

Module 2C of the UK Covid-19 Public Inquiry

Request for Evidence under Rule 9 of the Inquiry Rules – M02C-SPEAKER-01

Statement from Alex Maskey, Speaker of the Northern Ireland Assembly

Introduction

1. I present this statement to the UK Covid-19 Public Inquiry in relation to the impact of Covid-19 on the Northern Ireland Assembly ('the Assembly') in the specified period between 11 January 2020 and 15 February 2022, and in the context of my responsibilities as Speaker of the Assembly during that time.

History, legal status and role of the Northern Ireland Assembly

2. The Assembly is a devolved parliament. The Assembly has three main roles, a legislative role, a scrutiny role and a representative role.
3. The Government of Ireland Act 1920 made provision for devolved powers through the establishment of the Parliament of Northern Ireland. The Parliament was prorogued in 1972 and then abolished in 1973. There were several attempts to restore devolution, without success until the signing of the Good Friday/ Belfast Agreement in 1998. The Northern Ireland Act 1998 ('the 1998 Act') implemented the terms of that agreement and is the basis of the current Northern Ireland Assembly.
4. Members of the Legislative Assembly ('MLAs') are elected using the single transferable vote system and there are currently 90 MLAs, with 5 Members being returned for each of the 18 parliamentary constituencies.
5. The Assembly has the power to make laws, to be known as Acts, on any matter within its 'legislative competence', which is defined by section 6 of the 1998 Act. The Assembly may legislate in relation to all transferred matters, which are matters that are not specified in Schedule 2 or Schedule 3 of the 1998 Act. Schedule 2 matters are 'excepted matters' for which the Assembly cannot legislate. Schedule 3 matters are 'reserved'. The Assembly may legislate on such matters with the consent of the Secretary of State for Northern Ireland.
6. The UK Parliament does not normally legislate in respect of transferred matters without the consent of the Assembly. Where the UK Parliament proposes to legislate for a transferred matter it is usual for the UK Government to seek 'legislative consent'

– this involves the Assembly passing a motion which consents to the UK Parliament legislating for a particular matter.

7. Acts of the Assembly are initially proposed as Bills. Bills introduced in the Assembly can originate from departments of the Northern Ireland Executive, from committees of the Assembly, or from Members. The legislative process is set out in sections 9 to 13 of the 1998 Act and the Assembly's Standing Orders.
8. The Standing Orders of the Assembly detail the procedures which regulate the manner in which the Assembly conducts its business. Any amendments to Standing Orders require cross-community support from Members.
9. The Assembly also has a role in the approval of subordinate legislation. Such legislation generally takes the form of statutory rules, broadly equivalent to statutory instruments in England and Wales.
10. The majority of statutory rules made are required to be laid in the Assembly, and will be scrutinised by the Assembly subject to the Assembly procedure as set out in the primary legislation (principally the negative resolution and affirmative resolution procedures).¹ Statutory rules during the Specified Period were principally made using an emergency procedure set out at section 25Q of the Public Health Act (Northern Ireland) 1967, as inserted by the Coronavirus Act 2020. (See Assembly Consideration of Covid-19 Regulations below).
11. The 1998 Act provides for the Assembly to create 'Statutory Committees'.² Statutory Committees are enjoined to advise and assist each Minister and Department in the development of policy and carry out scrutiny of primary legislation and statutory rules which are laid before the Assembly. Each Committee may delegate to the Examiner of Statutory Rules (ESR) any of its functions in relation to the technical scrutiny of the statutory rules which are not related to policy.³
12. Standing Committees deal with the administration and proceedings of the Assembly and includes the Business Committee which determines what business will be conducted in plenary session. There is also power to establish ad hoc committees to

¹ The relevant procedures are set out in the Interpretation Act (Northern Ireland) 1954 at section 41

² Section 29 of the 1998 Act

³ Assembly Standing Order 43(4). The functions of the ESR are comparable to those discharged by the Joint Committee of Statutory Instruments in the UK Parliament. There is no specific Assembly committee tasked with the scrutiny of statutory rules: rather each rule may be considered by the statutory committee associated with the department which makes the rule.

deal with specific issues. Committee membership is based on party strength and operates in accordance with Standing Orders.

13. The Assembly is supported in the discharge of its functions by a corporate body known as the Northern Ireland Assembly Commission ('Assembly Commission') which is required to provide the Assembly, or ensure that the Assembly is provided, with the property, staff and services required for the Assembly's purposes.⁴
14. The Assembly Commission is chaired, ex officio, by the Speaker and is made up of representatives of the five largest parties. The Assembly Commission may delegate any of its functions to the Speaker or a member of staff of the Assembly and may determine its own procedures.⁵

Role of the Speaker of the Assembly

15. The 1998 Act provides for the Assembly to elect a 'Presiding Officer' as its first business. The Standing Orders provide for the Presiding officer to be called 'the Speaker'. The Speaker plays a key role in leading and managing the Assembly in the discharge of its responsibilities, and in chairing the Assembly Commission as the parliament's corporate body.
16. The Speaker must be elected from among Members with cross community support. Once elected, the Speaker continues to hold office until the conclusion of the next election for Speaker, unless he resigns or ceases to be a member of the Assembly otherwise than by virtue of a dissolution.
17. The Assembly recognises two core characteristics of the Speaker, independence and impartiality. The Speaker upholds the independence of the Assembly from the Executive⁶ and the responsibility of the Assembly to scrutinise Ministers and hold them to account. The Speaker must remain impartial in the discharge of his duties. A Member who is elected Speaker ceases to have a party political role in the Assembly, does not participate in any votes or debates and does not comment on political or policy matters.

