BEFORE BARONESS HEATHER HALLETT
IN THE MATTER OF: THE PUBLIC INQUIRY TO EXAMINE THE COVID-19 PANDEMIC IN THE UK

CLOSING STATEMENT
ON BEHALF OF COVID-19 BEREAVED FAMILIES FOR JUSTICE CYMRU
FOR MODULE 1 ('M1')

I. INTRODUCTION

1. These submissions are made on behalf of Covid-19 Bereaved Families for Justice Cymru ('CBFJ Cymru'). They supplement the evidence already provided to the Inquiry by Anna-Louise Marsh-Rees pursuant to r.9 Inquiry Rules[1] and in oral evidence.[2]

2. CBFJ Cymru is a group dedicated solely to campaigning for truth, justice, and accountability for those bereaved by Covid-19 in Wales. CBFJ Cymru is led by Anna-Louise Marsh-Rees, Sam Smith-Higgins and Liz Grant and guided by the concerns of its bereaved members across Wales. CBFJ Cymru is committed to giving a voice to all those in Wales who are bereaved due to Covid-19. Since its establishment, CBFJ Cymru has become the most prominent organisation in Wales in the discourse surrounding Covid-19 and will continue to ensure that there is proper scrutiny of all governmental decision-making relevant to Wales, including decisions made in Westminster and by the Welsh Government.

3. CBFJ Cymru members have experienced first-hand the consequences of the catastrophic failure to adequately prepare for a pandemic in Wales. Its members experienced and continue to experience suffering and trauma due to the devastation caused by Covid-19. They lost loved ones in care homes receiving patients from overwhelmed local NHS Wales hospitals without adequate isolation or protection.[3]

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[1] Witness statement of Anna-Louise Marsh-Rees (INQ000183392)
[2] Transcript 18 July 2023, pp 38-54
[3] The total for all deaths of adult care home residents involving Covid-19 between 2020-2022 is 2,267, according to Stats Wales https://statswales.gov.wales/Catalogue/Health-and-Social-Care/Services-for-Social-Care-and-Childrens-Day-Care/notifications-to-care-inspectorate-wales-related-to-covid-19-in-adult-care-homes/deathsofresidentsfromadultcarehomes-by-dateofnotification-cause

They lost loved ones due to hospital acquired Covid-19 in the context of inadequate infection control and a lack of adequate PPE in Welsh hospitals, many of which were known to have inadequate ventilation. Rates of hospital acquired Covid-19 have remained high in Wales.[4] Many members have professional experience working in sectors heavily impacted by Covid-19 and experienced shocking conditions as workers on the front line. They saw first-hand the failures and deficiencies in the Welsh Government's pandemic preparedness, risk management, and civil emergency planning. Many were simply not provided with the protection that they deserved.[5]

4. CBFJ Cymru's primary aim is to assist this Inquiry to understand why decisions were made by those responsible for pandemic planning in Wales and to understand what went wrong and why. CBFJ Cymru also considers that it is essential that any errors are publicly acknowledged and accepted by the Welsh Government so lessons can truly be learned and so that there can be proper accountability in Wales.

5. On the evidence before the Inquiry in Module 1 there can be no doubt that the Welsh Government and Welsh institutions tasked with protecting people in Wales failed to adequately prepare for a pandemic in Wales. In terms of learning lessons, CBFJ Cymru believes that there needs to be a fundamental change in approach in Wales to preparedness for the next pandemic and a willingness to be candid about what went wrong and why. If this does not happen Wales will not be prepared and more people in Wales will lose their lives.

6. CBFJ Cymru commends the inclusion by the Inquiry in Module 1 of the oral evidence of representatives of the bereaved family groups. CBFJ Cymru considers that hearing directly from bereaved family members is vital to ensuring that the impact of Covid-19 in Wales is fully understood and to ensure that the significance and magnitude of the issues under investigation in the Inquiry are not lost. The bereaved must remain at the heart of this Inquiry. Hearing directly from the bereaved is crucial to ensure that this continues to happen as the Inquiry moves into later modules.[6]

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[4] https://phw.nhs.wales/topics/latest-information-on-novel-coronavirus-covid-19/ (See: Headline Summary)
[5] Wales Online - https://www.walesonline.co.uk/news/health/coronavirus-nhs-staff-deaths-covid-19409143
[6] Transcript 4 October 2022 p 6

7. The following submissions are aimed to assist the Inquiry's consideration of its findings: the factual narrative and lessons to be learned in Module 1.

II. SUBMISSIONS

8. CBFJ Cymru submits that the following high-level findings are supported by the evidence before the Inquiry in Module 1 and relevant to Wales:

    a. Pandemic planning in Wales was the responsibility of the Welsh Government in the relevant period;
    b. Pandemic planning, preparedness and resilience in Wales was wholly inadequate, including in relation to:
        i. flawed planning assumptions;
        ii. resourcing for infection prevention and control, and segregation measures in Welsh hospitals;
        iii. infrastructure of the NHS Wales estate;
        iv. failure to stockpile Respiratory Protective Equipment ('RPE')/PPE and ensure distribution networks;
        v. inadequate planning in relation to post-death procedures to protect dignity and to support the Welsh bereaved in the event of a pandemic;
        vi. inadequate oversight and assurance as to implementation of preparedness;
    c. The Welsh Government and their advisers had sufficient notice, knowledge, and warning of the risks to the lives of people in Wales from a pandemic (including SARS) but failed to take adequate steps to prepare and build resilience.

9. The submissions will address: (i) Responsibility for pandemic preparedness (ii) Flawed planning assumptions (iii) Welsh Government risk registers (iv) Ministerial engagement in pandemic risk (v) Fragmentation in the pandemic preparedness system (vi) Deficits in planning, testing and acting on the lessons of exercises (vii) Extent of implementation of preparedness – infection, prevention and control (viii) PPE (ix) Inequalities (x) Intergovernmental communications (xi) Access to scientific advice (xii) Lessons learned.

Pandemic preparedness: responsibility

10. The Welsh Government has at all relevant times had responsibility for pandemic planning and preparedness and has had powers to undertake pandemic planning. Health and social care were devolved to the Welsh Government in 1999 following the Government of Wales Act 1998. Subsequently, the administrative organs of Wales were and remain responsible for their decisions in respect of those areas. Wales has its own healthcare system – NHS Wales – comprising Local Health Boards, NHS Trusts and Public Health Wales ('PHW'). Relevant offices and agencies such as the Office of the Chief Medical Officer ('CMO') and Care Inspectorate are specific to Wales.

