



# Risk Assessment and Risk Planning Committee

## Uncorrected oral evidence: Risk assessment and risk planning

Wednesday 23 June 2021

10.15 am

Watch the meeting

Members present: Lord Arbuthnot of Edrom (The Chair); Lord Browne of Ladyton; Lord Clement-Jones; Lord Mair; Baroness McGregor-Smith; Lord O'Shaughnessy; Lord Rees of Ludlow; Lord Robertson of Port Ellen; Baroness Symons of Vernham Dean; Viscount Thurso; Lord Triesman; Lord Willetts.

Evidence Session No. 28

Virtual Proceeding

Questions 273 – 280

### Witnesses

**I:** Reg Kilpatrick, Director-General of Covid-19 Crisis Co-ordination, Welsh Government; Karen Pearson, Deputy Secretary for Civil Contingencies and Covid-19 Recovery, The Executive Office, Northern Ireland; Shirley Rogers, Director Organisational Readiness, Scottish Government.

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## Examination of witnesses

Reg Kilpatrick, Karen Pearson and Shirley Rogers.

Q273 **The Chair:** Good morning and welcome to this, the final evidence session of the House of Lords Select Committee on Risk Assessment and Risk Planning. This morning, we are going to be hearing from the devolved Administrations and from the chief scientific advisers, in a two-panel session, starting with the representatives of the devolved Administrations.

We are not the people to whom you are responsible, so we are here to have a dialogue as to how things work. I would like to welcome this morning to the evidence session Reg Kilpatrick, director-general of Covid-19 crisis co-ordination for the Welsh Government, Karen Pearson, deputy secretary for civil contingencies and Covid-19 recovery at the Executive Office of Northern Ireland, and Shirley Rogers, director of organisational resilience for the Scottish Government. Welcome to you all and thank you for joining in this evidence session.

Do not feel, please, that each of you has to answer every question, particularly if one of the others has already completely covered the ground that you might want to cover. We expect to finish this first session by about 11.15, so, if you could keep your answers snappy, I would be grateful. To the members of the Committee, if you could keep your questions snappy, I would be grateful for that as well.

Let us begin by asking how emergency planning and response is managed in your respective Administrations, if you would briefly give us an overview.

**Karen Pearson:** Very briefly, there are several tiers to this, starting at local level. Our equivalents of your LRFs are called emergency preparedness groups—EPGs. They do a lot of the heavy lifting. Sitting above that, I chair the prepare group, which is called Civil Contingencies Group (Northern Ireland). That brings together first responders and senior colleagues in prepare mode. If we have to move into response mode, as we did during the early stages of Covid, the head of the Civil Service or Ministers will chair the Civil Contingencies Group in response mode. That is how we are organised at those three tiers.

**Reg Kilpatrick:** Good morning. Thank you for inviting us to give evidence this morning. There are probably two principles for the Welsh Government's management of emergency planning and response. One of those would be setting strategic direction. That comes from a very clear set of leadership at political level, through a Wales Resilience Forum. Secondly, there is an approach based on partnership, whereby the Welsh Government are a partner of our local resilience fora, other strategic co-ordinating groups and other response machinery.

We approach identifying, managing and mitigating risk as one public service, if you like. We all have a part to play. We are unified by the

strategic direction of Ministers under a fairly common endeavour, which is protecting the citizens of Wales.

**Shirley Rogers:** Good morning. Thanks very much indeed for the invitation to give evidence today. I will not build on what colleagues have said, in terms of the national provision and response under the civil contingencies and so on. In Scotland, I would probably draw out that, under the leadership of the Deputy First Minister, with whom matters relating to resilience sit, we provide Preparing Scotland guidance. That specifically makes sure that a suite of national guidance documents are developed by the Scottish Government and our teams, working with resilience partners, aimed at assisting Scotland in planning, responding and recovering from emergencies.

Under the terms of our structures, multi-agency co-ordination in Scotland is provided by the regional resilience partnerships. We have three of those: north, west and east. Within each of those regional resilience partnerships are a number of local resilience partnerships, the number of which is determined by the RRP's themselves. They bring together all the relevant organisations in an area to provide an effective approach in dealing with emergencies, in accordance with the principles of subsidiarity. That ensures that operations can be controlled at the lowest practical level. I do not think there is too much more to add to what colleagues in Wales and Northern Ireland have already said.

Q274 **Lord Rees of Ludlow:** Good morning, everybody. I wonder if you could say what use you make in your planning of the national security risk assessment. Do you feel it is a useful document? How could it be improved? More generally, do you have access to the requisite information from central government to undertake your work and set your own priorities in dealing with risks? I do not know whether Shirley Rogers would like to start first. I think in Scotland you have developed a separate risk assessment.

