

Witness Name:

Statement No.:

Exhibits:

Dated:

## **UK COVID-19 INQUIRY**

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### **WITNESS STATEMENT OF RIGHT HONOURABLE BARONESS ARLENE FOSTER OF AGHADRUMSEE DBE**

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I, Arlene Foster, otherwise Baroness Foster of Aghadrumsee, will say as follows: -

1. I am presently a member of the House of Lords having assumed this office on 24 November 2022. I was First Minister of Northern Ireland from 11 January 2016 to 10 January 2017 and again from 11 January 2020 until 14 June 2021 and I was a Member of the Legislative Assembly (MLA) for my constituency, Fermanagh and South Tyrone, from 2003 until I resigned from the Northern Ireland Assembly in October 2021. I was leader of the Democratic Unionist Party ("DUP") from December 2015 to June 2021.

#### **GENERAL**

2. For the benefit of those who have not had had sight of my previous statements to the Inquiry, or heard my oral evidence, I wish to extend my sincere condolences to those who were bereaved during the Covid-19 pandemic or who were affected in other ways. It was clear at the time that people's lives were being irreversibly altered: through bereavement; loss of life and illness; reduced access to treatment for health conditions; loss of respite; loss of opportunities within education; negative financial and economic impacts; loneliness and many other ways. I was made aware of some of the tragedies people faced at the time and these stories have stayed with me. I therefore took very seriously the responsibility of trying to protect people within Northern Ireland from the worst effects of the pandemic. However, I do

know now that some of the measures, despite being implemented with good intentions, themselves resulted in significant suffering for some people. I will repeat that, regrettably, there was at times insufficient consideration given to the unintended, but sadly predictable, consequences of lockdowns and other restrictions. All I can say is that I worked hard to try to minimise the worst of the pandemic's effects while trying to ensure a balance was also struck to assuage the negative impacts caused by the interventions introduced.

3. I have endeavoured in this statement, and those made previously, to provide a faithful account of my involvement in the response to the pandemic to assist the Inquiry. This was a particularly intense period in which to serve as First Minister and therefore I have relied, where I have been able, on documents made available to me, and my own notes (which I have provided to the Inquiry) to support my recollections.

### **ROLE, FUNCTION AND RESPONSIBILITIES**

4. During the first period when I served as First Minister, from 11 January 2016 to 10 January 2017, I served with deputy First Minister, Martin McGuinness. He resigned his position on 10 January 2017, collapsing the Northern Ireland Executive. The Executive was reinstated on 11 January 2020 following the 'New Decade, New Approach' agreement. Between 11 January 2020 and 14 June 2021, I served alongside deputy First Minister, Michelle O'Neill.

5. Prior to becoming First Minister in January 2016, I held the following Ministerial posts:

- Minister for Finance and Personnel: 11 May 2015 – 12 January 2016
- Minister for Enterprise, Trade and Investment: 9 June 2008 – 4 May 2011 &  
16 May 2011 – 11 May 2015
- Minister for the Environment: 8 May 2007 – 9 June 2008

I was also acting First Minister for short periods in each of 2010 and 2015, when then First Minister Peter Robinson stepped aside temporarily.

6. I am a solicitor by profession.
7. During my tenure as First Minister, my role and responsibilities in relation to the response to Covid-19 were in my capacity, along with the deputy First Minister, as joint-Chair of the Northern Ireland Executive ("Executive"). The Executive exercises Executive authority on behalf of the Northern Ireland Assembly.

8. Section 28A of the Northern Ireland Act 1998 ("the Act") provides for a Ministerial Code (AF1) ("the Code"). The Code sets out the rules and procedures for the exercise of the duties and responsibilities of Ministers and Junior Ministers of the Northern Ireland Assembly as specified in the Belfast Agreement, the Northern Ireland Act 1998, the St Andrews Agreement and the Northern Ireland (St Andrews Agreement) Act 2006 AF-7/01 [INQ000262764]. The Junior Ministers during my second tenure as First Minister were Gordon Lyons and Declan Kearney.
9. It is a condition of appointment that the First and deputy First Ministers, and Junior Ministers affirm the terms of the Pledge of Office set out in the Ministerial Code. As a result of the unique circumstances in which Northern Ireland's system of government was created, the Pledge of Office requires Ministers and Junior Ministers including the First and deputy First Ministers, to pledge, *inter alia*:
- (a) *"To discharge in good faith all the duties of the office;*
  - (b) *Commitment to non-violence and exclusively peaceful and democratic means;*
  - (c) *To serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination;*
    - (ca) *To the promote the interests of the whole community represented in the Northern Ireland Assembly towards the goal of a shared future...*
    - ... (cc) *to observe the joint nature of the offices of First Minister and deputy First Minister...*
  - (d) *to participate with colleagues in the preparation of a programme for government;*
  - (e) *to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly;*
  - (f) *to support, and to act in accordance with, all decisions of the Executive Committee and Assembly;*
  - (g) *to comply with the Ministerial Code of Conduct".*
10. The Pledge of Office also requires commitment to uphold the rule of law, with specific commitments to challenge paramilitarism recognising that it should have no role in a democratic society.

11. With the Pledge of Office and the seven principles of Public Life as foundation stones, as First Minister, and with deputy First Minister, Michelle O'Neill, my role was to jointly chair the Executive Committee pursuant to Section 20 of the Act. Paragraph 2.2 of the Ministerial Code sets out that:

*“[u]nder the Belfast Agreement their duties include dealing with and co-ordinating the work of the Executive Committee and the response of the Northern Ireland administration to external relationships”.*

12. As was explored in Module 2C, in the system of government in Northern Ireland, each Minister is responsible for the work of his or her department and the First/deputy First Ministers and the Executive Committee does not have an express role in directing the work of individual Ministers and departments. However, where a matter is deemed to be significant and/or cross-cutting, it must be brought to the Executive Committee for decision. The Ministerial Code in Northern Ireland does not have a direct equivalent of the doctrine of collective responsibility as set out in the Westminster Ministerial Code for UK Cabinet Ministers.
13. It is worth highlighting at this juncture that, in a mandatory coalition, decisions have to be agreed between people from a range of different political backgrounds, and from different political parties. At times, those around the Executive table, particularly those from the less well-represented parties, tended to drift into ‘opposition mode’, because there was no formal opposition. This was particularly acute during the pandemic response as there was no space to have discussions outside the Executive Committee to explore or narrow issues, and therefore there was no opportunity for those to air their concerns except at the meetings. Moreover, as one might expect, the Executive was comprised of very strong characters who felt strongly about certain issues, and had clear opinions to express, and individual ministers were each keen to have their voices heard. Added to this was the fact that most Ministers were personally very worried. This at times made rational discussion and decision-making more difficult.
14. It was my function as the joint Chair of the Executive to promote decision-making for which it was necessary to reach consensus. I was also very aware that it was important for the public to have confidence in the decisions reached by the Executive. As such, I wanted to minimise public disagreements or the undermining of decisions taken by Ministers in public, and therefore encouraged Ministers to have the disagreements at the Executive table so that, insofar as possible, we were able to reach a decision that each Minister felt able to support.

15. During my tenure I worked predominantly with the Heads of the Civil Service: David Sterling, followed by Jenny Pyper. Other Senior Civil Servants with whom I engaged fairly regularly included Andrew McCormick, Karen Pearson, and Chris Stewart. I was supported very effectively by officials within the First Minister's Private Office. My Special Advisers from January 2020 were Dr Philip Weir and Emma Little-Pengelly. Lee Reynolds joined the Special Adviser team in November 2020. Dr Philip Weir is a medical doctor. He took the lead on advising on me on health issues arising during the pandemic.
16. As First Minister therefore, another key duty in this joint office was engagement with UK Government and the other devolved administrations.
17. In the context of the Covid-19 pandemic, this essentially involved leading Northern Ireland's political engagement with UK Government and the other devolved administrations in relation to a wide range of Covid-related policies and issues. This included direct engagement through attendance at COBR meetings, Ministerial Implementation Groups ("MIGs"), direct engagement in the '4 nation forums' or '4 nation calls' ordinarily chaired by the Chancellor of the Duchy of Lancaster ("CDL"), meetings with the Secretary of State for Northern Ireland ("SOSNI"), and heads of the other devolved administrations, but also required leading and coordinating the interplay between Northern Ireland, Westminster, and the other devolved administrations more generally. Many of the decisions required to respond to the pandemic were considered significant or controversial and therefore, pursuant to Section 20 of the Act, were matters for decision by the Executive Committee, of which the deputy First Minister and I were co-Chair.
18. In respect of my involvement in decision-making committees, groups or forums dealing with the UK Government's response to Covid-19, having reviewed the Ministers' Covid 19 Meetings list for my time in office (AF-7/02 **[INQ000232577]** – Ministers Covid 19 Meetings list) I can confirm the dates of my first and last attendance at the following meetings as:
- Cabinet Office Briefings (COBR): 2 March 2020 to 23 December 2020.
  - MIGs: 24 March 2020 to 21 May 2020.
  - Meetings with CDL and/or the Prime Minister and Devolved Administrations ("4 nations calls"): 5 May 2020 to 9 June 2021.
  - Meetings with SOSNI: 6 March 2020 to 14 April 2021.

19. I also met at various times with the Prime Minister Boris Johnson, The First Minister Scotland, and First Minister Wales out with the structures outlined above.

## **POWER-SHARING JANUARY 2020**

### **January 2017 to January 2020**

20. During the period 10 January 2017 to 11 January 2020 when there was no functioning Executive, Northern Ireland government institutions remained responsible for devolved matters. In the absence of local ministers who were democratically accountable for decision-making, senior Northern Ireland civil servants were responsible for day-to-day running of government. However, these civil servants could only operate within the context of existing policy directions set by Northern Ireland ministers while still in post. There was no Assembly to pass legislation. The UK parliament legislated in some limited areas, including setting budgets, but generally the lack of an Executive created a political vacuum.
21. I was keen for the Executive to be restored. I became a politician in order to serve my constituents, and as leader of the DUP and former First Minister, I felt strongly that I had a duty to serve the people of Northern Ireland in a functioning Assembly, and that in general it is better when possible to have political leadership. I believe that, while Martin McGuinness resigned ostensibly because of the emerging issues surrounding the Renewable Heat Incentive Scheme, his departure was in fact in large part due to his failing health and other political motivations. As such, I believe that the Executive could and should have been restored much earlier than it was.
22. While the Executive was not functioning, the DUP (as well as the other political parties including Sinn Féin) were regularly updated on issues that were being dealt with by the Northern Ireland Civil Service (NICS). During this period, there was a significant focus on the arrangements for exit from the EU, and, as time went on, the possibility of a 'No Deal' exit. There was widespread concern, particularly in the latter months of 2019, that the UK might 'crash out' of the EU. Therefore, I understand that officials were preparing for the possibility that there would be significant disruption in the event that a Withdrawal Agreement was not agreed. The concerns centred around the movement of people and the supply chains for certain goods, such as fresh food, and medicines. The framework for dealing with civil contingencies was therefore in place, officials were trained in how it should operate, and able to deploy/ scale up its use as required. In the event, this stream of work was stood down by the UK Government on 23 December following the successful vote at Second Reading of the

23. Northern Ireland, because of its geographical position across the Irish Sea from the GB mainland, and, as a result of its land border with an EU country, would have faced unique challenges if no agreement had been reached with the EU. I believe therefore that NI Senior Civil Servants had thoroughly planned and prepared for the emergencies that might have resulted in a 'No Deal' exit scenario, perhaps more so than their counterparts in the other devolved administrations.

