

Witness Name: Jayne Brady

Statement No.: WITN7352001

Exhibits: WITN7352002 -

WITN7352009

Dated: 26/10/2022

INFECTED BLOOD INQUIRY

WRITTEN STATEMENT OF JAYNE BRADY

I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 07 October 2022.

I, Jayne Brady, will say as follows: -

Section 1: Introduction

1. I reside at Belfast and my date of birth is 72. My professional qualifications are: M Eng in Electrical and Electronic Engineering, DSc Economics (Honorary); Fellow, Institute of Directors.
2. I was appointed to the role of Head of the Northern Ireland Civil Service (HOCS) on 01 September 2021, following an open competition. Prior to taking up my current post, my recent roles included: Digital Innovation Commissioner for Belfast; partner in a venture capital firm; and co-founder of an artificial intelligence start-up business. I have served as a member of the UK Government's Innovation Expert Group, and as an entrepreneurial expert for the Said Business School at Oxford University.

Role and responsibilities

3. My role as HOCS is broadly similar to those of the Permanent Secretaries to the Scottish and Welsh Governments, and the UK Cabinet Secretary, but with a number of key differences that stem from the constitutional arrangements that apply in Northern Ireland. These differences may have a bearing on some of the questions raised by the Inquiry in the Rule 9 notice of 7 October 2022. Accordingly, they are explained in paragraphs 6 to 11 below.
4. In broad terms, my role, working in the Executive Office (TEO), is to lead the Northern Ireland Civil Service (NICS), serve as principal policy adviser to the First Minister and deputy First Minister, and to serve as Secretary to the Executive (broadly equivalent to the role of Cabinet Secretary in the UK Government).
5. The full job description for the role is attached at WITN7352002 .
6. The NICS is constitutionally separate from the UK Civil Service. It serves the Northern Ireland Executive¹, a coalition government, comprising nine Executive Departments, each of which is a separate legal entity.
7. The Executive differs from the Westminster model of cabinet government in key respects. Ministers² are appointed by their party Nominating Officers, in proportion to the size of their respective party representations in the Assembly (the d'Hondt arrangements). In general, individual Ministers have authority to determine policy and operational matters within their Departments, without the general requirement to observe a collective '*cabinet position*'. However, this is qualified by a statutory requirement for certain matters to be the subject of consideration by the Executive³. Those matters include:

¹ Formally, the Executive Committee of the Northern Ireland Assembly.

² Separate arrangements apply in respect of the appointment of the Minister for Justice.

³ See sections 20 and 28A of the Northern Ireland Act 1998, and paragraph 20 of the Belfast Agreement.

- 'cross-cutting' matters, that is, matters that affect the statutory responsibilities of more than one Minister (more so than incidentally);
 - significant or controversial matters that are outside the scope of the Executive's Programme for Government⁴, or that the First Minister and deputy First Minister (acting jointly) have determined to be matters that should be considered by the Executive.
8. The constitutional arrangements are further reflected in the governance and accountability arrangements for the NICS. Paragraph 11 (1) of Schedule 12 to the Northern Ireland Act 1998 provides for the interpretation of references in statute to the 'Head of the Department'. The paragraph reflects the position in law that, for each Northern Ireland Department, the Minister is the Head of the Department. Article 4 of the Departments (Northern Ireland) Order 1999 requires that the functions of a department shall at all times be exercised subject to the direction and control of the Minister. It follows that the Permanent Secretary of each Department is accountable to the Minister for the performance of the Department's functions. Additionally, as Accounting Officers, each Permanent Secretary is accountable to the Assembly.
9. The NICS is not characterised by hierarchical 'command and control' governance and management arrangements. In particular, I do not exercise day to day management or control of individual Departments, or their agencies or arm's length bodies. Specifically, I do not have the authority to direct a Permanent Secretary (or other officials). Furthermore, I do not hold an Accounting Officer role for any part of the NICS. The relevance of this is that the Inquiry may wish to seek additional evidence from the Northern Ireland Department of Health on some of the evidence drawn to my attention, particularly in relation to findings or recommendations that may be applicable to health care policy, or to the governance, administration and delivery of health care.

⁴ See section 20 (3) of the Northern Ireland Act 1998, and paragraph 20 of the Belfast Agreement.

10. In addition, the Civil Service (Northern Ireland) Order 1999 provides that the Department of Finance 'shall continue to be responsible for the general management and control of the Civil Service'. Under Article 4 of that Order, the Minister of Finance can make directions and regulations as to how to exercise his powers and to discharge his statutory duties with respect to e.g. the number and grading of posts; remuneration; conditions of service; conduct (including the making of a Code of Ethics); or recruitment.

11. The NICS governance arrangements reflect these constitutional and legal arrangements. They include:

- The NICS Board, chaired by me with membership comprising Permanent Secretaries (and officials at equivalent grade). The role of the Board is to provide strategic direction to the NICS. The current terms of reference for the Board are attached at WITN7352003 .
- A Memorandum of understanding to provide for joint working between TEO and the Department of Finance on the planning and delivery of reform of the NICS. A copy of the Memorandum is attached at WITN7352004 .