**Shirley Rogers:** We have, although one draws very heavily on the other. We use the national security risk assessment. We find it useful, but we have also developed the Scottish national risk assessment, which is based, in principle, on some of the stuff that you find in the NSRA and uses the same methodology. It allows us to focus on risks that might impact Scotland differently, or where we feel that the sense of place within Scotland needs to be reflected in those arrangements.

Clearly, Scotland has a very diverse set of populations. Something that works in the Western Isles might not work in quite the same way in a more urban conurbation. Scotland's responders and resilience partners therefore use both the NSRA and the Scottish arrangements during their planning processes. We find that that injection of local knowledge is really helpful.

One of the principles of the guidance that I was referencing earlier is that resilience and response is part of everybody's role across Scotland. All public partners have a responsibility and a set of roles that underpin our

national response. In combining those two documents, we feel we get the best of the overarching, UK-wide, provision but can also best reflect the circumstances that we find in Scotland.

**Lord Rees of Ludlow:** You think that there is enough information available to you from central government.

**Shirley Rogers:** The answer is always that you would wish to have more and as much engagement in the creation of that guidance as possible. It is very important for us that our playbooks at least coincide. When something is being developed at a UK level, it is really important that there is engagement from Scotland at the earliest possible opportunity, so that, where something requires us to respond in conjunction with something else, we do not find that there are gaps in that two minutes after we need it. The earlier the engagement, the better, in respect of that.

We are not shy. If there are things that we feel we need to know about, we will come back to UKG and ask for further information or involvement in discussions, if things are emerging.

**Reg Kilpatrick:** My view is similar to Shirley's. I agree with her wholeheartedly that we need more engagement in the production of the NSRA. In Wales, we had very little engagement around the 2019 document. We had engagement around the production of the national risk register, which is obviously built on the NSRA.

As a devolved Administration, we have a very good understanding of our own risks, as they face Wales locally and nationally. We develop those through our local resilience fora and an associated set of risk development structures. However, we would like more information about the national risks. As a devolved Administration, we hold a lot of the levers for responding to incidents and crises. Unless we have that complete information about the nature, scale and detail of the risk, it is quite difficult for us to make sure that our preparedness covers all eventualities. As Shirley said, we do not want to find out that there is a grey area or a space in our planning or preparations when we most need to mobilise that.

My view is that we have a very good understanding of our own risks and some particular community risks in Wales. Coal tips are a very good example, which I would suggest ought to feature among the risks for the UK Government, given that these are a pre-devolution legacy. More engagement with the production of the NSRA would be very welcome for us.

**Karen Pearson:** I agree wholeheartedly with Shirley and Reg. We are having a reset of our own arrangements in Northern Ireland. We intend to produce our own local risk register.

Q275 **Baroness Symons of Vernham Dean:** My question follows on pretty much from Lord Rees's question, but it is a little more specific. Perhaps

all three of you could think about this. Do you feel that you have adequate contact and dialogue with central government? Can you tell us exactly what level of contact you have with Ministers?

**Reg Kilpatrick:** I would reiterate a comment I made just now. We would always wish to have greater engagement with the UK Government than we do. That is something we can all work towards. The way I would answer your question is that, at the moment, our engagement is variable. Some departments and some parts of the UK Government in this area are better at engaging than others. A lead department, say, for flooding or water would engage quite well with colleagues in the Welsh Government.

However, we need to improve on the variability that we see now. My suggestions around that would focus on how we build a set of stable and understandable engagements between us and the UK Government, so we can all share those structures and processes, and understand why they are in place, when particular engagements would be initiated and when they would not.

We can also understand much better about the exchange of information between us. Sometimes, there are good security reasons why information is not provided to Wales. I would counter that by saying that we are a devolved Government and Ministers have a democratic mandate for the security of their people. It is very difficult sometimes for us, as officials, to plan for things that we know might be risks, but we do not know the detail or the subtleties of those risks.

**Baroness Symons of Vernham Dean:** May I press you a bit further? Very specifically, what contact do you have with Ministers in London? You have been talking very much about official level. What about Ministers?

**Reg Kilpatrick:** Our Ministers will generally be engaged through COBRA. Could I use Brexit as an example, and then maybe Covid, to give you a feel for how we have been engaged? We are engaged at COBRA. That is as appropriate, when there are national incidents or national things that need to be discussed by all four Administrations.

