Witness Name: Louis Burns
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UK COVID-19 INQUIRY (Module 5)

WRITTEN STATEMENT OF LOUIS BURNS ON BEHALF OF HEALTH AND SAFETY EXECUTIVE NORTHERN IRELAND

I provide this statement in response to a request under Rule 9(1) and (2) of the Inquiry Rules 2006.

I, Louis Burns, will say as follows: -

0. I am one of four deputy chief executives (DCE) in The Health and Safety Executive for Northern Ireland (HSENI). I joined HSENI in 2000 as a trainee inspector, became an inspector in 2002, a principal inspector in 2005 and Deputy Chief Executive (DCE) in 2016. I am responsible for Services Division. When the pandemic started in March 2020 I was Head of Services Division until 1 June 2020 when I was temporarily moved to a role of overseeing HSENI's EU Exit preparations. I was replaced as Head of Services Division by my colleague, Kevin Neeson. I returned to being Head of Services Division on 1 November 2021.

1. HSENI is a non-Departmental Public Body of the Department for the Economy (DfE) with Crown status. HSENI has an independent board made up of non-executives. Given our statutory role as a regulator, our relationship with government in Northern Ireland is characterised by the term 'independence'. HSENI does not get involved in the development of government policy in Northern Ireland. The remit of HSENI is set in legislation and extends to a range of sectors including manufacturing; schools and universities; chemical plants; hospitals and nursing homes; construction; disciplined

services; transport; district councils; gas supply and distribution; government departments; agriculture; fairgrounds; market compliance in respect of chemicals and products used at work; mines and quarries. HSENI does not have any enforcement responsibility in respect of premises such as residential homes, retail, entertainment & leisure, offices activities etc. Enforcement for these premises falls to local authorities.

Personal Protective Equipment (PPE) and the law

2. Whether a product is defined as personal protective equipment (PPE) or a medical device depends on the purpose for which it is designed to be used. If the purpose of the product is to protect the patient it is a medical device. If the purpose of the product is to protect the worker, it is PPE. Equipment classed as 'medical devices' fall under the authority of Northern Ireland Adverse Incident Centre (NIAIC) and Medicines and Healthcare products Regulatory Agency (MHRA). During the relevant period HSENI did not have a role in deciding what PPE / RPE was suitable or sufficient for the Health Care Sector. The choice of control measures and their suitability legally sits with the 'employer'. HSENI is the market surveillance authority for workplace PPE in Northern Ireland and did work along with staff in the Business Services Organisation (BSO) to ensure that products entering their supply chain met the required standard. The Office for Product Safety and Standards (OPSS) is responsible for PPE product safety policy which is enforced in health care settings by HSENI in Northern Ireland.

3. PPE (which would include RPE) are items which fall under the Personal Protective Equipment at Work Regulations (Northern Ireland) 1993. It is defined as '*equipment (including clothing affording protection against the weather) which is intended to be worn or held by a person at work and which protects him against one or more risks to his health or safety, and any addition or accessory designed to meet that objective*'.

4. The definition in three above would be in keeping with the HSE (NHS and NICE legal) definition as expressed in the The Personal Protective Equipment at Work Regulations 1992. It is also in keeping with the WHO definition (*Personal protective equipment or PPE is equipment used to prevent or minimise exposure to hazards*).

5. The key legislation used by HSENI is (and was) the Health and Safety at Work Order (NI) 1978, The Management of Health and Safety at Work Regulations (NI) 2000 and the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993. It should however be noted that these regulations were drafted to protect workers and members of the public from risks to their health and safety created as a result of a work activity. They were not designed to address a pandemic where the hazard is at large within the community. The application of public health guidelines to workplaces (under health and safety legislation) is based on the legal test "so far as is reasonably practicable".