#### **Formation of new Executive in January 2020**

24. The Executive Committee was reinstated on 11 January 2020. I do not believe coronavirus was initially a matter that was brought to my attention in my official capacity at this time. The priority in the first weeks following reinstatement of the Executive Committee was establishing the Programme for Government. There was, for example, no mention of coronavirus in my First Day Brief or the accompanying Headline document dated 10 January 2020 AF-7/04 [INQ000203347]. Within the Northern Ireland system, the Department of Health was responsible for health matters and, at this early stage, would have been taking the lead on monitoring the emergence of the virus, and taking any steps considered necessary commensurate with the level of risk assessed at the time (see further paragraph 28 below).
25. From review of the papers available to me, I believe the first time that Covid-19 was raised to *the Executive* as a matter for discussion or consideration was in or around 10 February 2020 at an Executive meeting. It may have been mentioned earlier but I am unable to confirm that from the documents to which I have access. In The Executive Office ("TEO") Handwritten draft Executive notes dated 10 February 2020 AF-7/05 [INQ000232517] there is discussion about an Executive 'Away Day' planned for 12 February 2020. The purpose of the 'Away Day' was for Executive Ministers to discuss and agree the Programme for Government.
26. At the same meeting, the Executive Committee was given a briefing by the Health Minister which included that DoH was receiving daily updates about Covid-19 and that, at that time, there had been 4 confirmed cases in the UK but no confirmed cases in Northern Ireland (albeit 16 people in Northern Ireland had been tested). The Executive Committee was told that DoH officials were considering public health legislation in the event of a case arising in Northern Ireland, and that the risk level was now moderate. I am recorded as asking the Health Minister whether Northern Ireland would have the same powers as England to deal with the virus, and therefore my mind was also turning to ensuring that Northern Ireland, as a devolved administration, would be able to properly legislate for the response.

27. While not expressly stated in these notes, I would have understood from this update, and from other sources in or around this time, that the Health Minister and the DoH were being updated by UK Government and liaising with their counterparts in Westminster on a regular basis regarding the risk, and how to prepare for the possibility (if not likelihood at that stage), that Covid-19 would spread to Northern Ireland. A key component of such preparations would have been planning for identifying infected individuals and taking steps to limit spread.
28. As explored in previous modules, it is clear from my own recollection, and the contemporaneous records, that in or around mid-February 2020, Covid-19 was a matter considered to be within the remit of DoH in Northern Ireland. Indeed, in an Urgent Decision Request dated 15 February 2020, seeking Northern Ireland clauses for submission to the UK-wide draft coronavirus bill, the Health Minister expressly states that while cross-cutting, (and thus requiring agreement of the Executive Committee), the DoH was the Lead Government Department AF-7/06 [INQ000213676]. That document also expressly states that DoH is working closely with relevant authorities and public health organisations across the UK. At paragraph 6 it is explained that *“the UK-wide response is being led by COBR, chaired by Matt Hancock Secretary of State for Health and Social Care”*. Thus, the approach in Northern Ireland was similar to that adopted by Westminster - the respective health departments were taking the lead in the response.
29. This was significant as only those papers which DoH deemed to be significant or cross-cutting, such as the Urgent Decision Request mentioned above, were raised to the Executive Committee. Moreover, the Executive Committee was not capable of directly ‘steering’ the work of DoH. As the situation developed, Executive Ministers increasingly asked questions of the Health Minister, and the CMO (when he attended Executive meetings), but otherwise, without papers being brought to the Committee, we did not have the capability or information to scrutinise or challenge the detail of the work being done within DoH.

## **CO-WORKING**

### **CCG(NI) and Northern Ireland Hub (NI Hub)**

30. In terms of TEO's role, as outlined above, the systems including the CCGNI and the NI Hub were in place and ready for activation when I took office. These formed the Northern Ireland Central Crisis Management Arrangements (NICCMA) which were to be activated when DoH asked for it to be activated AF-7/07 [INQ000201498]. From a review of the documents made available, it appears the CCG(NI) was stood up by the then Head of the Civil Service, David Sterling, on 20 February 2020, before the first case being identified in Northern Ireland in or



around 27 February 2020, and that daily engagement with Cabinet Office the Civil Contingencies Secretariat, and other devolved administrations - Submission of 3 March 2020 on Covid-19 Preparedness and Response AF-7/08 [INQ000289210]. We were advised that the level of activation of the NI Hub would be “scaled according to need”.

31. As the situation escalated, a fully operational Command, Control and Co-ordination (C3) structure was stood-up. In my view, the CCGNI and the NI Hub structures were sufficiently flexible to allow for amendments to suit the particular response needs of the Covid-19 pandemic. Their operation was fine-tuned as time went on.
32. With hindsight, I do believe it would have been better if NICCMA had been in place earlier. This might have stimulated a greater degree of strategic thinking across departments about what preparations were required. Central coordination of preparatory work might have assisted to streamline that work and identify gaps or opportunities. For example, there might have been scope to identify groups made vulnerable by existing inequalities, or sections of the community who might have difficulty accessing financial assistance. One of the aims of Executive Covid Taskforce (ECT), established in December 2020, to promote this type of cross-departmental thinking. See further below at paragraph 133.

## **COBR**

33. The deputy First Minister and I were not invited to attend a meeting of COBR prior to March 2020. I believe this was because the respective health departments in UK Government and Northern Ireland were taking the lead. At the time I was not concerned by this. Robin Swann, in his role as Health Minister, had begun escalating matters to the Executive Committee as needed, and the Prime Minister was not yet chairing or attending the meetings. I therefore believed that the systems were working; the situation was being handled appropriately for the circumstances prevailing at that time; and that everything was being done that required to be done. However, I did not have a sense of how quickly the situation was about to escalate.
34. The first COBR meeting I attended was on 2 March 2020. The deputy First Minister and I along with the Health Minister and Northern Ireland’s CMO attended. An Executive Committee meeting took place on the same date and was suspended to facilitate our attendance.
35. I have reviewed the handwritten notes of the Executive meeting held that day and the discussion that took place before the meeting was suspended, which provides relevant context AF-7/09 [INQ000065694]. It is clear from these notes that by this date Covid-19 had moved to the top of the Executive’s agenda and there was increasing recognition that significant and far-reaching decisions to plan for, manage, and contain the virus would have to be taken. The

Executive are also recorded as having been advised that TEO, using the Civil Contingencies arrangements, were by this stage working with the Cabinet Office directly i.e. confirming to the whole Executive that the issue was no longer viewed as a matter solely within the remit of the respective health departments. In addition, I was briefed in a submission dated 3 March 2020 that, while DoH was the lead Department, we were to “*note... the role of the Executive office (TEO) to co-ordinate the wider non-health preparedness and response*”; the role of Ministers within the strategic emergency response arrangements; and the outline plans for activation of the NI Hub AF-7/10 [INQ000183558].

36. I made some notes at the COBR meeting of 2 March 2020 AF-7/11 [INQ000232519]. I have recorded that there was input from the UK Chief Medical Officer, the Foreign and Commonwealth Office, Priti Patel, Matt Hancock and Michael Gove. It was noted that public concern was rising and there was a need to move from “*reassurance to realism*”. We were advised that there would be a ‘calibrated’ approach which would be “*guided at all times by science*” and “*led by science*”. However, I have also noted that Michael Gove asked whether the worst case scenario was being taken seriously enough.
37. For my own part, knowing what we do now, I consider it would have been preferable to have been present at earlier COBR meetings to gain an understanding of the possible impact, the need to prepare, to think about what sort of preparations were needed, and also to explore possible options for the response at an earlier stage, including consideration of test, trace and isolate policy. However, in the context of what I knew in 2020, I do not think my earlier presence would have altered the course of preparations in any significant way. As a politician, rather than a scientist or doctor, I would have listened to and acted upon the scientific advice, which is what I believe the Health Minister did prior to my attendance.
38. At a COBR meeting on 12 March 2020, I have recorded in my own notes that the aim of interventions was to “*change the shape of the epidemic and soften the peak to allow the NHS to cope and protect the most vulnerable*” (AF-7/12 [INQ000232535]). We were advised about the introduction of individual isolation rules and that, while the pandemic was likely to “*go right across population*”, the focus was on protecting the most vulnerable. I am not sure to what extent the concept of ‘herd immunity’ was the UK Government’s stated strategy during this period, but I have noted a recognition by UK Government advisers that this was a new virus to which the population had ‘no immunity’. I have also noted that the aim was to change the shape of the epidemic to allow the NHS to cope until the Summer months; to protect the most vulnerable and elderly; and that once measures were lifted the virus will spread again creating a rebound. I specifically made the note: “*Most vulnerable are those we need to protect – herd immunity*”.

39. I therefore understood the strategy as communicated at that COBR meeting was to try to minimise spread and protect the most vulnerable by isolating them while maintaining, so far as possible, life as normal for others. We were advised the evidence at that time did not support banning mass gatherings, and it was considered (not unreasonably) that there was a big downside in closing schools. However, I do not recall, nor do I have a record of, detailed discussion as to what this strategy would mean in terms of case numbers, hospital admissions, and possible deaths in the population not considered “vulnerable”.

40. My impression looking back, and from considering contemporaneous documents, is that Northern Ireland was largely in ‘receive’ mode at this stage, with much of the modelling and direction setting taking place in Westminster, relying on the views of experts reporting, in the first instance, to the UK Government. The situation was unprecedented and unfolding rapidly, therefore, as an Executive, we were reliant on the scientific modelling and advice to guide as to when and how to best respond.

41. While there would have been engagement at various levels within Government, my sense is that the deputy First Minister and I were not being asked at COBR meetings for our opinion on how the response should be handled, but rather our input would have been focused on ensuring that we understood the steps being taken by Westminster, the steps each devolved administration was to take, and that there was nothing being proposed that would cause significant or insurmountable difficulty when considered from the Northern Ireland perspective. As leader of a devolved administration, I would have been acutely aware that, while UK Government might lead the way, the Executive in Northern Ireland would be accountable for its own decision-making and would need to legislate in respect of devolved matters.

42. In general, I believe that during the early phase of the response (from in around end March to end May 2020), the COBR meetings were the primary means by which the four nations were brought together to share information and communicate strategy. In addition, the 4 nations forum (see further below at paragraphs 60 to 62), while not ‘jointly owned’ as such, permitted regular engagement in a relatively informal way which was advantageous given the pace at which the situation evolved. There was a need for flexibility and agility and for decisions to be discussed and communicated quickly and efficiently.

#### **Cabinet and the Covid-19 Daily meeting**

43. As a leader of a devolved administration, I was not invited to, nor did I attend, Cabinet meetings, nor did I take part in the Covid-19 Daily meeting.

## **Ministerial Implementation Groups (“MIGs”) and COVID-O and COVID-S**

44. On 16 March 2020, the Cabinet Office issued a letter to Heads of Departments setting out that UK Government had decided to establish new structures to lead the Government’s key lines of operation. The letter advises that the Prime Minister would continue to chair regular COBR(M) meetings to take strategic decisions and review overall progress but COBR would now be supported by four new Ministerial Implementation Groups (MIGs). I have a copy of this letter among my notes from the period AF-7/13 [INQ000087163]. To the best of my recollection, I do not believe that the devolved administrations were made aware in advance of the decision to implement these new structures, which were, in any event, entirely a matter for Westminster.
45. From a review of my Ministers’ Covid 19 meetings list, it appears that throughout April, Northern Ireland representatives attended frequently at MIGs but this decreased throughout May. I am not clear whether this was because the frequency of MIG meetings themselves decreased or whether representatives from Northern Ireland were not invited or, for whatever reason, either could not, or did not attend. Indeed, I do not recall having been personally present at many MIG meetings. Rather, to the best of my recollection, the Executive Junior Ministers, Gordon Lyons and Declan Kearney and TEO officials would generally attend, and the information would therefore have been fed back to the deputy First Minister and me as required.
46. Following the creation of the MIGs, the stated role for COBR was that it would continue to make strategic decisions. However, COBR was no longer sitting regularly and therefore, at this point, when each administration needed to make significant decisions around easing of restrictions and recovery, there was some frustration about the lack of information sharing.
47. The deputy First Minister and I were invited to attend a Covid-O meeting on 1 October 2020. While I do not have a note of that meeting, I have been provided with the submission regarding attendance at the first meeting and generally thereafter AF-7/14 [INQ000232554]. The submission outlines that while the MIG meetings that devolved administrations attended at the outset of the pandemic were useful and supplemented the sectoral quadrilateral meetings, Covid-O was replacing the MIGs. It is probable that other Ministers and the Junior Ministers in the Executive Office attended Covid-O meetings, but from a review of my Covid-19 meetings list, it appears I only attended the first one on 1 October 2020. It may well have been the case that subsequently my officials did not recommend that the deputy First Minister and I attended, and other Ministers, the Executive Office Junior Ministers, or officials, attended instead.