Throughout Brexit, Ministers were engaged in a number of the Brexit X meetings. There was a regular dialogue. I think our Ministers would say that they were sometimes a bit frustrated that they were invited into those meetings, rather than being there as a partner Government, if you like.

We had quite a lot of sustained engagement with the Chancellor of the Duchy of Lancaster on a daily basis in the early days of Covid, as the response of the UK Government was developing. It is variable. It is a bit like the official engagement. Again, I think our Ministers would argue for a better understanding of when and how they could be engaged, to get over the variability and give them some predictability about their strategic position, their ability and the point at which they need to engage in any response.

**Karen Pearson:** My response is very similar to Reg's. I would note that, in the run-up to Brexit, we did not have Ministers in Northern Ireland for a three-year period. In place of Ministers, the head of the Civil Service would occasionally have attended, so we were not entirely cut out of those discussions in the absence of Ministers. I agree with everything Reg has said.

I suppose the quantity of engagement is not really the measure of its success. It is the quality and depth. Is it meaningful and does it result in a better approach to risk management and mitigation? That is what we should aim for.

**Baroness Symons of Vernham Dean:** Do you feel you are getting that better quality?

**Karen Pearson:** It is variable, as Reg says. I would agree with that. During the run-up to EU exit and Covid, it was decent and regular, but not predictable. I would agree with Reg's point on that.

**Shirley Rogers:** I very strongly support Reg's point about the patchiness. As somebody who steered, from an official perspective, the XOs for EU exit, I think that it was suboptimal. We had very late notification of what the subject matters were going to be, and a lot of rapid changes to the agenda, which meant that Ministers were not always able to be as prepared and briefed as we would have wished. There were frequent administrative difficulties, cancellations and various other bits and pieces.

In supporting what Reg has said very strongly, can I add a different dimension as to why I think there is a bit of a dilemma? It comes from some UK Government departments' understanding of what a devolved Administration actually is. On occasions, there is a tendency to treat us as if we are another UK Government department and talk to us in a sectional way. From a government perspective, we are required not just to understand and contribute to the particular subject that is under debate but to consider it from a concurrency perspective and consider any wider implications of things.

There is a variable degree of understanding about what devolution settlements look like and what devolved Administrations' powers are. It is too easy sometimes to think, "This is a reserved matter; therefore we do not need to", rather than thinking, "Even though this is not a devolved matter, the implications of it have ramifications for"—in my instance—"the Scottish Government". My observation is partly that there is a tendency to treat us as if we are a department and consult us on the things that people think we will need to know about, rather than the totality.

As a consequence of that, the engagement that happens is often very late in the day. Somebody thinks, "Oh gosh, they are going to need to know that in Scotland; we'd better go and tell them that", as opposed to earlier engagement that would allow us to be assured. There are a

number of instances where we fixed it, but we fixed it rather later in the day and perhaps not always as respectfully of the devolution settlement as we would hope.

**Q276 Lord Browne of Ladyton:** This question invites you to tell us about how communication and dialogue work in the other direction. That is from Edinburgh, Cardiff and Belfast to the local level. As is clear from our briefings and the answers you have already given, each Administration have their own structure for the management of emergency planning and response at a local level. That is part of the beauty of devolution.

What can we learn from this diversity that we can translate into recommendations to the UK Government? How close is your relationship with local preparedness, businesses, response groups and the voluntary sector? If they were here and we could ask them, would they say that they feel brought into the discussion of resilience and risk planning by you, in the way in which you, quite rightly, wish to be with the UK Government? It would be helpful for us if you could draw attention to specific examples of good practice. You do not need to go into detail here. You can refer us to it, and we can look at it later.

**Karen Pearson:** You are very familiar with our size, our geography and how important it is that everything here is local. That is the way it should be. I would hope our partners in local government, the voluntary and community sector and the business sector would feel involved. If there is room for improvement on that, we would want to know and take it on board.

You asked for an example. If I go with Covid, the relationships are as good as they have ever been in that context. Everyone has worked together particularly well, right from the outset. One of the Covid groups I chair is a cross-departmental working group. On a Wednesday morning, we have all departments in Northern Ireland, PSNI and local government attending weekly, so that they are constantly brought up to date with policy. It helps them to know what is happening in the policy world, as well as the preparedness world. They also sit on the group I chair, the preparedness group, and indeed the response group, if we hit that level.

