

Wednesday, 13 December 2023

(10.00 am)

Procedural matters

MR KEITH: My Lady, before we start the process of hearing the oral submissions from the core participants, may I raise two procedural matters.

The first matter relates to the issue of the evening notes prepared by Sir Patrick Vallance. You will recall that during Module 2, during the oral hearing, you ruled on an interim basis that only individual extracts from the transcribed notes be put up on the screen, and thereby published.

On 7 December, you provisionally indicated to the core participants, through an email from Laura Taylor, that you were minded to adhere to the approach which you had adopted earlier in the hearing, which was that only the excerpts, the individual excerpts to which reference had been made, would be published.

That email was sent to the core participants, and they were given an opportunity to make submissions in response to your provisional minded position, but no submissions have been received in response, and therefore may I ask you to make that provisional finding final, and to direct that your ruling be published.

LADY HALLETT: I do. Thank you very much.

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permission, can be referenced in their written submissions.

So may I have your permission to publish that list of documents for the purposes of Module 2?

LADY HALLETT: You do. Thank you very much.

MR KEITH: Thank you.

LADY HALLETT: Thank you.

I'm now going to hear from core participants in their closing submissions. Just to repeat something I've said this week already, but that as I think all the core participants present know, I appreciate the very tight timetable in preparing submissions and therefore I will also bear in mind the written submissions that core participants make when they've had greater time to reflect on all the evidence that's been gathered and that we've heard.

So, Ms Morris, I think you're starting.

Submissions on behalf of the Covid-19 Bereaved Families for Justice UK by MS MORRIS KC

MS MORRIS: Thank you, my Lady.

My Lady, as you know, I make submissions on behalf of the Covid Bereaved Families for Justice UK.

My Lady, according to members of his own team, for Boris Johnson's skillset, Covid was the wrong crisis.

He was referred to as a trolley by his most senior

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MR KEITH: Secondly, in relation to the documents which are to be published, you of course are aware that some 750 documents have already been published on the Inquiry website in relation to Module 2. Of those 750 or so, around 270 were only published in part. Those in part published documents are to be published in full, and therefore they will go on to the website on Monday, once time has been allowed for them to be rechecked.

In addition, the Inquiry legal team has prepared a list of some 430 additional documents which it is proposed should be published. That list, about 700 in all, has been provided to the core participants and they've had an ability to indicate whether or not there are any additional documents that they would wish you to publish.

The position that has now been reached is this: that when they make their written submissions, they may only refer to documents which have been published. If there are any additional documents which they consider it necessary to reference in their written submissions, then we would ask that they identify them to the Inquiry by 8 January and, if necessary, further permission can be sought from you to have any additional documents published. Obviously only documents which have been published, and which have been published with your

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adviser, oscillating from one position to another said his head of communications, and as having ostrich syndrome by one of his own ministers.

It is striking that these were not the words of a variety of people from within Number 10 and the Cabinet. They're not my words, they're not the families' words, they're not the words of his political adversaries; they are the words from people within Mr Johnson's own team.

Regrettably for the bereaved families, and regrettably for the whole country, Covid exposures the weaknesses of Mr Johnson and the fractious nature of his dysfunctional administration. Contrary to some of the ill-informed articles in tabloids, this Inquiry is not examining the rights and wrongs of Brexit. It is not interested in the political colours of those in government at the time. It is certainly not going to be distracted by the soap opera, the language or internecine squabbles in various WhatsApps or other messaging. This is not a court of politics or a moral maze. It is, however, a tribunal of evidence.

The real question is whether the Prime Minister and the political leadership were decisive and proactive, or was their response at every turn reactive, too little, too late? Was the machinery of government, both its

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1 advisers and its officials, organised in a fit and
2 efficient manner, working in lockstep with each other
3 for the good of the country?

4 For the thousands that we represent, Mr Johnson is
5 the reason that many of them are here. He was the
6 captain of HMS United Kingdom, pretending that the
7 iceberg it was steaming towards was a figment of the
8 imagination. All the while his lieutenant,
9 Matt Hancock, was conducting the orchestra to play on
10 deck, telling all that everything was fine and plans
11 were in place. Unfortunately, the reality was the
12 opposite, the iceberg was only too real and it was the
13 plans which were a figment of the imagination.

14 In his evidence, Mr Johnson acknowledged that
15 mistakes had been made and he said that as the PM at the
16 time, he accepted personal responsibility for them.
17 Anyone watching might have thought this was a laudable
18 approach until Mr Keith asked him the question that all
19 of us who'd actually read Mr Johnson's witness statement
20 were thinking: what mistakes was he actually saying
21 sorry for?

22 It is, of course, a matter for you, but you may
23 think that through his whole evidence, Mr Johnson hardly
24 acknowledged any failures. If that is your view, then
25 his apologies were hollow and, you may think, designed

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1 a basis for complacency going forward. There is no
2 foundation whatsoever for the narrative that, despite
3 the criticisms and predictions, the UK did okay. This
4 bold sweeping assertion is remarkable for one thing: it
5 has no factual basis. If there was a basis for it, no
6 doubt Mr Johnson and his team of lawyers would have
7 exhibited the evidence. They have not.

8 The Inquiry itself has sought the best and most
9 objective international comparison evidence, and
10 published it together with a document carefully setting
11 out the basis for the statistics. It shows the UK did
12 very poorly against all but one comparable European
13 country. This was analysis based on age-standardised
14 excess death mortality rates set against a five-year
15 average, a carefully thought through metric. The data
16 came from the ONS, not some think tank, poll or
17 politically charged body or expert. The European data
18 came from Eurostat, widely recognised as reliably
19 standardised and quality assured across the continent.
20 The analysis that the UK was close to the bottom in
21 class does not come from the families but from the data
22 itself, underlined by the commentary of reputable
23 bodies, including the King's Fund.

24 Whereas the evidence of the global picture is
25 undoubtedly less robust than the European one because of

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1 to demonstrate a humility, a previously undiagnosed
2 characteristic.

3 Regarding the early stages of the response, there
4 are at least three key features to the Johnson book of
5 excuses.

6 First, the UK actually didn't do as badly as some
7 had predicted. Second, if only the UK had been able to
8 recognise the danger of the virus as it came towards us,
9 in particular asymptomatic transmission, then we could
10 have ramped up preparation straightaway. And third,
11 that we were taken by surprise at how far along the
12 curve we were in early March.

13 We emphatically reject all three of these
14 propositions.

15 On a separate but important point, whilst accepting
16 that it will be the subject of another module, we also
17 disagree with the narrative that both Mr Johnson and
18 Mr Hancock promoted that the NHS was not overwhelmed.
19 We say, my Lady, that you must look at the overall
20 impact on the whole healthcare system in future modules,
21 including who it could and could not treat, and this
22 proposition must be examined in detail.

23 But returning back to the three propositions.

24 First, the Inquiry should be inherently wary of
25 a "we didn't do too badly" narrative, which can only be

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1 differences in data, again, reputable and properly
2 evidenced studies from the Johns Hopkins institute of
3 medicine, amongst others, paint a similar picture of the
4 UK doing very badly indeed against global comparisons.
5 The response of Mr Johnson was that this evidence didn't
6 stack up. That is for you to decide, my Lady, but we
7 respectfully suggest it will not be an issue which will
8 detain you for too long.

9 Mr Johnson also referred to the fact that the UK had
10 its own unique characteristics. That is not in dispute.
11 We have commented on its island geography, its wealth,
12 its advanced healthcare and public health systems, and
13 one might think these were significant advantages, but
14 Mr Johnson said the UK has a higher population density
15 and more older people than many other countries. As
16 a headline, that is so, although it is
17 an English-centric view so far as population density is
18 concerned, as it varies considerably across
19 Northern Ireland, Wales and Scotland.

20 We do not doubt the population density is a very
21 relevant issue but it's by no means one which leads to
22 an inevitable higher mortality rate. We have already
23 raised the example of South Korea, a country with
24 a population density almost twice as high and with more
25 older people but a mortality rate a quarter of the UK.

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1 Germany has a similar population density and higher
2 proportion of older people but a far lower Covid
3 mortality rate. Singapore is a much denser population
4 centre, with similar population age profile, but again
5 had a far lower Covid mortality.

6 Mr Johnson continued to deflect away from awkward
7 facts and evidence by hand-wringing about how it had all
8 been different, if only we could have seen the problem
9 coming over the horizon, and in particular asymptomatic
10 transmission, and telling us that the real problem was
11 that no one knew where the UK was on the curve until we
12 were into March.

13 Once again we say that reality, awkward things
14 called facts and evidence, get in the way of his
15 narrative.

16 The reality was that in January and February 2020 he
17 was telling those that would listen that this was
18 a false alarm and that the overreaction would damage the
19 economy. Eminent scientists were under no such
20 delusion. By early January the UK had designated Covid
21 as a high-consequence infectious disease.
22 Professor Jonathan Van-Tam told us that by 16 January
23 his instinct was telling him that this would turn out to
24 be a dangerous pandemic. Later in January clear
25 documentary evidence shows us that Professors Farrar,

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1 plans, the pandemic playbook. For the avoidance of
2 doubt, my Lady, I touch lightly on the fact that the
3 absence of pandemic planning should have been well known
4 to all, because of the evidence you've heard in
5 Module 1, but from early January why was the absence of
6 plans seemingly not a big deal? The only real evidence
7 of this is the contact between Mr Cummings and
8 Mr Hancock where the Health Secretary assures the PM's
9 most senior adviser that everything's in order and the
10 plans have all been reviewed.

11 Irrespective of whether the view was that the
12 pandemic was on its way or that it was 50/50 or that it
13 was likely to be a false alarm, it is beyond argument
14 that this was the moment to recognise that there was
15 a major hole in planning that needed to be filled
16 immediately, but precious little followed.

17 Where was the attention to increasing the bed
18 capacity and the availability of healthcare staff or
19 even to scope what wasn't and was in place in
20 social care? We know from Helen Whately, Minister for
21 Social Care, that only in March did she recognise the
22 lack of infection control plans in care homes.

23 What was done regarding PPE? It is crystal clear
24 that as of January there were insufficient stockpiles of
25 PPE. No one seems to have known what there was and

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1 Woolhouse and Ferguson were sounding the alarm, as were
2 Professors Whitty and Vallance, who were, of course, at
3 the centre of advice to government.

4 There was evidence from China, confirmed by the
5 diplomatic telegram we've seen, as early as 26 January,
6 that there was confirmed asymptomatic transmission,
7 human to human, not anecdotal evidence but confirmed
8 from the director of -- the minister of health. Further
9 reports from Germany around the same time confirmed that
10 picture, followed only days later by the
11 Diamond Princess mass outbreak in early Feb.

12 Contrary to Mr Johnson's assertion, crucial matters
13 like asymptomatic transmission were identified as early
14 as January. The problem was that the warnings were not
15 heeded.

16 By this time some things had been done, COBR had
17 been stood up, as had SAGE; but without leadership, too
18 little followed, and I highlight three central matters:
19 plans, PPE and tests.

20 Once the possibility of a pandemic arose by
21 mid-January at the latest, one might have thought that
22 anyone with an interest in an emerging civil emergency
23 which would include the Prime Minister, the
24 Health Secretary, the Civil Contingencies Secretariat,
25 the CMO, the GCSA, would instinctively reach for the

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1 where. There also seems to have been scant
2 understanding of need, in particular in the care sector,
3 and no real distribution or management plan.

4 By mid-March PPE requirements for doctors and nurses
5 and cleaners and others working in Covid wards were
6 downgraded.

7 I repeat, downgraded.

8 We say the only reason for this was the lack of
9 proper PPE. Why? Partly because of the failure to
10 stockpile and plan for management during a crisis, and
11 partly because of a failure to surge manufacturing or
12 procurement capacity once the pandemic was on the
13 horizon.

14 We've all seen the headlines in early April 2020
15 with the BBC, The Daily Telegraph, covering shocking
16 accounts of frontline healthcare workers making their
17 own protective equipment from bin liners.

18 Then there's a story of tests. UK scientists had
19 devised a Covid test admirably early in January. The
20 problem was not the UK did not have a test, it was that
21 our government failed to surge manufacture or procure
22 anywhere near the required capacity until much later in
23 the pandemic. Producing or sourcing tests was no doubt
24 less than straightforward, but it was an entirely
25 predictable problem. Some other countries did so. By

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1 mid-March South Korea had conducted five times the
2 number of tests undertaken in the UK.

3 From the beginning of January the failure to address
4 what Mr Hancock described as a "woefully inadequate"
5 preparedness and jump start a rapid emergency response
6 was primarily a failure of leadership. But by early
7 March, instead of leading the catch-up, Mr Johnson was
8 doing a photo shoot at the Royal Free Hospital shaking
9 hands with patients with Covid and telling the press he
10 was proud to have done so. By this point we could all
11 see on the television parts of Italy were being
12 overwhelmed by the virus, 11 municipalities had been
13 quarantined by order of the government on 23 February,
14 yet our government floundered: already out of date
15 action plans but little meaningful action. Mr Johnson's
16 point that the UK was taken by surprise by how far along
17 the curve we were by early March has to be seen against
18 that background.

19 Without testing capacity it was always going to be
20 difficult to understand where things were, but the rapid
21 take-off of exponential growth was not an unknown, far
22 from it. The PM did not need his advisers to explain
23 exponential growth, he did not need to understand
24 graphs, he just needed to turn the television on.

25 And so we reach the first lockdown, 23 March. There
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1 There is nothing antilibertarian about temporary
2 emergency public health measures to save lives, any more
3 than there is anything authoritarian about the binding
4 legal requirement on the state to do everything
5 reasonably possible to protect life pursuant to
6 Article 2 of the European Convention of Human Rights.
7 Sorry to disappoint those who would cast lockdowns as
8 part of a culture war, but the Human Rights Act and
9 English common law are both agreed on this.

10 The point about earlier and harder lockdowns is that
11 they hit the curve at a lower point. It is quicker and
12 easier to flatten the curve before it is out of control.
13 Quicker and easier means less economic damage, less
14 damage to our children, less risk for those escaping
15 domestic violence, less mental health impact, less
16 disproportionate impact on ethnic minority communities,
17 the disabled and the most economically disadvantaged.

18 The fallacy of the lockdown argument is that there
19 is some balance to be struck between public health
20 damage and the economy and other societal damage.
21 Protecting lives protected the economy and minimised
22 other societal damage. Protecting the economy required
23 decisive, swift action, not standing back. Protecting
24 the economy goes hand in hand with a healthy workforce,
25 and that requires first rate health services with
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1 seems to be almost unanimity amongst witnesses that the
2 first lockdown could not have been avoided. Equally, it
3 should have been sooner. Mr Hancock says the beginning
4 of March, Patrick Vallance said the lockdown was at
5 least a week too late. So the message, we say, is
6 clear: it should have been earlier and harder.

7 I say unanimity amongst witnesses because it will
8 not have escaped your attention, my Lady, that there
9 have been a number of tabloid articles and questions by
10 some politicians and other commentators as to whether
11 lockdowns were necessary at all. Apparently they were
12 anathema to some Halcyon days of British libertarian
13 values and the cost was too high.