Membership of committees etc.

12. I am not, and have not been, a member of any committee, association, party, society or group relevant to the Inquiry's Terms of Reference.

Evidence

13. I have not provided evidence to, or have been involved in, any other inquiries, investigations or criminal or civil litigation in relation to human immunodeficiency virus ("HIV") and/or hepatitis B virus ("HBV") and/or hepatitis C virus ("HCV") infections and/or variant Creutzfeldt-Jakob disease ("vCJD") in blood and/or blood products.

Section 2: Candour and Objectivity

Measures and incentives to support candour

14. The NICS has a number of measures in place to support candour and objectivity. The Inquiry is already aware of the NICS Code of Ethics⁵ [RLIT0001818], which sets out the standards expected of civil servants, including specific requirements to behave with honesty, integrity, objectivity and impartiality. A breach of the NICS Code of Ethics may be considered as a disciplinary offence (up to gross misconduct) under the NICS disciplinary policy⁶. (A copy of the disciplinary policy is attached at WITN7352005).
15. The Code of Ethics was revised and strengthened in light of the report of the Public Inquiry into the Renewable Heat Incentive (RHI), and the revised Code newly promulgated across the Departments.
16. A number of the recommendations of that Inquiry are relevant for present purposes, and a copy of the Executive's response and action plan is attached at WITN7352006 .
17. In particular, I would draw the Inquiry's attention to the responses to recommendations around the quality of policy development and advice (recommendations 2-4). The revision of core guidance for officials working in the policy function has included specific reference to the role of officials in advising in line with the core values of honesty and integrity. It also underlines the importance of colleagues speaking up when they have concerns, and raising any issues that might reflect recklessness on the part of others.
18. I, and my NICS Board colleagues are committed to promoting the highest standards of behaviour within the NICS, including candour. At present, no

⁵ Available online at <https://www.finance-ni.gov.uk/publications/nics-code-ethics>

⁶ Available online at <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/6.03%20Discipline%20policy%20V7.0%20final%20version.pdf>

specific additional measures are planned to incentivise candour. However, the NICS will consider carefully the outcome of the Inquiry in that regard.

Mitigation against groupthink

19. Departments, and the NICS, overall have a number of measures in place to mitigate any tendency towards 'groupthink'.

20. Each Department has a Board, comprising senior management and two non-executive members, appointed on the basis of their complementary skills and experience. A key role of the non-executive members is to provide constructive challenge and scrutiny, and to guard against any tendency towards groupthink. In particular, each Board has an Audit and Risk Management Committee, which is chaired by a non-executive member. In a similar vein, the NICS Board has decided to appoint a minimum of two non-executive members. The specification for the roles has been developed to ensure a broad range of experience to provide more diverse challenges to the board. A copy of the specification is attached at WITN7352007 .

21. In addition to its governance arrangements, the NICS People strategy and Diversity Action Plan aims to promote diversity as a means of mitigating against groupthink by recognising the importance and value of different backgrounds, experiences, skills, abilities and circumstances. Key actions within the strategy include the expansion of entry routes into the Civil Service to diversify our workforce, including the implementation of a new graduate scheme, broadening apprenticeship offerings, ring posts for successful disabled candidates and pre-employability initiatives for those furthest removed from the labour market. A copy of the strategy and the plan is attached at WITN7352008 .

22. Similarly, in light of the recommendations of the Public Inquiry on the Renewable Heat Incentive, NICS Departments recognise that a shortage of key skills could be a contributing factor to the risk of groupthink. In that regard, the RHI Action plan (WITN7352006) includes measures to promote job-specific recruitment and promotion, and the development and allocation of people with

specific and relevant skills, to ensure that teams have sufficient and appropriate resources. This will further contribute to mitigation of the groupthink risk.

23. The recent review of the NICS secondment policy implemented a number of policy changes, including increasing the maximum period of an inward secondment from two to three years, with scope for up to five years in exceptional circumstances. Such changes support the expansion of the entry routes into the NICS, enabling Departments to access skills and expertise of benefit to the organisation, and which cannot immediately be found within the NICS, via a secondment arrangement, further mitigating against the risk of groupthink.

24. More generally, a key finding of the RHI Public Inquiry Report was the importance of rigorous scrutiny and constructive challenge. This applies both to internal processes such as the formulation of policy advice and the development of business cases; as well as to engagement with external stakeholders. The Inquiry's findings, and the response and action plan have been disseminated in each Northern Ireland Department.

25. Following issues arising from the non-domestic RHI scheme, departmental policies for raising concerns and whistleblowing were reviewed by our internal audit service, and improvements made where necessary. Work has also been done to strengthen good practice by developing an overarching '*Raising a Concern*' framework, setting out principles and shared definitions upon which all departments' policies are to be based. This framework is informed primarily by the NI Audit Office's Good Practice Guide for addressing internal and external concerns. A copy of the framework is attached at WITN7352009 .

