

MODULE 1
THE WELSH GOVERNMENT'S CLOSING STATEMENT

Transcript references are in the following format: (witness surname) (date) [page number]/line numbers]

Introduction

1. In its opening statement, the Welsh Government said that fair scrutiny of preparedness arrangements in the aftermath of the pandemic is necessary. That remains its view. As the Inquiry is aware, in addition to its own internal reviews of preparedness and those conducted by Audit Wales, the Welsh Government commissioned Professor David Heymann and Sara Hayes to carry out the Welsh Health Protection System Review which reported in October 2022. Together with Welsh local organisations, the Welsh Government has also undertaken a Review of Civil Contingencies examining areas of civil contingencies and emergency planning across Wales. The evidence adduced in Module 1 will, together with these important reviews and the work, inform future changes to Welsh preparedness arrangements.
2. There are two overarching points of context for the Inquiry's recommendations. First, the nature of the virus was in many ways novel and unique and there was a practical limit on the extent to which planning could reasonably anticipate those novel and unique features and, in particular, the nature and extent of the response that would be required. Secondly, as Professor Sir Chris Whitty said in evidence¹ and the Office of Government Science

¹ Whitty, 22 June 2023, [101/5-10]; [108/18 – 109/22].

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submitted in closing,² the fundamental question is the extent to which society is willing to devote significant resources to purchasing insurance against future pandemics. Vexed questions such as whether and, if so, to what extent there should be redundancy in the NHS to provide a significant surge capacity carry very significant resourcing consequences (particularly in light of substantial and increasing demands on the public healthcare system across the United Kingdom).

3. These consequences will affect all aspects of public services in all Four Nations and they will inevitably require a careful and difficult balance to be struck between competing demands on finite public funds. That said, it is equally important to make sure that any recommendations accepted by the United Kingdom Government and which affect Wales, are adequately resourced so as to avoid a repetition of the problem encountered when some functions under the Civil Contingencies Act 2004 were transferred to Welsh Ministers but without any funding at all.
4. When considering what recommendations should apply to Wales, three particular points are relevant:
 - a. First, the Welsh devolution settlement, as enshrined in statute and backed by two referendums, should be respected and any recommendations should have close regard to the constitutional arrangements that govern the relationships between the devolved nations and the United Kingdom Government.
 - b. Secondly, the overwhelming weight of the evidence (including the expert evidence) is that the principle of subsidiarity remains the effective and efficient basis for civil contingencies planning, response and recovery even in relation to risks (such as Covid-19) which affect the whole country.
 - i. In addition to reflecting the constitutional arrangements between Wales

² 19 July 2023, [47/15-25].

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and Westminster, subsidiarity allows resilience matters to be addressed and implemented locally. During the pandemic, the effectiveness of the vaccination programme and the test, trace and protect policy in Wales significantly depended upon the capacity, skill and expertise at the local level. If the Inquiry concludes that, for example, preparedness for public health emergencies would benefit from a greater degree of involvement from the United Kingdom Government, the answer does not (and should not) lie in undermining the devolution settlement or abandoning subsidiarity. On the contrary, the answer is better co-ordination between central, devolved and local governments to allow effective action to be taken at the local level where risk can be best mitigated or, ideally, eliminated.

- ii. A persuasive example of the effectiveness of subsidiarity as it applied in Wales is the evidence of the Welsh Local Government Association which generally echoed the Welsh Government’s own assessment. Well-established, efficient and respectful working relationships between the Welsh Government and Welsh public authorities enabled better decision-making and action during the pandemic because it was informed by the collaborative and effective sharing of information.
- c. Thirdly, the Inquiry heard evidence from Matt Hancock and Michael Gove which suggested that the devolution settlement, in some way, hindered the effectiveness of the pandemic response. Mr Gove, in particular, suggested that there should be some form of retained power, held by central government, to be exercised in unspecified circumstances and on an unidentified basis, to override devolved government’s decisions in response to a public health (or indeed any other) emergency. The Inquiry will undoubtedly form its own assessment of that evidence and Mr Gove’s suggestion following Modules 2 and 3. However, the

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inescapable reality is that different approaches to the pandemic were adopted by the Four Nations because the United Kingdom Government decided to use the Public Health Act 1984, and not the Civil Contingencies Act 2004 (“**the 2004 Act**”), as the basis of its response. That meant that, because health is devolved, the devolved governments were responsible for the response in their own countries. If central government had wanted to avoid that result, it could have acted differently, but it chose not to do so.