### **The Joint Ministerial Committee (JMC)**

48. The Joint Ministerial Committee (JMC) is in fact a set of committees that comprises ministers from the UK and devolved governments. The terms of reference of the JMC are set out in the Memorandum of Understanding on devolution ("MoU on Devolution") AF-7/15 [INQ000083107].

49. While I do not recall the MoU on Devolution being expressly considered or referred to during the period, the principles within it underpinned the relationship between UK Government and the devolved administrations. Thus the 4 nations calls (as to which see further below) were one method for each administration to seek (as per paragraph 5):

- to alert each other as soon as practicable to relevant developments within their areas of responsibility, wherever possible, prior to publication;
- to give appropriate consideration to the views of the other administrations; and
- to establish where appropriate arrangements that allow for policies for which responsibility is shared to be drawn up and developed jointly between the administrations.

50. The JMC's terms of reference include:

- (a) To consider non-devolved matters which impinge on devolved responsibilities, and devolved matters which impinge on devolved responsibilities;
- (b) where the UK Government and the devolved administrations so agree, to consider devolved matters if it is beneficial to discuss their respective treatment in the different parts of the United Kingdom;
- (c) to keep the arrangements for liaison between the UK Government and the devolved administrations under review; and
- (d) to consider disputes between the administrations.

51. While the MoU on Devolution emphasises that most contact between the UK Government and devolved administrations should take place between departments dealing on a day to day basis with the issues (paragraph 23), participation in the JMC is considered necessary to permit central co-ordination of the overall relationship.

52. Appendix 1 to the MoU on Devolution sets out that plenary meetings of the JMC are to be held at least once per year but it there should also be “functional” formats such as JMC(E) on Europe or JMC(D) on domestic issues.
53. On 28 January 2020, a JMC (EU Negotiations) was held in Cardiff. The deputy First Minister and I attended on behalf of Northern Ireland, Michael Russell MSP attended for the Scottish Government and the meeting was chaired by the First Minister of Wales, Mark Drakeford AM. A number of Ministers from the UK Government attended, notably CDL, SOSNI, and the Minister of State at the Department for Exiting the European Union, Lord Callanan AF-7/16 [INQ000232539]. One of the matters that stands out to me from that meeting was that the devolved administrations were concerned to ensure that that they had proper input into the negotiations particularly where there would be direct impact on each devolved administration. The aim was to put in place structures that going forward would afford each of the devolved administrations better input into decision-making, rather than UK Government making decisions on the basis of what it thought was best for the UK overall, which may or may not have taken into account the differing positions and perspectives of each administration.
54. However, by the time the Covid-19 pandemic took hold, these structures had not been put in place. They would in any event have likely been geared in the first instance towards the EU exit negotiations. However, I raise the issue as there is ‘spill-over’ here in the context of Covid-19 namely that the JMC as constituted was not a ‘real-time’ decision-making body (in respect of the EU negotiations or anything else) and that specific structures within the JMC to manage real-time decision-making would have been needed in order to make this body capable of facilitating 4 nation decision-making in respect of Covid-19. In the event, I believe the JMC was not used to facilitate 4 nation decision-making or intergovernmental relations, save that it provided a structure for high-level periodic liaison, between the UK Government and the devolved administrations.

#### **The Secretary of State for Northern Ireland (“SOSNI”)**

55. Bilateral meetings between SOSNI and the dFM and I were useful in facilitating intergovernmental relations between Northern Ireland and the UK Government at Westminster, and also with the Republic of Ireland (“RoI”). I found the SOSNI engagement to be beneficial. Issues raised would be taken forward effectively and we were often given useful updates as to the UK Government position.
56. The types of information exchanged, and matters raised are demonstrated by reference to sample meeting notes. Thus, for example, on 6 March 2020, the deputy First Minister and I

met with the SOSNI AF-7/17 [INQ000226007]. While the meeting was ostensibly about the delivery of a Programme for Government following the New Decade New Approach agreement, the minutes record that we were told by SOSNI that COBR would be meeting daily from the following week and that we should dial in even when abroad (we had been scheduled to attend Washington for St Patrick's Day).

57. At a meeting of 27 March 2020 AF-7/18 [INQ000226028], issues around financial support for the self-employed was raised; SOSNI clarified messaging around social distancing and going to work; I raised the need for guidance on procedures for work settings and I sought support from the NIO on procurement of PPE and testing equipment.
58. At a meeting on 28 April 2020 AF-7/19 [INQ000232549], at a point where the countries had each been in full lockdown for over a month, the note records (among other things) that there was discussion as to an upcoming Quad meeting with RoI and both the deputy First Minister and I expressed our thanks in relation to key infrastructure issues such as maintaining the supply chain with ferries and hauliers. The meeting then turned to the pressing issues of testing, tracking and PPE and the need to respond to Northern Ireland's needs, as well as commencing work of post-Covid recovery. It was agreed that, from that point on, meetings in similar format would be held weekly.
59. One of SOSNI's key functions was liaising with the RoI government, in his capacity as Minister of the UK Government. That is because generally it would not be appropriate for leaders of a devolved administration to engage directly with the leader/s of another nation state. Rather, engagement with the RoI should be conducted at first instance by the appropriate Westminster Ministers. SOSNI was therefore instrumental in facilitating so-called 'Quad' meetings intended to foster North/South-East/West cooperation. Thus, during the pandemic, the deputy First Minister and I would meet with SOSNI, the RoI Tanaiste Simon Coveney, the respective Health Ministers, and usually also the CMOs for Northern Ireland and the Republic of Ireland. Issues to be discussed included: travel across the border from the Republic of Ireland to Northern Ireland; the number of cases in border areas; connectivity and freight; supply chains; information sharing about restrictions and the easing thereof; ICU capacity; and testing and tracing.
60. Having said that, there was significant discussion and cooperation between the respective health departments in both Northern Ireland and Republic of Ireland. I understand there to have been frequent and relatively informal cooperation at this level but DoH would be best placed to provide detail.

### **The 4 nations forum**

61. Following the implementation of the first lockdown on 23 March 2020, the main structures used to facilitate 4 nations engagement were the so-called '4 nations calls' chaired by the CDL, Michael Gove, and meetings with SOSNI.
62. The forum was not a formally constituted body set up under legislation, or by way of agreement, unlike, for example, the JMC. In terms of the ownership of this body, UK Government instigated the meetings and chaired them. However, the calls were a means for UK Government to communicate decisions and the devolved administrations to provide input and exchange views.
63. The calls were usually chaired by CDL. It was useful and important to have one main point of contact for continuity of communication between the leaders of the devolved administrations and UK Government.

### **The British-Irish Council**

64. The British-Irish Council ("BIC") comprises the United Kingdom, the devolved administrations of Northern Ireland, Scotland and Wales as well as the governments of the Crown Dependencies of Guernsey, Jersey and the Isle of Man. It was set up as part of the Belfast or "Good Friday" Agreement reached in 1998 and it primarily considers collaboration on issues such as transport, energy and the environment. BIC summits are held twice per year. I am aware that there was due to be a BIC at end March 2020 but this was postponed due to the pressures faced by the Irish government at the time in forming a Government in the midst of dealing with the pandemic (AF-7/15 [INQ000083107] and AF-7/20 [INQ000083108]). In any event, similar to the JMC, the BIC would not readily have been capable of facilitating coordination or cooperation between governments in 'real-time'.

### **The UK Governance Group**

65. The UK Governance Group's role is to lead UK Government's work on constitutional and devolution issues, rather than to directly facilitate relationships between the UK Government and the devolved administrations, and therefore, to the best of my knowledge, played no direct role in coordinating the response to the pandemic.

### **The Joint Biosecurity Centre**

66. I do consider that the creation of the Joint Biosecurity Centre ("JBC") was a positive step. It brought the scientific advice into government and was better placed to advise the UK as a



whole, rather than being focused predominantly on England. I understand there was a good level of communication between the JBC and Northern Ireland representatives such as the CMO and CSA and in a note I have made during a 4 nations calls on 19 June 2020, I have stated *“Joint Biosecurity Centre – becoming an increasingly impt [important] body”* AF-7/21 [INQ000232552].

67. As stated above, DoH and the other administrations' respective health departments were leading on policy and strategy for test, trace and isolate. This meant there was limited discussion of the detail of these policies across the four nations at the meetings of the above bodies, at which I was present. Rather, most of the information sharing and cooperation on policy development would have been taking place at health department level. Moreover, it is clear from the meeting minutes that, once constituted, Northern Ireland's Strategic Intelligence Group, that sat within DoH, had significant access to data, modelling and scientific thinking (notably via SAGE) from the rest of the United Kingdom.

## **INTERNATIONAL**

68. It is apparent from a review of the SIG minutes that within the DoH the international and national perspectives on test, trace and isolate policy were being taken into account. For example, at the meeting of 21 May 2020, AF-7/22 [INQ0000347393], it is recorded that the CSA, Professor Young, opened a discussion on a paper considering the international approach to Test, Track and Trace that had been prepared for SAGE. This included consideration of the positions in Australia and New Zealand, as well as Spain, South Korea, and Republic of Ireland, to identify best practice and therefore what might be possible for Northern Ireland to adopt as policy.
69. There was also discussion at Executive meetings of how other countries were handling the pandemic. We were frequently updated as to the position in England, Scotland and Wales. We were advised about the situation in the Republic of Ireland albeit there was caution about making direct comparisons due to differences in data capture. I also recall discussion on occasion about international approaches, for example, the strategy being used in South Korea was raised at the Executive Committee meeting of 30 March 2024. While the international perspective was discussed, the focus for the Executive Committee was on what was being done at national level, and what could be achieved locally in the circumstances prevailing at the time.

## **PREPAREDNESS**

70. The principal source of information available to me during January and February 2020 as to the likely spread and impact of Covid-19 was the briefings from the DoH, communicated by the Health Minister and CMO at the Executive meetings. We were not provided with SAGE minutes, but I believe that the advice we were given was essentially SAGE advice synthesised so as to be appropriate to the Northern Ireland context. In the very early stages, the updates were given under 'Any Other Business' which indicates that there was no Executive paper and the matter had not been placed formally on the agenda for the meeting.
71. To the best of my recollection, there was no additional information brought to me or the Deputy First Minister in between Executive meetings, aside from the request for an Urgent Decision on 15 February 2020 seeking Northern Ireland clauses for submission to the UK-wide draft coronavirus bill. Rather, as the Executive was newly re-formed, each department was largely focused during this period on getting their own policies up and running.
72. As such, by the end of February 2020, there was no concern brought to, or raised within, the Executive, so far as I can recall or is apparent from the Executive minutes, about the scalability of test and trace capability. Perhaps naively, I believe that during this period there was an assumption within DoH, and more widely, that the capability would be sufficient to identify cases as they arose. For example, it is recorded in the handwritten minutes of the Executive meeting on 24 February 2020 that there had been *"49 [tests] in NI – all negative – if confirmed – held in isolation in Royal"* AF-7/23 [INQ000065693].
73. By early March, despite a rise in cases in the United Kingdom, and concern over the potential scale of the pandemic, the issue of scalability, or any concerns about it, was not raised to the Executive by DoH. Rather, on 2 March 2020 at the Executive meeting, the CMO advised that Health and Social Care Boards and Health Trusts were coordinating; including planning to place single cases in side rooms; that staff were being trained to support patients outside of intensive care; discussions were taking place on *"prioritisation – clinical decisions, ethical issues"*; and that regular work to test systems was taking place.
74. In terms of the detail as to the work being done on testing capacity, and the reason why more was not done at an earlier stage to scale up testing, those are matters best addressed by DoH. I also consider that DoH would be best placed to explain the infrastructural capacity existing at 1 January 2020 to test, trace and isolate, including laboratory capacity, local tracing, quarantine facilities and test development.

