol.

139. Hence, the Article 16 debacle led to greatly increased tension between unionist and non-unionist Ministers in the Northern Ireland Executive. It is impossible to specify the extent of any impact this had on the effectiveness of the work of the Executive on the pandemic, but the clear fact is that there were sharp and serious disagreements that affected relationships and trust in the Specified Period. Subsequent events such as the changes of DUP leadership and the collapse of the Executive and Assembly until February 2024 are clearly out of scope in relation to the Specified Period. Between February and my effective retirement in May 2021, the Executive had hardly any substantive engagement on EU exit issues, though the tensions probably only had a limited effect on the discussions on Covid-19 as recorded in the TEO Module 2C Corporate Witness Statement (paragraphs 555 to 654).

#### **Border control and Republic of Ireland**

140. It would be understandable to infer from my job description that my responsibilities for international relations (including north-south cooperation) included detailed responsibility for issues relating to the borders of Northern Ireland and the detailed engagement with the Irish government. However, that was not the case and I cannot comment authoritatively on these issues. Based on the contact I had with the TEO team during 2020 and 2021, I think it is even likely that the team in TEO who were leading and coordinating the work on Covid had much less engagement with Irish officials than Department of Health where liaison and cooperation was (quite properly) led and applied.
141. Based on the information and understanding gained in my work on EU exit, in my career before moving to TEO, and through my very limited involvement in discussions on these issues in the context of the pandemic, I can offer some general comments that are relevant to these topics (many of which are based on contacts and discussions during Phase 4 of the pandemic – that is, the period from December 2020 to March 2021 – see paragraph 129 above).
142. Public health controls in relation to travellers arriving in Northern Ireland by air or by ferry were indeed a devolved responsibility, but I had neither locus nor involvement in any operational aspect of that issue. It is impossible for Northern Ireland to control the land border with Ireland. In theory, there may be statutory provisions in relation to

public health that could extend to forbidding some movement across the border, but it would be impossible in practice to enforce such restrictions, and announcing and promulgating them would be highly controversial politically, because the EU exit issue had brought border control to the forefront of political debate, with almost all parties (including the UK government, the EU, the USA and most shades of political opinion in Northern Ireland having committed strongly that there would be no “hard border” between Northern Ireland and Ireland. The lockdown provisions no doubt had the effect of stopping many routine and ad hoc cross border journeys, and did attract some critical comment that I recall, but my point is more that the openness of the border made it unrealistic to imagine that the border was a limit on the scope of movement of people. Some limited action was taken (e.g. police patrols) during the Covid lockdowns, but it proved possible to rationalise that as enforcement of restrictions on movement that applied in both jurisdictions.

143. I had an interesting discussion with the Home Office during 2018 about the Common Travel Area (CTA) in the context of EU exit. Hugh Ind (the Director General responsible for immigration enforcement) described the CTA as implying in effect that the UK was contracting out (I do not recall the exact words we used, ) part of the enforcement of control of entry to the UK to the Irish government, because once anyone passed through border control – in this context, at a port or airport in Ireland - the CTA arrangements meant that there was nothing to stop that person moving either across the land border into Northern Ireland, or travelling by ferry or aeroplane to Great Britain. This was obviously problematic from the point of view of law enforcement and immigration control, and there was a case for stronger controls to prevent illegal entry into the UK. However, that would have involved border controls of some sort at the land border in Ireland and at the ports and airports in Great Britain (though logistically the former would be impossible to apply effectively in practice, given the very large number of crossing points and the existence of many properties (mainly farms) that straddle the border). The political necessity of avoiding those actions, in line with the basic rationale of the CTA, was the prevailing consideration, and practical objections to the CTA from the enforcement point of view were overruled. As this was shared in a personal and private conversation, I have no direct evidence to add to this. This discussion happened before the pandemic, and did not touch on public health considerations, but the key point of principle – that enforcement of control of entry at the land border is both practically and politically impossible – applies no less in a public health context.

144. I have noted that the Inquiry has given some consideration in Modules 1 and 2 to the possibility that the island of Ireland might have been treated as a single epidemiological unit (SEU) for the purposes of Covid 19. At no stage was I involved in any consideration of the concept of a single epidemiological unit on the island of Ireland in relation to human health issues. However, in the course of my intense and detailed work on the implications of EU exit for Northern Ireland, the issue of animal and plant health loomed large, and the concept of the island of Ireland as a single epidemiological unit (SEU) for animal and plant health became very important. I had proposed an approach to the EU exit issues through focusing border control at the ports and airports, in proposals which influenced UKG's thinking to some extent from February 2018 onwards [**Exhibit AMCC/97– INQ000466536**]. The idea of the SEU was at the heart of the UKG proposals on EU exit as sent to the EU on 2 October 2019 to break the deadlock on the negotiations [**Exhibit AMCC/98 – INQ000466495**] and [**Exhibit AMCC/99 – INQ000466538**] - see especially paragraphs 7 to 11 of the latter), and I was told that my ideas around risk-based management of the flow of goods had been taken into account in the approach that was adopted in the Withdrawal Agreement. The core idea was that (as has been the case since Victorian times), managing risks to animal and plant health on an all-island basis was the only realistic possibility.
145. My view based on the discussions referred to above and other conversations (including those explained at paragraphs 153-162 below) is to postulate that control of transmission of animal or plant disease is so much more difficult at the land border in Ireland (with its many crossing points, and with such extensive social and economic interaction across the border) than at the ports and airports, that a shared approach to seeking to manage (and hopefully to some extent control) movement of people can only be attempted realistically at the latter. The difficulty that would arise from an all-island SEU would be practical and political objections to any difference of treatment between Great Britain and Ireland.
146. Taking one step further, the logic of the CTA and the close relationship between the two main islands of Great Britain and Ireland, is for there to be the maximum possible constructive cooperation on public health matters between the UK and Ireland. Ideally, the timings and at least the key elements of any NPIs in a pandemic should be as aligned as far as possible, so that the risk of confusion or misunderstanding in the public is minimised. However, the possibility that the UK and Ireland might have acted in lockstep) also has political and practical limits, not least because of Ireland's obligations as an EU Member State. I am not aware of specific work between the UK and Ireland to secure greater harmonisation and cooperation on public health issues,