11. The Welsh Government confirmed in its evidence that the Minister for Health and Social Services has responsibility for the NHS in Wales and all aspects of public health and health protection. Further, it has been confirmed that the health minister is responsible for preparedness for the NHS and healthcare sector, NHS initial capacity, and capacity and resilience.[7] Its evidence also confirms that the Health and Social Care department led on planning for the identified risk in the national risk register of pandemic influenza.[8]

12. Cabinet Office Guidance made clear that "*devolved administrations are responsible for the major areas of pandemic influenza planning and response in their respective countries*"[9] and that the Wales Resilience Forum chaired by the First Minister "*provides the mechanism for a national multi-agency overview of pandemic preparedness in Wales.*"[10] In terms of response, Wales had in place its own Pan Wales Response Plan approved in 2005 setting out its command control and co-ordination urgent response structure.[11] In terms of preparedness and response, the Wales Framework for Managing Major Infectious Disease Emergencies was originally produced in 2005.[12] It was in its 2014 iteration on going into the pandemic. The framework "*reflects the role of the Welsh Government's Department of Health and*

[7] Dr Andrew Goodall No. 2 para 62 (INQ000184901)
[8] Sir Frank Atherton Transcript 6 July 2023 pp 126-127
[9] Guidance on Pandemic flu planning information for England and the Devolved Administrations, including guidance for organisations and businesses, 24 November 2017 (INQ000022847)
[10] Guidance from Cabinet Office, Department of Health and Social Care, Ministry of Housing, Communities & Local Government, Home Office, and Ministry of Justice, regarding Pandemic Flu at p 21 (INQ000022847)
[11] Mr Reg Kilpatrick para 61 (INQ000190662)
[12] Dr Andrew Goodall No. 1 para 168 (INQ000130469)

Social services in managing major infectious disease outbreaks in Wales" and "*provides a framework for operational planning*"[13]. Alongside it the Welsh Government produced the 2014 guidance "Wales Health and Social Care Influenza Pandemic Preparedness & Response Guidance".[14]

13. The Civil Contingencies Act 2004 (CCA 2004) Part 1 provides for a generic civil contingencies structure imposing duties on a list of first responders. However, as has been noted in the evidence before the Inquiry,[15] local government and the NHS who are key category 1 responders under CCA 2004, fall under the remit and control of the Welsh Government by virtue of the devolution settlement. Whilst the Welsh Ministers (Transfer of Functions) Order 2018/644 from May 2018 transferred to Welsh Ministers specific powers under CCA 2004 to issue guidance, exercise monitoring functions and specific enforcement power, make regulations, and amend the list of devolved Welsh responders,[16] this relates to the specific structure provided for by the CCA 2004 Part 1. Pandemic preparedness was in any event at all times a devolved matter, the Welsh Government having statutory powers and responsibility in this area throughout regardless of how responsibilities were allocated under the generic CCA 2004 structure.

Planning assumptions in Wales were fundamentally flawed

14. Pandemic planning and preparedness for Wales was flawed in the same fundamental way as planning in the rest of the UK, in that the focus was solely on planning for an influenza pandemic. The consequences of this failure were stark. The focus was not on halting community transmission as it should have been or thinking about non pharmaceutical interventions. This had devastating consequences when Covid-19 arrived in Wales and the UK. PPE was not available for healthcare professionals, there was a failure to understand the importance of mask-wearing and need for large scale contact tracing and testing. Mass gatherings were not cancelled and there was no awareness of the need for quarantining and social distancing.

[13] Wales Framework for Managing Major Infectious Disease Emergencies, October 2014 (INQ000184289)
[14] February 2014 Guidance (INQ000116503); Dr Andrew Goodall No. 1 para 168 (INQ000130469)
[15] Mr Chris Llewelyn (on behalf of the Welsh Local Government Association) para 87 (INQ000177802)
[16] Dr Andrew Goodall No. 1 para 153 (INQ000130469)

15. The Inquiry has heard much evidence on this subject: the focus on an influenza pandemic which characterised the key UK planning guidance, the UK Influenza Pandemic Preparedness Strategy 2011. Key guidance in Wales, in the Wales Health and Social Care Influenza Pandemic Preparedness and Response Guidance 2014 (which remained the relevant guidance on going into the pandemic), as is obvious from the name, had the same focus on an influenza pandemic. Whilst a second key planning document in Wales, the Wales Framework for Managing Major Infectious Disease Emergencies, October 2014, is not specific to influenza, the evidence was that the UK strategy was the framework that all worked within and set out the strategy that translated through.[17]

16. In October 2015, Public Health Wales (PHW) led exercise Dromedary/2nd bite,[18] which was to be the only exercise undertaken in Wales in relation to a coronavirus outbreak. This exercise was intended to test the response to a single case of MERS in a Welsh hospital.[19] As such, this exercise could not be said to have been an exercise designed to test the Welsh healthcare system's resilience and/or preparedness for a coronavirus pandemic. Following this exercise, PHW updated its Emergency Response Plan ('ERP'), which was approved on 27 September 2018.[20] The key change in the plan was from a five-tier response structure to a three-tier response structure.[21] The ERP does nothing to address the specific risk of a SARS/MERS pandemic[22] and the updated ERP features only general guidance on incident levels and activation and command and control with no reference to either pharmaceutical or non-pharmaceutical measures.[23] Therefore, despite the threat of a coronavirus with widespread impact being a known risk,[24] the only coronavirus exercise carried out in Wales tested the response to a single case of MERS rather than a coronavirus having reached pandemic level. The exercise did not lead to the development of any planning documents specific to a SARS

[17] Dr Andrew Goodall Transcript 4 July 2023 p23; Letter from Welsh Government regarding ATISN 15194 – Pandemic Planning, dated July 2021 (INQ000148446)
[18] Report from Public Health Wales titled Exercise Dromedary (INQ000089608); Report from Public Health Wales, titled Emergency Response Plan (INQ000089562)
[19] Dr Quentin Sandifer para 242 (INQ000192266)
[20] Public Health Wales Emergency Response Plan Version 2.0, September 2018 (INQ000089558)
[21] Dr Quentin Sandifer para 88 (INQ000192266)
[22] INQ000089558
[23] Dr Quentin Sandifer para 87 (INQ000192266)
[24] Dr Quentin Sandifer para 143 (INQ000192266), Public Health Wales report by Gwen Lowe, titled Airborne Isolation Rooms Review Working Group- on behalf of Welsh Government (INQ000089594)

pandemic. At the time of Covid-19 all of the Welsh Health Boards and NHS Trusts only had pandemic influenza plans in place and the Welsh Government based its response to the Covid-19 pandemic on the 2011 influenza strategy. The four Welsh LRFs each had multi-agency arrangements for pandemic influenza setting out procedures for co-ordination in their LRF area, but none had SARS plans in place.[25]

17. The consequences of such limited scope to pandemic preparedness have been spelt out in the evidence the Inquiry has heard. Dr Quentin Sandifer in his witness statement said that PHW "*was not able to fully envisage the pace of spread, scale, impact and duration of Covid-19 at the outset of the pandemic.*"[26] Further, in his oral evidence, he said that he had not envisaged circumstances where whole society would be locked down or, indeed, a whole country.[27] He said, in fact, that "*lockdowns took us into completely unchartered territory*".[28]

18. These failures in planning assumptions were unjustifiable. The world had already experienced 2 coronavirus pandemics or major epidemics in the 21st century: SARS and MERS. Both had a profound effect in East Asian countries[29] and as a result those countries had learnt lessons about pandemic planning and preparedness.[30] The lessons learnt by the East Asian countries were readily available in the WHO literature[31] and could and should have been used in the UK including in Wales's pandemic planning. The Inquiry heard evidence from Professor Heymann and Dr Richard Horton who gave poignant evidence of how since 2004 the global community knew that coronaviruses were a major threat, yet that there was a general group think in the UK to only focus on the threat of influenza. In his evidence, Mr Jeremy Hunt's description of attitudes pointed towards a group think that nothing could be learned from other countries.[32] As a consequence, those who were compiling the key policy documents were prisoners of their own ill-informed assumptions.