⁴ Section 40 of the 1998 Act

⁵ Schedule 5 to the 1998 Act

⁶ The Northern Ireland Government is strictly known as the 'Executive Committee of the Assembly' – section 20 of the 1998 Act

18. The Speaker undertakes three main roles; procedural, corporate and representational.

Procedural role

19. The Speaker chairs plenary sessions of the Assembly with responsibility for maintaining order, ensuring that procedures are correctly followed, overseeing any votes taken and responds to points of order when a matter of procedure is raised. Deputy Speakers assist the Speaker in this role.
20. Under Standing Orders, the Speaker's ruling is final on all questions of procedure and order. The Speaker is sometimes required to make rulings in relation to the detail of how Standing Orders are interpreted and implemented.
21. It is the Speaker who has the final say in whether or not Members will be allowed to ask Urgent Oral Questions, and in determining Matters of the Day (short debates on current events) for debate in the Assembly chamber. Ministers wishing to make an oral statement to the Assembly must give notice to the Speaker.
22. The Speaker has an important scrutiny role in relation to the legislative competence of legislation prior to the first stage of a Bill. Section 10 of the 1998 Act requires the Speaker to consider a Bill on its introduction and to decide whether or not it is within the legislative competence of the Assembly. Under Standing Orders, no Bill may be introduced in the Assembly if the Speaker decides that any provision of it would not be within the legislative competence of the Assembly.
23. The Speaker must refer Bills containing certain provisions to the Secretary of State.⁷ The Speaker also selects amendments to Bills for debate at the Consideration stages and on completion of all stages of a Bill, sends it to the Secretary of State. It is the role of the Secretary of State to submit any Bill passed by the Assembly for Royal Assent.
24. The Speaker has a number of other statutory duties under the 1998 Act including in relation to the resignations and appointments of Ministers and Members.

⁷ A Bill which contains any provision which deals with an excepted matter which is ancillary to other provisions (whether in the Bill or previously enacted) dealing with reserved or transferred matters; or a Bill which contains any provision which deals with a reserved matter – see section 10 of the 1998 Act.

25. The Speaker is also chairperson of the Business Committee. The Business Committee is comprised of the whips (business managers) of the political parties and determines the business to be conducted during plenary sittings.

Corporate Role

26. As chairperson of the Assembly Commission, the Speaker is required to ensure that the Assembly is provided with the property, staff and services it requires to carry out its work. The Assembly Commission oversees the operational aspects of the work of the Assembly and delegates functions to the Clerk/ Chief Executive, and through the Clerk/Chief Executive to other employees of the Assembly Commission

Representational Role

27. The Speaker also performs a representational role which includes receiving VIP visitors to the Assembly, such as Heads of State, Ambassadors and senior political figures; attending external events to promote the work of the Assembly; and, maintaining and developing links with other parliaments and legislatures. The Speaker leads the Assembly in marking civic occasions and also hosts events at Parliament Buildings to widen public engagement.

Roles and Responsibilities at the Assembly

28. Engagement with Members, Ministers and political parties is an essential part of the role of Speaker to ensure the smooth running of the Assembly. However, there is a specific framework of roles and responsibilities in which formal decisions are taken and this influenced how various issues were managed in responding to the Covid-19 pandemic (the pandemic):
- The Speaker can make rulings on how aspects of Standing Orders and procedures are implemented.
 - The Business Committee makes decisions on the management of the business of the Assembly within the Chamber.
 - The Assembly Commission takes decisions on the support, staffing and services provided to the Assembly, including the management of Parliament Buildings.

- Statutory Committees conduct detailed scrutiny of Ministers and departments. The Speaker has no role in the operation of individual committees.
 - The Committee on Procedures (a standing committee of the Assembly) considers changes to the Standing Orders of the Assembly and brings them to the Assembly for approval.
 - The Executive takes decisions on matters of public policy and brings legislation forward to the Assembly as required.
29. Given the framework for decision-making, including the need for agreement on a cross party basis, formal meetings between the Speaker and individual Members, Ministers or others are rare.
30. This framework of course operates in a political structure and environment which is different to the other parliamentary bodies in these islands and that does have an influence on decision making. Within the Assembly, agreement is often required across political parties of differing views, and sometimes on a cross-community basis. Different parties will be guided by different factors e.g. different parties may take more or less account of decisions on comparable matters being taken in London and Dublin.