- d. Finally, direct comparisons between the resilience arrangements in devolved nations have a limited usefulness because those nations differ significantly in terms of their structures and available powers.
5. Turning to the evidence, a consistent theme in examination was the putative complexity of preparedness arrangements. Preparedness planning is necessarily a technical exercise which involves many public sector organisations and a wide range of officials and experts to identify, consider and address the many risks confronting a modern society. Clearly, there are elements which require reform; there are parts which need some careful refinement, but, importantly, there is also much which remains useful and effective (such as, pre-eminently, the principle of subsidiarity as the basis upon which preparedness arrangements should be founded). Viewed objectively, the evidence is not susceptible to broadly-drawn and unqualified conclusions that preparedness arrangements were inadequate or, for that matter, adequate. If it is to make fair, informed and effective recommendations, the Inquiry’s difficult task is to identify what worked and what did not work, or at least not effectively or efficiently.
6. Finally, there is an important general point that applies to the criticisms that were made of resilience arrangements in questioning, but which will presumably be addressed in following modules. Although much was made of their alleged complexity, the Welsh Government’s evidence (from both the Ministerial and official perspective) is that, in practice and certainly in the initial stages of the response, the arrangements were

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effective although, as the Inquiry would expect, they were amended and refined to meet the distinctive challenges presented by Covid-19, especially as the virus developed and the response had to evolve accordingly. This evidence regarding the practical effectiveness of resilience arrangements should be an important factor in the Inquiry’s assessment of preparedness and its adequacy.

Part 1: Civil Contingencies and Emergency Health Planning in Wales (2009-2020)

7. Throughout the period with which Module 1 is concerned, the Welsh Government made a sustained effort both to improve and to review its existing preparedness arrangements. That was particularly notable in circumstances where the Welsh Government had only a *de facto* role for most of the relevant period and received no funding for the discharge of its responsibilities when a transfer of powers did take place in 2018. The Welsh Government, without the resources of the United Kingdom Government, maintained comparatively sustained activity while also dealing with serious and resource-intensive events, including H1N1 (swine flu), flooding, cyber security incidents³, the consequences of terrorist attacks⁴ and the threat of leaving the European Union with no deal in place.

2009-2016

8. The period between 2009 and 2011 was focused on the swine flu outbreak (2009/2010) and the process of learning and beginning to implement lessons. The Welsh Government carried out its own lessons learned exercise⁵ as well as participating in the Hine Review⁶.
9. Professors Mann and Alexander noted some ‘hallmarks of complacency’ in respect of whole system actions at the UK government level in the years between 2012 and 2016. In contrast, the experts noted that preparedness activities in the devolved governments had

³ The First Minister, 4 July 2023, [185/19 – 186/3].

⁴ Witness Statement of Reg Kilpatrick, INQ000190662, para. 94.

⁵ INQ000144549.

⁶ INQ000022705.

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been ‘more sustained’ throughout the same period.⁷ In Wales, that work included:

- a. Publishing the Communicable Disease Outbreak Control Plan in 2011 and an update in 2014.
- b. Devoting the 2013 annual Health Prepared Wales conference to pandemic influenza.
- c. Publishing the Health and Social Care Influenza Pandemic Preparedness and Response Guidance in 2014, which incorporated the lessons identified from the experience of H1N1.
- d. Deciding to proceed with Exercise Cygnus in 2014 despite that exercise being postponed at the UK level because of the Ebola outbreak.

10. In addition to the positive work identified by Professors Mann and Alexander, the following actions were also taken:

- a. The Welsh Government tested its key emergency response plan, the Pan-Wales Response Plan, in every major exercise from 2005 and reviewed it regularly.⁸
- b. The Welsh Government ran Exercise Taliesin in 2009 to test both the PWRP and local influenza pandemic plans. Following a review of Exercise Taliesin in 2011, the existing influenza plans in Wales were rationalised. One plan was retired and the other two were reviewed and updated before being tested by Exercise Cygnus in 2014.⁹

11. During the relevant period, good and effective training was provided to those who fulfilled critical roles in the response to emergencies.¹⁰ Training was rightly seen as an important

⁷ Expert Report of Professors Alexander and Mann, INQ000203349, pp. 164-166.

⁸ Witness Statement of Reg Kilpatrick, INQ000190662, para. 66.

⁹ Witness Statement of Dr Andrew Goodall, INQ000130469, para. 210.

¹⁰ Kilpatrick, 6 July 2023, [142/3-4].

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part of the emergency planning process at the LRF level¹¹ and it was supplemented at an all-Wales level by training funded jointly by the Welsh Government and JESG.¹²

The Transfer of Functions Order (2018)

12. The United Kingdom Government declined to provide any funding to support the transfer of civil contingency functions in 2018.¹³ Despite the lack of funding, the Welsh Government actively welcomed the transfer of functions and in response initially created six new posts in the resilience team, funded from elsewhere within its budget.¹⁴ That investment provided a sound foundation for work on Brexit-related preparedness and the later response to Covid-19.¹⁵

2016-2020

13. The four years before the pandemic struck can, from the perspective of preparedness, be divided into two periods: the first, between 2016 and 2018, was characterised by a renewed focus on pandemic preparedness by the governments of the Four Nations; the latter period (2018 – 2020) was dominated by the substantial diversion of resources required to meet the clear, immediate and urgent risks presented by a “No Deal” Brexit. Although some pandemic related work continued in this time (such as work on the Pandemic Flu Bill and working with the LRFs on excess death planning), necessarily the attention of all four governments was consumed by the complexities of leaving the European Union with no agreement in place.