14 We have no doubt that you'll have no hesitation in
15 following the evidence and tuning out from the
16 background noise outside of these walls. Where evidence
17 has questioned the need for or the efficiency of
18 lockdowns, it has been carefully dealt with. You'll
19 recall the dismantling of the Great Barrington
20 Declaration hypothesis by Professor Whitty, the idea
21 that the vulnerable could be shielded whilst the rest of
22 us got on with life as normal. Quite how the vulnerable
23 were to be defined and identified was the first problem
24 but shielding them whilst the virus circulated amongst
25 the rest of the population would have been impossible.
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1 resilience when there is an emergency.

2 I've raised the background noise of ideological
3 commentaries outside the Inquiry because it's been
4 upsetting to those I represent and needed to be
5 addressed as such, however it links to my next point.
6 No one considered lockdown a cure and any informed
7 person would know that a further wave or waves would
8 follow. What came after any lockdown was therefore
9 crucial. At some point the curve would be lowered to
10 a point where it was proportionate to ease restrictions.
11 Decisions would be taken to ease back some of the
12 semblance of normality whilst careful monitoring and
13 ongoing measures would be needed to keep the curve low.
14 Escalation of measures was a probability if not
15 a certainty.

16 What in fact happened was further dither and delay,
17 disconnected from the science, and with the PM and his
18 administration still looking over their shoulders to the
19 ideological doubters. Having suggested that they first
20 followed the science with respect to measures up and
21 including the first lockdown, Mr Johnson and Mr Sunak
22 then embarked on Eat Out to Help Out.

23 Having successfully, if belatedly, reduced the
24 infection rate, this policy provided state subsidies for
25 people to gather for long periods and in closed spaces.
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1 Despite the assertion from Mr Johnson that it had been
2 considered and advanced by Professors Whitty and
3 Vallance, that was plainly not the case. Again, there
4 was almost unanimity that Eat Out to Help Out was
5 a terrible idea and one which witness after witness
6 would have counselled against, if only they'd been
7 asked.

8 Although it's difficult to evidence the effect of
9 Eat Out to Help Out, Patrick Vallance was able to say
10 that it must have increased infection rates and highly
11 likely to have increased the number of deaths.

12 It is clear from the documents that the government
13 realised just how much worse the figures were getting
14 over the summer. You'll remember that Patrick Vallance
15 diary entry where he recalls Mr Johnson lamenting that
16 things were getting back to the "grim" days of March,
17 recognising that things had to be done, recognising and
18 exclaiming in colourful terms that he was going to have
19 to go against a certain section of the media. It might
20 be thought that this was the sort of decisive leadership
21 that had been absent so far. That was 11 September.

22 Ten days later, SAGE 58 recommended
23 a circuit-breaker as part of a connected package of
24 measures to reverse the exponential rise in cases. But
25 the dynamic realisation of 11 September had evaporated

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1 organisation.

2 In Module 1 we've asked you to conclude and
3 recommend that the UK should have a standing scientific
4 committee on pandemics; not an original idea as the
5 Scottish Government already has one set up. A standing
6 committee would bring together relevant scientific minds
7 in peacetime. It would be able to spot existing major
8 lacunae, such as the fact that there wasn't any pandemic
9 plan, such as a lack of resilience in the health and
10 social care sector, and no excess bed capacity and hence
11 no ability to meet a public health emergency.

12 A standing committee would be able to gather
13 learning from other parts of the world about their
14 experiences of other diseases. It would be able to
15 advise on what was needed for surge manufacturing,
16 sourcing of tests, lab analysis and PPE. It would be
17 able to gather advance thinking on NPIs, their efficacy
18 and how they might work together in different scenarios.
19 Instead what we had was a pop-up, a standing start
20 a month into the emergency. How is that the best use of
21 our expertise?

22 Without the joined-up learning that a standing
23 committee would bring, incredible responsibility is
24 placed upon key advisers close to government, and no
25 doubt pressure is placed upon them. Professor Whitty

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1 by then. The science was not followed. Instead, the
2 government embarked upon a series of tiering measures
3 which were doomed to fail and did so.

4 What was most striking about the tiers system was
5 that the government did not seek advice from SAGE or
6 anyone else about it. What this demonstrates, my Lady,
7 is that even in a face of the realisation of the dire
8 situation developing over summer 2020, Mr Johnson and
9 his government floundered in the face of ideological
10 opposition and ignored scientific advice. The result
11 was a colossal loss of life in a second wave and
12 a longer and more damaging second lockdown.

13 I want to pick up on three more threads: following
14 the science; the failure to mitigate foreseeable
15 disproportionate impacts; and governance. There is also
16 a common golden thread, a lack of proper systems in
17 place, crucial for when the next storm gathers.

18 On the evidence, it is clear that an eclectic mix of
19 eminent and concerned scientists were raising the alarm
20 as the pandemic emerged. It is equally clear that many
21 eminent scientists came together as volunteers in the
22 pop-up committee that was SAGE and did their level best.
23 This is not an attack on any of the scientists. We are
24 well equipped with eminent experts in all four corners
25 of the United Kingdom; what was missing was their

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1 accepts that asymptomatic transmission was known from
2 early on, but there were doubts as to its impact. He
3 thought border controls and screening generally did not
4 work, and stopping mass gatherings would not make of
5 difference. And above all he advised not to take policy
6 decisions too early in case there was behavioural
7 fatigue.

8 Would a dedicated standing committee have taken such
9 a cautious approach or would it have taken asymptomatic
10 transmission as a red flag until or unless it was proven
11 less forceable? Would it have counselled hesitation or
12 would it have urged to go early and go hard on NPIs
13 because it would have had the learning to understand
14 that imperative before the exponential explosion
15 rendered them less effective? Would it have taken
16 a nuanced approach to implementing border measures and
17 restricting mass gatherings, as did other countries who
18 achieved more successful outcomes, rather than serially
19 rejecting them as ineffective? Would a standing
20 committee have pushed hard in peacetime, and indeed at
21 the start of the emergency, for testing capacity and for
22 a fully functioning TTI scheme? We think so.

23 The lack of testing capacity meant that
24 Professor Whitty and others were flying blind on where
25 we were on the curve. Without resilience and tests,

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1 scientists had to go along with discharging thousands of
 2 older people from hospitals to the care sector without
 3 proper infection control. Without PPE our brave care
 4 workers and key workers, including doctors, nurses and
 5 cleaners, were left shamefully unprotected. Did the
 6 lack of PPE influence scientists to downgrade Covid in
 7 mid-March from an HCID so that doctors and others could
 8 be asked to use paper masks on Covid wards rather than
 9 respirators? How else can one explain the fact that in
 10 the eye of storm, as the infection rate exploded in
 11 mid-March, the fifth worst pandemic in history, ranked
 12 by order of human deaths, was now not considered
 13 a high-consequence disease.

14 We are not criticising the scientists here. What
 15 was absent was not expertise but organised standing
 16 learning and evidenced contingency measures to respond
 17 to various pandemic characteristics.

18 The Inquiry has heard a great deal of expert
 19 evidence regarding disproportionate impact and
 20 structural discrimination of various kinds. All
 21 diseases affect people with different characteristics
 22 differently. It is obvious that this would be the case
 23 with a pathogen such as Covid. Some of those
 24 differences will not be apparent until the path of the
 25 disease is observed. However, many disproportionate

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1 disproportionately impacted, it correlated with what the
 2 causes were, the comorbidities. That was absolutely not
 3 the evidence. Disproportionate impact was related to
 4 structural issues such as the fact that black and ethnic
 5 minority workers make up a huge proportion of the health
 6 service and care sectors and transport and the gig
 7 economy, all high-risk.

8 Later, Ms Badenoch chose an example of Pakistani
 9 taxi drivers and that it would be wrong to provide
 10 measures aimed at alleviating their risks because there
 11 were also white drivers and targeted measures were
 12 unlawful, she said. No one was suggesting that black
 13 workers should be favoured over white workers, but
 14 measures aimed at addressing disproportionate impact are
 15 plainly not favouring persons of one background over
 16 another. And equally plainly, they were not unlawful in
 17 the way suggested.

18 The failure to address disproportionate impacts was,
 19 in our submission, itself an aspect of structural
 20 discrimination and the views of an Equalities minister
 21 appears to triumph ideology over reality and the law.

22 My Lady, in terms of governance, the evidence
 23 exposed the shortcomings of the workings of central
 24 government. Below the ministerial level we have seen
 25 the interface of the political officials and civil

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1 impacts are predictable to a significant degree and
 2 therefore foreseeable.

3 The devastating and disproportionate effect of Covid
 4 on people living with various disabilities, including
 5 learning difficulties, autism and Down's, for example,
 6 was entirely foreseeable. Disproportionate impact on
 7 various black and ethnic minority communities was
 8 predictable too, but the evidence shows that little or
 9 no thinking was given to these issues until data became
 10 available quite late in the pandemic. Why was the
 11 Ethnicity Subgroup of SAGE not formed until late
 12 August 2020? Why was no apparent consideration given to
 13 the provision of racially, culturally or
 14 gender-appropriate PPE? Was it not obvious that
 15 structural issues meant that key frontline workforces
 16 are disproportionate numbers from particular ethnic
 17 groups and that needed to be addressed ahead of time?

18 What was particularly upsetting for our families was
 19 evidence from an Equalities minister, Kemi Badenoch, who
 20 seemed to both minimise structural race issues but also
 21 suggest that addressing disproportionate impact was
 22 unlawful under the legislation.

23 To remind you of just two pieces was her evidence,
 24 Ms Badenoch suggested that the evidence has shown that
 25 being an ethnic minority was not the cause of being

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1 servants. In many, perhaps most, administrations this
 2 may work perfectly well, with clear demarcation of roles
 3 and due deference between them. However, we have
 4 witnessed what happens when that is absent, with
 5 an avowed disrupter brought into the centre.

6 He who Mr Johnson could not bring himself to name in
 7 evidence was given almost unfettered power and used
 8 it -- or, more accurately, misused it. Undeniably,
 9 Dominic Cummings and others around him were allowed to
 10 create a toxic atmosphere, white and male, which scared
 11 off competent others and created a dysfunctionality we
 12 have seen through countless messages stirring up
 13 internecine conflict. Add to that a culture of
 14 indifference to abiding by their own regulations, and
 15 the evidence exposes the Johnson administration to have
 16 been rotten to its core.

17 How to put that right is another matter.
 18 Professionalising a system of SpAds and political
 19 appointees is more difficult still, as it performs part
 20 of the democratic remit of governance. But there are
 21 potential measures which the Inquiry may consider, such
 22 as a transparent system of reviewing diversity and
 23 culture at the heart of government, which may be
 24 appropriate going forward.

25 My Lady, you will know that I have made it through

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1 this short submission without reference to the detail of
 2 the messaging or the language. Ingenious devices have
 3 been advanced by many as to why the Inquiry should take
 4 a circumspect view of WhatsApps and emails and late
 5 night notes. Whilst accepting that they have
 6 a different status to formal meeting minutes, we reject
 7 all attempts to diminish their importance. This
 8 evidence is not ephemeral, as has been suggested.
 9 Sounding off some of them might be. More brutal due to
 10 the brevity of WhatsApp character limit, maybe. But
 11 these are generally invaluable contemporaneous evidence
 12 which every forensic process seeks.

13 My Lady, if the failings of Mr Johnson, Mr Sunak,
 14 Mr Hancock, Mr Cummings and others are laid bare by
 15 their own unguarded comments, they have only themselves
 16 to blame.

17 Those are my submissions.

18 **LADY HALLETT:** Thank you very much indeed, Ms Morris.

19 Ms Campbell.

20 **Submissions on behalf of Northern Ireland Covid-19 Bereaved
 21 Families for Justice by MS CAMPBELL KC**

22 **MS CAMPBELL:** The most important duty of government is to
 23 protect human life, so said the former Prime Minister to
 24 you in his evidence. At the end of this module,
 25 my Lady, our clients reasonably challenge the contention

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1 The evidence now tells us that scientists from the
 2 devolved administrations were only routinely invited
 3 from early March, however we also know that there's no
 4 evidence of any Northern Irish participation on SAGE
 5 until 28 March, or, according to one witness, until
 6 early April.

7 That in itself is a disconnect that requires
 8 an explanation, and it may be that you're able to gather
 9 further explanation in the course of Module 2C, but one
 10 thing does seem clear: there was a remarkable lack of
 11 curiosity on SAGE or in the UK Government about why no
 12 scientists from the north of Ireland had turned up, had
 13 taken up the invitation. There is no query about where
 14 the north of Ireland representative was, noting the
 15 importance of the decisions for the jurisdiction, and
 16 the need for their input, nor did anyone in the UK
 17 Government receiving SAGE minutes query why there was no
 18 attendance from a scientist from Northern Ireland.
 19 There is no concern expressed that scientists from the
 20 devolved administrations may add value by identifying
 21 important local distinctions which require
 22 consideration. There's just silence on this issue.

23 And of course this was during the period when there
 24 were crucial decisions being considered by SAGE that
 25 would, at least in part, determine the course of the

27

1 that firstly this principle remained at the heart of all
 2 government decision-making and, secondly, that enough
 3 was done.

4 You know that those we represent are concerned that
 5 the devolved issues in general and Northern Ireland in
 6 particular were a mere afterthought on the part of the
 7 UK Government. In our oral opening submissions we said
 8 that this was significant, as it meant that
 9 Northern Ireland did not have a voice in decisions that
 10 were of fundamental importance to us. We noted that
 11 this was crucial in assessing the extent to which
 12 Northern Ireland was hindered in its ability to reach
 13 informed decisions, either despite or because of the
 14 reliance on the UK Government response.

15 In this context, it may in fact be the evidence that
 16 you haven't heard which speaks the loudest. It is
 17 striking that in relation to the big decisions or when
 18 considering essential matters for a response, not only
 19 were Northern Ireland decision-makers not in the room,
 20 but there is no evidence before you of any consideration
 21 of the people of Northern Ireland and the context of the
 22 north of Ireland in the decisions that were made.

23 By way of example, there was no Northern Ireland
 24 representative on SAGE at a crucial early stage of the
 25 pandemic. You know that, and you've heard it before.

26

1 pandemic response. Advice about whether to take
 2 measures at borders, advice about mass gatherings,
 3 identification of limited capacity for test and trace.
 4 We are told by Professor Sir Chris Whitty and others
 5 that the lack of a Northern Irish participant was
 6 unfortunate because, when a representative from the
 7 devolved administration did attend, this benefitted
 8 discussions.

9 But the very lack of consideration of why there was
 10 no one in attendance during this critical period is
 11 striking. It just doesn't seem to have entered anyone's
 12 thinking, and in any event, there's no mention of any
 13 consideration before you in this module.