Initial Emergence of Covid-19

31. The Assembly was not sitting after the election in March 2017 as political agreement could not be reached to elect a Speaker or appoint Ministers. On 9 January 2020, the British and Irish Governments published the “New Decade, New Approach” Deal. After the two main political parties indicated that they would be prepared to re-enter government, the Assembly was convened on Saturday 11 January 2020. On that day, I was elected as Speaker as the first business of the Assembly.
32. In the time that followed, the focus of activity was on restoring the Assembly and resuming normal business. This was challenging as many officials had been temporarily redeployed to other roles and Members had not been conducting full business for a considerable time, including some Members elected in 2017 who had never sat in the Assembly when it was operating normally.
33. From late January and through February 2020, reporting began of the impact of the pandemic in other countries. As time went on, it soon became clear that there would be an impact on all of us. In early March 2020, I had an informal discussion with the

Clerk/Chief Executive about the potential impact on the Assembly and on 10 March 2020 she created the Covid-19 Planning Group to coordinate work between Assembly officials in relation to arrangements within Parliament Buildings. Later that week, there was increasing awareness of the potential threat of Covid-19.

34. On Sunday 15 March 2020, my office received a request from the office of the Minister of Health to meet with him the next morning. At that meeting the Minister outlined the challenge to his department to respond to the public health situation and the pressure on departmental resources from answering Assembly Questions for Written Answer (AQW). I will return to this later.
35. At the start of Assembly business on 16 March 2020 [Exhibit AM/1 – INQ000219185], I made remarks to indicate that I had selected some Urgent Questions to allow Members to raise relevant issues with Ministers. However, I also made clear that Assembly officials were proactively considering issues and that I would be having discussions with both the Assembly Commission and the Business Committee that evening.
36. I had been due to host the Speaker's annual St Patrick's Day event with representatives from the mental health sector but cancelled the gathering given the growing seriousness of the situation.
37. On the evening of 16 March 2020, the then British Prime Minister Boris Johnson made a public address advising that non-essential contacts and travel should cease.
38. That evening I chaired meetings of both the Business Committee and the Assembly Commission. The Business Committee had an initial discussion on options to mitigate the risks to plenary business [Exhibit AM/2 – INQ000219196]. The Assembly Commission took initial decisions, including the closure of Parliament Buildings to the public until further notice [Exhibit AM/3 – INQ000219207].
39. Also on 16 March 2023, I wrote to the First Minister and deputy First Minister, who chair the Executive Committee setting out that it was important that the Assembly was kept updated on the Covid-19 response [Exhibit AM/4 – INQ000219218]. I released a press statement that evening on the decision to close Parliament Buildings to the public [Exhibit AM/5 – INQ000219229].
40. Tuesday 17 March 2020 was a public holiday. On Wednesday 18 March 2020, I wrote to all Members setting out initial decisions of the Business Committee in relation to the

management of Assembly business [Exhibit AM/6 – INQ000219231]. On Monday 23 March 2020, I again updated Members at the start of plenary business [Exhibit AM/7 – INQ000219232].

Guiding Principles

41. In determining how to manage Assembly business during the pandemic there were a range of factors to be balanced. As a parliament, it was vital that the Assembly could continue to operate and take decisions during a public health crisis. However, that had to happen in a way which would protect the health of Members and staff.
42. The Assembly needed to continue to conduct scrutiny of the Executive and hold Ministers to account at this vital time. At the same time, the Assembly had to be conscious of the departmental resources being directed at responding to the pandemic. This included recognising departmental officials were being redeployed from other policy areas in departments.
43. Therefore, in my first letter to Members on 18 March 2020 [Exhibit AM/6 – INQ000219231], and in a paper then tabled at the Business Committee, "Managing Assembly Business During the Covid-19 Crisis" [Exhibit AM/8 – INQ000219233], initial principles were established to guide the Assembly's approach to balancing the required practical changes.
44. These principles were that firstly, non-essential Assembly business would be avoided in order that it did not distract from the delivery of public services to deal with the impact of Covid-19.
45. Secondly, the priority of Assembly business would be on ensuring that Executive business could be considered and that the ability for Ministers to provide updates and be scrutinised would continue in a publicly transparent way.
46. Throughout the duration of the pandemic, communications were important. The routine practice became that when key decisions were taken after relevant meetings I would write to all Members and the Executive and I would make remarks at the start of the next plenary session. I would sometimes make a press statement but the letters to Members were routinely issued by the Assembly Communications Office to the media.
47. These communications document the changes that were made and the decisions that were taken in relation to how Assembly business was handled as the pandemic developed.