We also talk regularly to businesses. I would like to take the opportunity to thank our partners in local government, business and the voluntary and community sector for what they did on the ground during the first waves of Covid. If I give you one example there, our Department for Communities was responsible for looking after the shielding community in Northern Ireland with food parcels and packages, pharmaceutical support and mental health support. We could not have done that without our partners, particularly in the voluntary and community sector, and the local government structures. So it has worked. You are right to say that we have a requirement of UKG. If our local partners had a requirement of us, we would absolutely want to know that.

**Reg Kilpatrick:** I would like to give you five examples of good practice, if that would be okay. I have already said that the Welsh Government

approach their resilience responsibilities as a partnership and a collaboration with all levels throughout Wales, so from the very front-line local resilience fora through the other, more strategic, co-ordination groups and so forth.

First, we set out a very clear strategy, which brings in all the responding agencies, but also the voluntary sector. They are part of the group chaired by the First Minister that discusses these matters on a regular basis during the year. He is very clear about what needs to be done and what each individual organisation could contribute. Like Karen, we work very closely with the voluntary sector, in all its guises, to build that into our partnership response.

Secondly, we have a social partnership forum. During Brexit and during Covid, we have used that quite extensively to talk directly to business, the voluntary sector and the trade unions about how we are going to respond, again drawing out what contribution each of those organisations and sectors can make to addressing the set of risks and the set of responses we need to make. That has seen some really productive new relationships developed between business and the voluntary sector, and between those two groups, the trade unions and the workforce. I would have to agree with Karen that the contribution of our public sector workforce over the last 15 to 18 months has been quite phenomenal.

Thirdly, our joint emergency services group brings together the chief constables, chief fire officers, most senior colleagues from the NHS, the Welsh Government, the Army, the Navy, the environmental agency and others. We will sit together regularly—we have been meeting weekly for some months now—to look at how we are managing the Covid response as a group and to work out how we can bring together our resources more, so that they will have a greater impact than the sum of the individual organisations. We will look at our risks and mitigations to make sure we are not duplicating but are complementing one another. As you know, the public sector may not always work together as it should.

Fourthly, there are the local resilience fora, which you have heard about. You will be very familiar with those already. Our Ministers were very clear that they wanted the voluntary sector to be part of those local resilience fora in order to contribute to that very community response that we have needed to put in place. Those LRFs also have their own voluntary sector subgroups, which will draw in the most appropriate voluntary sector groups to deal with whatever risks are manifesting at that local level.

That gives you some organisational flavour of what it is. Overlaying all that is the fifth point I would make, which is about the one public service ethos. Our Ministers are very clear in Wales that, with common endeavour and working together, we can achieve a great deal more than the sum of our parts. That means we have to understand what we are trying to do, the resources at our disposal and how we can best work together.

**Lord Browne of Ladyton:** Shirley Rogers, I am sitting here in Ayrshire,



on the west coast of Scotland, so I suppose I should declare an interest in posing this question to you. Can I make this very specific, if you do not mind? Do local businesses here in Ayrshire have a role on the regional resilience partnership? Do local voluntary organisations have a role? Are they present there? Are they engaged with it, or are they just consulted? I do not mean "just consulted", but are they consulted?

**Shirley Rogers:** Thank you very much indeed for the specific question. I would wish to associate myself with the comments from Karen and Reg in respect of the huge gratitude for everybody's endeavour over the last 16 to 17 months. If I may come to your question, you specifically asked us for some things that you thought would be useful for others to draw on. There are four or five examples of that, which I think helps to answer your question.

The first thing that we found really useful is that the Scottish Government support and fund a number of key personnel in those regional resilience partnerships. They are members of my team, so there is no gap. I will specifically pick the west region, since you are there. Two or three members of my team are also in that team and provide leadership to that regional resilience partnership. They attend all our briefings. They attend and contribute to all the things we do as a team.

Resilience is integrated into that directorate, which means that it is integrated into Scottish Government. That is really important. It requires us to make a modest investment, but that investment pays us back tenfold every time, because we can make contact. For example, if I think at the moment about the preparations that are being made for COP 26, that is not a remote thing for us. The people who are delivering some of that thinking are also the people who are crafting some of that thinking in the Scottish Government. That is really important.

In respect of SGoRR, one of my responsibilities is running our resilience room, the Scottish equivalent of COBRA. Again, we will have either officials or elected representatives from around Scotland on matters of relevance, whether it is a ministerial SGoRR or officials only. If it is officials, we will have officials from COSLA. We will have local resilience partnerships represented in that space. Similarly, if it is ministerial, we will frequently have elected officers. There is not so much a communications barrier, because they are in the room. They are part of those conversations.

