UK COVID INQUIRY: MODULE 2C

**CLOSING SUBMISSION ON BEHALF OF THE EXECUTIVE OFFICE**

INTRODUCTION:

1. The Executive Office (“TEO”) has consistently welcomed the work of this module of the Inquiry looking at governmental decision-making in Northern Ireland relating to the Covid-19 pandemic between early January 2020 to March 2022 when Covid-19 restrictions were removed in Northern Ireland. It is important that TEO again acknowledges the impact the pandemic, and the management of the pandemic, had and continues to have, on the people of Northern Ireland. TEO reiterates its condolences to the loved ones of all who died in the pandemic, and its sympathies to all those who were affected by Covid-19 and the measures introduced to address the public health risks incumbent with it. TEO recognises the very real impact those measures had on very many in Northern Irish society, on how they were able to engage in the normal interactions of life, and the ongoing impact experienced by many today and into the future particularly amongst the more vulnerable sectors of society.
2. The Inquiry, in this module alone, has received a vast quantity of evidence, comprising contemporaneous documents, statements and oral evidence from a large number of witnesses. In that context, it is not of course possible, nor in any event would it be helpful, for TEO by way of this submission to interrogate or comment upon all of same. Instead it is proposed to identify some of the key areas and issue that fall within the scope of this module and to address same briefly to the extent that they touch upon TEO’s responsibilities and to attempt to place them in context from TEO’s perspective in the genuine hope that this will serve to be of assistance to the Inquiry’s work in finding facts and compiling recommendations for future practice. Relatedly, TEO entirely accepts that it was simply not feasible for the Inquiry team to introduce all that evidence into the oral hearings but is conscious that the Inquiry will take all into account in formulating the report into this module.

THEMES FOR PARTICULAR CONSIDERATION:

The Constitutional/Political Context

1. It is clear that a factor of fundamental importance to the Inquiry in this module has been to consider the bespoke, constitutional arrangements in place for governance in Northern Ireland, and in turn as to what the specific impacts of same may have been in terms of decision-making related to the pandemic during the reference period.
2. Very much by way of summary on this issue TEO notes;
	1. The constitutional arrangements in Northern Ireland stem from the Belfast/Good Friday Agreement, supplemented by subsequent agreements and underpinning legislation, primarily the Northern Ireland Act 1998. For current purposes possibly the most significant difference between Northern Ireland and the other parts of the United Kingdom is the construction of the Northern Ireland Executive Committee, operating as a mandatory *coalition* (consisting at the relevant time of five separate political parties broadly from across the political divide here, with their strength in the Executive based on respective electoral mandates).
	2. The Executive is made up of ten Ministers across nine Departments. The First Minister and the deputy First Minister hold *joint* office. Each Minister, in general terms, has executive authority to determine policy and operational matters within their department, subject to the requirement that certain matters (in summary, cross-cutting/significant or controversial) be referred to the Executive for decision. Collective cabinet responsibility does not exist in Northern Ireland in the same fashion as in the Westminster/Whitehall model.
	3. Those particular *high-level* constitutional arrangements have resonant implications for the structure and operation of the Northern Ireland Civil Service (“NICS”) (which is itself an entirely distinct organisation from the Home Civil Service in Great Britain.) The NICS must therefore operate at all times within the constitutional arrangements in place.
	4. Each of the departments is a separate legal entity. The Minister is the head of each department, and the department is subject to his/her direction and control. The Permanent Secretary in each department is accountable to that department’s Minister.
	5. Consequently, the NICS does not operate in a hierarchical, *command and control* fashion, as might be the experience elsewhere. TEO and the Head of the Civil Service (“HOCS”) do not exercise day to day management or control of the other departments. Under this arrangement, HOCS does not have the power to direct the Permanent Secretaries of other Departments in the exercise of their functions. HOCS is not an Accounting Officer, whereas Permanent Secretaries are.
3. The ensuing risk of departments operating as *silos* may be a matter of concern to the Inquiry. It will be noted that any such concern is not unprecedented. As pointed out in the statement of Jayne Brady (INQ000421714, §7) the NI Public Accounts Committee (PAC) Report on Major Capital Projects (published June 2021) recommended that the role of the Northern Ireland HOCS should be revised to mirror the role in Scotland and Wales; and that changes should be made to powers or structures to ensure a stronger *centre* to Government in Northern Ireland, with the power to compel departments, breaking down any *silo mentality*, and enabling a more joined-up and efficient public sector.
4. This may be identified as of heightened concern in the context of emergency situations. Indeed, the Inquiry saw evidence of concern on the part of some at Ministerial level about the limitations under the system of governance for central control and direction (INQ000287536 Sir David Sterling email comments between 26 & 27 March 2020).
5. It is perhaps in itself notable that unlike the position in Modules 2A and 2B there is no one single entity to be represented as a Core Participant that is the Northern Ireland government in the way there was in those modules of Scottish and Welsh governments. The Northern Ireland Executive (more correctly the Northern Ireland Executive Committee) is not constructed as and does not operate in that singular-entity type fashion. Rather is it a sum of its constituent parts, that being the individual Ministers who are members of it. Power and control resides largely with those individual Ministers. That being the primary mechanism by which wide-spread community involvement in and acceptance of the legitimacy of government in Northern Ireland is achieved. Undoubtedly this has the benefit of extending the scope of community *buy-in* of measures agreed by the Executive. However, as has been seen in the course of the hearings in this module, the achievement of cross-Ministerial, cross-party agreement on matters brought to the Executive for decision as (for example) cross-cutting or significant or controversial may not be always straight-forward depending upon the political realities.
6. Self-evidently, substantive change in respect of this issue would require significant political engagement and adoption and as such it is not appropriate for TEO to make further comment herein.