with a view to securing better outcomes in Northern Ireland, though I would infer from some of the political rhetoric post-EU exit that alignment is at best controversial. My understanding is that, in practical reality, it was not possible to align restrictions so clearly and tightly that the position was uniform across the land border, but that the degree of divergence was broadly manageable. It is not realistic to expect that the Northern Ireland Executive or the NI Civil Service can lead on that range of issues, as the key responsibilities lie with the UK and Irish governments, though they can and should play a strong positive role.

147. I was not present at the “Quad” meeting on 9 June 2020, nor was I responsible for any of the issues discussed. I recall being aware of some difficulties in relation to the timing and practical implications of announcements by the Irish government, but I have no records or detailed recollection on this point before the stage when I became somewhat more involved in the period from October 2020 to February 2021 (see paragraph 158) below, which includes reference to one occasion (on 20 December 2020) when Ministers and officials in Northern Ireland faced a difficult issue following an announcement of travel restrictions in Ireland). At a much earlier stage, in March 2020, there were clearly significant difficulties about coordination (notably in relation to the closure of schools, but I have no inside knowledge of those issues as I was not involved in the relevant work at that time.
148. I was not aware of the All-Ireland MOU before January 2024, and can only make some indirect comments on the issues arising. During my nine years as Permanent Secretary of the Department of Health, Social Services and Public Safety, I found the structures and communications with our counterparts in Ireland to be well-established and productive. There were both formal channels arising from the role of the North South Ministerial Council in health issues as an area of cooperation under the Belfast/Good Friday Agreement, and good bilateral work on a less formal basis. Both Departments worked well with the Institute of Public Health though that organisation was primarily focussed on research and support for policy rather than the kind of operational issues that were so critical in the pandemic. I am not in a position to comment on the development, operation or effectiveness of the MOU, as it was outside my personal remit and indeed outside the scope of TEO’s responsibilities.
149. I was also not aware of the paper by Nolan et al [**Exhibit AMCC/100 - INQ000137387**] before January 2024. I certainly do not recall any active discouragement of comparative analysis of trends in my time in DHSSPS (which, of course, ended in 2014). I do not have any information or insight on the issue of comparative analysis.

150. I do not recall any political dimension to any general reluctance over the sharing of information between the UK (including Northern Ireland) and Ireland (see also paragraphs 152-161 below). There was undoubtedly a chill in relationships between the UK and Irish governments before the pandemic as a result of the tensions over EU exit. I was not close enough to the work on the pandemic to comment on whether or not this this undermined the effectiveness of cooperation and if the extent of any problems. It was clear from the calls I joined (mainly in the winter of 2020-21) that positive efforts were made to share information and consider the implications of forthcoming changes in any of the jurisdictions represented. These calls usually involved UK officials (Cabinet Office, usually led by Jonathan Black, and NIO - PUS Madeleine Alessandri and others), Irish officials (led by John Callinan in the Department of the Taoiseach) and TEO (usually Jenny Pyper, Karen Pearson and myself (see my iPad notes of one example [Exhibit AMCC/101 INQ000472165] in which "John" and JC refers to John Callinan, "Madeleine" to the PUS, and there is mention of Simon Ridley who worked with Jonathan Black in Cabinet Office) - But the substantive follow up actions and advice to Ministers was not within my remit.
151. I can recall one specific occasion which demonstrates the extent of estrangement between the UK and Irish governments in the Autumn before the pandemic. I attended a series of XO (which were the Ministerial meetings on EU exit (X) related operational (O) issues, as distinct from XS, EU exit Strategy), which were frequently held in the COBR room in Cabinet Office (70 Whitehall). I cannot remember the date or the precise context for the event in question, but it was probably in September 2019. The meeting was in person in the COBR room (it is possible that there was a video link for some additional attendees but most, if not all, participants were in the room). It was chaired by Steve Barclay, who was at that time the DExEU Secretary of State, and was attended by Ministers and officials from Cabinet Office, HM Treasury, and most of the main operational Departments, but to the best of my recollection, neither the Scottish nor the Welsh Governments were represented. I was present as Northern Ireland Executive Ministers were not in office, and there was an aspect of the agenda that was focussed on preparations for EU exit affecting Northern Ireland. At some point in the discussion, frustration was expressed at the difficulties in the negotiations on the terms of withdrawal, and there was criticism of the Irish Government. My clear recollection is that the Secretary of State for Health, Matt Hancock commented to the effect that pressure could be put on Ireland to be more helpful, by exploiting their dependency on the UK for a large proportion of their supplies of medicines. Secretary of State Barclay responded positively to this point from the chair. The Secretary of State for Northern

Ireland, Julian Smith, intervened firmly to reject the idea in a tone that seemed to me to be intended to convey dismay that such an idea could be contemplated, even if the point was being made rhetorically. I was sitting beside the Director General in the Northern Ireland Office, Lindy Cameron, and she and I expressed our shared concerns (non-verbally in the meeting, and in discussion afterwards) that the comments were an indicator of very hostile attitudes at senior level to the Irish government. I do not have any contemporaneous record of that meeting. No doubt there is a Cabinet Office minute, but at no stage did I see that note, and it would be unconventional for such comments to be included in the formal record (though I can only speculate that handwritten records might include the exchange). I think it is reasonable to infer from this, and much wider public comment through the autumn of 2019, that there was very limited trust or goodwill between the two governments at the start of 2020, and at the early stages of the pandemic.