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[25] Letter from Welsh Government regarding ATISN 15194 – Pandemic Planning, dated July 2021 (INQ000148446)
[26] Dr Quentin Sandifer para 201 (INQ000192266)
[27] Dr Quentin Sandifer Transcript 4 July 2023 pp 90-91
[28] Ibid.
[29] Professor David Heymann Transcript 15 June 2023 p 53
[30] Ibid. p 54
[31] Ibid. p 59
[32] Mr Jeremy Hunt MP Transcript 21 June 2023 p 169

19. When giving evidence, Mr Mark Drakeford, First Minister for Wales, was asked whether in his former role as Health Minister or current role as First Minister he had asked about the risk of a novel virus or a Disease X breaking out and whether Wales was prepared, to which he responded he did not. Mr Drakeford had first-hand experience of responding to threats such as SARS, MERS, and Ebola during his political career in Wales. CBFJ Cymru considers that the threat of pandemic requires a much more robust spirit of political enquiry. Mr Drakeford was not the only minister who did not ask the questions that needed to be asked. There needs to be an across-the-board change in mindset as regards thinking about and discussing scientific opinion on pandemic risk.

20. As stated, there had been warnings of a non-influenza pandemic but these warnings were not heeded. As far back as 2013, at Wales's own Health Emergency Preparedness Unit (HEPU)'s annual pandemic planning conference, Dr John Watkins (now Professor Watkins, who has provided a witness statement to the Inquiry[33]), could be heard talking about current threats which included a novel virus with little background immunity, no available vaccine, and raised the question of possible transmissibility akin to the Spanish Influenza pandemic.[34] In 2013, Professor Watkins was a consultant epidemiologist at PHW. CBFJ Cymru ask the Inquiry to get to the bottom of whether the Welsh Government was in fact warned about the risks of a novel virus and if so, why such warnings were not heeded.

21. It is clear that in Wales as in the UK there was a woeful failure to ensure that pandemic planning was underpinned by adequate scientific enquiry and understanding of what the risks were and what needed to be planned for. At core there was a lack of adequate engagement and leadership by governments (UK and Welsh Government) on the subject of pandemic threat.

22. To ensure that such flawed planning assumptions do not continue, the right structures must be put place to ensure not only that risk assessments that underlie risk registers and plans are properly and fully informed by scientific opinion but also that there is

33 INQ000217260
[34] Report from Welsh Government, titled Health Prepared Wales 2013 Pandemic Influenza p 4-5 (INQ000144624)

robust scrutiny and transparency in relation to the scientific thinking that informs them. How risks are planned for requires serious review so that planning is appropriately wide, and this requires consideration of switching focus to scenarios and capabilities.[35]

Risk registers – insufficient attention paid to pandemic risk

23. The failure by the Welsh Government to accord the high priority that should have been accorded to the issue of pandemic preparedness is evident from the way pandemic risk was dealt with on Welsh Government risk registers.

24. Whilst there is a health and social care departmental risk register (referred to further below),[36] there has been no central Welsh Government risk assessment process and register other than its corporate risk register and this, from 2016, ceased making explicit reference to the specific risk of a pandemic.[37] The Inquiry heard the evidence of Dr Andrew Goodall that from 2016 the way the risk was included on the corporate risk register was reviewed.[38] The risk of a pandemic ceased to be expressly identified as a specific risk. The Inquiry heard that pandemic risk was included only by means of a general heading for a group of risks. For example, on the 2019/20 register, the heading is "Disruption Events, Affecting People, Places, Finances, Communications and IT".[39] Therefore there was no express recognition apparent on the face of the corporate risk register from 2016 of a pandemic as a specific risk, let alone recognition that this was the Tier 1 national risk and there was no statement on that register of specific mitigation measures for a pandemic, but rather general mitigation measures directed to a group of risks. When examined in oral evidence about the 2019/2020 corporate risk register Dr Goodall conceded that the stated mitigation measures were "*too generalised, and that*

[35] The approach referred to in the submission on behalf of the Government Office of Science, Transcript 19 July 2023 p 49

[36] HHSSG Registers: INQ000216936 (2017); INQ000216952 (May 2019); INQ000216953 (May 2019); INQ000216956 (February 2019); INQ000216957 (February 2019); INQ000216958 (February 2019); INQ000216961 (August 2018); INQ000216962 (August 2018); INQ000216965 (August 2019); INQ000216966 (August 2019); INQ000216969 (January 2020); INQ000216970 (January 2020); INQ000216972 (April 2016); INQ000216973 (May 2016)

[37] Corporate Risk Registers: INQ000216623, INQ000215556 (2016), INQ000215551, INQ000216622 (2017), INQ000215557, INQ000216621 (2018), INQ000215558 (2019)

[38] Dr Andrew Goodall Transcript 4 July 2023, pp 11-12. See also Dr Andrew Goodall No. 1, paras 161-163 (INQ000130469)

[39] Welsh Government Corporate Risk Register for Q1 2019/20 (INQ000215558)

probably gave some inappropriate assurance on arrangements in there" and as regards the risk score, "*the residual score in hindsight should have been higher at that time*".[40]

25. The significance in practical terms of the absence of specific express reference to the Tier 1 risk of a pandemic on the corporate risk register is underlined by the evidence of Mr Mark Drakeford; that he would expect the corporate risk register to be used by senior officials to draw the attention of ministers to areas where senior officials believe ministerial intervention would be necessary.[41] The Inquiry also heard from Mr Drakeford that the Welsh Government, since Covid-19, now recognises that Wales should have its own national risk assessment process of interpreting and adapting UK level risks to Wales.[42]

26. Pandemic flu and other health emergencies preparedness were dealt with on the relevant departmental risk register – the Health and Social Services Group (HSSG) risk register.[43] However, some of the criticisms in relation to the corporate risk register also apply to the HSSG risk register:

    a. The specific risk of a pandemic is not given its own rating on the register but instead it refers to "resilience", which addresses chemical, radiological, nuclear and biological risks and "mass casualty" events;
    b. As a result of the generic nature of the risk identified, the mitigating measures to combat the risks are equally generic;
    c. The changes to the residual risk (namely that the risk is shown as reduced in some years) do not appear to reflect the findings following the Cygnus Exercise 2016;
    d. A no-deal Brexit was considered a greater residual risk than resilience. Given the findings of the Cygnus Report, which was published in 2017, it is submitted that the risk of a pandemic should have been considered at least as great a residual risk as a no-deal Brexit because Cygnus revealed that the mitigating measures currently in place were not sufficient to meet the challenge of a pandemic. Alternatively, it could be said that a pandemic is always going to

[40] Dr Andrew Goodall Transcript 4 July 2023, pp. 21-22
[41] Mr Mark Drakeford MS Transcript 4 July 2023, p 184
[42] Ibid. p 178
[43] Dr Andrew Goodall Transcript 4 July 2023, p 12

have a greater residual risk than a no-deal Brexit due to the number of excess deaths likely to result from either scenario; and

e. The mitigating measures do not change year on year, nor do the descriptions of the risk, yet the residual risk decreases. It is difficult to understand how the mitigating measures identified can be said to reduce the residual risk.

27. In May 2016, under the heading of "Resilience" it is said that "*Pandemic flu is the top national risk [...] high probability of another influenza pandemic where half the population could experience symptoms [...] The recent spread of diseases such as Ebola and MERS CoV are also a cause for concern.*"[44] The residual risk in this register is amber. The position is identical in 2017. However, the "resilience" risk (i.e. the one which addresses the risk of a pandemic) is reduced to a yellow residual risk in February 2019.[45] It is difficult to see how the mitigating measures identified within this document have resulted in the residual risk being reduced when so many workstreams had been halted or interrupted due to Operation Yellowhammer (see the references to the evidence below on this). By contrast, in February 2019, the residual risk of a no-deal Brexit is given a red residual risk rating.