TEO’s Role in Preparation for the Pandemic

1. The current civil contingencies arrangements and the role of the TEO in civil emergencies is set out in the TEO Corporate statement for this Module (INQ000438174) at §158-202.
2. The Inquiry will note the evidence from TEO witnesses as to the background, *environmental* context in which the pandemic-related work of the TEO in the early stages of the pandemic occurred. By the end of January 2020, the Executive Committee and Assembly had just been reformed after a three-year hiatus. There had been a sustained period of under-funding and under-resourcing of the public sector, including the NICS, with consequent impacts on staffing levels. The implications of potential no-agreement withdrawal from the EU had been a significant area of focus for the NICS and the TEO. The Civil Contingences system was under-resourced and in need of review and reinvigoration.
3. The Inquiry is referred in particular to the evidence of Sir David Sterling regarding the detrimental impacts of same - see his statement, (INQ000449440) at §81-104 & 396. In his oral evidence he said the following: (Ref\*\*\*\*\*)

*“When I came to the Executive Office in June 2017, the ministers had been away for six months or so. Nobody thought it would last much longer than that, and there were political talks that summer, there were high hopes that would reach a conclusion, didn't prove to be the radical reform in Northern Ireland health services and particularly -- in particular the Bengoa report.*

*“In fact in my witness statement I have set out an extract from Fiscal Council's report, a sustainability report they did on the health service, and that actually itemises a number of strategic reviews which have been carried out on the health service going back, I think, maybe 30 or 40 years, and there has been common theme to a lot of those reports: basically they are suggesting that the health service needs to be reconfigured, that there needs to be greater focus given to primary care, that there needs to be the collection of specialisms in specialised units. You know, a range of things like that. And sadly, that transformation has not happened and the Bengoa report is now eight years old.*

*“I think the absence of ministers for those three years left the health service in a weaker position than it ideally would have been in to deal with a pandemic. Now, I would much prefer to defer to my Department of Health colleagues to talk about that in more detail, because, you know, my knowledge wouldn't be as good as theirs, and obviously I'm now three and a half years retired as well, so I wouldn't want to be seen as an authority on just how bad things were in the health service, but I don't think it would be an understatement to say that the health service -- that the neglect that it suffered for three years left it less well prepared to deal with a pandemic than it otherwise should have been.”*