Personal Impact

48. One aspect of wider public health advice in the early part of the pandemic was that those with particular health conditions, and who were more vulnerable to Covid-19, were advised to isolate.
49. Due to my cardiac history, I received medical advice that I should stay at home and avoid face to face contact for twelve weeks. I wrote to inform Members on 7 April 2020 [Exhibit AM/9 – INQ000219234], and set out how I would continue to conduct my responsibilities. In the context of my role as Speaker, I gave this advice much thought as I would have preferred to conduct business in Parliament Buildings at this time. However, it was important for Members to follow the advice that the authorities were issuing and I shielded at home.
50. While I was unable to be in the Assembly Chamber in Parliament Buildings to chair plenary business, I remained in frequent contact with my office and was able to take all of the required decisions as they were needed.

Practical Measures in Parliament Buildings

51. From the outset, the Assembly Commission had to take decisions in relation to how activities could continue in Parliament Buildings in a safe way which complied with public health guidance and restrictions.
52. Issues the Assembly Commission had to deal with included:
 - Facilitating staff working from home when possible
 - Closing Parliament Buildings to the public and cancelling tours, education programmes and other public engagement activities.
 - Implementing social distancing and sanitising procedures.
53. While officials dealt with many of the operational issues, given the novel and serious nature of the situation, the elected representatives on the Assembly Commission did have to take a range of decisions. The Assembly Commission seeks to conduct as much of its business as possible by consensus and I was pleased at the level of cooperation there was between the parties to managing these challenges.
54. The Members on the Assembly Commission relied on the detailed work and advice provided to it by officials. I recognise the significant contribution that was made by

Assembly Commission officials at this time in managing both practical and procedural challenges. They frequently came up with creative solutions at short notice and worked long hours to ensure that arrangements were put into place as quickly as possible once they were agreed.

55. As the pandemic continued, the Assembly Commission had to continue to review arrangements and respond to changes in the public health regulations and guidance. As time went on, other issues emerged such as considering how to support Members to operate their constituency offices in a safe way.
56. Minutes of Assembly Commission meetings and letters issued by me to Members when significant changes were made are included in the supplementary information which has been disclosed.

Changes to the Operation of Assembly Plenary Business

57. The Business Committee had to consider how the business of the Assembly, particularly plenary business in the Assembly Chamber, could continue in a way that business could be undertaken while mitigating risks to Members and staff. As the Assembly has 90 Members entitled to gather and vote in the Assembly Chamber, with officials often accompanying Ministers, business could not continue in the normal way.
58. Some issues could be dealt with by me through Speaker's rulings. The Business Committee had to take decisions on others and some matters had to be considered by the Committee on Procedures when they required changes to Standing Orders.
59. A range of measures were taken:

Social Distancing – On 31 March 2020, the Business Committee [Exhibit AM/10 – INQ000219186] agreed to reduce the number of Members present in the Assembly Chamber to 22, taking account of 2 metre social distancing. [Exhibit AM/11 – INQ000219187]

Prioritising Business – In the initial stages, the Business Committee agreed [Exhibit AM/2 – INQ000219196] that the Assembly would consider only essential business, particularly relating to the pandemic. The Assembly therefore reduced the number of sitting days at points to one day per week, determined by the business.

Proxy voting – Temporary Standing Orders were agreed in plenary on 31 March 2020 [Exhibit AM/12 – INQ000219188] to allow Members to assign their vote to another

Member (normally party whips) to reduce the number of Members in the confined space of the voting lobbies. On 2 April 2020 guidance on proxy voting was issued [Exhibit AM/13 – INQ000219189]

Hybrid proceedings – When it was clear that the threat of Covid-19 still existed, restrictions were again being introduced, and a number of Members were required to isolate, there was agreement between the parties to install the technology to allow Members to participate remotely. The Assembly amended Standing Orders on 1 February 2021 [Exhibit AM/14 – INQ000219190] to introduce hybrid proceedings and wrote to all Members [Exhibit AM/15 – INQ000219191].

60. Minutes of Business Committee meetings and letters issued by me to Members when significant changes were made are included in the supplementary information which has been disclosed.

Committees

61. Every Assembly Committee is responsible for determining its own business. Therefore, there is no role for the Speaker in the scrutiny conducted by Committees. On 17 March 2020, I wrote to the Chairpersons of all Committees providing an update on my discussions with the Assembly Commission and the Business Committee [Exhibit AM/16 – INQ000219192]. I encouraged that Committees would similarly want to consider the appropriate balance to continue their business in the context of the serious circumstances.
62. The Assembly subsequently agreed to changes to Standing Orders which enabled changes in how Committees could conduct their business, including to conduct their business remotely.
63. Throughout the pandemic, statutory committees conducted scrutiny of the relevant departmental and Ministerial decisions, as well as scrutiny of legislation. The ESR also reported on all the relevant statutory rules. However, I had no involvement in those activities.

Maintaining Scrutiny

64. Scrutiny and accountability of the decisions of the Executive and Ministers are essential functions of the Assembly and it is a core responsibility of the Speaker to uphold the Assembly's scrutiny functions.

