

Witness Name:

Statement No:

Exhibits:

Dated:

## **UK COVID-19 INQUIRY**

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### **WITNESS STATEMENT OF KAREN PEARSON**

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I, Karen Pearson, will say as follows: -

1. This witness statement has been drafted with the assistance of colleagues within the department (TEO) including Mr Tim Losty who has recently retired. Due to the diversity of TEO's operations and the involvement of other officials both within and outwith TEO in relation to the issues identified in the TEO Rule 9 request for Module 5, it is not possible for me to comment on every fact and matter arising from my own personal knowledge. I have highlighted where this is the case throughout the course of my statement and confirmed the source for this information in these circumstances.
2. In my statement I aim to set out the relevance of TEO's role, function and responsibilities for those matters arising in Module 5 of the Inquiry.
3. I aim to set the context of TEO's work and decision making. With that in mind, I highlight to the Inquiry that Civil Servants work under the direction and control of Ministers and the Northern Ireland Executive ("the Executive"). Our role is to help develop and advise on policy options, recognising that policy decisions are properly taken and owned by Ministers. Once Ministers decide on policy, our role becomes implementing it as effectively and efficiently as possible.
4. The Executive, chaired by the First Minister and deputy First Minister, took many of the policy decisions during the period of interest to the Inquiry. The decision-making process was supported by the Head of the Civil Service (HOCS), most recently Jayne Brady, in her role as Secretary to the Executive and supported by HOCS office as well as the Civil Contingencies team and the Covid Strategy and Recovery Division.

## Overview of TEO's Role in Procurement

5. It should be noted that TEO has no strategic or oversight role in relation to public procurement activities in Northern Ireland and its responsibilities in this regard are limited to its obligations as defined in the NI Public Procurement Policy [**Exhibit KP/M5/001 - INQ000494692**]. TEO was involved in the initial exercise to procure PPE from China in 2020, and this was borne more from circumstance / opportunity in that TEO had, and still has, operational responsibility for the Northern Ireland Bureau in China. TEO, therefore, had members of staff who were more knowledgeable with regard to operations in that country and were able to avail of existing contacts within the British Embassy and Chinese businesses.
6. TEO was not the primary department responsible for obtaining and distributing PPE (including key healthcare equipment and supplies). This was led by the Department of Health (DoH) in conjunction with the Department of Finance. On this basis, TEO did not have a defined strategy and approach to obtaining and procuring PPE as it was not within its policy area.
7. TEO has no designated functions or policy responsibilities in relation to health nor concerning the provision for the needs of the health and social care sector within the context of Module 5. Health and social care issues (both in terms of policy and on an operational level) are principally matters that fall within the remit of the Department of Health (subject to the qualification contained in Section 20 (4) of the NIA 1998 discussed at paragraph 39 below). In general, the Minister of Health has authority to determine policy and operational matters within the remit of the Department of Health, without the general requirement to observe a collective 'cabinet position.' This remained the position in the context of responding to the pandemic.
8. The Department of Health was designated as the Lead Government Department (LGD) in relation to Northern Ireland's response to the pandemic and activated its Departmental response mechanisms specifically targeting the health and social care sector, including DoH Gold Command on 9 March 2020. In keeping with its strategic role, TEO worked closely with all Departments (including the Department of Health) in co-ordinating the collective response to Covid-19.
9. Whilst issues including the procurement of key healthcare equipment were discussed at Civil Contingencies Group NI (CCG NI) meetings (established to manage the civil contingencies response to the early stages of the pandemic) and Executive meetings

TEO did not have a direct role in:

- Benchmarking prices for PPE (this was a matter for the Department of Finance and/or BSO PaLS see paragraph 16).
- Initiatives to increase domestic manufacture of PPE during the pandemic and beyond.
- Whether the approach differed between short-term and long-term contracts for the supply of key healthcare equipment and supplies.
- Due diligence for 'high risk' contracts (details on the due diligence checks undertaken for the China contract are laid out later in the statement).
- Setting spending controls for contracts for PPE and other key medical equipment and supplies awarded by NI DoH and Business Services Organisation Procurement and Logistics Service (BSO PaLS).
- Spending control thresholds.
- The procurement of ventilators, and related medical equipment and supplies.
- The estimates of the number of ventilated beds that could be needed in Northern Ireland were revised over the course of the pandemic.
- Regarding if there was a point in time during the pandemic when responsibility for procuring PPE for Northern Ireland shifted from UK Central Government to BSO PaLS and the NI DOH entirely.
- Whether provision was made to assist the care sector with the purchase of PPE during the pandemic;
- The standing up of any committees, projects or workstreams to assist in securing key healthcare equipment and supplies during the pandemic. Whilst TEO did provide practical assistance to DoF and DoH to secure PPE from China (see paragraphs 347-382), this was an 'ad hoc' arrangement which arose due to the particular circumstances arising at that time and was not indicative of any wider role on the part of TEO;

- Assisting, supporting, training in relation to the distribution of PPE and other key healthcare equipment and supplies.
  - Assisting new manufacturers of PPE in NI regarding funding, technical and regulatory requirements of PPE and quality control and testing.
10. Therefore, TEO cannot comment specifically on what steps were taken to increase domestic manufacture of PPE in Northern Ireland during the pandemic or the effect on the availability and cost of PPE in Northern Ireland as a result. TEO were not involved in decisions to award Direct Award Contracts for PPE or in communication with contractors to agree to specific standard contract terms relating to fraud, poor quality or non-performance.
  11. TEO was not involved in modelling passed to DHSC in terms of how many beds with ventilators the HSC could need to care for Covid-19 patients. TEO was also not involved in the receipt of ventilators from the Government's 'Ventilator Challenge' or in the potential adoption of formal targets for the procurement of mechanical ventilators, non-invasive ventilators, and oxygen concentrators. TEO did not have an operational awareness of the numbers, models, quality, safety, appropriateness, or effectiveness of ventilators received in Northern Ireland. TEO would also not have had an awareness of any issues with how DHSC allocated new ventilators to HSC trusts in Northern Ireland to meet local demands. These are all matters best addressed with the Department of Health.
  12. TEO was not the recipient of any PPE that was procured by the central government Department of Health and Social Care during the Covid-19 pandemic. The Department of Health may be able to assist with information on any mutual aid arrangements that may have existed during the pandemic.

### **The Role of Mr Tim Losty**

13. Mr Losty was the Director of the NI Bureau, China at the outset of the pandemic in January 2020. On his return to Northern Ireland, Mr Losty took up the role as Principal Private Secretary to the deputy First Minister on 23 March 2020. However, with Mr Losty's knowledge and contacts in both the British Embassy and within China, it became apparent that he would be ideally positioned to facilitate engagement with China on the procurement of PPE for use in Northern Ireland. Mr Losty later returned to China in June 2020 returning to NI in September 2020 to take up post as Joint Secretary to North-South



Ministerial Council (NSMC). Mr Losty's involvement in PPE procurement is set out in fuller detail throughout the statement, including details of his contact with China Resources Pharmaceutical Group Limited which is a Company owned by China Resources conglomerate, for the supply of PPE into Northern Ireland.

### **Public Procurement Policy in Northern Ireland**

14. The Northern Ireland Public Procurement Policy document (dated August 2014) [**Exhibit KP/M5/001 - INQ000494692**] sets out the policies adopted by the Executive and the organisational structures established to implement them. Responsibility for public procurement policy lies with the Procurement Board, chaired by the Finance Minister and following a restructuring in 2020 [**Exhibit KP/M5/002 - INQ000505552**], comprises procurement experts from industry, the public and voluntary sectors, trade unions and the Strategic Investment Board. All policies agreed by the Board must comply with relevant procurement legislation. The Board is responsible to the Executive and accountable to the Northern Ireland Assembly. The Procurement Board is fully supported by the Construction & Procurement Delivery (CPD) Policy and Performance directorate in all aspects of public procurement policy within the Northern Ireland public sector, liaising with the Cabinet Office on legislative matters, helping in the development of new policies, and monitoring their implementation. CPD is a Directorate within the Department of Finance. During the pandemic, the European Commission issued guidance to advise that the 'emergency' procedures within the Procurement Directives could be relied upon due to the impact of the pandemic [**Exhibit KP/M5/003 - INQ000494704**].

### **NI's Public Procurement Activities**

15. Most of NI's public procurement activity falls under the Northern Ireland Public Procurement Policy ('NIPPP') [**Exhibit KP/M5/001 - INQ000494692**]. This sets out definitions and the framework of organisational responsibilities for procurement policy and practice. The NIPPP applies to Departments, their Agencies, Non-Departmental Public Bodies ('NDPB') and Public Corporations, but not local authorities.
16. The Minister of Finance has Executive responsibility for the development of procurement policy and legislation. The Minister is supported by the Procurement Board and the Construction and Procurement Delivery ('CPD') Policy and Performance Directorate. In addition, there are nine Centres of Procurement Expertise ('CoPE') which provide specialist expertise across the public sector. One of these CoPEs is BSO Procurement and Logistics Service ('PaLS') which provides procurement support in respect of goods

and services for health bodies in Northern Ireland.

17. The Procurement Board is responsible for, inter alia, the development of procurement policy in Northern Ireland and monitoring implementation of that policy within Northern Ireland public bodies and to ensure adherence to legal obligations.
18. CPD is responsible for, inter alia, collating and monitoring information on procurement performance across the public sector and providing procurement services, under Service Level Agreements to Departments, Agencies and NDPB who request them.
19. Operational responsibility for procurement lies with the public bodies that are purchasing goods, services, or construction work (contracting authorities). Accounting Officers within public bodies must ensure appropriate arrangements are in place to enable their staff to undertake effective and successful procurement activities. Departments (including TEO), their Agencies, NDBPs and public corporations are required to carry out their procurement activities by means of documented service level agreements with CPD or a relevant CoPE.

#### **Northern Ireland Governmental Structure**

20. The devolved institutions in Northern Ireland are constituted under the Northern Ireland Act 1998 **[Exhibit KP/M5/004 - INQ000147489]**, with several institutional reforms having taken place since then.
21. The Government of Ireland Act 1920 provided for the partition of Ireland and the establishment of parliaments in Belfast and Dublin. Northern Ireland, composed of the six counties of Londonderry, Tyrone, Fermanagh, Antrim, Down and Armagh, was established in 1921, and an election to a bicameral Parliament of Northern Ireland was held in May of that year. A year after the Anglo-Irish Treaty was signed on 6 December 1921, what had been known as “Southern Ireland” (i.e., the remaining 26 counties of Ireland) seceded from the UK to form a Dominion called the “Irish Free State” (later the Republic of Ireland).
22. Between 1921 and 1972 Northern Ireland remained an autonomous part of the UK with its own devolved administration. The Parliament of Northern Ireland was based on, although devolved from and subordinate to, Westminster, and consisted of the Senate and House of Commons, with the Sovereign represented by the Governor of Northern Ireland. The devolved parliament was given power over a wide range of issues, such as health, education, social services and law and order. The Government of Ireland Act set out a list of ‘excepted’ and ‘reserved’ matters over which the Northern Ireland Parliament

had no powers of legislation: 'excepted' matters included the Crown, peace and war, the armed forces while the principal 'reserved' matters were the postal service and the major sources of revenue.

23. From 1929, the Northern Ireland Parliament was elected via the 'first past the post' (FPTP) system. The Ulster Unionist Party was electorally dominant and was the single party of government from 1921 to 1972.
24. Northern Ireland and its border with the rest of Ireland was contested from the beginning. Broadly speaking, many in the minority Nationalist community opposed the "partition" of Ireland in 1921 and desired unification with the rest of Ireland, while many in the majority Unionist community wanted to remain part of the UK. This disagreement occasionally gave rise to violence, which became more sustained during the period known as "The Troubles" (c1968-98) when an estimated 3,600 people died in shootings, bombings, and other killings and up to 30,000 were injured. As a result of the deteriorating security situation, the Parliament of Northern Ireland was at first prorogued in 1972 and then abolished in 1973. Despite periodic attempts between 1973 and 1986 to restore devolved institutions on the basis of power sharing between unionists and nationalists, a devolved Northern Ireland Assembly was not established until 1998-99, following the Belfast/Good Friday Agreement [**Exhibit KP/M5/005 - INQ000147488**]. During the period of 1973 to 1998, the executive and legislative powers in Northern Ireland were exercised by Westminster Parliament and the Secretary of State for Northern Ireland (SoSNI), in a form of government known as "direct rule".

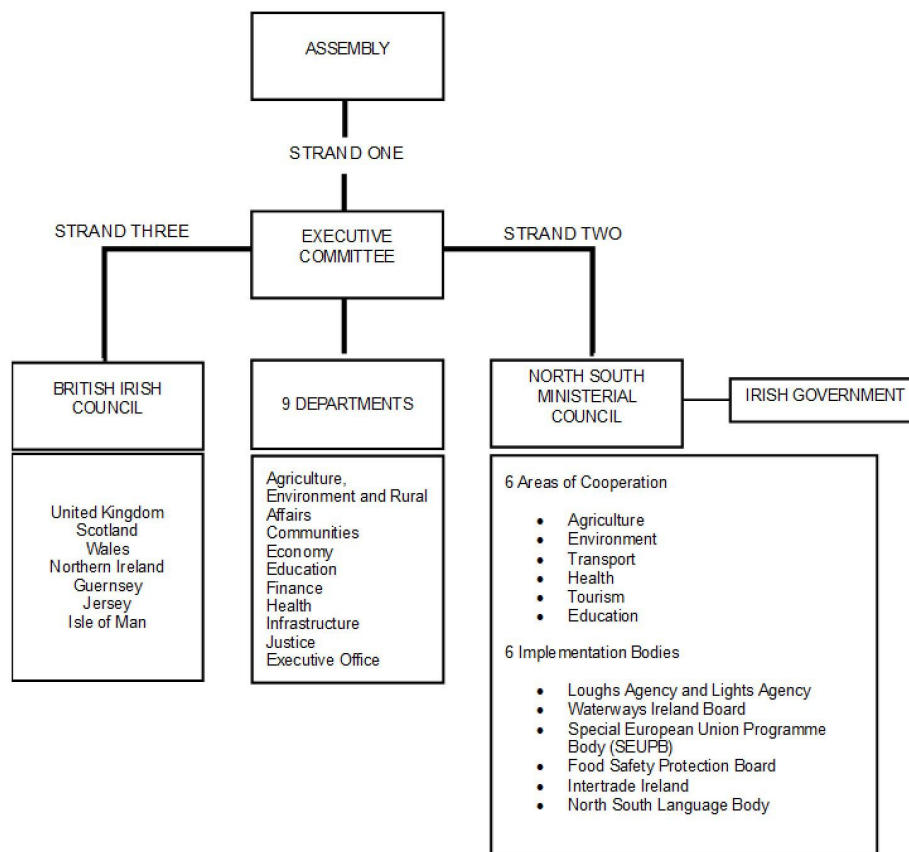
### **The Agreement and the Devolved Institutions**

25. The Belfast/Good Friday Agreement (B/GFA), signed on 10 April 1998, established the basis for the current system of devolved government in Northern Ireland, following a period of almost 30 years when Northern Ireland had been administered via Direct Rule from Westminster. The Belfast/Good Friday Agreement, and the subsequent Northern Ireland Act 1998 (as amended a number of times since 1998, particularly following the 2006 St Andrews Agreement) [**Exhibits KP/M5/006 - INQ000183579 and KP/M5/007 - INQ000415925**] continue to form the basis of the constitutional structure in Northern Ireland.
26. The Belfast/Good Friday Agreement was divided into three strands (see diagram below):

- Strand 1: dealt with arrangements within Northern Ireland, setting up the Assembly and Executive
- Strand 2: dealt with 'North-South' arrangements between Northern Ireland and the rest of Ireland, and in particular the establishment of the North-South Ministerial Council (NSMC)
- Strand 3: dealt with 'East-West' arrangements between the UK and Ireland, and the establishment of the British-Irish Council.

27. The Northern Ireland Act 1998 (NIA 98) made new provision for the government of Northern Ireland for the purpose of implementing the B/GFA.

#### GOOD FRIDAY/BELFAST AGREEMENT 1998



28. The above departmental structure reflects the position after restructuring of the NICS in 2016 under the Fresh Start Agreement, agreed in 2015 [**Exhibit KP/M5/008 - INQ000279214**]. This allowed for Departmental Restructuring and Reduction in the Number of MLAs. The number of departments reduced from 12 to 9 departments and, therefore, cut the number of ministers, special advisers, permanent secretaries and

central management and support functions. This took effect from May 2016.

29. This is when the Office of First Minister and deputy First Minister (OFMDFM) became The Executive Office (TEO).

### **Power Sharing**

30. The system of government established by the B/GFA is consociational in nature, designed to facilitate power-sharing by accommodating the competing political views and aspirations of the Unionist and Nationalist communities and those who designate themselves as “Other.” The current Executive in NI is made up of a four-party coalition:
- Sinn Fein (designate as Nationalist)
  - the Democratic Unionist Party (designate as Unionist),
  - Ulster Unionist Party (designate as Unionist), and
  - the Alliance Party (designate as Other).
31. The Social Democratic and Labour Party (designate as nationalist), which is the fifth-largest party with eight assembly members, did not qualify to be a part of the Executive in February 2024 and has instead gone into opposition.

### **Devolution Settlement for Northern Ireland**

32. Under the devolution settlement for Northern Ireland there are three categories of legislative powers: reserved, excepted and transferred. Schedules 2 and 3 to the Northern Ireland Act 1998 (NIA) respectively specify those matters which are excepted and reserved. Any matter that is not excepted or reserved is a transferred matter. Examples of reserved matters relative to Covid in Northern Ireland would include revenue issues such as furlough. Excepted matters would include relations between UKG and ROI such as measures enforcing the NI border with ROI and some areas of co-operation between PSNI and An Garda Síochána.
33. The Assembly can make primary and subordinate legislation on all transferred matters. However, it cannot legislate in respect of reserved matters (without both the involvement of UK parliament and Secretary of State for NI). Nor can it legislate on excepted matters, save in relation to ancillary provisions.

34. In theory, reserved matters can be devolved at a later date and have, for example policing and justice in April 2010. Excepted matters, however, cannot be considered for further devolution except by a fresh Act of Parliament. A reserved matter may become a transferred matter or vice versa by means of the Order in Council procedure set out in s4 NIA.
35. Parliament remains sovereign (section 5(6) of the Northern Ireland Act) and retains the right to legislate in all matters relating to Northern Ireland. It will not however normally pass legislation on transferred matters without first obtaining the consent of the Northern Ireland Assembly via a Legislative Consent Motion. See Devolution Guidance Note 8 – Post Devolution Legislation affecting Northern Ireland **[Exhibit KP/M5/009 - INQ000147491]**.
36. The 'Barnett consequential allocation' is used by the UK Treasury to calculate the annual block grants for the Northern Ireland Assembly, as is the case for the Scottish and Welsh governments. This reflects population size, whereby Northern Ireland receives a population-weighted proportional allocation of 3% of the amount for England, as well as the range of devolved public services in each nation. If fresh funding is allocated to England, as it was during the pandemic, a "Barnett consequential" amount is allocated to the Devolved Administration (DAs), but this is not hypothecated, i.e., required to be spent on the same issue.

#### **Unique Characteristic and Differences to the Westminster Model**

37. The Northern Ireland Executive is a coalition government, comprising the Ministers from the 9 Executive Departments, each of which is a separate legal entity.
- Department of Agriculture, Environment and Rural Affairs
  - Department for Communities
  - Department for the Economy
  - Department for Education
  - Department of Finance
  - Department of Health
  - Department for Infrastructure

- Department of Justice
  - The Executive Office
38. Membership of the Northern Ireland Executive is an entitlement based on the electoral strength of each political party, as evidenced by the number of seats held in the Assembly. This approach ensures that any party which wins a sufficient number of seats has the right to participate in government. An eligible party may, however, also elect not to nominate to Ministerial office and instead seek recognition as the Official Opposition under the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 **[Exhibit KP/M5/010 - INQ000279211]**.
39. In general, individual Ministers have executive authority to determine policy and operational matters within their departments, without the general requirement to observe a collective 'cabinet position.' However, this is qualified by a statutory requirement under section 20 (4) of the NIA 1998 (as amended) to refer certain matters for consideration by the Executive, those matters include:
- 'cross-cutting' matters, that is, matters that affect the statutory responsibilities of more than one Minister (more than incidentally).
  - significant or controversial matters that are outside the scope of the Executive's Programme for Government, or that the First Minister and deputy First Minister (acting jointly) have determined to be matters that should be considered by the Executive.
40. The constitutional arrangements are further reflected in the governance and accountability arrangements for the Northern Ireland Civil Service (NICS), which is constitutionally separate from the Home Civil Service. Paragraph 11 (1) of Schedule 12 to the Northern Ireland Act 1998 provides for the interpretation of references in statute to the 'Head of the Department'. The paragraph reflects the position in law that, for each Northern Ireland Department, the Minister is the Head of the Department. Article 4 of the Departments (Northern Ireland) Order 1999 **[Exhibit KP/M5/011 - INQ000183644]** requires that the functions of a Department shall at all times be exercised subject to the direction and control of the Minister. It follows that the Permanent Secretary of each Department is accountable to the Minister for the performance of the Department's functions. Additionally, as Accounting Officers, each Permanent Secretary is accountable to the Assembly as set out in Chapter 3 of the Department of Finance and

Personnel's (now Department of Finance (DoF) guidance Managing Public Money Northern Ireland (MPMNI).

41. The position of Head of the NI Civil Service (HOCS) is a critical role and one of significant responsibility. The postholder is responsible for leading more than 23,000 civil servants, including Permanent Secretaries. This is a highly visible leadership role in a diverse organisation which operates in a constantly changing, complex, resource constrained and complex political environment. HOCS is the chief advisor to the Executive and the only official permitted to speak at the Executive Committee (unless other officials are invited to speak). The role of HOCS is to provide sound, clear and impartial advice to First Minister and deputy First Minister and other Ministers on a range of interlinked issues, relevant to the delivery of the vision and ambition the Executive has for all in Northern Ireland.
42. HOCS is accountable to the First Minister and deputy First Minister when an Executive is formed. During a period of no Executive, HOCS operates insofar as she can within her remit, for example, by convening party talks with a view to re-establishing an Executive and providing assistance and advice to Permanent Secretaries where requested.
43. The NICS is not typically characterised by hierarchical 'command and control' governance and management arrangements. The Head of the Civil Service (HOCS) does not exercise day to day management or control of individual Departments, or their agencies or arm's length bodies. Specifically, she does not have the authority to direct the group of Permanent Secretaries who play a critical role in the management and performance of the NICS across the NI Departments (or other officials). Furthermore, she does not hold an Accounting Officer role for any part of the NICS.
44. The Civil Service (Northern Ireland) Order 1999 [**Exhibit KP/M5/012 - INQ000183580**] provides that the Department of Finance 'shall continue to be responsible for the general management and control of the Civil Service'. Under Article 4 of that Order, the Minister of Finance can make directions and regulations as to how to exercise his powers and to discharge his statutory duties with respect to e.g., the number and grading of posts; remuneration; conditions of service; conduct (including the making of a Code of Ethics); or recruitment.
45. The NICS governance arrangements reflect these constitutional and legal arrangements. They include:



- The NICS Board, chaired by HOCS with membership comprising Permanent Secretaries (and officials at equivalent grade), together with three Non-Executive Board Members (NEMs) (the role and responsibilities of NEMs is set out below). The role of the Board is to provide strategic direction to the NICS as set out in Terms of Reference for the Board [**Exhibit KP/M5/013 - INQ000086917**].
- A Memorandum of Understanding to provide for joint working between TEO and the Department of Finance on the planning and delivery of reform of the NICS [**Exhibit KP/014 - INQ000086919**].
- The Northern Ireland Audit Office (NIAO) is responsible for the external audit of central government bodies in Northern Ireland, including Northern Ireland departments and their executive agencies and a wide range of other public sector bodies, including executive non-departmental public bodies and health and social care bodies.

### **The Northern Ireland Assembly**

46. The Northern Ireland Assembly sits at Parliament Buildings, Stormont Estate, in Belfast, and is composed of 90 members elected by single transferable vote. There are five Members of the Legislative Assembly (MLAs) for each of the 18 constituencies which are the same as those used to elect MPs to the House of Commons.
47. Most votes in the Assembly are taken on a simple majority basis, but on certain specified matters, such as the Budget or the Executive's Programme for Government, the Assembly votes by the special mechanism of 'cross-community support,' which is defined (in the Agreement and in the 1998 Act) as either:
  - parallel consent – an overall majority plus a majority of unionists and a majority of nationalists (sometimes called '50:50:50'); or
  - weighted majority – an overall majority of 60% plus at least 40% of the designated Nationalists voting and 40% of the designated Unionists voting;
48. A cross-community vote may also be taken where at least 30 MLAs have signed a Petition of Concern on a particular matter.
49. One of the roles of the Northern Ireland Assembly is to hold the Executive to account. Section 29 of the NIA makes provision for the establishment of statutory committees to

'advise and assist' Executive Ministers in the 'formulation of policy' in relation to matters within their responsibility. MLAs can also question Executive Ministers in the Chamber and in writing.

50. The NI Assembly had been restored on 11 January 2020 and was operating at the start of the pandemic. The operating conditions of the NI Assembly during the pandemic included the suspension of oral Question Time in the spring of 2020. A letter from the then Speaker, Alex Maskey, dated 18 March 2020 stated that *'the Assembly should take steps to reduce the usual demands and requirements upon Ministers and their departments in order to allow them to focus on dealing with the public health crisis.'* It was proposed that non-essential Executive business was to be avoided to enable wider guidance on social distancing to be followed and so that non-essential Assembly business did not disrupt public services as they were dealing with the impact of Covid-19.
51. In recognition of the special circumstances created by the pandemic which affected the conduct of business, the Assembly formed an Ad Hoc Committee on the Covid-19 Response through which Ministers could report to it. During this period, TEO received more than 340 written Assembly questions and over 50 'oral' questions in relation to Covid-19. The First Minister and deputy First Minister also appeared before the TEO Assembly Committee on six occasions to give evidence on matters relating to the pandemic and appeared before the Assembly's Ad Hoc Committee on the Covid-19 Response on three occasions.
52. The operating conditions of the NI Assembly did not have an impact on the ability of TEO to monitor the activities or business continuity plans in place with BSO PaLS. TEO did not monitor the activities or business continuity plans in place with BSO PaLS as this would have been a matter for the Department of Health. TEO would have received information and updates on the pandemic through for example attendance at CCG meetings. The Department of Health would monitor matters such as these and bring any issues to CCG, the Assembly was not part of this reporting structure.
53. The Northern Ireland Assembly was dissolved on 28 March 2022. The Assembly subsequently elected on 5 May 2022 was unable to function in the absence of an elected Presiding Officer. On 3 February 2024, the devolved government in Northern Ireland was subsequently restored.