1. In his witness statement (INQ000411508) Mr Chris Stewart provides the Inquiry with his insight into the context of the resourcing of the Civil Contingencies function within TEO in early 2020 at §59-74 & 81-82. He reiterated in oral evidence that in the years prior to the pandemic, any deficiency in CCPB addressing sectoral resilience was a direct result of resource/staffing constraints (2/5/25, page 32, lines10-14). Notwithstanding, he considered that in February 2020 CCPB had sufficient capacity to gather in sectoral resilience plans in preparation for the pandemic (Page 37, line 24 – page 38, line 3. See also, page 52, lines 1-8).
2. In the context of civil contingencies, it is apt to reiterate the benefits that accrued from the preparations made before the development of the Covid-19 pandemic for the eventuality of a non-agreement exit from the EU (Op Yellowhammer). This is set out extensively in the TEO Corporate statement to Module 1 (INQ000187620 at §208 – 229). Rather than repeat same here, the Inquiry’s attention is specifically drawn to that extract, and it is respectfully asked to take same into account for current purposes.
3. TEO had a central role in preparations for the pandemic. This was multifaceted and engaged its role in the *servicing* of the Executive Committee and First Minister and deputy First Minister, along with the discharging of responsibility for coordination of the civil contingencies function in Northern Ireland. It is important to emphasise that this was a task of coordination of the planning and response of the government departments in the devolved administration in Northern Ireland (including associated agencies and arm’s length bodies, etc.) within a scheme that envisages a Lead Government Department leading on the emergency at hand, varying according to its nature.
4. In the face of a pandemic situation, it is obvious that the Department of Health is best placed to perform the role of lead government department, as was the case here. While this does not serve to obviate the need for other departments to take their own steps in preparation for the pandemic it is inevitably the case that they will look to the Department of Health for leadership, guidance and authoritative information. There was plainly close cooperation between TEO and Department of Health. TEO valued the Department of Health, in its lead government department role, in difficult and at times unprecedented circumstances, taking full account of its advice.
5. It is respectfully submitted that the overwhelming preponderance of the available evidence is indicative that that role of the Department of Health should have been and was clearly understood by all relevant parties for what it was. Indeed, an important *vignette* that serves to illustrate the point can be discerned from the evidence that the Inquiry considered in some detail in the oral hearings connected with the Department of Health’s CMO’s intervention with a TEO senior official in respect of a submission she had put up to the First Minister and deputy First Minister on 30th January 2020, whereby it was made clear that in future, while the Department of Health was the lead Government Department, he expected that he should clear all future Executive papers given the professional and technical issues arising therein (Day 8, 10 May 2024 transcript, page 79; INQ000459468 CMO/Bernie Rooney 30 January 2020 email exchange and INQ000468508, witness statement of Bernie Rooney, §47-49).
6. It is further submitted that from late January through February into March 2020 the clear steer from the Department of Health to TEO was that the point of time for *stand up* of the NICCMA civil contingencies arrangements had not yet been reached. (for example, email (INQ000425546) and letter (INQ000218470), both from Liz Redmond, Department of Health, on 6 February 2020; and Executive briefing, 7 February 2021 (INQ000425551)).
7. It is submitted that it was entirely reasonable for TEO to take the Department of Health’s lead on this at that time. It might be seen to be rather incongruous and undermining in a health pandemic situation to act to cut across the lead government department on an issue of such consequence, particularly as it had the clearly understood potential to counter-intuitively and somewhat perversely, negatively impact on the deployment of resources across all departments in the crucial planning stage.
8. None of the above should be taken as suggestive that the onus lay elsewhere than on each individual department to ensure its own planning was in hand, nor indeed on the specific role of TEO re pandemic planning coordination. It is at the same time though important to remember that TEO’s role was not to actually undertake such planning for other Departments; that remained their individual responsibility (compliant with the overall structure of governance), under the control of their individual Ministers.
9. TEO officials had been informing Ministers of the Covid-19 situation from early stages of awareness. For example, (INQ000425520) Bernie Rooney’s submission to FM and dFM on 30 January 2020.
10. In addition, the Minister of Health gave a briefing to Ministerial colleagues at Executive Committee meetings including 3 February 2020 and 26 February 2020. From 2 March 2020, Professor Sir Michael McBride, CMO began to attend meetings of the Northern Ireland Executive.
11. The inquiry has heard much mention of *sectoral resilience* in the context of the TEO’s responsibility under the Civil contingency arrangements. Chris Stewart explained this in his statement (§ 52, INQ000411508) as coordination of action to support key public services, key economic sectors and the functioning of society generally.
12. Mr Stewart goes on in his statement (§52-54) to say that the Civil Contingencies Policy Branch was also engaged in coordinating NI input into the development of the Coronavirus Act, ensuring readiness to activate the NICCMA protocol and of the civil contingencies Hub (“the Hub”). It is further his evidence that subject to residual concerns about the ability to maintain the Hub from a staffing perspective beyond the initial 1–2-month period, he was at that stage content that the immediate key requirements were in hand.
13. While in his oral evidence Mr Stewart recognised the frailty of the system being some 18 months behind in terms of sectoral resilience planning, he makes the point that that work was underway and that in the event, the changed nature of the required response to this pandemic, going beyond that which formed the basis of planning (pandemic flu based) essentially meant that planning for the latter was to prove of limited benefit in an eventual lockdown scenario (2 May 2024, Day 3).