## **DEVELOPMENT OF POLICIES AND STRATEGIES FOR TEST, TRACE AND ISOLATE**

### **Events prior to the imposition of lockdown on 23 March 2020**

75. Northern Ireland recorded its first case on 27 February 2020. At about this time, the UK-wide response was escalated such that it required the direct input of the Prime Minister and his Cabinet, the deputy First Minister and me at the Executive, and the other leaders of the devolved administrations.
76. The escalating emergency was discussed at the Executive Committee meeting on 2 March 2020, and a Ministerial submission was brought up to me on 3 March from an official from the Civil Contingencies Policy Branch (see FM dFM Sub Covid 19 Preparedness and Response AF-7/10 [INQ000183558]; Final Executive meeting minutes of 2 March AF-7/24 [INQ000048441] and Hand Written Draft Executive Notes AF-7/09 [INQ000065694]. The submission outlined that at that stage the four nations were preparing for Covid-19 using a Reasonable Worst Case Scenario approach which was considered standard practice in civil contingencies.
77. With the benefit of hindsight, it does appear there was insufficient consideration or planning of ways to prevent transmission into Northern Ireland generally. However, I do think it would have been very difficult to limit the movement of people from Great Britain, the RoI or farther afield before the true scale of the pandemic emergency became apparent in mid to late March 2020. The Executive followed the advice and recommendations of DoH and the CMO. On 2 March 2020 the advice was that we should *“continue to plan – but balanced approach - accurate info”* and that it was still *“not inevitable”* AF-7/09 [INQ00065694].
78. I retained a hard copy of the document entitled “Coronavirus: action plan” dated 3 March 2020 which outlined the detail of UK-wide preparations made at that stage AF-7/25 [INQ000232520]. This action plan is, on its face at least, intended to be a ‘4 Nations’ document in that the logos of each of the four health departments are displayed. However, I am not aware of the extent to which Northern Ireland had an input into the preparation of this document.
79. I understood the UK Government’s strategy to be in line with the Coronavirus: action plan, namely that there would be a phased response moving from containing the virus- by identifying cases by testing, and isolating infected individuals to prevent spread- to delaying the spread of the disease more widely. The particular strategies within the delay phase were to be implemented in a calibrated manner i.e. as above, the scientific advisers were very keen to deploy more restrictive measures at the ‘right’ moment, with the idea being that if the measures were employed too early it might be counter-productive in the longer term.

80. In the event, by the time I received the Coronavirus: action plan, the UK Government was already considering a move from the 'contain' phase to the 'delay' phase with the first person in the UK having died from Covid AF-7/25 [INQ000232520]. I am again not aware of the extent to which Northern Ireland had input into the decision to move from 'contain' to 'delay' as I do not believe this was a matter that was raised to the Executive or the deputy First Minister and me. I note that at the 10 March 2020 SAGE meeting, it was agreed and minuted that modelling at that stage suggested that the UK was 10 to 14 weeks from the epidemic peak if no mitigations were introduced, and 4 to 5 weeks behind Italy with transmission underway in both community and hospital settings. I do recall this information being relayed to the Executive, and it likely affected the advice and thinking of the CMO and Health Minister, and therefore would have had an impact upon the thinking of the Executive as we relied upon the DoH/CMO advice and recommendations.
81. While on 11 March 2020 COBR(M) took the decision to move from the 'Contain' to the 'Delay' phase, the Northern Ireland SitRep indicated that this would in practice result in little change, with those showing mild symptoms now simply being advised to self-isolate at home for 7 days rather than phoning 111 AF-7/26 [INQ000083097]. As such, I do not believe or recall that any significant changes were made in terms of the Executive's response for Northern Ireland. However, that decision may have played into the DoH decision the following day to limit testing to the hospital setting, and no longer test in the community.
82. By 12 March 2020, DoH considered that the spread of the virus and testing capacity was such that testing needed to be confined to hospital settings. This decision was taken without any consultation with the Executive Committee. The decision was only raised to and discussed within the Executive on 16 March 2020 - after the decision had been implemented. I do not believe any discussions took place regarding the decision having been made without recourse to the Executive, or the delay between the decision being taken on 12 March 2020 and the discussion at the Executive on 16 March 2020. In respect of the latter, the decision was taken on a Thursday and the issue was discussed on the following Monday. The decision did lead to concern within the Executive Committee as to how spread would be managed in the absence of contact tracing. At that stage, the testing capacity was only 100 tests per day, and DoH's position was that it was better to *"use resources to combat Covid-19 rather than count – self-isolate for 7 days first rather than testing"* AF-7/27 [INQ000065689]. In short, I believe that the numbers of cases outstripped testing capacity much more quickly than DoH envisaged.
83. I am not sure whether community testing would have been of less value by that stage, for example, because of the prevalence of Covid-19 in the community, but I suspect that testing

would still have been advantageous, in terms of understanding the spread, assisting with modelling, and providing the public with accurate advice about steps to take. Northern Ireland still had comparatively low numbers (in terms of cases confirmed positive by testing) i.e. on 10 March 2020, before community testing was halted, there were only 16 confirmed cases and by 16 March 2020, there were 45 confirmed cases from 1083 tests.

84. However, in Northern Ireland, as in the rest of the United Kingdom, and indeed in most of the Western World, there was no 'plug and play' system available for tracing and isolating significant numbers of infected individuals. Therefore, even if there had been enough tests, aside from directing that individuals who tested positive should self-isolate, there was no effective means of tracing close-contacts, and no policy in place to support those who were isolating.

85. In any event, as events unfolded in March 2020, the practical realities were such that Northern Ireland had little option but to follow the approach taken by Westminster. First, England was ahead of Northern Ireland in terms of cases. Secondly, Westminster was taking the lead on modelling and was able to access a wider pool of experts including SAGE, for which there was no Northern Ireland-specific equivalent. Thirdly, and perhaps most significantly in terms of the timing of Non-Pharmaceutical Interventions ("NPIs"), Northern Ireland was dependent on Her Majesty's Treasury and the Barnett consequential for funding. Put simply, the Executive could not have implemented any NPI that would have required a financial support package to make it viable, without knowing that funding from Westminster would be available. In particular, Northern Ireland could not have independently funded the financial support required to enable large numbers of people to 'stay at home' or self-isolate.

86. By 16 March 2020, there were 45 confirmed cases in Northern Ireland (TEO Handwritten draft Executive notes dated 16 March 2020 AF-7/27 [INQ000065689]). At the Executive meeting that day, the Health Minister explained that testing had changed so that only those in hospital would be tested, and mentioned a "*surge sub-group*" being formed. We were advised that hospitals were redeploying wards as required and that there would be a shortage of ventilators. We were also told that there would be an impact on surgery with no operations taking place and elective procedures would be cancelled. Up to this point, my recollection is that we were being advised that DoH had been preparing and that while the pandemic would no doubt be challenging, I had not previously had a sense that there was a real risk that the health system would be overwhelmed.

87. The Health Minister advised the Executive on 16 March 2020 AF-7/27 [INQ000065689], that:

*“I’m following the advice of my CMO. Spikes/clusters – not same here as ROI. Medical advice. Timings different to ROI and GB... Danger – countries which flattened COVID – will come back again. Withdraw from society. Isolate over 70s? Have we system to support this.... Modelling behaviours – 80%/20% - should drive behaviour of 80%. If we do it too early – effect on families etc. Have to be sustainable – if introduced too early, can’t sustain. What is best decision to take? Now is not right time to do it”.*

88. The Health Minister also advised the Executive at this meeting that his department had been preparing for 7 weeks AF-7/27 [INQ000065689]. At the time, I believed that those preparations were adequate. However, now, knowing how matters developed, it does appear there were some inadequacies in the preparations. For example, the issues that arose around the supply and distribution of PPE has led me to question whether the ‘right’ preparations were made. In relation to test, trace and isolate, it does appear that not enough was done at an early enough point to scale up testing and develop an effective system for tracing individuals who may have been infected. There was guidance about the need to self-isolate if showing symptoms, but little consideration of the impact on various sectors of society, including those who were vulnerable as a result of factors such as age, disability, poverty or domestic violence.
89. With the benefit of hindsight, the lack of planning for ways to support those required to isolate at this stage is notable. As with testing, it is likely that prior to March, the view was that the numbers who may have to isolate would be limited. There was also a view that any isolation would likely be in hospital, per the Executive Committee handwritten notes of 24 February 2020 AF-7/23 [INQ000065693], thus limiting the need for planning to support (financially and otherwise) extensive numbers of people who would be required to stay at home.
90. Moreover, as above, Northern Ireland was largely dependent at this time on following the lead of UK Government. Northern Ireland also had comparatively low case numbers and was therefore ‘behind’ in terms of the modelling. Therefore, advocating for a significantly more stringent approach, and introducing measures that would have affected people’s lives and livelihoods would have been very difficult to justify, let alone secure Executive agreement for, when UK Government had not taken that step. Moreover, and significantly, Northern Ireland did not have the economic levers or capability in terms of civil service capacity to put in place bespoke measures such as a test, trace and isolate policy, even if that had been contemplated. Northern Ireland was dependent on Her Majesty’s Treasury and the Barnett consequential for funding. The Executive could not have implemented any NPI that would

have required a financial package to make it viable, without knowing that funding from Westminster would be available to support it. As such, enforcement of isolation would have been very challenging. In future, it would be important to have access to funding at an early stage to support isolation measures if a new disease is to be contained.

91. From mid-March, the Executive Committee discussed the developments in test, trace and isolate frequently. There was an expectation from that point onwards that DoH, primarily via the Health Minister and CMO, would appraise the Executive Committee of developments in this area to facilitate scrutiny and debate, and Executive Ministers were not afraid to challenge and question the work of DoH. By way of example, on 16 March 2020, there was a detailed discussion at the Executive Committee about the decision to stop community testing and a number of Ministers voiced their concerns (Handwritten notes of Executive meeting 16 March 2020 AF-7/27 [INQ000065689]). This did not lead to any change to the decision on community testing or contact tracing but would have served to highlight to the Health Minister and others within DoH that testing and tracing was and would be a key priority for the Executive.
92. On 19 March 2020, the Health Minister advised the Executive that 160 tests had been performed the previous night and gave an update on mass testing. The note records “*Radox test – not certified by NICE*” and Executive Ministers voiced their concern about bureaucracy limiting progress. At the same meeting, there was also discussion about contact tracing; a desire to develop “drive-through testing”; and a concern that frontline workers might be isolating unnecessarily as they were unable to get tested. (Handwritten notes of Executive meeting 19 March 2020 [AF-7/28 [INQ000520362]]).
93. On 20 March 2020, as the Inquiry is aware, the Treasury announced the launch of the Coronavirus Job Retention Scheme, also known as the Furlough Scheme, and uplifted Universal Credit and Working Tax Credit by £20 a week. These funding interventions were more generous than might have been expected and were beyond anything that Northern Ireland could have funded itself. The Self-Employment Income Support Scheme was announced on 26 March 2020 as previously there was no support available for the self-employed. Again, this funding intervention was significant though it did have limitations to prevent abuse so that, for example, those that had been self-employed for less than a year were not eligible. The range of business support loans and grants such as the Coronavirus Business Interruption Loan Scheme (CBIL) and the the Covid-19 corporate Financing Facility (CCFF) introduced around this time also did a great deal to reassure the public and the economy that the government would mitigate the financial hardships likely to be caused by requiring a wide section of the population to isolate/stay at home.

94. I believe these funding interventions were necessary and did a great deal in preventing hardship. However, there were hard cases where the schemes did not reach everyone who needed assistance. As time went on, a number of other financial support schemes were introduced attempting to further bolster the economy and cast the assistance net more widely. Within Northern Ireland, the Department of the Economy worked on bespoke funding grants to incentivise and support sectors that were not captured by the UK-wide schemes. One example of this is the Apprenticeship Return, Retain and Result Scheme and New Apprentice Incentive Scheme that intended to support the training of apprentices.