152. Concern about the movement of people between Ireland and Northern Ireland arose particularly between October 2020 and January 2021. The practical concern was that many people in Northern Ireland travel to and from Dublin Airport for international travel, and there was a risk of transmission of Covid 19 if different restrictions were in force north and south, or if information on arrivals, especially from high-risk jurisdictions, could not be shared between the respective health authorities. I had a series of text exchanges and conversations with John Callinan, who was the lead official in the Department of the Taoiseach (and “sherpa” to the Taoiseach), who I knew well from working with him on EU exit issues, and who was therefore willing to engage positively with me (see transcript [Exhibit AMCC/102 - INQ000472166])
153. On 31 October 2020, I contacted John Callinan to make him aware that there were discussions happening that day between NICS officials and Whitehall (bottom of page 2 of exhibit). My reason for making contact was to ensure that, if issues relating to the responsibilities of TEO in relation to Ireland were raised in these discussions, it would have been possible to follow up quickly and smoothly. I was alert to the possibility that some issue might arise in relation to international travel but it appears (from the absence of any follow up) that no major issue arose, or that if it did, I was not a necessary contributor.
154. On Monday 23 November 2020, I asked John Callinan for help with clarification of the evolving situation, as concerns were growing about travel over the forthcoming Christmas period (page 3 of exhibit). By way of support and assistance to Karen Pearson, who was leading on these issues, I was asking for John Callinan’s help in particular about the restrictions that would apply to travellers. In response, John

Callinan told me that the situation was not clear at that time, as further decisions by the Irish government were outstanding, but he confirmed that he and his team would be happy to engage with TEO on these issues.

155. One particular incident which confirms the sensitivity of the issues around cross border travel as indicated in paragraphs 142-146 above happened on 26 November 2020. The then Tánaiste, Leo Varadkar, floated the possibility of restrictions on the movement of people across the border, comments that were highly controversial, and which were strongly criticised by the First Minister and the deputy First Minister (see press report [Exhibit AMCC/103 - INQ000472167]). John Callinan made a point of drawing these to my attention to seek to limit the damage from these comments and to underline that they did not represent Irish government policy. In turn I passed on this on this information to Michael McBride (CMO) by text the same day (see message on page 4 of texts [Exhibit AMCC/59 – INQ000417275]) simply for information and to minimise the risk of escalation;
156. On 8 December 2020, John Callinan conveyed an update to me about public health advice and requirements for those travelling over the Christmas period (page 4 [Exhibit AMCC/102 - INQ000472166]). In line with normal practice, the exchange emphasised that Karen Pearson and her counterpart in Dublin would liaise on the details.
157. On Sunday 20 December there were further developments on travel restrictions (see bottom of page 5 of exhibit). The need for action arose from the emergence of a new variant of Covid-19, as I had noted from Chris Wormald's comments at the meeting of Whitehall Heads of Departments on Monday 14 December [Exhibit AMCC/104 – INQ000472168]). In the course of the afternoon of 20 December, information was emerging on travel restrictions and flight cancellations – notably there was a tweet from RTE at 13.22 [Exhibit AMCC/105 - INQ000472169]) which suggested a ban on flights from Great Britain to Ireland was imminent. It appears that there was a Trilateral meeting at 14.00 that day (see text exchange with Roisin Coleman at the top of page 15 [Exhibit AMCC/54 - INQ000472158]) though I do not appear to have taken any notes at that meeting, and if it did indeed take place, it appears that Irish officials did not set out fully the emerging position on travel restrictions (it may have still been under consideration by the Irish Government). I asked John Callinan for clarification at 16.39 that afternoon (see text message on page 5 [Exhibit AMCC/102 - INQ000472166]).
158. My understanding, based on all the available messages, is that later that day I attended a (virtual) meeting with the First Minister and the deputy First Minister that day (see the

reference to “a link for 6.15 in the WhatsApp chat of the TEO Covid Group (page 16 [Exhibit AMCC/24- INQ000381035]) when the emerging situation was discussed. My inference is that during that meeting, I received the press statement from the Irish government announcing a ban on flights from Great Britain – Stephen McGlade, (the deputy First Minister’s Special Advisor) sent it to me at 18.18 (see page 5 [Exhibit AMCC/106 - INQ000381027]) but in response I said that I had already received it from another source, though I cannot recall now who that was. Following that meeting, I sent messages to Richard Pengelly in DoH (see page 9 [Exhibit AMCC/45 – INQ000417292]). The first requested advice on the Christmas bubbling arrangements, and the second passed on what I knew about the Irish government’s ban on flights from Great Britain including reference to a difference of view between the First Minister and the deputy First Minister. There was then a meeting of the Executive at 21.00 that evening when there was discussion of a possible travel ban. I was exchanging WhatsApp messages with Karen Pearson during that meeting, and I made the comment at 22.20 [Exhibit AMCC/107 - INQ000378049] that we had been “*badly ..blindsided by the major escalation by the Irish Government between 2.30 and 5 pm this afternoon*”. The following day (21 December 2020) the Executive agreed to issue guidance against all but essential travel between Northern Ireland and both Great Britain and Ireland. On 22 December 2020, I told John Callinan of difficult discussions between Special Advisors about the implications of this guidance for people “walking into Strabane from Lifford” (see bottom of page 5 [Exhibit AMCC/102 - INQ000472166]). which underlines the practical difficulties relating to this issue.