I have a couple of other top tips. We do a heck of a lot of joint training. One reason why I think we have been able to respond quickly is that many people were already prepared to think about some of the issues. We had not seen Covid before, but we had seen similar things that needed to be responded to. People had had joint training on some of the things that allowed them to engage at an appropriate level. We continue to offer that resource.

Within my team, as it pertains to resilience, we have specific roles on community engagement and development, which partly answers your

question about to what extent people feel engaged. There are people within the team whose job it is to reach out to the voluntary sector, business and others to talk about what their key resilience risks are, what the threats to that estate happen to be, whether that is in technology terms or whether that is Grangemouth, and the kinds of risks and responsibilities of running that kind of organisation.

Finally from me, part of the resilience team within the Scottish Government is a comms function. It is part of our job to communicate. It is not an afterthought; it is part of the role of the team to be able to communicate upwards, downwards and sideways. We sometimes facilitate conversations between partners, where we are not necessarily directly involved, but just make sure we have the message up and the message down. That includes the voluntary and business sectors, according to the needs, size and scale of the issue.

**The Chair:** That was very helpful. You have not mentioned the National Centre for Resilience. I was wondering whether that played a role as well.

**Shirley Rogers:** To be frank, that was not at the forefront of my mind in the preparation for that answer. I can come back to you with some thoughts on that, if that would be helpful.

**The Chair:** Okay, thank you very much. That would be helpful.

Q277 **Baroness McGregor-Smith:** I have a question about how emergency risk assessment and planning splits between central and devolved Administrations. We are aware as a Committee that risks rarely fall into one category. When you have to co-ordinate a response, where a risk or policy cuts across areas that are devolved and those that are not, how do you actually do that?

I am going to declare an interest here, which is probably going to depress you all when I mention it. It is going to be aviation. I have sat as chair of the AOA, which represents the views of all UK airports. I have sat on the opposite side as I watch the devolved Administrations try to manage this pandemic and the crisis. I am particularly interested in how you have co-ordinated the responses, particularly with central government.

**Reg Kilpatrick:** Would you mind if I used Brexit as an example? That was a real national issue where there were some particularly local Wales risks. We were also acutely aware of the national risks around food supply, for example, and a range of other things. Brexit shows that, with the time available, we can build a very effective national response.

Essentially, the risks for Brexit were cross cutting in respect of geography and policy. We had some real interests in food. There were also issues around security, borders and, for us, ports. We have the second busiest port in the UK when it comes to container traffic, Holyhead. There were lots of issues around that.

Brexit was actually a good example. Had we not had it, we would probably have been slightly less prepared for Covid than we were. We

had two years of planning across the public sector and with Whitehall, which enabled us to develop the relationships and structures. Essentially, we developed our own Welsh Operation Yellowhammer, which worked from the very front line up to Welsh Ministers, to provide them with situation awareness. From our own situation centre here, we were able to link into the Civil Contingencies Secretariat, COBRA and the UK mechanisms, as they were put in place.

We had a seamless service to provide information from Welshpool to Whitehall through that daily rhythm that had been set by the UK Government. In that sense, we planned very effectively. We put in the right arrangements and we had covered all the necessary risks at the UK level, certainly from the Wales point of view. We also had that two-way flow of information from the Operation Yellowhammer in Whitehall back to Wales, so we could be aware of any emerging risks around Dover or elsewhere in the UK that would begin to have an impact on Wales.

**Baroness McGregor-Smith:** That is really helpful. It is really interesting to hear what your response is on Brexit. How do you feel you have handled aviation, as a devolved Administration? You mentioned the ports with Brexit, but trade also relies on aviation. I am interested in how you feel you have handled that.

**Reg Kilpatrick:** We have one airport, Cardiff Airport, which is fairly limited in scale. My transport colleagues are pretty fully engaged with the UK Government around the risks for that particular airport. Are you referring to the safety and security risks or around trade and passenger flows?

**Baroness McGregor-Smith:** It is a question for all of you, really. As we come out of some of these risks, particularly, say, with the pandemic, clearly some industries have been supported more than others in terms of planning. How do you ensure the survival of the aviation industry at the end of this? I wondered whether any of you had done that collectively and whether that had been a feature of what the UK Government had done with you.

**Reg Kilpatrick:** The aviation industry is a non-devolved matter. We look after the airport and have worked very closely with it, as a business, to make sure it has remained as solvent as possible. We have had various business support grants in Wales that have extended to the airport as well.

**Baroness McGregor-Smith:** I have certainly observed that all the approaches have been completely different from central to devolved. Karen Pearson, would you like to tell us what your reflections are?