*“…where we found ourselves in in January, my judgement was that we needed to do two sets of things. The first was those three points that are on the highlighted document. The second was to get the sectoral resilience planning under way at great pace, and those things were done, and I apologise if that's not reflected clearly in the statement.” (Page 51, lines 19-25)*

*“It was my view from quite early on in my tenure in TEO, and remains my view today, that, at that point in time, Civil Contingencies Policy Branch was very considerably under-resourced for the task that it was tasked with doing.” (Page 43, line 23-25 and Page 44, lines 1-2)*

*“…it was clear from an email that I received on 22 January from the head of the branch that we were behind in our planning and preparation. She put it very succinctly in saying that we were 18 months behind where we ought to have been in terms of preparation for an influenza pandemic. So from that point on, I was encouraging and indeed directing the team, probably ad nauseam, to give priority to planning and preparation, because one of the key lessons that we had learned from the work on Brexit was the importance of doing just that…” (Page 44, lines 14-24)*

*“…The fact that we were behind in planning for influenza is a serious matter; we ought not to have been in that position. Prior to Brexit and prior to Covid, an influenza pandemic was our number one risk. Being 18 months behind in the planning for your number one risk is not a satisfactory position and not one that I would attempt to defend. The point that I was trying to make is that, notwithstanding the very hard work of the branch to get, if you like, influenza-based plans together in the period from the end of January to early March, quite simply the world turned upside-down with the announcement of lockdown, and all of the planning that we had done to that point, late though it was, from that point forward, in my view, was of limited utility.” (Page 54, line 25 and 55, lines 1-14).*

1. In that regard it is notable that when the Cabinet Office sought input on 6 March 2020 from (inter alia) the Northern Ireland devolved administration about the potential impacts and mitigations in connection with certain NPIs those measures were referenced at (INQ000398439\_0007):
* Home isolation of symptomatic cases (7 days duration)
* Whole household isolation where there is a symptomatic case (14 days duration)
* Social distancing for vulnerable groups in line with DHSC description of policy options]
1. Notably, the NPI measures to be considered did not extend to lockdown as eventually transpired.
2. It remains somewhat of an imponderable, whether and to what extent it can be said, evidentially, that earlier or additional work by TEO to coordinate other Departments’ planning on sectoral resilience based on RWCS and pandemic flu, even with some additional aspects, in February/March 2020 would have made any material difference in terms of utility and outcomes given the fast pace of developing understanding of the virus and its impact and the related eventual identified need for societal lockdown at a comparatively late stage.
3. On 6 February the Department of Health, while maintaining that it did not feel there was a need for NICCMA to be stood up, suggested that TEO convene a multi-agency meeting regarding sector resilience preparedness. TEO convened that meeting (through the auspices of Civil Contingencies Group (NI)) on 20 February 2020 (INQ000023220).
4. Also on 6 February 2020 the CMO wrote to all Departments through CCG requesting that departments onwards transmit the letter to the public authorities under their sponsorship. The letter indicated that public authorities with contingency plans for responding to infectious diseases should ensure their staff were acquainted with their plan. (INQ000254430).
5. On 17 February 2020, Sir David Sterling received a note from the Head of Branch of CCPB with an update on Covid-19 preparedness (see Sir David’s statement (INQ000449440) §117 and INQ000309096). This included that “*TEO would now need to make preparations for a wider response involving other departments and other key stakeholders*.”
6. At the NICS Board meeting on 28 February 2020, the CMO advised Permanent Secretaries to ensure that all business continuity plans and those of their ALBs were up to date. [see INQ 000277390; And Sterling statement INQ 000449440, para 119].
7. On 2 March 2020 the Minister of Health gave a specific briefing to the Executive Committee during which the need to plan and prepare for all eventualities was referenced.
8. On 3 March 2020 TEO CCPB provided a paper to First Minister and deputy First Minister (INQ000145786). While addressing matters from a somewhat *high-level* position, the paper did touch upon the need for increased coordination of the wider non-health work. (see Inquiry opening annex §66-67).

***“Preparedness***

*4. Department of Health (DoH) acting as Lead Government Department has been managing the health preparedness and response to date. The Health Minister has attended each of the UK level Ministerial meetings (COBR (Ministerial)) chaired by the UK Secretary of State for Health and Social Care and DoH officials have been participating in four nations meetings and COBR (Official) meetings.*

*5. As the preparations move beyond the health space there is an increasing need for co-ordination of the wider non-health work. Co-ordination of this wider preparedness falls to TEO albeit in close collaboration with and guided by DoH. Accordingly, TEO convened a meeting of CCG (Covid-19) Preparedness on 20 February and engaged daily in a variety of sectoral wide conference calls with Cabinet Office, Civil Contingencies Secretariat (CCS) and other Devolved Administrations including COBR (Official), acting as a focal point for NI, sharing information with key partners and seeking input on the preparedness to inform collective next step and decision making.*

*6. Based on the scientific advice regarding increased risk the First Minister and the deputy First Minister along with Health Minister participated in the first*

*COBR (Ministerial) chaired by the Prime Minister on Monday 2 March. The Ministers agreed with their counterparts in the other nations to the publication of a joint 'Coronavirus: Action Plan'.*