14. In the period 2016 – 2018, Professors Mann and Alexander commended the Wales Pan

¹¹ Witness Statement of Dr Andrew Goodall (Welsh Government), INQ000130469, paras. 221 & 227.

¹² Witness Statement of Dr Andrew Goodall (Welsh Government), INQ000130469, para. 228.

¹³ The First Minister, 4 July 2023, [160/11-24].

¹⁴ The First Minister, 4 July 2023, [161/2-7].

¹⁵ Witness Statement of Reg Kilpatrick, INQ000190662, para. 33.

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Flu Preparedness Group (“**WPFPG**”) which worked with LRFs to make improvements and reported regularly to the Wales Resilience Forum (“**WRF**”) on progress.¹⁶

15. As the Inquiry is aware, between 2018 and January 2020, work on updating the UK Influenza Pandemic Preparedness Strategy 2011 was “paused” by the United Kingdom Government because of the demands of preparing for a “No Deal” Brexit. That decision had consequences for Wales (as well as for the other parts of the country) because key areas of work for Wales depended upon the UK Government revising the 2011 strategy.¹⁷
16. There was some (though perhaps no clear) suggestion in questioning that Wales had not completed its task due to a lack of capacity. That is to ignore the evidence and, crucially, the nature of public health emergencies. As part of the 2011 strategy, Wales had committed to a Four Nations approach to planning for influenza pandemics the threat required a close and integrated response from all governments.¹⁸ Put differently, a strategy which focused exclusively on Wales would not have provided the comprehensive analysis and planning that such a response so obviously required.
17. Although preparing for a “No Deal” Brexit diverted much time and attention from all other areas of government, preparedness-related work continued.¹⁹
 - a. Seven recommendations flowing from Exercise Cygnus had not been completed by mid-2018, but very substantial work had been done to finish them. For instance, much had been done to draft a communications strategy and on extreme surge capacity guidance. Although neither document was published before January, the drafts were used during the pandemic to good and immediate effect.²⁰
 - b. The Welsh Government continued work on the Pandemic Influenza Bill. The Pandemic Flu Review Board meeting minutes of 27 November 2019 recorded that

¹⁶ Expert Report of Professors Alexander and Mann, INQ000203349, para. 491(f), p. 167.

¹⁷ Atherton, 3 July 2023, [45/8-10].

¹⁸ Witness Statement of Dr Andrew Goodall (Welsh Government), INQ000130469, paras. 146-147.

¹⁹ The First Minister, 4 July 2023, [194/14-20].

²⁰ Goodall, 4 July 2023, [39/15 – 40/20].

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the Bill contained all Wales-related clauses.²¹ The Bill was duly completed on time and was brought into force at the start of the pandemic.²²

- c. The Chief Medical Officer for Wales also secured further funding to strengthen the National Health Protection System microbiology and genomic services in Wales.²³

18. In 2018, to accompany the transfer of certain functions, the Welsh Government ordered a review of civil contingency structures in Wales.²⁴ The decision to hold the review was almost immediately followed by preparations for a “No Deal” Brexit which, in turn, was followed by the pandemic. Consequently, work on the review was delayed until 2022, but it was completed in 2023.²⁵

Internal Welsh Government Audit and Review (2009-2020)

19. Throughout the relevant period the Welsh Government took sustained action to make sure that preparedness arrangements were adequate, work which was reviewed favourably by Professors Mann and Alexander. Among other matters, they noted the audits of the Welsh Government’s role in civil contingencies; the 2010 review of the response to the H1N1 pandemic and the 2018 Internal Audit Services review of emergency planning which had provided reasonable assurance about the adequacy of the existing arrangements.²⁶

20. As was made clear by Mr Kilpatrick, one of the reasons that the Welsh Government sought to have the additional powers transferred under the 2004 Act was so that it would have the responsibility and the statutory powers to audit and review the civil contingency plans of the Category 1 responders, statutory responsibility, until that point, held by the UK

²¹ INQ000177378, paras. 11 and 14.

²² Kilpatrick, 6 July 2023, [149/13-16].

²³ Atherton 3 July 2023 [66/7-13]; INQ000184902, pp.8-9, paras. 34-36.

²⁴ The First Minister, 4 July 2023, [164/15-20].

²⁵ Kilpatrick, 6 July 2023, [117/22 – 119/3].

²⁶ INQ000203349, p. 90.

Government.²⁷

Part 2: Particular points

21. Part 2 addresses particular points that arose in the evidence including opinions on the complexity of preparedness arrangements in Wales; the true state of the Welsh Government’s preparedness for a pandemic; and the treatment of inequalities in planning.