## The Executive Committee

54. The Northern Ireland Executive Committee (“the Executive”) is the Executive Committee of the Northern Ireland Assembly and exercises executive authority on its behalf. Its functions are set out in Section 20 NIA. The Executive Committee comprises the First Minister and deputy First Minister, who are joint chairs and convene and preside over its meetings, and 8 Northern Ireland Ministers: Minister of Agriculture, Environment and Rural Affairs; Minister for Communities; Minister for the Economy; Minister of Education; Minister of Finance; Minister of Health; Minister for Infrastructure; Minister of Justice.
55. The First Minister and the deputy First Minister acting jointly may appoint Junior Ministers under Section 19 NIA. However, whilst Junior Ministers attend all meetings of the Executive, they are not members of the Executive Committee and cannot participate in any vote taken by the Executive.
56. The formation of the Northern Ireland Executive Committee is intended to promote power-sharing and inclusivity among the political parties represented in the Assembly. The procedures for the nomination of an MLA to the offices of First Minister and deputy First Minister are set out in s16A of the NIA, which provides that the First Minister and deputy First Minister are nominated respectively by the largest party of the largest political designation (i.e. Unionist, Nationalist or Other) and by the largest party of the second largest political designation. Where the largest party of the largest political designation is not the largest political party then the nominating officer of the largest political party nominates the First Minister, and the largest political party of the largest political designation nominates the deputy First Minister. In the exercise of all their statutory functions, the First Minister and deputy First Minister are required to act jointly.
57. The procedures for the nomination of an MLA as a Northern Ireland Minister are set out in s18 of the NIA, with seven of the eight Ministers nominated by their parties in accordance with their numerical strength in the Assembly by means of the D'Hondt formula **[Exhibit KP/M5/015 - INQ000262762]**. The exception to these procedures is the nomination to the office of the Minister of Justice, which is made in accordance with s21A NIA using a cross-community vote in the Assembly.
58. The Assembly election held in March 2017 resulted in four parties (the DUP, Sinn Féin, SDLP, and UUP) being entitled to take Executive positions. The Executive did not meet, however until January 2020 at which point the Alliance Party also joined it through the special arrangements for the appointment of the Minister of Justice.

59. All Executive Ministers, including the First Minister and deputy First Minister, are required to take a Pledge of Office before assuming office (s16A (9) and s18(8) NIA). The terms of the Pledge of Office and associated Ministerial Code of Conduct are set out in Schedule 4 NIA **[Exhibit KP/M5/004 - INQ000147489]**. The Pledge includes a commitment to support and act in accordance with all decisions of the Executive Committee and the Assembly.
60. Meetings of the Executive are conducted in accordance with Section 2 of the Ministerial Code, which is made in accordance with the requirements specified in s28A of the NIA. In accordance with the Ministerial Code, the First Minister and deputy First Minister are responsible for convening and chairing meetings and for drawing up the agenda for each meeting, taking account of proposals from other Ministers. Executive Committee meetings normally take place fortnightly on Thursdays and Ministers are advised of the schedule of meetings for the forthcoming period as far in advance as possible. Additional meetings may be arranged in the light of business need or at the request of any three Executive Ministers.
61. Additional protocols have been developed to govern various aspects of Executive Business **[Exhibit KP/M5/016 - INQ000259553]** and guidance is issued to Ministers as to the exercise of their official responsibilities **[Exhibit KP/M5/017 - INQ000262761]** and these operate in line with provisions of the Northern Ireland Act 1998 and the Ministerial Code.

### **Executive Decision Making**

62. In accordance with paragraph 24 of the Agreement reached on 10 April 1998 (the 1998 Agreement), each Minister exercises executive authority within their department but is required under the terms of paragraph 2.4 of the Ministerial Code **[Exhibit KP/M5/018 - INQ000262764]** to refer certain categories of matter to the Executive for agreement. These include:
- matters which cut across the responsibility of two or more Ministers;
  - significant or controversial matters; and
  - matters which the First Minister and deputy First Minister have determined are significant or controversial and should be considered by the Executive.
63. Ministers seeking the agreement of the Executive to recommendations in respect of a

certain policy or proposal will do so through the preparation of a draft Executive paper, which is circulated for comment to all Ministers, and copied to, amongst others, the Attorney General, the Departmental Solicitor and First Legislative Counsel (where the matter deals with legislation or has legislative implications). Where necessary, a subsequent draft (or drafts) will be circulated to reflect comments received and any changes proposed.

64. The agenda for Executive Committee meetings is determined by the First Minister and deputy First Minister acting jointly, taking account of the papers which have been submitted by Ministers. Those papers that the First Minister and deputy First Minister have jointly agreed should be included on the Executive agenda are then subject to substantive discussion and agreement at an Executive meeting.
65. Following discussion at a meeting of the Executive, the Chairs will formally put the paper's recommendations to Ministers for agreement.
66. In accordance with the Ministerial Code (paragraph 2.12), the First Minister and deputy First Minister have a duty as Chairs of the Executive Committee to seek to ensure that its decisions are reached by consensus wherever possible. This is not collective responsibility, and the convention of collective ministerial responsibility is not a feature of the Northern Ireland Executive. If consensus on a certain issue or recommendation cannot be reached, a vote may be taken and may take one of two forms – a simple majority vote, or a cross-community vote.
67. A vote may be taken on a cross-community basis if requested by any three Ministers before the vote is taken. Cross-community support has the same meaning as that set out in section 4(5) of the Northern Ireland Act 1998, i.e., the support of a majority of the members voting, a majority of the designated Nationalists voting and a majority of the designated Unionists voting; or the support of 60 percent of the members voting, 40 percent of the designated Nationalists voting and 40 percent of the designated Unionists voting. There is no convention of Cabinet Collective Responsibility in the Executive and there could not be given the constitutional setup in Northern Ireland. It is, however, expected by virtue of the Ministerial Code that members of the Executive committee will not publicly criticise decisions lawfully made at the Executive table.
68. The Ministerial Code also makes provision for the taking of Urgent Decisions. An Urgent Decision may be taken in circumstances where a decision which would normally require Executive agreement needs to be taken before the next scheduled Executive meeting.

In this case, the responsible Minister will write to the First Minister, the deputy First Minister and the Secretary to the Executive, copied to Executive colleagues, the Attorney General, the Departmental Solicitor's Office, First Legislative Counsel (where appropriate) and Executive Secretariat, advising them of the decision required, and providing details of the background to the issue, the reason for urgency, the implications of not taking the decision, and as far as possible, the views of other relevant Ministers.

69. The First Minister and deputy First Minister, acting jointly, will consider the matter in consultation with the responsible Minister, and will notify them of the outcome of their consideration, copied to Executive colleagues, the Attorney General, the Departmental Solicitor's Office, First Legislative Counsel (where appropriate) and Executive Secretariat.
70. A matter dealt with in this way is deemed to have been dealt with in accordance with paragraph 2.4 of the Ministerial Code and will be included on the agenda for noting at the next Executive meeting.

### **Executive Business**

71. Between 3 February 2020 and 27 January 2022, the last Executive meeting before the then First Minister Paul Givan resigned from office on 4 February 2022, the Executive Committee discussed and agreed its response to the evolving pandemic on 129 occasions.
72. Whilst the business of the Executive Committee was focused substantially on the response to the Covid-19 pandemic, it also took decisions on a range of other legislative and policy issues, including but not limited to Climate Change, EU Exit, Organ Donation, Parental Bereavement Leave, Private Tenancies and the Violence Against Women and Girls Strategy.
73. Executive business is transacted through the agreement of papers which are circulated in advance by Ministers to all other Ministers, the Attorney General, First Legislative Counsel and the Executive Secretariat. The role of the Minister in this process is to:
  - determine the content of those Executive papers which the Minister intends to submit to the Executive for its agreement;
  - make a response to papers which have been circulated by other Ministers, following advice from officials;

- be fully briefed on the Minister's own Executive papers which are included on the agenda for an Executive Committee meeting; and on other papers in which the Minister has an interest or contribution to make;
  - take forward any necessary notifications and follow up procedures with the Assembly following the decision of the Executive.
74. In cross cutting, controversial or sensitive matters requiring Executive decision, officials will draft a submission which is brought to their Minister with a draft Executive paper attached. The Minister in turn seeks views from the other Ministers. Any Minister may comment upon the submission and that response may or may not be included in the paper to be put to the Executive for discussion and decision. Key public sectors will be represented through submissions or responses thereto.
75. When all Departmental comments, including a response from the First Minister and deputy First Minister, have been received and considered, the sponsoring Minister should submit a revised version of the paper to the First Minister and deputy First Minister, copied to all other Ministers, the Attorney General, the Departmental Solicitors Office and Executive Secretariat (and where appropriate, First Legislative Counsel), outlining any comments received and how these have been addressed and showing any revisions as tracked changes.
76. The First Minister and deputy First Minister will consider the Second Draft paper and, if required, may seek further amendments/information requiring a Third Draft to be provided for their consideration. Provision of any Third Draft should follow the same process as for the Second Draft Executive Paper.

#### **First Minister and deputy First Minister Role and Function in TEO**

77. The First Minister and deputy First Minister are joint heads of the Executive Office (TEO) and are accountable, as are all Ministers, to the Northern Ireland Assembly for their policies and programmes and the activities of the department, including its ALBs. All civil servants in the Executive Office operate subject to their direction and control in the discharge of their functions. All statutory functions assigned to the First Minister and deputy First Minister by the Northern Ireland Act 1998 must be exercised jointly and all decisions concerning the functions of TEO must be taken by joint agreement. The First Minister and deputy First Minister may appoint two junior Ministers to assist them in the exercise of their functions. While they may delegate certain functions to the junior

Ministers or ask them to undertake certain activities on their behalf, decision making is not delegated to them.

78. The First Minister and deputy First Minister may also appoint Special Advisers in accordance with the statutory Code issued under Section 8 of the Civil Service (Special Advisers) Act (Northern Ireland) 2013 **[Exhibit KP/M5/019 - INQ000147492]**. Special Advisers (SpAds) have the status of temporary civil servants but can give political advice and support that would be inappropriate for the civil service to provide and are subject to a different Code of Conduct.
79. Arlene Foster was nominated as First Minister and Michelle O'Neill as deputy First Minister on 11 January 2020. In the period from March 2020 to February 2022, in addition to chairing meetings of the Executive Committee, the First Minister and deputy First Minister also:
- Jointly chaired the Executive Covid Crisis Management Committee;
  - Attended meetings of the Civil Contingencies Group, for example during wave one of the pandemic when the formal arrangements were stood up;
  - Provided written and oral statements to the Assembly;
  - Attended the Assembly Ad Hoc Committee;
  - Undertook ad hoc meetings with the Minister of Health and senior health officials;
  - Attended meetings with UK Government Ministers and members of the Scottish and Welsh Governments and with Irish Government Ministers in various formats including North South Ministerial Council (NSMC) and British Irish Council (BIC) meetings;
  - Met with stakeholders; and
  - Undertook press conferences to update the public on the response to the pandemic.
80. Arlene Foster, the First Minister, resigned on 14 June 2021 and was succeeded by Paul Givan that day. He resigned from office on 3 February 2022. While this latter resignation also caused the deputy First Minister to cease to hold her office, she was entitled to continue to exercise the functions of her office, in accordance with the Northern Ireland



Act 1998, until the Assembly election on 5 May 2022.

81. The functions, however, which the deputy First Minister could fulfil in the absence of a First Minister were very limited. She could not exercise any statutory functions which required the First Minister and deputy First Minister to act jointly and, in accordance this would have been unable to take decisions or exercise any functions to confer agreement to policies and courses of action which would normally require joint agreement. Effectively therefore the functions exercisable during this period were limited to discharging outstanding representational commitments e.g., meetings and visits.
82. An election to the NI Assembly took place on 5 May 2022. The first item of business of the Assembly is the election of a Speaker, which did not take place until 3 February 2024. Absent an elected speaker, the Executive Committee was not formed during that period as it could not fully discharge its functions because the election of a Speaker is a necessary prerequisite to the procedures for forming an Executive. Those Ministers (other than the First Minister and deputy First Minister who had already ceased to hold office) appointed in the previous mandate continued in office under the provisions of the Northern Ireland (Ministers, Elections and Petitions of Concern Act) 2022 **[Exhibit KP/M5/020 - INQ000279215]** until 28 October 2022, at which point they ceased to hold office.
83. As the functions of a department normally operate subject to the direction and control of a Minister, legislation was required to enable civil servants to take decisions related to the exercise of those functions in the absence of Ministers. The Northern Ireland (Executive Formation etc.) Act 2022 **[Exhibit KP/M5/021 - INQ000279216]** was passed on 6 December 2022 and allows senior officers of departments to exercise functions if doing so is deemed to be in the public interest (in accordance with guidance **[Exhibit KP/M5/022 - INQ000505554]** issued by the Secretary of State). The guidance requires a monthly report detailing decisions taken to be provided to the Secretary of State, which is then shared with Parliament and MLAs.

#### **TEO Departmental Board**

84. The objective of the departmental Board, encompassing Non-Executive Members, is to provide collective leadership for TEO including:
  - Setting the vision and/or mission and ensuring all activities, either directly or indirectly, contribute towards it;

- Setting TEO's risk appetite and ensuring controls are in place to manage risk;
- Ensuring TEO has the capability to deliver and to plan to meet current and future needs;
- Agreeing the operational Business Plan, including strategic aims and objectives; and
- Ensuring clear, consistent, comparable performance information is used to drive improvements.

### **Non-Executive Board Members (NEMs) – Roles and Responsibilities**

85. Non-Executive Members have an important and significant contribution to make by providing constructive advice and challenge across all of the Board's business, to ensure good corporate governance and effective strategic management.
86. The primary role of Non-Executive Board Members is to contribute to the good governance of TEO. Non-Executive Members should be prepared to offer constructive challenge to the Board with a view to ensuring that all aspects of strategy and delivery are scrutinised for effectiveness and efficiency. In addition, they will also:
  - assist and advise on the development of departmental business and strategic plans;
  - monitor and challenge the Department's performance in relation to its objectives and commitments;
  - participate actively in the planning of departmental budgets and in financial decisions;
  - identify and advise on new challenges, initiatives, and opportunities;
  - provide a challenge role in relation to the work of the department;
  - serve as either Chair or Deputy Chair of the Departmental Audit & Risk Assurance Committee.
87. During 2020-21, the Departmental Board was chaired by David Sterling in his capacity as Head of the Northern Ireland Civil Service (HOCS) and Permanent Secretary of TEO

until his retirement in August 2020.

88. The Board had no role in decision-making in relation to the public-facing aspects of the pandemic. Any decision making related to internal governance matters only. The Board, however, considered a number of Covid related papers, including financial implications, Covid-19 crisis management and implications for TEO in relation to staffing and work that was halted [Exhibit KP/M5/023 - INQ000279213].

### **Departmental Board Membership**

89. In January 2020, the Departmental Board comprised of the following members;

- David Sterling, HOCS and Permanent Secretary for the Department (Chair of Departmental Board)
- Andrew McCormick, Director General, International Relations Group
- Mark Browne, Accounting Officer and Director of Strategic Policy, Equality and Good Relations
- Brenda King, Head of the Office of the Legislative Counsel
- Chris Stewart, Director: Executive Support; Programme for Government
- Myself, Director of EU Relations
- Peter Toogood, Director of Finance and Corporate Services
- Denis Power, Non-Executive Member

90. During 2021-22, the Departmental Board comprised the following members:

- Jenny Pyper, Interim HOCS from December 2020 who also undertook the role of Permanent Secretary for the Department until 25 July 2021 (Chair of Departmental Board)
- Denis McMahon, TEO Permanent Secretary and Accounting Officer from 26 July 2021 until 4 September 2023 (Chair of Department Board)
- Denis Power, Non-Executive Member (In post from September 2017)

- Andrew McCormick, Director General, International Relations Group until 31 August 2021.
- Chris Stewart, Accounting Officer until 25 July 2021.
- Gareth Johnston, (Acting) Director of Good Relations and Inclusion (formerly Strategic Policy, Equality and Good Relations) from 9 September 2021.
- Tom Reid, Director of EU Exit, and International Relations from September 2020.
- Alexander Gordon, Head of the Office of the Legislative Counsel, in post from July 2020. The post was previously held by Brenda King, now Attorney General for Northern Ireland.
- Claire Archbold, Director of Ending Violence Against Women and Girls from 1 December 2021, and
- Myself, Director of Covid Strategy and Recovery, Civil Contingencies and Programme for Government.

91. The Board is supported through attendance by colleagues at different grades to advise on finance, corporate services, and human resources, some standing and some ad hoc.

### **The Executive Office Purpose, Role and Structure**

92. The overarching purpose of The Executive Office (TEO) is to support the Executive, and in particular to further the departmental mission of wellbeing for all through improved relations, outcomes, and governance. Within this purpose, there are three key elements:

- governance, support, and secretariat for the Executive under the leadership of the Head of the Civil Service;
- private Offices for the First Minister and deputy First Minister; and
- specific policy development and delivery functions on matters (see below), including civil contingencies.

93. TEO Ministers are supported by officials who are employed by the Northern Ireland Civil Service (NICS) which is a separate civil service from the Home Civil Service in GB. Further information about the status of the NICS can be provided if required. In July 2021,

the NICS created a new Permanent Secretary role within TEO to lead the policy agenda and delivery.

94. The vision of TEO is wellbeing for all through improved relations, outcomes, and governance. TEO has a central role for policy making and delivery: making sense of our society's most complex and challenging issues and securing agile implementation on the ground.
95. Our current functions include some long-standing areas of well-established policy responsibility that mirror some of the biggest challenges and opportunities facing society, including promoting equality, the oversight of the Executive's Together: Building a United Community programme, Good Relations programmes, the Racial Equality Strategy, work on Ending Violence Against Women and Girls and on supporting victims and survivors of the Troubles/Conflict.
96. We also lead on a range of specific, emergent policy issues that require cross departmental coordination or which do not sit easily within the responsibility of individual departments. Examples include supporting survivors of Historical Institutional Abuse and Mother and Baby Institutions. At the core of these issues is the protection and support of some of the most vulnerable people in our society. We also played a role in supporting the work of the Executive's Covid Taskforce and in building contingency planning arrangements to help protect the people who live here.
97. TEO leads on International Relations on behalf of the Executive with offices in the US, China, and Brussels, showcasing all we have to offer here, and forging links with best practice internationally.
98. A number of the above functions are delivered through associated delivery bodies which fall into three categories. The first set of bodies is within the Departmental boundary and are analogous to Departmental Agencies. The following bodies fall within TEO Departmental Boundary:
  - North South Ministerial Council Joint Secretariat (North);
  - Historical Institutional Abuse Redress Board; and
  - Victims' Payments Board.
99. The second set of bodies are outside the Departmental boundary that are classified as,

or analogous to, an executive Non-Departmental Public Body (NDPB). These are as follows:

- NI Community Relations Council;
- Commission for Victims and Survivors for NI;
- Equality Commission for NI;
- Maze/Long Kesh Development Corporation;
- Northern Ireland Judicial Appointments Commission;
- Strategic Investment Board Limited;
- The Commissioner for Survivors of Institutional Childhood Abuse; and
- Victims and Survivors Service Limited.

100. The following bodies have a statutory foundation with a greater degree of independence than a normal NDPB and are sponsored by The Executive Office:

- Office of the Commissioner for Public Appointments for NI; and
- Office of the Attorney General for NI.

101. The current Organisation Chart is exhibited at **Exhibit KP/M5/024 - INQ00050555**.

102. TEO has no designated functions or policy responsibilities in relation to health nor concerning the provision for the needs of the health and social care sector within the context of Module 5. Health and social care issues (both in terms of policy and on an operational level) are principally matters that fall within the remit of the Department of Health (subject to the qualification under Section 20 (4) of the NIA 1998 discussed at paragraph 39). In general, the Minister of Health has authority to determine policy and operational matters within the remit of the Department of Health, without the general requirement to observe a collective 'cabinet position.'

#### **Head of Civil Service and Permanent Secretary in TEO**

103. The timeline of HOCS/Permanent Secretary appointments in TEO during the Module 5 period is:

- June 2017– 31 August 2020: Sir David Sterling (Head of the Civil Service).
  - December 2020 – September 2021: Jenny Pyper (interim Head of the Civil Service).
  - July 2021 – 4 September 2023: Denis McMahon (TEO Permanent Secretary).
  - September 2021 – Present: Jane Brady (Head of the Civil Service).
104. Sir David Sterling was Head of the Civil Service (HOCS) until the end of August 2020 when he retired. At this time, the HOCS also fulfilled the role of Permanent Secretary; however, the role of Accounting Officer was fulfilled by Mark Browne. Whilst there was no HOCS in post, Mark Browne continued to fill the role of Accounting Officer until he moved on promotion to become the Permanent Secretary of Education on 1 March 2021. Chris Stewart took over the role of Accounting Officer until 26 July 2021 when Denis McMahon became Permanent Secretary for TEO.
105. In December 2019, Sir David Sterling, the then HOCS, announced his intention to retire at the end of August 2020. Planning for a recruitment competition to appoint a new HOCS commenced in January 2020.
106. In mid-March 2020, I was asked to assist on Covid-19 issues and as such I led on day-to-day senior management of Covid-19 matters, providing advice and guidance to the Executive.
107. Pending the appointment of an interim HOCS, short term arrangements were put in place in October 2020 for Permanent Secretaries to cover key aspects of the HOCS role. For a few weeks prior to his retirement, one Permanent Secretary, Derek Baker supported the C3 arrangements and the running of the Civil Contingencies Group. Additionally, another Permanent Secretary, Andrew McCormick, undertook the Senior Responsible Owner role on all EU Exit related matters.
108. Jenny Pyper was appointed as interim HOCS on 1 December 2020.
109. Due to the unprecedented challenges associated with the Covid-19 pandemic, the recruitment competition was paused and then reactivated at the start of June 2020. This process did not secure an appointment.
110. The First Minister and deputy First Minister confirmed by 18 November 2020 **[Exhibit**

**KP/M5/025 - INQ000279205]**, that they had considered the HR advice and recommendations to proceed with the appointment of Jenny Pyper as HOCS on an interim basis. Jenny Pyper held the post of interim Head of the Civil Service until 31 August 2021 and, as such, undertook the role of Permanent Secretary for the Department until 25 July 2021 when Denis McMahon took up the post of Permanent Secretary and Accounting Officer.

111. A new recruitment campaign for HOCS was advertised on 18 March 2021 **[Exhibit KP/M5/026 - INQ000279206]** to enable a substantive HOCS appointment to be made by summer 2021. Jayne Brady was appointed as Head of Civil Service on 1 September 2021. Following a review of the HOCS role in 2021, First Minister and deputy First Minister agreed that a new Permanent Secretary role in TEO should be created **[Exhibits KP/M5/027 - INQ000279207 and KP/M5/028 - INQ000279208]**.
112. The decision to split the Head of the Civil Service and Permanent Secretary role was taken to negate the impact of political instability upon NICS. This change was not related to the pandemic.

### **Permanent Secretary Role**

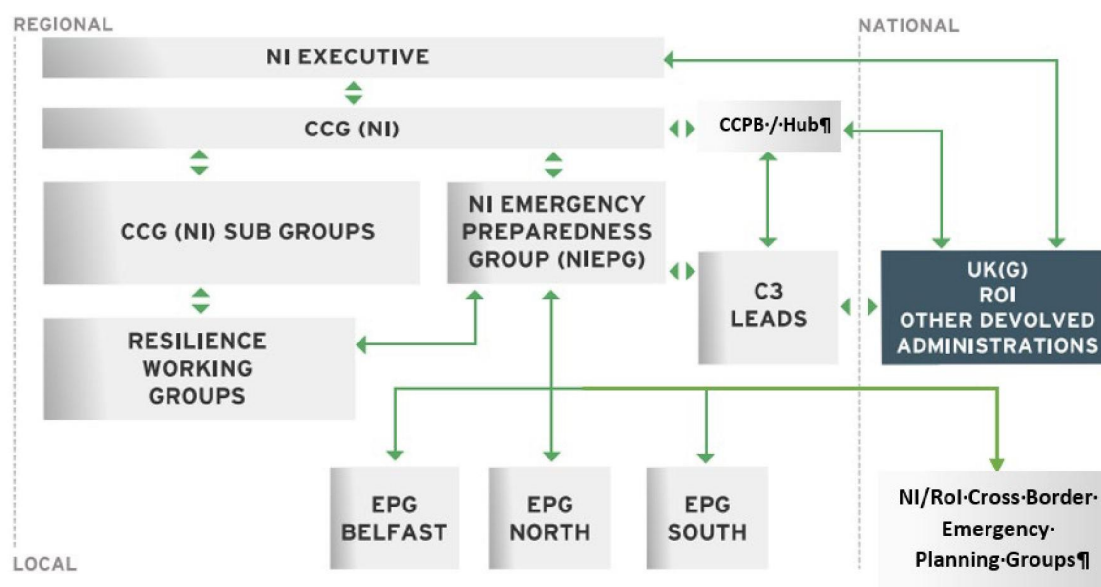
113. The Permanent Secretary is responsible to the First Minister and deputy First Minister for the day-to-day operation of departmental functions and, as Accounting Officer, for the management and control of the resources used by the Department.
114. This responsibility also includes chairing the Executive Office's Departmental Board.
115. As Permanent Secretary and Accounting Officer, the post holder is responsible for maintaining a sound system of internal governance that supports the achievement of the Department's policies, aims and objectives. The Permanent Secretary also has responsibility for the propriety and regularity of the public finances voted to the Department and for safeguarding those public funds and departmental assets, in accordance with the responsibilities assigned in the Department of Finance and Personnel's, now Department of Finance (DoF) guidance Managing Public Money Northern Ireland (MPMNI). In the role as Accounting Officer, the Permanent Secretary is supported by the Departmental Board ('the Board'). The Permanent Secretary's responsibilities to the Board include highlighting specific business issues or risks and, where appropriate, their implications and/or the mitigating measures that could be employed to manage these risks.



116. Part of the role of the Permanent Secretary and Accounting Officer is to provide advice to Ministers on the allocation of departmental resources and the setting of appropriate financial and non-financial performance targets for ALBs.
117. Due to moves at Permanent Secretary level that took effect on 4 September 2023, the Permanent Secretary post was left vacant **[Exhibit KP/M5/029 - INQ000452562]** pending completion of the appointment process to fill the post. Since 17 June 2024 David Malcolm has been the acting Permanent Secretary for TEO. This interim arrangement will be in place for six to twelve months, during which time a review of the most recent Permanent Secretary recruitment competition will be completed and a new recruitment competition to fill the TEO vacancy on a substantive basis progressed **[Exhibit KP/M5/030 - INQ000505556]**.