6. The British Standards Institute (BSI) provides direct testing and conformity certification at product development stage, providing the evidence needed for CE and UKCA marking of products such as PPE. In the European Union (which applies in NI) the European Commission sets relevant technical specifications for PPE under Regulation (EU) 2016/425. HSENI is the market surveillance authority for workplace PPE in Northern Ireland but HSENI does not set technical standards for PPE.

7. HSENI ensured that any products being offered to the healthcare sector in NI met the required standard as laid down by a guidance paper developed by HSE(GB) and MHRA for manufacturers on the essential technical requirements for non-CE marked PPE being procured directly by Government for the health care setting. HSENI valued and relied on the guidance produced jointly by HSE(GB) and MHRA for manufacturers on the essential technical requirements for non-CE marked PPE being procured directly by government for health care workers, when assessing the quality standard of the PPE. Both HSE(GB) and HSENI also worked closely with the British Safety Industry Federation (BSIF), to ensure that PPE standards within the health care setting were being met.

8. There are two sets of product safety regulations that govern the placing on the market of equipment used to protect users in the health care setting, the EU Regulation 2016/425 on Personal Protective Equipment (and the Personal Protective Equipment (Enforcement) Regulations 2018). The Office for Product Safety and Standards (OPSS) is responsible for PPE product safety policy which is enforced in health care settings by the Health and Safety Executive for Northern Ireland (HSENI) in Northern

Ireland. The Personal Protective Equipment at Work Regulations (Northern Ireland) 1993 impose health and safety requirements with respect to the provision of, and use by, persons at work of personal protective equipment. A person who contravenes the Regulations is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978. Enforcement where necessary, would fall to HSENI and the local authorities in NI.

9. During the pandemic, HSENI was involved in ensuring that the PPE ensemble for healthcare in Northern Ireland met the required quality assurance standards, i.e. REGULATION (EU) 2016/425 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on personal protective equipment. During the early stages of the pandemic, the European Union gave member states the opportunity to put easement measures in place in relation to the conformity assessment process for PPE, which the UK as a whole decided to take forward, led by the policy lead OPSS at the then DEPT of BEIS. There are product safety regulations that govern the placing on the market of equipment used to protect users in health care settings, these are EU Regulation 2016/425 on Personal Protective Equipment.

10. The enforcement powers available to HSENI in relation to regulating the compliance of PPE and the use of PPE before and during the pandemic derive from the powers set out under Article 22 of the Health and Safety at Work (NI) Order 1978. More particularly, the Personal Protective Equipment (Enforcement) Regulations 2018 apply the direct acting PPE Regulation 2016/425.

Approach taken in the healthcare sector by HSENI

11. In the period before 1 March 2020, inspections of healthcare settings were generally done on a reactive basis in response to an incident or accident. This was the outworkings of the size of the healthcare estate and undertaking and the available resources in HSENI. In the relevant period, it was HSENI's understanding that all healthcare settings were operating under extreme pressures and doing the best they could to reduce the risk of Covid-19 spread. There were widely reported issues around the availability of protective equipment but there was an unprecedented societal expectation of the healthcare sector and the need to maintain the functions. HSENI liaised with all the Health and Social Care Trusts to discuss the provision of

appropriate PPE across the health and social care sector. As part of the ongoing actions around the sourcing of relevant PPE during the early stages of the Covid pandemic, HSENI placed information from HSEGB (known as "safety alerts") with regards to mask suitability and purchasing arrangements on its website to inform all local dutyholders of the UK-wide guidance. Following this, there was a later meeting between HSENI, PHA and BHSCT in May 2020 after concerns were raised by an employee regarding the use of "Tiger Masks" in the Belfast Trust (i.e. the same surgical masks with ear loops that the general public would have been wearing). Following this complaint, all Health Trusts were subsequently contacted to ask if they had enough PPE stock for staff including front line staff (such as those in ICU). This e-mail also included questions on stock levels for tight fitting (FFP3) masks and its prioritization; as well as ("Face Fit") testing for staff wearing both these masks and other FFP2 / N95 masks (depending on existing stock supply / distribution chains at that time in the pandemic).