The nature of preparedness arrangements in Wales

22. Mr Keith KC described the Welsh Government’s preparedness structures and processes as ‘labyrinthine’.²⁸ The charge was that the structures were confusing because of their number and the complexity of the relationships between them.²⁹
23. To illustrate the point, the Inquiry prepared various iterations of an organogram which purported to show Welsh preparedness arrangements. As was made clear by Mr Kilpatrick and Mr McMahon,³⁰ the fundamental flaw affecting each iteration was that they conflated three separate and distinct elements of resilience: planning, response and governance. By merging the three distinct elements, an inevitably confusing picture was created which did little to identify the parts of the arrangements that might be usefully simplified or set aside.
24. The organogram also obscured the reality of close working relationships and a compact civil contingency and emergency planning community in Wales as described in the witness statements of Dr Goodall, the First Minister and the Minister for the Economy. As Dr Goodall said:

“it does create a network of confidence and trust, colleagues get to know each other. It also extends out beyond just the workings within Welsh Government,

²⁷ Kilpatrick 6 July 2023 [114/18 – 116/25].

²⁸ 3 July 2023 [9/22]; [92/13]; 4 July 2023 [41/23].

²⁹ 3 July 2023, [9/21-23]; [92/9-13].

³⁰ Kilpatrick, 6 July 2023, [124/7 – 125/2]; McMahon, 6 July 2023, [49/1-8; 51/4-7; 53/1-8; 55/1-7; 56/18-22].

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because it translates into the way in which we work across other agencies and other networks in Wales as well. So there is an intimacy about that system internally for Welsh Government, as well as outside".³¹

25. The document relied upon in support of the charge was the Wales Audit Office’s report entitled ‘Civil Emergencies in Wales’ (“**the 2012 report**”).³² It was suggested to Dr Goodall that the 2012 report’s conclusions applied generally to the Welsh resilience arrangements and that there were too many emergency planning groups and unclear accountabilities ‘across the board’³³. That suggestion is inaccurate (or, at the very least, it provides an incomplete picture) as the 2012 report found as follows:

- a. The nature of the devolution settlement meant that the Welsh Government’s leadership role in civil contingencies was complicated. However, that complexity did not prevent the Welsh Government from providing effective support for those with duties and responsibilities under the 2004 Act or from providing an effective response.³⁴ In essence, the concern about unclear accountabilities related to the fact of devolved and non-devolved leadership. There was confusion at the local level whether the reporting lines were to the UK Government, because they had all the powers under the 2004 Act, or to the Welsh Government because it was exercising active leadership and co-ordination responsibilities.
- b. There was evidence of inefficiency, unnecessary complexity and unclear accountabilities within the local level structures.³⁵ That related in part to the reporting structures which was unavoidable because they were prescribed by the 2004 Act.³⁶ The existence of numerous planning groups below the local resilience forum level was said to have added inefficiency.³⁷ The local structures had shown

³¹ Goodall, 3 July 2023, [83/6-12].

³² INQ000107113.

³³ 3 July 2023, [90/2-12].

³⁴ INQ000107113, p.9, para.13.

³⁵ INQ000107113, p.10, para.17; p.11, paras. 19-20.

³⁶ INQ000107113, p.28, para. 1.34.

³⁷ INQ000107113, p.26.

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‘effectiveness in dealing with recent events, such as threats from pandemic influenza ... [however there were] likely to be areas where a more streamlined and efficient structure could bring additional benefits’.³⁸

26. The concerns about the number of groups and unclear accountabilities related, therefore, to the local level. The point which underpinned these concerns, and those around the clarity of Welsh Government leadership, was the fact that certain functions under the 2004 Act remained reserved to the United Kingdom Government. Following publication of the 2012 report and to address matters, the Welsh Government asked for the transfer of civil contingency functions under Part 2 of the 2004 Act from the United Kingdom Government.³⁹

27. Following the transfer of those functions in 2018, some, but not all, of the complexity had been addressed by January 2020.⁴⁰ The work was necessarily time-consuming, detailed and it required care in rationalising a new system which brought together local agencies efficiently and effectively.⁴¹

28. To use Mr Keith’s phrase, no issues ‘across the board’ were identified by the 2012 report and neither did it advocate a ‘wholesale change’.⁴² Although referring to the 2023 report, the First Minister was correct when he stated his understanding that a root and branch rewriting of Welsh structures had not been suggested.⁴³ The First Minister’s clear evidence was that, from a Minister’s perspective and based on pre-pandemic experience responding to public health and other emergencies, the structures were not complex in practice.⁴⁴

³⁸ INQ000107113, p.28-29, para. 1.36.

³⁹ INQ000128972, p.2, para. 1.5.

⁴⁰ Goodall, 3 July 2023, [89/3-7], [97/13-20].

⁴¹ Goodall, 3 July 2023, [93/3-8].

⁴² The First Minister was asked by Counsel to the Inquiry, “would you nevertheless agree that, following the 2012 civil emergencies report...and between that time and 2018, there was no wholesale change or no significant change to the civil contingencies structure in Wales?” [167/8-12].

⁴³ The First Minister, 4 July 2023, [170/3-8].

⁴⁴ The First Minister, 4 July 2023 [165/14-17].