### **Lockdown**

95. 'Lockdown' was not a word or phrase used within official advice during January, February or early March in Northern Ireland. There had been discussions about school closures, working from home, and different aspects of the rules around self-isolation, and how people would be paid if they had to self-isolate. As such, there was some planning underway in relation to some elements of what later comprised 'lockdown', but no overarching plan was made about how to implement and manage the lockdown that was ultimately introduced, before it became necessary to introduce it. Rather, the plan had been to deal with transmission in line with the advice being given, but the situation developed more quickly than anticipated. In the days leading up to 23 March 2020, the media was reporting about other countries having gone into lockdown, and there was therefore increasing awareness of the use of lockdown as a tool to prevent spread, but this was a draconian measure that had never been used before. It was very drastic and as such it was difficult to comprehend that we found ourselves in a situation where a lockdown was necessary.

96. When it was introduced, I considered that lockdown was inexorable and necessary given where we were. There was simply no viable alternative. With the benefit of hindsight, if there had been capability to operate a sufficient test, trace and isolate system we might have been able to handle the situation differently. Similarly, later lockdowns might have been handled differently, but the first lockdown was required to control the spread, reduce pressure on hospitals, and permit some time and space to understand the virus while limiting its spread. A lot of learning was required.

97. As the matter developed quickly in March towards the imposition of the first lockdown, all the options then open to us were bad. While I was aware in a general sense that imposition of restrictive measures would have negative adverse consequences, it would have been much better to have had a full and clear understanding of the implications of implementing certain options. As such, while it was obvious that lockdown would be particularly difficult for (and



would require specific consideration of) particular groups of people within Northern Ireland society, it was upon us before we had a chance to drill into the detail of what was required. If we had been aware at an earlier stage that lockdown would become necessary, we would either have taken steps (if possible in the time available) to try to avoid it, or sought information and advice on the myriad ways that people might be adversely affected. This might have allowed for restrictions when introduced to be more nuanced and balanced, and for better mitigations and support systems to have been designed and implemented at an earlier stage.

98. By 26 March 2020, my note of a CCG(NI) meeting records that we were advised that testing capacity had been extended and there was a “5 fold increase from last week” and that Northern Ireland was receiving a “share of national availability” (AF-7/29 [INQ000238481])

99. At the Executive Committee meeting of 26 March 2020, the Health Minister advised that the Randox test had been approved.

100. A further example of the type of scrutiny the Executive Committee gave the testing issue arose on 30 March 2020. The Finance Minister raised a concern about there being no reference to tracing in a document presented to the Executive. He is recorded as saying: “*Sth Korea – testing, community tracing – best practice? Doc – no ref to tracing*”.

101. The CMO responded to these concerns stating, *inter alia*, that DoH were: “*rapidly ramping up testing capability. Shortage of testing agents. 800 a day – ROI (?) NI- 600 a day... Testing plan – not in deficit – is ahead of Scotland, Wales. ROI -1500 tests per day*”. AF-7/30 [INQ000520351]. The CMO further stated: “*Delay phase, advice to anyone who is symptomatic – contact tracing, sustained during containment phase... next phase of epidemic – increased testing... nos at this juncture – too many nos/pressures*”. The Executive Committee were therefore effectively being told in this and earlier meetings that DoH were doing everything that was capable of being done in line with advice about moving from the containment to the delay phase, and in the context of pressures including, for example, shortage of testing agents, and the need to create testing infrastructure. The strategy in terms of moving from ‘contain’ to delay’ had been set out “Coronavirus: action plan” dated 3 March 2020 AF-7/25 [INQ000232520]. I understood that initially the plan was to detect early cases and follow up close contacts to prevent the disease becoming widespread in the community. However, once the disease had taken hold, we would move to the ‘delay’ phase. The focus in the delay phase would be on limiting contact between infected or potentially-infected persons by quarantine/isolation measures and protecting older or more vulnerable people, later known as ‘shielding’.

102. Indeed, during March and the early part of April, we were repeatedly told there was not the capability within the system to carry out widespread contact tracing. Rather, the advice was for people to self-isolate if they had symptoms. DoH was supported through this period by other departments and the Executive. Ramping up testing capacity was a key objective therefore measures which would have required the input of other departments, such as making SSE arena and other venues available for testing, recruiting Randox testing facilities, and ensuring sufficient funding, were put in place effectively and quickly. I do not recall at this stage the discussions on increasing contact tracing generally, but there was specific discussion around testing and tracing in care homes. See, for example the handwritten notes of the Executive meeting on 20 April 2020 AF-7/31 [INQ000520352].

103. As testing capacity increased, DoH prioritised certain groups for testing. For example, at the meeting of 20 April 2020, the Health Minister explained that people in hospital, clusters and Health and Social Care staff were being prioritised and, to that, DoH had added symptomatic people in care homes, and those being discharged from hospitals into care homes (Handwritten Executive Committee minutes AF-7/31 [INQ000520352]). Again, the detail of the policy was challenged by Ministers and we were advised that, rather than everyone in a care home being tested once there was a confirmed case in a home, at that time, only those who had been exposed to a symptomatic person would be tested. The reason given by DoH was testing capability. I believe that across government we shared the aim of improving capability for testing and tracing as quickly as possible. I believe that if DoH had considered there were ways to increase capacity more quickly, the other departments and the Executive would have taken steps to facilitate the increase. DoH certainly appeared to be working assiduously on improving capacity. For example, on 20 April 2020 we were advised by the Health Minister that there was a:

*“4 nations health meeting this am. Setting up – SSE, Derry,\_\_\_\_\_, Craigavon – getting infrastructure set up. Home testing trial. Tracking – UK developing tracking app to check mobile phone – advice to get tested. Concerns re tracking app in NI – NIO concerns re border/cross- border”.*

In relation to the latter I stated *“DOH – get us a brief, dFM and I will engage with NIO”* which was agreed AF-7/31 [INQ000520352].

104. The Public Health Agency’s tracing programme commenced at the end of April with a pilot scheme and, by end of May, we were advised that the contacts of all positive cases were being traced. Again, DoH led on contact tracing and regularly updated the Executive

Committee on the roll-out and ramp-up of the programme. See, for example, the Handwritten notes of Executive meeting of 24 April 2020 AF-7/32 [INQ000520353]). There was also discussion at this time about development of a contact tracing App, as to which see further at paragraphs 152 to 156. It was therefore recognised that test and trace would be critically important as we moved out of lockdown if we were to avoid/mitigate the effects of a second wave.

105. Overall, the Executive's approach was to listen carefully to the advice we were being given to best respond to the threat posed by the virus. DoH were leading the health response, including the preparations and the provision of advice to the Executive Committee on issues such as test, trace and isolate. In turn, my understanding is that Northern Ireland was 'plugged into' the UK Government scientific advice, and relying primarily on the broader level of skills and expertise available via SAGE, for which Northern Ireland had no equivalent at that time. The Strategic Intelligence Group ("SIG"), established in April 2020, was Northern Ireland-specific and examined a wide range of expertise and data. As the approach of the UK Government, on the basis of its scientific advice, was to respond gradually, so too the approach advocated to the Executive was to respond in an incremental manner, i.e. to take the right decisions at the right time. As politicians facing a novel coronavirus and threat of a pandemic, we did not have the experience or expertise to challenge that advice. It is also relevant that the Executive had been newly re-formed and Ministers were still finding their feet, and in a mandatory coalition it would have been very difficult to achieve consensus within the Executive for novel interventions.

106. Northern Ireland benefitted greatly from being part of the United Kingdom. While I Northern Ireland did not have its own SAGE or equivalent at the early stages, I consider even if we had, it would still have been very important to understand the advice from SAGE to the UK Government. Northern Ireland is a small jurisdiction and there will therefore always be a limit to the resources and expertise available here, as well as a smaller population from which data can be obtained.

107. We are also reliant on central Government for finance, and the funding throughout the pandemic was extremely generous and indeed much greater than many of us in the Executive in Northern Ireland might have envisaged in the early stages. Therefore, being part of the United Kingdom was undoubtedly a positive for the pandemic response. On the other hand, there were issues at times with the involvement of, and consideration given to, the devolved administrations when the UK Government was formulating its response. It is also clear from having listened to some of the evidence given to the Inquiry, that the political leadership at Westminster was not as balanced and inclusive as it might have been, and that at times there

was a lack of professionalism in the approach and unhelpful political tensions between the different actors in Downing Street and the Cabinet Office. However, administrations and their composition change, and while some of the internal workings of the Government during the pandemic which have now been laid bare were no doubt unhelpful, I do not believe that this would lead to a conclusion that Northern Ireland would have been better off taking its own approach. As a devolved administration it is right and sensible that Northern Ireland relies on its sovereign government.

108. A review was undertaken by TEO and provided to the Executive in advance of its meeting on 4 June 2020. The paper was entitled: *E (20) 128 (C) Point in Time Review of the Executive's COVID 19 Strategy* AF-7/33 [INQ000065637]. As its title makes clear this was a 'Point in Time' Review. It was not intended to be a full review of the pandemic response to that point but it is notable that the review did not mention test, trace and isolate capability. I note that input was not sought from the DoH for the review, and I consider that this was likely a missed opportunity. However, I also recognise that officials had been working extremely hard for months on the pandemic response which was still ongoing. Therefore, while it was important to take stock by way of review, and check to make sure the processes in place were working, this had to be balanced with the additional pressure that such a review would place on officials, particularly those in DoH. As such, while this Point in Time Review *could* have gone wider and deeper, I consider that, in the main, it was sufficient for the purpose for which it was intended. It did not, and was not intended to, inform my decision-making on test, trace and isolate strategy. Later, there were many and varied other 'lessons learned'-type reviews from which a fuller *ex post facto* assessment of the overall strategy was made.

### **The second wave**

109. I believe the most significant catalyst for the increased rates of Covid-19 in Northern Ireland in August 2020 was a lack of compliance driven primarily by the actions of the deputy First Minister, and other members of Sinn Féin, at the funeral of Bobby Storey on 30 June 2020. The public had complied with onerous restrictions from March to the end of June on the basis of a level of public confidence in the measures we had introduced to try to keep people safe. The public understood what was being asked of them and were overwhelmingly compliant even as they began to get weary about restrictions going on for much longer than most had anticipated. The very public display of disdain for the rules and guidance displayed at the Bobby Storey funeral broke the trust of the public. People questioned why they were sacrificing their personal life and relationships when people at the highest level of authority in Northern Ireland did not do so. This was compounded by the fact that by the start of July case numbers were very low, with just 4 recorded cases per day. The public therefore decided to

disregard the need for ongoing caution and make their own decisions based on the level of perceived personal risk at the time. It was very difficult to regain the authority and trust the Executive had previously enjoyed and meant there was resistance to, and non-compliance, with protective measures thereafter.

110. By the beginning of July case numbers for the whole country were down to less than 4 per day, and the R number was down to between 0.5 and 0.7. The Executive had taken advice and acted on it. The difficulty we faced was that, because of the issues set out above, as well as fatigue with restrictions, the NPIs in place over the Summer were not being adhered to and case numbers began to increase faster than had been predicted. By 6 August 2020, I made a note that the CMO was “*concerned at level of community transmission*” (AF Notes 6 August 2020 AF-7/34 [INQ000238110]).) The Executive continued to take advice from DoH during this period as to what measures would be required to bring case numbers back to more manageable levels. By August 2020, the Executive was advised that contact tracing was now operational and effective and there was good uptake of the Stop COVIDNI app. Thus at the meeting of 20 August 2020, the Health Minister explained that there was a 95% hit rate for positive contacts in the system, with 80% being considered successful (Executive handwritten notes 20 August 2020 AF-7/35 [INQ000065790]. On 10 September 2020 AF-7/36 [INQ000065769], the Executive Committee discussed the test and trace system in detail. We were advised by the Health Minister that the Contact Tracing App had been downloaded 360,000 times. There was then discussion about the need to increase contact tracing capacity particularly in light of schools reopening. The CMO advised that there was a lot of pressure on the testing/tracing system, and that a Public Health team was being set up to look at approach to be used for children.

111. By October 2020, there had been a continual rise in cases. The Executive was briefed by the Health Minister on 1 October 2020 that there were 70 patients in hospital with Covid-19, and 9 in ICU. The increases in case numbers in the Londonderry/Strabane areas were described as ‘*exponential*’ (Draft Handwritten minutes of Executive meeting 1 October 2020 TEO 1304 AF-7/37 [INQ000426986]). We were advised this meant that there was a need to introduce restrictions in that local government area i.e. the spread was such that it was not sufficient for only those who had tested positive (and their contacts) to isolate. Northern Ireland was no longer in the same position as it had been at the end of June, but people had not once again started to behave more cautiously. I am not sure whether, if a different and/or more stringent tracing and isolation policy had been in place at this time, it might have been possible to avoid the exponential rise. The tracing system was still relatively new and the population had come out of a lengthy lockdown, which impacted on public compliance.