### **TEO's Role in Civil Emergencies**

118. TEO is the Northern Ireland Department with policy responsibility for civil contingencies matters. The TEO role is one of coordination across Northern Ireland Departments, but this does not extend to directing or controlling other Departments (or their agencies) in the exercise of their functions. TEO leads Northern Ireland's long-established civil contingencies response arrangements to support strategic decision making at the Civil Contingencies Group (CCG), and the Executive.
119. The Civil Contingencies Group Northern Ireland (CCG) is the principal strategic civil contingencies preparedness body for the public sector. CCG comprises senior level membership from all NICS Departments and key civil contingencies stakeholders. CCG terms of reference are exhibited **[Exhibit KP/M5/031 - INQ000183582]**. In prepare mode CCG is chaired by a senior official in TEO. The Division in TEO responsible for these matters is the Civil Contingencies Division (CCD). The Civil Contingencies Policy Branch (CCPB), which is part of CCD, supports CCG.
120. The diagram below provides an overview of the Civil Contingencies Structure in Northern Ireland.



123. There are three tiers of coordination:

124. The Civil Contingencies Group (CCG) is responsible for:

- directing and coordinating the efforts of NI departments (in responding to the emergency;
- assessing the wider impacts of events and decisions on infrastructure, systems, and people;
- identifying (from the start of the response) the key issues for consequence management and long-term recovery;
- deciding on the relative priorities to be attached to the management of the various elements of the overarching response;
- establishing the strategic direction of the coordinated media and public information policies;
- identifying the priorities and interdependencies to be addressed and the actions required by member organisations; and
- establishing working groups to deal with interdependencies or cross-cutting issues.

125. In response mode, CCG can be convened and chaired in one of two ways at either official

or ministerial level. If convened at official level, CCG is normally chaired by the Head of the Northern Ireland Civil Service and is referred to as CCG (O). If convened at ministerial level, CCG may be chaired by the First Minister and the deputy First Minister acting jointly or, where appropriate, another Minister nominated jointly by the First Minister and deputy First Minister depending on the nature of the incident and this is referred to as CCG (M).

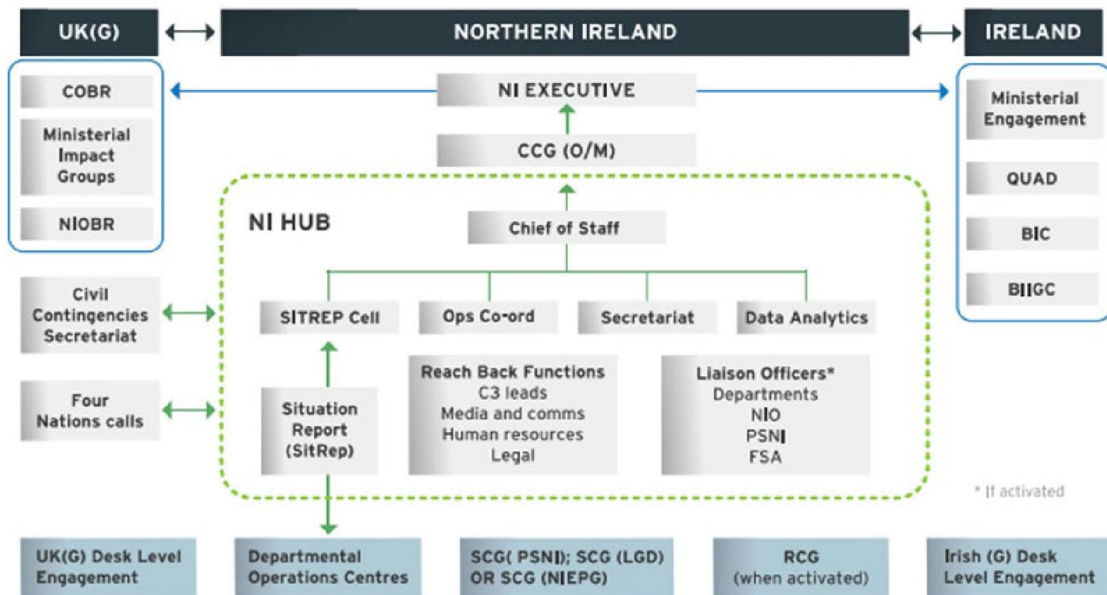
126. NI representatives participate in UK coordination arrangements. The NI Central Crisis Management structure usually feeds directly into COBR, but in the case of Northern Ireland terrorist inspired incidents, NIO would take the NI lead. In that event, the NI Departments, individually or collectively, as part of the central crisis management structure, provide input to NIO on the consequence management and recovery aspects.
127. The Northern Ireland Central Crisis Management Arrangements (NICCMA) were summarised in a paper submitted to the Executive on 16 March 2020 [**Exhibit KP/M5/032 - INQ000086933**]. Annex A of that paper provides an organogram setting out the key organisational roles and governance arrangements that would be in operation during the respond phase.
128. Activation of NICCMA needs to be a formal process so that all partners jointly understand at the same time that NICCMA has been activated, or not, in response to a crisis.
129. The decision to escalate into central crisis management arrangements will be made by TEO and a request can come from any of the following:
  - The NI Executive
  - The First Minister and deputy First Minister
  - CCG (O)
  - The Lead Government Department (LGD)
  - A senior representative of the PSNI GOLD group
  - Resilience Managers, Regional Officer and/or SOLACE lead.
130. The purpose of activating NICCMA is to gain multi-agency coherence to an escalating emergency which has breached the ability of both the Local level and LGD level to deal with it by setting up and running CCG (O) to co-ordinate the strategic response to the

emergency.

131. NICCMA activation should be through a phased approach, where possible. The phases are ALERT, ONE ACTIVE, TWO ACTIVE, FULL ACTIVE. Warning and informing as early as possible provides all partners with joint situational awareness should the situation quickly escalate.

### **Tactical: NI Hub and C3 Arrangements**

132. The Northern Ireland Hub (NI Hub) centrally coordinates information during an emergency response, across all NI Departments and key partners, providing situational awareness to enhance decision making at all levels, primarily the CCG (O) and the Executive. The NI Hub is generic in design, can deal with single or concurrent issues and provides one single source of cross departmental and regional coordination to CCG(O).
133. The NI Hub is designed to maximise information flow into and out of Northern Ireland. It is not a decision-making body. The NI Hub was founded on well-established and tested civil contingency arrangements in Northern Ireland covered in the extant NICCMA; though enhanced to have the capacity to deal with the predicted complexity, scale, and duration of the Reasonable Worst-Case Scenario (RWCS) of any civil contingency event.
134. The NI Hub controls the flow of information into and out of CCG. Its role is to:
- commission situation reports from the Lead Government Department, Tactical Co-ordination Group, PSNI led Multi-agency GOLD; other NI departments and key organisations as appropriate and pass these to CCG;
  - provide reports and assessments on behalf of CCG; and
  - facilitate liaison between responders on specific issues as required.
135. The diagram below shows the NI Hub design.



136. The Command, Control and Coordination (C3) Arrangements consist of a network across all Northern Ireland departments, the PSNI, Local Government and the Food Standards Agency.
137. Departments participate in CCG via Departmental Operations Centres (DOCs) to ensure a coordinated response across government. However, Departments remain responsible for their own policy areas and delivery of their functions and are accountable to Ministers for the effective delivery of their functions. Each Department will have individual emergency management / response groups working to deliver their own specific functions and to keep their Minister and partners apprised of the situation. DOCs are required to provide information to the NI Hub by way of Departmental Situational Reports (SitRep).
138. Each department, PSNI, Local Government, the Food Standards Agency and the NIO has a Liaison Officer (LO) in the NI Hub to facilitate the flow of information between their DOC and the NI Hub.

### C3 Doctrine

139. In delivering the strategic intent of the NI Executive, the NICS and its partners must work as a single coherent unit. C3 systems are necessary where multiple teams and organisations come together to work across traditional boundaries in order to prepare

for, respond to and recover from emergencies and disruptive challenges.

140. In these arrangements, teams and organisations remain under the usual command but may temporarily come under the control of another part of the system. This allows for a response to be managed in a coordinated way across the system.

141. Key principles apply across C3:

- clarity of roles, responsibilities, and an understanding of levels of delegation/authority; subsidiarity; collaboration.
- issues will cross traditional boundaries and departments will work together with partners; timely decision making & escalation.
- evidence based approach through the collection, sharing and dissemination of a common data set.
- clarity and coherence in our messaging.

142. If activated, the Strategic Co-ordination Group (SCG) discharges strategic coordination in response to an emergency, takes overall responsibility for the multi-agency management of an incident and establishes a strategic framework for all levels of C3. Its objectives are to:

- Protect and preserve life.
- Contain the incident – mitigate and minimise impacts.
- Create conditions for recovery.

143. The SCG is chaired by PSNI if there is a risk to life; the Lead Government Department in the event that the issues or impacts fall to that policy area; or the Northern Ireland Emergency Preparedness Group (NIEPG) when a community response is necessary. Membership of an SCG is tailored according to the nature of the emergency.

144. For strategic planning purposes, a number of agencies and arm's length bodies are members of CCG and participate in its activities during the 'prepare' and 'respond' phases of a civil contingency. Participating organisations include:

- Police Service of Northern Ireland;

- Fire Service of Northern Ireland;
- Northern Ireland Ambulance Service;
- Public Health Agency;
- Meteorological Office;
- Maritime and Coastguard Agency;
- Department for Infrastructure Rivers;
- Food Standards Agency;
- Local Government;
- Northern Ireland Office.

145. The capabilities and capacities around these arrangements were mobilised during Northern Ireland's emergency response to the first wave of COVID-19, and further refined and strengthened as a result of lessons learned from that response.

#### **Civil Contingencies Group and Distribution and Mutual Aid between Local Councils**

146. Daily CCG meetings, chaired by the Head of the Civil Servant (HOCS), then Sir David Sterling, were convened, starting on 18 March 2020 **[Exhibits KP/M5/033 - INQ000272848 and KP/M5/034 - INQ000207938]** to bring together Permanent Secretaries, leaders of the emergency services and district councils to discuss key issues and agree appropriate actions. Members were encouraged to join the meetings remotely via teleconference facilities to help reduce the risk of spreading the virus.

147. The operational design did not provide for politicians to attend the daily CCG meetings. There was a daily meeting of the Executive following the CCG meetings at which HOCS and Mr Harbinson would update Ministers on all developments and take them through the daily Situation Report (SitRep). However, the First Minister, deputy First Minister and the Junior Ministers did initially attend to hear first-hand accounts from all the key stakeholders as they found this valuable ahead of the daily 5pm media briefings.

148. Local authorities in Northern Ireland were involved in the response to the pandemic and played an important role in the imposition and later easement of certain Non-

Pharmaceutical Interventions (NPIs). The Society of Local Authority Chief Executives (SOLACE) is the representative body for the Chief Executives of all eleven local authorities in Northern Ireland. A SOLACE representative was a member of CCG (NI) and in that capacity attended the daily meetings of CCG NI throughout the pandemic period.

149. These governance arrangements dated back to 27 February 2014 [**Exhibit KP/M5/035 - INQ000183588**] when TEO (or OFMDFM as it was then) agreed several measures to enhance civil contingencies arrangements at local level. The enhanced arrangements were communicated to CCG members in a letter from the Head of the Civil Contingencies Branch on 13 March 2014 [**Exhibit KP/M5/036 - INQ000183576**]. They provided for:

- The establishment of four additional Sub-Regional Civil Emergencies Preparedness Groups (SCEPGs) which between them cover the rest of NI outside of Belfast. Belfast Resilience already provided this function for the Belfast area. Terms of Reference for the SCEPGs are provided at Annex 2 of **Exhibit KP/M5/036 - INQ000183576**.
- The establishment of a CCG Sub-Group to oversee the work of the SCEPGs.
- The establishment of a CCG workstream to identify the need to formalise the district council civil contingencies role and to consider how this could be done. This work will include consideration of the need for wider civil contingencies legislation.
- Presentation of a draft Memorandum of Understanding to the Local Government Emergency Management Group and CCG for agreement which sets out how district councils should discharge their civil contingencies role at sub-regional level and how CCG member organisations should support councils in the execution of that role.

150. The letter led to multi-agency working to establish the groups set out above. This multi-agency working was designed to align with the joint emergency services interoperability principles (JESIP) ethos.

151. There is no regional tier of government between the Executive and local government. Responsibility for the formal funding and accountability relationship with local government falls to the Department for Communities. In relation to civil contingencies arrangements, the relationship is one of co-ordination and partnership rather than formal accountability. Local government representatives are part of CCG (Prepare); local



government participates in tactical co-ordination groups and the strategic co-ordination group (leading the latter when the emergency does not involve threat to life). SOLACE representatives participated in the daily CCG meetings during the first wave.

152. DfC and SOLACE helped coordinate the application of the Covid-19 regulations insofar as these affected local authority activities.
153. CCG meetings did discuss PPE; however, they were not involved in the procurement or distribution of PPE or medical supplies in Northern Ireland, including to care homes, community care settings or to domiciliary carers. Examples of these discussions include the meeting held on the 18 March 2020 **[Exhibit KP/M5/037 - INQ000208107]**, 23 March 2020 **[KP/M5/038 - INQ000505557]**, 25 March 2020 **[Exhibit KP/M5/039 - INQ000273036]**, 27 March 2020 **[Exhibit KP/M5/040 - INQ000274777]** and 6 April 2020 **[Exhibit KP/M5/041 - INQ000272816]** where issues discussed included pressures on supply and opportunities to share management across the public sector, supply of testing kits, work ongoing to increase supply of PPE, and reported ongoing engagement with DoH on this issue and that they have flagged up the NI requirements with Health in London.
154. At the CCG meeting on 3 April 2020, it was confirmed that DoF had established a work stream to manage future orders with firms in China **[Exhibit KP/M5/042 – INQ000272810]**. In addition, DoF received a huge number of offers from local suppliers. Additional DoF staff were drafted in to work through these offers and begin to source locally produced kit. It was reported that DoH in London had a shortage of gowns and was providing specifications for local providers in Northern Ireland to fill that gap. Sir David Sterling asked for the NI Sit Rep to include graphics that would show PPE orders, the “burn rate” of consumption of PPE and expected delivery times.

#### **Data Sharing – Ministers and CCG**

155. The Hub’s function was to draw together various strands of information that would keep Ministers and CCGNI members sighted on the bigger picture and, where possible, identify issues that were either cross-cutting or which might have impacts on other Departments or stakeholders.
156. The role of the Hub was to provide accurate, timely and relevant information and advice to Ministers and CCGNI members and to ensure that actions were completed as quickly as possible. This meant gathering, collating and reporting data and information from a

very wide range of sources in a single comprehensive document on a daily basis i.e. the Situation Report (SitRep). Data analytics in the NI Hub was managed by Ernst Young (EY) under the direction of the NI Hub Chief of Staff.

157. The SitRep was issued each evening to the CCG and discussed each following morning at the daily CCG meeting. The SitRep was also shared with Ministers and was discussed at NI Executive meetings, which were held several times each week. The purpose of the Sitreps was to provide a daily update to both groups as a means of helping them make informed and collaborative decisions.
158. The NI information contained within the SitReps came from the DOCs or other key stakeholders and included updates on PPE. For example, the SitRep for 23 March 2020 noted that there were national supply issues regarding the replenishment of PPE products and that additional supplies of PPE were still to be sourced/confirmed by BSO.
159. On a number of occasions, the SitReps noted the challenge of securing adequate and appropriate supplies of PPE to ensure satisfactory replenishment levels. Updates noting the efforts being made to secure and distribute PPE were recorded. For example, on the 4 May 2020 the SitRep **[Exhibit KP/M5/043 – INQ000065801]** recorded that *‘the Department for Health has awarded contracts and placed orders for PPE with local suppliers and internationally and is collaborating on a 4 Nations basis for the supply and distribution of PPE. On 1 May Account NI processed authorisation to transfer over £60m to China for PPE on behalf of DoH.’* Actions being undertaken to maintain NI’s critical supply chains were also regularly noted.

#### **Data Sharing – Whitehall**

160. The NI Hub was responsible for the supply of all the NI data to the central Whitehall team and the No. 10 Press Office for inclusion in the daily televised public presentations.
161. Following discussion with HOCS it was agreed that Mr Harbinson, as Chief of Staff for the NI Hub, would act as the nominated officer for the supply of information to Whitehall and that the NI Hub would act as the central control mechanism for the transfer of data to London.
162. Whitehall specified the data sets they wished to construct and report upon and then the NI Hub would liaise with the appropriate NI Departments to see how they would meet the requests. Often the NI Hub data analytics team would have to explain the reason for not having the requested data or why it was not in the exact format requested by

Whitehall, and they would act as go-betweens to find a solution that worked. An example of a return provided to the Cabinet Office is provided at **Exhibit KP/M5/044 - INQ000254075**.

163. A report in the form of an excel spreadsheet template provided by the Cabinet Office (on data such as staff absences due to Covid-19 and PPE) was issued to Whitehall colleagues for use in the daily press briefings by the Prime Minister (an example is exhibited at **Exhibit KP/M5/045 - INQ000279500**).
164. During the period of April to June 2020, the EY data analytics team established by Mr Harbinson were supported by four statisticians from the Northern Ireland Statistics and Research Agency (NISRA) drawn from TEO and DoF. NISRA statisticians provided operational support in compiling, cleansing and summarising data for the aforementioned daily Cabinet Office return. Specifically, this process involved gathering and reformatting data from a range of sources (Department of Health, Department of Education, individual Hospital trusts, PSNI, NI Prisons).
165. There were ongoing issues with information sharing in early stages of the pandemic. The NI data was out of sync with UK data and the data team in the Cabinet office often approached the NIO or other NI departments directly for information rather than the data analytics team in the Hub which caused confusion. Sometimes the Hub had to direct the Cabinet Office to Departments directly, as that meant information could be obtained by the Cabinet Office promptly.
166. On 18 March 2020 Sir David Sterling had been invited by the Cabinet Secretary to the first of what was to become a series of meetings known as Cab Sec (O) meetings. These meetings were held daily on most days from late March until the early summer. The agenda normally included a review of the daily UK SitRep, analysis of emerging trends followed by presentations on specific issues (e.g., the vaccination programme, the availability of PPE, testing kits, etc). Sir David Sterling found these meetings useful for keeping up to date with the UKG handling of the pandemic. However, he did not find these meetings to be particularly effective as a means of passing on details of what was happening in Northern Ireland [**Exhibit KP/M5/046 – INQ000449440**]. This was achieved primarily through the passing of statistical information to the Cabinet Office to inform the daily UK-wide SitRep.
167. An example of a reply to a Cabinet Office request for information relevant to this module can be seen in the email of the sent on 8 April 2020 noting input on support from Business

in NI **[Exhibit KP/M5/047 - INQ000274497]**:

- *'We established a central contact point to coordinate and consider all offers of assistance related to Covid-19.*
- *In the past 2 weeks we have received over 500 offers of assistance to this central point covering a wide spectrum of medical equipment including PPE, ventilators, sanitisers, test kits and supporting services including premises usage and transport etc. Many more offers have also been provided directly to the NHS.*
- *These offers of assistance were quickly passed onto relevant colleagues in Executive Departments and the NHS delivery body in NI for consideration.*
- *General offers of community support were also received, and these were signposted to the agreed coordinating body (Volunteer Now) who report almost 2700 general offers of assistance have been received.*
- *There have been some incredible and generous wide-ranging offers for assistance from both the business community and individuals and the voluntary and community sector.'*

168. The 'TEO Assistance' email account referral process commenced on 26 March 2020, collating offers not only of PPE, but of community support. On receipt of offers, the TEO assistance team's role was limited to reviewing the content of the offer(s), acknowledging the offer via email and copying the offer to the relevant CPD contacts (predominately in DoF and DoH) and/or to the public 'Volunteer Now' <https://www.volunteernow.co.uk/> portal **[Exhibit KP/M5/048 – INQ000505559]**.

169. The supply of PPE for the UK as a whole was managed centrally by Whitehall teams and locally by the Department of Health (DoH), CPD and the Health Trusts. As outlined in detail below, Mr Losty had personal contacts in China with whom he discussed the possibility of arranging direct supplies of PPE for NI.

### **Preparedness for Wide-Scale System Disruption**

170. Under the Executive's Strategy and Action Plan I was assigned responsibility for: maintaining essential items and related supply chains; and ensuring continued food supply. These were interlinked issues focusing on critical goods including food and

related logistics. These workstreams were tasked to me because of my recent experience of working on EU Exit No Deal planning which included a focus on critical goods and the potential for disruption. While neither supply chains nor food supply were functions of TEO, the prospect of a No Deal EU Exit had raised the risk of supply chain disruption, and we had developed an understanding of the pressures we might face if critical goods could not reach us.

171. Some food items, component parts and other goods necessary for food production arrive with us from or through Great Britain. Deliveries tend to rely on ferries and hauliers rather than air freight. There is no rail freight on the Island of Ireland.
172. In EU Exit No Deal planning, the definition of “critical goods” was tightly limited by UKG in order to protect items which mattered most. The main problems facing the supply chain were in relation to: goods arriving into the UK Channel Ports from the EU, and return loads into the EU, with the risk of lorries backing up in Kent; market adjustments on sourcing and supply of goods; movement of goods within GB; and movement of goods from GB to NI.
173. I was tasked with a co-ordination role by CCG on 1 April 2020. I worked closely with colleagues in the Department of Infrastructure (DfI), the Department for Agriculture, Environment and Rural Affairs (DAERA), and the Department for the Economy (DfE) on freight, ferries, and ports issues to mitigate risks to our food supply and to consider resilience of supply chains. The Executive also considered supply chains at its meeting on 3 April 2020 **[Exhibit KP/M5/049 - INQ000023187]** and work was commissioned across relevant Departments.
174. Concerns were expressed to NICS Departments by sectors critical to supply chains including ports and the haulage industry. Given that the haulage industry generally operates across the UK and beyond, there was close liaison with the Department of Transport in UKG by my colleagues in DfI. Concerns were raised about financial pressures, but significant supply chains disruption was not experienced. In our experience, UKG Departments worked closely with us on these issues.
175. Ultimately, it was decided that financial assistance could be made available to the ports in Northern Ireland if certain thresholds were met **[Exhibits KP/M5/050- INQ000086897 and KP/M5/051 - INQ000086882]**. After careful consideration including with Whitehall, financial assistance was not made available to the haulage industry although other easements were agreed, such as relaxations of the rules on drivers’ hours **[Exhibit**

176. The Point in Time Review considered by the Executive on 4 June 2020 sets out the actions which had been delivered on food supply and supply chains by that date.
177. NICS now has a cross departmental Supply Chains Group chaired by DfE and attended by TEO, DOJ, Central Procurement Directorate (part of DoF), DoH, DAERA and Invest NI. The Group meets to discuss supply chains resilience. The Inquiry will be aware that we have produced for Module 1 the Northern Ireland Civil Contingencies Risk Register. Supply chains disruption is identified on the risk register, with an assessment of Moderate impact and Low likelihood. The risk will be kept under review and the Supply Chains Group makes a contribution to that ongoing assessment.

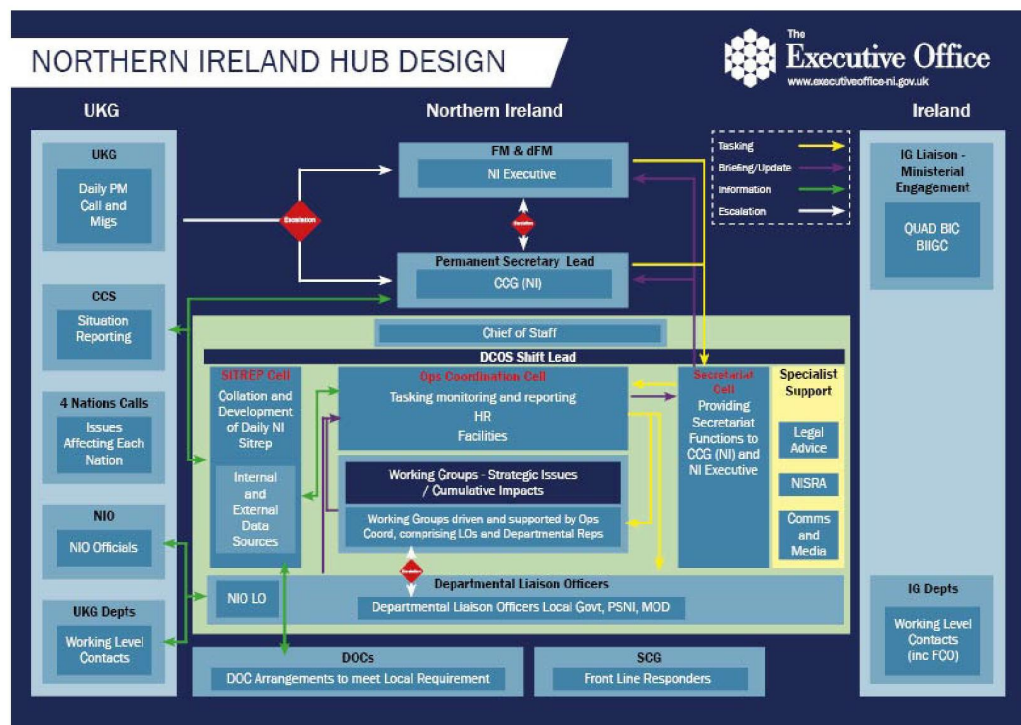
### **D20 Hub and EU Exit – Impact on Supply Chains**

178. D20 was part of the wider cross-government preparations for the end of the Eu Exit Transition Period (TP) set up by Cabinet Office. It was established to focus on mitigating and managing the short-term disruptive impacts arising from the end of the TP and other concurrent risks - while taking into account the ongoing effects of the Covid-19 pandemic. Part of Project D20's mandate was to design and deliver C3 structures to put contingency plans into effect and manage the impacts of any concurrent risks.
179. The Covid-19 developments across the four nations in relation to bubbles and travel arrangements, together with potential impacts across freight and supply changes put Northern Ireland in the position of needing to manage more than one civil contingency issue at the same time. This is referred to as concurrency and is defined as two or more events or circumstances happening or existing at the same time. This occurred towards the end of December 2020 and resulted in the formal stand-up of the UKG C3 Arrangements, referred to as D20.
180. D20 Hub arrangements were, therefore, put in place from December 2020 until February 2021 to simultaneously manage the potential impacts of the UK leaving the European Union and expected winter emergencies alongside the second wave of the pandemic. The D20 Hub prepared for and responded to these concurrent events, alongside the UK-wide preparations and response that was led by the Cabinet Office.
181. On 21 December 2020, the HOCS wrote to all Permanent Secretaries to inform them that Covid-19 developments and issues in supply lines had moved into the concurrency space and that there was a need for coordination and communication to manage impacts

and provide regular and timely updates to Ministers [Exhibit KP/M5/053 - INQ000309313].