28. Further, there are other aspects of general healthcare system resilience identified within these HSSG risk registers which should represent a cause for concern in relation to pandemic response. In particular, in the February 2019 HSSG Risk Register it is said that "*Current microbiology/infection services in Wales are fragile and are struggling to deliver on a day to day basis the prevention, early diagnosis and frontline support*". The mitigation includes an additional £1 million funding (the state of affairs regarding microbiology/infection services in Wales at this time is further referred to below). In the May 2019 register it is stated: "*HEPU carrying multiple vacancies for a prolonged period of time. Lack of staff due to Brexit. Should an incident occur, insufficient staff in the team.*" Still, a no-deal Brexit has a red residual risk in comparison to the yellow/amber residual risks for pandemic preparedness or generic resilience in the healthcare system. There is reference to "*residual fragility*" in the healthcare system which is not reflected in the residual risk calculated within the register itself.

[44] HSSG Risk Register dated May 2016 (INQ000216973)
[45] HSSG Risk Register dated February 2019 (and annexes) (INQ000216956; INQ000216957; INQ000216958)

29. It is because the HSSG risk assessments were disclosed so late by the Welsh Government that these criticisms could not be raised with the Welsh Government witnesses for their response. These documents were not provided to the Inquiry until a very short time before the first of the witnesses gave evidence,[46] and consequently disclosure to CPs was also late and not until after Welsh Government witnesses had given their evidence. It is regrettable that the Welsh Government disclosed the risk registers so late on in the process of the Inquiry.

Inadequate formal planning and testing, and failure to implement learning from pandemic planning exercises

30. As the Inquiry has heard, formal pandemic planning was woefully inadequate, even when judged on the basis of its own planning assumptions. There was no finished plan or testing for surge capacity following Exercise Cygnus (see further below). Despite guidance in place since 2014 stipulating planning should be carried out for 12-15,000 excess deaths in Wales possibly over as little as 15 weeks, this work was not completed.[47] The witnesses to the Inquiry have not given a satisfactory explanation for these failures.

31. The learning and actions indicated from formal planning were not actioned at all or adequately. For example, the Welsh Government knew that there would be a burden on care homes and the care sector in the event of a pandemic but the work was not completed to deal with this.[48] There was a systemic failure to deal with infection control which is addressed at paras 40-47 of these submissions.

32. Wales participated in the national Exercise Cygnus 2016 which gave rise to a finding that UK's preparedness and response "*in terms of its plans, policies and capabilities*" was "*not sufficient to cope with the extreme demands of a severe pandemic that would*

[46] See Transcript 3 July 2023 p 77
[47] Wales Health and Social Care Influenza Pandemic Preparedness and Response Guidance, February 2014 (INQ000089573); Mr Vaughan Gething MS Transcript 4 July 2023 p 150-151
[48] Draft Report from Wales Resilience, titled Response to Swine Flu in Wales 2009/2010: Lessons Identified Report, 1/8/2010 (INQ000107131); WRF(10)4 – Response to Swine Flu – Lessons Learnt, regarding conclusions and recommendations on lessons in the response to Swine Flu (INQ000107129); Project Initiation Document, Social care surge in Wales during a flu pandemic, 2/7/2018 (INQ000187173)

have a nationwide impact across all sectors".[49] There were 4 key learning outcomes and 22 detailed lessons with 12 recommendations that had been identified in an earlier document specifically with reference to Wales.[50] The report also stated that consideration should be given to reviewing the UK's Influenza Preparedness Strategy 2011 and individual government department pandemic influenza plans in the light of the key findings.[51]

33. It might have been expected that the Welsh Government would take swift action but that was not the case. The Inquiry has heard from Sir Frank Atherton that he was aware of HEPU maintaining a log of progress on the outcomes, but has also heard that workstreams were not completed and whilst it was recognised that the Welsh strategic documents required to be updated, this did not happen.[52] Going into the pandemic, key guidance documents on pandemic preparedness and response: the Wales Health and Social Care Influenza Pandemic Preparedness and Response Guidance; the Wales Framework for Managing Infectious Disease Emergencies remained in their 2014 versions, and had not been updated in light of the Cygnus Exercise report. The Local Resilience Forum Pandemic Flu 2013 guidance was also not updated.[53] The Inquiry heard evidence that concern was raised by Mr Reg Kilpatrick in July 2018 regarding the Welsh Government's levels of engagement and provision of resource to the progress of pandemic influenza preparedness.[54] This work mattered, as was acknowledged by Mr Reg Kilpatrick in his evidence that "*we would have been in a better position had the plans been updated*".[55] Notwithstanding the concerns raised, no further resource was committed to pandemic planning and no further work was completed in respect of the guidance[56].

34. As regards the workstreams after Exercise Cygnus 2016, the Welsh Government set up the Wales Pandemic Flu Preparedness Group in order to progress them, but this group

[49] Report by Public Health England, titled 'Exercise Cygnus Report - Tier One Command Post Exercise Pandemic Influenza 18 to 20 October 2016' (INQ000056232)
[50] Exercise Cygnus Wales De-Brief Report October 2016 (INQ000128979); Dr Andrew Goodall Transcript 4 July 2023 ps 37-38
[51] Exercise Cygnus Report p 6
[52] Sir Frank Atherton Transcript 3 July 2023 p 37; Dr Andrew Goodall Transcript 3 July 2023 p 94-95
[53] Mr Reg Kilpatrick Transcript 6 July 2023 p 149; Sir Fank Atherton Transcript 3 July 2023 p 28
[54] Mr Reg Kilpatrick Transcript 6 July 20 pp 145-148 ; email correspondence July 2018 (INQ000180484)
[55] Mr Reg Kilpatrick Transcript 6 July 2023 p 150
[56] Sir Fank Atherton Transcript 3 July 2023 p 52-53

met for the last time in October 2018.[57] As the Inquiry has revealed, there were many tasks, but they were not finished.[58] The Inquiry heard evidence that the work in Wales was in effect shadowing that of the UK-wide group and that actions in Wales were predicated on the revision of the 2011 plan.[59] However, it is clear there was no impediment to the Welsh Government getting on with drawing up plans and guidance: Dr Andrew Goodall informed the Inquiry that some plans were updated[60] and *draft* plans were drawn in some areas[61]. These things could and should have been progressed to fruition with greater urgency.

35. Wales's health and social care systems needed to be able to meet the needs of people in Wales which includes in the face of the known risk of a pandemic. Putting in place what was needed should not have taken years to accomplish. The failure to do this meant that, when Covid-19 hit, Wales's health and social care infrastructure was simply not able to cope. This was an unforgivable failure not least because the November 2009 report following Exercise Taliesin and Swine Flu had contained a specific recommendation about the need to develop capacity in the adult social care sector in order to cope with the demands of pandemic.[62] This had not been resolved by the time of the 2016 Cygnus Exercise and it was still not resolved when Covid-19 hit despite the Cygnus Report highlighting the prospect of demand outstripping capacity in this area requiring consideration of arrangements for "scaling up",[63] Those whom CBFJ Cymru represents experienced the consequences of these shocking failures in preparation and planning. Many loved ones lost their lives in hospitals and care homes in traumatic circumstances with inadequate means of protection.

36. Nor should it have been necessary or thought appropriate to stall work on preparations for the Tier 1 risk of a pandemic as soon as second potential emergency, also requiring preparedness steps to be taken, came along – namely a potential no-deal EU exit. The

[57] Mr Mark Drakeford Transcript 4 July 2023 p 190
[58] Dr Andrew Goodall Transcript 3 July 2023 pp 94-5
[59] Sir Frank Atherton 3 July 2023 Transcript p 43
[60] Dr Andrew Goodall 4 July 2023 Transcript p 24
[61] Ibid. p 40
[62] Exercise Taliesin/Swine Flu Structured Debriefing Report (INQ000128976)
[63] Exercise Cygnus - Recommendations, regarding recommendations following exercises assessing preparedness p 8 (INQ000107136)

appropriate degree of priority was simply not being accorded to a Tier 1 risk of a pandemic.