12. HSENI was not, at any point during the relevant period, instructed or requested not to take enforcement action in respect of non-compliant PPE, either by the Department of Health Northern Ireland ("DoH"), Department of Health and Social Care ("DHSC"), Cabinet Office or any other government department or body. The Use of face masks designated KN95 (published on HSENI's website on 11 June 2020) is exhibited as INQ000236248. This document was an alert stating that HSENI had been informed that a substantial number of face masks, claiming to be of KN95 standards, provide an inadequate level of protection and are likely to be poor quality products accompanied by fake or fraudulent paperwork and that HSENI was working to remove them from the supply chain with colleagues in HSE(GB), the Office for Product Safety and Standards (OPSS), Border Force, the Medicines and Healthcare products Regulatory Agency (MHRA) and Trading Standards to identify manufacturers and suppliers of these masks and prevent them entering the UK; An update: UK Guidance on the Repurposing of Non-Compliant Personal Protective Equipment (PPE) and Medical Devices (published on HSENI's website on 19 June 2022) is exhibited as INQ000236256 was to alert workplaces that OPSS guidance states, where a product has been designed or manufactured as Personal Protective Equipment (PPE) or as a medical device and is found to be non-compliant, the business in the supply chain that owns the product, can now take on

producer responsibility and repurpose the product to sell as a face covering during this time of Covid 19 Pandemic. Any business repurposing products to classify the product as a face covering must demonstrate it meets the requirements under the General Product Safety Regulations (GPSR).

13. HSENI does not have any records of issuing permissions allowing for shelf-life extensions of products at risk of degrading over time.

14. Under the Health and Safety at Work (NI) Order 1978 and the Personal Protective Equipment at Work Regulations (Northern Ireland) 1993 responsibility to ensure that adequate PPE was available in the workplace lay with the 'employer'.

15. Instances in the relevant period where HSENI worked alongside other bodies has been set out in the preceding paragraphs and in particular paragraph 13.

16. In Northern Ireland HSCNI, through BSO's usual procurement procedures came under extreme pressure during the pandemic, which was compounded by a massive surge in global demand for PPE as Covid-19 took hold across the world. Unprecedented quantities of PPE were needed quickly to protect health care workers within Northern Ireland. In order to speed up supply of PPE to health care workers, the EU introduced two regulatory easements to the PPE regulations. One easement allowed Member State Governments to procure PPE without a CE mark for use by health care workers. The PPE product had to be approved by the relevant market surveillance authority, and in the case of Northern Ireland, HSENI. The second easement was introduced for manufacturers bringing their products to market. This easement allowed manufacturers and distributers to sell PPE for the purpose of protecting against Covid-19 without completing the CE marking process, provided certain other conditions were met. A manufacturer must have started the CE marking process, contacted a Notified Body and have approval from the market surveillance authority, again HSENI. During the pandemic, HSENI continually discussed with colleagues in HSCNI, BSO on the suitability of PPE being brought into the health care setting, and on a very regular basis, carried out inspections of new PPE assignments brought into HSCNI's central warehouse store in Carrickfergus, Co Antrim. HSENI also worked closely with our colleagues in Border Force at points of entry, to carry out inspections on PPE destined for the health care

setting, before they were placed on the market in Northern Ireland. HSENI, became the gateway for quality assessment for PPE donations from both the private and third sector, who responded to public sentiment that everyone should help secure PPE for the Health care setting across the United Kingdom. HSENI ensured that any products being offered to the Healthcare met the required standard as laid down by a guidance paper developed by HSE(GB) and MHRA for manufacturers on the essential technical requirements for non-CE marked PPE being procured directly by Government for the health care setting. As new innovative ideas for PPE where conceived, HSENI worked with manufacturers to ensure that new prototype PPE products did not reach the healthcare setting without meeting the required standards. Throughout the pandemic, HSENI gave Health and Social Care Board Business Services Organisation (HSCNI BSO) guidance, from what OPSS had published, on a regular basis, for the various easements / derogations that where in place at any given point in time.