112. In the situation as it was developing, the Executive felt it was therefore critical to get a clear, fresh message across to the public about the need for compliance with the restrictions in place, in order, hopefully, to avoid the need for more widespread and stringent restrictions.
113. I do not believe that there was a significant under-estimating of numbers leading up to early October 2020 i.e. I think by that stage the testing system was effective at identifying the levels, but it became clear that the more conservative measures to limit spread i.e. emphasising the need for compliance and enforcement, was not working. We were not blindsided by the increase in numbers, but they had risen more quickly, and been more resistant to, the various measures we had implemented to curb them. ne
114. By 8 October 2020, the position was considered to be very grave. The situation was clearly deteriorating, and we were going to have to take stronger action to prevent a further rise in cases, and limit pressure on hospital capacity.
115. Between 9 October and 16 October there was a series of meetings in which the deputy First Minister and I discussed the increasingly concerning situation and the options available to the Executive AF-7/38 [INQ000238165]; AF-7/39 [INQ000238167]; AF-7/40 [INQ000238168]). We were advised at a meeting of 11 October 2020 with DoH and the CMO and CSA, that if we *"don't take decisive intervention Health Service overwhelmed past tipping point"* AF-7/40 [INQ000238168].
116. Ultimately, therefore, the Executive had little option to implement the 'circuit breaker' lockdown on 16 October 2020. Great Britain had opted to proceed by way of tiered restrictions, which were similar in some ways to the Postcode restrictions the Executive had implemented in September, but which had not proven effective enough. As such, recognising the transmission of the virus at the time and the pressure on the health service, the Executive, acting on DoH and CMO advice, had to take stronger action by way of introducing the 'circuit breaker' lockdown
117. The Executive meeting of 9 November 2020 was particularly difficult and controversial. The public and businesses believed that the circuit breaker restrictions were coming to an end. Any extension would therefore be very difficult and there was real concern about the impact on businesses and society if the restrictions were not lifted as planned. As against that, DoH was seeking a further two week extension to the restrictions to ease the pressures on hospital capacity. As I have set out above, the public had grown weary of restrictions and the messaging no longer had the same effect. The virus was by now better understood. In particular, there was an understanding that not everyone would be seriously affected, and that

young people in particular, tended not to get seriously ill. Moreover, some people had already had Covid and therefore considered themselves to have a level of immunity. These factors together already meant that it was more difficult to get across the message that individual members of society needed to abide by restrictions to prevent an increase in case numbers that would in turn create hospital pressure. The Economy Minister was understandably very concerned about the impact on businesses and the economy from continued closures particularly as we edged closer to the pre-Christmas period.

118. Moreover, when the circuit breaker was proposed in October, DoH had sought a period of six weeks but, following negotiations, Ministers had agreed to four weeks, with a two week closure for schools. In short, six weeks was simply considered too long for a circuit breaker lockdown at that time. On 9 November 2020, the Executive were then in position where a further two weeks was nevertheless being sought. My DUP colleagues felt this was a breach of trust, and that extending the circuit breaker would not only be damaging for businesses (particularly for small business such as close contact services), and those on low incomes, but would also erode public confidence in the Executive. It was my role to try to find consensus to bring along my own colleagues as well as other Ministers and reach a position that could be agreed. This was very difficult which led to the meeting stretching over 3 days.

119. Another issue which was there were some inconsistencies in the modelling being presented, and that it was not sufficiently specific to be able to understand the potential impact of choosing one restriction over another, for example, the impact of closing wet pubs, as opposed to closing coffee shops or close contact services. The CSA considered that the close contact services would have a modest impact on the R number of 0.05, but also indicated that, in line with my understanding as set out above, that *"nobody has conducted 'experiment' of opening close contact and nothing else"* AF-7/41 [INQ000116294, page 4].

120. There was also briefing to the press by individual ministers, and parties, against other ministers. This was very disrespectful and did not help with reaching any sort of consensus. It perhaps did reflect the fact that emotions were running high, and that time was tight – it was not possible to postpone decision-making to allow tensions to settle. Having reflected I believe that, whereas in the first wave of the pandemic, decision-making was more straightforward as the focus was on the health response, by this stage there was much better understanding of the other factors that required to be weighed in the balance. As such, it was very difficult for the joint Chairs of the Executive to ourselves agree, and to bring eight departmental Ministers with different personalities, and from across the political spectrum also to an agreed position. The way this meeting played out effectively demonstrates the difficulties with mandatory coalition.

121. The difficulties encountered at the 9 November 2020 also likely go some way to explaining why at the next Executive meeting on 19 November 2020, the DoH Executive paper did not contain a specific recommendation AF-7/42 [INQ000048498] despite this being a requirement in a paper to be brought to the Executive for consideration in order for a decision to be taken.
122. It was a frequently cited source of frustration at the 9 November 2020 meeting that Ministers felt that there was not sufficient cognisance being taken of non-Covid issues. When a paper was placed on the agenda by DoH, its natural focus was on the health/Covid impacts. However, by this time it was necessary for the Executive to take a more balanced approach to decision-making in and include a wide range of potential impacts and competing factors such as the risk of businesses and the economy collapsing; the impact of restrictions on mental health; and the disproportionate impact of closures on, for example, low paid workers.
123. At the 9 November 2020 meeting, DoH had stuck by the recommendation put forward in its paper but a further paper was then submitted by the Justice Minister proposing a compromise. It may be that the decision of DoH not to include a specific recommendation was intended to permit wider examination of the various factors at play, and reflected the fact that at that stage we were in a further period of restrictions so that DoH did not have a clear recommendation to make. Another possibility is that DoH felt that, given the criticisms levelled at the previous meeting, it would be better not to make a recommendation and allow some of the burden of formulating a recommendation fall elsewhere, bearing in mind the need to weigh other factors in the balance. This may have been particularly directed at SF Ministers who, in particular, relied heavily on the DoH position and appeared to take great comfort in rowing in behind DoH on particular issues so they could say they were “*following the science*”, without which they felt exposed.
124. While the lack of a specific recommendation did not particularly concern me at the time, under the system of mandatory coalition in Northern Ireland, in order for a decision to be taken by the Executive, there needs to be a paper to the Executive to form a basis for the decision. For example, it is not possible for the Executive to make a decision on an issue raised in ‘Any Other Business’. As such, there should have been a clear recommendation made.
125. Overall, the management of the response to the second wave in Autumn 2020 was in many ways more challenging in terms of the decisions that required to be taken, than those during the first wave. By Autumn, there was shift in thinking required. Whereas in the first wave, lockdown was a necessity, by this time there was a much better understanding of the



negative impacts of restrictions and the public were overall less compliant. The Executive was therefore trying to balance pressures and frustrations and, as Joint Chair, it was my joint responsibility to find consensus, if at all possible.

126. In terms of the strategic response, we had a framework i.e. a pathway out of restrictions, but we did not have an agreed strategy for imposing restrictions again. In hindsight, decision-making might have been more straightforward if there had been a strategic framework in place in advance, with clear guiderails as to how to handle the response as the second wave developed. The capacity of the health service to cope was a key factor in our decision-making but we also needed to make sure that the economy was not decimated, and that people were able to live a quality life. I do have a sense that, by July, both Ministers and the NICS were just hugely relieved to have breathing space. We were collectively exhausted from the pressure of the first wave, and therefore perhaps not enough focus was placed on having a clear strategy for the second wave.

127. Moreover, in October 2020, when 'circuit breaker' lockdowns were being considered, it was recognised that these would be dependent on UK Government funding. Thus on 12 October 2020, at a PM Recovery Summit and Pre-Brief meeting there was discussion about the availability of financial support to support compliance AF-7/43 [INQ000232537]. This discussion reflects the fact that it would have been preferable at times to have had greater certainty at an earlier stage about the funding available to facilitate planning at regional level.

128. The approach of Christmas formed a backdrop to many of the discussions about restrictions, particularly from mid-November onwards. Across the United Kingdom, each administration considered that it was important to 'protect' Christmas and allow people to celebrate in as normal a way as possible. This was in large part to give people some hope, and something to look forward to, after a very difficult year in which a lot of personal sacrifices had been made, but also to mitigate the damage to the economy to some extent.

129. By 18 November 2020, it was recognised that there would need to be limits placed on Christmas. On a call between the devolved administrations and CDL on that date we were advised there would be a *"tighter period 24/28 Dec"* and travel restrictions were discussed to enable a common approach to travel to be agreed AF-7/44 [INQ000238225].

130. Within Northern Ireland, I attended a meeting on 1 December 2020 with the Minister of Health and the deputy First Minister. The aim was clearly expressed at this meeting, and on other occasions around this time, as being to keep the R number below 1 and sustain the health service (AF Notes 1/12/20 Mtg with Health/DFM AF-7/45 [INQ000238252]). There

were fewer people in hospital at this time but they were staying in longer. The reopening on 11 December 2020 and the heightened risk that posed was discussed, and we were made aware that, if after Christmas the R Number was at 1.6, there would need to be severe restrictions. As we moved forward through December, it became apparent that we would have to further restrict what was allowed at Christmas. At a meeting with CDL and the leaders of the other devolved administrations on 15 December 2020, there was discussion about either reducing the number of days on which families could come together, or reducing the number of households that could come together. Northern Ireland chose the latter.

131. The detail of the restrictions was discussed at the Executive meeting of 17 December 2020 when we were advised that the R number was now at 1.1, and that R had not fallen below 1 following the additional two week restrictions (AF-7/46 [INQ000520358]). On or around 19 November 2020, there was discussion of the new variant but DoH advised that the *“threat risk hasn’t changed since Thursday”* (AF-7/47 [INQ000238275] AF Notes DFM and Health CMO/CSA 19/12). By 21 December 2020, concern had risen still further, and the position was set out in an Oral Statement to the Ad Hoc Committee on Thursday 21 December 2020 which I retained with my notes (AF-7/48 [INQ000238279]). However, notwithstanding the concern, and the agreement to therefore introduce special, even more stringent, restrictions between 26 December and 2 January, there remained a sense that the public would simply not countenance the cancellation of Christmas completely, and were unlikely to abide by the rules if that was imposed, particularly as many had travel arrangements already in place. We did not want to undermine the trust we had built up with the public on the issue, particularly as further restrictions were going to be imposed thereafter

132. In terms of international travel in the Christmas period, the Executive had limited involvement. As discussed further below, Northern Ireland is part of the Common Travel Area between UK and RoI and therefore decisions regarding travel would have been for UK Government to take in the first instance. Regarding travel from GB to Northern Ireland, by in or around 20 and 21 December 2020, most Christmas travel plans would have been in place, and a pragmatic approach was taken to issue advice rather than to ban travel. This was in line with the CMO and CSA’s advice that restrictions on travel would have a small impact as the new variant had already arrived within Northern Ireland.

133. The decisions taken were very difficult. While clearly the aim was keep the R number below 1 and reduce spread, the Executive also had to weigh the wider health and socioeconomic consequences when making decisions. I sincerely regret each and every death from Covid but I believe the Executive was doing the best it could with the information

we had at the time and with the confines of the form of government we had to work within in Northern Ireland.

134. The Executive Covid Taskforce ("ECT") was first considered in or around the end of 2020 consequent to the decisions taken in November, with the aim of allowing for a broader consideration of factors in the response to Covid-19. It was formally established in early 2021. I do not believe it was linked to changes at a UK Government level. Rather, it was considered important to be able to bring together workstreams across departments in a strategic way, particularly given the difficulties encountered in balancing health and economic issues. It was chaired by the interim HOCS. The four work streams for the ECT were protection, recovery, adherence and strategic communications to aid both short and long-term recovery. The ECT reported to the Executive each month. In terms of test, trace and isolate, the ECT would have considered possible changes in policy under the protection workstream. I am aware that the Health Minister was initially concerned about the ECT being established. There was a sense that it was an attempt to usurp DoH's role or trespass into his territory and lead to duplication of work. From the Executive's perspective, the ECT was part of a genuine desire to have a more coordinated approach across government and greater transparency so that departments were not working in silos. There was also a recognition that the burden of DoH and the Health Minister was significant so that, for example, TEO Junior Ministers had assisted by taking Health papers through the Assembly on behalf of the Health Minister. Once the ECT was established DoH were protective of data and information. The ECT's remit was to work within the *Recovery Framework: Moving from Response to Recovery* and provide advice and recommendations.