14 That absence was significant. The silence speaks
 15 volumes. At this crucial part of the pandemic, SAGE,
 16 like the UK Government, was taking what appeared to be
 17 a particularly Anglo-centric approach. You've heard,
 18 for example, about how the warning bells were sounded in
 19 the UK Government about failures in test and trace. By
 20 mid-February SAGE had identified that capacity for
 21 community testing would run out in two to four weeks,
 22 and that is in fact what happened. But perhaps more
 23 significantly for those that we represent, what you have
 24 not seen or heard is anyone identifying that at that
 25 time, despite having a significantly lower prevalence of

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1 the virus at that stage in the north, Northern Ireland
 2 did not even have a full test and trace system in
 3 operation. They had a pilot scheme. There's no
 4 expression of concern about this, or even mention of it
 5 in the early SAGE minutes. There's no evidence of any
 6 questions being directed to SAGE by UK Government
 7 politicians, by the territorial offices, by civil
 8 servants or political advisers, asking whether the
 9 position on testing was the same for all the devolved
 10 administrations. You heard no testimony for any witness
 11 who said "This was a matter of concern to me, I raised
 12 it at the highest or indeed at any level". Again, it
 13 didn't enter consideration.

14 Similarly, with respect to NPIs, modelling informed
 15 decisions taken and measures implemented. However, it's
 16 not clear that there was any modelling done on behalf of
 17 the north of Ireland during the pandemic, certainly not
 18 on the evidence that you've heard so far.
 19 Professor Medley, the co-chair of SPI-M-O, stated to you
 20 in evidence:

21 "The nation I didn't really have [any] involvement
 22 with at all is Northern Ireland. I think right at the
 23 beginning or early in the epidemic it had been suggested
 24 that I had a call with the Chief Medical Officer for
 25 Northern Ireland, but that I don't think ever

29

1 views of our local representatives, locally elected
 2 leaders, to ensure that their concerns could be factored
 3 into UK decision-making to ensure that they were
 4 properly engaged in a process of consultation and not
 5 simply dictated to.

6 As with SAGE, concerns about the approach of the
 7 UK Government arise. You've heard that there was a lack
 8 of central government engagement with the devolved
 9 administrations, and you know about the move from COBR
 10 to the 8.15 meetings, the recommendation of the use of
 11 the Joint Ministerial Committee and the fact that no
 12 JMCs in fact took place within a relevant period. You
 13 know about the communications via Mr Gove. Denying that
 14 there were failures in communications, Mr Gove termed it
 15 a diminution of contact. In one sense the title matters
 16 little. This was an unprecedented pandemic. There was
 17 a need for co-ordination across all administrations and
 18 the involvement of DA leaders in decisions with
 19 relevance to their electorate. Far from a halt or
 20 diminution in contact, there should have been
 21 a maintenance or increase in regular and systemic and
 22 meaningful contact at the highest levels, and the
 23 involvement of the DA leaders in decision-making.

24 This approach was particularly concerning as it
 25 appears this lack of engagement was not taken for any

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1 transpired. So, yeah ... I'm not very proud of that, it
 2 didn't happen.

3 "... I didn't have sight of what Northern Ireland
 4 were doing in terms of modelling."

5 These omissions and this failure to consider
 6 devolved issues at all is significant. This Inquiry is
 7 concerned with the response of the UK Government at this
 8 stage, and one purpose is to ensure that any mistakes
 9 made may be avoided in future. In one sense, it may be
 10 that the process rather than the outcome is the most
 11 significant in order to achieve that goal. It can be
 12 accepted, of course, that for an unprecedented and
 13 deadly pandemic even for those acting in good faith and
 14 professionally, mistakes can be made. What is more
 15 important is that processes are adopted that can
 16 minimise the scope for such mistakes. As you know, this
 17 is reflected, for example, in the requirements of
 18 Article 2 of the European Convention of Human Rights,
 19 protecting the right to life, which, as you well know,
 20 imposes an obligation of means, not an obligation of
 21 results. What is important is that the mechanisms which
 22 protect life are in place. For Northern Ireland, during
 23 a pandemic of this nature, we submit that this should
 24 have meant that decision-making structures were adopted
 25 and adapted to take into account and place value on the

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1 public health reason, or any desire to ensure that the
 2 best response was taken to the pandemic for the citizens
 3 of the devolved nations; rather, the motivation appears
 4 to have been starkly political, or, worse still,
 5 personal. This was apparent from the read-out of
 6 a meeting between the territorial offices and the
 7 Chancellor of the Duchy of Lancaster. The Secretary of
 8 State Northern Ireland read-out of that call identified
 9 a number of reasons why the Secretary of State and his
 10 equivalent in Wales and Scotland did not think a weekly
 11 meeting with the DAs was necessary. The concern is more
 12 about political handling than pandemic response. It is
 13 in fact striking from that read-out that there are no
 14 concerns identified about the lack of an NI test and
 15 trace system, about the legitimate need to look to the
 16 south of Ireland's pandemic response, or indeed about
 17 any substantive issue in relation to Northern Ireland's
 18 pandemic response. The concerns are purely political.
 19 The goal is control.

20 A further justification advanced by the Westminster
 21 government for seeking to limit the involvement of the
 22 DAs in decision-making is leaks. It's not in fact clear
 23 whether this was the case in practice, but even if there
 24 were leaks, the question arises: who do leaks pose
 25 a problem for? Is this properly a public health reason

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1 to exclude those with local knowledge from the
2 decision-making process in a pandemic? Surely, my Lady,
3 not.

4 The exclusion of the DAs from decision-making for
5 fear of apparent leaks amounts to a prioritisation of
6 political optics over public health considerations and
7 the real need to protect the lives of the citizens in
8 particular of Northern Ireland.

9 You heard about mixed messaging. Lord Lister, a key
10 adviser to the then Prime Minister, was asked by your
11 counsel what the issues was with Scotland adopting
12 a different approach, as of course they were entitled to
13 do. He identified that one concern was that mixed
14 messages were causing confusion. When pressed, he
15 identified that:

16 "... there was a strong view from the media side at
17 Number 10 ... that you had to have one simple message
18 that goes to everybody."

19 We note that this strong view did not emanate from
20 the CSA, the CMO, SAGE or even SPI-B. Rather, the media
21 side at Number 10. That suggests that this was not
22 a decision based on the welfare of the citizens of
23 devolved regions, it was, rather, a political issue.

24 That is a problem in itself.

25 However, there's a more fundamental problem with

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1 still today not appreciated by those in power in
2 Westminster.

3 And of course it's not just ordinary people who were
4 aware of this reality of life in Northern Ireland. This
5 is not just a post hoc concern raised by those we
6 represent. Dr Michael McBride, the Northern Ireland
7 CMO, messaged Chris Whitty, and indeed all of the
8 devolved CMOs on 10 March 2020, to emphasise that what
9 was important to him was not only a UK-wide agreement on
10 time, but also north-south consistency of the island of
11 Ireland. Our concern is that there is no evidence of
12 any significant step taken by those in central
13 government to address this concern, no evidence before
14 you in oral or written testimony. It's not just
15 an afterthought. It doesn't appear to have received
16 significant thought at all.

17 One demonstration of that is that no more than
18 ten days after that message from Dr McBride to his
19 fellow CMOs, you have evidence that on 20 March 2020, in
20 a phone call between Simon Coveney, the Irish Tánaiste,
21 and the Foreign Secretary, Mr Coveney suggested holding
22 a British-Irish intergovernmental conference involving
23 all administrations, which would be important to ensure
24 that not only north-south issues were discussed but also
25 east-west issues, that five-nation two-island approach

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1 that answer and the reasoning underpinning it for those
2 we represent. This was expressed to you very clearly by
3 Catriona Myles in her evidence to you when she said:

4 "... there's no denying [it] -- [it] doesn't matter
5 what political persuasion you are, we share an island
6 with the Republic of Ireland and ... rules and
7 legislation set out in Westminster didn't really allow
8 for the fact that we had a land border ... that [means]
9 that in some cases ... for example, the Derry and
10 Donegal border, you could have a house on one side of
11 a fence having to abide by one set of rules and
12 legislations and yet the neighbours on the other side of
13 that fence had a completely different set of rules. And
14 then ... you had people that were moving through the two
15 different regions for work purposes, social purposes,
16 et cetera. It got so confusing at times for people, it
17 was very hard for normal people to work out if they were
18 abiding by the rules, [and] which rules they were
19 abiding by."

20 My Lady, you may reasonably conclude that a one size
21 fits all solution dictated by Westminster to the DAs
22 does not work. In the context of the north of Ireland
23 in particular, this should have been obvious to and
24 factored into Westminster decision-making. In fact, the
25 evidence before you suggests that this basic reality is

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1 that you heard of in Module 1. The Foreign Secretary
2 agreed with Mr Coveney and suggested that it would be
3 chaired by himself or the CDL and said that it was
4 a good idea. Despite this there was no such conference
5 held that month, in March 2020, or the following month
6 or indeed throughout 2020. In fact there is no evidence
7 of whether this received further consideration at all
8 within Westminster beyond the initial acknowledgement
9 that it was a good idea.

10 Again, the absence of evidence is telling.

11 My Lady, you have heard with particular reference to
12 Scotland about concerns in Westminster that the DAs
13 would introduce measures sooner than the UK central
14 government or ease restrictions later than central
15 government, purely, it's suggested, for the sake of
16 being different. When that justification is
17 scrutinised, it's apparent that the objections of
18 Westminster were again political.

19 This is perhaps best exemplified in the witness
20 statement of Boris Johnson. The complaint that he chose
21 to give prominence to, in that no doubt carefully
22 crafted statement which we only received in August 2023,
23 was that Scotland announced limitations on mass
24 gatherings before the UK central government introduced
25 their own restrictions. What is striking about this

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1 being used as the most prominent complaint about
2 divergence is that everyone now seems to accept that one
3 aspect of the UK response which should have differed is
4 that limitations on mass gatherings should have been
5 introduced earlier. That is now the position of
6 Sir Chris Whitty, Sir Patrick Vallance, and even
7 Boris Johnson, who, when asked by your counsel whether
8 mass gatherings should have been stopped before the
9 Cheltenham Races or the Liverpool-Atlético Madrid match,
10 he said:

11 "... with hindsight ... we should perhaps have done
12 that, and I agree with you."

13 So Mr Johnson's criticism of the Scottish
14 administration is that they sought to impose a public
15 health measure earlier than the United Kingdom
16 Government in circumstances where he now accepts that
17 this step should have been taken earlier and where
18 expert evidence suggests that earlier action saves
19 lives. Criticism of the Scottish administration's
20 decision is not, therefore, consistent with public
21 health concern for the people of Scotland or any of the
22 devolved nations.

23 Even apart from that example, in the evidence before
24 you, there is no criticism of any divergent step taken
25 by any DA on the basis that it resulted or was likely to

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1 thoughts to the contrary were unrealistic. We agree,
2 and we suggest that this Inquiry should also agree.

3 It is perhaps this reality which has caused such
4 difficulty for those who advocate the single UK approach
5 as they struggle to square what is essentially
6 a political view with the geographic and scientific
7 reality. In what could be considered remarkable but at
8 the same time unsurprising, this seems to have resulted
9 in Mr Johnson in his evidence to the Inquiry
10 flip-flopping on what is the best approach to govern
11 relationships between central government and the
12 devolved nations. In his statement -- as I say, signed
13 only in August -- he decidedly advocates the use of
14 a pan-UK Civil Contingencies Act so as to "bind the [UK]
15 together". In his oral evidence he vacillated, offering
16 to Mr Keith:

17 "... I've got an open mind. I see a lot of my
18 colleagues are against the Civil Contingencies Act. I'm
19 happy to defer to them on that point."

20 Under questioning on behalf of those whom we
21 represent, Mr Johnson appeared to accept the force in
22 the view that the pandemic response must allow for
23 regional flexibility and divergence, taking into account
24 that Northern Ireland forms part of a separate
25 epidemiological unit, though adding that, with respect

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1 result in a worse outcome for their citizens or that it
2 failed to sufficiently protect lives. Not a single line
3 of a witness statement or sentence of oral testimony
4 identifies that as an issue. Those who identified
5 divergence as a problem were concerned with the concept
6 of divergence itself. The concern was political, not
7 protective.

8 We cite the example of mass gatherings not because
9 it's the most important decision for pandemic response,
10 although it was important and it does have particular
11 consideration for Northern Ireland, to which we will
12 return in our written submissions, but because
13 considering how these decisions were made and why
14 divergence has been so criticised strongly points away
15 from any recommendation being made by this Inquiry that
16 there should have been a single UK approach dictated by
17 central government to the devolved administrations
18 crafted without the benefit of local expertise,
19 implemented without taking into account local
20 distinctions, or indeed the scientific reality including
21 that which existed by the physical separation of the
22 island of Ireland.

23 Michael Gove agreed in his oral evidence that there
24 were bound to be differences between the DAs and central
25 government in terms of a common approach, and that

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1 to the DAs, the more unified we can be the better.

2 It seems that my Lady has an example of Mr Johnson
3 flip-flopping in real time, taking one position in his
4 witness statement provided in August, changing his mind
5 under questions from Mr Keith, and finally reaching
6 a position that is not quite clear.

7 We don't identify this to make any ad hominem
8 attack. The significant point is that it again suggests
9 a lack of proper consideration of how the desire for
10 a consistent UK message delivered by central government
11 is compatible with scientific reality and the fact that
12 different approaches may be necessary in different
13 jurisdictions, a reality that Mr Johnson also appeared
14 to accept.

15 That conclusion finds further reinforcement from his
16 explanation of why he opposed regular meetings with the
17 DA ministers. In his witness statement he asserted
18 decisively that this would be "optically wrong", it was
19 a deliberate decision because it would give the
20 impression that "the UK were a kind of mini EU of
21 four nations [as if] we were meeting as a 'council' in
22 a federal structure".

23 It will be apparent to my Lady that this view is not
24 based on the needs of citizens responding to
25 an unprecedented pandemic, rather on political optics.