17. HSENI was a participant in two National Committees, the PPE Regulatory Co-ordination Cell (RCC), led by OPSS and The Personal Protective Equipment Decision Making Committee (DMC) led by the Dept. of Health and Social Care. Both committees remits solely looked at issues relating to products that may enter the Four Nations supply chain, primarily through Daventry. HSENI did not carry out any assessment on the suitability of existing PPE worn by HSC staff but carried out periodic inspections of PPE consignments being purchased by HSCNI (BSO). HSENI did not have a role in relation to testing the adequacy or standard of RPE. HSENI did not have a role in what PPE / RPE was suitable or sufficient for the Health Care Sector, but worked along with colleagues in BSO to ensure that products entering their supply chain met the required standard. HSENI, under the easement, had the final approval as to whether non-CE marked PPE could be placed on the market, for use within the health care setting. To ensure that quality of PPE was of a suitable standard, HSENI collaborated with colleagues in HSE(GB), OPSS, and through HSENI's membership of the PPE Regulatory Co-ordination Cell (RCC). The main Purpose and function of RCC was to: a) Represent a coordination function for UK regulators at a strategic and tactical level; b) Provide specialist advice and coordinated support for dealing with national regulatory issues, and standards of PPE within the supply chain; and c) Allow members of the group to

share intelligence and analysis on market surveillance activities to focus strategic efforts and if necessary, coordinate with Notified Bodies, test houses and government laboratories to support UK testing capability and capacity, and to facilitate the rapid testing of products to inform decision making. The group was invoked during the Covid-19 pandemic to address and overcome regulatory issues resulting from the unprecedented and immediate demand for personal protective equipment (PPE) and medical devices (MD); specifically in regard of the safety and effectiveness of PPE for the NHS supply chain across the United Kingdom.

18. HSENI did not recommend any prosecutions to the Public Prosecution Service of NI during the relevant period in respect of PPE.

19. HSENI adopted existing HSE guidance on infection prevention and control ("IPC") and the use of PPE and RPE. HSE guidance covered healthcare and other settings and was also supplemented by PHA advice current at the time. HSENI did not have the competence to interpret or amend this so we made it available on our website at that time. Essentially nothing changed with HSENI's approach.

20. HSENI did not make an assessment of the level of workplace risk of contracting Covid-19 in healthcare settings or indeed for any work sector. This was outwith HSENI's competence and was a matter for the Department of Health in NI and the NI Public Health Agency. The same would apply to earlier viruses such as SARS (Severe Acute Respiratory Syndrome) and MERS (Middle East Respiratory Syndrome). As stated HSENI did not carry out inspections of the healthcare sector.

21. HSENI cannot comment on what work was carried out with the Public Health Agency ("PHA") and / or the DoH in relation to the re-use of PPE. The decisions on what guidance was and was not implemented in Northern Ireland is outwith HSENI's remit and competence.

22. HSENI informed HSCNI at every stage of changes to policy / easement etc.., as they occurred, and responded to all queries from HSCNI in a timely manner. Examples exhibited:
    a. Module 3 – Fang Tian Masks L INQ000400942;
    b. Module 3 - Novel item of PPE [two attachments – next two lines] INQ000400952);

i. Novel Item of PPE - Clear Mask Product Specifications Sheet INQ000400950);
ii. Novel Item of PPE - Face mask MHRA doc. (INQ000400951);

c. Guidance on 2020/403 (PPE easement) (INQ000400943);
d. Overlabelling of FFP3 boxes; and
e. Revalidation [this one has five attachments – next five lines] (NQ000400958);
i. Revalidation Picture 1 (INQ000400953);
ii. Revalidation Picture 2 (!INQ000400954);
iii. Revalidation Picture 3 ([INQ000400955);
iv. Revalidation Picture 4 (INQ000400956); and
v. Revalidation Picture 5 (INQ000400957).