159. Some weeks later, there was a UK announcement on 7 or 8 January 2021 which needed attention to ensure clear understanding of the implications both in TEO and in the Department of the Taoiseach (see exchange on page 6 [Exhibit AMCC/102 – - INQ000472166]).
160. The more specific issue of concern was in relation to Passenger Locator Forms (PLFs). Data sharing in relation to travellers arriving at Dublin Airport and travelling to Northern Ireland had been raised at a Trilateral meeting on 11 November 2020, and John Callinan had commented that he would see what could be done [Exhibit AMCC/108 - INQ000421783]. PLFs mattered as the source of data on travellers arriving from third countries. John Callinan told me on 14 January 2021 that his understanding had been that the health Departments north and south had agreed a way ahead (see bottom of page 6 [Exhibit AMCC/102 - INQ000472166]) but that something had gone amiss, which he inferred arose from political objections from the (DUP) First Minister. The text exchanges that day (running from page 7 to the top of page 8 [Exhibit AMCC/102 –

**INQ000472166]** confirm that I was more involved than usual with this as Karen Pearson was away from the office following a bereavement. I contacted Richard Pengelly the same day (14 January 2021) (see my text to Richard Pengelly at the top of page 10 of **[Exhibit AMCC/45 - INQ000417292]**). I suggested to both Richard Pengelly and to John Callinan that a meeting of officials from north and south should be arranged to seek a way ahead. DoH in Northern Ireland confirmed to me (and I in turn passed this on to John Callinan) that the information was not intended to be used as means of enforcing restrictions, but ensuring effective guidance and information for travellers. In a telephone conversation on 15 January 2021, John Callinan told me of the great difficulties that had arisen in Ireland in relation to the regulations governing PLFs (see my text to Richard Pengelly near the bottom of page 10 **[Exhibit AMCC/45 – INQ000417292]**). Richard Pengelly said he was concerned that the Irish authorities were not resolutely seeking a solution.

161. There is a further reference to the difficulties in relation to PLFs in my notes of the Trilateral meeting on 20 January 2021 **[Exhibit AMCC/109 - INQ000472165]**. By 27 January 2021, it appeared that progress was being made on these issues as indicated in both my exchange of texts with John Callinan that day (page 9 **[Exhibit AMCC/102 INQ000472166]**) and my notes from the Trilateral later that day **[Exhibit AMCC/110 – -INQ000277058]** where I recorded that the developments (including the amendment of the Irish regulations in relation to PLFs, would “help resolve data exchange”. I informed Jenny Pyper (Interim HOCS) of these developments, and she responded indicating that she was in touch with Martin Fraser (“MF”) the Secretary General of Department of the Taoiseach) (see text exchange on pages 12 & 13 of **[Exhibit AMCC/111 – INQ000417238]**). On 31 January 2021, John Callinan sent a further update (first to Jenny Pyper and then to me) explaining the approach that the Irish authorities were taking and making clear that there was no direct action to control the land border, but that residents of Northern Ireland who were away from home without reasonable cause, and were stopped south of the border would be treated “..on the same basis as Irish residents” (page 10 **[Exhibit AMCC/102 - INQ000472166]**).
162. I would simply add the comment that the exchanges cited above revealed some degree of distrust on both sides and underline the need for much more open and effective liaison and communication in a fraught situation. From the limited contacts and discussions that I was involved in, my sense is not that there was any general reluctance in the Irish government to share information with the NI Executive, but there were legitimate legal and practical constraints arising from data protection legislation generally and Covid-specific provisions. In the long-term context of political distrust,

this may have given rise to a perception of reluctance – and my engagement did not give me a comprehensive basis to rule out the possibility that there was some political reluctance.

163. I do not recall being aware of where there may or may not have been opportunities for Northern Ireland Ministers to co-operate with or assist the Irish Government, and hence I have no evidence to offer on whether there was political opposition to any such action (though at one point John Callinan commented to me that he suspected there was a political dimension to the dispute around PLFs (see top of page 7 of exhibit [Exhibit AMCC/102: INQ000472166]) I did not pick up any other such signals to that effect from my contacts with Irish government officials, or in the Trilateral meetings. However, I think it is fair to say that the proximity to the general controversy over EU exit, and the particular issue of the vaccine debacle on 29 January 2021 (see paragraphs 133-140 above) was undoubtedly a constraint on trust.

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

164. I possessed and used government supplied devices (an iPad and an iPhone) throughout the Specified Period and before. I used email as the primary means of official communication, using a laptop computer supplied by IT Assist, and I also used the iPad and iPhone for email communication when that was more convenient. I understand from TEO that it has not been possible to retrieve my full email account from Outlook: however, to the best of my knowledge, many of my emails were filed in the records management system (Content Manager) either by my personal secretary, or by one of the branches in my team in TEO, or by another recipient, though I do not have access to the relevant containers in Content Manager. I have provided to the Inquiry the emails that I have been able to access, but it is impossible to be sure what proportion of the total that represents, in the absence of the complete email account.
165. I did not use any private or personal mobile devices at any stage during the Specified Period – I never had a personal mobile phone at any stage before my retirement and while I had a personal iPad some years ago, it had ceased to function before the Specified Period. I used WhatsApp and SMS communication extensively on my government supplied devices to communicate with Ministers, special advisers and civil servants of all grades. This facilitated convenient communication (especially in the key groups that were established, (some of which I initiated). It was at times particularly convenient to communicate before, and especially during video meetings when the participants were in different locations, and there was need and/or value for points of

briefing, clarification or alerts (for example if I and colleagues were attending in support of Executive Office Ministers when they were meeting counterparts in Whitehall or elsewhere). Such practices were frequent and routine in my work on EU exit, but much less substantial in relation to the pandemic.