*7.As Covid-19 has become more widespread, more impacts are beginning to emerge and the potential cumulative impact is becoming more complex. In addition, the preparedness work is being undertaken at pace and a working group meeting weekly has been put in place to support CCG (Covid-19).*

*Given the increasing demand the frequency of these preparedness meetings is likely to increase.”*

1. The Inquiry will note the sectoral resilience paper drawn up by TEO with information from the various government departments (INQ000023226). Additionally, the Inquiry has the text of the Minister of Health’s statement to the Assembly on 9 March 2020 (INQ000103639)to the effect that TEO had been taking forward the work on essential services and key sectors’ readiness, had convened weekly C3 meetings and led a workshop on 6 March to discuss departmental risks and priorities. See also INQ000211414 and INQ000398425.
2. Mr Stewart’s evidence is that from being made aware on 22 January 2020 of the delayed position in preparation for a flu pandemic he directed CCPB to prioritise planning and preparation (Page 44, lines 14-22), with the result that by 9 March it was able to present the initial overview for the departmental sectoral resilience plans (Page 45, line 23, page 46, line 7. See also page 52, line 25- page 54, line 11). He candidly accepted that planning was late in the day and that TEO ought to have been better prepared. By lockdown on 23 March planning had progressed to a certain point but remained incomplete (page 61, line 25; page 62, line 12). However, it is respectfully submitted that it would be wrong to categorise the situation (as per the NICBFJ oral closing statement) as “business as usual for Mr Stewart” throughout February 2020.
3. Similarly, in the oral closing, NICBFJ invites the Inquiry to find against Mr Stewart’s account of the context of the 25 February 2020 paper to the TEO Board seeking a review of the Civil Contingency arrangements as being an element of future-planning. It is respectfully submitted that there is no proper basis upon which the Inquiry could so reject his evidence. It was not raised with him by Counsel for NICBFJ in those terms (or at all). In answer to questions on the review request paper from Counsel to the Inquiry, Mr Stewart was clear that he regarded the Board’s agreement as giving him permission to undertake the review when he considered it timely (page 58, lines 17-19). At pages 37-44 Mr Stewart deals unequivocally with the issue: the review was not intended as part of the response to the Covid pandemic; its genesis long pre-dated same, back to his appointment of Ms Rooney in August 2019 to conduct such a review; its focus was future-looking and took account of new types of contingencies not envisaged when the arrangements to be reviewed were created; most tellingly, the review could in no way have been commenced and completed at that stage in time before the pandemic arrived, and in fact the review did not actually commence at that stage. (See also paras 42-48 of Mr Stewart’s statement INQ000411508).
4. An issue of interest during the course of the oral hearings was whether the NICCMA arrangements should have been formally activated sooner than they were and why this did not occur.
5. Several of the TEO witnesses called to give evidence addressed this issue. It is not proposed to repeat all that evidence here. However, in summary the main points can be identified as follows:
* The lead government department had not requested activation at an earlier stage.
* Planning for the pandemic was underway and advanced by the lead government department and other departments, including TEO, without the need for formal NICCMA stand up.
* It was seriously and genuinely felt that earlier activation would not be free from what were assessed at the time to be negative consequences upon the ability of departments to continue with the planning phase and the potential benefits did not outweigh this.
1. The inquiry will also wish to carefully avoid the risk of conflation between the NICCMA arrangements overall, and the NI Hub as (essentially) a constituent element of same.
2. The CCG(NI) Protocol for Northern Ireland Central Crisis Management arrangements, revised version September 2016 (INQ 000092739) provides at para 3 that the strategic coordination arrangements known as NICCMA can be activated by the First Minister and deputy First Minister or TEO following a request from the Executive, the lead government department, a senior representation from NIOBR, PSNI Gold, the local level coordinator, or in the absence of any such requests, whenever TEO judges it appropriate. Realistically, in most cases, TEO (or indeed First Minister and deputy First Minister) are likely to be heavily influenced by the assessment of the lead government department.
3. The NICCMA system envisaged (for current purposes) two key bodies: Civil Contingencies Group (NI) as the strategic coordination group “responsible for setting the overarching strategy for the NI administration’s response to the emergency.” (para 22); Central Operations Room- to control the flow of information in and out of CCG (para 26). In actuality this role was conducted by the NI Hub, which itself had developed from the Op Yellowhammer planning to deal with the eventuality of a no-deal EU withdrawal.
4. Para 39 of the protocol set out that,

*“When an emergency has occurred or is likely to occur which meets the criteria for a Level 2 or Level 3, NICCMA may be activated as described at paragraph 3 and CCG(NI) convened to facilitate strategic coordination of the response*.”