**Karen Pearson:** I will continue on the theme of food and then turn to aviation, if that is okay. To pick up on Reg's point, we are obviously on a different island entirely. Lord Browne will be familiar with this. We are highly reliant on freight for our food supply. Very little comes in by way of air. If we do not have viable freight in a pandemic, we are in trouble. We

then need ports and ferries to be viable. Then we need good supply through to our shops. We all saw what can happen, in terms of public behaviour, if people have even a slight concern about food supply. We saw what happened in wave one.

It was important for us to work on the devolved matters, but with central government and our territorial department, the Northern Ireland Office. We worked exceptionally closely on those issues. The ultimate risk for us was lack of food supply, which will cause an adverse reaction in public behaviour. That worked decently well.

As with Wales, air matters are not devolved, but we need to keep our airports viable. We also had the loss of Flybe, which was our main air connectivity for passengers, at the outbreak of the pandemic. It was a very difficult set of circumstances. We have three airports, large, small, and medium, in our terms. We have limited passenger travel. We have limited incoming international travel at the moment. We also have long-term concerns for our aerospace industry, which is one of our specialist industries in Northern Ireland. We are reliant on good relations with central government on that.

Like Wales, we had some support packages put in place. The airport operators have very good access to devolved Ministers here, to the First Minister and Deputy First Minister, as well as some of the relevant departments. It has been a bit of a challenge. Connectivity for citizens in Northern Ireland to Scotland, Wales and England is one of our strategic objectives for recovery as well.

**Shirley Rogers:** I am not sure that there is too much more that I can add to what Reg and Karen have said. The dialogue is continuing, and I would suggest that this issue has not yet come to a resolution. Many of the challenges that might have been experienced with Brexit were actually suppressed because of Covid, since people were not travelling so much due to the restrictions and so on.

The only dimension I would add is that Scotland, as everybody will be very well aware, has a number of island communities. Making sure that air traffic is available in smaller flights, so that the island communities can continue to receive all the goods they need, export their products and travel backwards and forwards, is also something we cannot afford to lose sight of. That is a really important facility for us to sustain those communities.

As Karen has said, the industry has access to conversations with our economy team and with Ministers as and when. I do not think matters are yet completely resolved. As we work through the lifting of restrictions, we will need to continue to make sure we have viable services, so that our islands and everything else we rely on air freight and travel for can be sustained.

**Baroness McGregor-Smith:** That is really helpful. From an industry perspective, they tell me that they do not feel they have the dialogue

with Ministers. I know in Scotland they have suddenly been told that they are reporting into the Climate Change Minister<sup>1</sup>. Going back to Baroness Symons's earlier question about engagement with Ministers in particular, I know one of you had talked about it being variable, potentially. That is a real challenge at the moment. It would be interesting to see how that is going to be dealt with, because the industry has felt that it has been very difficult, as you will know. Thank you very much for your answers.

**Q278 Lord Robertson of Port Ellen:** You are very welcome to this Committee. I can say to Shirley Rogers that I am the chair of a small ferry company in Scotland, so it is not just the planes; it is the ferries that are a big issue north of the border. I have a special interest at the moment in Exercise Cygnus, the pandemic exercise that was held in 2016. I have been reading a copy of the report of Exercise Cygnus. I wonder whether any of you were involved in it, or knew about it and about the recommendations, two of which I will read out to you.

At LI 4, it says: "Meetings of the Four Nations Health Ministers and CMOs should be considered best practice and included as part of the pandemic response 'battle rhythm'". The second recommendation that I draw to your attention is LI 6, where it is said: "Further work is required to consider surge arrangements for a reasonable worst case scenario pandemic. This work should be led by NHS England (on operational aspects), with DH providing oversight, assurance and policy direction with input from the four-nations CMO meeting". I wondered whether any of these recommendations was actually put into practice in relation to the pandemic that we are now living through.

**Shirley Rogers:** Had we not been talking about aviation in the previous question, it was a maritime security issue that I was going to draw on as an example of where we have been able to do that kind of risk assessment, scenario planning and exercising. That emerged from some of the maritime security aspects of Brexit.

In terms of your specific question, I can confirm that Health Ministers meet on a four-nations basis, as do CMOs. The CMO meets on a regular basis with the other four-nations CMOs to discuss not just the pandemic but not least the pandemic. Those arrangements have been put in place and have been working quite effectively, in terms of sharing of information. Clearly, the pandemic has also added to those with access to SAGE and various other advisory committees, where that information can be drawn on from Scotland and other places in the UK.