166. I do not recall being personally involved in any decision-making conversations or meetings in relation to Covid-19. I was not aware of any decisions being taken in informal meetings – though I was not close enough to the decision-making processes on Covid 19 to comment authoritatively. The vast majority of my (limited) involvement in the issues around Covid were in listening and recording information to be shared with the relevant colleagues, and (less frequently) providing information, context and occasionally explanation of the factual position in Northern Ireland.
167. In relation to the retention of WhatsApp and SMS messages, I was very conscious of the potential importance of such information, following the significant scrutiny of such records in the context of the public inquiry into the Renewable Heat Incentive (RHI), in which I was a core participant. My understanding and practice up to my retirement was that WhatsApp messages were backed up in iCloud, and that they would therefore be available even if my physical phone was unavailable, lost or damaged.
168. I was on sick leave in June 2021, when, following the announcement of the Covid-19 public inquiry on 12 May 2021, there was a follow up announcement in relation to the retention of records. I understand from TEO that more specific guidance, including direct reference to the retention of WhatsApp messages, was issued by the new Head of the NI Civil Service, Jayne Brady, in September 2021 (i.e. soon after my retirement on 31 August 2021). Before I retired in 2021, I had backed up all my WhatsApp (via iCloud) and my SMS messages (using a commercial software called “Decipher”) to my personal computer. I did not give specific attention to identifying and selecting those WhatsApp or SMS messages might be regarded as specifically requiring filing into Content Manager. I then returned my iPhone, iPad and laptop to IT Assist. I have since been informed these devices cannot be located. I have provided to the Inquiry all my SMS and WhatsApp messages relating to official business during the Specified Period, from the records I had retained on my personal computer.
169. The table exhibited at **[Exhibit AMCC/112 INQ000421751]** sets out the names and other details on the WhatsApp chats in which I participated. Most of the chats with individuals are self-explanatory. The points below set out all the details I can recall in relation to the various group chats (these points are arranged in chronological order with some exceptions for simplicity):



- a. **[Exhibit AMMC/113 - INQ000380919]** – Karen Pearson created the “Brexit Info Group” on 15 June 2019 it included senior officials in some departments (DfE and DAERA as well as TEO), though I do not recall the full details. This group continued in use until 10 June 2020, but did not deal with any Covid issues;
- b. **[Exhibit AMCC/27 - INQ000381081]** - PSS (Covid-19) was created by David Sterling on 17 March 2020 and comprised all the Grade 2 members of the NICS with some additional key contributors (CMO, NICS HR, and the civil contingencies secretariat. It was used mainly between then and 3 April 2020. I did not contribute much to this group, but it was a helpful source of updates. **[Exhibit AMCC/114 - INQ000381081]** is largely the same document, though it includes some exchanges from before David Sterling added me to the group which do not appear in **[Exhibit AMMC/27- INQ000308415]**.
- c. **[Exhibit AMCC/115 – INQ000377992]** – the chat named as “**30-04-20 INISC**” (i.e. Ireland/Northern Ireland Specialised Committee) was created by a UK official, Mia Hamburger, on 29 April 2020. It was used for communication between the UK government and NICS officials during the formal meeting of the INISC, and the chat does not touch on any Covid issue;
- d. **[Exhibit AMCC/116 – INQ000378033]** I created the group “**Andrew Colin Lindy**” on 5 May 2020 to facilitate communication with my two key contacts in the NIO, Lindy Cameron (Director General) and Colin Perry (Director). This chat covered only EU exit issues and has no substantive content related to Covid-19.
- e. **[Exhibit AMCC/117- INQ000377996]** created the group “**A+L+L**” on 11 May 2020 to facilitate communication with Lorraine Lynas and Lynsey Moore in my own team, who were my two remaining SCS staff working on Brexit as Karen Pearson and Gail McKibbin had moved to work on Covid, and Tom Reid had not arrived to replace Karen Pearson as the Grade3. This dealt purely with EU exit issues and the chat does not touch on any Covid issue;
- f. **[Exhibit AMCC/118 INQ000380967]** I created the group “**EU Exit Inner Group**” on 10 June 2020 to facilitate communication among a small group of officials from my own team, Department for the Economy and Department of Agriculture, Environment and Rural Affairs (Grade 3s and Grade 5s), This dealt purely with EU exit issues and the chat does not touch on any Covid issue;
- g. **[Exhibit AMCC/119 – INQ000377983]** I created the group “**10 June Business Forum**” also on 10 June 2020 for a meeting between UK government and business representatives, also attended by the TEO Junior Ministers and Special

Advisors. This dealt purely with EU exit issues and the chat does not touch on any Covid issue;