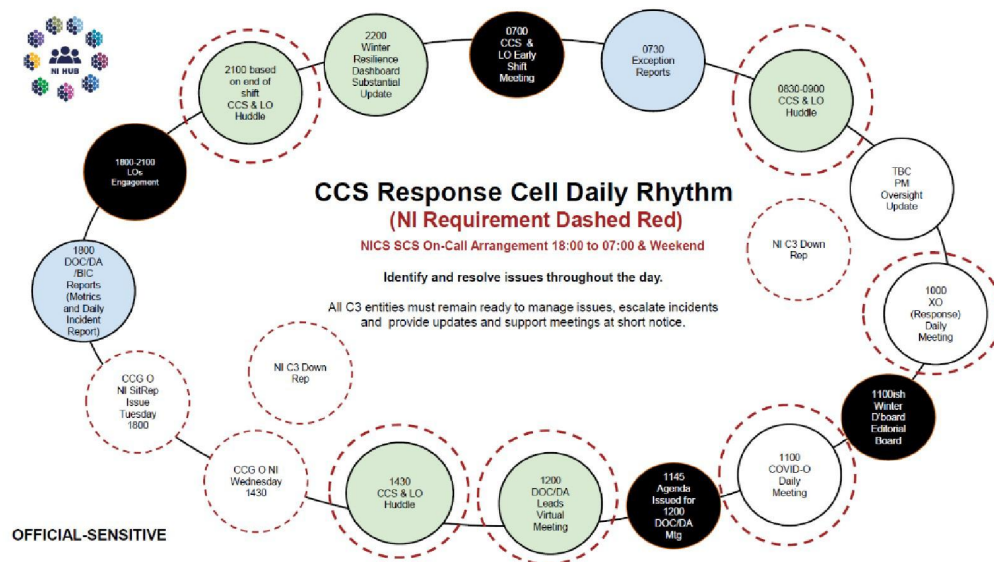
182. Once the D20 arrangements were put in place in December 2020, NI HUB escalated from “ALERT” status to HUB ONE ACTIVE Status, which allowed for regular CCG meetings, one shift to be activated during normal working hours Monday to Friday, supplemented with an out of hours on call system with other shifts in training mode. This reflected the increased reporting requirements and necessary reporting to Cabinet Office for the 4 nations D20 Response.

183. The C3 operational model was reviewed in light of D20 requirements and was amended to ensure alignment with the UKG CCS arrangements. The NI HUB provided situational awareness and incident reporting.



184. From mid-December 2020, NIHUB and the wider C3 system across the NICS and wider partners had been operating on a 24/7 on-call basis. CCG (O) was meeting on a weekly basis from 28 October 2020. An NI SitRep was produced weekly, issuing to CCG (O) and Ministers. Examples of the NI SitRep are provided at Exhibits KP/M5/054 - INQ000065891 and KP/M5/055 - INQ000065890].





185. The response arrangements operated on a 24/7 on-call basis until February 2021 when CCG (O) agreed at the meeting on 10 February 2021 [**Exhibit KP/M5/055 - INQ000065890, Exhibit KP/M5/056 - INQ000279272 and Exhibit KP/M5/057 - INQ000279273**] that CCG would no longer meet as a matter of routine but could reconvene at short notice using the activation process. Normal local government department arrangements then applied. A weekly Situation Report (SitRep) [**Exhibit KP/M5/058 - INQ000065892**] continued to monitor and track key metrics to inform any future escalation until June 2021.
186. The D20 Hub received updates from Departments between 8 December 2020 and 9 March 2021 in the form of sitreps. These updates included information on disruption to the haulage industry and concerns raised in relation to the end of the transition period, although these were not directly associated to PPE supplies. The sitreps of 6 and 8 January 2021 and 9 February 2021 are exhibited at **Exhibits KP/M5/059 - INQ000505560, KP/M5/060 - INQ000505561 and KP/M5/061 - INQ000065893**
187. At the Executive meeting on 2 February 2021, the Minister of Health expressed concern at the EU triggering Article 16 potentially affecting the movement of goods from Great Britain to Northern Ireland [**Exhibit KP/M5/062 - INQ000486253**].
188. In discussion the triggering of Article 16 by the EU, the First Minister noted that she and the deputy First Minister were seeking an urgent meeting with Vice President Seftovici to take the opportunity to seek action by the EU to improve the situation following the end of the Transition Period, to seek extension of the grace periods and/or better solutions on a range of issues.



189. On 8 April 2021, Minister Swann shared an Executive memorandum with Executive colleagues setting out his concerns regarding both the supply and regulation of medicines in Northern Ireland **[Exhibit KP/M5/063 - INQ000486256]**, highlighting three key issues:
- Medicines licensing;
  - Medicines supply chain and ending of grace periods; and
  - Medical devices.
190. On the 13 April 2021, the Executive Committee met to consider EU Exit matters **[Exhibit KP/M5/064 - INQ000520832]** and discussed EU Exit medicines and medical devices related issues associated with the NI Protocol. The Executive agreed that the draft letter previously circulated to Ministers seeking urgent clarity on the publication of NI specific guidance for the pharmaceutical industry should issue to the Chancellor of the Duchy of Lancaster and Lord Frost. At this meeting, Minister Swann also provided an update on Covid-19, including progress of the vaccination programme.
191. On 21 May 2021, First Minister and deputy First Minister wrote to the Chancellor of the Duchy of Lancaster (CDL), Michael Gove, and Lord Frost expressing concerns in relation to the impact of the EU Exit and the Protocol on the supply of human and veterinary medicines and medical devices to Northern Ireland **[Exhibit KP/M5/065 - INQ000486258]**. First Minister and deputy First Minister emphasised that it was “... *essential that everything possible is done to protect our supply chains and avoid suppliers withdrawing or reducing the range of products available, and that there is a focus on ensuring the long-term stability of both our healthcare and veterinary medicines markets.*”
192. At the Executive meeting on EU Exit matters on 29 April 2021, the Head of the Civil Service, Jenny Pyper, as Secretary to the Executive provided an update that included issues relating to medicines and sanitary and phytosanitary (SPS) checks **[Exhibit KP/M5/066 - INQ000486259]**. The Executive agreed that issues arising from the end of the Transition Period, including an overview of grace periods should be considered by the Executive on a regular basis.
193. At the 8 July 2021 Executive Committee meeting on EU Exit matters, it was agreed that correspondence should issue to Lord Frost in relation to issues on the supply of

medicines and medical devices arising from the NI Protocol **[Exhibit KP/M5/067 – INQ000486263]**. It was also agreed that First Minister and deputy First Minister would raise the issue separately with Lord Frost.

194. A letter issued to Lord Frost from Minister Swann on 9 July 2021 requesting approval by Cabinet Office for DHSC to provide DoH officials with details of the EU Commission's proposed solution for medicines and DHSC's assessment of the proposal **[Exhibit KP/M5/068 - INQ000486264]**. Lord Frost replied on 15 July 2021 **[Exhibit KP/M5/069 - INQ000486265]** advising that Cabinet Office officials were reviewing the EU Commission's proposals on the solution for medicines and that they hoped to be in a position soon to discuss once they had a fuller understanding.
195. At the Executive meeting on EU Exit matters on 22 July 2021, Minister Swann set out his ongoing concern over a lack of clarity on what was being included in the EU proposals regarding medicines and medical supplies to Northern Ireland **[Exhibit KP/M5/070 - INQ000486266]**.
196. At the Executive meeting on EU Exit matters on 12 August 2021 **[Exhibit KP/M5/071 - INQ000486267]**, Minister Swann provided an update on the issue in relation to medicines, advising on the impact on supply due to discontinuations of medicines marketing authorisations. At the meeting, Minister Swann advised the EU and the UK "would look favourably at an agreed Executive position."
197. Although some of the details above may be more specifically focused on medicines, as opposed to equipment such as ventilators, oxygen, etc, the information set out above illustrates the concerns at the time regarding the potential impact of the NI Protocol on the supply of medicines and medical devices to Northern Ireland.

### **Planning and Storage of PPE Stockpiles Prior to the Pandemic**

198. TEO was not involved in the provision of any oversight of the Northern Ireland share of the Pandemic Preparedness Stockpile nor in decisions around planning where it would be stored or how it would be distributed.
199. At a meeting attended by the First Minister, deputy First Minister and the Minister for Health and the Chief Medical Officer (CMO) on 24 March 2020, the Health Minister noted that there was a misperception that PPE was a problem, and that work was underway to ensure that PPE is only used where necessary. It also noted that DoH and BSO had put in place a system in place to consider offers of support, e.g., repurposing of businesses.

The meeting further discussed the availability of ventilators, with information being shared that 40 ventilators were due before the end of March and that 60 more were on order. The Note of the meeting is exhibited at **KP/M5/072 -INQ000289853**.

### **Northern Ireland Audit Office Reports**

200. In the Northern Ireland Audit Office Report 'The Covid-19 pandemic: Supply and procurement of Personal Protective Equipment to local healthcare providers' published in March 2022, acknowledges the challenges faced in the early phase of the pandemic where there was a considered to be a shortage of PPE and a lack of supply. The report also notes discussions between service providers and DoH in highlighting issues surrounding PPE availability. A copy of the report is exhibited at **Exhibit KP/M5/073 - INQ000348882**.
201. A further report from the NIAO was published on 23 July 2023: 'Overview of the Northern Ireland Executive's response to the Covid-19 pandemic – Third Report', also acknowledges the supply challenges not only faced in NI and the need for improved contingency and emergency planning to avoid repetition of supply shortages. It also identifies that there should have been less reliance on uncompetitive procurement processes, better controls for managing potential conflicts of interest and more comprehensive documenting of decisions over high-cost procurements. A copy of the report is exhibited at **Exhibit KP/M5/074 - INQ000279212**.

### **Executive Committee's Covid-19 Taskforce**

202. The Executive established the Executive Covid-19 Taskforce (ECT) in December 2020 **[Exhibits KP/M5/075 - INQ000415921, KP/M5/076 - INQ000212987, KP/M5/077 - INQ000415923, and KP/M5/078 - INQ000279367]** under the leadership of HOCS and to lead and co-ordinate the Executive's ongoing response to, and recovery from, the pandemic. The ECT brought together the many strands of the Executive's overall response to the pandemic, by joining up the work already taking place across Government Departments, Local Government, and public sector agencies. Jenny Pyper wrote to First Minister and deputy First Minister on 10 February 2021 providing an update on the ECT along with the group's Terms of Reference for the ECT and an Executive paper providing a status update of the ECT and a Forward Work Programme.
203. Once established, the ECT provided timely advice and proposals on Covid-19 matters to support the Executive to ensure that decision-making was proportionate and based

upon the latest medical and scientific evidence.

204. The ECT provided practical coordination and alignment of the Executive's overall response to the pandemic. It did this both by drawing together the work that was already taking place across key operational Departments, Local Government, and public sector agencies and by commissioning and undertaking additional work as considered necessary.
205. The ECT built upon the Executive's immediate Covid-19 response to progress an integrated programme of work across four key areas: Protect; Recovery; Adherence and Strategic Communications. The unit established a 4-weekly review of restrictions to inform Executive decision-making and allow an evolving and dynamic approach when it was appropriate. This enabled significant progress to be made. The ECT did not itself carry out any procurement of PPE.
206. The ECT consisted of the Permanent Secretaries for Health, Justice, Communities and Economy and was attended by the Head of Covid Strategy and Covid Contingencies and the Head of Executive Communications.
207. The ECT also ran the Cross Departmental Working Group (CDWG) to consider the proposals submitted for Executive consideration for the relaxation of restrictions as well as other Covid-related cross-cutting issues and to provide and receive updates on the position in other jurisdictions, on sectoral engagement and recovery.
208. I can confirm that the ECT did not carry out any procurement of PPE and had no role in relation to securing and distributing PPE and key healthcare equipment and supplies here.

## **Engagement with the United Kingdom Government**

### ***Ministerial Implementation Groups***

209. Ministerial Implementation Groups (MIGs) were established by the UK Government in March 2020 to oversee the planning for the impact of the Covid-19 pandemic across the UK. These were as follows with example notes of meetings exhibited for each -
- Healthcare: chaired by the Health Secretary to focus on the preparedness of the NHS, notably ensuring capacity in the critical care system for those worst affected, the medical and social package of support for those to whom we will be providing

the new shielding regime [**Exhibits KP/M5/079 - INQ000272963 and KP/M5/080- INQ000308870**].

- General Public Sector: chaired by the Chancellor of the Duchy of Lancaster to look at preparedness across the rest of the public and critical national infrastructure, excluding the NHS [**Exhibit KP/M5/081 - INQ000308874 and Exhibit KP/M5/082 - INQ000272120**].
- Economic and Business: chaired by the Chancellor, with the Business Secretary as deputy chair, to consider economic and business impact and response, including supply chain resilience. It also coordinated roundtables with key sectors to be chaired by relevant Secretaries of State [**Exhibits KP/M5/083 - INQ000308876 and KP/M5/084 - INQ000308877**].
- International: chaired by the Foreign Secretary, to consider international response to the crisis through the G7, G20 and other mechanisms, including like- minded groups, and the UK five-point plan [**Exhibits KP/M5/085 - INQ000306388 and KP/M5/086 - INQ000306475**].

210. TEO's role was to have oversight of the MIGS, be the point of contact for Cabinet Office and to ensure the right Ministers / officials were aware and present [**Exhibit KP/M5/087 - INQ000505564**]. Through the coordination role undertaken by the NI Hub, TEO officials were aware of UK Wide coordination efforts around the securing of PPE. Responsibility, however, for actions related to these MIGS would fall to the relevant departments. Examples of the meetings organised by the Cabinet Office / DHSC are noted below.
211. At the Healthcare Ministerial Implementation Group (MIG) on 2 April 2020, discussions on a UK-Wide basis focused on the adoption of a cross UK approach to cover the procurement of PPE, ventilators, testing and medical supplies and the respective asks from DAs in respect of supply and demand [**Exhibits KP/M5/088 - INQ000272959, KP/M5/089 - INQ00083632 and Exhibit KP/M5/090 - INQ000505568**]. It is noted that at that time, the NI entry in the presentation contains no data and an official in TEO raised the matter with DoH [**Exhibit KP/M5/091 - INQ000505569**].
212. A further Healthcare MIG was attended by officials on 7 May 2020, where it was agreed that work would need to progress on agreement for funding PPE procurement on a 4-nation basis and that this should include appropriate use of the Barnett formula. It also confirmed that work should continue with all 4 nations to ensure their needs are taken

account of and that all departments should refrain from public communication on PPE contracts until supplies have arrived and are confirmed to meet assured standards **[Exhibit KP/M5/092 – INQ000505571]**.

213. On 6 April 2020, officials from TEO attended a UK / DA Health data call, the purpose of which was to discuss how to provide UKG with appropriate data to allow for negotiation of PPE contracts on a 4-nation basis with NI representatives confirming that they would contact DoH to provide information that was being requested. DHSC also confirmed that they had a central team of 150 people working to secure PPE for all 4 nations and NI officials noting that supply in NI was limited to UK central supply and local suppliers at that time. The note of the meeting is exhibited at **KP/M5/093 - INQ000520833**.
214. During the period of 24 March to 26 May 2020, NI Ministers and TEO officials attended over 40 MIG Meetings. Executive Ministers, accompanied by officials, attended meetings relevant to their portfolio/department. Attendance by NI Ministers varied according to which MIG was taking place.
215. In response to a letter from Sir Mark Sedwill on 28 May 2020 advising that the MIG structure had been stood down and setting out arrangements for two new Cabinet committees to oversee the next phase of the Covid response, a joint letter issued from Leslie Evans, David Sterling and Shan Morgan to Mark Sedwill on 12 June 2020 **[Exhibit KP/M5/094 - INQ000301831]**. In this, the benefits of the four nations approach to tackling Covid-19 to date were acknowledged and clarity was sought on arrangements for Ministerial four nations engagement going forward.

### **UKG and DA Official Engagement**

216. Weekly engagement took place with the UK Government's Covid-19 Taskforce and the Scottish and Welsh governments to support the Executive's Covid-19 response, to build best practice and ensure alignment, where practicable, across the four nations on key issues. One of the key issues that arose early in the pandemic was the provision of support for various sectors. Senior officials from TEO attended these meetings.
217. COBR(M) meetings took place on 20 and 23 March, 16 April and 10 May 2020. The meeting on 20 March 2020 **[Exhibit KP/M5/095 - INQ000258616]**, focused on social distancing. The meeting was Chaired by the Chancellor of the Duchy of Lancaster (CDL) with representatives from Whitehall and the DAs dialing in. NI representation included the First Minister and deputy First Minister, the Health Minister, and the Chief Medical

Officer (CMO). CDL advised that it was clear the current policy of social distancing was having a positive effect, but it was too slow and more needed to be done to encourage even greater non-work-related social distancing.

218. At the COBR meeting on 23 March 2020 **[Exhibit KP/M5/096 - INQ000279449]** concerns were raised that social distancing measures were not having the necessary impact with the Prime Minister informing the group that due to rising cases and health service pressures that a nationwide 'stay at home' order was to be announced. First Ministers agreed with this proposal.
219. On 2 April 2020, Mr Harbinson advised First and deputy First Minister that the Cabinet Office, Civil Contingencies Secretariat had confirmed that no further COBR (M) meetings were currently planned **[KP/M5/097 - INQ000279542, KP/M5/098 - INQ000251024]**. On 4 April 2020, the First Ministers for Northern Ireland, Scotland, and Wales wrote to the Prime Minister requesting that a COBR(M) meeting be scheduled for the following week to *"to allow for proper individual and joint analysis of the options at head of government level."* **[Exhibit KP/M5/099 - INQ000279548]**. The DA First Ministers advised that whilst it was understandable that COBR(M) meetings up to this point had been hurriedly convened, there was nothing to prevent them now being arranged in a more structured manner. In addition, DA First Ministers advised *"we would also urge a transparent and collaborative approach to sharing and producing analysis, options appraisal, and papers for any COBR meeting next week."*
220. From 8 May to 25 June 2020 there were six meetings with the devolved administrations chaired by Michael Gove (The Chancellor for the Duchy of Lancaster). The key discussions from the meetings surrounded possible relaxations with nations following the same principles even though they may move at a different rate based on local data. At the meetings on 8 May 2020 **[Exhibit KP/M5/100 - INQ000279451]** and 17 May 2020 **[Exhibit KP/M5/101 - INQ000279452]**, the importance of engagement with ROI was expressed in relation to quarantine arrangements and CTA travel.
221. The 19 and 23 June 2020 discussions **[Exhibit KP/M5/102 - INQ000279453]** and **[Exhibit KP/M5/103 - INQ000279454]** focused on changes to social distancing and the need to evidence in order to inform any changes. The importance of the furlough scheme was also noted and that there should be continued engagement on its extension for NI.
222. NI Ministers met with the Secretary of State nine times during 18 March to 30 June 2020 to share updates on current Covid-19 issues. Across the meetings, the topics covered

ranged from providing reassurance to the public following the first reported death in NI, the local need for Trace, Track and PPE as well as looking forward to Covid-19 recovery, the need for sectoral engagement and the positive response to the announcements on the relaxation of restrictions, example meeting notes are provided at **[Exhibits KP/M5/104 - INQ000308859 and KP/M5/105 - INQ000308866]**.

223. Meetings were also held with the Prime Minister during this time, looking ahead to announcements on relaxations and providing assurance that all nations should move forward together in a coordinated approach, but allowing for differences in timelines based on conditions in each region, example meeting notes are provided at **[Exhibits KP/M5/106 - INQ000308867 and KP/M5/107 - INQ000308868]**.
224. NI Ministers were also able to avail of updates provided by the FCO Minister of State on repatriation of citizens and response to Covid in other countries **[Exhibits KP/M5/108 - INQ000308852 and KP/M5/109 - INQ000308857]**.
225. At the CDL meeting on 7 July 2020, further detail on upcoming announcements by the Chancellor on support packages and additional support for NHS in NI were presented. The meeting note of 7 July is exhibited at **Exhibit KP/M5/110 - INQ000286565**.
226. A meeting on 24 July 2020 chaired by CDL and attended by First Minister, deputy First Minister, First Minister Scotland, First Minister Wales **[Exhibit KP/M5/111 - INQ000279456]** initially focused on international and CTA travel. Northern Ireland ministers announced that a mandatory power had been taken in relation to the wearing of face coverings with an initial focus on voluntary compliance using an information campaign and a review on 20 August on whether enforcement was required. The Chancellor of the Duchy of Lancaster also requested DAs to look ahead to the Autumn/Winter period in order to ensure an adequate supply of PPE as well as plans for the vaccine rollout, echoing comments made at the CDL meeting on 17 July 2020.
227. From July to September, further engagement took place in the form of meetings with the Chancellor of the Duchy of Lancaster, Secretary of State for NI, and the Secretary of State for Health. These meetings were attended by the First Minister and deputy First Minister and senior TEO officials.
228. At the COBR meeting on 22 September 2020, in response to a query from the deputy First Minister on a second surge of Covid-19 and necessary PPE capacity, the Prime Minister confirmed that there was now an adequate supply of PPE **[Exhibit KP/M5/112**



- INQ000286565].

229. From mid-September up to Christmas 2020, there were 12 meetings with the Chancellor of the Duchy of Lancaster, six meetings with the Secretary of State for NI, three COBR meetings and two with the Prime Minister.
230. At that time, the focus was on the concerning rise in cases, the positivity trajectory and looking toward winter / Christmas planning including track and trace, PPE availability and the roll out of LFT tests across the nations.
231. Across the meetings with the Chancellor of the Duchy of Lancaster, DAs were able to provide progress on their current restrictions and areas of concern, whilst note was made that despite some disagreement on the best direction of travel, arrangements had broadly been in line across all nations.
232. Engagement with UKG continued throughout 2021, and up until the collapse of the Northern Ireland Executive in January 2022. However, these meetings did not focus on PPE but rather on vaccine rollout, the easing of restrictions, economic recovery, vaccine certification and later in the year the emergence of Omicron and booster vaccination.

#### **Military Aid to Civilian Authorities**

233. The support of the armed forces to civil authorities in the UK is officially termed Military Aid to the Civil Authorities (MACA).
234. The provision of military assistance is governed by 4 principles. MACA may be authorised when:
- There is a definite need to act and the tasks the armed forces are being asked to perform are clear.
  - other options, including mutual aid and commercial alternatives, have been discounted; and either
  - the civil authority lacks the necessary capability to fulfil the task, and it is unreasonable or prohibitively expensive to expect it to develop one; or
  - the civil authority has all or some capability, but it may not be available immediately, or to the required scale, and the urgency of the task requires rapid external support from MOD.

235. In his Module 2C statement to the Inquiry, Mr Harbinson, Chief of Staff of the NI Hub until 31 July 2020 **[Exhibit KP/M5/113 - INQ000400031]**, noted that he *'worked closely with military colleagues and briefed the Brigadier of 38 Brigade each week. [He] updated him on current issues and discussed all requests for Military Assistance for Civil Authorities (MACA).'*
236. MACA was activated by the Minister of Health on a number of occasions during the pandemic. The First Minister and deputy First Minister were informed of these decisions through written correspondence. Some relevant examples from the early months of the pandemic are outlined below.
237. On 27 February 2020 **[Exhibit KP/M5/114 - INQ000505574]**, the Minister of Health Robin Swann wrote to the First Minister, deputy First Minister and the Head of the Civil Service to inform them that he had approved a decision to transfer a patient who has tested positive for Covid-19 to a High Consequence Infectious Disease (HCID) Unit in England. It was noted that the transfer of this patient had been discussed and agreed by clinicians here and in the specialist unit. There were no beds with the agreed specification available in NI and no commercial providers with the appropriate equipment to transfer the patient. Instigation of the MACA was, therefore, considered to be the only option available.
238. As the transfer under MACA would have been an operational matter for DoH, TEO is unable to clarify whether this transfer ultimately took place.
239. On 10 April 2020 **[Exhibit KP/M5/115 - INQ000185393]**, the Minister of Health Robin Swann wrote to the First Minister, deputy First Minister and the Head of the Civil Service to inform them that he had approved two decisions to activate MACA:
- The first decision related to the need to urgently redistribute mechanical ventilators and other equipment across NI to ensure that all hospitals had the equipment required to fully enact their surge plans.
  - The second decision related to the development of a temporary Nightingale facility in the event of an extreme surge of Covid-19 patients.
240. On 13 April 2020 **[Exhibit KP/M5/116 - INQ000251798]**, in a submission to the First Minister and deputy First Minister, Mr Harbinson noted that there was a MACA arrangement, known as 'Operation Rescript', in place available across the 4 Nations to

support the Covid-19 response. As part of this Operation there were some 21,500 full time equivalent (FTE) Military personnel available to support the Covid-19 response. It was also clarified that *'any requests for such assistance by NI Departments should be scrutinised by the NI Hub and, crucially, authorized by the NIO, before release to the local Joint Regional Liaison Officer (JRLO) for onward transmission to MOD.'* Mr Harbinson requested approval for TEO to write to Departments to remind them of the of the procedures in place to request military aid and to underscore the need for co-ordination.

241. On 14 April 2020 **[Exhibit KP/M5/117 - INQ000251792]**, in a submission to the First Minister and deputy First Minister, Mr Harbinson noted that *'under the 4 nations approach to Covid-19 the Cabinet Office has been asking for all requests for MoD support to be submitted to the Cabinet Office to collate and liaise on a 4-nation basis.'* He also explained that *'the role of the NI Hub in a major emergency is, as part of the C3 structure to co-ordinate, control, and command. In regards to any MOD request, the role of the Hub is to clarify that the MOD criteria for such requests has been met before onward submission to the NIO and if there are competing requests from a number of Departments to ensure that they are prioritised by CCG (NI). The NI Hub in itself has no decision making power but as part of coordination and control remit it is responsible for ensuring appropriate decisions are escalated to CCG (NI) or the NI Executive as necessary.'*
242. On 27 April 2020 **[Exhibit KP/M5/118 - INQ000305069]**, the Minister of Health, Robin Swann, wrote to the First Minister, deputy First Minister and the Head of the Civil Service to inform them that he had approved a decision to activate MACA to transfer a patient who required ECMO (extra corporeal membrane oxygenation) to a specialist unit in England. It was noted that the transfer of this patient had been discussed and agreed by clinicians here and in the specialist unit. There were no beds with the agreed specification available in NI and no commercial providers who had the appropriate equipment to transfer the patient. Instigation of the MACA was, therefore, considered to be the only option available.
243. The NI Hub SitRep dated 28 April 2020 **[Exhibit KP/M5/119 - INQ000520835]** highlighted under recent actions that *'a patient in NI required emergency transfer to a specialist unit in England for life-saving treatment. HSC Board requested military support to transfer the patient (military support only provided when all other avenues have been exhausted).'*

244. On 11 May 2020 [**Exhibit KP/M5/120 – INQ000375567**], Minister of Health, Robin Swann wrote to the First Minister, deputy First Minister and the Head of the Civil Service to inform them that he had approved a decision to activate MACA to transfer a patient who required ECMO (extra corporeal membrane oxygenation) to a specialist unit in England. It was noted that the transfer of this patient had been discussed and agreed by clinicians here and in the specialist unit. There were no beds with the agreed specification available in NI and no commercial providers who had the appropriate equipment to transfer the patient. Instigation of the MACA was, therefore, considered to be the only option available.
245. On 1 June 2020 [**Exhibit KP/M5/121 - INQ000375645**], the Minister of Health, Robin Swann, wrote to the First Minister, deputy First Minister and the Head of the Civil Service to inform them that he had approved a decision to activate MACA in relation to the temporary storage of PPE stock as BSO's existing storage and distribution facilities had reached maximum capacity and there was an urgent requirement for additional storage capacity.
246. On 6 June 2020 [**Exhibit KP/M5/122 - INQ000505582**] and 16 June 2020 [**Exhibit KP/M5/123 - INQ000382096**], Minister of Health, Robin Swann, wrote to the First Minister, deputy First Minister and the Head of the Civil Service to inform them that he had approved a decision to activate MACA to transfer a patient who required ECMO (extra corporeal membrane oxygenation) to a specialist unit in England. It was noted that the transfer of this patient had been discussed and agreed by clinicians here and in the specialist unit. There were no beds with the agreed specification available in NI and there were no commercial providers who had the appropriate equipment to transfer the patient. Instigation of the MACA was, therefore, considered to be the only option available.