**Reg Kilpatrick:** I do not have anything to add to what Shirley said, but I would draw out the Joint Biosecurity Centre, which is an example of very good practice that has emerged through Covid. The four nations have been engaged heavily in the development of the JBC. We are also quite heavily engaged in its operation. I am part of its strategic stakeholder

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<sup>1</sup> Note this minister is titled the Cabinet Secretary for Net Zero, Energy and Transport, Michael Matheson MSP

oversight. Ministers also are engaged in the board. Some of my team are engaged in or are working as part of the JBC.

That exchange of information, which enables us to plot the course of the pandemic, analyse the patterns of the virus and use that data on a four-nations basis, is working very well. I would just highlight that as a piece of good practice, and a way that the further work on identifying the pandemic and helping to tackle its consequences is being done by all the nations together.

**Lord Robertson of Port Ellen:** If we had Exercise Cygnus about a pandemic, why do you think we were so ill prepared as a country for the pandemic when it started last year?

**Reg Kilpatrick:** I am afraid I do not know too much about Exercise Cygnus. That was not part of my remit. That was the Department of Health rather than the civil contingencies part.

**Lord Robertson of Port Ellen:** I thought everybody was involved in it. According to the report, every element of government was involved in it.

**Reg Kilpatrick:** Yes. It was also quite before my time.

**Lord Robertson of Port Ellen:** Karen Pearson, did you know about Exercise Cygnus?

**Karen Pearson:** Yes, I did. At the time, I was working in the devolved Department of Justice here in Northern Ireland. We had a very specific part in preparing for Cygnus and, indeed, for a flu pandemic, as we probably would have thought was the biggest challenge at the time. Our role in the Department of Justice, sadly, was to think about excess deaths and temporary mortuary facilities, so I am aware of that from a very niche perspective.

I agree with what Shirley and Reg have said about close working between Health Ministers during Covid. They have been meeting regularly, on a four-nations basis. In Northern Ireland, we have to have a very close relationship with colleagues in the Republic of Ireland, which is also in place. Our CMOs and chief scientific adviser have also been part of regular four-nations discussions. I agree with Reg about the important development of the Joint Biosecurity Centre. That is an important, long-term addition to our preparedness. There is also our involvement in SAGE, so there are some good things in this space.

**Lord Robertson of Port Ellen:** Do you think that we did not really learn enough from Cygnus to prevent some of the mistakes that were clearly made during the conduct of this pandemic?

**Karen Pearson:** I would not be in a position to comment on that from a Department of Justice perspective. It would be wrong for me to speculate on that at the moment.

Q279 **Viscount Thurso:** May I declare an interest? I am chair of VisitScotland

and, as such, I report to Scottish Ministers. It suddenly occurred to me that that might be an interest I should declare. In that vein, can I say that the comments Shirley Rogers made about the varied understanding of devolution in Whitehall struck a strong chord with me? I am grateful to her for putting those on the record.

My question is about the Civil Contingencies Act. Emergency powers under the Civil Contingencies Act 2004 are reserved. However, the Covid-19 response has been almost entirely devolved. Can I ask each of you what your reflections are on this? Does this raise issues about the fitness of the Civil Contingencies Act or the way it has been handled? Perhaps, for fairness, I had better go to Northern Ireland first.

**Karen Pearson:** It has very limited application in Northern Ireland, but I do not think that has been a particular barrier in the pandemic. The named organisations for us are PSNI, the Maritime and Coastguard Agency and telecommunications operators. We are aware that the legislation is being reviewed. We will want to see where we go with that, take part in the review and see whether there are any particular changes that we need to make for Northern Ireland.

**Viscount Thurso:** The Civil Contingencies Act has a requirement in it for consultation with the devolved Administrations. I am getting a slight sense that consultation was not always in place. Therefore, its use might have ended up with more consultation. Let me just make that comment and pass on to ask Reg Kilpatrick for his thoughts.

**Reg Kilpatrick:** During Covid, we have not really relied on the CCA. We have had a large set of coronavirus legislation of our own. There was obviously the coronavirus legislation put through Westminster as well. To the extent that we have had to rely on legislation and regulations to respond to the pandemic, we have used different legislative mechanisms. They have been quite successful. They have been very targeted. They have enabled us to take some very significant new powers to constrain people's freedom, but done so with, in our case, democratic scrutiny through the Senedd.