Insufficient engagement by ministers in pandemic planning issues

37. A clear picture emerges from the evidence of a lack of adequate attention paid to pandemic preparedness at all levels of government over a long period. The Inquiry heard from Mr Vaughan Gething MS, Minister for the Economy, who served from September 2014 as Deputy Minister for Health, from May 2016 as Cabinet Secretary for Health, Well-being and Sport and latterly Minister for Health and Social Services until May 2021. Mr Gething told the Inquiry that before October 2016 pandemic risk for Wales "*wasn't, as it were, brought to my direct attention that it was something that I needed to be particularly prepared for. I had other priorities, not this*".[64] He said that whilst he became aware that pandemic was a priority in Wales in the run up to Exercise Cygnus, before then, he had not understood that pandemic risk was in the Tier one risk register.[65] He did not read the National Risk Register.[66] He acknowledged that he did not read the plans that the witnesses had been referred to on taking up the post – stating that for a minister it is about how the overall system is prepared – and that he first read the 2011 Influenza Strategy when preparing for the Inquiry.[67] He candidly admitted that pandemic preparedness did not have the same priority as "*those headline issues*" that did take up lots of the life and energy of the government and that there is "*a lesson learning point*" arising from the challenge of dealing with what comes up and longer term priorities.[68] We heard from Mr Gething that he was advised that Cygnus learning points had been identified and would be implemented and that he assumed absent any advice to the contrary or questions in the Senedd that the lessons of Exercise Cygnus had been applied.[69] Nor did Mr Gething read the report of the outcome of Cygnus Exercise and admits that had he read the conclusion about lack of preparedness on page 6 of the report already referred to (namely that which states the UK was not capable of coping with extreme demands of a severe pandemic) he would almost certainly have

[64] Mr Vaughan Gething MS Transcript 4 July 2023 t 2023 p 108
[65] Ibid. p 110
[66] Ibid. p 111
[67] Ibid. pp 113-115
[68] Ibid. 2023 pp 125-126
[69] Ibid. pp 130-132; Mr Vaughan Gething, para 68 (INQ000187304)

asked extra questions and asked for more assurances about what was happening.[70] He accepted that it was fair to say that if he had put more time into this then he may well have "*sped up preparedness*".[71] It is indefensible that the high level ministerial oversight needed for such an important issue was simply absent.

System at risk of fragmentation and gaps

38. The Welsh Government was warned 8 years before Covid-19 hit that there was a risk of a fragmented system and of gaps in dealing with pandemic resilience in Wales in which accountabilities were unclear. No action was taken.

39. A Wales audit report of December 2012 on Civil Emergencies in Wales[72] reported that "*too many emergency planning groups and unclear accountabilities add inefficiency to the already complex resilience framework*" and that "*the complexity risks fragmentation of resilience activity with potential overlaps or gaps in the arrangements for resilience*". This structure did not significantly change prior to the Transfer of Functions Order under the Civil Contingencies Act 2004 in 2018 and Mr Mark Drakeford, First Minister for Wales, accepted in oral evidence that a review of civil contingencies arrangements remained outstanding on going into the pandemic.[73] The failure to act with any sense of urgency over such a long period in the face of the warnings in the audit report is yet another failure by the Welsh Government to accord the priority to pandemic preparedness that should have been accorded to a Tier 1 risk.

Lack of implementation and follow up on existing preparedness guidance – infection prevention and control infrastructures

40. A matter of real significance to CBFJ Cymru is hospital acquired Covid-19. Many people in Wales died because they caught Covid-19 in Welsh hospitals. The subject of what was done to counter inadequate ventilation and poor infection control is therefore a very pressing one.

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[70] Mr Vaughan Gething MS Transcript 4 July 2023 p 132
[71] Mr Vaughan Gething MS Transcript 4 July 2023 p 133
[72] INQ000107113
[73] Mr Mark Drakeford MS Transcript 4 July 2023, pp 167, 170, 174-6.

41. The Inquiry has heard evidence (in particular from Professor David Alexander and Bruce Mann) about the need for frameworks to quality assure steps set out in strategies and guidance.[74]

42. It is clear from the evidence there has been a lack of a robust and systematic follow up to ensure that what the Welsh Government's *own* guidance said needed to be in place in order to be prepared for a pandemic was actually put in place. This is particularly borne out in the case of infection control infrastructure. There is clear evidence that in the area of infection prevention and control there was a significant gap between what was stated in the key pandemic preparedness guidance documents and the reality on the ground before the pandemic hit. The Welsh Government's key pandemic preparedness guidance documents of 2014 (which remained in force up to the pandemic) identified the need to be prepared in infection prevention and control arrangements: the need for "*meticulous use of infection control, isolation and cohort nursing*"; and "*all hospitals need to establish ways of caring for large number of infectious patients on a scale outside their normal experience.*"[75]

43. Yet the evidence before the Inquiry is that before the pandemic struck, far from having the infrastructure for infection prevention and control services in place with resilience and capacity to scale up and be able to provide what would be needed in the event of a pandemic, arrangements in this area were fragile even on a day-to-day level. This is seen from a paper prepared for the Health Protection Advisory Group in July 2019 (six months before the pandemic struck); exhibited to the witness statement of Sir Frank Atherton stating:

"*the current microbiology/infection services in Wales are fragile and are struggling to deliver on a day to day basis the prevention, early diagnosis and frontline support that professional and the public require*".[76]

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[74] Expert Report on Resilience and Preparedness by Professor David Alexander and Mr Bruce Mann para 242 (INQ000203349)
[75] Wales Health and Social Care Influenza Pandemic Preparedness & Response Guidance, February 2014 p 15 (INQ000089573); Wales Framework for Managing Infectious Disease Emergencies October 2014 (INQ000184289)
[76] INQ000177362

44. Sir Fank Atherton agreed, in oral evidence, that this area was a major concern.[77] The issue is also evident from the reasons given for a request for funding made by the Health Protection Group in September 2019 (exhibited to Dr Goodall's third witness statement): that laboratory estates on many sites were "*no longer fit for purpose*" and that there was a "*need for increased ward-based clinical services to support infection prevention*".[78] Whilst the money requested was provided, it is significant that this was on the eve of the pandemic. While Dr Goodall gave evidence that things were being done prior to 2019 to seek to improve infection prevention and control[79], the inescapable conclusion is that the 2014 pandemic preparedness guidance had not been translated into action to ensure a resilient system ready for the much greater demands in the event of a pandemic.