In respect of all the above, HSENI would have acted on advice from two National Committees, the PPE Regulatory Co-ordination Cell (RCC), led by OPSS and The Personal Protective Equipment Decision Making Committee (DMC) led by the Dept. of Health and Social Care.

23. HSENI did not provide any advice or guidance in relation to PPE that did not require fit-testing. HSENI did not make any recommendations regarding reusable PPE (as distinct from recommendations regarding the re-use of PPE that was manufactured for single-use only). HSENI did not make any recommendations regarding clear masks or carry out any work in this regard.

24. HSENI did not:
a. Assist DoH in its efforts to procure PPE during the pandemic;
b. Assist DoH in its efforts to procure LFTs or PCR tests during the pandemic;
c. Assist DoH in its efforts to procure ventilators during the pandemic; or
d. Assist DoH in assessing the suitability of PPE or other key healthcare supplied by DoH either locally or from abroad.

25. HSENI liaised with all the Health and Social Care Trusts to discuss the provision of appropriate PPE across the health and social care sector. As part of the ongoing actions around the sourcing of relevant PPE during the early stages of the Covid pandemic, HSENI placed information from HSEGB (known as "safety alerts" – see above) with regards to mask suitability and purchasing arrangements on its website to inform all local dutyholders of the UK-wide guidance. Following this, there was a

later meeting between HSENI, PHA and BHSCT in May 2020 after concerns were raised by an employee regarding the use of "Tiger Masks" in the Belfast Trust (i.e. the same surgical masks with ear loops that the general public would have been wearing). Following this complaint, all Health Trusts were subsequently contacted to ask if they had enough PPE stock for staff including front line staff (such as those in ICU). This e-mail also included questions on stock levels for tight fitting (FFP3) masks and its prioritization; as well as ("Face Fit") testing for staff wearing both these masks and other FFP2 / N95 masks (depending on existing stock supply / distribution chains at that time in the pandemic).

26. HSENI received correspondence from Dame Kinnair and Dr Black (21 January 2021) (INQ000400935), in their respective roles as Chief Executive & General Secretary of the Royal College of Nurses (RCN) and the Northern Ireland Council Chair of the British Medical Association (BMA) in respect of '*concerns about the ongoing threat posed to health and care staff following the identification of the SARS-Co-V2 variant (VOC 2020/2101) and in particular the risk of aerosol / airborne infection and HSENI's regulator's role in preventing work related ill health, death or injury*'. They asked for a review of the Infection, Prevention and Control (IPC) guidance for health and care to reduce transmission, particularly in respect to aerosol and airborne transmission as a result of coughing, talking, calling out or shouting, as commonly occurs in health and care settings. This must include an assessment of the use of appropriate PPE across settings. They asked for a review of guidance and the provision of ventilation across the health and care estate, to ensure it remains fit for purpose given the emergence of new variants. The letter also touched on their view of the supplies of PPE for staff. HSENI's Chief Executive set out the HSENI position in relation to the same in a letter of (9 February 2021) (INQ000400944). He stated that in respect of Infection Prevention and Control (IPC) Guidance, the content of these clinical care standards is not within the powers of HSENI to direct. He stated that review of the Infection, Prevention and Control (IPC) guidance has now been published and that the revised guidance has considered the UK VOC 202012/01, lineage B1.1.7, first identified in Kent on 20/09/2020 and lineage B1.351 or 501Y.V2 first identified in South Africa in October 2020. The guidance on page 2 confirms that, "following a clinical and scientific review, no changes to the recommendations, including PPE, have been made in response to the new variant strains at this stage, however this position will

remain under constant review. He stated that HSENI would ask for assurance from the Trusts in Northern Ireland that they are fulfilling their "Governance and responsibilities" roles as detailed in Section 3 of the IPC Guidance. HSENI would also seek reassurance of compliance with the standards for PPE detailed within the reviewed IPC Guidance, including information being appropriately communicated to staff. The standards also require the implementation of adequate ventilation as a risk control.