65. The Assembly's procedures are based on the model of power sharing and proportionality rather than an adversarial system of government and opposition. This requires full and frequent engagement between Ministers and the Assembly and its Committees. A constructive relationship is important in enabling the Assembly to probe the rationale and evidence behind decisions, monitor outcomes, identify gaps in public policy and suggest alternative approaches. This requires full and frequent engagement between Ministers and the Assembly and its committees.
66. On the return of the Assembly on 11 January 2020, not only had there been a three-year absence of both a local Executive and Ministers making decisions but also an absence of the Assembly exercising its normal mechanisms of scrutiny. Within a few weeks it was clear that there was some "ring rust" in relation to the engagement between Ministers and departments. On 17 February 2020, I wrote to all Ministers setting out a reminder of the key courtesies and conventions that they were expected to observe towards the Assembly to facilitate the process of scrutiny and accountability [Exhibit AM/17 – INQ000219193].
67. A month later, we were dealing with the impact of the pandemic. On 16 March 2020 when the Health Minister, Robin Swann MLA [Exhibit AM/18 – INQ000219194] came to see me, he agreed about the need for the Assembly to be kept fully informed about the actions of his department in responding to the pandemic. However, he was concerned about the impact of AQWs on his department at this time. The Department of Health was routinely attracting the highest number of AQWs at this time. Members can table five AQWs per day and there are set deadlines within Standing Orders for Members to reply.
68. The Minister outlined that at a time when he was re-directing departmental resources to deal with the pandemic, he could not meet the required deadlines for AQWs. I committed to take that issue away and the Minister gave me a commitment that he would proactively make regular statements to the Assembly. The Minister wrote to me on 18 March 2020 [Exhibit AM/19 – INQ000219195] and I replied the next day [Exhibit AM/20 – INQ000219197].
69. In my letter to the First Minister and deputy First Minister of 16 March 2020 (referenced in para 39), I emphasised the importance of the Executive proactively providing the Assembly with early and frequent information.

70. The importance of scrutiny was reflected in my discussions with the Business Committee. However, there was a recognition that the tabling of questions on the full breadth of the business of departments at this time, could distract the focus from responding to the pandemic and would ignore the reality of officials being redeployed from other policy areas.
71. The Business Committee agreed a voluntary arrangement between parties to pause the tabling of AQWs. The Business Committee did not advocate the suspension of the provisions of Standing Orders in relation to the tabling of AQWs, therefore those Members who wished to, had the ability to continuing tabling questions.
72. The Business Committee also agreed that the normal practice of having Ministers answer Assembly Questions for Oral Answer (AQOs) in the Assembly on a Monday and Tuesday would be paused and that it would table a motion to suspend Standing Orders to that effect which was agreed by the Assembly with cross community support. These actions were targeted at prioritising the business which was essential to responding to the pandemic.
73. The decisions on pausing the normal procedures for AQWs and AQOs were counter-balanced by the creation of the Ad Hoc Committee on the Covid-19 Response which I will detail later.
74. While there were some Members who were unhappy with the position on questions, particularly those from the single Member parties, I was content that this was in keeping with focusing Assembly plenary business on the pandemic.
75. However, it was important, as would also be the case for any Speaker during normal times, to keep the issue of scrutiny under regular review. As one of the principles agreed by the Business Committee, the issue of scrutiny was a key consideration in all of the reviews conducted by the Business Committee throughout the pandemic.
76. On 25 March 2020, I wrote to give a further update to the First Minister and deputy First Minister on the arrangements agreed by the Business Committee [Exhibit AM/21 – INQ000219198]. In this letter, I stated that while we were all focused on getting through the crisis, I had to ensure that the Assembly was ready to resume its full scrutiny duties. I made clear that it was important that the Assembly and its committee would be kept up to date with the extent and nature of ongoing government work being undertaken.

77. On 1 May 2020 after the initial period of the pandemic, there was some easing of the Business Committee's original decisions. I wrote to the First Minister and deputy First Minister [Exhibit AM/22 – INQ000219199] to say that the previous voluntary agreement not to submit AQWs would be eased to enable Members to table two questions per week. I also advised Ministers that all essential matters, not just those related to the pandemic should be brought to the Assembly.
78. On 13 May 2020, I wrote to the First Minister and deputy First Minister with concerns about the responsiveness of departments to both the reduced number of AQWs and also general queries from Members to departments [Exhibit AM/23 – INQ000219200].
79. On 20 May 2020, I wrote to the First Minister and deputy First Minister to set out a path discussed by the Business Committee to start to return to the conduct of fuller Assembly business [Exhibit AM/24 – INQ000219201].
80. By 23 June 2020, the Assembly had been considering a range of pieces of legislation. However, that experience had already highlighted improvements that could be made to assist the ability of the Assembly to scrutinise legislation. I wrote to all Ministers on a number of ways to protect scrutiny in the legislative process [Exhibit AM/25 – INQ000219202].
81. On 3 August 2020, I wrote to the First Minister and deputy First Minister looking ahead to the return of Assembly business after the summer recess and with a focus on ways to enhance scrutiny and accountability [Exhibit AM/26 – INQ000219203]. On 7 September 2020, I wrote to all Members about the resumption of normal Assembly business following the summer recess and legislative scrutiny [Exhibit AM/27 – INQ000219204].
82. On 14 September 2020, I wrote to the First Minister and deputy First Minister to express concern about the timeliness with which Ministers were coming to the Assembly to allow scrutiny of changes to the Covid-19 regulations [Exhibit AM/28 – INQ000219205].
83. On 22 September 2020, I wrote to the First Minister and deputy First Minister to note that they had yet to make a statement to the Assembly following changes to Covid-19 restrictions made by Ministers, even though they had held a press conference [Exhibit AM/29 – INQ000219206].