135. For the period in time I remained in office, I felt that the ECT provided the Executive with a useful structure to try to understand the different elements, and departmental views on Covid restrictions to allow us to come to collective decisions.

136. The ECT was tasked to assess the impact of the restrictions imposed at the end of December on vulnerable groups and those who stood to be disproportionately affected by them. In addition, individual departments were carrying out work on issues within their portfolios, for example, the Department for Communities assessed the impact of those in poverty.

137. On 2 March 2021, the Executive published its "*Moving forward: The Executive's pathway out of restrictions*" ("the pathway document") AF-7/49: INQ000100976 I considered the approach set out in the paper was appropriate. However, while the ECT ought to have been considering the effect on disadvantaged groups of people within the community

such as the vulnerable, children or persons with a disability, I am not sure whether there was a specific workstream within the ECT focused on these effects.

### **Data and modelling**

138. In the initial stages, my understanding is that Northern Ireland was 'plugged into' the UK Government scientific advice, and relying primarily on the broader level of skills and expertise available via SAGE, for which Northern Ireland had no equivalent at that time. It would have been difficult for the DoH to replicate this expertise and thereby diverge significantly from the UK Government guidance. Northern Ireland also had comparatively low case numbers and was therefore 'behind' in terms of the modelling.

139. DoH were primarily responsible for liaising with their counterparts in UK Government and responding by making preparations and providing advice to the Executive Committee. The advice was usually given by way of receiving a paper submission from DoH, to which the Health Minister would speak at Executive meetings. The CMO and CSA then gave oral updates to the Executive and made themselves available for questioning by Ministers at Executive meetings. By this route, we received information from SAGE. This was generally very useful, but there was concern around the timeliness of this information as there was a time lag in getting relevant information on occasion. I also recall concerns that the advice emanating from SAGE was too 'England-centric' at times, and did not expressly consider the positions of the devolved administrations. However, I still believe it was appropriate to rely on information and advice from SAGE given the expertise of the scientists sitting on it, and the fact that the modelling was based on a population of 60 million people, whereas Northern Ireland-specific modelling, that would have been based on a much smaller population of 1.8 million, would have been less robust.

140. In terms of the medical and scientific advice, I believe the Executive was well-served throughout the pandemic by the CMO and CSA, as well as the DoH. The Health Minister undertook a huge burden and handled it admirably. In or around April 2020, the Strategic Intelligence Group ("SIG") was established by DoH. I believe its primary purpose was to have a broader range of expert opinions brought into the system.

141. There were issues with the gathering of data within Northern Ireland although this was primarily an issue that DoH dealt with internally and the Executive Committee had limited involvement. I do not know, for example, what role the Public Health Agency played in relation to this. However, my understanding is that Northern Ireland initially produced (through NISRA) statistics on the number of deaths related to Covid-19 on a weekly rather than a daily basis. I presume that this was due to capacity issues in relation to testing, and the systems then in

place for recording. The Northern Ireland data also did not sync with the way data was collected and presented in GB and I recall there being criticism because, in the early days, Northern Ireland's data was not on the dashboard and this was causing a lot of confusion.

142. Throughout my time as First Minister, when dealing with Covid, I relied on the expert opinions and guidance provided to me on policies and strategies for testing, tracing and isolating in Northern Ireland. The expert views were usually presented to me in DoH papers and then this was built upon in oral briefings to Executive Committee meetings by the CMO, CSA and the Health Minister. My Special Adviser, Dr Weir, took the lead on assisting me in considering the information provided. I did not take advice from any external or independent sources. I was content that the information and advice being provided was robust, and certainly, insofar as we were able to do so without being ourselves experts in the area, Ministers did challenge where it was felt necessary.

143. I have stated previously that I believed, having seen some published SIG minutes, that it would have been useful for these to have been made available to the Executive. The reason for this is that the minutes generally were not overly long (running usually to less than 5 pages) but give a good insight into the discussions ongoing among the scientific and medical experts. I believe seeing these SIG minutes would have provided greater transparency and a level of assurance as to the robustness of the data and the discussion and scrutiny upon which the DoH advice and recommendations were based. There are a large number of SIG minutes that are relevant to the issues of test, trace and isolate. I am not able at this remove to say whether seeing any particular set of minutes might have altered decision-making but, overall, it is perhaps unlikely as most of the decisions made were on foot of DoH recommendations that themselves would have taken the outcome of SIG meetings into account. I can understand that in the pressurised environment in which we were operating, there might have been a desire by DoH to keep the message simple and avoid opening up what might have been viewed as unnecessary debate within the Executive Committee. To that end, there may have been a decision taken that providing the SIG minutes might have been unhelpful. However, in my view, if in future the Executive Committee is to perform its function in taking significant and controversial decisions, a fulsome understanding of the underlying rationale should be facilitated.

## **BORDERS**

144. The UK Government, as the Sovereign power, has overarching responsibility for and control of border policy in relation to travellers coming into the United Kingdom from outside the Common Travel Area i.e. in the event it had been deemed necessary or desirable to close

United Kingdom borders to international travellers, this would have been a matter for Westminster.

145. The Executive did have latitude, under the recommendations and guidance of DoH, to implement restrictions on those arriving into Northern Ireland from the Common Travel Area, and internationally. This became more of a feature for discussion in late 2020 and early 2021 as travel began to open up, and when new variants or particularly high case levels were identified in certain countries. During the Summer of 2020, DoH were attending 4 nations travel meetings that discussed the imposition of quarantine on travellers from certain countries. The methodology adopted was that of characterizing countries as 'Green/Amber/Red in terms of Covid risk and this was explained in a paper to the Executive on 30 July 2020 AF-7/50 [INQ000065639]. I consider the methodology adopted was fairly straightforward although there were occasions when, for example, Scotland placed Spain on the Red list while UK Government did not, and in those circumstances, the Executive was keen to understand the reasons to ensure that we acted appropriately for the protection of Northern Ireland.
146. As RoI is part of the Common Travel Area, there was no consideration given to closing Northern Ireland's borders to prevent transmission into Northern Ireland, or, for example, to introducing testing at the border. As an Executive, we were very reliant on the DoH/CMO advice, and there was no recommendation to implement any such measure. This possibly reflected the fact that neither the UK generally, nor RoI, restricted travel within the Common Travel Area. In any event, it would have been very difficult, if not impossible, to close the border between Northern Ireland and RoI. There would have been political, diplomatic and constitutional challenges to overcome, particularly as other countries in Western Europe were not closing their borders. In theory, I believe it could have been done - there was a hard border introduced to deal with Foot and Mouth disease many years ago – but in practice it would have been extremely difficult and likely engendered significant contention that would have been ultimately very distracting from the key task in hand – saving lives.
147. I took the view that it was much more practical and realistic to coordinate with RoI, and engage where possible, particularly on issues affecting border areas. The respective CMOs had a close working relationship and, as far as I am aware, good information sharing. To the extent that there was a border policy in relation to test, trace and isolate, DoH would have led the engagement with RoI's department of health, but the Executive Committee, as well as individual departments, were very alert to what was happening in RoI and particularly to issues in border areas. While this was not alignment, *per se*, this awareness allowed Northern Ireland to plan as required.

148. However, as mentioned above, there were difficulties with RoI sharing information about passengers entering from outside the Common Travel Area into Republic of Ireland for onward travel to Northern Ireland by way of 'Passenger Locator Forms'. This impacted Northern Ireland's ability to enforce an effective quarantine policy for travellers arriving from the Republic of Ireland. If information sharing on this relatively minor issue was problematic, one can only imagine how difficult it would have been to share information routinely with a view to achieving close alignment as between Northern Ireland and RoI, including on policy such as test, trace and isolate.

149. In November 2020, this difficulty was overcome with the assistance of the UK Government. A strain of Coronavirus was detected in Denmark, and therefore it was added to the list of countries from which travellers were required to quarantine on arrival. As Northern Ireland did not have any direct flights from Denmark, it was necessary for CDL to communicate with RoI Government to ensure that travellers arriving there for onward travel to Northern Ireland could be identified so that the measures could be enforced (See WhatsApp chat between FM/DFM and Robin Swann on 5 November 2020 AF-7/51 [INQ000520359]).

150. It would also have been practically (and politically) very difficult to have imposed controls on movement across the Irish Sea. Our way of life in Northern Ireland, and our economy is heavily integrated into the UK system. One only has to look at the issues surrounding the Northern Ireland protocol in the context of EU exit to understand this. Therefore, while there may have been a theoretical epidemiological justification for preventing travel into or out of both Northern Ireland and RoI, given the political and economic context, and the free movement of people within the Common Travel Area (which RoI itself never sought to prevent), this would not have been deliverable.

## **TESTING TECHNOLOGIES**

151. The DoH was responsible for development of testing technologies and updated the Executive Committee. The Executive Committee had an oversight and scrutiny function but the detail of the development of lateral flow and PCR tests, testing for variants and other forms of testing identified but not pursued would have been matters handled by DoH.

## **TRACING**

152. DoH was responsible for contact tracing in Northern Ireland. The primary methods of contact tracing were by telephone contact by staff within via the Public Health Agency ("PHA"), an arms' length body of DoH, and, once developed, by a contact tracing App called StopCovidNI.

153. In terms of development of the App, most of the design and operational detail was dealt with by DoH, but the Executive Committee discussed concerns about data storage and sharing as well as considering issues around functionality across the border into RoI, and interconnectivity with other Apps such as the NHS England App. For example, I have a note from the Executive Committee meeting on 24 April 2020: *“Test/tracing – start on Mon 27<sup>th</sup> then need to rapidly scale up – cross border data sharing. App concerns – civil liberties”* AF-7/52 [INQ000237963]. I subsequently made a note during a 4 nations call on 5 May 2020: *“CDL: need update on app and how it works. Strongest possible data sharing. On R[number] what are the workings behind that as it helps refine proposition. All using same modelling. Das have reps on Board developing App”*.

154. On 20 May 2020, I made a note at a meeting with the deputy First Minister and the CSA and CMO: *“App – Uk Health Ministers – don’t think NHS app is near delivery. Expressions of interest next. Who holds data question still up in air – are they moving to apple/google – if so makes things so much easier. Confuse contact tracing overall with issues around apps. 58 contact tracers on – 1<sup>st</sup> 36 positive cases – able to follow 35 of those”. We further advised that “all cases diagnosed being traced at moment”*.

155. By end of July the Northern Ireland-specific App was launched.

156. I am now aware that the PHA and DoH faced challenges in recruiting and training contact tracers. I was not aware of that at the time. It would have been useful for the Executive Committee to have been made aware of this as it may have been possible for other department/s or senior officials to provide practical support with recruitment, or redeploying staff on a temporary basis until roles were filled.

## ISOLATION

157. Self-isolation requirements were initially dictated by UK Government with announcements made by the Prime Minister that affected and were adopted by Northern Ireland. Later, Northern Ireland relied on its own scientific and medical advice but there was good cooperation between each administration’s CMOs. Again, the detail of the isolation policies were developed by DoH who provided advice and recommendations to the Executive Committee for decision.

158. Similarly, the decisions on measures intended to reduce spread such as Non-Pharmaceutical Interventions (NPIs) were generally taken by the Executive Committee on the advice of DoH.



159. Overall, the initial approach of the Executive was to follow the national lockdown strategy introduced by UK Government. Northern Ireland did not have the capability to scale up testing, and introduce a bespoke test, trace and isolate policy between January and March 2020. Testing was scaled up significantly thereafter, and the system to trace individuals was also ramped up with the PHA rolling out a programme at the end of April. A contact tracing App (StopCovidNI) was also developed and rolled out in mid-2020. Decisions on isolation policy, for example, the duration of self-isolation required, were later taken by the Executive Committee upon the recommendations of DoH.