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1 We suggest that this focus was and remains misplaced.
 2 Mr Johnson continues in his statement:
 3 "... some will say I should have simply made more of
 4 an effort, using all of my powers of persuasion, to get
 5 the DAs to stick to the UK line. I disagree."
 6 However, with the characteristic flip-flopping, some
 7 call it "trolleying", of which you have heard, he
 8 volunteered to Mr Keith in evidence:
 9 "If I had my time again, with hindsight, I think
 10 [this is] an area where I would have tried -- even
 11 though I was very pushed for time, I would have tried to
 12 spend more time with the DAs and really tried to bring
 13 them with me."
 14 It's concerning for those that we represent that not
 15 only were decisions made in relation to devolved
 16 administrations for the wrong reasons in 2020 and 2021,
 17 over two years on Mr Johnson has yet to agree with
 18 himself about what the correct approach would have been,
 19 or should have been.
 20 My Lady, briefly dealing with Partygate. The focus
 21 on optics also appears to have affected the government's
 22 response to the revelations of parties in Number 10.
 23 You heard the heartfelt testimony from Ms Myles, who
 24 described how her funny and articulate father would die
 25 alone in December 2020 while in Westminster there were

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1 of the big decisions, the evidence at the time
 2 identified that the approach was wrong or
 3 ill considered, but for some reason this was not
 4 properly identified or acted upon. We will return to
 5 this in more detail in our written submissions, but
 6 there are numerous examples to support that hindsight is
 7 no defence: TTI, mass gatherings, asymptomatic
 8 transmission, and the appreciation of what was happening
 9 in Italy in February and early March 2020.
 10 Hindsight, my Lady, is no defence for the mistakes
 11 in relation to many of the key decisions in the
 12 pandemic. That is particularly, of course, the case for
 13 the second lockdown, when the administration seems to
 14 have invented time travel, given that they were making
 15 the same mistakes all over again.
 16 We make these points not to criticise those
 17 decision-makers who were acting in good faith, but to
 18 dispel the notion that these decisions can only be
 19 considered flawed in hindsight. That is not supported
 20 by the evidence, and we respectfully suggest that this
 21 Inquiry should make clear in its findings that hindsight
 22 is no excuse and that foresight should have been
 23 present.
 24 I'd like to finish, my Lady, with the words of
 25 Ms Myles. This Inquiry has an unenviable task and we

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1 Christmas parties.
 2 You know that she and her family are not alone in
 3 that pain.
 4 My Lady, you have heard the inadequacy of
 5 Mr Johnson's response to that evidence. It was
 6 unconvincingly suggested to you and to the public that
 7 he could not have stopped the parties, and that a single
 8 text message sent in December 2021 demonstrated that he
 9 had cared about breaches of the rules by his own
 10 administration. What is striking about that message is,
 11 again, the concern is optics:
 12 "... we should have thought about how it would
 13 look ..."
 14 There is no concern expressed for the relatives of
 15 those who died alone, in many cases confused, with
 16 enforced separation from their family, denied dignity in
 17 death while those making the rules engaged in bring your
 18 own booze parties, with suitcases full of purchased
 19 alcohol. Nor indeed is there any concern about the
 20 devastating impact it would have in public confidence in
 21 governance.
 22 A word on hindsight before I conclude. There is
 23 an important point to be made about the significance of
 24 processes and factors that this Inquiry is considering.
 25 One concern for those that we represent is that for many

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1 feel a great responsibility to those we represent who
 2 are, as Ms Myles noted, "a group who never thought we
 3 would ... come together". She has made clear her
 4 concern, which is a shared concern for those we
 5 represent. She says:
 6 "We have a shared loss. Unfortunately shared
 7 trauma.
 8 "... it would be a travesty if what happened to us
 9 and our loved ones was allowed to happen again. So
 10 really, the main thing that we want from this Inquiry is
 11 accountability and reform.
 12 "... we're not saying that everything went wrong,
 13 but we just want the truth -- the truth to be out there,
 14 and to know that if and when something like this hits
 15 our shores again ... that we will be better prepared,
 16 and that there will be nowhere for those in power to
 17 hide."
 18 My Lady, we ask this Inquiry to hold and to heed
 19 those words until we have the opportunity to welcome you
 20 to Belfast in April next year.
 21 Thank you.
 22 **LADY HALLETT:** Thank you very much, Ms Campbell.
 23 Ms Mitchell. I was just looking to see whether it's
 24 time to take a break, but it's a bit early.
 25 Ms Mitchell.

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1 **Submissions on behalf of Scottish Covid Bereaved by**

2 **MS MITCHELL KC**

3 **MS MITCHELL:** I appear as instructed by Aamer Anwar &
4 Company on behalf of the Scottish Covid Bereaved.

5 In Module 1 we found out that the little pandemic
6 planning that did exist was for the wrong pandemic. In
7 this module, we found out that we'd a Prime Minister,
8 the man ultimately responsible for all decision-making,
9 described by those closest to him, saying his was the
10 "wrong crisis for [Boris Johnson's] skillset".

11 It would be difficult to understate the horror, the
12 rage, the pain felt by the Scottish Covid Bereaved who
13 had to listen to some evidence in this module. Between
14 January and March 2020, the only advantage the UK had
15 was time. This was squandered by the UK Government, as
16 we all watched in real time the tsunami of the pandemic
17 sweeping through Italy and the rest of Europe before
18 reaching our shores. In that crucial period, the virus
19 grew at an exponential rate.

20 The UK Government failed to check there was any
21 pandemic plan in place, failed to ensure testing
22 capacity was available, failed to identify the
23 likelihood and then the effect of asymptomatic
24 transmission, failed to check whether there was
25 sufficient PPE, failed to impose border restrictions,

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1 wildly that he was referred to as the trolley, agreeing
2 with the last person who popped in to speak to him when
3 he had been left unsupervised by his advisers.

4 **Post facto** suggestions that Hegelian decision-making
5 was employed is laughable in the face of the evidence of
6 the most senior civil servants in this country. The
7 Cabinet was sidelined, COBR was a sham, Potemkin
8 meetings, where decisions taken earlier were rubber
9 stamped, the democratically appointed representatives
10 from Scotland were excluded from meetings, blocked from
11 meeting the Prime Minister for optical reasons but were
12 then accused of playing politics. Scientific advice was
13 dismissed in favour of the breezy optimism of the ill
14 informed.

15 Our people faced the greatest threat since
16 World War II, yet at the very time when we were all
17 being urged to come together, the truth of the matter
18 was that the UK Government was falling apart.

19 General apologies offered for failure suggest
20 a humility not followed through in evidence by
21 politicians. Many took repeated opportunities to
22 explain what they thought they had done well, rather
23 than actually answer questions.

24 Most of the evidence we have about what actually
25 happened during the time has not come from minutes of

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1 failed to understand the science they later claimed to
2 be following, failed to lock down in time, failed to
3 consider the disproportionate impact of the pandemic on
4 the vulnerable, the disabled and on the black, Asian and
5 minority ethnic communities, failed to recognise the
6 specific impact on the health and social care sector.

7 Instead, the collective hamartia of this group was
8 their groundless confidence that the UK would be okay
9 despite every comparative example, particularly in
10 Europe, pointing to the opposite outcome. The hubris of
11 the UK Government left us defenceless by March 2020.

12 By Friday 13 March 2020, the horror that the civil
13 service and politicians began to understand, what the
14 scientists had known for many weeks but were seemingly
15 unable to communicate or have understood, that the
16 pandemic would rapidly overwhelm us and our beleaguered
17 health services.

18 Far from dealing with a Churchillian leader, the
19 politicians and civil servants, themselves involved in
20 infighting and a toxic, misogynistic and macho working
21 environment, found themselves managing a Prime Minister
22 which meant repeatedly having to explain basic facts
23 about the virus, not pushing things too heavily in case
24 they pushed him the other direction, as we saw the
25 evidence of the handshake, and he careered about so

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1 meetings or documents created by public bodies, it's
2 come from the WhatsApp messages of those in government
3 and the contemporaneous notes made by, for example,
4 Sir Patrick Vallance and those involved in the
5 decision-making process. Evidence before this Inquiry
6 has exposed the chaos, dysfunction and --
7 Boris Johnson's own words -- those at the heart of his
8 government were engaged in a disgusting orgy of
9 narcissism. A government incapable and unable to act
10 when called upon to do its duty to protect its people.

11 From Friday 13 March there followed ten deadly days
12 of delay before the decision to lock down was taken.
13 During that period the virus was doubling every
14 three days, and this Inquiry heard the shocking evidence
15 of the then Health Secretary, Matt Hancock, who said
16 that locking down three weeks earlier would have cut
17 deaths in the first Covid wave by 90%.

18 As the pandemic continued, the toxic environment
19 spread beyond the UK Government, the Scottish Government
20 was accused of taking decisions for the sake of being
21 different, rather than acknowledging the obvious fact
22 that the Scottish Government was responsible for the
23 health of its nation and that of Scotland. Most often
24 cited examples of doing things differently for the sake
25 of it were the cancelling of mass gatherings and the use

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1 of face masks in school. It was suggested at the time
2 that the Scots were going soft on mass gatherings and
3 wanting to make totemic decisions to shut them down.
4 Evidence before the Inquiry confirms Boris Johnson's
5 stance that he should have cancelled mass gatherings
6 earlier.

7 In relation to the face mask policy, the World
8 Health Organisation advice changed and in the days after
9 the Scottish Government changed its policy, the UK
10 Government some time later followed suit.

11 Boris Johnson suggested the most crucial tool in the
12 pandemic was communication. Those within the UK
13 Government repeatedly suggested that the First Minister
14 speaking to the people of Scotland about the health of
15 the nation was apt to cause confusion, yet it has
16 plainly been shown by expert evidence, at a time when
17 clarity of messaging was so critical a tool, potentially
18 deadly confusion was caused by the UK Government who
19 repeatedly failed to properly distinguish the pandemic
20 health messages between the four countries of the
21 United Kingdom, finding itself in public message unable
22 to distinguish between the UK, England, this country,
23 and Britain.

24 None of this is to say that the decisions taken by
25 the Scottish Government were always correct. The

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1 to hear, but whose WhatsApp messages disclosed what was
2 said in relation to Mr Johnson:

3 "Gov't isn't actually [this] hard, but this guy
4 is ... making it impossible."

5 Accordingly, my Lady, the Scottish Covid Bereaved
6 suggest in outline at this stage a number of possible
7 recommendations:

8 One, a review of the organisational cultures within
9 Whitehall, to look at the entirety of what happened
10 across Whitehall during that period of time to try to
11 understand why, and then how we can make sure that it
12 doesn't happen again.

13 As Helen MacNamara noted:

14 "... I think -- those are the civil service
15 questions: why did this happen? Why did the collective
16 group of people decide to do things that are so clearly
17 in the wrong place? And then how do we make sure [it]
18 doesn't happen again?"

19 Secondly, a review of the organisation of
20 government. An insight in this module which would be
21 fascinating if it were not equally as horrifying is that
22 there appeared to be no substructure to
23 the UK Government. Those formal structures of
24 government that should have been in place were swept
25 away in the pandemic. Groups which should have formed,

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1 Scottish bereaved look forward to the same robust
2 scrutiny that has been applied to the UK Government
3 being applied in Module 2A, which starts in
4 January 2024.

5 According to the National Records of Scotland, as of
6 June 2023, when this Inquiry began, there were 17,646
7 deaths in Scotland where Covid was mentioned on the
8 death certificate. In the last three years, over
9 a quarter of a million people have died from Covid in
10 the UK. Each of those deaths not only represents
11 an individual tragedy, but has affected the friends and
12 family, the loved ones of each of those who died.

13 How does this Inquiry make recommendations in all
14 the foregoing circumstances? May we suggest the words
15 of the most senior and respected civil servants in
16 the UK Government be considered.

17 Firstly, Helen MacNamara, who served as Deputy
18 Cabinet Secretary in Cabinet Office during the first
19 year of the pandemic. She said in evidence:

20 "I think that the important thing is ... how do you
21 make sure that when anybody is in those sorts of
22 situations again there are structures and systems that
23 mitigate against what will happen to human beings in
24 that situation."

25 Secondly, Simon Case, from whom this Inquiry has yet

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1 such as the Joint Ministerial Committee, were not
2 implemented, meantime ad hoc groups with no proper
3 structure, authority, due diligence or recording
4 procedure appeared. Without doubt, the
5 Scottish Government and other devolved administrations
6 required a seat at any table where decisions are being
7 taken which affect the people they represent. And that,
8 I would respectfully submit, is something that should
9 also be considered.

10 Three, a review of the culture of government to
11 address the striking lack of diversity, the misogynistic
12 behaviour which saw women talked over and made to become
13 invisible.

14 Four, the role of special advisers to government to
15 be formalised and made accountable to an independent
16 body, so that no unelected individuals can enforce their
17 ideas and plan by sheer force of personality, overriding
18 the democratic process.

19 Five, to consider the formation of two bodies,
20 economic SAGE and, in the event of the next pandemic,
21 a UK science advisory council much like the Scottish
22 Covid advisory council which was set up.

23 Six, data sharing. There needs to be a centralised
24 unit to bring in health data, to collate it, to
25 aggregate it, and then to disaggregate it, so that in

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1 the next inevitable pandemic we can use one of our most
 2 important resources, knowledge, to greater effect.
 3 Seven, the establishment of an expert hot tubbing
 4 group, experts from different disciplines to assist both
 5 the UK Government and the devolved governments to advise
 6 on the interaction of those disciplines, rather than the
 7 government alone weighing up different concerns. Had
 8 such a group been in place, the false dichotomy which we
 9 have heard about of economy versus health could have
 10 been argued and explored by experts in health, economy,
 11 behavioural sciences, et cetera, rather than leaving it
 12 to the government.

13 Eight, lastly, and unsurprisingly, a legal
 14 requirement that all communications relating to the work
 15 and decision-making of the UK and devolved governments,
 16 including of course electronic communications such as
 17 WhatsApp, must be saved and recorded in order that there
 18 be transparency in the decision-making process within
 19 government.

20 My Lady, these are only some of the outline
 21 recommendations from the Scottish Covid Bereaved.

22 However, before concluding, at the start of this
 23 Inquiry, Aamer Anwar on behalf of the Scottish Covid
 24 Bereaved presciently stated:

25 "... it is for this Inquiry to illuminate the truth.

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1 (11.08 am)

2 (A short break)

3 (11.25 am)

4 **LADY HALLETT:** There is -- just as I was coming in, I don't
 5 know if the news had reached you, that -- the news that
 6 Mark Drakeford has resigned.

7 **MS HARRIS:** Yes, thank you, my Lady, we did hear that news.
 8 Thank you.

9 **LADY HALLETT:** Ms Harris.

10 **Submissions on behalf of the Covid-19 Bereaved Families for
 11 Justice Cymru by MS HARRIS**

12 **MS HARRIS:** Good morning, bore da. I represent Covid-19
 13 Bereaved Families for Justice Cymru, CBFJ Cymru.
 14 CBFJ Cymru is dedicated to campaigning for truth,
 15 justice and accountability for the bereaved in Wales.
 16 Its members have experienced first-hand failures to
 17 respond adequately to the pandemic in Wales and the UK
 18 as a whole, and the catastrophic effects of those
 19 failures. The group seeks answers about what happened
 20 in Wales and why decisions which impacted on Wales were
 21 made in the way that they were, so that there can be
 22 true accountability and lessons learned.

23 The pandemic response in Wales was primarily the
 24 responsibility of the Welsh Government, acting under its
 25 devolved responsibilities, and it primarily must be

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1 "Over the coming months and years there may be times
 2 this inquiry may falter, but it cannot afford to fail.
 3 It will undoubtedly come under sustained and repeated
 4 attacks.

5 "It must, however, never be afraid to raise its
 6 voice for the truth: that is the very least we owe to
 7 those who lost their lives ..."

8 There has indeed been sustained and orchestrated
 9 attacks, and at times personal, on this Inquiry, its
 10 Chair, and its legal team. Those we represent in the
 11 Scottish Covid Bereaved wish to make it clear that any
 12 such attacks on the work of the UK Covid Inquiry are
 13 an attack on the bereaved who want the work of this
 14 Inquiry to continue without fear or favour.

15 Before we finalise our submissions, we wish to
 16 conclude to peruse some of the disclosure that we still
 17 haven't finalised, and also listen carefully today and
 18 tomorrow to the views expressed by the other
 19 core participants, and will provide detailed written
 20 submissions in January.