- h. **[Exhibit AMCC/120 – INQ000377987]** I created the group which appears in the documents submitted to the Inquiry as: **“12 June Joint Committee”** on 5 June 2020. The original title was “5 June PMG Call” (a virtual meeting between the Paymaster General, Penny Mordaunt and the three devolved administrations). The purpose was to facilitate chat in the group attending - primarily the First Minister and the deputy First Minister, or the Junior Ministers, supported by Special Advisors (frequently Emma Little-Pengelly for the DUP and Stephen McGlade for Sinn Féin) and Private Secretaries. It was used for three purely EU exit meetings – I changed the name of the group twice - and the chat does not touch on any Covid issue;
- i. **[Exhibit AMCC/121 - INQ000380993]** I created the group which appears in the documents submitted to the Inquiry as: **“JMC(EN) 29 October 2020** on 17 June 2020. The original title was “17 June PMG Call” (as in (d) above). It was used for a series of purely EU exit meetings – **I changed the name of the group on eleven occasions** - and the chat does not touch on any Covid issue;
- j. **[Exhibit AMCC/122 - INQ000381092]** I created the group **“Readiness Meeting with NIO”** for a meeting on 24 June 2020 on EU exit issues, I do not have any record as to who else was in the group, and the chat does not touch on any Covid issue or give any substantive information;
- k. **[Exhibit AMCC/87 – INQ000377998]** I created the group **“ABC”** on 26 June 2020 to facilitate communication with key contacts in the Cabinet Office (“B” – Brendan Threlfall), and the NIO (“C” – Colin Perry and “L” – Lindy Cameron – the group was originally called ABCL). This dealt mainly with EU exit issues but in the very long thread there are some references to Covid issues, though no comments of any substance;
- l. **[Exhibit AMCC/123 – INQ000378036]** the chat named as **“16-07-20 INISC”** (i.e. Ireland/Northern Ireland Specialised Committee) was created by a UK official on 16 July 2020. It was used for communication between the UK government and NICS officials during the formal meeting of the INISC, and the chat does not touch on any Covid issue;
- m. **[Exhibit AMCC/124 – INQ000381092]** I created the group **“NI Readiness Group”** on 30 July 2020 to bring together NICS officials attending a series of

meetings with Cabinet Office and the NIO (perhaps with others in Whitehall as well).

- n. **[Exhibit AMCC/125 – INQ000377989]** the chat named as “**26-03-21 INISC**” (i.e. Ireland/Northern Ireland Specialised Committee) was created by a UK official on 8 October 2020. It was used for communication between the UK government and NICS officials during the formal meetings of the INISC on 9 October 2020, 5 November 2020, 23 February 2021 and 26 March 2021, and the chat does not touch on any Covid issue;
- o. **[Exhibit AMCC/126 – INQ000377985]** the chat named as “**10-11 Agri-food session**” was created by a UK official on 13 July 2020, but I was only added to the group on 1 October 2020. It was used for communication between the UK government and NICS officials (TEO and DAERA) mainly during negotiating meetings with the EU on agri food issues. The chain includes exchanges during meetings on 1 October, 8 October and 10 November 2020. I do not have any record as to who else was in the group other than those named. This dealt purely with EU exit issues and the chat does not touch on any Covid issue;
- p. **[Exhibit AMCC/78- INQ000381086]** I created the group “**PSS**” on 10 October 2020 to facilitate sharing of information with Permanent Secretary colleagues. Some key information on the pandemic (for example feedback from Executive meetings) was shared in this group, as well as issues relating to EU exit and other topics.
- q. **[Exhibit AMCC/127 – INQ000378011]** - I created the group “**ADK**” (Andrew, Derek (Baker) and Karen (Pearson)) on 17 October 2020 to facilitate sharing of information in the short period when Derek Baker was assisting the Executive Office with Covid-related business. These messages are predominantly about Covid-19 issues, including concerns that Derek Baker and I shared about Karen Pearson’s workload.
- r. **[Exhibit AMCC/128 - INQ000381065]** “**Unfettered Access**” was a group by Mark Davies in the EU exit team dealing with Northern Ireland in the Cabinet Office created for a meeting on 29 October 2020. I do not know who else he added to that group, and the only exchange is about a specific EU exit issue;
- s. **[AMCC/86 - INQ000381069] XO 11 2 21** I created this group on 3 November 2020, and used it for a large number of meetings with the UK government up to 11 February 2021, changing the name and the membership of the group for each successive meeting. Most of the meetings were of XO the Cabinet Committee

dealing with EU exit operational issues, which was routinely chaired by the Chancellor of the Duchy of Lancaster, Michael Gove, or another Cabinet Office Minister deputising for him. The attendees, and hence the members of the group, changed with availability and according to the agenda for each meeting. Normally, some combination of the First Minister, the deputy First Minister and the two Junior Ministers attended, supported by a Special Advisor (frequently Emma Little-Pengelly for the DUP and Stephen McGlade for Sinn Féin). Other participants were members of my EU exit team and officials of other NI departments as required. For some reason, I created separate chats for single XO meetings on 4 December 2020 [Exhibit AMCC/69- INQ000381071] and 30 December 2020 [Exhibit AMCC/129 – INQ000381081]. Those meetings and hence the WhatsApp messages are predominantly about EU exit issues, though some logistical points that were covered related to the pandemic;

- t. [Exhibit AMCC/130 - INQ000472170] on 4 December 2020, Paul Grocott of Department for the Economy (DfE) created the group “**Neg Qs**” comprising him, Mike Brennan (Permanent Secretary of DfE) and me: the only exchange is about a specific EU exit issue;
- u. [Exhibit AMCC/131 - INQ000381046] “**TFE Update 5 December 2020**” was created by Vickie Trimble in the EU exit team for the small group who were involved in the update from Task Force Europe (TFE) which was the UK negotiating team on the trade negotiations with the EU. There are no references to Covid-19 in this chat;
- v. [Exhibit AMCC/132 - INQ000381003] **Joint Committee 24 2 2021** – I created this group as “**COBR 21 12 20**” on that date, and used it for communication with Ministers (normally the First Minister and the deputy First Minister) during that meeting and the subsequent COBR meetings on 23 and 24 December 2020. It was convenient to use the same chat for some subsequent EU exit meetings, as the main group of Ministers, Special Advisors and Private Secretaries were also involved in those meetings including JMC(EN) on 29 December 2020. This chat also has a few exchanges from the “**CDL Call 30 01 2021**”, which was convened by the Chancellor of the Duchy of Lancaster (CDL) on Saturday 30 January 2021, the day after the EU Commission had invoked and then withdrawn a challenge under Article 16 of the Ireland/ Northern Ireland Protocol over the vaccine export issue (see paragraphs 132-139 above). That call included the First Ministers of Scotland and Wales as well as Northern Ireland Ministers. Thus, these messages cover both EU exit and Covid-19 related discussions.