45. There is also the matter of hospital facilities for isolation and high consequence infectious disease (HCID). Since 2004, the Welsh Government and those responsible for pandemic planning and preparedness in Wales have known about a particular vulnerability in the Welsh healthcare system, namely the lack of facilities to deal with HCIDs. A publication by the Welsh Assembly Government (as it then was) in 2004, "Healthcare Associated Infections – A Strategy for Hospitals in Wales"[80] compiled in the wake of the 2002-2004 SARS outbreak provided a "*timely reminder that not only should sound and evidence-based infection control policies be in place but considerable attention must be paid to ensuring that they are rigorously and consistently applied.*"[81] Among the infection prevention and control measures in the strategy were isolation facilities with effective negative pressure ventilation.[82] Since 2006, NHS Wales has surveyed and produced an annual report on all airborne isolation rooms in major hospitals across Wales. Every year the reports have concluded that many of these airborne isolation rooms are inadequate.[83] In 2017, the Airborne Isolation Rooms Review Working Group produced a report to inform policy on airborne isolation rooms in major acute hospitals, concluding that building structures did not support safe

[77] Sir Frank Atherton 3 July 2023 Transcript p 66
[78] INQ000177552
[79] Dr Andrew Goodall Transcript 4 July 2023, pp 54-5
[80] INQ000145726
[81] INQ000145726, p 25
[82] INQ000145726, p 29
[83] Report from Gwen Lowe (Public Health Wales), titled Airborne Isolation Rooms Review Working Group- on behalf of Welsh Government, dated 18/10/2017 p 2 (INQ000089594)

management of patients with infectious disease.[84] Further, there was not one single health board in Wales capable of dealing with one HCID.[85] Dr Quentin Sandifer raised this with the CMO Sir Frank Atherton in July 2019.[86] In December 2019, Sir Frank Atherton raised the issue in a meeting of the Health Protection Advisory Group.[87] The situation as of January 2020 was that there was not one single hospital in Wales capable of dealing with a person presenting with a HCID.[88] This meant the first patients in Wales with Covid-19 (considered a HCID until March 2020) were transferred to hospitals in London or Newcastle,[89] despite the working group's recommendation in 2017 that there should be one unit in every health board in Wales.[90]

46. When asked about this, Dr Quentin Sandifer said it was an issue which had not been adequately dealt with over a very long period of time, and that the health boards in Wales were still "*on a journey*",[91] but that Wales was not in the position he would have liked as of 2019.[92]

47. The fact remains that, as of January 2020, there remained a lack of facilities to deal with HCIDs, despite this having been an issue raised by numerous bodies and in numerous reports over 16 years. CBFJ Cymru submits that this demonstrates a lack of urgency in Wales to deal with the threat new and emerging diseases and a false belief that "it won't happen here". CBFJ Cymru urge the Inquiry to robustly examine issues relating to infection control in hospitals in Wales in Module 2b.

PPE

48. The Audit Wales's report, "Procuring and supplying PPE for the Covid-19 Pandemic"[93] of April 2021 demonstrates that PPE stockpile for Wales was inadequate, not just for a coronavirus pandemic, but for the pandemic planned for, namely influenza with waves

[84] INQ000089594, page 13
[85] INQ000089594, page 14
[86] Dr Quentin Sandifer Transcript 4 July 2023, p 104
[87] INQ000177380, page 4
[88] Dr Quentin Sandifer Transcript 4 July 2023, p 104
[89] Sir Frank Atherton Transcript 3 July 2023, p 64
[90] INQ000089594, p 3
[91] Dr Quentin Sandifer Transcript 4 July 2023, p 105
[92] Ibid. p 106
[93] INQ000066526

lasting 15 weeks.[94] Mr Vaughan Gething in his evidence conceded the plan for an influenza pandemic would have still presented challenges even if there had been an influenza pandemic rather than a coronavirus pandemic. As for the distribution arrangements, Mr Gething MS in oral evidence explained that the Welsh Government operated a just-in-time system. He conceded that supply chains in place in 2020 were long and fragile and collapsed in the face of the Covid-19 pandemic.[95] Therefore, we glean from all of this that there were built-in weaknesses which would apply to an influenza pandemic as they did to Covid-19. As regards distribution, Dr Andrew Goodall gave evidence that a change to the distribution model was required and that the scale, severity, and duration of the arrangements required more work.[96]

49. More work could and should have been done in preparation for a pandemic to ensure both a sufficient stockpile of PPE (by sufficient, CBFJ Cymru would expect there to be a sufficient quantity of in-date PPE of the correct type) and a robust distribution system. These issues are symptoms of thematic failures in preparedness: flawed planning assumptions, insufficiency of live or semi-live exercises, and of follow-up on recommendations when given.

Pre-existing inequalities considered in only a minimal way

50. Public bodies are under a duty to specifically consider equality issues in their policies and guidance by virtue of Equality Act 2010.

51. Compelling evidence was given by Professors Bambra and Sir Michael Marmot of how whole system catastrophic shocks expose and amplify pre-existing health inequalities. Indeed, Welsh Government accept in the context of COVID-19 *that the pandemic has exacerbated the situation for many people who are already the most disadvantaged or potentially neglected in our society, worsening pre-existing inequities*.[97] The findings of Professors Bambra and Sir Michael Marmot were that "*pre-existing health inequalities were only considered in a minimal way in the UK's and devolved*

[94] INQ000066526, p 21
[95] Mr Vaughan Gething MS 4 July 2023 Transcript p 141
[96] Dr Andrew Goodall 4 July 2023 Transcript p 56
[97] Sir Frank Atherton (INQ000184902) para 50

administrations' pandemic planning and then largely in relation only to age and clinical risk factors. Wider issues of vulnerability (such as socio-economic status or ethnicity) were seldom considered in the UK devolve administrations planning documents". [98]

52. The evidence before the Inquiry of pandemic planning in Wales is consistent with that finding. While the Inquiry heard that PHW's ERP made references to vulnerabilities, it made no explicit references to those with comorbidities, older people or health inequalities.[99] There is also evidence of insufficient consideration of risk factors and potential impacts on those with protected characteristics and other markers of vulnerability within emergency planning and risk assessment at local authority level as at January 2020, as demonstrated by the data captured within Table 16 of the LGA Covid-19 Inquiry Survey for Module 1 dated November 2022.[100]This Table demonstrates that the characteristics most commonly considered within Welsh local authority emergency plans were people in care homes (68% of plans), clinically vulnerable people (68% of plans) and age (64% of plans) and the least likely to be considered were gender reassignment (5% of plans), sexual orientation (5% of plans), victims of domestic violence (14% of plans), sex (23% of plans), race (23% of plans) and religion (36% of plans). It is notable that in respect of every characteristic assessed, the percentage of plans and risk assessments considering the risk factors and potential impacts in respect of that characteristic was lower in Welsh local authorities than their English counterparts.

53. Within the Wales debrief report on Exercise Cygnus dated October 2016,[101] the final recommendation was for the Welsh Government and local resilience "*to consider options for identifying people at risk during a flu pandemic and how resources from public services, voluntary sector, communities and individuals can be best used to provide targeted support*". Mr Reg Kilpatrick acknowledged in his evidence that "*there is a good deal more to do*"[102] in respect of this recommendation. When asked to confirm whether, going forward, it would be a priority for the Welsh Government that those

[98] INQ000195843, para 146
[99] Dr Quentin Sandifer 4 July 2023 Transcript pp 98-99
[100] Draft Report from Local Government Association, titled COVID-19 Inquiry Survey for Module 1, Research Report, dated November 2022 (INQ000082855) p 35
[101] De-Brief Report, titled Exercise Cygnus, dated October 2016 (INQ000128979)
[102] Mr Reg Kilpatrick 6 July 2023 Transcript p 139

who are likely to be the heaviest affected by any sort of civil contingency emergency are considered, Mr Kilpatrick agreed that "*to the extent that we can include, identify and work with vulnerable people, we most certainly will*".[103]

54. As to the extent to which pandemic planning can and should consider inequalities, Mr Mark Drakeford, First Minister for Wales, boldly suggested that "*the advice from Public Health Wales to us was, that while you had to be aware of the unequal impact of a pandemic on the population, it was very difficult to anticipate in advance of the particular nature of that pandemic where those inequalities would most fall. So while there is evidence in the documentation of awareness of inequality and the way in which a pandemic would exaggerate existing inequalities and therefore had to be planned for from the outset, the more granular planning, which groups would be affected, how would you respond to them, you'd have to do that when the nature of the pandemic you were dealing with became more apparent. You -- it just wouldn't be possible to plan without that greater knowledge*".[104]