21 These are the oral submissions on behalf of the
 22 Scottish Covid Bereaved.

23 **LADY HALLETT:** Thank you very much indeed, Ms Mitchell.

24 Right, I think we'll take a break now. I shall
 25 return at 11.25.

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1 accountable for that response. However, the
 2 UK Government's decisions and UK level structures also
 3 played a part in shaping the response in Wales.

4 In the period leading to the first national
 5 lockdown, Welsh Government decisions were aligned with
 6 UK Government decisions, all four nations sat on COBR,
 7 and agreed the *Coronavirus: action plan* of 3 March 2020
 8 and full national lockdown on 23 March. How decisions
 9 relating to Wales were made will be examined further in
 10 Module 2B of this Inquiry, but we know that after
 11 23 March 2020 at times Wales adopted the same policy as
 12 the UK Government's policy applicable in England,
 13 although at times with later implementation in Wales,
 14 for example the hospital discharge policy and whole
 15 care home testing, and at other times policies were
 16 different. For example, the switch from Stay at Home to
 17 Stay Alert in May 2020 was not adopted in Wales, and in
 18 Wales there was an autumn firebreak. The main financial
 19 levers were at the UK Government level. SAGE was the
 20 main source for scientific advice UK-wide, including for
 21 Wales.

22 Against this background, a central concern for the
 23 Welsh bereaved families in this module, which will be
 24 addressed in this statement, is whether the
 25 UK Government and the devolved Welsh Government

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1 collaborated effectively.

2 This statement will also consider some of the key
3 areas of UK Government decision-making and UK structures
4 where these have shaped and are relevant to
5 understanding the response across the UK, including
6 Wales.

7 Two brief initial points. On preparedness, the lack
8 of preparedness for a pandemic is a key matter of
9 context for the subject matter of this module. Two
10 significant aspects relevant across the UK were the lack
11 of an overarching plan for a pandemic response such as
12 this, and the lack of a scalable infrastructure for
13 testing and for test and trace. As was pointed out in
14 the evidence to the Inquiry, had the public health
15 infrastructure in the UK been as developed as in some
16 other countries, other paths and outcomes may have been
17 open to the UK.

18 Professor Hale's evidence to the Inquiry was that
19 the most effective governments were able to minimise the
20 use of stringent measures by relying on effective test
21 and trace and isolate systems, and that such strategies
22 are particularly effective when combined with fast,
23 stringent but limited non-pharmaceutical
24 interventions (NPIs).

25 The UK did not have that infrastructure, which could
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1 science advice could be provided to it. Evidence was
2 given to the Inquiry that throughout 2020 SAGE suffered
3 from having little sense of what the high-level
4 strategic objectives of the government were in managing
5 the crisis, and that had it known it may have reached
6 conclusions about the need to adopt the policies that it
7 ultimately advised faster.

8 The only overarching plan for a pandemic response
9 prior to 3 March 2020, the 2011 pandemic flu plan, which
10 applied to Wales also, was aimed at managing the
11 consequences of a flu pandemic, not stopping a virus
12 from spreading. It was based on the wrong doctrine.

13 Evidence has been heard about Exercise Nimbus in
14 February 2020, that it was directed not at what could be
15 done to counter the spread of the virus, but how to
16 prioritise patients in the event of the NHS becoming
17 overwhelmed.

18 As was stated in the evidence, what should have been
19 addressed was at what point to lock down, how much data
20 was needed before making a decision, what NPIs were
21 going to be put in place and in what order, how do you
22 save lives in the least damaging way; and not, are we
23 going to find enough mortuary space, and who should
24 decide on prioritisation for NHS treatment?

25 The *Coronavirus: action plan*, a four nations
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1 have given it a better chance of a response that would
2 cause less harm. So this must be one of the key lessons
3 for the future.

4 The second opening point is that in this group's
5 opening statement to this module, we asked if the older
6 population were a cohort who were overlooked by
7 the UK Government, whether they were seen as lesser or
8 dispensable. The evidence to the module has shown that
9 this cohort were sometimes spoken about by the then
10 Prime Minister in a way that suggested that they were
11 dispensable:

12 "... there will be more casualties, but so be it --
13 'they have had a good innings'."

14 Is one example of that type of comment.

15 Turning to the initial response to the spread of
16 Covid-19, at the early period of the response to
17 the pandemic the evidence has shown fundamental problems
18 in the decisions, actions and inactions of the
19 UK Government. The Welsh Government was closely tied in
20 to the response at the UK Government level in this
21 period, so the evidence provides insight into the
22 response in Wales too.

23 The UK Government response was shown on the evidence
24 to lack a sense of urgency, to lack a plan and
25 a strategy, and the lack of a strategy impacted on how
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1 document, set out an approach but was less than a plan
2 for action. References to action points to counter the
3 threat of widespread spread of the virus were oblique
4 and it overstated the extent of any other existing plans
5 in place.

6 The decision made by the UK Government on mass
7 gatherings was not to ban mass gatherings and not to
8 advise against them until 16 March 2020, the same
9 approach being adopted by the Welsh Government.
10 The Inquiry should find, as has been accepted in the
11 evidence of witnesses, that mass gatherings should have
12 been banned earlier. Other countries could be seen to
13 be banning mass gatherings, and on 12 March 2020 the
14 number of cases was in the thousands and growing. The
15 people in Wales knew, as evidenced by the fact that you
16 could not buy hand gel anywhere in Wales at that time.

17 Politicians should have thought more widely than
18 just the scientific advice and taken account of the
19 wider context at that time.

20 The evidence to the Inquiry has shown that
21 throughout February and into early March, evidence was
22 emerging about the growing threat of the virus and this
23 was not being responded to with proportionate speed and
24 focus, and it followed inevitably, and as the evidence
25 has shown, that the interventions that were necessary
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1 were not timely. This includes the 23 March national
2 lockdown agreed by all four nations.

3 I now refer to asymptomatic transmission.
4 CBFJ Cymru are deeply concerned about the evidence
5 showing that the risk of asymptomatic transmission was
6 not factored into decision-making at the early stage.

7 It is clear that although uncertain, the risk of
8 asymptomatic transmission was known very early on. The
9 way this factor did not inform decision-making even when
10 there was very high vulnerability to the disease is
11 impossible to comprehend.

12 The then UK Government Secretary of State for Health
13 and Social Care when giving his evidence appeared not to
14 have understood or to be ignoring the full findings in
15 the legal case that was brought by Dr Gardner and
16 Ms Harris which challenged the March 2020 hospital
17 discharge policy and other surrounding policies. The
18 court found that those drafting the March discharge
19 policy and the April admissions guidance simply failed
20 to take into account the highly relevant consideration
21 of the risk to elderly and vulnerable residents from
22 asymptomatic transmission.

23 Paragraph 289 of the judgment.

24 We have also heard evidence about the fact that
25 a policy relating to reducing the movements of care home

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1 Professor Catherine Noakes, who was convener and chair
2 of the Environmental Modelling Group, which was
3 a subcommittee of SAGE.

4 She spoke of this aspect of the virus being
5 overlooked, and the need for mitigations which focused
6 on ventilation, the need for care in relation to
7 appropriate face masks that could guard against the
8 aerosol aspect of the transmission.

9 She also referred to the fact that information on
10 the websites of Public Health England and the NHS had
11 not provided up-to-date information, and had not
12 referred to the airborne nature of transmission, and
13 that she had needed to contact Professors Whitty and
14 Vallance about this, and indeed the information on the
15 NHS website was not changed until June 2021.

16 The Inquiry has also heard evidence from Dr Banfield
17 from the BMA about the importance of ventilation, about
18 the importance of FFP2 and FFP3 respirators being
19 available for vulnerable people, as offering better
20 protection from infection than ordinary masks, and the
21 need for clearer public health messaging in this area.

22 CBFJ Cymru believe that the seriousness of airborne
23 infection is still not appreciated and acted on in
24 Wales. This is relevant in many settings, including
25 hospitals, and a hospital-acquired infection remains

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1 staff between different care homes was not implemented
2 until 15 May. Had it been brought in sooner, then it
3 would have prevented some of the spread of infection
4 into care homes, and that the risk of asymptomatic
5 infection had not been properly taken into account in
6 deciding whether such a policy was needed at an earlier
7 stage.

8 Lessons must be learnt from the way the system for
9 health and social care failed to do what it was supposed
10 to do to protect vulnerable people in the most
11 fundamental way, and about how a risk that was
12 uncertain, but one that had the potential for
13 devastating consequences, was taken into account in
14 decisions that concerned very vulnerable people.

15 The issues will be returned to in the context of
16 Wales in Module 2B, because Wales adopted a similar
17 hospital discharge policy to the one considered in this
18 module, and will have also needed to consider
19 asymptomatic transmission and very vulnerable
20 populations.

21 I deal very briefly with airborne transmission. In
22 the group's opening statement we invited the Inquiry to
23 consider whether enough was done to consider this
24 factor, the airborne nature of the virus, and in the
25 course of Module 2 the Inquiry has heard evidence from

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1 a significant concern in Wales. They wish the Inquiry
2 to make recommendations at speed about responding to the
3 airborne nature of the virus.

4 I turn now to the subject of intergovernmental
5 relations. The Welsh Bereaved Families believe that all
6 UK and devolved governments should have worked more
7 closely together with a single aim of providing the most
8 effective response that they could to the pandemic.
9 This was in order to have the best chance of reaching
10 agreement on policies across four nations, and where
11 policies were different, so that they could consider the
12 implications for each other of their different policies
13 and co-ordinate implementation and public announcements.
14 In some, co-ordination between nations would lead to
15 a more effective response and better chance of saving
16 lives.

17 In the evidence before the Inquiry, there has been
18 frequent reference to a four nations approach, used to
19 signify not just the four nations acting uniformly but
20 also flexibility for nations to adopt different
21 approaches whilst co-ordinating with each other. There
22 are plenty of examples of ministers inviting and
23 endorsing a four nations approach, but to what extent
24 did the UK Government and the Welsh Government do all
25 they reasonably could to promote a four nations

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1 approach?

2 The Inquiry has heard that at the level of health
3 ministers, that there were meetings of the four health
4 ministers by regular calls and that there was also
5 a shared WhatsApp group. Mr Hancock said that this
6 filled the gap where there had been a missing piece of
7 institutional architecture, and it worked well. He
8 commended the other health secretaries for their
9 approach, saying they left politics at the door, and he
10 referred to the warmth of their relationship. There
11 will be further evidence on the subject in Module 2 and
12 of the Welsh perspective on those meetings.

13 There was also evidence of regular close engagement
14 through the pandemic between the four chief medical
15 officers of the four nations. There was much evidence
16 about how positive these engagements were.

17 The question must be asked, however, when the core
18 science was the same, how were there so many differences
19 between policies in England and Wales that were not
20 avoided, whether in relation to mask wearing or testing
21 or other differences in the plethora of rules after
22 coming out of the first lockdown?

23 These issues will be looked at further in Module 2B,
24 as to whether the differences were because of lack of
25 communication or delay or delay in implementation or

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1 engagement with the First Ministers of the devolved
2 administrations. But Mr Johnson decided not to do so.
3 Instead, he decided, with the support of Mr Cummings,
4 that the First Ministers were to have regular calls with
5 Mr Gove.

6 The Inquiry has heard that it was considered that
7 Mr Gove did a skilful job, but this arrangement meant
8 that the devolved administrations' First Ministers did
9 not have direct contact with the Prime Minister on
10 a regular or predictable basis. There was, as was put
11 by Mr Mark Drakeford in his witness statements, a lack
12 of a regular rhythm of engagement, a lack of regular
13 check points that only the Prime Minister could provide,
14 a vacuum at the final pan-government level.

15 Mr Johnson gave his reasons for making these
16 arrangements in the way he did. In his view, it was
17 optically wrong for the Prime Minister to meet with the
18 devolved administration First Ministers, as though the
19 UK were "a kind of mini EU of four nations". He
20 referred to wanting to avoid the risk of pointless
21 political friction and grandstanding because of the
22 well known opposition of some of the devolved
23 administrations to the government and also to avoid
24 leaks.

25 These were not good reasons. Mr Gove's evidence on

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1 whether there were other reasons.

2 The position as between the Prime Minister and the
3 First Ministers of the devolved administrations must be
4 considered. Mr Boris Johnson, in his evidence, made
5 several statements to the effect that the relationship
6 was good between the UK Government and the devolved
7 administrations. But Mr Drakeford pointed out that
8 there were significant problems in the structure of the
9 relationship at the Prime Minister and First Minister
10 level during the pandemic. He wrote to the
11 Prime Minister requesting greater collaboration.

12 The Inquiry has heard that after 10 May 2020, the
13 UK Government decided that COBR would cease to meet
14 regularly and it did not meet at all between 10 May and
15 22 September 2020. This meant that the four nations,
16 having gone into lockdown together, when they were
17 taking the careful steps of coming out of lockdown, the
18 Prime Minister and the First Ministers of the devolved
19 administrations ceased to meet on COBR as they had done
20 previously. At that stage, and from then onwards, there
21 were more differences in policies between the
22 UK Government and the Welsh Government.

23 The Inquiry has heard that at that time it was
24 suggested to the then Prime Minister, Mr Johnson, that
25 he convene the Joint Ministerial Committee as a means of

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1 leaks should be noted. He said it is most important to
2 have the "right people in the room" and that overall, in
3 the greater scheme of things, that leaks were not
4 a particularly significant concern.

5 The Prime Minister's reasons for not engaging more
6 directly with the First Ministers betray a lack of
7 commitment to serious and grown-up attempts to work with
8 the DAs. That was a wrong mindset. And that mindset
9 was also evident from the comments of Mr Dominic
10 Cummings when he said that it was thought that Mr Gove
11 would handle the process of dealing with the DAs better
12 and that, generally speaking, the Prime Minister talking
13 to the devolved administrations did not advance any
14 cause.

15 Dominic Raab in his witness statement said he found
16 it became irritating as the pandemic went on that
17 Scotland and Wales wanted to do things slightly
18 differently or with different timings for what appeared
19 to be political reasons.

20 It is to be observed there is a clear inconsistency
21 in on the one hand criticising the devolved
22 administrations for not aligning with the UK while at
23 the same time denying them access to the decision-making
24 process.

25 Mr Gove in his evidence suggested that there was

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1 a case for overriding devolution when it came to the
2 pandemic which affected Great Britain, and whilst issues
3 such as how much fruit to eat and so on were quite
4 properly a matter for devolved administrations, that
5 such a pandemic might not be. That, of course, it is to
6 be observed, would be contrary to the footing upon which
7 the four nations agreed their response to the pandemic
8 from the start, which was on the basis of settled
9 devolved responsibilities.

10 Public messaging was, of course, very important, and
11 where the four nations did not have the same policy
12 there obviously needed to have as much clarity as
13 possible about what applied where.

14 The evidence has shown that the UK Government did
15 not apply commitment to that goal, and the Inquiry has
16 been referred to the report of Professor Henderson,
17 where she analysed speeches throughout 2020 which showed
18 that the UK Government did not outline the territorial
19 scope of its information and guidance on many occasions,
20 and also that press briefings were unclear as to when
21 new rules applied to the whole of the UK or were
22 England-specific.