### **British Irish Council**

247. Executive Office Ministers and officials participated in the British Irish Council (BIC) during the pandemic at the regular, bi-annual summits. These meetings, both formal and informal, afforded Heads of Administrations the opportunity to learn from and share experiences with senior Ministers across the BIC membership. Discussions aimed to identify examples of best practice based on the experiences of other administrations that might be implemented in other member regions.
248. Three Summit meetings that took place during the pandemic period as shown below.

249. A meeting scheduled to be hosted by Scotland was postponed to November 2020. The meeting on 6 November 2020 was hosted by Scotland and focused on Economic Recovery in the context of Covid-19 and political developments [**Exhibit KP/M5/124 - INQ000232544**].
250. The 35<sup>th</sup> British-Irish Council Summit was hosted by the Northern Ireland Executive on 11 June 2021 and focused on Priorities for Covid-19 Recovery and Latest Political Developments [**Exhibit KP/M5/125 - INQ000279261**].
251. The 36<sup>th</sup> British-Irish Council Summit was hosted by the Welsh Government on 19 November 2021 and focused on political developments, including a discussion on the continuing impact of the Covid-19 pandemic and the progress of post-pandemic recovery programmes. Indigenous, Minority and Lesser-Used Languages (IML) and Early Years Policy was also discussed. [**Exhibit KP/M5/126 - INQ000104455**].
252. In addition, there were three Ministerial meetings held in sectoral format on Transport, Indigenous, Minority and Lesser Used Languages and Energy.

#### **North South Ministerial Council**

253. Established on 2 December 1999 under the terms of the 1998 Agreement, the North South Ministerial Council brings together Ministers from the Northern Ireland Executive and the Irish Government to develop consultation, co-operation, and action on matters of mutual interest. The North South Ministerial Council is supported by a Joint Secretariat.
254. Following the restoration of the Executive in January 2020, NSMC first met in Plenary format on 31 July. There were three Plenary Meetings and an Institutional Meeting, which were either co-chaired by the NI First Minister and deputy First Minister or the Taoiseach on an alternating basis. Sectoral meetings were chaired by the appropriate Executive Minister or Irish Government; for example, Minister Swann or his Irish counterpart for Health Meetings, Minister Poots or his Irish counterpart for Agriculture and Environment Meetings.
255. Following each NSMC Meeting an agreed Joint Communiqué is issued. These are published inter alia via the NSMC website- [www.northsouthministerialcouncil.org](http://www.northsouthministerialcouncil.org).
256. The plenary meeting on 31 July 2020 [**Exhibit KP/M5/127 - INQ000104460**] took place in Dublin. The meeting discussed the ongoing response to Covid-19 and was briefed by the Chief Medical Officers, Dr. Ronan Glynn and Dr. Michael McBride, on the current

public health situation and on ongoing cooperation in the response to the Covid-19 pandemic.

257. The plenary meeting on 18 December 2020 [**Exhibit KP/M5/128 - INQ000104461**] took place in Armagh and by videoconference. The Council was briefed by the Chief Medical Officers, Dr Michael McBride and Dr Tony Holohan, on the current public health situation and the ongoing close cooperation in the response to the Covid-19 pandemic. Ministers discussed the measures being implemented in the two jurisdictions to protect public health and limit the transmission of the virus. The Council also discussed implications of the withdrawal from the EU and "New Decade, New Approach commitments."
258. The plenary meeting on 30 July 2021 [**Exhibit KP/M5/129 - INQ000104462**] took place in Armagh and by videoconference. The Council was briefed on the current public health situation and the ongoing close cooperation in the response to the Covid-19 pandemic. Ministers discussed the current position in the two jurisdictions, including progress on the roll-out of vaccines. The council also discussed the "New Decade, New Approach" commitments and the "Peace Plus Programme".
259. There were twenty-two NSMC Meetings between January 2020 and November 2021 at which Covid-19 was discussed. This equates to approximately two meetings per month of Ministers from both jurisdictions meeting formally under the auspices of the North South Ministerial Council. Three of these were Plenary Meetings, attended by the majority of Ministers from both the Executive, including First and deputy First Ministers and junior Ministers, and the Irish Government on each occasion. At all three Plenary Meetings "Response to Covid-19" was tabled and Ministers from both jurisdictions had the opportunity to discuss.
260. Some eighteen of the twenty-two were Sectoral Meetings and were attended by the appropriate Ministers from each jurisdiction (for example the NI Health Minister would attend the Health sectoral meetings) at which Covid-19 was among the topics discussed. This included three meetings of the Health sector on 2 October 2020 [**Exhibits KP/M5/130 - INQ000279337, KP/M5/131 - INQ000289942**], 26 March 2021, [**Exhibits KP/M5/132 - INQ000289954, KP/M5/133 - INQ000289947**] and 14 October 2021 [**Exhibits KP/M5/134 - INQ000279341, KP/M5/135 - INQ000289930**] where the response to Covid was an agenda item. The other meeting was an Institutional Meeting on 16 December 2020 [**Exhibits KP/M5/136 - INQ000290963, KP/M5/137 - INQ000290960**] chaired by the First Minister and deputy First Minister with the Irish

Government represented by the Minister for Foreign Affairs at which Covid-19, and other cross-cutting matters were discussed.

261. The NSMC structures also provided Ministers from both Governments with the opportunity to discuss the response to Covid-19 during specific sectoral meetings. Papers from these meetings have been shared with the inquiry and demonstrate the close working relationships that were operating during this time.
262. The work of the North South Ministerial Council is supported by a standing Joint Secretariat, staffed by members of the Northern Ireland Civil Service and the Irish Civil Service. The Secretariat is headed by two Joint Secretaries who were appointed by the Administrations, North and South.
263. Following each meeting of the NSMC it is a statutory requirement that each Executive Minister provides a statement to the Assembly on the content of the meeting. MLAs then have the opportunity to question Ministers on the content of their statement. This ensures the Council operates in an open and transparent way and allows elected representatives to be sighted on discussions, including on those relating to Covid-19.
264. It is clear from the Statements to the Assembly that there was significant discussion within the NSMC on Covid-19. On behalf of the First Minister and deputy First Minister, the deputy First Minister briefed the Assembly three times in relation to the three NSMC Plenary meetings at which Covid 19 was discussed.
265. On 21 September 2020, deputy First Minister, Michelle O'Neill, made a statement to the Assembly regarding the 31 July 2020 NSMC Plenary **[Exhibit KP/M5/138 - INQ000279296]** in which she stated:

*"that the Council was briefed by the Chief Medical Officers, Dr Ronan Glynn and Dr Michael McBride, on the current public health situation and on ongoing cooperation on the response to the COVID-19 pandemic. Ministers extended their condolences to all those who have lost loved ones as a result of the pandemic. They also expressed their appreciation to all those who have played a part in the COVID-19 response, in particular health and social care workers, who have shown extraordinary courage and dedication in their work on the front line.*

*The Council noted that senior representatives of the Executive and the Irish Government, along with their Chief Medical Officers, met at the NSMC secretariat offices in Armagh on 14 March to review the situation regarding the COVID-19 virus*

*and how best to address the outbreak. At that meeting, Ministers affirmed that everything possible would be done in coordination and cooperation between the Irish Government and the Executive and with the active involvement of the health administrations in both jurisdictions to tackle the outbreak. Senior representatives of both Administrations have continued to meet regularly to discuss the ongoing COVID-19 response. The Council noted the memorandum of understanding on public health cooperation on the COVID-19 response agreed between the Departments of Health, North and South, on 7 April. The Council welcomed the close and productive cooperation that has taken place between Health Ministers, Chief Medical Officers, and health administrations, North and South, to deliver an effective public health response. Ministers agreed that an early meeting of the Council in the health sector should review ongoing cooperation in responding to the pandemic.*

*The Council also noted the impact of the pandemic on society and on the economy, North and South, and the measures put in place by both Administrations to support communities and businesses affected by the crisis and to assist with economic recovery. Ministers agreed that the upcoming meetings of the Council in relevant sectors will consider how North/South approaches can contribute to the promotion of economic and social recovery."*

266. The deputy First Minister made a Statement to the Assembly on 18 January 2021 regarding the NSMC Plenary Meeting of 18 December 2020 **[Exhibit KP/M5/139 - INQ000411349]** in which she advised,

*"that having regard to COVID-19 restrictions in both jurisdictions, meetings took place via videoconference and that in-person meetings would resume as soon as public health conditions permitted. The Council noted that each sector had considered a wide range of issues, including COVID-19 recovery, priorities and work programmes and the implications of Brexit, as well as various sector-specific matters.*

*The Council was briefed by the Chief Medical Officers (CMOs), Dr Michael McBride and Dr Tony Holohan, on the public health situation and the ongoing close cooperation in the response to the COVID-19 pandemic. Ministers discussed the measures being implemented in the two jurisdictions to protect public health and to limit the transmission of the virus. The Council expressed its sympathy to all those who have lost loved ones as a result of the pandemic and commended citizens in both jurisdictions who have complied with the restrictions imposed as a result of the pandemic and their efforts and*



*perseverance in helping to manage the outbreak. The NSMC expressed its gratitude to all those who have contributed to the response to the COVID-19 pandemic, particularly front-line health, and social care workers. It expressed its appreciation to the wider workforce of essential workers who have kept various services and facilities operational even in the most challenging of circumstances. Ministers recognised the impact of the pandemic on society and the economy in both jurisdictions and welcomed the measures put in place by both Administrations to support communities and businesses affected by the crisis and to assist economic recovery. The recent progress made in the development and roll-out of the vaccine was welcomed. The Council noted the NSMC health sector meeting on 2 October to review ongoing cooperation in responding to the pandemic. It noted that the impact of and response to COVID-19 has been considered at all NSMC meetings. Ministers agreed that future Council meetings would continue to consider how agreed collaborative approaches can contribute to the promotion of economic and social recovery in a COVID- 19 context."*

267. On 11 October 2021, the deputy First Minister also made a statement to the Assembly with regard to the 30 July 2021 NSMC Plenary **[Exhibit KP/M5/140 - INQ000279334]**. During her statement she informed the Chamber:

*"that the Council was briefed on the current public health situation and the ongoing close cooperation in the response to the COVID-19 pandemic. Ministers discussed the current position in the two jurisdictions, including progress on the roll-out of vaccines. The Council recognised the significant loss and challenges experienced by so many as a result of COVID-19. Ministers reiterated their appreciation to all those involved in responding to the pandemic, particularly front-line health, and social care workers and those in the wider workforce who kept essential services and facilities operational.*

*They also recognised the impact of the pandemic on society and the economy, and welcomed the measures put in place by both Administrations to support communities and businesses affected by the crisis and to assist economic recovery. Ministers welcomed the significant progress in the roll-out of vaccines, which has played a key part in the gradual reopening of society. The Council noted that the response to COVID-19 was considered at relevant meetings of the Council and that, where appropriate, sectors will continue to consider how agreed collaborative approaches can contribute to the promotion of economic and social recovery from the pandemic."*

268. The NSMC was not involved in identifying, procuring or distributing PPE stocks in care

and medical settings across Northern Ireland. It is possible that DoH may have engaged in mutual aid with the ROI, however TEO would have had no knowledge of this.

### **Engagement with the Irish Government**

269. Discussions at the NSMC made clear that coordination and cooperation between both jurisdictions was a key factor in tackling Covid-19, for example see **Exhibits KP/M5/141 - INQ000290986** and **KP/M5/142 - INQ000290974**. This was reaffirmed on numerous occasions through the NSMC. The NSMC also received joint briefings from CMOs from both jurisdictions as well as being kept up to date on the North/South working that was taking place.
270. A Memorandum of Understanding (MOU) was agreed between the Departments of Health North and South in April 2020 [**Exhibits KP/M5/143 - INQ000130355** and **KP/M5/144 - INQ000400128**], to underpin and strengthen co-operation on the public health response to the pandemic.
271. The MOU focused on facilitating co-operation in areas such as public health messaging, research, and evidence base/modelling. Detail of the MOU and its operation was reported to NSMC at Plenary and Health meetings.
272. Ad-hoc engagement also took place with the Irish Government at ministerial level outside of the formal NSMC structures. For example, a meeting with ROI involving the Secretary of State for Northern Ireland took place as well as bi-lateral engagement directly with the Taoiseach and/or the Department of Foreign Affairs.
273. At a meeting on 31 March 2020 [**Exhibit KP/M5/145 - INQ000279440**], attended by First Minister, deputy First Minister, NI Health Minister, ROI Health Minister, Tánaiste, the Secretary of State for NI (SoSNI) and Junior Minister Lyons, the Ministers discussed the Memorandum of Understanding that was being drawn up between NI and the Republic of Ireland (RoI). Ministers from both jurisdictions provided an update on the current position. It was noted that whilst both jurisdictions were taking increasingly similar approaches, the different approach to community testing being deployed may lead to restrictions being lifted at different times. It was noted that challenges with supply chains from Great Britain to NI should be brought to the attention of a COBR meeting.
274. A call involving Ministers from the Northern Ireland Executive, UK Government and the Irish Government took place on 9 April 2020 [**Exhibit KP/M5/146 - INQ000279441**]. Issues in relation to the forthcoming Easter weekend were discussed. A draft statement

on the call was developed providing a summary of the points discussed and issuing a joint appeal ahead of the forthcoming Easter weekend.

275. Ministers from the Northern Ireland Executive, UK Government and the Irish Government met on 30 April 2020 **[Exhibit KP/M5/147 - INQ000277102]**. Overviews of how the outbreak was being managed were provided as well as discussions on international and cross border travel, plans for easing restrictions, advice on wearing face coverings, public services, and support for airports and hauliers. It was noted at the meeting that Justice Ministers from NI and ROI were due to meet to discuss cross border travel and that PSNI and An Garda Síochána (AGS) were working together on this matter whilst bearing in mind that enforcing the border between NI and ROI is not a devolved matter.
276. On 1 May 2020, a meeting with Irish Government, UK Government and Northern Ireland Executive Officials was held and a number of key themes were discussed including public services, travel within the CTA and cross-border travel **[Exhibit KP/M5/148 - INQ000277104]**.
277. First Minister, deputy First Minister and the Taoiseach met by Teleconference on 15 May 2020 **[Exhibit KP/M5/149 - INQ000277105]**. At this meeting, the Taoiseach outlined the decision of the Irish cabinet earlier that day to move to phase 1 of the Irish recovery plan, which he felt would place Ireland and Northern Ireland on a broadly similar footing. The close co-operation between the PSNI and an Garda Síochána was welcomed. There was a discussion on potential areas of cooperation. Deputy First Minister outlined the Executive's decisions and announcements from the day before as well as the planned announcement for 18 May on moving to stage 1 of the Executive's recovery strategy. The First Minister suggested that border controls should be discussed at the 'quadrilateral' meeting scheduled for 19 May 2020 **[Exhibit KP/M5/150 - INQ000279492]** since they are a reserved matter for the UK. She also referred to a discussion with church leaders scheduled for later that day.
278. Following a telephone call on 5 June 2020 involving First Minister, deputy First Minister and Taoiseach at which no officials were present, First Minister briefed Mark Goodfellow, her Principle Private Secretary, that Taoiseach had provided a briefing on imminent announcements planned for the ROI in relation to re-opening domestic tourism, religious services and retail **[Exhibit KP/M5/151 - INQ000279444]**.
279. NIE, UKG and ROI Ministers met on 9 June 2020 to discuss the following: travel regulations/quarantine; Health updates; opening of the tourism sector; and the Contact

Tracing App **[Exhibit KP/M5/152 - INQ000276056]**.

280. The First Minister and deputy First Minister met with the Taoiseach and senior officials from the Republic of Ireland on 16 July 2020 **[Exhibit KP/M5/153 - INQ000279490]** to discuss the evolving Covid-19 situation and the benefit of CMOs from each jurisdiction continuing to work together. Face coverings, return of schools and public transport were also discussed as well as the forthcoming visit by the US Special Envoy.

281. First Minister and deputy First Minister attended two meetings with Republic of Ireland Ministers during this phase of the pandemic. On 5 October 2020, they met with the Taoiseach to discuss the response to rising case numbers **[Exhibit KP/M5/154 - INQ000276050]**. The Taoiseach advised Ministers that the Irish Government had that day decided to implement Level 3 restrictions, which in summary were:

- Restrictions on households mixing
- No travel outside own county unless essential, such as education, work
- Visits to residential homes suspended
- Indoor dining closed

282. There was a discussion on the need for an all-island approach.

283. At a meeting on 12 October attended by First Minister, deputy First Minister and Minister Swann from the Northern Ireland Executive, the Tánaiste and Minister for Health from the Republic of Ireland and the Northern Ireland Secretary of State, the following issues were discussed: cross-border test and trace, data sharing, international travel arrangements, ongoing CMO engagement and the need for consistency across the border **[Exhibit KP/M5/155 - INQ000279494]**.

284. On 13 January 2021, First Minister and deputy First Minister met remotely with the Taoiseach to discuss issues regarding the pandemic **[Exhibit KP/M5/156 - INQ000276049]** (please note the document is dated 13 January 2020 in error). The Ministers discussed the impact of rising cases, the emergence of the new variant, pressures on hospitals, rollout of the vaccines and the need of increased cooperation on travel including sharing Passenger Locator Forms.

285. At a Trilateral officials' meeting on 27 January 2021, the UK Government and the

Republic of Ireland provided updates on restrictions, international travel bans, quarantine measures and passenger locator forms **[Exhibit KP/M5/157 - INQ000277058]**.

286. First Minister, deputy First Minister, Junior Minister Lyons and the NI Minister for Health met with the Tánaiste and the ROI Minister for Health and Robin Walker, a Northern Ireland Office Minister on 1 February 2021 **[Exhibit KP/M5/158 - INQ000279496]**. The meeting focused on current case numbers, concerns about travel and hotel quarantine.
287. After this point there was no Ministerial engagement with the Irish Government during the phases of the pandemic where restrictions were being lifted and ultimately to the point where the majority of restrictions had been removed on 22 January 2022.

#### **The Executive Committee's Role in Procurement and Distribution of PPE during the Pandemic**

288. The Executive Committee discussed the procurement and distribution of PPE on a number of occasions, particularly in March and April 2020.
289. At the meeting on the 16 March 2020, concerns were raised by the Health Minister and the Finance Minister regarding the quantity of ventilators and equipment, such as masks, with the Health Minister confirming on the 19 March 2020 that there were only enough PPE supplies for 3-4 weeks. The Minister of Finance confirmed that funding would be made available for PPE and respirators **[Exhibit KP/M5/159 - INQ000048447, KP/M5/160 - INQ000065689 and KP/M5/161 - INQ000065737]**.
290. On 19 March 2020, an email from Mr Harbinson to Sue Gray (DoF), Des Armstrong (DoF) and Richard Pengelly (DoH) advised that he had been tasked by the Executive to pull together a task and finish group to resolve PPE shortage issues **[Exhibit KP/M5/162 - INQ000505584]**. Mr Pengelly confirmed on the same day that DoH already had considerable work in hand on resolving this issue.
291. 20 March 2020, an email from Chris Stewart to Mr Harbinson and Ms Pearson explained that Cathy Harrison, the Chief Pharmacist, was leading on supplies including PPE, that BSO PALs procurement service is linked into UK wide procurement activities, and that all procurement avenues were being explored **[Exhibit KP/M5/163 - INQ000505585]**. Mr Stewart arranged for Ms Harrison to link in with Ms Smyth, who was leading on PPE procurement for CPD, to avoid any overlap or duplication.
292. On 20 March 2020, Minister Murphy provided a paper **[Exhibits KP/M5/164 -**

**INQ000520836 and KP/M5/165 - INQ000520837]** via the urgent decision process **[Exhibits KP/M5/166 - INQ000520838 and KP/M5/167 - INQ000520839]** to Executive colleagues title 'Procurement – Covid-19 Supplier Relief', asking the Executive to agree to CPD issuing a note to all Departments advising of the measures to be implemented to help ensure that suppliers that are at risk will be in a position to resume normal contract delivery when the outbreak is over.

293. At the Executive Covid Crisis Management Committee (ECCMC) meeting on 24 March 2020 **[Exhibit KP/M5/168 - INQ000520840]**, Ministers further discussed the specific issue of PPE and ventilator supply, noting the different specifications that were required, the actions that were being taken forward with DoF to procure supplies and the creation of stockpiles in the Health Service.
294. At a meeting on 1 April 2020 attended by the First Minister, deputy First Minister and Minister for Health, access to PPE was discussed as well as obtaining DoH agreement that DoF would agree to procure on their behalf. It was also noted that PPE stock situation was not dire, but that a surge in usage was expected and that guidance needed to be followed on its usage **[Exhibit KP/M5/169 - INQ000304286]**.
295. On 3 April 2020, the Executive discussed PPE supply and distribution including the possibility of sourcing from ROI. DoF noted that there had been some communication issues in relation to the transportation of PPE coming from England and stated that this was an issue that they were actively pursuing **[Exhibits KP/M5/170 - INQ000048451 and KP/M5/171 - INQ000065719]**.
296. In respect of ventilators, DoH, at the same meeting of 3 April 2020, stated that they had secured an order of 100 ventilators and whilst they considered they currently had sufficient ventilators, they would maintain contact with Dublin colleagues should they need to borrow some equipment until the new order arrived in NI.
297. Given that an estimated 98% of medicines deliveries arrive from GB via the Northern Ireland ports including essential PPE, Minister Mallon presented a paper to the Executive on 3 April 2020 on supply chain resilience, with it being agreed that relevant departments would urgently work up contingency options in the event that local intervention was deemed necessary for consideration by Ministers in the coming days ahead of the development of interventions being considered at a UK wide level **[Exhibit KP/M5/172 - INQ000207238]**.

298. With DoH in Northern Ireland being responsible for the wider Health and Social Care sector, unlike the UK Department of Health, at the Executive meeting on 6 April 2020, the DoF Minister pressed the importance of progressing a NI PPE order and emphasised that all efforts were being taken to mitigate any risks associated with ordering from China. The Executive also discussed possible NI based suppliers, nurses concern about the lack of PPE availability in hospitals and the duration to which supplies would last. **[Exhibits KP/M5/173 - INQ000048452 and KP/M5/174 - INQ000065720].**
299. As April 2020 progressed, the Executive discussed PPE and associated issues on a number of occasions including the funding of interventions and the allocation of £150m being held centrally by DoF which would underpin PPE procurement, reviewing key issues such as the supply of oxygen and medical equipment and factors which may affect demand for PPE in the coming weeks and months including revised modelling. It was confirmed that the PPE order from China had been signed off and was progressing with appropriate safety measures in place and that tender opportunities were open at a local level for the supply / production of PPE. In the wider UK context, the Executive were also keen to ensure that coordination efforts were in place with other jurisdictions to ensure that Governments were not pitched against each other in trying to secure supplies of PPE **[Exhibits KP/M5/175 - INQ000048453, KP/M5/176 - INQ000065725, KP/M5/177 - INQ000048455, KP/M5/178 - INQ000065735, KP/M5/179 - INQ000065484, KP/M5/180 - INQ000065691, KP/M5/181 - INQ000086879, KP/M5/051 - INQ000086882, KP/M5/052 - INQ000048457, KP/M5/182 - INQ000048458].**
300. On 10 April 2020, the Executive also discussed media reporting by the BBC on the China order and agreed that a letter should issue to the BBC to express concern about the potential impact on the China order **[Exhibits KP/M5/183 - INQ000048454 and KP/M5/184 - INQ000213644].**
301. At the meeting of the Executive on 18 May 2020, the Minister for Finance provided a further update on the funding allocations to Departments, building on the update provided on the 20 April 2020. This was an update on the funding available, whilst also taking account of bids for funding from Departments and how a reprioritisation exercise would hopefully ease some of the pressures being felt by Departments **[Exhibits KP/M5/185 - INQ000048467 and KP/M5/186 - INQ000403668].**
302. The Executive also undertook related decisions by way of urgent procedure on the issue of supplier relief and a temporary relaxation of competition rules affecting hauliers,

however these were not directly associated with PPE procurement and distribution [Exhibits KP/M5/187 - INQ000392964, KP/M5/188 - INQ000212912, KP/M5/189 - INQ000212914, KP/M5/190 - INQ000048449, KP/M5/191 - INQ000065747, KP/M5/192 - INQ000407926, KP/M5/193 - INQ000212919, KP/M5/194 - INQ000212920, KP/M5/195 - INQ000000000].

#### *Executive Decision-Making*

303. At the same time as activation of the NI Hub on 18 March 2020, a Covid-19 Executive Strategy and Plan was developed and published on 3 April 2020 [Exhibits KP/M5/049 - INQ000023187 and KP/M5/196 - INQ000023186]. A verbal briefing was presented to the Executive on 30 March 2020 [Exhibits KP/M5/197 - INQ000048450 and KP/M5/198 - INQ000065748] at which time Minister Swann and the Chief Medical Officer also briefed the Executive on the Department of Health's Emergency Response Strategy to Covid-19.
304. On considering the Strategy and Action Plan at the Executive meeting on 30 March 2020 [Exhibits KP/M5/197 - INQ000048450 and KP/M5/198 - INQ000065748], the Executive agreed that further work would be undertaken to populate the Plan with additional information and that the key elements of the Department of Health's Emergency Response Strategy should be integrated into the Plan. I note that the Department of Health's Emergency Response Strategy was not subsequently embedded into the Strategy and Action Plan. Minister Swann's letter dated 15 April 2020 [Exhibit KP/M5/199 - INQ000259487] to Executive colleagues confirmed the position of the Department of Health.
305. The Covid-19 Executive Strategy and Plan was regularly reviewed by the Executive, with the first review taking place on 3 April 2020 [Exhibits KP/M5/049 - INQ000023187 and KP/M5/196 - INQ000023186]. The purpose of the Covid-19 Executive Strategy and Plan was to assist the Executive's decision-making process by outlining practical steps that were needed in the early phase of the response to the pandemic, for example, practical support to citizens and food security.
306. The Strategy and Action Plan presented on 3 April 2020 also stated the acknowledgement of the shortages of PPE and ventilators and that responsibility for this area of work in terms of rapid procurement lay with DoH, DoF and DfE [Exhibits KP/M5/049 - INQ000023187, and KP/M5/200 - INQ000048451].