26. The NICS is also seeking to promote and embed examples of good practice. The management of the Covid-19 pandemic is a case in point. As the pandemic developed beyond the initial phase, it was recognised that the Executive needed multi-dimensional advice, incorporating input from the Chief Medical Officer and Chief Scientific Adviser, along with analysis and advice on the wider economic and social effects of the pandemic itself and the measures (such as

lockdown) that had been introduced to manage it. This was particularly important as the pandemic moved to the recovery phase, with a series of finely balanced decisions required on the progressive removal of restrictions.

27. To achieve this, officials (at the request of Ministers) established a cross-departmental task force which was chaired by HOCS, with the role of marshalling evidence and developing advice for the Executive. A crucial element of the work of the Task Force was engagement and co-design with external stakeholders, to ensure that advice in development was both informed, and subject to constructive challenge and scrutiny.

28. I consider the work of the Task Force to have been successful, and it is an approach that I wish to see applied more widely to the NICS. In particular, I have made it a priority to embed the concepts of 'co-design' and 'co-delivery' with stakeholders and communities into the development of policy and the delivery of public services. This approach complements the traditional NICS strength of objective intellectual analysis with the applied knowledge and experience of stakeholders. It is also, of course, a key means of mitigating the risk of groupthink by broadening the range of those who contribute to policy thinking.

29. Finally, in relation to this particular risk, I would emphasise the importance of maintaining the constitutional principle of a politically neutral NICS, with appointments on the basis of merit, overseen by the NI Civil Service Commissioners.

The evidence of Mr Jeremy Hunt

30. Mr Hunt's evidence appears to refer to a particular incident or period, and it is difficult to extrapolate his experience to a different organisation (the NICS) and a different time. Nevertheless, I recognise that the risk of the phenomena that

he referred to (*'illusion of memory'* and *'closing of ranks'*) must be carefully considered in any large organisation.

31. I consider that the measures and approaches outlined in the preceding section are equally relevant to this risk. In particular the lessons learned from the RHI Inquiry are very relevant to the risk of *'illusion of memory'*. That Inquiry highlighted the risks of small policy teams, working under pressure, over-relying on assumptions, or taking false comfort from the assumed ongoing reliability and validity of previous analyses, rather than probing or challenging afresh.
32. The Inquiry also found that the *'illusion of memory'* risk may be compounded by too frequent a turnover of staff, particularly when pressure leads to cutting corners in relation to handover of knowledge, and record keeping. The latter may appear somewhat mundane, but the RHI Inquiry report emphasised the importance of having sound administrative processes and practices in place, and the risks that arise from traditional civil service standards being allowed to slip.

Evidence from expert groups

33. The evidence provided by the expert groups reflects their specialist expertise. Whilst wishing to assist the Inquiry to the best of my ability, I regret that I am not in a position to provide any substantive comment or response to the evidence provided by the Psychosocial Expert Group in relation to the provision of health care. The Inquiry may wish to seek evidence from my professional colleagues in the Northern Ireland Department of Health on those matters.
34. However, I see value in the recommendations of that group in relation to national level policy makers; and not solely in relation to health care policy. Northern Ireland Departments will wish to consider very carefully any recommendations made by the Inquiry in that regard.
35. I endorse the evidence of the Public Health and Administration Expert Group in relation to the Nolan Principles, and the standards of behaviour required of civil

servants and others in public life. The Inquiry is already aware of the NICS Code of Ethics, which is broadly similar to that for the UK Civil Service. The Inquiry will wish to know that the role of the NI Civil Service Commissioners in respect of the Code is similar to that of the UK Civil Service Commissioners. In addition, the application of the Nolan Principles to public appointments in Northern Ireland mirrors the arrangements across the rest of the UK; and the role of the Northern Ireland Commissioner for Public Appointments is similar to that of the corresponding UK Government office, and there is close liaison between the two offices.

36. I have no further reflections on the evidence drawn to my attention.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed: GRO-C _____

Dated 27-10-22 _____

Table of Exhibits

Date	Description	Exhibit number
Undated	Job description for the role of the Head of the Northern Ireland Civil Service	WITN7352002
Undated	Terms of Reference for NICS Board	WITN7352003
Undated	Memorandum of Understanding between the Department of Finance and the Executive Office in respect of their responsibilities for Reform of the Civil Service	WITN7352004
October 2017	NICS Disciplinary Policy	WITN7352005
07/10/2021	Executive Response to the RHI Inquiry Report Recommendations and Action Plan	WITN7352006
21/11/2022	Candidate Information Booklet for Independent, non-executive members for the Northern Ireland Civil Service Board	WITN7352007
Undated	NICS Diversity Action Plan 2022-2023	WITN7352008
Undated	'Raising a Concern' Policy Framework	WITN7352009