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29. The Ministerial assessment was reflected in the evidence of senior officials. Reg Kilpatrick persuasively rejected the view that the higher-level resilience structures in Wales were too complex. His professional opinion was that the main structures for preparedness and response were simple when separated and forensically considered in their constituent parts:

“if one looks at preparedness, as that would sit under the Wales Resilience Forum, that is a fairly simple structure, I would suggest. There are quite a lot of working groups but nonetheless it is a fairly straightforward structure. If we look at the Pan-Wales Response Plan and the structures that sit under that that we would use to respond to an emergency, again they are quite simple”.⁴⁵

30. Mr Kilpatrick’s professional assessment was consistent with Dr Goodall’s view that the Pan-Wales Response Plan proved useful and effective as an initial response to the pandemic.⁴⁶

31. Of course, the Welsh Government recognises that there may be ways to simplify the arrangements in the three distinct phases of planning, response and recovery.⁴⁷ In particular, the Welsh Government agrees with the views of Professors Mann and Alexander that structures should be more people-centred.⁴⁸ That view will certainly inform the Welsh Government’s assessment of what changes need to be made in light of the 2023 report and the Module 1 evidence.

The state of Welsh Government’s preparedness arrangements

32. Certain propositions were put to the Welsh Government witnesses which, to a lesser or

⁴⁵ Kilpatrick, 6 July 2023, [124/14-23].

⁴⁶ Goodall, 4 July 2023, [26/1-4].

⁴⁷ Goodall, 3 July 2023, [96/18-20]: “I would agree that there is an ongoing need to make sure that we can have a less complex system”.

⁴⁸ INQ000203349, pp. 27-28, paras. 52-55.

greater extent, sought to make the following points:

- a. The Welsh Government relied on the UK National Risk Assessment which was too focused on the risk of pandemic influenza and not sufficiently alive to the possibilities of a different threat including that of a coronavirus pandemic.
- b. The Welsh Government’s internal corporate and departmental risk registers were inadequate and should have focused more on pandemic influenza.
- c. These flaws in risk assessment led to plans which were inadequate both in terms of focus and content and those plans were not updated.
- d. There was insufficient Ministerial oversight of emergency planning.
- e. Resources should not have been diverted to preparing for a no-deal Brexit.

33. The stark and unqualified nature of these propositions tends to avoid addressing the difficult and necessarily nuanced question of what was adequate and reasonable based on what was known at the time compared to what is now seen as adequate and reasonable in the aftermath of a global pandemic. That fundamental point was made by the First Minister in his evidence.⁴⁹ Inevitably, the question does not allow an easy answer, but set out below are some important and relevant points of context, correction and detail.

34. Clara Swinson stated that the focus on pandemic influenza in the National Risk Register and 2011 strategy was reasonable because it was in line with expert advice at the time.⁵⁰ Sir Chris Whitty also made clear that the focus on influenza was based on a comprehensive

⁴⁹ “I was careful in answering your earlier questions to try to be clear that the view that the UK risk register was adequate for the purpose was a view of that time” (The First Minister, 4 July 2023, [178/23-25 – 179/1]) and in response to the 2023 review: “They reflect the report authors’ view of what is needed in Wales in 2023 rather than their reflection of what was needed in 2018. I think that’s the only point I’m making, is that it is reflecting today’s Wales, today’s circumstances, today’s challenges” (The First Minister, 4 July 2023, [180/18-22]).

⁵⁰ Swinson, 19 June 2023, [162/22 – 163/16].

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analysis of the evidence and was sensible at the time (in the run up to 2020,⁵¹ a point made by others.⁵² Sir Chris’s detailed explanation will not be repeated here, but the approach adopted by the United Kingdom Government (which was reflected in the plans made by the devolved governments) mirrored other nations in the western world. If the United Kingdom placed undue emphasis on the risk of pandemic influenza in its preparations, it was not alone in doing so. That defining point is a very significant factor in assessing what was adequate and reasonable before the pandemic struck in early 2020.

35. As the Inquiry would expect, governments’ experience of the pandemic, the post-pandemic reviews commissioned by the governments in the Four Nations and the Module 1 evidence has prompted a different perspective on how best to prepare for public health emergencies. The Welsh Government agrees with the professional views of those scientists who gave evidence (as reflected in the closing statement of the Government Office for Science)⁵³ that plans for health emergencies should focus on capabilities and scenarios and the ability to “scale up” rather than preparing specific plans for specific types of pandemics.

Risk assessments/registers

36. For good reason, the Welsh Government relied on the UK National Risk Register for emergency planning and preparedness purposes.⁵⁴ That was then used by Welsh LRFs to develop their own plans. Consistent with the prevailing (and, indeed, present) assessment, the primary focus in terms of emergency health planning was pandemic influenza.

37. The Welsh Government’s reliance on the UK National Risk Register was questioned in

⁵¹ Whitty, 22 June 2023, [92/22 – 93/22].

⁵² See, for example, Farrar, 29 June 2023, [5/12-18]; McMenamin, 22 July 2023, [180/19-24].