307. The Executive considered updates on the Strategy and Action Plan on the following dates: 3 April 2020 [**Exhibit KP/M5/200 - INQ000048451**], 10 April 2020 [**Exhibit KP/M5/183 - INQ000048454**], 17 April 2020 [**Exhibit KP/M5/201 - INQ0000**], 24 April 2020 [**Exhibit KP/M5/202 - INQ000048459**], 1 May 2020 [**Exhibit KP/M5/203 - INQ000048462**] and 18 May 2020 [**Exhibit KP/M5/204 - INQ000048467**].
308. On 12 May 2020, the Executive Approach to Decision-Making was published [**Exhibit KP/M5/205 – INQ000**]. Alongside this, a point in time review of the Executive's Strategy to Covid-19, commissioned by Mr Harbinson, was carried out and a report dated 28 May 2020 [**Exhibits KP/M5/206 - INQ000023203, KP/M5/207 - INQ000023202 and KP/M5/208 - INQ000023201**] was discussed by the Executive on 4 June 2020 [**Exhibit KP/M5/209 - INQ000048471**]. This resulted in the operation of the Covid-19 Executive Strategy and Plan being deactivated and the ongoing policy response to Covid-19 being taken forward through business-as-usual procedures. Advice on the pandemic, therefore, reverted to being provided via submissions and executive papers from officials to Ministers using the same process for other matters requiring Ministerial and Executive consideration.

#### **Allocation of Funding for Procurement of PPE and Key Equipment and Supplies**

309. In 2020-21, the Executive received more than £3 billion of Covid-19 funding from the UK Government in order to implement its Covid-19 Response and Recovery. This funding was received in the form of Barnett consequentials, i.e., additions to the NI block grant, throughout the financial year as follows:
- 7 May 2020 - £1 billion (UK Main Estimates);
  - 7 July 2020 - £0.6 billion (UK Summer Economic Update);
  - 24 July 2020 - £0.6 billion (Covid-19 funding guarantee received);
  - 9 October 2020 - £0.2 billion (Covid-19 funding guarantee extended);
  - 5 November 2020 - £0.4 billion (Covid-19 funding guarantee extended);
  - 24 December 2020 - £0.2 billion (Covid-19 funding guarantee extended);
  - February 2021 - £0.3 billion (UK Supplementary Estimates) - carried over to the next financial year, 2021-22.

310. The Department of Finance was responsible for allocating the Covid-19 funding to each of the nine Executive departments, including TEO, through a series of Covid-19 bidding exercises, which took place throughout the financial year 2020-21 and largely outside of the normal budgeting process. The legislative provisions for the Northern Ireland Budget are contained in sections 63 to 6Minister, NIA. Additional allocations (as well as any and reduced requirements) were formally recorded during the normal three in-year monitoring rounds which take place in June, October, and January of each financial year. Additional allocations were announced through a series of Ministerial Statements (both written and oral) from the Minister of Finance.
311. TEO had no role in decision making relating to the allocation of funding for the procurement of PPE and key medical equipment and supplies for the health and social care sector in Northern Ireland. TEO was made aware of concerns around the possibility of PPE shortages via its CCG function and when these were raised by Ministers at Executive Committee meetings (reference to meeting above where PPE discussed at EC meetings). However, I am unable to provide an authoritative view as to whether sufficient funding was made available for the procurement and distribution of these items during the pandemic, or whether there were funding shortfalls. DOF and/or DOH would be in a better position to address these matters.
312. TEO submitted seven bids for Covid-19 funding during the relevant period, totaling £14.4m none of which involved the procurement of PPE and key medical equipment and supplies for the health and social care sector nor the manufacture of PPE in Northern Ireland.

#### **TEO's role in relation to Public Procurement Policy and Activities**

313. TEO has no strategic or oversight role in relation to public procurement activities in Northern Ireland and its responsibilities in this regard are limited to its obligations as defined in the NIPPP and related documents concerning the procurement of goods and services within the remit of the Department.
314. TEO had no role in relation to allocation of funding for the purposes of the procurement of healthcare equipment and supplies to BSO PaLS, NI DOH or Health and Social Care ('HSC') prior to the pandemic. Issues involving the allocation of funding for the procurement of healthcare equipment and supplies are matters for DoH and its ALB's.
315. TEO had no involvement or oversight over the procurement activities of BSO PaLS or

the DoH in relation to healthcare equipment and supplies within the context of Module 5 prior to the Covid-19 pandemic nor since. Health and social care issues (including those in relation to healthcare equipment and supplies) are principally matters that fall within the remit of the Department of Health. Nor did TEO receive any reports, audits, or any other updates from either BSO PaLS or DoH regarding, prices, spending controls, anti-fraud measures in relation to the procurement of healthcare products or their success for the same reason. As is set out earlier in this statement, in general, the Minister of Health has authority to determine policy and operational matters within the remit of the Department of Health, without the general requirement to observe a collective 'cabinet position.' TEO through the Executive Committee and CCG were aware of funding in place to purchase healthcare products and the volumes of products being procured.

316. TEO officials were involved in a single international procurement exercise with China. The involvement of TEO alongside other Departments in the initial exercise to procure PPE from China was borne more from circumstance / opportunity in that TEO had operational responsibility for the Northern Ireland Bureau in China and therefore had members of staff who would be more knowledgeable with regard to operations in that country and be able to avail of existing contacts within the British Embassy and Chinese Businesses.
317. As DoF were the lead Department with responsibility for sourcing PPE on behalf of Northern Ireland to include pricing benchmarking. TEO did not provide funding, develop technical specifications, review pricing or quality of the goods to be supplied, but were a conduit for which these items could be agreed with the relevant departments (DoF and DoH). Additionally, I understand price benchmarking was part of the activities carried out by PaLS in the context of conducting due diligence. However, DoF and/or DoH/PaLS would be in a better position to address this.

### **Cross Government Collaboration – PPE**

318. There was significant cross governmental collaboration to secure PPE and other key equipment and supplies for Northern Ireland during the pandemic. PPE procurement and distribution was primarily undertaken by DoH and DoF. Other Departments including TEO were also involved through discussion at the Executive or when they raised specific concerns in relation to PPE as referenced in the SitReps. TEO officials were involved in a single international procurement exercise with China and worked collaboratively with DoH and DoF on this exercise.

319. The First Minister and deputy First Minister and TEO senior officials attended a wide variety of meetings during the pandemic:

- Executive Covid Crisis Management Committee (jointly chaired by the First Minister and deputy First Minister)
- The Executive Committee (jointly chaired by the First Minister and deputy First Minister)
- Civil Contingencies Group (daily CCG meetings were chaired by the Head of the Civil Servant (HOCS) and were attended by Permanent Secretaries, leaders of the emergency services and district councils)
- NI Hub meetings (TEO senior officials)
- Ad hoc meetings with the Minister of Health and senior health officials (attended by First Minister and deputy First Minister and senior TEO officials)
- COBR meetings (attended by First Minister and deputy First Minister)
- CDL meetings (were attended by both Ministers and senior officials as appropriate)
- 4 Nations meetings (were attended by both Ministers and senior officials as appropriate)
- Cab Sec (O) meetings (attended by Sir David Sterling as the Head of the Northern Ireland Civil Service)
- Ministerial Implementation Groups (MIGs) (were attended by both Ministers and senior officials as appropriate)
- North South Ministerial Council (NSMC) (were attended by both Ministers and senior officials as appropriate)
- British Irish Council (BIC) (were attended by both Ministers and senior officials as appropriate)
- Meetings with the Secretary of State and separately the Prime Minister (were attended by both Ministers and senior officials as appropriate)

320. These meetings were supplemented by a wide range of regular, official level

communications. Due to the fast pace required to respond to the pandemic there would have been many discussions at official level for which meeting notes or briefings are not available.

321. TEO officials did not attend any regular meetings exclusively dedicated to discussions around PPE or other key healthcare equipment. However, senior officials would have attended a range of meetings on a regular basis where such issues were amongst the various topics for discussion.
322. A key example of cross-government collaboration can be seen in TEO's involvement in the China procurement in 2020 with the Department of Health and the Department of Finance. In addition, NI Departments collaborated on a cross departmental level in relation to the distribution of donated PPE. By July 2020, TEO had received 20,000 donated masks from the Chinese Consulate, 3,000 masks donated from the Confucius Institute and 2,000 pairs of gloves. Whilst the masks were not of a clinical grade protective mask, the donated PPE was distributed with sporting bodies and other voluntary organisations **[Exhibit KP/M5/210 - INQ000279505]**.
323. TEO was involved in engagement with UKG throughout the pandemic. A number of update and information gathering emails were received from DHSC NHS England (via NIO). The role of the NIO in information sharing and in relation to the Hub was clarified in the spring of 2020. By 17 March 2020, Ministers had agreed that NIO would participate in CCG and that the NIO could co-locate in the Hub (not a joint hub, not joint authority, merely co-location) **[Exhibit KP/M5/211 - INQ000505587]**. On 9 April 2020, a Covid-19 DA Liaisons and Union policy desk update was shared with the Hub **[Exhibit KP/M5/212 - INQ000290146]**. This update included the following: *'SECRETARIAT (IMIG) to arrange an IMIG discussion on managing the trade-offs associated with accepting the supply of PPE from different countries, in particular those countries which are not existing trading partners for PPE supplies.'*
324. On 10 April 2020, TEO were informed by the Northern Ireland Office that the Secretary of State for Health, Matt Hancock, would be announcing a PPE strategy with three strands **[Exhibit KP/M5/213 - INQ000505589]**:
- Appropriate PPE for each sector and rationale behind this
  - Mechanisms in place to ensure PPE reaches those who need it

- Ongoing work to ensure supply meets demand

325. The UKG Covid-19: Personal Protective Equipment (PPE) Plan was published on 10 April 2020 [**Exhibit KP/M5/214 - INQ00050008**] and noted that:

- Each of the Devolved Administrations has their own supply chain operation for PPE and is responsible for ensuring distribution within Northern Ireland, Wales, and Scotland.
- We are working closely with colleagues in the devolved nations to ensure supplies of PPE are distributed equitably across the four nations. In the past week, we have authorised the release of nearly 20 million items of PPE to the devolved nations to address immediate shortages of specific items and we continue to work closely with the Devolved Administrations to meet the need for PPE across the whole of the UK.
- However, it is recognised that, in particular circumstances, Devolved Administrations are also pursuing their own sourcing of PPE to meet their particular needs.

326. The requirement for PPE across all countries created supply problems in many areas. The UK Government had successfully procured supplies from several sources in China. However, the requirement across the UK and Ireland was such, that the Devolved Administrations sought other sources of supply [**Exhibits KP/M5/215 - INQ000251768 and Exhibit KP/M5/216 - INQ000251732**].

327. The PPE Plan was later updated and in September 2020 a new document was published entitled Personal protective equipment (PPE) strategy: stabilise and build resilience [**Exhibit KP/M5/217 - INQ000505591**] where it was noted that:

*‘Co-operation across and between all 4 nations has been a key part of ensuring PPE gets to where it is needed. This is a UK-wide approach underpinned by a protocol being agreed between the 4 nations. Scotland, Wales, and Northern Ireland will receive a Barnett formula allocation for purchase of PPE.’*

#### **North South Ministerial Council's Role – PPE**

328. I have been assisted by Mr Tim Losty, who in January 2020 was the Director (Acting

Grade 3) of the Bureau based in Beijing, China, and the Director for International Relations. More information about Mr Losty's role in and with China is contained below.

329. Having been in China from June 2020, Mr Losty upon his return to Northern Ireland in September 2020 moved to the position of Joint Secretary of the North South Ministerial Council. In March and April 2020, Mr Losty was in contact with the Southern Joint Secretary (Irish Government) when there were concerns as to whether the Irish government would be able to help the Executive with PPE supplies. Mr Losty spoke with the Southern Joint Secretary in late March 2020, and he made Mr Losty aware of concerns within their system concerning whether they would be able to secure additional PPE to meet NI requirements. It was agreed that Mr Losty would contact the Economic Development Officer based at the Irish Embassy in Beijing to discuss directly.
330. Towards the end of March 2020, Mr Losty contacted the Ambassador, and he arranged a Zoom call. During this call, Mr Losty was made more aware of the pressures to secure PPE and the extreme competition that was taking place between countries and regions. The Economic Officer explained that they had utilised all of their resources in terms of their PPE suppliers and that, due to the international demand, they were unable to add any more to their allocation at that time. Mr Losty provided a verbal update to Ministers on the conversation, and it was agreed that Mr Losty would also contact other Chinese organisations to see if they would be able to assist us.
331. The Irish embassy also kept Mr Losty updated on the position regarding PPE supplies and transport logistics. When TEO were facilitating discussions between DoF and DoH and China Resources Pharmaceutical, the Irish government confirmed with Sharon Smyth (CPD) that they were also using the same supplier and were content with the supplies and provided samples of the PPE they brought in to provide confirmation that the products were to the appropriate standards and able to be used in front line medical support. A letter from the National Director of Procurement in the Health Services Executive on 3 April 2020 is at **Exhibit – KP/M5/218 - INQ000505592**.

#### **International Aspects of Procurement of PPE - TEO's role in International Relations**

332. International Relations is an Excepted matter under the Northern Ireland Act 1998. However, within the context of Northern Ireland's constitutional arrangement, it is recognised that Northern Ireland will have an interest in international relations in some discrete respects.

333. The nature and extent of Northern Ireland's role concerning international relations are more particularly set out in a Memorandum of Understanding dated September 2012 **[Exhibit KP/M5/219 - INQ000505594]**, updated in October 2013 **[Exhibit KP/M5/220 - INQ00025684]** between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers, and the Northern Ireland Executive Committee. Each is a statement of political intent and should not be interpreted as a binding agreement. They do not create legal obligations between the parties. Nothing in the Memoranda are to be construed as conflicting with the Belfast/Good Friday Agreement.
334. The Memoranda confirm the mutual understanding of UKG and the Devolved Administrations that, as a matter of law, international relations and relations with the European Union remain the responsibility of the United Kingdom Government and the UK Parliament. However, they acknowledge the UK Government's recognition that the devolved administrations will have an interest in international and European policy making in relation to devolved matters, notably where implementing action by the devolved administrations may be required.
335. The supplementary agreements set out bilateral concordats between UKG and the Devolved Administrations on defined issues. Specifically, these agreements encompass the areas of Co-ordination of European Union policy issues, Financial Assistance to Industry and International Relations.
336. Arrangements for the handling of devolved administrations' interests outside the United Kingdom are set out in the international relations and EU concordats. The devolved administrations are able to develop bilateral or multilateral arrangements with other members of the British-Irish Council, including the Republic of Ireland, and to participate in the British-Irish Council itself, as set out in the Belfast/Good Friday Agreement. The Northern Ireland Executive Committee is also able to develop relations with the Irish Government through the North/South Ministerial Council provided for in that Agreement.
337. In relation to trade and inward investment promotion, the devolved administrations and the UK Government have concurrent powers to promote international trade and inward investment. Whereas UK Trade & Investment has lead UK responsibility for the provision of support and assistance to new and existing exporters of goods and services and outward investors both at home and overseas and for promoting the UK and all its constituent parts to foreign investors, the devolved administrations are also responsible for devising and implementing additional programmes to meet the particular needs of



companies in Northern Ireland, Scotland and Wales and for promoting Northern Ireland, Scotland and Wales to foreign investors.

338. It is in this setting that TEO has overall strategic responsibility for international relations matters. Additionally, guidance is provided by way of The International Relations Strategy 2014 **[Exhibit KP/M5/221 - INQ000505596]**, which emphasises and anticipates the need for a coordinated and focused approach across all government departments in pursuance of its principles.
339. Through our international relations work, we aim to enhance our international message and develop mutually beneficial relationships with targeted countries, regions and organisations to secure investment, trade, tourism, students and to exchange knowledge and expertise.

#### **The Northern Ireland Bureau, China**

340. The Northern Ireland Bureau in China ('the Bureau') was established in September 2014 by the First Minister and deputy First Ministers to develop relations with China which would provide mutual benefits. TEO has departmental responsibility for International Relations, including the NI Bureau in Beijing, China. **[Exhibit KP/M5/218 - INQ000505592]**
341. The Bureau has both a Diplomatic and a Representative Office in Beijing, promoting the Executive's priorities to China's central, provincial, and municipal governments.
342. The First Minister, the Rt. Hon. Arlene Foster officially opened the Northern Ireland Executive's Bureau at the China World Trade Centre in Beijing on 8 December 2016. First Minister, Arlene Foster said:

*"The official opening of the Bureau in Beijing signals our clear determination to build a long-lasting presence and relationship in China. The Executive Office has had a presence in Beijing since 2014 and I am honoured today to officially open the Northern Ireland Executive Bureau. The relationship with China is very important to Northern Ireland. The establishment of this Bureau, the expansion of the Invest NI team and five Ministerial visits to China in 18 months are indicators of the importance of this relationship. We want to see Northern Ireland organisations come to China and for Chinese organisations and people to consider Northern Ireland as an option, whether it is for business, education, or cultural development. The Northern Ireland Bureau gives us a firm presence and*

*it will work hard to promote Northern Ireland and the compelling proposition we have to offer.”<sup>1</sup>*

343. The Bureau's role is to influence the Chinese government and decision makers to look positively at Northern Ireland and to encourage their organisations to do business with us, to study with our institutions, share best practice, enjoy each other's culture and to visit us.
344. The Executive's China strategy was agreed in 2015. The strategy is to target regions where Northern Ireland can build partnerships by promoting NI's experience and expertise in sectors where we are considered to have international best practice. This will lead to opportunities for economic, education, research, and cultural co-operation as well as encouraging visits and exchange programmes.
345. The Executive's objectives for China are as follows:
- Develop and maintain effective relationships with the government and key organisations in China.
  - Increase trade and economic activity.
  - Increase the number of Chinese students in NI.
  - Collaborate on Science and Technology development.
  - Learn more about each other's Culture and Sport.
  - Share Best Practice in Addressing Global Priorities.
  - Develop Partnerships with Regions and Organisations in China.
346. Northern Ireland hosted the 3rd UK-China Regional Leaders Summit in 2017 during which formal agreements to cooperate on trade, investment, research, education and cultural were made with the provinces of Liaoning and Hubei. The Bureau also helped negotiated four Friendly City Agreements and Sister City Agreements promoting cooperation on civic development and culture between Belfast & Shenayng; Derry City

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<sup>1</sup> [1 \(Foster opens Northern Ireland Executive Bureau in Beijing | The Executive Office \(executiveoffice-ni.gov.uk\)\)](https://www.executiveoffice-ni.gov.uk/news/foster-opens-northern-ireland-executive-bureau-in-beijing)

and Strabane Council with Dalian; Newry, Mourne and Down with Changchun; and Fermanagh and Omagh with Huangshi.

347. In January 2020, Mr Losty was the Director (Acting Grade 3) of the Bureau based in Beijing, China, and the Director for International Relations. He had travelled to China in September 2014 to establish the office for the Northern Ireland Executive. This was a Diplomatic Office and part of the British Embassy, and he held the diplomatic title of Minister Counsellor for Northern Ireland. TEO also had an office in Beijing located outside of the embassy compound. At that time, Mr Losty reported to Andrew McCormick, Director General for International Relations, and Brexit.
348. Mr Losty was in Beijing in January 2020 when the Covid-19 (Coronavirus) pandemic was first identified. He, alongside his wife, (who was employed at that time as the Community Liaison Officer at the Embassy), agreed to stay in Beijing to help with the evacuation process for ex-pats. This included helping an individual from here secure places for his family on an evacuation flight, liaising with the Irish Embassy to arrange UK flights for five Irish citizens and ensuring the NI ex-pat community was kept informed of official messaging received via the Embassy.
349. On 20 February 2020, Mr Losty temporarily returned to Belfast. He continued in his work roles, which also included maintaining relations with TEO's network in China and monitoring developments and responses to Covid-19 there. During that time, he provided verbal updates to Mr McCormick and Sir David Sterling, the then Head of the Northern Ireland Civil Service (NICS). In February 2020, Sir David Sterling invited Mr Losty to address colleagues at The NICS Board meeting on 28 February about his recent experience of Covid-19 in China. A copy of the minutes of this meeting and Mr Losty's speaking notes are exhibited at **[Exhibits KP/M5/222 - INQ000277390 and KP/M5/223 - INQ000505598]**.
350. On 11 March 2020, the World Health Organisation officially characterised the Covid-19 outbreak as a pandemic. On 16 March 2020, the then UK Prime Minister announced that by the coming weekend those individuals considered to be at the highest clinical risk from Covid-19 should stay at home at all times ('shielding') and on 23 March it was announced that all individuals should work from home, where possible to do so. These measures resulted in a decline in the numbers of staff available to work in the office and so Mr Losty volunteered to help, if required. On 23 March 2020, Mr McCormick asked Mr Losty to take up the role of Principal Private Secretary in the deputy First Ministers

Office, as the Ministers required officials to be physically present throughout this period. His duties involved liaising between the NICS, UKG and the deputy First Minister, ensuring accurate briefings were collated and provided to the Minister prior to meetings, contacting people and organisations on the Minister's behalf and arranging internal meetings. This work was in addition to his role as Director of the Bureau China and Director for International Relations, although work in relation to the latter role had decreased at that time.

351. Mr Losty was in regular contact with officials in the British Embassy in Beijing and throughout the period within which discussions and negotiations were underway relating to the procurement of PPE from China. The purpose of the engagement with the British embassy was initially to ask them about their plans to procure PPE and, as discussions with China progressed, to keep them informed of these and to share information. He also agreed that NI China officers would sit in with the Embassy procurement teams to share information and he also introduced the Embassy to contacts in China.

#### **TEO Response to Export Restrictions**

352. As set above, TEO had no direct role or remit in relation to the procurement and distribution of PPE. TEO also had no role in the taking of steps in response to export restrictions during the relevant period. These were matters principally addressed by DOF and DoH (together with its ALBs) and such issues would be better addressed by these Departments.
353. However, TEO was kept advised of any issues arising with PPE supplies through the regular CCG meetings, information provided via the NI Hub and during updates provided by the responsible Ministers at Executive Committee meetings. TEO disseminated any relevant information in accordance with its strategic co-ordination role. In addition, officials based in the Bureau became aware of issues with international supply of PPE as these arose during the relevant period and the fact that this had been severely impacted by the spread of the Covid-19 virus and the consequential demand for PPE as well as the procurement practices of other countries, provinces and suppliers in obtaining and distributing PPE. Mr Losty was made aware by contacts in the Embassies in China, the Chinese Consulate as well as media reports that as a result of extreme competition, some unethical procurement practices, profiteering and provision of sub-standard quality PPE, in or around late March/early April the Chinese Government implemented restrictions on the export of PPE by manufacturers and exporters in China. A 'White List'

was issued by the Chinese Government confirming those Chinese Companies permitted to export PPE goods out of China.

354. When Mr Losty started to look at the possible sourcing of PPE from China, he approached a number of contacts he had in China, in the Chinese Consulate in Belfast and the British and Irish embassies and he was aware of restrictions the Chinese government was starting to impose on the manufacture and exporting of PPE equipment. The Chinese Government's action at the time was in response to unscrupulous purchasing practices, sub-standard quality products on the market and profiteering. The export restrictions included the compilation of a list of manufacturers by the government in China, that were assessed and had experience of meeting the necessary quality standards, this was referred to as the 'White List'. The purchasing of PPE from China also required Chinese government authorisation that the procurement was for humanitarian purposes and additional checks were imposed on export documentation.
355. Through his contacts, Mr Losty received a copy of the White List of approved manufacturers. However, as he did not have connections with any of the companies, he contacted a company in Beijing he had met with on a number of occasions; China Resources. They confirmed their organisation supplied PPE but that it was another company within their corporation, China Resources Pharmaceutical, and they agreed to arrange an introduction. Mr Losty subsequently met with the Vice President of CR Pharmaceutical who agreed they could help us and asked that we send over the list of products and the quality standards required. At the same time, Mr Losty contacted the Chinese Consulate in Belfast to get their support. The consulate confirmed China Resources Pharmaceutical was approved by their government to supply and export PPE but that Mr Losty would need to send an official government communication (note verbale) to China Resources Pharmaceutical stating we were a government procuring PPE for humanitarian use and the Company would pass this on to the Chinese Ministry of Commerce to secure their agreement that the Company could supply us with PPE. This note verbale is referred to as a letter of authorisation. The Chinese Consulate also agreed to contact the government in Beijing in support of our efforts. Mr Losty also informed contacts in the British embassy and Irish Embassy in Beijing of our plans. The Vice President of CR Pharmaceutical subsequently contacted Mr Losty to confirm they could supply most of the products on the list provided by DoH and to the necessary quality standards but emphasised the need for us to provide exact details on standards required.

**TEO's role in facilitating discussions and negotiations regarding PPE Contracts  
Abroad During the Pandemic – China**

356. Following a request from the Executive, on 19 March 2020, the Civil Contingencies Group (C3) issued an email to all NI Departments and other interested parties requesting information to inform its understanding of the position regarding PPE stocks and requirements across Northern Ireland **[Exhibit KP/M5/224 - INQ000505599]**. I understand that this was due to mounting concerns around possible shortages of PPE in Northern Ireland and across the UK.
357. I have exhibited an email dated 19 March 2020 sent from Mr Harbinson (Chief of Staff of the NI Hub) to Bernie Rooney (G5 NI Hub) which details these concerns and the consequential need to identify alternative suppliers from both inside and outside Northern Ireland **[Exhibit KP/M5/225 - INQ000505600]**. As a result of these issues having been raised, Ms Rooney made contact with officials in TEO Private Office and the Head of the Northern Ireland Civil Service to ask if they had contacts in or with China that could help secure PPE supplies.
358. Mr Losty became aware of the situation regarding PPE availability when he started work in the deputy First Minister's office and knew that there had been discussions at ministerial level with the Irish government to source PPE through their supply routes. An email from Mr Losty to Ms Rooney and Sharon Smyth, DoF, dated 25 March 2020 **[Exhibit KP/M5/226 - INQ000505601]** provides an update in relation to PPE supply issues.
359. As he was due to move to the NSMC as his next posting he contacted Southern Joint Secretary of the NSMC at the NSMC, to get an update. This call was sometime around the 25/26 March 2020. Southern Joint Secretary of the NSMC said their system was also under pressure and there were concerns from officials there on whether they could assist us. As they were also sourcing PPE from China, Mr Losty confirmed with Southern Joint Secretary of the NSMC that he would contact the Economic Officer at the Irish Embassy in Beijing to get a better idea. Mr Losty arranged a zoom meeting with the Irish Ambassador, Eoin O'Leary and the Economic Officer during which they confirmed they had reached the maximum they could procure from China at that time. Mr Losty recalls something being said along the lines that *'they had called in all their favours'*. The Ambassador offered to try and help should the situation change and to advise and possibly help with transport logistics.