55. This proposition was put to Professor Kevin Fenton who essentially disagreed, stating "*You won't be able to do everything in planning to mitigate the impact of inequalities, but there is still a lot that can be done*".[105] He went on to explain what these measures might "*include co-production with -- in the plans, and ensuring that in the development of the plans you have due regard to tackling inequalities, which go beyond the equality impact assessment, but co-producing, for example, with local partners who are in contact with local communities or vulnerable communities to ensure those perspectives are included in your plans and your plans are tested against those perspectives. Second, you can ensure that you have the mechanisms in place to engage with and to access those communities which are at greatest risk, either through -- understanding your communication channels, for example. How do you reach out to and engage with vulnerable communities? How are you working with the voluntary and community sector, and what mechanisms are in place either in local government to assure ourselves that we have the routes of communication and outreach to engage with vulnerable communities? Then, finally, ensuring that data and the infrastructure for data and data*

[103] Mr Reg Kilpatrick 6 July 2023 Transcript p 139
[104] Mr Mark Drakeford MS Transcript 4 July 2023 p 206
[105] Professor Kevin Fenton Transcript 5 July 2023 p 89

sharing are available and are designed before the pandemic or before the shock, so that you're able to capture the information that you need to characterise and to understand the impact on vulnerable populations. So those are things that can be done prior to an event which then set a stronger foundation for your response for equity in the event".[106]

56. Further, evidence was given by Mr Marcus Bell of the Equality Hub and Ms Melanie Field of the Equality and Human Rights Commission on how public bodies should approach pandemic planning with sufficient regard to inequalities. Their evidence was that pandemic plans across the board should be formulated to take account of a process of meaningful engagement with relevant groups and impact assessments. There must be tailored communication, a building of trust, and high-quality data about how groups are impacted.

57. The Inquiry has heard that work is now being done by the Welsh Government to make improvements to the content of the Public Health Wales's Emergency Response Plan in respect of inequalities. CBFJ Cymru feels strongly that all pandemic policy and plans must reflect the likely unequal impact of a pandemic on different groups and pro-active planning must occur in line with that envisaged by Professor Fenton, Mr Bell and Ms Field as outlined above.

58. CBFJ Cymru further notes that Professor Marmot was commissioned by the UK Government to carry out a strategic review of health inequalities in England which resulted in The Marmot Review.[107] The review summarised the evidence on the causes of health inequalities and made recommendations as to how to reduce them. Professor Marmot was further commissioned to produce a follow-up review in February 2020.[108] The Inquiry has heard that Scotland convened its own review and that Professor Marmot served on the advisory board.[109] The evidence is that no such similar review has been carried out in Wales.[110] CBFJ Cymru considers that a comparable independent review in respect of inequalities in Wales should be completed in order to inform planning moving forward.

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[106] Professor Kevin Fenton Transcript 5 July 2023 pp 89-90
[107] INQ000120840
[108] INQ000180278
[109] Professor Sir Michael Marmot Transcript 16 June 2023 p 7
[110] Ibid. pp 7-8

59. Finally, it has long been recognised by the Welsh Government that Wales has a higher proportion of older people than the rest of the United Kingdom and that as we age, we are more likely to develop chronic conditions and become frail.[111] In Sir Frank Atherton, Chief Medical Officer for Wales's Annual Report dated June 2022 he notes that over the next 20 years Wales is set to continue on its trend toward an ageing population, with the number of those aged 65 and over expected to increase from 21% of the population to 26.5%. The Report further cites the National Survey for Wales 2021 which highlighted that 46% of adults generally and 65% of adults over 65 report having at least one long-standing illness.[112] With these statistics in mind, it is crucially important that the approach to planning demonstrates that the needs of these groups are understood and incorporated into planning and response mechanisms.

Intergovernmental Communication

60. The lack of a holistic systemic approach in Wales was exacerbated by poor inter-governmental communications between Wales and the UK Government.

61. The Inquiry has heard that such communications were not working well. Mr Vaughan Gething gave evidence that the UK ministers and officials did not take the devolved administrations seriously, and that strained ministerial relations hampered pandemic preparedness.[113] Mr Drakeford, First Minister, also gave evidence that relations between Wales and Westminster did not work well,[114] but that there had been an improvement since 2022.[115] As to the relationships between officials, both said that these were better than at ministerial level.[116] It is extremely disappointing for the bereaved families to hear of communication issues between politicians that could have negatively impacted on their ability to do the work that they were entrusted to do to protect people in Wales.

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[111] CMO Frank Atherton Annual Report 2016-17, titled Gambling with our Health, dated 1 January 2018 (INQ000066188) p 8
[112] Annual Report from the Chief Medical Officer for Wales titled "Restoring our Health", dated 16 June 2022 (INQ000048783) p 10
[113] Mr Vaughan Gething MS Transcript 4 July 2023 t pp 121-124
[114] Mr Mark Drakeford MS Transcript 4 July 2023 p 199
[115] Ibid. Transcript p 203
[116] Ibid. pp 121-124 and 199

62. The Inquiry has heard about the new framework now in place, following the Review of Intergovernmental Relations dated January 2022.[117] This produced a new framework for collaborative working between the UK Government and the Devolved Governments with several tiers and a secretariat. In addition, specifically in relation to resilience issues, the UK Government Resilience Framework, December 2022[118] states at para 92 "*In order to maximise cooperation on a four nations basis, there will be periodic ministerial level meetings on resilience, informed by quarterly senior official quad meetings and regular official-level contact, as part of a joint governance process*".

63. What has apparently been a poorly functioning and hit-or-miss informal system of intergovernmental communication should now be replaced by a coherent system and all those politicians involved must consider themselves duty-bound to those whom the represent in relation to matters as important as planning for the next pandemic to ensure that it works effectively. The functionality of these new systems and protocols should be monitored periodically. Module 2 will cast further light on this important area. It is to be noted that the Welsh Local Government Association has included as one of its recommendations that there should be a commitment and prioritisation at both UK and Welsh Government level to protocols and agreements for consistent intergovernmental planning and co-decision-making.[119]

Access to scientific advice

64. At a UK-wide level, the Scientific Advisory Group for Emergencies ('SAGE') provides scientific and technical advice to support governmental decision-making during emergencies. Mr Mark Drakeford, First Minister, suggested that at the outset of the pandemic there was a lack of clarity surrounding ground rules for participation in SAGE and what work the devolved nations could commission from SAGE.[120]

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[117] INQ000102928
[118] INQ000097685
[119] Mr Chris Llewelyn para 205 INQ000177802
[120] Mr Mark Drakeford MS para 21 (INQ000177804)

65. The New and Emerging Respiratory Virus Threats Advisory Group ('NERVTAG') advises on the threat posed by new and emerging viruses. It was identified that weaknesses of NERVTAG include i) that it focuses solely on respiratory transmission;[121] and ii) focuses solely on present continuing emerging viral threats.[122] In this regard, NERVTAG should consider non-respiratory forms of transmission, should consider threats which "*may look small at the moment but could expand very significantly*".[123] and, as further suggested by Professor Sir Chris Whitty, should not confine itself to matters upon which the government has sought advice.