1. At §43 it is made clear that participating departments and organisations are required to assess their own situation in respect of the emergency and what they need to deliver in response to it as well as any likely impact on the delivery of their essential services, providing information on the likely effects on the wider community relevant to their business interests. Para 44 sets out that the secretariat will be drawn from TEO and goes on to establish the administrative/bureaucratic type role encompassed in same.
2. It is important to be clear that he activation of NICCMA would not and did not give TEO any new/additional powers over other departments and does not change the fundamental principles of subsidiarity and Lead Government Department that were core components of the civil contingencies arrangements Crucially, the activation of NICCMA would not have given TEO the power to introduce lockdown (nor indeed as a matter of practical reality, the ability to do so).
3. It is apt to look to some of the oral evidence given by Sir David Sterling as HOCS on 1 May 2024 (Day 2) at the relevant time, about planning work undertaken in TEO in the period late Jan - to mid-March 2020, and the assessed likely impact on same of moving earlier to formally activate NICCMA (See also Sterling statement INQ000449440, §205-207):

*“…in early January/February we would have been very much in the prepare phase” (Page 95, lines 4-5 )*

 *“Mr Stewart and the CCPB team were working hard on the sectoral resilience issue, which has been mentioned before, and certainly Mr Stewart has advised me -- and I've no reason to doubt him -- that by early March that sort of 18-month lag that we had in sectoral resilience preparation had been caught up. So it's not as if nothing was being done at this stage.” (Page 132, lines 18-25).*

*“when people talk about activating NICCMA, I think what they quite often mean is …establishment of the Civil Contingencies Group…and also the establishment of the Northern Ireland hub…My view would be that you don't need to do either of those two things, which are response functions, until you've moved out of the prepare phase.” (Page 98, lines 4-13).*

*“…our view at the time was that setting up the hub, establishing the hub and the Civil Contingencies Group regular meetings was something that would not need to be done until we moved further into the response phase. We were still at the planning phase. We'd only had the first case in Northern Ireland on 27 February”. (Page 135, lines 19-25)*

*“…at that stage in early February it's probably fair comment that people had not fully appreciated how serious this was….” (Page 187, lines 11-13).*

*“…the people who were doing the preparation work in the Executive Office but also in departments would have been the same people that would have been staffing up the hub. So our reluctance to -- not reluctance, but the decision to establish CCG when we did was in part because we wanted to use the resources available to us to best effect. So, for example, in early March we had commissioned impact assessments from all departments. There had been a workshop on 6 March, facilitated by Chris Stewart and the CCPB team, which was looking at how we actually co-ordinate that exercise across departments. So that work was part of the preparedness work, and had we established the hub and Civil Contingencies Group earlier, it might have compromised that work…”. (Page 103, lines 10-24).*

*“Mr Stewart in CCPB would have been co-ordinating the work that was being commissioned from departments, but we would have been, at that stage, relying on departments, you know, in a sense preparing the plans that they needed….What we were doing at the centre was, in a sense, co-ordinating that work, but we did not have the expertise, nor were we in a position to sort of second-guess, if you like, how credible the plans being drawn up in departments were.” (Page 117, 8-25 and page 118, line 8).*

 *“There was a recognition in early January that there was a need, as I say, to update our arrangements. That didn't happen for a variety of factors. One was CCPB was short of resource, and I'm happy to talk about the context for that, but also the other factor was the emerging Covid pandemic, which really required us to activate the arrangements and they were not subsequently updated until 2021, and in part I helped to facilitate that by re-directing a senior civil servant from elsewhere in the Executive Office into CCPB in August 2020, Mr Andy Cole, and he over the next year actually did update those arrangements and there are -- there's a new protocol in place since, I think, August 2021, and I think I understand that has been further updated in autumn 2023.” (Page 108, lines 5-19).*

*“So in a sense, Department of Health was taking the lead in responding, in preparing for and responding to the pandemic, and we were in, you know, regular contact with the Department of Health, like daily contact, so we would have been, you know, liaising very closely with them, and I was always very clear that at any point in time they asked us to activate NICCMA, and by that I mean establish the Civil Contingencies Group and set up the Northern Ireland hub, we would have done so. Now, it's now a matter of record that we didn't do that until, you know, the third week in March, and, you know, I think that was felt to be appropriate at the time…” (Page 99, lines 1-14).*

*“I will concede now that it would probably have been prudent to have established it a few days earlier, perhaps at the end of the previous week, and I say that for two reasons. Firstly, and again this is knowing what we know now, we didn't get the number of volunteers coming forward to staff up the hub, which provides support to CCG, that we had anticipated, and for that reason it would have been sensible, I think, to have established it a little earlier, so that we could have known this and mitigated it sooner than we did. Now, in my view, we did mitigate the immediate absence of volunteer -- sorry, the immediate shortage of volunteers quickly.” (Page 102, lines 15-25 and page 103, lines 1-2).*