- w. **[Exhibit AMCC/82 - INQ000380946] D20 C3** was created by Andy Cole on 22 December 2020 to bring together the TEO teams dealing with Covid-19 and EU exit along with the civil contingencies team. I do not have precise details of the full membership of this group. As explained at paragraph 129 above, in December 2020, the logistical implications of EU exit and Phase 4 of the pandemic were inseparable and hence this group addressed that range of issues collectively;
- x. **[Exhibit AMCC/133 – INQ000380899]** I created the group “**BEF 30 12 2020**” on 30 December 2020 for the ad hoc group of NICS officials attending a meeting of the UK government’s Business Engagement Forum. Members of the group were from my own team, Department for the Economy and Department of Agriculture, Environment and Rural Affairs. This dealt purely with EU exit issues and the chat does not touch on any Covid issue
- y. **[Exhibit AMCC/134 - INQ000381106]** I created the group “**SASAS**” on 30 January 2021 for informal discussion with a small number of business representatives: Stephen Kelly of Manufacturing NI, Aodhan Connolly of the NI Retail Consortium and Chair of the Brexit Business Working Group (of which the others were members); Seamus Leheny of Logistics UK, and Stuart Anderson of the CBI. This dealt purely with EU exit issues and the chat does not touch on any Covid issue
- z. **[Exhibit AMCC/135 - INQ000381017] Steel.** Katrina Godfrey, who was then Permanent Secretary at the Department for Infrastructure (DFI) (and hence responsible for ports) created this group on 15 January 2021 for the NICS officials (TEO, DfI and DfE) as there was controversy over the movement of steel. This was purely an EU exit issue and the chat does not touch on any Covid issue;
- aa. **[Exhibit AMCC/136 - INQ000381073]** I created the group “**NSMC Brexit Senior Group**” on 10 February 2021 for informal sharing of information with a group comprising my EU exit team and the northern side of the Secretariat of the North South Ministerial Council (NSMC). The chat does not touch on any Covid issue;
- bb. **[Exhibit AMCC/137 – INQ000378094]** I created the group “**NS Group**” on 26 February 2021 for informal sharing of information with the northern side of the Secretariat of the North South Ministerial Council (NSMC). The chat does not touch on any Covid issue. **[Exhibit AMCC/138 – INQ000381073] (NSMC (N))** is a similar group which I created on 16 April 2021

- cc. **[Exhibit AMCC/139 - INQ000381044]** the group “**TEO International**” comprised the head of our Washington and Brussels Offices along with Tom Reid, the Grade 3 in my team, and Tim Losty who had recently returned from China. I created it on 12 March 2021 and it was used for sharing updates. There are no material references to Covid-19 issues in this chat;
- dd. There are two WhatsApp chats named “**JKA**” (i.e. Jenny Pyper, Karen Pearson and Andrew. I created the first, **[Exhibit AMCC/140 - INQ000380991]**, on 13 March 2021, and it was used (only) during a Trilateral meeting that day, which involved, as well as the three of us (though I was muted and on a separate phone call during part of the meeting, Irish officials (led by John Callinan) and Cabinet Office and NIO officials (including Mark Larmour), and the key issue that was discussed concerned travel between Northern Ireland and Dublin Airport. I do not recall why it was necessary or expedient to create a separate chat on 9 April 2021 for the three of us **[Exhibit AMCC/141 - INQ000380989]** saved as **JKA#**), but the latter was used from that date until my retirement and includes some Covid references, though there is little substantive content;
- ee. **[Exhibit AMCC/142 - INQ000381115]** I created the group “**SPS Issues**” on 2 April 2021 to facilitate sharing of issues in a small senior group on the very difficult work on sanitary and phyto-sanitary (SPS) controls on goods moving between Great Britain and Northern Ireland. The other participants were Colin Perry (NIO), Emma Bourne (DEFRA) and Rebecca Ellis, who was the Cabinet Office lead on the work with the EU on the implementation of the Protocol. I did not include a DAERA representative, as that would have either limited the discussion or created a difficulty with the DAERA Minister. The chat does not touch on any Covid issue;
- ff. **[Exhibit AMCC/143 - INQ000380944]** I created the group “**China**” on 12 April 2021 for informal sharing of information with Tim Losty and Kiera Lloyd the serving and former heads of the NI Bureau in China. It does not have any substantive reference to Covid issues;
- gg. Lorraine Lynas created the group called “**Workshop**” **[Exhibit AMCC/144 - INQ000381067]** for an EU exit event on 14 April 2021, but this has no substantive content;
- hh. **[Exhibit AMCC/145 - INQ000472171]** created the group “**Netherlands 21 April**” on 21 April 2021 for informal sharing of information during a meeting with Dutch

contacts. I have no memory or record of the other participants or the context of the meeting. The chat does not touch on any Covid issue