27. In the relevant period, HSENI took the decision to interact with duty holders mostly by remote contact (phone / email etc.). This was in order to protect our own staff, to operate within the public health guidelines and also to avoid bringing covid-19 into and / or out of healthcare settings where there were unprecedented pressures. This was a pragmatic approach in extraordinary circumstances.

Future similar events

28. It is difficult to predict exactly how HSENI would operate in any future pandemic event. Nowadays all staff have the capability to work at home. On reflection, as regards what was expected of workplaces which remained operational could have benefited from greater clarity. Where physical separations, extraction, ventilation were required these had to be fitted and mostly retrofitted. In environments such as food production and animal slaughter and processing, this required a significant effort from employers who, in many cases, were attempting to take some crude rules (e.g. maintain two metres separation) and devise ways to achieve this or achieve an alternative. In some work environments such as factories and construction sites, HSENI was able to assist employers with this. This led to many disputes and complaints from workers and trade unions. HSENI found itself in an invidious situation of trying to assist keeping essential industries operating against a backdrop of trade unions and employers demanding HSENI to take action to close them down, which is not something HSENI powers would extend to.

29. Looking to other work locations, there were instances where HSENI was attempting to help some industries comply with public health guidance. In the taxi industry and public transport industry this was very difficult despite these industries being permitted to operate.

30. In healthcare, it was being reported from the unions and the media etc. that shortages of PPE / RPE meant that the employers could not, at all times and in all situations, maintain safe systems of work that would normally be expected. Whilst HSENI did ask employers to identify the workers most at risk and offer the greatest protection available, it did not appear an option for HSENI to use its powers to serve prohibition notices or improvement notices to create change. In addition, the greater knowledge of the risks and how to manage them was held within the health service. I do not want to spend time on the issue of 'societal expectation' except to say that there was, from our point of view, an overwhelming view that hospitals and healthcare should continue to operate to meet demand.

31. I would like to touch on HSENI's powers. By way of background, HSENI inspectors have three means to create change: a letter; an improvement notice; and a prohibition notice. The first one tends to be asking an employer to make a change. The second one is mandating an employer to make a change (21 days to comply) but the employer can appeal to a tribunal (which were not sitting at certain times during the pandemic); and the third one has the effect of stopping the use of a machine or an activity if there is a risk of serious harm. As in an improvement notice, the employer must be able to appeal the prohibition notice but, unlike an improvement notice, the prohibition notice remains in place during the appeal. My view is that these notices were not suited to many of the situations which arose in the pandemic because often the employer had no obvious way of complying with them and let them resume operations.

32. I would like to touch on HSENI's role and staffing. During the pandemic, HSENI had a staff complement of approximately 100 staff of which around 10 were principal inspectors, 30 were inspectors. Principal Inspectors and Inspectors are recruited as trainee inspectors with relevant primary degrees and industrial experience. On recruitment they all must achieve the same postgraduate regulatory qualifications. Principal Inspector is the more senior grade and will carry a range of administrative and management duties. Inspectors work within sectoral teams (e.g. manufacturing / construction etc.) and each of these teams will be managed by a Principal inspector. In addition we had four other front line staff (compliance officers). For various reasons such as health / shielding / caring responsibilities etc. only circa 25 of these inspectorate staff could be deployed to fieldwork.

33. The staffing complement set out above is broadly in keeping with the numbers we had in the five years before the pandemic. In some years the numbers would have been a little lower. This was because we traditionally only recruited to fill vacancies.

34. The number of premises which are physically inspected is limited by the number of available inspectors and other work pressures. In order to increase our reach to dutyholders we use a mixture of inspections, website, events, media etc. Prior to the pandemic, we prioritised our limited resources more in the high-risk industries and activities known to be associated with serious injuries and fatalities. These would include agriculture, construction, extractive industries and manufacturing, work at height, workplace transport, machinery safety etc. In addition we deployed staff to cover all work sectors and meet our statutory duties. Our work would have been a mix of proactive (inspections, education etc.) and reactive (complaints, investigations etc.).