84. Following this, there was some change in Ministers bringing forward oral and written statements to the Assembly on important matters.
85. On 14 October 2020, the First Minister and deputy First Minister came to the Assembly to announce the latest restrictions agreed by the Executive. It was anticipated that further changes would be announced in the coming weeks. On 3 November 2020, I wrote to the First Minister and deputy First Minister to seek to ensure that further announcements would be made in the Assembly [Exhibit AM/30 – INQ000219208].
86. On 18 December 2020, I again wrote to all Ministers in relation to their engagement with the Assembly, including committees [Exhibit AM/31 – INQ000219209].
87. On 12 October 2021, I wrote to all Ministers to emphasise that they should be available to attend the Assembly on sitting days to deal with Urgent Questions [Exhibit AM/32 – INQ000219210]. On 29 November 2021, I wrote to the First Minister and deputy First Minister in relation to the further absence of a statement following changes to the Covid-19 restrictions.
88. All this correspondence was typical of my continued focus on scrutiny throughout this period. While I had to return to the issue more than I would have liked, I do not think this was generally symptomatic of an attempt to avoid scrutiny. I think the bigger issue was that Ministers and departments were sometimes focused on the substance of the range of important issues they were dealing with and did not always factor engagement and reporting to the Assembly into their planning.

Ad-Hoc Committee on the Covid-19 Response

89. In my letter of 18 March 2020 to the First Minister and deputy First Minister [Exhibit AM/33 – INQ000219211], I outlined it was vital that the Assembly continued to be updated by Ministers, noted that the Executive's approach to public updates via press conferences was encouraging but asked for assurances that the Executive would also be taking a coordinated approach to briefing the Assembly.
90. On 18 March 2020, junior Ministers Gordon Lyons MLA and Declan Kearney MLA came for a brief meeting with me in response to my letter. I was informed that the Executive had been discussing the rhythm of its communications and very much was including engagement with the Assembly in its thinking. However, given the fast developing situation, the fact that the Assembly only sat on a Monday and Tuesday, and the provisions to recall the Assembly for an additional sitting were quite rigid, the

junior Ministers invited me to consider what other ways they might engage with the Assembly to avoid information coming forward to the Assembly Chamber after the event.

91. I engaged with my officials who developed the proposal to create a new ad-hoc committee. This ad-hoc committee would be given a specific remit to receive statements from Ministers and all Members would be a member of the committee. Essentially, the ad-hoc committee would be simply an additional platform for the Assembly to receive statements from Ministers and scrutinise them. However, it would not be bound by the same procedures as the Assembly and would therefore be able to be more flexible and responsive to receive statements.
92. My officials engaged with the Executive Office on this proposal and on 23 March 2020, there was an exchange of letters between the Junior Ministers and myself [Exhibit AM/34 – INQ000219212] to agree to take the proposal forward.
93. I spoke with the whips of all the parties and received positive indications of their support. On 24 March 2020, I wrote to all Members outlining the proposal that would come to the Assembly the following week [Exhibit AM/35 – INQ000219213]. On 25 March 2020, I wrote to the First Minister and deputy First Minister with an update [Exhibit AM/36 – INQ000219214].
94. On 31 March 2020, the Assembly approved a motion to establish the Ad-Hoc Committee on the Covid-19 Response and I made some remarks to the Assembly. The motion gave me the responsibility to define the procedures of the ad-hoc committee and I subsequently issued guidance [Exhibit AM/37 – INQ000219215].
95. The creation of the Ad-Hoc Committee allowed Ministers to update the Assembly much more frequently than may otherwise have been the case with, at key times, Members gathering once or twice each week in between the scheduled plenary sittings to scrutinise Ministers. This was in line with the agreement that the Assembly would focus on essential business.
96. The procedures of the Ad-Hoc Committee were reviewed and refined once it had operated in practice. The general practice became allowing all Members to ask a question and a supplementary question to follow up on the Minister's response, although this was challenging in the time available.