66. Wales had 'observer' status on NERVTAG.[124] From the evidence, it was unclear as to whether there had been at all times a firm channel of communication between all relevant parts of the Welsh Government and NERVTAG and clarity as to Wales's role on it.[125] Dr Quentin Sandifer expressed the view that it would be beneficial for Public Health Wales to have representation on NERVTAG.[126]

67. Wales had its own Chief Scientific Advisor for Wales, a Chief Scientific Officer in NHS Wales, a Chief Scientific Adviser for Health sitting within the Health and Social Services Group. In addition, Wales had a Scientific and Technical Advice Cell ('STAC') whose purpose was to try and ensure that, whilst needing to rely on of course advice, science and advice and use the networks at the UK level, that there may well be areas and there were experiences that showed that there was a need to translate advice directly into the Welsh context.[127] CBFJ Cymru considers that it remains unclear how STAC differs from the Technical Advisory Group ('TAG') and Technical Advisory Cell ('TAC'). It is particularly telling that Frank Atherton was not familiar with STAC.[128]

68. During the pandemic, TAG and TAC were established. Within his evidence, Sir Frank Atherton agreed that it became apparent when the pandemic struck that because the SAGE arrangement is a UK arrangement, there was a need within the Welsh

[121] Professor Sir Chris Whitty, Transcript 22 June 2023, pp 69-70
[122] Ibid. p 72
[123] Ibid. p 71
[124] Dr Andrew Goodall No. 2 para 170 (INQ000184901)
[125] Sir Frank Atherton, Transcript 3 July 2023, p 14
[126] Dr Quentin Sandifer Transcript 4 July 2023, p 68
[127] Dr Andrew Goodall Transcript 3 July 2023, pp 106-107
[128] Sir Frank Atherton Transcript 3 July 2023, pp 17-19

Government for tailored scientific advice to be given to Welsh Ministers therefore the Welsh Government set up TAG and TAC to carry out modelling with regard to Wales.[129] When asked why this third level of new body was required, Dr Goodall stated "*So Welsh Government had an observer status on SAGE, I know that changed over time and during the pandemic, which was helpful in clarifying some of the responsibilities. We did end up converting this arrangement into the technical advice arrangements in Wales through the pandemic response, and I do believe that that allowed us to understand the discharge of responsibilities in the Welsh context, not to recreate all of the SAGE mechanisms but to allow us to just simply translate the implications of that into the Welsh context, including the data and the evidence*".[130]

69. CBFJ Cymru considers there was evidence of a lack of clarity as regards the parameters of the mechanisms for co-operation to ensure adequate sharing of scientific information and expertise available to the Welsh Government from UK wide bodies, and that there must be clear and firm lines of communication so that Wales has the full benefit of scientific thinking at all times to inform preparedness, not just during an emergency.

70. Further, in respect of all scientific advisory functions, whether UK-wide or sitting within the devolved nations, scientific advice must be transparent and open to scrutiny and potential challenge, in line with the perspective set out in the following evidence given to the Inquiry: "*what we have in this country is a very open press, and very extensive and respected academia where there are lots of dissident voices, and I think that if the SAGE advice to ministers had been in the public domain earlier in the pandemic, I think there would have been lots of constructive criticism from academic organisations, universities up and down the country saying, "Have we thought about this? Have we thought about that?", which could have informed SAGE's thinking*".[131]

Lessons Learned

[129] Ibid. p 16
[130] Dr Andrew Goodall Transcript 3 July 2023, pp 108-109
[131] Mr Jeremy Hunt, Transcript 21 June 2023, p 179

71. CBFJ Cymru endorses the conclusion of Professors Mann and Alexander that there is a need for a radical shift to put in "*place a single, integrated and professional civil protection system which is fit for the future we face and capable of providing an effective whole system, whole of society response to emergencies on a catastrophic scale, as well as being able to tackle emergencies at local or regional levels*".[132]

72. CBFJ Cymru considers that for Wales, this means a system reflective of Welsh data, and Welsh risk assessment, supplemented by clear and meaningful arrangements for intergovernmental information sharing and working, and a clear and robust infrastructure for decision-making and leadership across the whole of government on this issue.

73. Science must play a central role in the system and the following key points are made in this regard:

    a. As Sir Jeremy Farrar described in his evidence, scientific infrastructure must be maintained as if it is not, then the UK but specifically Wales will be woefully underprepared to deal with tomorrow's inevitable pandemics.[133]
    b. There must be a mechanism to promote a two-way dialogue between government decision-makers and scientific advisors so that the focus of research and advice on both i) matters upon which government decision-makers have sought advice; and ii) proactive research and the provision of advice on matters which government decision-makers have not sought advice but which are of consequence and require potential political intervention.
    c. There should be formal representation of the devolved nations on UK-wide bodies such as SAGE and NERVTAG.
    d. In Wales, there is a need for streamlining and clarification in respect of the responsibilities of scientific advice bodies with a clear mechanism for the communication of information between the various functions within Wales and between Welsh and UK-wide functions.

[132] INQ000203349 p 185
[133] Sir Oliver Letwin Transcript 20 June 2023, p 21

e. Scientific advice must be readily available to all decision-makers in a timely way and, there must be clear two-way lines of communication in respect of information to and from the various advisory functions.
f. Scientific advice must be transparent and liable to challenge. Safeguards are required to ensure that the science is less liable to Group think, less closed and more open to scrutiny and challenge.
g. There must be clear audit trails demonstrating how the science has informed political decision-making.

74. Structures for decision-making on pandemic preparedness and response in Wales are not fit for purpose as outlined earlier in these submissions. The following key changes are required:

a. Clear leadership on resilience and preparedness. Sir Oliver Letwin[134] stated his view that at a UK level a Senior Cabinet Minister devoted solely to the resilience and preparedness portfolio should be appointed. CBFJ Cymru considers that such a function is equally important for Wales. Whilst in Wales, this function has traditionally been carried out by the First Minister, as Mr Reg Kilpatrick acknowledged within his evidence,[135] the appointment of a dedicated minister for resilience and preparedness could provide a greater impetus in the day-to-day work of preparedness and resilience. CBFJ Cymru say that this work is crucial and ought to be the subject of a dedicated Welsh Minister portfolio.
b. Clarity and streamlining of the preparedness and resilience structures in Wales together with an updating and harmonisation of plans in order to ensure, as Mr Reg Kilpatrick acknowledged in his evidence that there was a need for,[136] that the system works as a coherent whole rather than as a set of plans.
c. A Wales Risk Register.[137] Naturally this will look to the UK wide National Risk Register but the Welsh Government should apply its mind to and own its own centralised risk assessment.

[134] Sir Oliver Letwin Transcript 20 June 2023, p 4
[135] Mr Reg Kilpatrick Transcript 6 July 2023, p 122
[136] Ibid, p 136
[137] Ibid, pp 131-132

d. Senior Ministers and key personnel must be adequately trained in crisis management.[138]

e. A robust assurance framework to make sure that policies and guidance on preparedness actually result in the action being taken on the ground to put arrangements that they stipulate in place and are tested for their effectiveness.

75. Ultimately, the success of any radical shift can only be ensured if there is accountability, support and strong leadership by the Welsh Government. In this regard, CBFJ Cymru has continuously called on the Welsh Government to acknowledge its failures and take responsibility for them. Without such accountability, lessons will not be learned and when the next pandemic arrives many more Welsh lives could be lost. CBFJ Cymru remains concerned in respect of the Welsh Government's acceptance of failings to date and its commitment to long-term pandemic planning. Its concerns have been fuelled by the brevity of some key Welsh Government witness statements; and often only limited or qualified acknowledgment of errors.

76. The Welsh Government must now reflect on the evidence which this Inquiry has heard, acknowledge its failures and provide a strong commitment to the systemic change required to prevent future loss of life.

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[138] Ibid. p 152