23 These are things that could easily have been
24 avoided. Evidence has also been heard about the way in
25 which the change from the message Stay at Home to Stay

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1 announcements need to be conducted in a rational way,
2 being clear as to what applies where.

3 Three, UK-wide science advice structures should be
4 accessible to the devolved administrations, including
5 attending the committees where appropriate and
6 collaboration with the devolved science bodies.

7 Four, public health information and messaging should
8 be systematically informed by the up-to-date science on
9 infection control measures.

10 Which is linked to five, that there should be
11 greater focus on identifying the whole range of relevant
12 ways of reducing the risk of spread of infection in the
13 community and outside the community and in hospitals,
14 care homes, et cetera.

15 Six, as to the significant issues that this module
16 raises as to how the centre of government operated in
17 a crisis, this is not dealt with in detail here, other
18 than to say it is clear that there needs to be
19 consideration of structures that will produce better
20 decision-making, of the need to draw on a wider range of
21 life experiences when making decisions affecting huge
22 numbers of people's lives in major ways, and as to how
23 politicians interact with the scientists from whom they
24 seek advice.

25 Seven, there will be many lessons in the area of

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1 Alert was handled, without again, a clear plan, to be
2 clear, that the devolved administrations did not change
3 their message to Stay Alert. The UK media also
4 contributed to the confusion by failing to state when
5 public health messages did not apply in the devolved
6 administrations. Professor Henderson has commented on
7 this, "These errors were avoidable".

8 In our written statement, we will make observations
9 about SAGE and about the improvements that there were in
10 co-ordinating and providing access to the devolved
11 administrations to the Welsh Government and how we would
12 hope that this will be able to be further developed.

13 To turn to the conclusions that I wish to make on
14 behalf of CBFJ Cymru, there will be many suggested
15 lessons for the future and CBFJ Cymru contributes the
16 following few points:

17 First, the recently reported system for
18 intergovernmental relations between the UK Government
19 and the devolved administrations should include
20 structures suitable for a prolonged period of crisis
21 such as a pandemic. In the pandemic, a formal structure
22 for regular meetings at the Prime Minister level, plus
23 the calls with Mr Gove, would have been a better
24 arrangement.

25 Two, four nations public communications and

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1 social care from this module, and the later modules, and
2 that is a subject too large to attempt here.

3 Two final points. From the perspective of Wales, as
4 well as the above, what also emerges is that at some
5 levels of the UK Government there was a failure to
6 embrace the task of working with the devolved
7 administrations. There should have been close and
8 grown-up collaboration, which people across the UK were
9 entitled to expect. Whether the Welsh Government did
10 all it should have done to collaborate must be
11 considered in Module 2B of the Inquiry, which is yet to
12 come.

13 Finally, the lesson has been learned, of course,
14 that the institutions of the UK Government were very far
15 from equal to the task of responding to the pandemic and
16 that this brought devastating consequences, and we will
17 refer in more detail to that aspect in our written
18 submissions.

19 Thank you, my Lady.

20 **LADY HALLETT:** Thank you very much, Ms Harris, very
21 grateful.

22 Mr Metzger.

23 **Submissions on behalf of Long Covid Kids, Long Covid SOS and
24 Long Covid Support by MR METZER KC**

25 **MR METZER:** My Lady, I appear with Sangeetha lengar and

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1 Shanti Sivakumaran on behalf of the Long Covid groups,
2 instructed by Jane Ryan of Bhatt Murphy.

3 Long Covid voices. Our clients are angry. They
4 have been disbelieved, dismissed, and ignored, and
5 suffered the ignominy of hearing Mr Johnson's testimony
6 last week. My Lady began this module from hearing by
7 those impacted by Covid-19 and it is apt to return now
8 to the voices of our clients.

9 Aurelie Summers(?), a Covid frontline nurse who
10 contracted Covid in the first wave, said:

11 "Long Covid had not been mooted as a thing. As
12 a result, my ongoing symptoms were often met with
13 scepticism and a degree of gaslighting."

14 She was sadly not an anomaly. Kim Horsmanshough(?)
15 said:

16 "I thought it was going to be a cold, because I am
17 37, went to the gym several times a week, and all the
18 messaging was that Covid was nothing to worry about if
19 you were young. My family find it hard to accept that
20 I'm disabled. It's hugely isolating."

21 Many lost their livelihoods. Una Cousins was
22 a professional athlete who was preselected for the
23 Olympics as part of the British rowing team. After
24 developing Long Covid, she was struggling with cooking,
25 showering, and getting out of bed, all the basic daily

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1 The voices of people with Long Covid have been
2 represented by the Long Covid groups, Long Covid Kids,
3 Long Covid SOS, and Long Covid Support, who have
4 followed the hearings closely. They have sought answers
5 to questions they have carried with them since they
6 began suffering from the long-term effects of Covid-19.
7 Their suspicions have been confirmed.

8 First, the Long Covid groups have heard evidence of
9 the unfounded dismissal of their illness exemplified by
10 the attitude of the former Prime Minister,
11 Boris Johnson.

12 Second, the evidence is that Long Covid was, at
13 best, an accepted trade-off when decisions were made
14 about easing restrictions and, at worst, entirely
15 ignored as an inconvenient truth.

16 Third, the evidence demonstrates that there was
17 a wholesale failure to use what Mr Johnson calls the
18 most important tool of public messaging, to communicate
19 the indiscriminate risk of long-term harm to the public
20 which covers the risk to children and adults of all
21 ages. These cumulative errors have caused avoidable
22 injury and enduring suffering to the Long Covid groups.

23 Disbelief in Long Covid. The Long Covid groups have
24 sought to understand how and why there was an
25 inexplicable delay in the government's recognition of

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1 tasks. Long Covid has forced Una to retire completely
2 from her rowing career.

3 Parents were not warned that Long Covid could
4 debilitate and disable their children. Jessica,
5 a 10-year old who has lived with Long Covid since
6 November 2021, describes how "no one at school or in
7 health believed me until I ended up in crisis in
8 hospital with a feeding table". Jessica was very active
9 and loved to roller skate with her family. Now she
10 needs a wheelchair, can't walk or attend school.

11 You heard from our client, Sammie McFarland, during
12 the impact films. In her statement, she said:

13 "It has been extremely distressing to watch my
14 child, who had been previously completely healthy, happy
15 and dancing around, being unable to move and full of
16 self-doubt. It was like watching my child fade away.
17 She is no longer the child she was."

18 New voices continue to be added to the collective
19 Long Covid experience. Today, people will develop
20 Long Covid from new Covid-19 infections. They will lose
21 their physical health, their ability to work, to go to
22 school, they will lose their lives as they know them.
23 The lessons to be learned from government
24 decision-making matter now as much as they do for the
25 future.

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1 Long Covid when longer term sequelae were foreseeable
2 and well established from other recent coronaviruses,
3 such as SARS and MERS.

4 We now know from the evidence that the risk of
5 long-term sequelae was in fact foreseen. The Secretary
6 of State for Health and Social Care, Matt Hancock, and
7 the Prime Minister's most senior adviser, Dominic
8 Cummings, both recalled being advised by Professor Sir
9 Chris Whitty, the CMO, and Sir Patrick Vallance, the
10 GCSA, that Covid-19 was likely to have long-term effects
11 on a significant number of people. Yet it took patient
12 advocates, already suffering from Long Covid, to
13 advocate for action. Long Covid is a patient-made term.
14 It did not need to be.

15 Mr Johnson's attitude to Long Covid exemplifies the
16 biases that the Long Covid groups were formed to
17 counter. He doubted that people with Long Covid had
18 a real condition. This is not true. The scientific
19 advice and lived experience of people suffering from
20 debilitating long-term symptoms caused by Covid-19 is
21 very clear.

22 Mr Johnson now claims that his scrawl of "bollocks"
23 on a box grid in October 2020, this one obscene word,
24 was his attempt to request advice on Long Covid.
25 My Lady, there are glaring holes in his belated claims

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1 that he was seeking advice on Long Covid.
 2 First, and significantly, Mr Johnson only came up
 3 with the suggestion that he was asking for advice in
 4 oral evidence. His witness statement tells an entirely
 5 different story of a man who dismissed the suffering of
 6 millions, despite the wide range of people who were
 7 trying to open his mind to the worrying reality. He
 8 waited until late May 2021 to ask his CMO for further
 9 information on Long Covid.
 10 Second, the box grid he was presented with outlined
 11 the NIHR report on Long Covid commissioned by
 12 Professor Sir Chris Whitty, which reviewed scientific
 13 and clinical data on long-term sequelae. He did not ask
 14 to see the full report, which he knew was available.
 15 Finally, Sir Patrick Vallance said he made the
 16 Prime Minister aware of Long Covid. This is supported
 17 by his diaries, which record Mr Johnson repeatedly
 18 referring to Gulf War syndrome when Long Covid was
 19 raised.
 20 The evidence overall, including that from
 21 Mr Johnson's own witness statement, makes plain that
 22 Long Covid was an inconvenient truth that Mr Johnson
 23 chose to ignore. This choice caused great harm and
 24 immeasurable suffering.
 25 Avoidable harm. My Lady, a crucial question is

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1 the young and in otherwise healthy adults.
 2 It is extraordinary that he thought that long-term
 3 harm was not something the Prime Minister needed to know
 4 in 2020, when Sir Patrick Vallance was warning the
 5 Prime Minister and the Cabinet that this was a material
 6 consideration.
 7 Sir Patrick advised that strategies like
 8 segmentation or the Great Barrington Declaration
 9 proposal, which allowed high rates of transmission
 10 amongst the young, would result in large numbers of
 11 people contracting Long Covid.
 12 The failure to consider Long Covid when making
 13 decisions on NPIs had three stark consequences.
 14 First, before the second wave, the Prime Minister
 15 wanted to be the mayor of Jaws, and was actively trying
 16 to keep the beaches open while delaying the decision to
 17 take a second lockdown. He entertained strategies where
 18 he thought by keeping the known vulnerable off the
 19 beaches the rest of the population could go out to sea.
 20 As Dame Angela McLean said, there were unknown
 21 vulnerable who could develop Long Covid. The
 22 Prime Minister ignored the fact that the shark in the
 23 water could maim anyone.
 24 Second, as restrictions were eased, there was
 25 little, if any, focus on the need to prevent Long Covid.

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1 whether nearly 2 million adults and children with
 2 Long Covid was avoidable. Decisions around the
 3 introduction of and release of NPIs were matters of life
 4 and death, of health and sickness. The long-term harm
 5 caused by Covid-19 was a relevant outcome from those
 6 decisions. Put plainly, Long Covid was not considered
 7 in the decisions taken in response to the pandemic.
 8 Sir Christopher Wormald confirmed as much, saying that
 9 the sole factors under consideration were
 10 hospitalisation rates, the spread of disease and the
 11 death rate. Is it not simple common sense that
 12 long-term harm from a virus is relevant to how
 13 a pandemic is managed?
 14 Sir Patrick Vallance explained the lack of
 15 consideration of Long Covid by saying that "the Covid
 16 pandemic was running at high levels all the way from
 17 August through to the end of that year, and so the
 18 recommendation was keep the prevalence low. That was
 19 not happening, and the consequence of that is more
 20 people with Long Covid, and I don't think that was
 21 something that policymakers were keen to factor in".
 22 Professor Sir Chris Whitty, in his witness
 23 statement, observed that recognising Long Covid could
 24 occur at any age had important practical implications as
 25 it made him more cautious to the effects of Covid-19 in

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1 This meant that strategies which allowed high prevalence
 2 of Covid-19 in 2021 did not include mitigation measures
 3 to encourage preventative behaviours so people could
 4 avoid the risk of Covid-19 and its concomitant risk of
 5 Long Covid.
 6 To the extent that Long Covid was considered,
 7 Mr Javid told us that it was, at best, an accepted
 8 trade-off for the release of restrictions. If the risk
 9 of Long Covid was factored in at all, our clients are
 10 entitled to question why simple, uncostly mitigation
 11 measures were not kept in place to lower that risk.
 12 Third, regarding the financial burden of the
 13 disease, the socioeconomic costs of a virus cannot be
 14 fully quantified and planned for if the long-term impact
 15 of the virus is not measured and factored into
 16 decision-making. The OBR recognised there would be
 17 an economic cost associated with increased cases of
 18 Long Covid in 2020, but this cost was not factored into
 19 government advice until the Covid Taskforce paper in
 20 April 2021. Even then, the economic cost of Long Covid
 21 was still not a feature of Treasury advice on NPIs.
 22 Mr Sunak admitted that the impact of Covid on the labour
 23 market was misestimated. The Treasury was
 24 disproportionately focused on the costs of measures in
 25 response to Covid-19 rather than the costs of the virus

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1 itself.

2 Decision-making that had factored in Long Covid when
3 unlocking NPIs would have prioritised public messaging
4 warning people of all ages of the indiscriminate risk of
5 Long Covid and maintained mitigation measures to prevent
6 transmission of Covid-19, such as guidance on mask
7 wearing, improving air filtration and ventilation in
8 public buildings, supporting policy recommendations on
9 clean air, supporting employers with health and safety
10 risk assessments, and ensuring free lateral tests
11 remained available.

12 One of the very many clear examples of the failure
13 to incorporate Long Covid into decision-making is in
14 relation to children. As at March 2023, there are at
15 least 62,000 children with Long Covid. Mr Johnson
16 called schools "reservoirs of risk". In May 2021 there
17 was agreement between the DHSC, the PHE, NHS and the DfE
18 that messaging in schools should signpost for any child
19 experiencing long-term symptoms following a Covid-19
20 infection. Yet, messaging and other adequate Covid-19
21 safety measures weren't put in place in schools, public
22 buildings and hospitals, and still don't have adequate
23 measures. Long Covid could and should have been
24 considered in decision-making around NPIs.

25 Public communications of the risk of Long Covid.

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1 health messages and no campaigns on Long Covid by DHSC
2 or across government. On being pressed by Ms Cecil,
3 Mr Javid admitted that there was no communications
4 campaign on the risk of Long Covid to the public under
5 his watch. In the absence of public messaging, people
6 felt frustrated and abandoned.

7 Professor Sir Chris Whitty has admitted that it
8 would have been helpful to acknowledge Long Covid at
9 an earlier stage. The overwhelming picture is that
10 people were not warned that they were all, including
11 previously fit, healthy, active people, indiscriminately
12 at risk of suffering from long-term ill health from
13 Covid-19.

14 The public deserved to know the risk that Long Covid
15 posed to them, so that they could take steps to protect
16 themselves from it. Decision-makers could and should
17 have used the preventative tool of public messaging to
18 communicate the risks of Long Covid.