97. I also wrote to the First Minister and deputy First Minister on 1 May 2020 expressing the expectation that Ministers [Exhibit AM/38 – INQ000219216] should ensure that they would appear in front of the Ad-Hoc Committee at least as often as they would have been in front of the Assembly for AQOs.
98. During its existence, the Ad-Hoc committee heard 25 statements from Ministers. Given that normal business in the Assembly had been reduced to focus on essential business, the creation of the Ad-Hoc Committee was a strong counter balance to provide Members with additional opportunities to scrutinise Ministers. It also ensured that the Assembly could continue to be updated by Ministers much more easily during those periods when the Assembly was in recess.

General Assembly Consideration of Covid-19 Business

99. As would be expected, Covid-19 was the focus of plenary sessions of the Assembly throughout the pandemic. 37 statements on Covid-19 issues were made by Ministers during plenary sittings throughout the specified period.
100. 30 Private Members' motions on Covid-19 related issues were debated by the Assembly during the specified period.
101. As well as those debates, the Assembly was recalled six times during the specified period for additional sittings in relation to Covid-19 issues.

Assembly Consideration of Covid-19 Regulations

102. Of course, some of the most significant Covid-19 related business coming before the Assembly was the consideration of regulations introducing restrictions upon society.
103. The Coronavirus Act 2020 ('the 2020 Act') was introduced by the UK Parliament on 19 March 2020 but made provision in relation to Northern Ireland across a number of devolved areas. The Assembly debated and passed the legislative consent motion in relation to the 2020 Act on 24 March 2020. However, as the Bill was scheduled to have all its final stages in Parliament on 25 March 2020, it was not possible for Assembly Committee scrutiny to be carried out on the Bill.
104. The 2020 Act made provision in relation to a number of areas including by making temporary modifications to the Public Health Act (Northern Ireland) 1967 ('the PHA'). These modifications made to the PHA created significant law-making powers for the

Department of Health⁸ and also provided for an emergency procedure for the exercise of these law-making powers and their scrutiny by the Assembly⁹.

105. Under the procedure set out at section 25Q of the PHA, regulations may be made without a draft of the regulations having been laid and approved if the regulations contain a declaration that the Department is of the opinion that, by reason of urgency, it is necessary to make the regulations without a draft being so laid and approved.
106. The regulations must be laid in the Assembly, and cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by a resolution of the Assembly (or, alternatively, if before the end of the 28 day period the Assembly rejects the motion to approve the regulations). During that 28 day period, the rules are subject to scrutiny by the ESR and relevant statutory committee.
107. Over 100 statutory rules were made by Northern Ireland government departments in response to the pandemic, and related to a wide range of policy areas. Regulations made under the PHA were laid in the Assembly and followed the emergency procedure. The laying authority and Minister determined the timing of when regulations were tabled and motions seeking the approval of the Assembly were laid. The Business Committee responded promptly in scheduling motions and debates when necessary.
108. Assembly Standing Order 43 provides that every statutory rule or draft statutory rule which is laid before the Assembly and is subject to Assembly proceedings shall stand referred to the appropriate Committee of the Assembly for scrutiny. Therefore, the timing of motions and debates to approve the regulations had to allow a period for scrutiny by the Committee for Health (or other appropriate Committee) and the ESR. I do not have any formal role in the substance of the scrutiny of regulations.
109. The first set of regulations which introduced restrictions to businesses and the general public were the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020 and were laid in the Assembly on 28 March 2020. The Executive Office tabled a motion in the Business Office seeking Assembly approval of these regulations on 20 April 2020 [Exhibit AM/39 – INQ000219222]. The motion was added to a revised

⁸ By long-standing convention, powers to make subordinate legislation for Northern Ireland are conferred on departments and not Ministers.

⁹ Coronavirus Act 2020, section 48, Schedule 18

Order Paper agreed by the Business Committee and was approved by the Assembly on 21 April 2020 [Exhibit AM/40 – INQ000219223].

110. A '*COVID-19 related Statutory Rules Tracking page*' was produced on the Assembly website which detailed pandemic related regulations made by Northern Ireland government departments which were subject to Assembly procedures. A copy of this page of the Assembly website is provided at [Exhibit AM/41 – INQ000219224].
111. As the pandemic continued, and particularly as restrictions were required to be reintroduced in late 2020, the issue of the time lag between regulations being made and commenced, and their being scrutinised in the Assembly, started to become a subject of discussion.
112. The issue of time lag was discussed at the Business Committee meeting on 26 January 2021 [Exhibit AM/42 – INQ000219225]. I subsequently wrote to both the Minister of Health and the First Minister and the deputy First Minister on 2 February 2021 highlighting the importance of scrutiny by the Assembly in a timely manner [Exhibit AM/43 – INQ000219226].
113. The Minister of Health indicated in the Assembly Chamber that he was open to reconsidering the approach [Exhibit AM/44 – INQ000219227]. I understood that changing the approach would require Executive agreement but I was not notified of any progress on the issue. The Assembly continued to approach the regulations in accordance with the procedure set out in the PHA.