360. After Mr Losty met with China Resources Pharmaceutical together with officials from the Departments of Health and Finance and an agreement was reached to purchase PPE with them, he informed both the British and Irish embassies of the plans.
361. On 23 March 2020, Mr Losty contacted officials within the (then) Foreign and Commonwealth Office ('FCO') advising that Northern Ireland's supplies of PPE were 'very short' and to ask if it would be possible to order through the FCO contacts **[Exhibit KP/M5/227 - INQ000505602]**.
362. On 24 March 2020 **[Exhibit KP/M5/228 - INQ000505603]**, Mr Losty sent a further email to officials in the FCO on his understanding that the British Embassy had secured supplies of PPE equipment from China, to query whether the Devolved Administrations would be receiving an allocation of these supplies and, if not, whether contact information for the suppliers could be provided so that contact could be made with these suppliers directly. John Edwards of the FCO replied on 25 March 2020 confirming that 4 new Cabinet co-ordinating committees had been set up. It was expected that one of which, the Healthcare Ministerial Group, would be tasked with co-ordinating healthcare supplies for the health services within the Devolved Administrations. Another, the General Public Service Ministerial Group would be tasked with co-ordinating the sourcing of PPE supplies for other services (e.g. police) and that these groups should be speaking to officials in the Devolved Administrations directly.
363. On 25 March 2020 **[Exhibit KP/M5/229 - INQ000505604]**, Mr Losty forwarded the information provided by John Edwards in his email of 24 March 2020 to both Ms Rooney in the NI Hub and Ms Smyth, Department of Finance (copying in senior officials in the Department of Health). Mr Losty also confirmed that he had a list of suppliers in China recommended by contacts there, and that he would send this list to Ms Smyth to consider and could provide follow-up assistance if needed.
364. On 26 March 2020 **[Exhibit KP/M5/230 - INQ000505605]**, Mr Losty emailed Cabinet Office seeking contact details for the Health Ministerial Implementation Group and General Public Implementation Ministerial Group. He confirmed his understanding that the Embassy had procured PPE supplies from China and that the allocation of NI's share was to be determined by the Healthcare and Public Sector Ministerial groups. He asked if colleagues on those groups could let him know if decisions on the allocation had been made or when this was likely to happen or whether NI should be notifying the groups of its pressures.

365. A response from an official in the Healthcare Ministerial Implementation Group was received on the same date acknowledging that it was not 'straightforward.' The official confirmed it was a top priority for DHSC, NHS and the Government Commercial Function to identify an effective process for collating demand and supply (including offers of help) of key items (such as PPE) and procuring it for the health services and wider public sector. This process should include how prioritisation decisions are made and how the whole of the UK is taken into account (in terms of demand, supplies, and distribution) and that they were hoping to get some clarity on this 'today and tomorrow.' Mr Losty shared this information with officials in the DoH and DoF on the same date and they confirmed they would take steps to clarify the position **[Exhibit KP/M5/231 - INQ000505604]**.
366. During the course of his role at the Bureau, Mr Losty had become aware of a Company called China Resources and believed they might be able to assist with the provision of PPE from outside Northern Ireland. On or around the 1 April 2020, he made contact with China Resources and the Company confirmed that they supplied PPE, but that Mr Losty would need to speak with the more senior officials in the division looking after pharmaceutical supplies (China Resources Pharmaceuticals Group Limited). I understand that China Resources Pharmaceutical Group Limited is a Company owned by China Resources conglomerate. They agreed to make the necessary introductions to facilitate further discussions. I understand that Mr Losty also checked with the Company, the Embassy of Ireland and via the Chinese Consulate in Belfast, that China Resources Pharmaceutical Group Limited worked with companies on the Chinese Government's list of approved exporters for exporting PPE to Europe. This is referred to as the 'Whitelist' and was provided to Mr Losty by Invest NI China on 1 April 2020.
367. On 3 April 2020, NI Hub officials received an email **[Exhibit KP/M5/232 - INQ000505607]**, originating from the Department of Health and Social Care, NHS England confirming that the new PPE team that had been set up in NHS England, would lead on the procurement of PPE on behalf of all Government Departments and the Devolved Administrations to ensure coordination of demand and to avoid competition over limited supplies. This email included a request for information relating to PPE demand in Northern Ireland and it was understood that DoF would take this request forward.
368. Recognising the need for a cross-departmental collaborative approach to any procurement exercise involving China so as to bring together the necessary input and



expertise to inform each stage in the procurement process, in early April 2020, a small cross-departmental working group was established comprising Mr Losty and a junior official from TEO, Sharon Smyth (Chartered Procurement and Supply Professional, Department of Finance), a junior official from Invest NI), Sharon Gallagher (Policy Lead for supply of PPE to hospitals in Northern Ireland during the Covid-19 response, Department of Health) and Peter Wilson (Assistant Director, Procurement and Logistics Service, Business Services Organisation).

369. Mr Losty had secured an online meeting with the Vice President of China Resource Pharmaceuticals Group Ltd. The meeting was convened via video-call on 3 April 2020. During the meeting (which was also attended by Department of Finance official Sharon Smyth), Mr Losty outlined the NI PPE situation to the Vice President of CR Pharmaceutical. The Vice President of CR Pharmaceutical confirmed to Mr Losty that he was aware of the meetings he had with colleagues in China Resources and the relationships the NI Bureau had established in China and confirmed that China Resources would try to assist. Peter Wilson had prepared a list of some of the Department of Health's PPE requirements, and this was also discussed with the Vice President of CR Pharmaceutical indicating his view that China Resources Pharmaceutical Group Ltd could supply NI with PPE which would address most of these requirements. The Vice President of CR Pharmaceutical requested that a complete list be provided to include the technical specifications for the PPE and that he would confirm the position with his team. Mr Losty sent a list of contacts for the PPE products on 1 April 2020 to InvestNI **[Exhibit KP/M5/233 - INQ000505608]**. Mr Losty further sent a list of PPE items required, including specifications, and the volumes of each item to the Vice President of CR Pharmaceutical on 3 April 2020 and confirmed he would follow up with details of the specification **[Exhibit KP/M5/234 - INQ000505614]**.

370. Further to the Vice President of CR Pharmaceutical's request, Mr Losty approached the Confucius Institute at Ulster University, a Chinese international organisation promoting Chinese language and culture or assistance in translating some of the technical specifications into Chinese. I am advised that Mr Losty then wrote to Sharon Smyth, Sharon Gallagher (then Deputy Secretary Transformation, in the Department of Health) and Peter Wilson (Interim Director of Operations, Business Services Organisation and NI Healthcare SME) confirming that China Resources Pharmaceutical Group Ltd could provide most of what was required. I am also advised that Mr Losty wrote to the British Embassy in China to brief officials on NI's intention to secure PPE from China Resources directly. TEO received the translated quality specification from the Confucius Institute on

the 7 April 2020 and provided a copy of these to Sharon Smyth and Peter Wilson on 7 April 2020 **[Exhibit KP/M5/235 - INQ000000000]**.

371. On 7 April 2020, the cross-departmental team met with China Resources representatives via Zoom, and it was confirmed the Company could provide the products required. A number of other issues around contractual requirements and logistics were also confirmed. **[Exhibits KP/M5/236 - INQ000000000 and KP/M5/237 - INQ000520873]**
372. An offer had been made to officials in the ROI to ask whether they wished to be part of the NI order with China Resources. However, on 7 April 2020, the Office of Government Procurement (ROI) confirmed to officials in DoF that their requirements for the wider public sector in the ROI were now being covered by the HSE orders already secured with China.
373. On 8 April 2020, Sharon Smyth, contacted Mr Harbinson, NI Hub to seek his assistance in engaging Company F to conduct a due diligence exercise on China Resources Pharmaceutical Group Limited and to provide a report. Due diligence refers to the exercise of reasonable care in the course of business. Ms Smyth advised Mr Harbinson that a report should be prepared on the basis of the financial information available rather than contacting China Resources directly. Mr Harbinson replied confirming that he would do so **[Exhibit KP/M5/238 - IN000505630]**.
374. On 9 April 2020, Mr Losty again made contact with (the then) FCO officials to provide a further update on NI's intentions to procure PPE directly from a Chinese Company and to seek guidance on how best to engage with senior FCO officials on the issue. On 10 April, FCO officials wrote to Mr Losty confirming their agreement to this arrangement, which it was suggested would meet 70% of NI's PPE needs at that time, to offer support from one of FCO's contract leads to review the contract and to provide contact details of an official within FCO's logistics team so that they could provide support to NI by picking up the goods and 'getting it on a plane to London' as part of the FCO operation (provided that DHSC were content). The email also confirmed NI/FCO agreement that for the remaining 30% of NI's requirement this could be procured through the Embassy Procurement Team **[Exhibit KP/M5/239 - INQ000505631]**.
375. The cross-government team comprised of Sharon Smyth, Peter Wilson, Sharon Gallagher, and Mr Losty and in China, involving a junior official from TEO, NI Bureau, and a junior official from the Invest NI team in Beijing. Mr Losty took the lead on the

liaison with China as he was familiar with Chinese business and government culture, knew the company and also had a working relationship with the Embassy officials in China. Mr Losty informed the junior officials from TEO and Invest NI that he had approached China Resources Pharmaceutical and enlisted their assistance in this regard, where appropriate. From the beginning of April 2020, Mr Losty, the junior officials from TEO and Invest NI communicated regularly through the Chinese App WeChat **[Exhibit KP/M5/240 - INQ000000000]** and convened meetings through Zoom and WeChat to discuss various matters arising around the procurement of PPE from China Resources.

376. In or around this time China Resources Pharmaceuticals appointed three people to look after NI PPE requirements, including a technical specialist. Members of the team met with China Resources on a regular basis via zoom (two or three times a week) to liaise on contracts, technical requirements, and transport logistics. As part of these discussions, China Resources indicated that it would need a letter from the NI Executive confirming that the PPE would be used by it and for humanitarian purposes. The Company also asked that TEO confirm that the British Embassy was aware of the position and that a Responsible Person was nominated to sign the contract and ultimately receive the goods. The Minister for Finance was initially proposed as signatory. in the Note Verbale authorisation letter but this was subsequently changed to Minister Swann for the contractual Letter of Authorisation as the Department for Health was the 'buyer'.
377. On 10 April 2020, Mr Losty sent a submission to the First Minister and deputy First Minister to advise that **[Exhibit KP/M5/241 - INQ000520892]** negotiations with China Resources to secure additional lines of PPE equipment had reached an advanced stage and to secure their agreement to send a note verbale (a formal introductory diplomatic note to government rather than a specific individual which would then be shared with appropriate officials in the Department for Foreign Affairs in Beijing) via China Resources to government officials. The submission was agreed and the letter to China Resources was issued on 12 April 2020 **[Exhibit KP/M5/242 - INQ000251768]**.
378. China Resources confirmed that it would provide unit prices for any PPE items upon receipt of more detailed information around specifications and quantities.
379. On 11 April 2020, the First Minister issued a request to DoH and DoF for confirmation that (1) The consignment from China Resources would have no detrimental impact on the NI share of the UK wide consignment; and (2) That the contract provides reasonable

value for money. A draft response was sent to Mr Losty for approval, and he confirmed he was content that regarding (1) *The DHSC and Cabinet Office's Complex Transaction Team had been very supportive of the DoF/DoH approach to sourcing PPE directly from China. From next week the China Bureau and InvestNI staff will be working with British Embassy in Beijing. As such, the consignment negotiated for NI will have the support of the Embassy. This joint working will ensure that the underlying principle of the 4 nations approach will not be affected. If a significant consignment of PPE is received in NI this will ease any pressure on the stock secured for the wider UK consignment and regarding (2) Given the global demand for PPE and the shortages of supply for some items, it is inevitable that unit prices will be higher. However, given these conditions the price is reasonable. Appropriate checks and balances have been undertaken in this regard.* DoF responded to First Minister on this basis on 11 April 2020 **[Exhibit KP/M5/243 - INQ000505635]**.

380. On 15 April 2020, Sharon Smyth sent a letter to China Resources Pharmaceuticals **[Exhibit KP/M5/244 - INQ000505636]** thanking the Company for providing pricing information and confirming the standards and specifications of the PPE required together with the quantities sought.
381. On 16 April 2020, Mr Losty emailed Sharon Smyth, DoF sharing a Checklist of certifications for Chinese manufacturers/traders supplying medical products to the UK which had been provided to him by the British Embassy in Beijing and used by them. He confirmed that officials from the Bureau based in China were now embedded in the Embassy team which meant that they would project-manage the NI order with China Resources and the Embassy would have sight of NI's operation so that NI did not compete with the rest of the UK. He further confirmed that, following completion of the NI order, all PPE procured from China would be procured through the Embassy route and PPE would be distributed on a 4-nations basis according to needs **[Exhibit KP/M5/245 – INQ000505714]**.
382. On 10 June 2020, Ministers Swann and Murphy confirmed the first consignment of PPE had arrived in NI from China **[Exhibit KP/M5/246 - INQ000505637]**. In total just over 63m Type 11R Masks had been purchased alongside 109m gloves (54.6m pairs). The total value of the contract was just over £60m.
383. On 12 June 2020 on behalf of the Executive, Minister Murphy and Minister Swann wrote to the Vice President of CR Pharmaceutical on behalf of the Executive confirming receipt

of the first consignment of PPE from the China Resource Pharmaceuticals Commercial Group. It was noted in the letter that all the equipment received conformed to the necessary standards for use here and were used by medical staff to help patients suffering from the international Covid-19 pandemic **[Exhibit – KP/M5/195 - INQ00000000]**.

### **Price Benchmarking and Quality Assurance of PPE equipment**

384. Whilst Mr Losty took the lead in liaising with China (which included but was not limited to communicating with representatives in China Resources, facilitating the sharing of information between China Resources and officials from the other Departments/ALBs, chairing meetings and making practical arrangements), in accordance with their respective expertise and each Department's specific role and remit, Sharon Smyth, Peter Wilson, and Sharon Gallagher managed the key aspects of the procurement process, including price benchmarking, due diligence and quality assurance to inform contract negotiations.
385. Peter Wilson provided information on the necessary quality standards required for use in NI and the China Resources Technical expert would oversee this in the various factories. The technical information was supplied in English, (Mr Losty having engaged the services of the Confucius Institute at Ulster University to translate all relevant documents). This ensured that there was a clear understanding by both China Resources and each of the NI Departments involved on the technical specifications required. He also agreed to act as the NI signatory of the letters of inspection of the PPE goods on arrival in NI and processed the transportation invoices provided by China Resources.
386. The need to ensure quality assurance was also highlighted at Executive level by the then First Minister, Arlene Foster. On 16 April 2020, the First Minister issued a memo **[Exhibits KP/M5/247 - INQ000505638, KP/M5/248 - INQ000505640]** to Conor Murphy, Minister of Finance and Robin Swann, Minister of Health welcoming all efforts to secure PPE but acknowledging the need to take all steps necessary to secure PPE of the right quality that is fit for purpose, and to do so in a way that fully protects public funds, particularly in the circumstances where there was an awareness that some other countries had received goods of an inadequate quality or have had orders unfilled or cancelled. The Memo sought a Ministerial response to a number of questions around the arrangements with China Resources.

387. On 16 April 2020, a letter addressed to David Sterling and concerning 'International Procurement of Medical Supplies to support a UK Wide response to Covid-19' was received from Sir Chris Wormald, Permanent Secretary DHSC **[Exhibit KP/M5/249 - INQ000505641]**. The letter refers to a meeting of the 4 Nations which had taken place on 9 April 2020 to discuss international procurement efforts. It emphasised the need for a collaborative UK-wide approach and the steps that had been taken at that time to collate necessary information to inform this approach. It also included a request for the provision of any information relating to direct procurement of PPE which was currently being undertaken by the 4 Nations.
388. David Sterling responded by letter dated 23 April 2020 **[Exhibit KP/M5/250 - INQ000505642]**, acknowledging the constructive and collaborative approach which had already taken place, and which was underway. He also confirmed that arrangements were underway to secure PPE for Northern Ireland through a direct contract with a Company in China with the contract due to be signed within 'the next few days'. The letter also confirmed that future international orders would be on the basis of the 4 Nations procurement activity.
389. Proposed contractual documentation was provided by China Resources to Mr Losty for consideration on 23 April 2020 **[Exhibit KP/M5/251 - INQ000505716]**. Mr Losty sent this to Sharon Smyth, Sharon Gallagher, and Peter Wilson on the same date, these included a 'Co-Operation Agreement' together with an Annex prepared by China Resources to address Northern Ireland's requirements; a Sales and Purchase Agreement, an Epidemic prevention disclaimer, and a Delivery Note.
390. Sharon Smyth, DoF led on due diligence, pricing and other contractual provisions where they fell within the remit of DOF **[Exhibit KP/M5/238 - INQ000505630]**. TEO officials also liaised with and sought guidance from FCO officials, as appropriate, for example, on 22 April 2020, Mr Losty enlisted the assistance of a junior official from Invest NI, who liaised with the FCO to seek guidance and assistance on the suitability of the proposed contractual terms **[Exhibit KP/M5/252 - INQ000520877]**. Whilst some general commentary was provided by FCO officials, they also indicated that specific advice should be sought from the legal team within the NI Bureau. I am advised that Mr Losty shared this information with Sharon Smyth, Sharon Gallagher, and Peter Wilson on 23 April 2020.
391. On 29 April 2020, the team held a Zoom meeting with China Resources to discuss any

final clarifications needed on the specifications for the PPE goods required.

392. Following conclusion of contractual negotiations, on 30 April 2020, a letter was issued by Minister Swann, Department of Health to Minister Murphy, Department of Finance **[Exhibit KP/M5/253 - INQ000520879]** confirming (inter alia) that Minister Swann was satisfied that there was sufficient assurance to allow a move to contract agreement (with China Resources), seeking financial approval to proceed, and confirmation of the amount required from the total funds which were centrally held. This correspondence also highlighted the cross-departmental collaboration in securing this contract and the roles of the various Departments/ALBs and summarised the various steps taken up to that point in time as follows: -

- The NI Bureau and Invest NI in China identified this Company from the list of companies approved by the Chinese Government to export PPE and is known to them;
- A positive draft due diligence report was received from Company F and accepted as final by officials in the Construction and Procurement Delivery Team in DOF;
- The products to be purchased had been validated for HSC use by experts in Infection and Prevention Control from the Medicines Optimisation and Innovation Centre;
- The value for money aspect of the agreement had been considered by the Procurement and Logistics Service (PaLS). Whilst comparison would usually be carried out against contract prices, this was not realistic in the current market circumstances as contractors were unable to supply products. Therefore, costs had been considered against other offers being received from other suppliers and PaLS had assessed the costs to be reasonable value for money when compared with then market highs.

393. Minister Murphy replied by way of letter dated 30 April 2020 confirming his agreement to the release of the available funds to the Department of Health **[Exhibit KP/M5/254 - INQ000505644]**.

394. Signed contractual documentation was exchanged between the parties on 1 May 2020 with payment successfully processed on the same date **[Exhibit KP/M5/255 - INQ000520880]**.

395. A letter of authorisation was subsequently signed on 6 May 2020 by the First Minister

and deputy First Minister permitting Robin Swann, Minister of Health to act as signatory of the contractual documents **[Exhibit KP/M5/256 - INQ000520883]**.

### **Mitigation of Potential Risks**

396. To mitigate against the potential risks posed by an upfront payment, I understand that the PPE goods procured from China Resources were provided in two separate orders/batches. DoH and/or DoF will be in a better position to advise on the specifics of this. I am not aware of the exact figures for the total volume of PPE secured. However, I understand that the total budget was approximately £160 million. All PPE procured by NI was distributed via the Department of Health.
397. A letter from Minister Swann and Minister Murphy on 12 June 2020 to the Vice President of CR Pharmaceutical, China Resources on behalf of the Executive **[Exhibit KP/M5/195 - INQ000000000]** confirmed receipt of the first consignment of PPE from the China Resource Pharmaceuticals Commercial Group and noted that all the equipment received conformed to the necessary standards for use here and were now being used by medical staff to help patients suffering from the international Covid-19 pandemic. However, beyond the content of this letter, DoH and/or DoF would be in a better position to address any specific questions in this regard.

### **Leaking of Documents**

398. Following Mr Losty's initial meeting with China Resources Pharmaceutical Company, he sent a note out to senior officials in the departments of Finance and Health on the 3 April 2020 confirming China Resources could meet our PPE needs. This note was included in a document leaked to the media on the 10 April 2020 **[Exhibits KP/M5/257 - INQ000505645, KP/M5/258 - INQ000505646, KP/M5/259 - INQ000317400]**. As previous stories had appeared in the media suggesting that some PPE bought by other countries was not fit for purpose, a major theme in this story was that Northern Ireland was likely to experience the same.
399. The leaking of this document was problematic in that it was leaked at a time when sensitive negotiations were underway with China Resources creating a risk of damaging relationships and placing the potential procurement of essential PPE equipment in jeopardy. Following transmission of the broadcast (which included a discussion about the leaked document) a representative of China Resources contacted Mr Losty to ask if there were concerns about their products. He provided assurances to them that this was



not the case as all parties were each working to the agreed quality standards and specifications. A letter was subsequently issued to the BBC highlighting the concerns of the NI Executive.

### **Potential Fraud Incidents**

400. There were two incidents of attempted fraud. Both were prevented. The first in April, involved a communication from a person in China purporting to represent the China Resources Pharmaceutical Company and requesting the money be sent to a different banking account. This issue was immediately flagged with China Resources. The appropriate procedure for payments was to agree the banking details with the principles and the legal office of China Resources Pharmaceutical and to verify accounts through the NICS banking procedures. There would not be any change in banking instructions without direct contact and agreement between with the negotiation teams, the legal teams and the finance teams [Exhibit KP/M5/260 - INQ000505650].
401. The second attempt in August 2020 was when TEO were made aware of a potential incident of fraudulent activity during the procurement process with China Resources. Specifically, it appeared that a shell corporation approached one of the China Resources Pharmaceutical manufacturing suppliers with details of the quantities of the second-batch order (for gloves) and purporting to be confirming the order on behalf of the NI Government. China Resources Pharmaceutical were alerted to the attempt by their supplier manufacturer and contacted Mr Losty to report the matter. The shell company would have to have been able to go through the Chinese government PPE export restrictions and also be in receipt of a Letter of Authorisation from the NI Executive. The NI Executive had signed an exclusivity agreement with China Resources Pharmaceuticals for the specific products therefore this attempt was stopped by Chinese government and business policies.
402. The timely identification of both attempts and the policies and procedures in operation by the Departments involved together with China Resources Pharmaceutical policies and the Chinese governments restriction mitigated the risk.

### **TEO's role in facilitating the import and onwards distribution of PPE from abroad- NI/ROI joint procurement exercise**

403. In early April 2020, Tim Losty was approached by DOF officials in connection with a planned collaboration between Northern Ireland (specifically by DOF) and ROI to secure

PPE from China on a joint basis. Mr Losty was asked whether, given his contacts in China, he would be in a position to identify additional resource in China to help the IDA Ireland staff who were sourcing and securing orders for the products. **[Exhibit KP/M5/261 - INQ000505652, Exhibit KP/M5/262 - INQ000505657]**. Whilst Mr Losty agreed to provide assistance, ultimately, the planned collaboration did not proceed. DOF would be in a better position to provide any additional information relating to this.

#### **Donations of PPE**

404. Through our international connections throughout the relevant period, TEO also received donations of masks and PPE equipment from partner organisations and provinces in China, from the Chinese Consulate, the Confucius Institute, Friends of Ireland in China and also the Vietnamese government **[Exhibits KP/M5/263 - INQ000505658, KP/M5/264 - INQ000505659, KP/M5/265 - INQ000520885, KP/M5/266 - INQ000505734, KP/M5/267 - INQ000520887, KP/M5/268 - INQ00287588]**.
405. The donated PPE mainly consisted of face masks that would be commonly worn in China in response to when there were higher levels of pollution, or someone was experiencing a cold. The donations came from some of our partner regions and cities as well as expat organisations, and the Vietnamese government. The manufacture of PPE had been increased in China and Vietnam and the donations were the result of the friendly relations we had with those organisations.
406. Donated PPE did not include documentation confirming manufacturing quality standards that would enable them to be used in front line settings. These products, e.g., masks were more suitable for use by the general public and the recommendation was that they be sent to organisations such as sports clubs, community organisations and others who were supporting the Covid response efforts. Some of this PPE was distributed by TEO officials to their community contacts and some was sent to community/sports organisations **[Exhibits KP/M5/269 - INQ000520888 and KP/M5/270 - INQ000505662]**. TEO officials also passed donations to DoH to distribute through their networks.
407. The First Minister and deputy first Minister wrote to Madame Zhang on 15 December 2020 **[Exhibits KP/M5/271 - INQ000279504 and KP/M5/272 - INQ000279505]** to express thanks for the continued support and the additional supplies offered which included testing kits and face coverings, whilst also confirming that relevant organisations here have been asked to consider the potential usage in association with the UK government guidelines.

## Engagement with British Embassy and FCO – NI China Contract

408. On the 23 March 2020 **[Exhibit KP/M5/228 - INQ000505603]** Mr Losty contacted the British Embassy in Beijing inquiring about their role in PPE procurement and had various email exchanges with John Edwards, the Deputy Trade Commissioner thereafter who confirmed they had been asked to procure urgent PPE and his understanding that Ministerial Information Groups in the UK would be managing distribution **[Exhibits KP/M5/227 - INQ000505602, KP/M5/229 - INQ000505604, KP/M5/230 - INQ000505605, KP/M5/231 - INQ000505604, KP/M5/232 - INQ000505607]**. Mr Losty passed this information on to the NI Hub.
409. On the 7 April 2020, Mr Losty made the British embassy aware via WeChat, emails and through Bureau officials of the NI Executive's plans and ongoing processes to procure PPE directly. Throughout negotiations with China Resources, Mr Losty kept the British Embassy informed and had regular contact with a junior official from FCO to exchange information **[Exhibits KP/M5/273 - INQ000505667, KP/M5/274 - INQ000505631]**. It was also agreed that our NI China officers should work alongside the embassy procurement teams. Officers at the British Embassy at that time were being asked to secure PPE orders directly from various manufacturers and this was a role many of them were not used to.
410. The proposed NI approach was to engage China Resources Pharmaceutical Group Ltd to secure supplies and ensure quality standards. Bureau Officials shared information on contacts with the Embassy, but Northern Ireland's contracts and Letters of Authorisation **[Exhibits KP/M5/275 - INQ000520889, KP/M5/276 - INQ000505670, KP/M5/277 - INQ000505674, KP/M5/278 - INQ000520893, KP/M5/279 - INQ000520894]** were different from those provided to the Embassy. Mr Losty also introduced senior Embassy officers to contacts in China Resources Pharmaceutical.
411. From the 7 April 2020, Mr Losty maintained contact with a colleague at the British Embassy from the Scottish Government and exchanged information on procurement and logistics. Mr Losty also attended a Zoom call with Minister Conor Murphy and the Welsh government and briefed them on our PPE operations.
412. On 9 April Mr Losty again made contact with FCO officials to provide a further update on NI's intentions to procure PPE directly from a Chinese Company and to seek guidance on how best to engage with senior FCO officials on the issue of embedding the NI teams in the centralised PPE procurement team within UKG to consolidate efforts.