19 Recommendations.

20 My Lady, the long-term impacts of Covid-19 are but
21 one aspect you will need to consider in relation to the
22 response to the pandemic. We have heard evidence which
23 sheds light on the inner workings of government at the
24 height of the crisis. You may conclude that the
25 decision-makers at the heart of government could not be

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1 Mr Johnson, Mr Hancock and Sir Christopher Wormald have
2 all emphasised that public communications are
3 an important NPI in the toolkit of responses to
4 a pandemic. Yet there was an unacceptable absence in
5 communications on Long Covid. During the pandemic, we
6 watched daily press conferences and looked to our
7 Prime Minister and his closest advisers to provide us
8 with accurate, timely and reliable information on how to
9 protect ourselves, our families and our communities.
10 The Prime Minister did not mention Long Covid once.
11 Indeed, we now understand that there was no government
12 communication strategy for Long Covid. This left people
13 believing that if they were otherwise healthy, they
14 would recover quickly when they fell sick as they had
15 been reassured would be the case for the majority of
16 people.

17 Mr Hancock acknowledged the role that the Long Covid
18 groups played in drawing his attention to the impact of
19 Long Covid, and the need for better communication. Yet
20 the one video with its single accompanying press
21 statement issued by the DHSC on Long Covid in
22 October 2020 was simply not enough. It came months
23 after public recognition of Long Covid in the US by
24 Dr Anthony Fauci and Dr Tedros Ghebreyesus from the WHO.

25 After October 2020 there were no slogans, no public

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1 trusted to make rational, consistent, strategic
2 decisions to guide the country through this crisis.

3 Looking forward, we hope that this Inquiry will make
4 findings and recommendations that will ensure that we
5 are better prepared to respond to pandemics. It is
6 simple common sense that long-term harm from a virus
7 must be a relevant consideration for government to
8 protect the public.

9 The unjustifiable delay in imposing NPIs, including
10 the first and second lockdowns, meant that people
11 needlessly contracted Covid-19 and developed Long Covid.
12 Suffering has been the avoidable cost of delay and
13 indecision. The evidence you have heard suggests that
14 maintaining low levels of transmission of a novel virus
15 is better for economic, health and social outcomes and
16 it means that lockdowns can be introduced with more
17 notice and shorter duration, reducing the economic
18 impact of those measures.

19 However, the experiences of those with Long Covid
20 have illustrated that it is not enough to focus
21 exclusively on the short-term impacts of a virus. When
22 challenged about the lack of consideration of
23 Long Covid, decision-makers fall back on the defence
24 that preventing Covid-19 meant preventing Long Covid.
25 Aside from the obvious point that decision-makers failed

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1 to prevent high transmission of Covid-19, and indeed
2 came to accept it as part of their policies in summer
3 2021, this approach fails to grasp that there are
4 additional considerations to preventing Long Covid. The
5 twin considerations are the indiscriminate risk of
6 Long Covid and the need to maintain measures to minimise
7 that risk as social distancing measures are released to
8 the public.

9 My Lady, we invite you to recommend that the
10 long-term health consequences of a novel virus are
11 planned for, identified, monitored, measured and
12 factored into any response to a pandemic. These
13 recommendations are equally relevant today. The
14 Covid-19 pandemic endures, yet Long Covid is no longer
15 being counted or reported on.

16 Recommendations relevant to long-term sequelae could
17 fall within four broad categories, all drawn from the
18 evidence related to Long Covid.

19 First, surveillance systems should be in place from
20 the outset of the pandemic, preferably in the form of
21 sleeping studies, to identify and monitor data on the
22 impact of longer term sequelae so that long-term health
23 implications can be recognised early.

24 Second, the long-term health consequences of a novel
25 virus must be factored into decision made in response to

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1 Inclusion Scotland, Disability Wales and Disability
2 Action Northern Ireland.

3 Disabled people who have lived through and died of
4 Covid with the knowledge that what happened to them as
5 60% of the Covid fatalities and what happens to them in
6 the future as 20% of the population is largely a matter
7 of political and social choice.

8 In our opening submissions, we made nine criticisms
9 of the Covid emergency state. The evidence you have
10 heard reinforces those criticisms. They concern the way
11 we are governed and, by extension, under a democracy,
12 the way we allow ourselves to be governed.

13 Starting with the system, disabled people did not
14 exist in the UK emergency planning prior to 2020, yet
15 the basics of what would happen to them during Covid
16 were foretold in 2017 by the UN Committee on the Rights
17 of People With Disabilities. It effectively found the
18 UK in breach of its legal duties over consultation, data
19 collection and emergency planning. In a separate
20 investigation, the committee concluded that the
21 resilience of disabled people had been placed in abject
22 jeopardy by ten years of austerity. These were landmark
23 findings by a United Nations committee against a western
24 state. It's a rule of law issue that at no stage in any
25 of the papers does anyone recognise these rights, or the

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1 the transmission of the virus and included in
2 assessments of the necessity for NPIs and PIs as they
3 may have a different risk profile to acute infections
4 and add to the burden of the disease.

5 Third, decision-makers should take a preventative
6 approach and provide clear, timely and consistent public
7 messaging on the long-term consequences of infection
8 throughout a pandemic, to raise awareness of the risk of
9 long-term consequences, to encourage protective
10 behaviour and signpost available treatment resources.

11 Fourth, adult and child patient voices should be
12 involved from an early stage of any pandemic response to
13 ensure that policies are responsive to people's needs.

14 These four categories of recommendations would
15 ensure that the avoidable ongoing suffering of nearly
16 2 million adults and children in this country is never
17 repeated.

18 Thank you.

19 **LADY HALLETT:** Thank you, Mr Metzger.

20 Mr Friedman.

21 **Submissions on behalf of Disabled People's Organisations by**
22 **MR FRIEDMAN KC**

23 **MR FRIEDMAN:** My Lady, as you know, we act for disabled
24 people's organisations, or the DPO, run by and for
25 disabled people, and they are Disability Rights UK,

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1 fact that the UK could conceivably breach them. This is
2 not an accident. Since 2010, the leadership of the
3 Conservative Party has increasingly defined itself by
4 its opposition to what it considers the inconveniences
5 of international law, especially the law of human
6 rights. The UN CRPD is the global tool box for real
7 change, and given that the government don't and won't
8 recognise these breaches, we say with respect, my Lady,
9 you must.

10 The second failure is that when the pandemic broke
11 out, not only was there no plan for disabled people, but
12 the failure to plan was not recognised then, and it is
13 not recognised now. Proper recognition would have
14 publicly confronted from the outset that cuts in
15 benefits and services had compromised the resilience of
16 disabled people to deal with the life changes that the
17 NPIs were about to create. It would have declared
18 clearly that the fact that there was no whole society
19 planning for the pandemic in the UK would rebound
20 terribly on disabled people. It would have identified
21 deficiencies in the gathering and use of data as the
22 single greatest decision-making impediment going
23 forward. It would have assembled DPOs and other parts
24 of the third sector into an emergency network with
25 properly funded participation and co-ordination between

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1 representative leaders and groups, dedicated experts and
 2 the right members of government. It would have
 3 immediately made clear that if a significant connection
 4 between the Covid state and society was going to take
 5 place on the internet, then a large part of disabled
 6 people were going to be disenfranchised, unable to
 7 access essential services, and not able to work from
 8 home. It would have done everything, not only to
 9 recognise the predicament of disabled people, but to
 10 substantially redistribute financial resources to meet
 11 their basic needs. That level of public reckoning and
 12 consequential planning did not happen. Instead, the
 13 testimony of ministerial witnesses produced two highly
 14 problematic answers as to why it did not matter that
 15 there was no plan.

16 The first, from Mr Tomlinson, Ms Badenoch, Mr Gove
 17 and Mr Johnson was essentially that the risks of Covid
 18 to disabled people were so obvious that all of
 19 government was no doubt working on them. My Lady, they
 20 were obvious to everyone but the responsibility of
 21 no one. No one was responsible for holistic
 22 cross-government leadership and identification of gaps,
 23 and when civil servants were finally pushed to deliver
 24 ambitious proposals after Michael Gove's October 2020
 25 letter about terrible missed opportunities and time

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1 disparities to inform decision-making", was never told
 2 that those drivers for disabled people were going to be
 3 overlooked. Boris Johnson did not know why they were
 4 either. But going back to the no one being responsible,
 5 he assured you it was all being done elsewhere.

6 In our submission, they all said that because they
 7 know now it should have been, but it was not.

8 Our fourth criticism is about expertise. Not the
 9 integrity with which it was provided, but its gaps and
 10 unexposed assumptions. Pandemic science is not socially
 11 neutral. That is because the impact of pandemics is
 12 fundamentally determined by inequalities, such that the
 13 outcomes of clinical advice cannot be hermetically
 14 sealed from social consequences. These distinctions
 15 matter to disabled people, because their struggles are
 16 so often rationalised as inevitable due to their
 17 conditions rather than socially conditioned by our
 18 treatment of them. That is why the case for more
 19 diverse representation of expertise in the provision of
 20 advice was so strong, not only for those within the
 21 advisory groups to contemplate the broad horizons of
 22 what they were advising about, but as Professor Vallance
 23 noted, for those within government structures to ask the
 24 pertinent questions of their advisers in the first
 25 place.

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1 running out for the second wave, none of the major
 2 proposals were adopted.

3 The second problematic answer came from the previous
 4 Minister for Disabled People, Justin Tomlinson, the
 5 witness nominally responsible for producing a plan. His
 6 repeated response to our questioning as to why there was
 7 no plan was "that's just not how government works".

8 Tomlinson's answer leads to our third criticism, of
 9 the machinery of government. Instead of a department of
 10 state for inequalities which includes disabled people in
 11 its portfolio, we have a Disability Unit that deals only
 12 with policy. My Lady, to borrow Mr Gove's analogy,
 13 equality issues are shoved into the Cabinet Office
 14 portmanteau, and then divided inefficiently across other
 15 departments. Justin Tomlinson was not a lead Minister
 16 for Disabled People, he was in effect a minister for
 17 disability benefits who did some front-of-house meetings
 18 with disabled groups.

19 The writing out of disabled people from
 20 Kemi Badenoch's investigations into disparities is
 21 a case in point. Who directed it? Badenoch said she
 22 discussed it with Liz Truss, but any such decision was
 23 not written down. Tomlinson knew nothing about the
 24 decision. Hancock, who saw the purpose of the Badenoch
 25 review to "improve understanding of drivers for

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1 Our fifth criticism is that in real time the
 2 predicaments of disabled people were largely
 3 unrecognised. We know from the DHSC battleplans that
 4 the primary focus was on the clinically vulnerable.
 5 Broader health and social inequalities were not part of
 6 initial planning. Strategies to protect the vulnerable
 7 and the overlaps and distinctions between clinical and
 8 social vulnerability failed in ways that most of the
 9 witnesses you have heard from have either not been able
 10 to comprehend or admit. There are several examples
 11 relating to food, other essential supplies, and
 12 social care.

13 But, my Lady, reflect, please, on Down's Syndrome.
 14 The question for the medical officers was not: who is to
 15 blame for why people with Down's were not designated as
 16 clinically extremely vulnerable earlier than
 17 November 2020, when the potential risk was flagged in
 18 June 2020? The question was: what could have been done
 19 to speed that designation up?

20 It is difficult to comprehend Professor Whitty's
 21 answer that the delay was caused by the need to balance
 22 the nature of the risk with the social imposition of
 23 lockdown. It was the duty of the medics to advise on
 24 the risks, and then the responsibility of government to
 25 facilitate a sufficient shielding package. Neither do

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1 we accept Professor Harries' answer that the medical
2 situation was too uncertain before an earlier date.
3 Apart from anything, Covid-O received the recommendation
4 to add Down's Syndrome to the CEV as of 1 October, but
5 the letter did not go out until a month later.

6 Overall, the answers around Down's Syndrome are
7 disappointing. The medical advisers were unwilling to
8 engage with the fact that this was a disastrous event,
9 that the delay was caused by not acquiring data quickly
10 enough, the absence of a sufficient data collecting
11 system, and the lack of co-ordination with the Down's
12 community and their carers to get that data earlier and
13 work out better shielding packages.

14 Our sixth criticism is the lack of real engagement.
15 When people refer you to consultation, they often do not
16 mean the same thing. When government and civil servants
17 talk about consultation, they can mean set piece
18 meetings or discussions with those who speak for people
19 rather than speaking with the people themselves, and
20 most often they mean some sort of questionnaire on the
21 internet.

22 When DPOs and other represented groups of
23 marginalised people talk of consultation, they mean
24 collaboration as equals between elected officials,
25 experts and themselves. They mean co-production and

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1 Our seventh criticism concerns data. Even if
2 obliged to plan from scratch, government could have
3 known more about clinical and social risks earlier. It
4 could have logged into communities and representative
5 groups and been more intelligent about the consequences
6 of its decisions. If data was Covid's decision-making's
7 Achilles' heel, we press again that not one witness has
8 recognised that data collection and utilisation in this
9 area is a human right of disabled people.

10 Gavin Freeguard summarised government reports over
11 three decades, including 15 published since the UK
12 signed the UN CRPD, none of which mention Article 31 of
13 that convention, which requires the collection of data
14 based on individual impairment and, contrary to
15 Kemi Badenoch's approach, understands the duty to
16 collect data that relates disability to a range of other
17 characteristics, including race, sex, gender, income and
18 geography, in order to properly understand it.

19 This deficiency is still far from resolved.
20 A July 2022 ONS paper found that the health service is
21 still not collecting data on individual impairments and
22 fails to take into account other social factors. All in
23 all, in this country, especially for disabled people, we
24 are in a state of ignorance by design.

25 The eighth criticism is that in fundamental ways

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1 co-design.

2 My Lady, we don't apologise for introducing this
3 language that potentially be new to some, and note in
4 any event that it was used by Mark Sedwill and others.
5 The language reflects the method to make the needed
6 change happen. Entitlement to this collaborative
7 consultation also represents a human right under the
8 UN CRPD as opposed to some sort of discretionary gift of
9 government.

10 One of the lessons of this module is that we still
11 tolerate an old fashioned elite system of club
12 government, literally in a Georgian townhouse, where
13 good chaps, willing to ask their "stupid laddie
14 questions" of civil servants and experts, even in
15 language they are ashamed of when made public, is
16 regarded as somehow enough and even something to aspire
17 to. Covid showed all too painfully that it is not.

18 The practical benefit of co-production and co-design
19 would have been to bring diverse lived experience and,
20 where necessary, rebel voices into the room, people
21 capable of speaking to elites as equals and without
22 mediation. In a fast-moving emergency of this type,
23 engagement can provide vital knowledge to government
24 that will otherwise only be recognised after the damage
25 is done.

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1 disabled people were left without protection during
2 Covid. Like others, the DPO focused on the care sector.
3 It was not wrong to try to protect hospitals. What was
4 wrong was to do so little to protect those in care in
5 the name of protecting hospitals.

6 In their evidence, both Professors Van-Tam and
7 Harris had to confront how obvious it would have been to
8 any public health practitioners that mass release of
9 hospital patients into care settings would create
10 devastating consequences, both through patient infection
11 and multiple movements of the workforce.

12 In addition, and in the situation as of mid-March
13 2020, neither saw any practical alternative because
14 available facilities and structures offered none.

15 Then this week, despite the evidence of his own
16 Minister for Care, the present Prime Minister sat here
17 and failed to acknowledge that low pay drove care staff
18 to work in multiple locations inadvertently spreading
19 the virus, and that we say must change.