Returning to Normal Business

114. Throughout the duration of the pandemic, practical and procedural arrangements at the Assembly were kept under constant review. The supporting documentation I have provided demonstrates how consideration was given each time the regulations changed and arrangements were changed accordingly.
115. For instance, on 14 June 2021, I wrote to Members on the resumption of events, tours, public dining and visitors to Parliament Buildings [Exhibit AM/45 – INQ000219228].
116. Like the rest of society, there were times when the Assembly was attempting to reduce the measures in place when it was thought that the pandemic was easing, only to have to reimpose them again soon after because the infection rate was increasing.

117. This activity was ongoing for some months. In March 2022, I wrote to all Members to say it had been agreed to increase the number of Members who could be present in the Assembly Chamber to 46 and that the public gallery would be reopened [Exhibit AM/46 – INQ000219230].
118. Shortly after this, the Assembly was dissolved for elections. After the Assembly election, political agreement could not be reached to elect a Speaker and appoint Ministers. Many of the provisions in our Standing Orders to manage business in the content of Covid-19, expired during this period.

Lessons Learned

119. In reflecting on lessons learned during the course of the pandemic, I am conscious that we are operating with the benefit of hindsight. At the beginning of the pandemic, there was fear in society, a lack of understanding of the risks of Covid-19 and how to mitigate them, and uncertainty as to how long the situation would last. I am also conscious that the scope of my remit and responsibilities as Speaker are narrow in the context of the breath of the implications of the pandemic, much of which was outside of my control.
120. While we are all better informed by experience, the circumstances at the time made managing Assembly business appropriately an issue which required constant attention and review.
121. I suspect that if it had been known that the pandemic would endure from 2020 into 2021 and 2022, and people had been able to look more long term, some issues may have been handled differently. For instance, I think a move to hybrid proceedings would have happened at an earlier point. However, I do not think that this would have changed the substance or outcome of Assembly scrutiny or decisions.
122. If there were to be a further pandemic, I also suspect that there would be a wish from some Members to reconsider how and when the regulations imposing restrictions on society would come before the Assembly for debate. I acknowledge that there are different sides to that discussion.
123. On the one hand, as Speaker, there does need to be an ability for the Assembly and Members to conduct timely scrutiny of decisions which have the most significant impact on people's lives.

124. However, I also recognise that we were dealing with an emergency situation and, particularly in the immediate period, there is a need for fast and urgent action which Ministers would not be able to do instantly. If decisions came to the Assembly quickly, it is also likely that limited information would be available and that may itself have an impact on the potential for scrutiny.
125. I am also mindful that we cannot consider these issues outside of our political context. The Assembly and Executive operate within a power-sharing system, established under the Good Friday Agreement, specifically because there are political divisions. Decisions taken by the Executive sometimes did not come as quickly as some would have liked because time was needed to achieve agreement between the political parties. However, that process is outside of my control or responsibility as Speaker.
126. If those decisions had to come to the floor of the Assembly for approval before they would come into effect, it is legitimate to speculate whether those decisions would have been further delayed, whether they would have been different or whether they would have been reached at all at the Executive.
127. While, as Speaker, the natural response would be to argue in favour of maximum scrutiny by the Assembly, in an emergency situation, society also benefits from the right decision being taken quickly. Therefore, I think there is a legitimate debate to be had between process or outcome, and which should have priority, in an emergency situation.
128. The wider context in which the Assembly was considering these matters is important. The Assembly was dealing with many matters in the framework of the timing and substance of decisions, and legislation, made by the Westminster government. However, the Assembly was considering these issues on an island with an open border and so the approach of the Dublin government was important. The timing and nature of the decisions of both governments was not always in alignment.
129. From a political perspective, different Members would naturally be inclined to look to London or Dublin in the first instance. However, from the perspective of the Assembly and Executive making the best decisions, the handling of Assembly discussions was sometimes made more difficult by the lack of synergy between the approaches of the London and Dublin governments.
130. Overall, there is a need to distinguish between the decisions around how the Assembly managed its business during the pandemic and the decisions taken by the Assembly

on the substance of the wider response to Covid-19. From my perspective as Speaker, I was pleased with the constructive engagement and cooperation between all parties as I worked through the issues with them on how business would be managed. This was of significant assistance at a challenging time.

131. Finally, throughout the course of the pandemic, I sought to use opportunities at the Assembly to remember the human impact of Covid-19 on those suffering from it or those who lost loved ones. Initiatives including observing minute's silences and lighting Parliament Buildings were used to remember the victims and those on the front line who were working on behalf of the whole community.
132. Therefore, while there are legitimate issues around process to consider, those who lost their lives, were left bereaved or continue to suffer after effects, need to be at the centre of our reflections.

Statement of Truth

133. I declare that the contents of this statement are a true and accurate account to the best of my knowledge and belief.

Personal Data

ALEX MASKEY

23 AUGUST 2023.

SPEAKER OF THE NORTHERN IRELAND ASSEMBLY