⁵³ 19 July 2023, [49/5 – 50/10].

⁵⁴ Goodall, 4 July 2023, [2/10-20].

examination. As the First Minister explained:

“for certain purposes it [was] sensible from a Welsh perspective to rely on the expertise and the capacity that the UK Government, and we were content at this point to do so. I’m not sure we would have felt that there was a huge advantage to be gained from deducing Welsh-specific risks when the United Kingdom Government’s risk assessment process appeared to us to be one that you could rely on and had the expertise it required to deliver it”⁵⁵.

38. Given the comparatively very substantial scientific expertise and resources of the UK Government, the Welsh Government’s reliance on the UK National Risk Register was reasonable, particularly given that local risks in Wales were effectively addressed by the plans prepared by the Welsh LRFs.⁵⁶ Given the prevailing consensus (both in this country and elsewhere) that pandemic influenza was the greatest public health risk, a Welsh National Risk Register is unlikely to have adopted a materially different approach to its UK counterpart in relation to public health emergencies.

39. Examination considered another form of risk assessment, namely the Welsh Government’s Corporate Risk Register. Unfortunately, questioning was based on a fundamental misunderstanding of the Corporate Risk Register’s nature and purpose. As Dr Goodall explained, the Corporate Risk register did not, and does not purport to, assess the risk of a public health threat confronting Wales. On the contrary, it had an entirely different purpose. It was an internal operational document, designed for use by civil servants, which focused on highly proximate risks that might compromise the effective and efficient functioning of government in Wales.⁵⁷ Its purpose was not to consider the

⁵⁵ The First Minister, 4 July 2023, [170/23-25 – 171/1-7].

⁵⁶ It is notable that Lead Counsel to the Inquiry pressed Dr Goodall on why the Welsh Government thought it necessary to make its own arrangements for scientific expertise given that it could rely on the UK governments’ scientific bodies (Keith KC, 3 July 2023 [108/9-25])

⁵⁷ Witness Statement of Andrew Goodall, INQ000130469, paras.161 and 163.

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risks to Wales or to the people of Wales or to form the basis of emergency planning.⁵⁸

40. Given that it was not, and it was never intended to be, the basis of emergency planning, there was no expectation that pandemic influenza would necessarily appear in the Corporate Risk Register. Work affecting pandemic influenza preparedness were being reported from HSSG to senior officials, and at all times such work was continually overseen by the Wales Resilience Forum.⁵⁹

41. Given the very different circumstances after the pandemic, it has been decided that a Wales-specific national risk register should now be produced.⁶⁰

Plans

42. Based on its experience of the pandemic and the evidence heard in Module 1, the Welsh Government endorses the suggestion of a radical overhaul of the plans and other documents which form the basis for pandemic planning. As set out above, the overarching framework should be that plans for health emergencies should focus on capabilities and scenarios and the ability to “scale up” rather than preparing specific plans for specific types of pandemics.

43. In the decade before the pandemic, the Pan-Wales Response Plan was regularly revised and tested and set out an overarching plan for responding to emergencies in Wales. Dr Goodall referred to it as the “overall co-ordinating and guiding hand”⁶¹ as discussed above, it was used to good effect in the early days of the pandemic to co-ordinate the response in Wales.⁶²

44. Similarly, the Wales Framework for Managing Major Infectious Disease Emergencies⁶³ and

⁵⁸ Goodall, 4 July 2023, [1/16-23].

⁵⁹ Goodall, 4 July 2023, [15/6 – 16/11].

⁶⁰ The First Minister, 4 July 2023, [180/18-22].

⁶¹ Goodall, 3 July 2023, [91/16].

⁶² Goodall, 4 July 2023, [25/5 – 26/6].

⁶³ INQ000183456.

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the Health and Social Care Influenza preparedness plan⁶⁴ were useful and appropriate. Both recognised that there were infectious diseases other than influenza which could affect Wales while also preparing the Welsh health and social care sector for pandemic influenza.

45. However, none of the plans was wholly adequate to meet a novel coronavirus pandemic. Sir Frank Atherton accepted that, with the benefit of hindsight, the Welsh Government could and should have paid more attention to the “‘what if’ questions - what if the virus was so different that different countermeasures were needed?”⁶⁵

46. It follows that it is more appropriate to consider hazards and threats in broader terms and against what capabilities are needed to deal with them. Although a sophisticated mechanism exists to identify risks for the purposes of the National Security Risk Assessment and the National Risk Register, the future focus should be on how that information is used by departments to shape preparedness, budget choices and the public discourse.

Ministerial oversight

47. The substance of preparedness plans were technical matters that fell within the expertise of officials. There was no expectation that Ministers, whether in the Welsh Government or elsewhere in the UK, should have read or digested the detail of the plans, the Corporate Risk Register and other aspects of risk assessment. Of course, if problems arose that required Ministerial decision or attention, Welsh Ministers would take action. However, the evidence is that no concerns were raised by officials with Ministers regarding the state of Wales’s preparedness arrangements. Equally, preparedness was not a policy area that featured in questions to Ministers in the Senedd.