## **Transport Logistics - NI China Contract**

413. Procurement of PPE also involved transportation logistics, and the embassy and UK Government agreed to include PPE destined for Northern Ireland to be transported via On Time Express (OTE) and British Airways to London for the early batches of PPE **[Exhibit KP/M5/280 - INQ000520895]**. OTE worked closely with Mr Losty and China Resources to ensure all export documentation and product delivery to the depot in Beijing was in order. After the initial delivery of PPE, transportation routes changed as products were prioritised and space at the depot became limited. Mr Losty worked with the Embassy, UK Government officials and Unicom Freight handlers on the alternative sea and rail freight options. During initial discussions on logistics, it was agreed all NI PPE would go via air however, as the UK Government started to produce priority lists of products for early delivery, we were informed NI PPE might have to go by rail. This would have involved sending our PPE by road and rail via the city of Chengdu and the delivery time here would have an impact on some quality standards due to time in transit as well as increase in costs and changes required to export documentation. Mr Losty spoke to a FCO junior official at the Embassy and Peter Wilson, and also with Nick Parkes at DHSC regarding the needed to prioritise some of the NI PPE for early delivery by air and this was agreed **[Exhibits KP/M5/274 - INQ000505667, and KP/M5/281 - INQ000505675]**.

## **Lessons Learned**

414. The statement produced by TEO for Module 1 and Module 2C **[Exhibit KP/M5/282 – INQ000187620 and KP/M5/283 – INQ000438174]** addresses lessons learned in relation to preparedness for civil contingency events. There continues to be considerable work to transform the civil contingencies arrangements in NI resulting in the new framework document, a new NI civil contingencies risk register and a learning and development strategy.
415. The Framework was approved by CCG (NI) and so has secured the confidence of and is invested in by the 9 NI Civil Service Government Departments, Emergency Responders (Police, Fire, Ambulance and Coastguard), Local Government and the Northern Ireland Office. It remains a live document that has been tried and tested in recent emergencies and for which further updates are in development. All of this work has applied the lessons identified and learned, and means that Northern Ireland's civil contingencies planning operates in a very different environment through the Executive to local government and

ultimately, the communities themselves.

416. A Civil Contingencies Risk Register has been developed for NI and was approved by CCG at its meeting in June 2022 [Exhibit KP/M5/284 - INQ000279651]. This is not a public facing document, but separate work is underway at this time to produce public facing material to assist individuals and communities to prepare and respond to crises.

#### **Mr Losty's Email Accounts and attempts to recover associated Information**

417. Mr Losty took up the role of Director of NI Bureau in China in September 2014. His role was to establish the Bureau. It was understood by Mr Losty that there was no access to the NICS internal network whilst working in China. At that time, NICS had no previous experience of operating an office or facilitating access to the NICS system from China.
418. Within TEO, each international travel and posting request for hardware and connectivity is reviewed on an individual basis for consideration by the Departmental ITSO (IT Security Officer). In respect of each request, risks are assessed, and the appropriate IT measures are put in place at departmental level. At times this requires IT devices such as mobile phones to be provided for travel, although the devices are not connected to any IT Assist NICS network/domain and were for standalone use only, to avoid the system being compromised. The devices provided by IT Assist that Mr Losty required for use in China were passed onto to him by a TEO official. Mr Losty understands this was following discussions between that official and officials from IT Assist.
419. To provide background context, 'IT Assist' is responsible for Infrastructure Operations, Core Application Operations, Client Operations, and Service Planning and Innovation for NICS Departments, who opt to avail themselves of these services. IT Assist is a shared service across the NICS provided by the Department of Finance and is part of Enterprise Shared Services (ESS), which is a Directorate within the Department of Finance. ESS brings together responsibility for Information Technology (IT), Digital Shared Services, Finance Shared Services, the Network & Information Systems Competent Authority and Regulator for NI and the Integr8 Programme. The primary function of ESS is to deliver efficient and effective, customer-focused, shared services primarily to the Northern Ireland Civil Service (NICS).
420. The table below provides details of the IT equipment that was used by Mr Losty during his time in post both in Belfast and China.

#### Table One: Detail of Mr Losty's IT Equipment

Equipment	Operational From	Location device used	Current Status and location of device
NICS Laptop**	1 September 2014 – 30 August 2020	China (and Belfast when temporarily evacuated)	Laptop remains in NIB China
NICS issued Apple iPad	1 September 2014 – current	China	NIB China. This device was rarely used after 2016 and not used for the PPE project.
NICS issued iPhone	1 September 2014 – April/May 2019	China	Destroyed in China as expected to finish posting.
Redmi personal phone	April 2019 – April 2020	China/ Belfast	Broken in April 2020 whilst in Belfast. Remains in Belfast
NICS replacement phone**	March/April 2020 – August 2020	Phone was used in Belfast after Redmi phone broke and was used when Mr Losty returned to China	Destroyed – China when finished posting
NICS phone	September 2020 – May 2022	Used in Belfast when in new post.	Returned to NICS when retiring.

**\*\* Primary equipment and email account used in PPE negotiations.**

421. Mr Losty was originally placed in the post of Director of the NI Bureau for a period of six months. This was extended to a year, then two years, then four years, and then six years. It had been intended that a successor would replace him around July 2019. In anticipation of leaving China, Mr Losty gave up the lease on his apartment, sent the majority of his

belongings home and destroyed the NICS-issued iPhone [Exhibit KP/M5/285 – INQ000516706].

422. However, there was a problem with the process of finding a successor in 2019 and Mr Losty was, therefore, asked to continue as NI Bureau Director in China until a successor was appointed. Due to this unforeseen extension, Mr Losty used his personal Redmi phone until the phone was broken by accident in or around April 2020 at which point he was then supplied with a further NICS device. [Exhibit KP/M5/285 – INQ000520896].

423. When Mr Losty temporarily returned to NI in February 2020, following the outbreak of Covid in China he brought the NICS issued laptop with him. Mr Losty has advised that, on his return to Belfast in February 2020, he primarily used the Bureau account for communications in relation to the attempts to procure PPE in China, because this email address was familiar to his contacts in China. In June 2020, Mr Losty returned to China with the NICS laptop to set up the office for his successor before he moved back to Belfast permanently. The NICS laptop remains in China.

#### **Email Accounts Used by Mr Losty**

424. During his time in office within the department, Mr Losty had access to several email accounts. The table below provides an overview of these email accounts.

Table Two: Email accounts Mr Losty had access to

Email account	Operational from	Location	Current Status
<a href="mailto:Tim.losty@executiveoffice-ni.gov.uk">Tim.losty@executiveoffice-ni.gov.uk</a>	Up to May/June 2022	Belfast	Closed June 2022 by NICS
nibchina@nics.gov.uk **	01 September 2014 - April 2023	China – (Belfast from April 2020 – June 2020)	Closed April 2023 by NICS
PSministers@executiveoffice-ni.gov.uk	Present	Generic email	On-going

<a href="mailto:Tim.losty@fco.gov.uk">Tim.losty@fco.gov.uk</a>	November 2014 – August 2020	British Embassy Beijing	Closed September 2020
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**\*\* Primary equipment and email account used in PPE negotiations.**

#### *NI Bureau Email Account*

425. As Mr Losty did not have access to his NICS account whilst working in China he asked IT Assist to set up an email account that he could use to allow him to communicate with NI officials. In response, IT Assist team set up a 'SquirrelMail' account (NIBchina@nics.gov.uk - the 'NI Bureau account') for Mr Losty. 'SquirrelMail' is a free, open-source web-based interface that allows users to access their email accounts via a web browser, eliminating the need for email client software.
426. The NI Bureau account was solely for Mr Losty's use and was used by him from September 2014. It was his understanding that the NI Bureau account was accessible only by him. He was also supplied with a laptop and a mobile phone by NICS and advised by IT assist that this equipment should not be used on the NICS system after he finished his posting in China. However, in February 2020 due to the uncertainty of the Covid situation Mr Losty, returned to NI with the NICS equipment, apart from the NICS issued phone, to enable him to continue his work as Director of the NI Bureau. It was however, not connected to NICS system.
427. The NI Bureau email account was his main method of communicating on matters relevant to the scope of Module 5.
428. In March 2020, Mr Losty volunteered to help on a temporary basis as Principal Private Secretary to the deputy First Minister, in addition to maintaining his roles of Director of the Bureau in China and Director of International Relations. In the role of Principal Private Secretary to the deputy First Minister he used his TEO account for day-to-day communication with officials within NICS. It was uncertain how long he would be required in this temporary role and when he might return to China.
429. Throughout the period of his posting in China, Mr Losty was unsure of the position regarding the transfer of documents from the NI Bureau account, which was a standalone account, onto the NICS platform due to IT security requirements. Emails were, therefore, retained on the NI Bureau email account.



430. As mentioned above, the NI Bureau account was not connected to the NICS system but was standalone. To save emails from this email account onto the NICS system, Mr Losty would have been required to email them first to his TEO account so that they could be saved by him or another trusted nominee onto Content Manager. When Mr Losty temporarily returned to Northern Ireland in February 2020, he kept the NICS Laptop he used in China to continue to access the NI Bureau account. Mr Losty has confirmed it was not connected to the NICS system. The reason the emails from the NI Bureau account were not saved elsewhere until May 2022 was because Mr Losty remained concerned about the potential IT security issues and therefore did not save them to the NICS system at that time. In addition, Mr Losty has advised that it was his understanding that the 90-day retention policy (see paras. 29-30 of this statement) in respect of emails did not apply to the NI Bureau account because he was able to access emails that were more than 90 days old. He was, therefore, content that the emails were retained in that account, which was in line with the directions issued by HOCS to not to delete anything relevant that may be potentially relevant to the Inquiry. The first such direction was issued in June 2021 **[Exhibit KP/M5/286 - INQ000520897 and Exhibit KP/M5/287- INQ000516708]**, which Mr Losty was aware of. Mr Losty did not at any stage request that the account be closed. He, therefore, understood the emails on that account were retained.
431. In response to a request from the TEO Covid team for all material potentially relevant to the Inquiry following the establishment of Inquiry May 2022, Mr Losty forwarded a number of documents and emails relevant to his role in facilitating the procurement of PPE to the TEO Covid Inquiry Team in May 2022. To facilitate this, Mr Losty sent emails from the NI Bureau account to his Executive Office account and forwarded them to the TEO Covid Inquiry team. In selecting the appropriate documents to send, Mr Losty focused on identifying those which were directly linked to his role in facilitating the contractual negotiations. His cover email also confirmed that further documentation was maintained in DoF and BSO/DoH **[Exhibit KP/M5/288 – INQ000520899 and Exhibit KP/M5/289 – INQ000520900]**, which Mr Losty understood related to the detail of the contracts and details on product requirements.
432. Mr Losty understood that since the NI Bureau account had been created at his request for his use outside the NICS mainstream system, that he would continue to have access to it until he confirmed it was no longer required and that after his retirement, he would be able to access the information from it, if necessary. Mr Losty continued to have access to the NI Bureau account for a year after he retired.

433. On 11 June 2024, Mr Losty advised TEO that he could no longer access the NI Bureau account and therefore the information contained within it. On that day, TEO Covid Inquiry Team initially contacted a TEO IT colleague about this issue and then undertook a number of steps to determine what had happened.
- a. 17 June 2024 - TEO Covid Inquiry Team emailed a TEO IT colleague asking if Mr Losty's email account could be restored **[Exhibit KP/M5/290 – INQ000520901]**.
  - b. 20 June 2024 - the Covid Inquiry Team was advised that this would not be possible because the email accounts no longer existed, and backups did not go any further back than six months **[Exhibit KP/M5/290 – INQ000520901]**.
  - c. 2 July 2024 – email from the Covid Inquiry Team to TEO IT colleagues requesting further information regarding the status of the NI Bureau email account specifically **[Exhibit KP/M5/290 – INQ000520901]**.
  - d. 3 July 2024 - email from the Covid Inquiry Team to TEO IT colleagues asking for consideration of this issue to be prioritised **[Exhibit KP/M5/290 – INQ000520901 and Exhibit KP/M5/291 - INQ000520902]**.
  - e. 3 July 2024 - the issue of the closure of Mr Losty's email accounts of potential relevance to the Inquiry being deleted was discussed at the HOCS Reference Group meeting. HOCS formally commissioned TEO and DoF to undertake an urgent review of the potential loss of emails. It was agreed that TEO would update HOCS on Monday 8 July 2024. It was also agreed that if the issue had not been resolved the Inquiry would be notified of the situation and that steps would be taken to retrieve information, if possible **[Exhibit KP/M5/292 – INQ000520903]**.
  - f. 5 July 2024 - email from Helen Toner, DoF, provided information regarding the position of the NI Bureau email account, confirming that Mr Losty's NI Bureau account was decommissioned in April 2023 and that system backups were not taken, and it was, therefore, not possible to recover any information. She states:

*“the NI Bureau email account **NIBCHINA@NICS.GOV.UK**, which was separate from the Foreign Office email accounts that would have been set up within the Embassy, was a standalone account accessed only by Tim Losty. It was hosted on a separate system away from the core services provided by IT Assist on NIGOV. This was to ensure there was complete separation for systems*

*accessed in China and no possibility of compromise" [Exhibit KP/M5/293 – INQ000520904].*

- g. 9 July 2024 - Jane Holmes, TEO, emailed colleagues in the Department of Finance (DoF) posing a number of questions in relation to the email accounts. DoF replied that day advising that due to leave commitments, a substantive response could not be provided until they returned from leave [Exhibit KP/M5/293 – INQ000520904].
- h. 25 July 2024 - DoF replied and advised the following:

*"The NIB account was established to assist communication between the office and colleagues back in NI. The NIB account was on a separate system which was hosted by IT Assist (ITA) in an isolated area for security purposes to ensure it could be closed or destroyed swiftly, if required, should there be a breach in the system. In September 2022, a service request was received by ITA from NIB seeking a new NIGOV email in order to transfer information to the NICS system.*

*No further communication was received from TEO and in April 2023, in light of the system not being used and having received no instruction to maintain, IT Assist decommission the NI Bureau account. It was noted that this was longer than the usual 90 day rule on NICS mailboxes and therefore there was no data to restore."*  
[Exhibit KP/M5/293 – INQ000520904].

However, as noted at para. 13 of this statement, it is TEO's understanding that the 90-day retention rule was not applied to the NIBureau email account.

*Foreign and Commonwealth Office Email Account Used by Mr Losty*

- 434. As noted above, Mr Losty had a Foreign and Commonwealth Office email account that he only used whilst in China and could only access in the British Embassy there. He had no control over the retention and/or disposal of the FCO account because it belongs to FCO. The FCO email account was only available to Mr Losty when he was physically located in the British Embassy in Beijing and therefore was not used by him when he was in Belfast facilitating the procurement of PPE. Mr Losty advised that this email address was not generally used by him for the reasons set out above.
- 435. Mr Losty advised he had access to the FCO account until 31 August 2020 when he finished his post in the NIBureau in China. TEO does not know if and when this account was closed.

### **Action Taken to Retrieve Material Relevant to the TEO Module 5 Statement**

436. Mr Losty was able to facilitate the procurement of PPE because of the contacts and relationships that he had established whilst working in China since 2014. In practice, the negotiations that took place to secure PPE from China were between DoH in relation to the quality of the items required and DoF regarding the procurement process. Mr Losty was copied into such correspondence for information and to help him facilitate the negotiations.
437. DoF confirmed on 5 July 2024 that the Bureau email account had been closed. The Module 5 Inquiry Legal Team was advised of the potential loss of data on 10 July 2024 **[Exhibit KP/M5/294 – INQ000520905]**. TEO confirmed that action would be taken to secure emails from other sources.
438. On 30 July 2024, TEO contacted DoF colleagues and asked if they would carry out a search for emails regarding the procurement of PPE from China that involved Mr Losty and Sharon Smyth **[Exhibit KP/M5/295– INQ000520906]**. DoF subsequently advised that they held 230 emails of potential relevance to Mr Losty's involvement to PPE procurement. DoF provided a schedule of potentially relevant documents and read only access to those documents to TEO. TEO reviewed the documents and, with the assistance of Mr Losty, identified a possible 10 documents which were additional to those held by TEO and were of relevance to the information provided by Mr Losty. The remainder of the documents were either already in the possession of TEO or not considered relevant to this statement. The 10 relevant documents are now exhibited as evidence where indicated within this statement. DoF provided TEO with access to these 10 documents to facilitate this.

### **Use of Informal Communications During the PPE Procurement Exercise**

439. Mr Losty and colleagues in China used WeChat for informal communications during the PPE procurement exercise. WeChat is a Chinese instant messaging, social media and mobile payment app which can be downloaded in China allowing users to access services similar to those available via WhatsApp, including text messaging and videoconferencing. WhatsApp is not available in China.
440. As noted, Mr Losty had an NICS phone for use in China. The phone was disposed of in China prior to his then intended return to NI in or around July 2019. Prior to the disposal of his NICS phone, Mr Losty has advised that he purchased an Android phone in China

and downloaded and registered WeChat to this phone. As noted within Table 1, Mr Losty was provided with a NICS iPhone in or around April 2020 and onto which he reconnected with WeChat again. He has confirmed that messages held on his android phone did not transfer to his NICS iPhone. The WeChat messages and activity that is not available, cover the period from around April 2019 to early April 2020 when Mr Losty used the Android phone, which was damaged in a fall. Mr Losty believes the WeChat messages for this period may not have transferred over to the iPhone system as WeChat was registered on a different operating system and the WeChat messages during the period this phone was used could not be backed up. Mr Losty took 122 screenshots of the relevant informal WeChat communications from April 2020 and emailed them to TEO to aid with preparation of this statement. Examples of these are available at **Exhibits KP/M5/240 - INQ000000000, KP/M5/296 - INQ000520907, KP/M5/297 - INQ000520908 and KP/M5/298 - INQ000520909**. The remainder has been listed as general disclosure. The Android phone, purchased by Mr Losty, has been retained by him.

#### **NICS Information Management Policies**

441. All officials are responsible for ensuring they manage information in accordance with NICS Information Management policies as outlined in the Informal Communications statement provided by Jayne Brady, HOCS to the Inquiry on 23 February 2024 [**Exhibit KP/M5/299 – INQ000516720**].

#### **NICS Records Management Policy**

442. HP Records Manager software is an electronic document and records management system (EDRMS) that simplifies the capture, lifetime management, security and access to all NICS business information. This is referred to as 'Content Manager' (CM). It enables the NICS to more easily comply with our enterprise governance and regulatory compliance obligations, provides authoritative records of our business activities and transparent policy-based lifetime management of all our information, regardless of system or source. HP Records Manager is the NICS's chosen EDRMS application. The application allows users to access their filing structure (File Plan) and is similar to using My Computer or Windows Explorer to access and open documents.
443. The use of CM as the EDRMS has been codified in a number of policies, the most relevant being the NICS Records Management Policy V2.0 [**Exhibit KP/M5/300 - INQ000409746**] (covering the period November 2020 to November 2023). This is a NICS strategic policy and applies to the management of all documents and records, in all formats or media,

created or received by NICS Departments in the conduct of their business activities. It also applies to all staff, contractors, consultants and third parties who may be given access to NICS documents and records and information processing facilities.

444. The policy states that

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

445. Within this policy, CM is the mandated corporate repository for the majority of information created and received by each NICS department in the course of their duties. The NICS single dataset database contains nearly 90 million records held and is increasing at a rate of approximately 1 million records per month.

446. The NICS operates a 90-day retention period in respect of e-mail accounts. The purpose of this retention period is to aid compliance with NICS policies and with our legal obligations, by requiring staff to save relevant business information into CM and putting the onus on all staff to use CM as the official repository. Guidance on the 90-day rule is provided at **[Exhibit KP/M5/301 - INQ000516722]**. The NI Bureau email account was not subject to this requirement as the account falls outside the NICS network.

447. The rule was implemented because Outlook is an email and calendar management tool and not a records management system. Since the introduction of CM as the official document and records management system for the NICS, any email that needs to be kept longer than 3 months should be transferred to CM. Three months has been deemed a suitable period to determine whether the information contained in an email is required for business purposes. If the information is required, then the email should be transferred to CM. If not, it can be deleted manually or deleted under the 3-month rule. This has been agreed by the Records and Information Managers Group, i.e., all Departmental Information Managers.

448. In terms of ability to retrieve emails after 90 days, IT Assist has advised that departments are required to have robust retention schedules in place to reduce the risk that information becomes irrelevant, excessive, inaccurate or out of date. This is essential if departments are to meet their legislative responsibilities under General Data Protection Regulation

(GDPR) and Data Protection Act (DPA) 2018. To ensure the mail system server is protected against any immediate loss or availability, it is backed up by IT Assist daily for the purpose of recovery of the mail system. Mail system backups are not retained for the purpose of archiving data, but as contingency for the mail servers. IT Assist considers three months retention of the mail system backup as sufficient to satisfy this requirement. The mail system backup is not a structured and accessible archive system for the retrieval of emails deleted from staff mailboxes, either manually by staff or as part of the 3-month rule. There is no facility to carry out an email document restore. Staff must therefore effectively manage their mailbox, accordingly, ensuring emails required to be retained are saved into CM at the earliest point to avoid auto-deletion. A mail account restore must only be carried out in line with any disaster recovery process or if a user's mailbox is corrupted and not for any other purpose.

### **Programme of Work in Relation to NICS Information Management**

449. DOF is leading a project to review all Information Management policies, guidance and processes. The NICS Non-Corporate Communication Channel (NCCC) policy has been reviewed and new guidance is expected to be published.

### **Statement of Truth**

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

**Signed:**

**Personal Data**

**Dated:** 12 February 2025

## Glossary of Terms

Term	Definition
AGS	An Garda Síochána
ALB	Arm's Length Body
B/GFA	The Belfast/Good Friday Agreement
BAME	Black and Minority Ethnic
BIC	British-Irish Council
BSO PaLS	Business Services Organisation Procurement and Logistics Service
C3	Command, Control and Coordination Arrangements
CCD	Civil contingencies division
CCG (NI)	Civil Contingencies Group (Northern Ireland)
CCPB	The Civil contingencies policy branch
CDL	The Chancellor of the Duchy of Lancaster
CDWG	Cross Departmental Working Group
CM	Content Manager
CMO	Chief Medical Officer
CO	Cabinet Office of the UK Government
COBR	Cabinet Office Briefing Rooms
CoPE	Centres of Procurement Expertise
CPD	Construction & Procurement Delivery
CSA	Chief Scientific Adviser
CTA	Common Travel Area
D20 Hub	Covid-19 response arrangements established by the Cabinet Office
DA(s)	Devolved Administration(s) of Northern Ireland, Scotland, and Wales
DAERA	Department of Agriculture, Environment and Rural Affairs
DfC	Departmental for Communities
DfI	Department for Infrastructure
DfE	Department for Economy
DHSC	Department of Health and Social Care
DoH	Department of Health
DoF	Department of Finance



<b>Term</b>	<b>Definition</b>
DoJ	Department of Justice
DOCs	Departmental Operations Centres
DUP	Democratic Unionist Party
DPA	Data Protection Act 2018
ECCMC	Executive Covid Crisis Management Committee
ECMO	Extra corporeal membrane oxygenation
ECT	Executive Covid Taskforce
EDRMS	Electronic document and records management system
EIS	Executive Information Services
ESS	Enterprise Shared Services
EQIA	Equality Impact Assessment
EU	European Union
FTE	Full time equivalent
FCO	Foreign and Commonwealth Office
FTPT	First past the post
GB	Great Britain
GDPR	General Data Protection Regulation
Genesis	Genesis Agency
HCID	High Consequence Infectious Disease
HOCS	Head of the Civil Service of Northern Ireland
HSC	Health and Social Care
IDA Ireland	Industrial Development Authority Ireland
IML	Indigenous , Minority and Lesser-Used Languages
JESIP	Joint emergency services interoperability principles
JCVI	Joint Committee on Vaccination and Immunisation
JRLO	Joint Regional Liaison Officer
LGD	Lead Government Department
LFT	Lateral Flow Test
LO	Liaison Officer
MACA	Military Aid to the Civil Authorities
MHRA	Medicines and Healthcare products Regulatory Agency

<b>Term</b>	<b>Definition</b>
MIGs	Ministerial Implementation Groups
MLAs	Members of the Legislative Assembly
MOU	Memorandum of Understanding
MP	Member of Parliament
MPNNI	Managing Public Money Northern Ireland
NCCC	The NICS Non-Corporate Communication Channel
NDPB	Non-Departmental Public Body
NEMs	Non-Executive Board Members
NI	Northern Ireland
NIAO	The Northern Ireland Audit Office
NIA 1998	Northern Ireland Act 1998
NICCMA	The Northern Ireland Central Crisis Management Arrangements
NICS	Northern Ireland Civil Service
NIEPG	Northern Ireland Emergency Preparedness Group
NIO	Northern Ireland Office
NIPPP	Northern Ireland Public Procurement Policy
NISRA	Northern Ireland Statistics and Research Agency
NPI	Non-Pharmaceutical Intervention
NSMC	North-South Ministerial Council
OFMdfM	Office of the First Minister and deputy First Minister
ONIEB	Office of the Northern Ireland Executive in Brussels
PCR	Polymerase Chain Reaction
PfG	Programme for Government
PHA	Public Health Agency
PPE	Personal Protection Equipment
PSNI	Police Service of Northern Ireland
ROI	Republic of Ireland
RWCS	Reasonable Worst-Case Scenario
SCG	Strategic Co-ordination Group
SCEPGs	Sub-Regional Civil Emergencies Preparedness Groups
SitRep	Departmental Situational Report.

<b>Term</b>	<b>Definition</b>
SOLACE	The Society of Local Authority Chief Executives
SoSNI	Secretary of State for Northern Ireland
SpAds	Special Advisors
SPS	Sanitary and phytosanitary
The Assembly	The Northern Ireland Assembly
The Board	The Executive Office Departmental Board
The Executive	The Northern Ireland Executive Committee
TEO	The Executive Office
TP	Transition Period
UK	United Kingdom
UKG	UK Government