35. HSENI is not statutorily required to carry out inspections in any sector. Its functions are set out in Article 13 of the Order. Article 22 to 27 of the Order provide inspectors with enforcement powers which would include carrying out inspections and examinations etc. In normal circumstances, depending on resources and other priorities, proactive inspections may be carried out in any and all sectors including healthcare. Reactive work would also be carried out in all sectors where, for example, an accident report of a complaint was received. Fatalities, major injuries, occupational diseases, incidents likely to give rise to serious public concern, serious breaches of the law may be subject to inquiry or investigation subject to disqualifying criteria which are: Inadequate resources / other priorities / impracticability of investigation (e.g. unavailability of witnesses or evidence or disproportionate effort would be required) / or no reasonably practicable precautions available for risk reduction.

36. When the pandemic started, HSENI was inundated with an unprecedented increase in complaints and requests for advice on managing covid-19 in workplaces (see Table One below).

Table One:

Total interactions recorded by HSENI during the pandemic.

Table One - Covid Related Interactions			
Year	**2020**	**2021**	**2022**
Inspections	2069	1758	170
Advisory Contact	96	162	27
Complaints	3153	585	14

(Interactions include emails / letters / site visits / telephone calls)

37. To put this in context, in the years before the pandemic, we would expect to receive approximately 800 to 850 complaints. In 2020 we received 3,153. The volume of complaints and requests for advice resulted in us prioritising our resources to meet this demand. Our entire staff complement moved immediately to home-based working. In the period 25/03 to 05/05 2020 HSENI suspended site visit inspections for all but serious and fatal incidents to reduce the risk of staff contracting and spreading Covid. For the duration of the period, typically a serious incident would have been a fatality. Our inspectorate staff were tasked with responding, mostly by telephone and email to the increased number of complaints and requests for information. Given the number of requests, the novel nature of the subject and that the available guidance was public health guidance, meeting this demand engaged all our available inspectorate staff. Due to this and the risk to HSENI staff, alternative methods for dealing with them were developed. These included remote inspection methods where confirmation of any required actions was obtained by video, photographic or documentary validation and where possible corroboration by the complainant or Trade Union Officials. Staff would have used these methods to a lesser extent before the pandemic. The move to using these methods on a much greater scale was due to the volume of complaints and requests for information received and also to protect our own staff as much as possible from the risks of Covid-19 by maximising opportunities to adopt a home-working model. These methods allowed for the handling of a large volume of work in relative safety for our staff and was useful for issues where verification was somewhat more straightforward (e.g. was a guard on a machine / was a worker trained etc.). It was less effective for making judgements about safety behaviour in the workplace such as employee compliance with safety processes and procedures. These issues will always be easier to assess with a site visit but even site visits have limitations insofar as the presence of an inspector will have an immediate positive behavioural effect.

38. Part of HSENI's role is to ensure compliance with relevant health and safety at work legislation to protect workers' health. The need for this came into sharp focus as a result of the Covid pandemic, albeit the increased risk could have been the result of non-work interactions rather than the work activity itself. HSENI did not have the public health competence to develop Covid-19 guidance or best practice, so the organisation's work in the period was to provide / signpost advice and assist organisations to operate in compliance with the available public health guidance, particularly in working environments. The basic guidance issued and promoted by the UK Government both in and out of the workplace was predicated around maintaining two metres distance which then became "Hands, Face, Space" circa September 2020. This work was underpinned by the duty under law, for "every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees".

39. HSENI has never had the capacity to develop health and safety guidance for industry. The policy and research functions necessary to develop health and safety guidance rest within HSE and BSI etc. HSENI adopts approved codes of practice and guidance issued by HSE for use in N. Ireland.

Statement of Truth

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

Signed: Personal Data

Dated: 24 March 2025