⁶⁴ INQ000116503; Keith, 3 July 2023, [22/18-23].

⁶⁵ Atherton, 3 July 2023, [32/7-10].

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48. There is much to be said for having a senior Minister responsible for oversight of resilience as is the case in Wales. To that end, Mr Kilpatrick emphasised the importance of the First Minister chairing the Wales Resilience Forum⁶⁶ and holding a central role in civil contingencies within the Welsh Government.
49. There has been some discussion of the benefits of a dedicated Minister with responsibility for civil contingencies. At the United Kingdom level, ultimately that is a matter for the Prime Minister, but in Wales, responsibility should remain with the First Minister as head of government. The First Minister is best able to exercise oversight over the entirety of the Welsh Government’s civil contingencies arrangements and, where necessary, to make sure that individual Ministers and directorates are discharging their respective responsibilities as they should. There is currently a statutory limit on the number of Welsh Ministers, although the position may change in the future through the enactment of the Senedd Reform Bill.⁶⁷

Diversion of resources due to the prospect of a “No Deal” departure from the EU

50. From the perspective of preparedness, the benefits of the intense and time-consuming preparations for a “No Deal” exit from the EU from 2018 onwards were mixed.⁶⁸ On the one hand, the governments within the United Kingdom were required to consider matters that were fundamental to the operation of society in the twenty-first century such as how best to protect supplies of food, drinking water, medicines and other necessities or how to regulate entry into the United Kingdom.⁶⁹ In short, “No Deal” preparations required the Four Nations to focus their attentions on a whole-system emergency and how best to mitigate the consequences.

⁶⁶ Kilpatrick, 6 July 2023, [120/9 – 122/23].

⁶⁷ The Government of Wales Act 2006, s. 51(1), limits the number of Welsh Ministers to 12 (excluding the First Minister and the Counsel General).

⁶⁸ McMahon, 6 July 2023, [71/5-25].

⁶⁹ Sturgeon, 29 June 2023, [54/4-16]; The First Minister, 4 July 2023, [192/3-25].

51. On the other hand, and as set out above, from mid-2018 onwards the scale of the demands placed by “No Deal” Brexit preparations meant that the United Kingdom Government stopped large parts of (but not all) preparedness-related work carried out by the UK Pandemic Influenza Review Board.

52. Mr Keith KC asked the First Minister whether, because of its life and death nature, work on pandemic preparedness should have been effectively stopped. The First Minister’s answer is set out below because it illustrated the complex nature of decision-making that was required when the country faced the prospect of a departure from the European Union with no deal:

“So at the point when the UK Government decides to institute Operation Yellowhammer and we are now facing the reality of leaving the European Union without a deal, with all the consequences that that would have had for Wales, I am making a decision, along with my colleagues, to divert resources to deal with that. The number of people we have in the Welsh Government who have genuine expertise in civil contingency matters is relatively modest, and their skills are particularly relevant to preparing for leaving the European Union without a deal. To give you just one example, Wales has reservoirs that serve not simply the Welsh population, but the whole of Birmingham and the whole of the northwest of England. The chemicals that you rely on to make that water safe to drink come from Germany, and while we were a member of the European Union they came without hindrance and they came on an “as they were needed” basis. We faced a real risk that if we left the European Union without a deal, that water supply would no longer be usable. That is the sort of present danger that you are talking about. It is absolutely real, would be immediate, and would have absolutely direct results on the lives of people”.⁷⁰

53. Therefore, although the preparations for a “No Deal” undoubtedly brought some benefits in requiring governments to address a whole-system emergency, the fact is that a departure with no deal in place gave rise to the clear, urgent and immediate danger to life. The crude conclusion that more could and should have been done to continue

⁷⁰ The First Minister, 4 July 2023, [192/3-25].

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preparations for, say, pandemic influenza, has to be set in the context of the enormity, complexity and immediacy of the problems that were prompted by the prospect of a “No Deal” departure.

Treatment of inequalities in planning

54. The Inquiry has understandably chosen to investigate whether the country could have been better prepared for the disproportionately adverse effect that Covid-19 had on certain sections of society.
55. The Government Office for Science observed that the important issue of inequality of impact and outcome is not an issue that can be addressed during a pandemic. On the contrary, it must be addressed in advance and at a structural level.⁷¹ The Welsh Government agrees.
56. Before the pandemic, much work was done to address inequalities in Wales. As the First Minister said, “addressing inequalities is absolutely in the bloodstream of successive Welsh Governments”.⁷² That much was accepted by Mr Keith in the preamble to his question to the First Minister on inequalities: “the Welsh Government [had] devoted a great deal of time and energy to ensuring an improvement in prospects economically, societally, on the part of its citizens and its communities”.⁷³
57. The question posed by the Inquiry is whether in the field of pandemic preparedness and civil emergency planning sufficient attention was given to the issue of how a pandemic would affect sectors of the community disproportionately, and how steps could be taken to ensure that the impact on those who are vulnerable and marginalised could be mitigated.
58. As Sir Frank Atherton said, how best to protect the vulnerable in an emergency was

⁷¹ 19 July 2023, [56/24-25 – 57/1-3].