## **ENFORCEMENT**

160. Criminal sanctions were considered necessary to improve compliance and act as a deterrent. During the first lockdown, there was a high level of compliance with the Stay at Home message. As time went on, and we moved out of lockdown, a variety of strategies were adopted to minimise spread, such as 'bubbling', and limiting the numbers of people permitted to gather both indoors and outdoors. Enforcement was focused on encouraging compliance with measures intended to reduce spread, rather than legislating to compel individuals to test, or take part in tracing. There was also no policy or legislation, so far as I can recall, to compel either an individual who had tested positive, or his or her close contacts to adhere to the guidance on self-isolation.

161. Increased emphasis was placed on enforcement when non-compliance started to become a live issue in the Summer of 2020. There had been generally good compliance during the first wave. This changed after the Bobby Storey funeral when not only had the deputy First Minister and other very senior figures in Sinn Fein flouted the rules, but the PSNI also very quickly confirmed that it had engaged with the organisers prior to the event taking place. This gave rise to an allegation of bias against PSNI in their handling of the event which likely made the PSNI's role more difficult in some sectors of the community. Moreover, generally, the political landscape is such that historically Sinn Fein are sensitive to the idea of police enforcement, and would have preferred not to give a role to PSNI. They were therefore keen that behaviour change should drive compliance rather than enforcement. My view, and that of my DUP colleagues, was that behavioural change was important, and communication on the need for compliance was particularly important, but we also needed police visibility to act as a deterrent. The restrictions were put in place to save lives, and therefore needed to be respected. As such, the Chief Constable joined the deputy First Minister and I on some press conferences to underscore the compliance message.

162. The enforcement strategy of the PSNI was termed the “4Es”: Engage; Explain; Encourage and Enforce. Therefore enforcement, for example, by the issuing of a Fixed Penalty Notice, to those who were in breach of the regulations was considered a last resort. As such, the aim was not so much to prosecute people but to have PSNI visibility to deter people from breaking the rules. Having said that, officers did have the power of arrest if necessary.
163. The Justice Minister regularly brought issues regarding enforcement to the Executive Committee but the deputy First Minister and I also met separately with the Assistant Chief Constable and the Justice Minister. At a meeting of 9 October 2020, when cases were rising in the second wave, there was discussion about what enforcement should look like, the impact on PSNI resources, and how to prioritise enforcement to make the biggest impact AF-7/53 [INQ000238166].
164. Other forms of enforcement were used such as Covid Marshalls for whom money was provided to Councils from the Department for Communities (see for example my note of the Executive meeting on 17 December 2020 when I have stated “Covid Marshalls v helpful” AF-7/54 [INQ000238273]). The Marshalls’ role was to advise the public and business on social distancing rules to improve compliance. While they did not have any specific enforcement powers, they were useful in helping business manage queues, reminding people to wear face coverings and providing signage to business regarding face coverings.
165. This was evident from, for example, traffic levels on which the Executive were updated. However, when case numbers began to rise during the Summer of 2020, there was concern that the public were not abiding by the guidance to the same extent. At the Executive Committee meeting of 20 August 2020, my focus was on getting back to basics to get the R Number down, including social distancing, hand hygiene, and to target the cohorts considered to be causing problems such as house parties and pubs. At that stage I expressed my view that the fine of £50 which was then in place, was too low. The Health Minister and CMO expressed their view that there hadn’t been sufficient enforcement of the Regulations in place. As such, there was active consideration of how to manage the escalating case numbers.
166. By early October 2020, it became clear that the more conservative measures to limit spread i.e. emphasising the need for compliance and enforcement, were not working. The cases had risen more quickly, and been more resistant to, the various measures we had implemented to curb them.

## ADHERENCE

167. In the initial period after imposition of lockdown, the Executive Committee was provided with SitRep reports that contained data on road traffic and public transport usage. This gave a sense of the extent to which the Stay at home message was being complied with a time lag of approximately 2 days. These SitReps were produced by the NI Hub and I do not recollect what data was presented after the NI Hub was stood down. Certainly my sense is that by mid Summer of 2020, the main way in which adherence was being estimated was by the rise in positive cases. There was clearly a lag between lack of compliance and people testing positive, therefore it would have been useful to have greater means to monitor adherence in live time.

## **PUBLIC MESSAGING**

168. Undoubtedly in the very early stages as the pandemic developed, there was very little inclusion of, and discussion with the devolved administrations, apart from being informed as to what UK Government was intending to do. The practical outworking of this was that there was not enough consideration given to ensuring that messaging was clear about the jurisdictions affected. UK Government took the approach, as I have noted in my note of the COBR meeting of 16 March that there would need to be *“bespoke comms for different regions”* i.e. it was acknowledged that while measures would be announced UK-wide and implemented in England, regional variations would have to be considered, with communication tailored accordingly. In the event, however, there was some confusion about the geographical extent of announcements made, and there needed to be a concerted effort thereafter to ensure that people in Northern Ireland understood how they were to be affected. The daily press conferences were an important tool in ensuring that the NI-specific position was properly communicated.

169. Within Northern Ireland Behavioural science was also relied upon in understanding how the public were acting and reacting in relation to lockdown/restrictions, and therefore used to inform how public messaging was handled. The CMO and CSA provided advice on behavioural science considerations as part of their overall presentation to the Executive, and I remember behavioural science being referred to at COBR meetings that I attended. TEO commissioned Red Circle Communications to carry out focus groups to get a sense of how the public were reacting and responding to aspects of the pandemic response.

## **INEQUALITIES**

170. I do have concern that while there was a significant amount of data capture, and modelling in terms of the spread of the virus, first from SAGE and later from the JBC, I do not believe there was enough consideration given to vulnerable groups in light of existing

inequalities. I consider that this was especially acute during the first phase of the pandemic in particular. I acknowledge that the UK Government decisions to implement NPIs such as the closure of schools and the national lockdown, which were then followed by the devolved administrations, were taken under time pressure and during a period of significant uncertainty as to the progress of the virus, for the 'greater good'. However, it was plain that such significant measures would have negative effects for many, and particularly those with existing inequalities. Specific and detailed modelling as to the potential short and long-term negative impacts ought to have been carried out in order to inform decision-making on mitigating such consequences. This was especially so as time went on and it became clear that the national lockdown would be in place for longer than initially anticipated.

171. I am not sure what work was done to assess and learn from the experience of those adversely impacted by restrictions after the first wave. Specifically, I do not believe any work was commissioned by TEO on this, but I stand to be corrected. However, there would have been work done by individual Departments on issues within their remits, for example, by the Department of Education and Department for Communities but I am not able to refer to any specific examples. It is also true that, while wanting to learn from the experience of the first lockdown, Ministers and Officials were also looking ahead to the potential of a second surge. There was perhaps an opportunity missed in failing to learn more about the adverse impacts on certain groups in the first wave to enable better mitigations to be designed for the second wave. However, everyone had been working at pace under extremely stressful conditions for months, and resources were therefore very stretched.

172. As I have stated to the Inquiry previously, it is a matter of deep regret for me that, unfortunately, I do not believe there was sufficient research into, or consideration given to, the unintended but in some cases sadly predictable consequences of restrictions, and especially lengthy periods of lockdown, prior to their imposition. While this had a negative impact for the population as a whole, those impacts were more acute in relation to minority and vulnerable groups. As such I do not believe sufficient consideration was given in advance of the pandemic, or as cases began to rise, as to how restrictions might disproportionately affect these groups. Once lockdown had been instigated as the primary means to manage the virus, it was very difficult to mitigate its effects, but efforts were certainly made by the Executive to do so.

173. As such, the impacts of NPIs on members of the population with particular vulnerabilities were being recorded and escalated albeit perhaps not in a sufficiently systematic and holistic manner. Nevertheless, I was acutely aware of the damaging impact

of measures such as the national lockdown on people who were vulnerable as a resulting of existing inequalities.

174. It is, however, important to add that at the outset of the pandemic, certainly within the Executive in Northern Ireland, the primary consideration was to protect life. In the climate of acute uncertainty as to the extent of the impact the pandemic might have, I believe that imposing lockdown was the right decision; the right to life rightly took priority, and as a precautionary approach, it should have been imposed earlier. However, as 2020 went on, there was more time and space to consider the wider impacts, and more discussion as to how to take into account those who were likely to be more affected in decision-making, and thereby mitigate the worst effects of the restrictions on people within vulnerable groups or who were otherwise likely to be disproportionately affected.

175. There were steps taken within the government of Northern Ireland to address some of the inequalities faced and there was certainly awareness that vulnerable people and communities would require additional support. For example, I have retained a document entitled *“Presentation to Executive’s Covid-19 Crisis Management Committee – Support to Vulnerable People and Communities”* dated 24 March 2020. This presentation was concerned with the support that would be given by the Department of Communities to those receiving social security benefits, the homeless and ‘most vulnerable’ and outlined the role of the voluntary and community sector AF-7/55 [INQ000232600].

176. A further example was consideration of the Women’s Policy Group document ‘COVID-19 Feminist Recovery plan’. The dFM and I received a submission from TEO’s Equality, Rights and Identity division including the plan and the NICS response, as well as additional steps taken by TEO to seek further information about gender breakdown for part-time and full-time workers to provide a fuller picture. We indicated our support for addressing the gender pay gap that had been exacerbated by the pandemic (Sub to Ministers regarding Embedding gender equality in future policy and the WPG Covid Feminist Recovery Plan AF-7/56 [INQ000277686]). Indeed, from relatively early in the pandemic, the deputy First Minister and I were very concerned about the impact of isolation policies on women in terms of domestic violence, and we met with Women’s Aid on 8 April 2020 to discuss the difficulties being faced by that organisation in helping women and families affected AF-7/57 [INQ000237934]).

177. Moreover, the Executive has duties under section 75 of the Northern Ireland Act 1998 when making decisions about NPIs. However, on a recent review of some of the Ministerial submissions in the period, I note that, in some, the ‘Equality implications’ are not expressly addressed i.e. whereas it would be usual practice to have the ‘Equality implications’ set out as a separate heading on the face of the submission, this is not present in a significant number

of the submissions to which I now have access. Alternatively, where there is a separate heading, it is simply said that there are no equality implications. This may have been due to an inability in the time available to fully assess the implications. I do add for completeness that the Section 75 duty relates to protected characteristics and while it is useful in that regard, it does not seek to address or protect against social and economic inequalities.

## **LESSONS LEARNED**

178. My view is that overall, Northern Ireland performed well in scaling up testing quickly, and in the development and roll-out of the tracing App. There was for the most part good compliance by the public with restrictions both during the first lockdown and thereafter when the competing factors made the landscape in which we were operating more complex. In terms of internal and external reviews, lessons learned exercises or similar, TEO or DoH are best placed to provide any reports that were commissioned.
179. I do consider there would be scope to improve the response in any future potential pandemic. First, drawing on the experience of Covid-19, there requires to be a sufficiently flexible protocol to develop tests and quickly scale up testing using existing infrastructure.
180. Second, there requires to be consideration given to preventing the seeding of a pathogen into the population by quarantine or isolation. This would also require a tracing system that is again able to be quickly instigated and scaled up as required.
181. Third, in terms of financial support for such measures, it would be preferable if Northern Ireland was able to access a pot to fund measures, without relying on funding flowing via the Barnett Consequential or direct from Treasury. This would provide Northern Ireland with the ability to introduce its own measures quickly and, critically, in the situation where Northern Ireland is affected in advance of the rest of the United Kingdom.
182. Fourth, lessons require to be learnt about who the most vulnerable sections in society are likely to be, and, from the outset, consideration needs to be given as to how to best mitigate the impact of any necessary restrictions. This requires cross-departmental cooperation and a degree of holistic thinking.
183. As I left post in June 2021, I am not best-placed to comment on the legacy of the Covid-19 pandemic on the present infrastructure, policies and resources for responding to another pandemic.

**Signed:**

Personal Data

**Dated:** 6<sup>th</sup> March 2025.