On the CCA, there is a review going on about that at the moment. We are very much looking forward to contributing to it. If I had to raise one issue around the Act, it is that Welsh Ministers are not able to declare a state of emergency. That is still reserved to UK Ministers. It may be something that, subject to Ministers' views and appropriate policy arguments being made, they would want to propose as part of the review. At the moment, the Covid response demonstrates quite clearly that we can do a very great deal of what we need to do, if not all of it, using our own devolved legislative powers.

**Viscount Thurso:** Shirley, you can say anything you like, because I will not be able to comment on it.

**Shirley Rogers:** That is an offer you do not get very often. Could I link your question with Lord Robertson's question? We did not use emergency powers under the CCA as part of the Covid-19 response. I think I

referenced earlier the extent to which we try to look at concurrency and learn from things. Some of the things we learned from Exercise Silver Swan, for example, allowed us to have better, more up-to-date guidance on mass fatalities, body storage facilities, death certification and so on. We were able to do the sorts of things we needed to do by using regulatory powers that did not require us to use the Civil Contingencies Act.

That said, if I was reviewing what we might have needed to do under the Civil Contingencies Act, the refresh is not before time. We look forward to the review of the Act. We look forward to participating as strongly as we can in it and looking at the modern contingencies that need to be considered too. Our responses in civil contingencies matters are good, but could also perhaps reflect some of the more modern threats to our estate, which are not just about civil disobedience and so on but about the links to cybercrime, for example, or a range of other things.

We very much look forward to that review and to being able to participate in it. Details of how that engagement will happen are currently not clear to us. We would want to participate as a full partner in those discussions and be able to share our experiences and our consideration of place, which is, as you would understand particularly, a very important matter for Scotland, reflecting the diverse range of communities that we have.

**Q280 Lord Clement-Jones:** Good morning and thank you very much. It has been a really informative and useful session. You have highlighted quite a number of areas that relate to the duties you have and the relationship with the UK Government. This is the round-up at the end to see what you would put as a priority outcome that you would like us to come to in this inquiry.

**Shirley Rogers:** What are we looking for? I am looking for a resilience response that is competent, flexible and agile, which can address issues that are pertinent to our local communities and that have a sense of place within them. What I would like to come out from this review is a set of clearly defined and agreed engagement and communication structures. There is no doubt that that has been more variable than would have been helpful. Established and agreed communication structures, including at senior level, and including Ministers where that is appropriate, would enable us to be fully co-operative and joined up.

We recognise that there are matters that are reserved. Just because they are reserved, it does not necessarily mean that it is helpful for us to be unsighted or brought into the conversation late in the day. One of the great successes of our planning for Brexit was that we created a huge range of risk assessments, confidence assessments—in terms of the likelihood of us being able to resolve matters—and scenario-planning examples.

I have referred to playbooks several times. The fact that things are different north and south of the border is not always a bad thing, but it requires us to be able to bring those together in a sensible playbook. That



requires us to be jointly sighted, even when sometimes the decision-making powers do not rest with us. That would be my hope for what comes out: that we are able to have those structures, use them to share, and use them to build something that works for all of us as best as it can and allows us to be confident, each in the other, about the response we can expect.

**Karen Pearson:** Going back to some of my earlier comments, we need engagement that is meaningful, mitigates risk and is not just a conversation. Building on Shirley's playbook point there, we need joint training opportunities. We could look strategically at how that might help us. As a final one, there are things that the DAs will be individually very good at. How do we find a way for our learning and specialities to be proactively sought out by UKG and discussed on a four-nations basis?

**Reg Kilpatrick:** It is a bit difficult to find something different to say, but bear with me. I would remind you that national risks are national. They stretch across the UK, so they cannot be managed just by Whitehall or Whitehall departments. That is a theme from the three of us this morning: that devolved Administrations need to be involved and, as Karen says, in more than a conversation. We have to understand the nature, the detail and the scale of those risks. Even though many of our services are devolved, they will also be involved in the response. If there is an air crash—heaven forbid—problems with water or whatever, it will be our local authorities and our health services that contribute to that overall response.

In order to deliver that, echoing one or two of Shirley's points, we have to move away from the variable engagement that sometimes feels ad hoc, where we are drawn into meetings at the last possible moment because we feel we should be, and replace that with a structure of communication and engagement that is stable, predictable and agreed by all parties. Once that is in place, we all have to stick to it.

**Lord Clement-Jones:** Thank you all very much indeed. That was very useful.

**The Chair:** That is the end of our evidence session. We are most grateful to you. I said at the beginning that we were not holding you to account but wanting to learn something from you. We have, and you have set it out in a very helpful and succinct way. We are most grateful.