- ii. **[Exhibit AMCC/146 - INQ000380955]** I created the group “**DEFRA Programme Board**” on 28 April 2021 for informal sharing of information during a meeting of the governance group that was overseeing the work on the agri-food aspects of the implementation of the Protocol. The chat does not touch on any Covid issue
  - jj. **[Exhibit AMCC/147 - INQ000381051]** I created the group “**Tom Lynsey Andrew**” on 12 May 2021 for informal sharing of information with the Grade 3 in my team, Tom Reid, and the acting head of our Brussels Office, Lynsey Moore. The chat does not touch on any Covid issue.
170. **[Exhibit AMCC/148 - INQ000380981]** comprises messages between me and Jenny Pyper’s TEO phone. My separate WhatsApp chat with her personal phone **[Exhibit AMCC/149 – INQ000378038]** includes a very small number of comments that are relevant to Covid-19, including a message on the very difficult issue of the prioritisation of resources to facilitate the vital work on the pandemic (message of 6 December 2020 on page 1 of **AMCC/149 – INQ000378038** – this is relevant to the explanation of events at paragraph 114 above). The chat also included some key exchanges on EU exit issues. It also includes some comments (see messages on 12 and 17 May 2021) arising from my discussions with her about the disciplinary process that had followed the public inquiry into the Renewable Heat Incentive (RHI). Jenny Pyper made some very personal and critical comments in the messages on 12 May 2021. These messages had no connection with Covid-19, nor any connection with the announcement about the Inquiry on 12 May 2021. I did not delete any messages and I do not know definitively what Jenny Pyper did.
171. The context of these exchanges was that Department of Finance had been in correspondence with the Committee for Finance in relation to the RHI disciplinary process:
- a) Minister Conor Murphy had made an oral statement to the Assembly on 16 March 2020 (see paragraph 22 above) explaining the approach that the NICS was taking to the possible need for disciplinary action against any civil servants following the report of the Inquiry, which had been published on 13 March 2020. This involved an external panel advising on whether the Inquiry report provided a basis for any charges;
  - b) The external panel reported in April 2020, and as a result, ten cases were taken forward, eight within the NICS, by a disciplinary panel led

by Sue Gray, and two (including my case) were passed for action to the Cabinet Office.

- c) From the outset in March 2020, I queried the fact that the process did not include a preliminary enquiry before charges were raised, as is explicitly required in the disciplinary procedures in the NICS staff handbook. Minister Murphy's statement of 9 December 2021 confirmed that that issue had been relevant to the challenges that some of the affected members of staff had taken against the NICS. While at no stage did I formally challenge either the process or the outcome, at all stages I made it clear that my compliance and co-operation with the process was without prejudice to the possibility that I might make a challenge.
- d) In my correspondence with the Cabinet Office on 2 September 2020, I queried the involvement of Sue Gray in the discussions about my case, as my case had been transferred to the responsibility of the Cabinet Secretary, and Sue Gray, as one of my peers within the NICS, should not have had any involvement in my case.
- e) The Cabinet Secretary considered my case, and on 29 January 2021 confirmed that I had no case to answer. That concluded the disciplinary process in relation to me;
- f) In the period including March, April and May 2021, there were exchanges on the provision of updates to the Assembly Finance Committee about the disciplinary process. The key concerns shared by Jenny Pyper and me about the process at this stage focussed on what might or might not be made public about an extremely sensitive process.

172. It appears to me from Jenny Pyper's WhatsApp messages that she was concerned that the very direct and critical references within those messages to the RHI disciplinary process might have led to controversy, and my view is that that was the rationale for her considering that they would be better deleted – the point was certainly not related in any way to Covid-19 or the Covid Public Inquiry. I did not delete any messages, nor do I recall any subsequent discussion touching on the deletion of messages with Jenny Pyper at that time and she and I both left the NICS within a few months of these exchanges). I have no recollection of any information about Jenny Pyper's

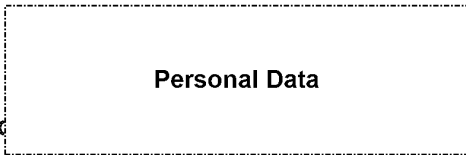


communications with Jill Minne and Mark McLaughlin and hence I am not in a position to comment on the references to them in the message on 17 May 2021.

173. The chats [Exhibit AMCC/150 - INQ000380941] [Exhibit AMCC/151 - INQ000380957] [Exhibit AMCC/152 - INQ000380959] [Exhibit AMCC/153 - INQ000380961] [Exhibit AMCC/154 - INQ000380973] [Exhibit AMCC/155 - INQ000380975] [Exhibit AMCC/156 - INQ000380979] [Exhibit AMCC/148- INQ000380981] [Exhibit AMCC/157 - INQ000380996] [Exhibit AMCC/158 - INQ000381000] [Exhibit AMCC/159 - INQ000381022] [Exhibit AMCC/160 - INQ000381027] [Exhibit AMCC/161 - INQ000381033] [Exhibit AMCC/162 - INQ000381048] [Exhibit AMCC/163 - INQ000381056] [Exhibit AMCC/164 - INQ000381075] [Exhibit AMCC/165 - INQ000381077] [Exhibit AMCC/166 - INQ000381094] [Exhibit AMCC/167 - INQ000381097] [Exhibit AMCC/168 - INQ000381099] and [Exhibit AMCC/169 - INQ000381113] are exchanges between me a named individual, and hence do not require any particular explanation, other than to note that on some occasions individuals responded bilaterally to a message I put into a group chat, rather than share their response with the group in which I had commented. [Exhibit AMCC/112- INQ000421751] gives the names of all these individuals.
174. To the best of my recollection, I did not and have not deleted any messages from the Specified Period, nor any that could be of any possible relevance to the work of the Inquiry – as explained above (paragraph 167) I had backed up all my WhatsApp and SMS messages. I was not conscious of any relevant content in those messages that would not have been recorded formally in another medium, so I saw no need to commit any material to the official electronic filing system. I have never used auto-delete or “disappearing messages”.

### Statement of Truth

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

Signed  Personal Data

Dated: 8 April 2024