⁷² 4 July 2023, [205/23-25].

⁷³ 4 July 2023, [205/9-12].

considered as part of pandemic planning. He summarised the work thus:

“So the one I can recall there being quite a bit of discussion about was about how we -- and this is not specific to pandemics, but how we in any civil contingencies issue, whether it's flooding or flu or anything, how we kind of identify vulnerable people and target resources towards those vulnerabilities. So there had been quite a bit of work in Wales about how we map vulnerabilities and how we -- and in fact what transpired, as I recall from the discussions, is that every different organisation had different methods of doing it. And where I think we landed was that there was a need for a common approach to vulnerability mapping of vulnerable individuals and vulnerable groups in society who might need additional support on top of the support you give through any major incident”.⁷⁴

59. As set out in the evidence of the First Minister, the Welsh Government was advised by Public Health Wales that the detailed planning could only be carried out once the nature of the pandemic was known.⁷⁵ The substance of that advice was reflected in the evidence of Sir Chris Whitty:

“One of the things that is striking and repeated in every pandemic and epidemic is that people living in areas of disparity suffer most from them. The reasons for that, however, vary. So, you know, the reasons that people in cholera epidemics died in higher numbers is because of the provision of poor water. The reason that people in some of the respiratory pandemics of history died was because they were in crowded housing conditions. And so on. I'm making that point because you both need to think about disparity as a whole, but you also need to think about what the causal pathway is for each route of transmission and for each pandemic as it goes through”.⁷⁶

60. The Welsh Government accepts the suggestion in the Alexander and Mann report that there is a need to recognise in law the importance of systematically gathering data on preparedness and having an operational focus on people, communities, and their vulnerabilities. The Welsh Government notes that when making a recommendation to

⁷⁴ Atherton, 3 July 2023, [67/18-25 – 68/1-7].

⁷⁵ The First Minister, 4 July 2023, [206/5-23]

⁷⁶ Whitty, 22 June 2023, [115/11-23].

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‘extend risk assessment and emergency planning, and supporting processes and tools, to cover explicitly the populations most vulnerable....’, Alexander and Mann refer to the JIGSO system developed in Wales to identify, by existing property address datasets, how information can be used by Welsh public services rapidly to prioritise assistance to vulnerable people during emergencies.

61. The Welsh Government accepts resilience will be further strengthened by continually striving to improve the health of the population. In Wales, that aim will be achieved by implementing the Welsh Government’s long-term strategic plan known as “A healthier Wales: long term plan for health and social care” whose policy and object reflect its well-established policy objective of reducing inequalities.

Part 3 – recommendations

62. It is not clear what, if any separate, process the Inquiry will adopt to consider recommendations. Some core participants have made proposals, but the Inquiry will be careful to make sure that its own recommendations flow directly from the evidence, are necessary and proportionate to address any deficiencies found, are reasonably practicable to implement and, importantly, have not been addressed by governments and others already. For example, in relation to the latter, the Welsh Government has decided to prepare a Welsh National Risk Register and development work has started.
63. Subject to the points made in para. 5 above, the Welsh Government would propose the following measures which are designed to make sure that the devolved governments have equal representation on SAGE when it is established and an equal power to commission evidence to inform their decision-making:
 - a. When SAGE is established, each devolved government shall be represented by their Chief Scientific Advisor (or by such official as the relevant First Minister considers necessary and desirable) and, in a public health emergency, also by their Chief Scientific Advisor (Health) (or, absent such a post, by such official as the relevant First Minister considers necessary and desirable to attend); and

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- b. Each devolved government shall have the same power to commission from SAGE such expert advice as it requires to inform its decision-making as the United Kingdom Government.

64. In relation to the preparation of pandemic plans and if this has not already been completed, to carry out a review of pandemic plans and related documents to:

- a. identify, consider and address the adequacy of existing assumptions; and
- b. make sure that preparedness structures are “people-centred” in the sense articulated by Professor Alexander and Mann in their expert report.

65. In relation to the consideration of inequalities in preparedness planning, arrangements for, and the response to, an emergency shall be informed by systematically-collected evidence on pre-existing inequalities.

Part 4: Conclusion

66. As it said at the outset, fair and evidence-based scrutiny can only improve good government and the implementation of policy. As with its commissioning of the Heymann and Hayes review and other independent examinations of its preparedness arrangements, the Welsh Government has considered, and will continue to consider, the evidence adduced in Module 1 when critically evaluating what needs to change and in what ways. Necessarily care must be taken to identify what worked, what did not work and what worked only in part and the emerging analysis will be inevitably nuanced.

67. As part of its commitment to the Inquiry’s investigation, the Welsh Government will

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update the Chair on changes that are made to Welsh preparedness arrangements pending publication of her Module 1 report in the summer of 2024.

2 August 2023