*“…did concede earlier that it would probably have been prudent to have maybe done it a few days earlier, but I'm talking a few days, not a few weeks, and I think I would make the point as well that the Chief Medical Officer didn't ask us to activate NICCMA until, I think it was, the end of the week beginning 9 March. So somewhere around 14/15 March.” (Page 116, lines 21-25 and page 117, lines 1-2).*

*‘‘have conceded that we probably should have done it a few days earlier, I think I've conceded elsewhere that in early January/February we weren't as prepared as we ought to have been. I acknowledge that.” (Page 121, lines 15-18).*

1. In a similar vein, Chris Stewart said, (2 May 2024, Day 3, page 45, lines 5-10)

*“…in terms of the appropriate point at which to activate the hub to move into operational role. That is a matter of very fine judgement. Activate too late and you impede the response. Activate too early and you won't have got -- made sufficient progress in the planning…”*

1. Essentially, the point is that once NICCMA was activated the same groups of staff undertook the planning and operational roles. Any gains from ‘early’ stand-up would have come at the cost of curtailing planning. One of the key benefits from Yellowhammer was the availability at a Departmental level of large numbers of staff across NICS trained to operate emergency response. The responsibility remains on each individual department in terms of preparedness planning and TEO has coordination role initially in gathering in the resilience plans from departments. but does not assume any new function or, at any time, have powers to direct other departments. The expectation in the system is that when the Hub is stood up, some staff involved in planning at a departmental level would move to the Hub as volunteers and others would remain in Departments and liaise with the Hub via the DOCS. Activating NICCMA too early risks drawing vital resource away from departments in the preparedness phase to a response mode. There may well have been differing, well-intentioned, views and planning within the system on taking that step sooner. Careful balancing was required and it is a judgement call to be made by Senior officials and/or Ministers as to when to make that switch. Not surprisingly, nor it is submitted, unreasonably, the view of the lead Government Department will always carry a very particular *heft* and predominant influence in that decision and its timing.

SOME GENERAL ISSUES & CONCLUSIONS:

1. The approach to Civil Contingencies should not stay still. Changes have been made since the pandemic ended. [See TEO Corporate statement for this Module (INQ000438174) paras 756-776]. The main developments include:
* The new Building Resilience Together Framework which was provided to the Inquiry (INQ000438394) setting out clear pathways for event escalation. This was first published in August 2021, building on learning from Yellowhammer as well as Covid-19 was updated in November 2023 and will be reviewed periodically or after future emergency events.
* A new risk register for NI has been produced and is kept under review.
* Delivering against a new Learning and Development strategy for the civil contingencies community in NI.
1. The Lead Government Department concept is at the heart of the contingency arrangements. TEO intends to take steps to strengthen the concept in practice by ensuring that all Departments and partners have the same understanding of it, how it is intended to work, how it fits with other structures including the Strategic Co-ordination Group, and its centrality to activation of NICCMA, the Hub and ultimately CCG NI should that be required.
2. The Inquiry was interested in the decision-making processes, sharing of information between Departments, and the reconciling of different views as the pandemic progressed in 2020. TEO witnesses gave evidence on the processes and some of the issues which emerged, indicating the importance of structures which aid bringing people together in decision making. The Executive Covid Task Force established in December 2020 is perhaps a good example in point.
3. TEO Ministers returned to office on 3 February 2020 after a further 2-year hiatus. They have been briefed on the revised Framework and risk register, and the full Executive Committee has also been briefed on civil contingencies arrangements.
4. Sectoral engagement - particularly with vulnerable groups is a key issue. TEO witnesses acknowledged this to be an area where significant improvement is required in the civil contingencies *sphere*, [see for example David Sterling, §244 & 249] especially the need to build these essential considerations into future arrangements. The TEO has indicated that it sees huge merit in dialogue with Commissioner for Older People, the Commissioner for Children and Young People, the Equality Commission and the Human Rights Commission, and Disability Action from the Civil Contingencies perspective.
5. Public information and public confidence issues are key. TEO notes the comments made by Disability Action about the importance of a range of communication methods and will examine this further.
6. Some criticism has been levelled on the use of ‘phase 0’ to describe the initial phase of the pandemic. In fact, this is simply a post-hoc descriptor, applied merely to describe a stage in the timeline of activities. Such language was not used contemporaneously in early 2020 – the language in play at the time (nationally, locally, and in advice to Ministers) was of the impending transition from ‘contain’ to ‘delay’. It cannot fairly be seen as indicative of a mindset that TEO failed to recognise the risk posed by the pandemic. An examination of the evidence as a whole is not supportive of such a contention.
7. The TEO acknowledges the Inquiry’s concern relating to the use of informal messaging, the recording/retention of same as official information and provision of messages to the Inquiry, the securing or resetting of devices, and the general handling of this issue (and other related issues touching on disclosure) by TEO in the *servicing* of this module of the inquiry. The Inquiry has received substantial evidence from TEO witnesses on these matters, including written and oral evidence from HOCS, who, in recognising the systemic and cultural vulnerabilities, expressed deep regret on behalf of the NICS.
8. Steps have been taken to address these failings by way of introduction of new technological solutions (Jayne Brady oral evidence on 3 May 2024, page 153, line 19 to page 154, line 23 and page 156, line 21 to page 157, line 4.) In addition, Ms Brady referred to developing an information governance forum to add consistency across the NICS (page 157, lines 5-14). DoF has responsibility for NICS wide policies. TEO has commissioned work which will form a programme on records and information management. In relation to the late disclosure of the handwritten notes of the Executive meeting of 2 July 2020, Ms Brady instituted an external review by an independent Senior Counsel. This was conducted expeditiously and the review outcome has been shared with the Inquiry.
9. TEO identifies a number of other issues that may be of note to the Inquiry with a view to future practice which may provide somewhat more of a structural challenge in reality. For example;
* Reliance upon Westminster/Whitehall – NI does not have resources like SAGE. However, process for appointment of substantive CSTA has recently completed. In addition, a NI Science and Technology Advisory Network has been established, with relevant representation from all departments and to be chaired by CSTA. This will provide a vehicle for delivering collective advice to the Executive through CSTA.
* Additionally, but still on theme of reliance, NI does not have the kind of financial resources that might be required to facilitate the taking of steps such as Lockdown without the support of extraordinary funding from HM Treasury. Depending upon the model of funding this may limit the room for manoeuvrability available for Northern Ireland to address emergency situations in its own, bespoke fashion. This gives rise to the need to be involved in and aware of developing approaches centred on/focused on GB with a close relationship between London and the Devolved Administrations.
* Limitations in HOCS/TEO’s power to lead the response as a central authority like Cabinet Office, although soft power is a force in NI. This overlaps with e.g. the standing up NICCMA issue/tendency towards departments silo working. As identified in the foregoing, there are real limits on ability to bring about substantive change with respect to the notion of increased power to the centre in emergency because of the realities that exist under constitutional arrangements. This heightens the need to ensure that there are robust processes, as now seen in the Building Resilience Together – NI Civil Contingencies Framework to mitigate the opportunity for dissonance and disunity, and to facilitate working together in time of emergency.
1. TEO specifically recognises the potential for long term societal and economic harm as a result of the pandemic and the response to same. This is heightened in the context of a small jurisdiction which has again experienced an absence of government and has to manage an extremely challenging budgetary situation.
2. TEO accepts the importance of learning the lessons from the pandemic and being better prepared for the next one. One element of this that can perhaps be easily overlooked it the reality of the impact on those individuals who gave so much during the pandemic itself. That is particularly compounded in smaller jurisdictions where a small number of people carried a huge burden, giving rise to a real risk that those asked to step up into a crisis will be less willing to do so in the future.
3. Understandably, any Inquiry’s public hearings will tend to predominantly focus on areas where things were not done well or could have been done better.  TEO acknowledge that the report in this module will afford an important opportunity to balance that with recognition of what was achieved as a result of the dedication, hard-work and sacrifice of many individuals in the public sector and further afield in maintaining essential services. In that regard TEO specifically draws the Inquiry’s attention to the type of issues identified by David Sterling at §399 of his statement. For example, schools were kept open for children of essential workers, ports and airports continued to function, food and essential items supply chains were maintained, and energy, water and waste services operated effectively.
4. Front line staff in both the public and private sector providing essential services to the public were dealing with the most difficult and unprecedented of circumstances. Alongside this, TEO also recognises that, as part of the surrounding context for this Module, those involved in the development of policy and the decision-making processes were doing so in testing and pressurised conditions in an unprecedented and highly complex situation. Northern Ireland is a relatively small jurisdiction, and NICS has to operate in a complex political environment with constant financial pressures. People were doing their best, with the intention of serving the interests of the people of Northern Ireland.
5. It is acknowledged by TEO that in its preparedness for and its addressing of the pandemic, there will have been matters that could have been done differently and should have been done better. TEO welcomes the important work of the Inquiry in identifying those areas. TEO has benefited greatly from the evidence of other participants, including all those who participated in the impact video, setting the context for the effect the pandemic has undoubtedly had on so many people.

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