20 The DPO's final criticism concerns pandemic
21 economics and its deliberate failure to redistribute to
22 those most in need. Mr Sunak, when Chancellor of the
23 Exchequer, on 11 March 2020 made a promise "to support
24 the most vulnerable people in the form of a safety net
25 for those who could not work, whether they were ill

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1 themselves, or not at work, as they were
 2 self-isolating". These words are revealing.
 3 The safety net would only exist for those who had
 4 been able to work but were able to do so no longer. The
 5 provision of extra funding was to maintain the economic
 6 status quo for these people, to provide temporary
 7 assistance to what we referred to in our opening
 8 submissions as the politically idealised person under
 9 our contemporary economics, who is autonomous,
 10 independent and self-sufficient. There was no proper
 11 safety net for those deemed unproductive or recognition
 12 that those only just scraping by after a decade of cuts
 13 to benefits and services would face further financial
 14 hardship.

15 During the pandemic, 1.5 million bounce back loans
 16 worth £47 billion were provided to business. In
 17 contrast, Universal Credit was topped up by £20 a week
 18 but there was no top-up for those on legacy benefits and
 19 no top-up for carers' allowance in England, despite
 20 demand on carers' responsibility and time increasing
 21 sharply.

22 Helen MacNamara's evidence referred to
 23 decision-makers often failing to see the human
 24 consequence of decisions. Covid economic policy
 25 involved a chronic failure of imagination and empathy;

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1 vision of the state in this country that we once had.
 2 We do not see it as a source of public good and, when it
 3 was called upon to be just that, surprisingly it
 4 faltered.

5 Finally, there is what Helen MacNamara has called
 6 a want of humanity as a feature of the bureaucratic
 7 mindset. The Covid saga reveals a dire confusion of
 8 values, and in the end begs the question of what we as
 9 a collective of people care about. Certainly for now,
 10 caring about caring and being cared for is not
 11 recognised as the primary value of social life and
 12 central principle of any form of good governance, but it
 13 should be. For disabled people, who know that the
 14 question on that whiteboard "Who will look after those
 15 who cannot survive alone?" was never answered, the
 16 imperative to care about caring and being cared for, for
 17 them is a fundamental one. Given that we are all
 18 vulnerable, born vulnerable, vulnerable at the end of
 19 life, and face vulnerability at any moment in our lives,
 20 we should all care about it too.

21 My Lady, what do these matters have to do with you,
 22 and why are they so relevant to this Inquiry fulfilling
 23 its function? With respect, you cannot just produce
 24 a brilliant chronology with intermittent criticisms.

25 You hold a pen over the way we live and in substantial

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1 a failure to think through what it means if you or the
 2 person you care for can no longer get supermarket
 3 deliveries, so you have to go to your corner shop, which
 4 is more expensive; if you have to stay inside because
 5 public spaces are closed, so your heating bills go up;
 6 if you have to pay for taxis because public transport is
 7 unsafe.

8 In the early days of the pandemic, 100,000 unpaid
 9 carers were using food banks and 226,000 cut back on
 10 their food just to get by. That arose from governmental
 11 choice. Wales and Scotland made additional payments to
 12 unpaid carers during the pandemic. England did not.
 13 £67.25 per week for full-time unpaid care was apparently
 14 enough.

15 Where do these nine criticisms leave us?

16 First, it's attempting to believe that replacement
 17 of bad leadership will necessarily lead to better
 18 outcomes. However, this disaster was a long time in the
 19 making. Our system of government, including Cabinet
 20 government, the civil service and the seriously outdated
 21 relationship between central and local government and
 22 civil society, could not handle this type of crisis. It
 23 was hubris to believe that it could, and it would be
 24 even greater hubris to think it can in the future.

25 Second, since the 1980s we have lacked a positive

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1 ways the way we can die.

2 Mention has been made that the Inquiry cannot be
 3 political or be expected to solve all manner of
 4 problems. We understand, but we have important final
 5 caveats.

6 Being non-political is being political when it takes
 7 the status quo as a given. It is political not to say
 8 anything in reporting about the extent to which
 9 inequalities, including their denial and diminishment,
 10 played a causative role in Covid's outcomes.

11 Equally, declaring that one cannot change the world
 12 is a means of overlooking the ways in which you can.
 13 The resignation that these matters are too big for this
 14 Inquiry should never be accepted.

15 If not in this forum, despite the compelling expert
 16 and witness evidence which links negative Covid outcomes
 17 to chosen societal inequality, when or where could such
 18 matters truly be engaged with? That is what this
 19 Inquiry is particularly empowered to do, and should do.
 20 It must make the necessary findings and recommendations
 21 in the search for new governmental structures and values
 22 that were too often lacking in the Covid response.

23 My Lady, thank you.

24 **LADY HALLETT:** Thank you, Mr Friedman.

25 I would be very grateful if everyone could avoid

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1 references to party politics. I appreciate politics
2 generally have been playing a part, but not party
3 politics, and of course I am totally bound by my terms
4 of reference.

5 Who is next, Ms Fee, where are you? Ah, at the
6 back. Got you.

7 **Submissions on behalf of The Executive Office of Northern**
8 **Ireland by MS FEE**

9 **MS FEE:** My Lady, may I first thank you and your team for
10 kindly accommodating me to make my submissions today.

11 I appear for the Executive Office of Northern
12 Ireland. I'm instructed by Joan MacElhatton of the
13 Departmental Solicitor's Office in Belfast, and I'm very
14 grateful for the opportunity to make these observations
15 to you today.

16 The Executive Office has watched closely the
17 evidence of all the witnesses in this module and makes
18 the following brief observations, trusting that these
19 matters will be the subject of consideration during
20 Module 2C in Belfast next April.

21 Firstly, my Lady, in relation to the extent of the
22 involvement of the devolved administrations, in
23 particular Northern Ireland, in decision-making by
24 the UK Government, the Executive Office has some
25 misgivings in relation to the impression that has been

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1 in Number 10 were announced, some already being
2 announced beforehand. When attendance at COBR was
3 replaced with CDL calls, the devolved administrations
4 viewed those as perhaps more of an information sharing
5 forum than a means by which they could properly
6 participate in decision-making, which would impact all
7 of the UK, or set a context for devolved
8 decision-making.

9 The Executive Office heard the evidence that the
10 devolved administrations apparently participated fully
11 in the Covid action plan prepared by Cabinet Office at
12 the start of March 2020. You also heard evidence from
13 Matt Hancock, who asserted that whilst the plan was
14 being worked up by his department throughout February no
15 one actually saw the Covid action plan before 7pm on
16 27 February 2020. The devolved administrations were
17 required to provide their input by 10 am the following
18 day. Clarity is therefore sought on the true extent of
19 that input and involvement.

20 Secondly, my Lady, in relation to the extent of
21 Northern Ireland's involvement in the expert and
22 scientific groups, and I realise I may be echoing some
23 of my learned friend Ms Campbell King's Counsel's
24 submissions, but perhaps from a slightly different
25 slant.

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1 given by some witnesses to this module as to the extent
2 of that participation by the devolved administrations,
3 including Northern Ireland, in UK Government
4 decision-making.

5 The Executive Office noted, for example, the
6 evidence of Lord Lister, who said that he had regular
7 meetings with the devolved administrations and undertook
8 liaison with the Republic of Ireland, and therefore the
9 Executive Office would seek clarity upon with whom
10 Lord Lister is to have met, how the meetings were
11 recorded, and the means by which the Northern Ireland
12 Executive were appraised of those interactions,
13 including with the Republic of Ireland.

14 The Executive Office heard evidence from
15 Sir Mark Sedwill that decisions were taken within COBR
16 together with the devolved administrations and that he
17 ensured that formal decisions were taken within the
18 ministerial implementation groups. However, he also
19 said that Northern Ireland and the other devolved
20 administrations were not at the MIGs as of right and
21 were not always invited to attend.

22 Across all First Ministers of the devolved
23 administrations, frustrations have been expressed with
24 their role at COBR, which was viewed as a mere
25 formality, in circumstances where decisions already made

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1 Sir Patrick Vallance gave evidence that he had
2 regular meetings with the Chief Scientific Advisers from
3 the devolved administrations, but that he had no contact
4 with Northern Ireland's Chief Scientific Adviser. It is
5 a point to note, my Lady, the Northern Ireland Executive
6 does not have a Chief Scientific Adviser, albeit the
7 Chief Scientific Adviser for Northern Ireland's
8 Department of Health was at SAGE from 7 April 2020 and
9 did attend Executive meetings from an early stage,
10 alongside the Northern Ireland CMO.

11 Graham Medley from SPI-M gave evidence that he
12 didn't have any contact with Northern Ireland's Chief
13 Medical Officer, which he regretted, but for which he
14 could give no reason.

15 Professor Sir Chris Whitty gave evidence that on
16 issues of personal protective equipment, they were
17 agreed on a four nations basis whereas, my Lady, this
18 statement must clearly be explored later in future
19 modules.

20 The Executive Office has heard the evidence that
21 SAGE was the vehicle to get data to COBR, and apparently
22 all government departments could and did attend SAGE to
23 hear all the views. Professor Sir Chris Whitty also
24 said there were other sources of scientific advice to
25 inform decision-making, and clarification is therefore

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1 sought on what were those sources and how were they
2 shared with the devolved administrations.

3 Professor Chris Whitty gave evidence that each of
4 the four chief medical officers in each of the
5 four nations advised their ministers to enter lockdown.

6 However, the Executive Office says this is contrary
7 to other and conflicting sources of evidence, revealing
8 that the collective view was that lockdown was needed
9 and that was arrived at between 12 and 14 March, and the
10 decision was then taken within Number 10 on Sunday
11 22 March and announced at COBR on 23 March.

12 There was no evidence about how the devolved
13 administrations were alleged to have been involved or
14 consulted upon that decision. My Lady, a precise
15 timeline must be established.

16 In relation to SAGE itself, my Lady,
17 Northern Ireland was not in attendance until 7 April,
18 and SAGE secretariat incorrectly recorded Ian Young as
19 Northern Ireland's Chief Medical Officer throughout, as
20 the Executive Office were not party to the SAGE papers
21 or the debates or discussions until 7 April, and as only
22 those sanitised minutes went to COBR and were not
23 subject to any further challenge, the Executive Office
24 notes that Northern Ireland must have been placed at
25 a distinct disadvantage in that regard.

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1 On the available evidence as to attendees,
2 Northern Ireland attended 49 of 81 ministerial
3 implementation group meetings. My Lady, clarity is
4 sought on how Northern Ireland was informed of or
5 invited to such important meetings. It might be
6 reasonable to say that Northern Ireland was not
7 adequately represented at scientific or expert group
8 meetings, or at least they could have been better
9 included. Northern Ireland's Chief Medical Officer has
10 provided evidence that Northern Ireland does not have
11 the capability to replicate those UK based groups, but
12 it would also seem that Northern Ireland was not
13 properly represented at them either.

14 My Lady, this issue will undoubtedly be considered
15 in detail in Module 2C, including the mechanism by which
16 a Northern Ireland department or the Northern Ireland
17 Government representation is secured at those groups.
18 The Inquiry has previously heard how there was no
19 Northern Ireland representative at Exercise Alice in
20 2016. The mode of communication to the Northern Ireland
21 Government may also be worthy of some consideration, in
22 particular in the situation where there might be no
23 ministers in place for considerable periods in
24 Northern Ireland.

25 My Lady, turning to consideration of Northern

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1 The result must have included lack of awareness of
2 information -- for example about human-to-human
3 transmission -- being discussed on 28 January,
4 references perhaps to Professor Ferguson's email to
5 Number 10 on 10 March seeking faster paced measures, or
6 updates to Number 10 on 10 March confirming an 8%
7 mortality rate in Italy.

8 Could the SAGE minutes and the actions of
9 UK Government -- for example, on how safe it was for
10 sports events to proceed, such as Cheltenham or that
11 Liverpool match -- be viewed as creating a different and
12 unwarranted impression for devolved administrations who
13 were not party to the debate within SAGE and around SAGE
14 at that time, and who sought those assurances?

15 In relation to SAGE subgroups, Northern Ireland was
16 represented at four of 39 SPI-M-O meetings, that's about
17 10%. In relation to NERVTAG, Northern Ireland was not
18 represented until January 2021, when Professor
19 Stuart Elburn of Queen's University Belfast attended.

20 In relation to the extraordinary NERVTAG SPI-M, no
21 devolved administrations attended on 26 April 2020.
22 Wales did attend eight of the 11 bird table meetings but
23 never Northern Ireland. No devolved administrations
24 were at the 12 clinical risk subgroup meetings, nor the
25 four therapeutic subcommittee meetings.

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1 Ireland and Republic of Ireland as a single
2 epidemiological unit, Professor Sir Chris Whitty said
3 the differing epidemiology of Northern Ireland was not
4 a matter for SAGE. The Executive Office seeks
5 clarification as to why it was not a matter for SAGE,
6 given SAGE's role as a UK-wide science adviser to COBR.

7 If it wasn't a matter for SAGE, my Lady, who should
8 have been considering the issue? The Executive Office
9 wishes to explore whether a positive decision was taken
10 to exclude the issue from SAGE's remit, or whether
11 insufficient or no consideration was given to this issue
12 at all.

13 Related to that, my Lady, is my final issue in
14 relation to consideration of Northern Ireland's border.
15 The Executive Office is live to the border issues as
16 particular concern for the bereaved families and those
17 affected from Northern Ireland. The Executive Office
18 now seeks clarity on the position the UK Government took
19 on matters engaging the border, the Common Travel Area,
20 and other matters within its competence.

21 On 28 January 2020 SAGE wrote to Number 10 asking
22 them to move to escalate this as a major issue across
23 government, not just as previously within technical
24 agencies housed within the Department of Health. At
25 that time, the priority was to prevent the spread of the

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1 virus in the UK. SAGE recommended a change in the UK
2 Government's approach once triggers were reached. When
3 pressed by my learned friend Mr Keith King's Counsel as
4 to what Professor Sir Chris Whitty meant UK Government
5 should have been doing at that time, he replied:

6 "Well, the earliest things that would have to be
7 considered -- and they are not easy and we should really
8 talk about them either seriously or not at all -- are
9 border measures which require a lot of thinking.
10 They've got implications for trade, they've got
11 implications for diplomacy, they've got implications for
12 the economy, they've got implications for consular,
13 et cetera, but that's because one of your earliest
14 things is to reduce the risk of importation."

15 My Lady, the issue for clarification for
16 Northern Ireland as to what extent the particularities
17 of Northern Ireland and the Republic of Ireland and the
18 border in Northern Ireland were considered by the UK
19 Government during this early phase so as to reduce the
20 risk of importation, particularly given the Northern
21 Ireland/Republic of Ireland border, which is the only
22 land border the UK has with the European Union. If
23 international borders were recommended for discussion,
24 what consideration if any was given to the
25 Northern Ireland border?

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1 (1.45 pm)

2 **LADY HALLETT:** Right. Mr Menon.

3 **Submissions on behalf of Save the Children UK, Just for Kids**
4 **Law and the Children's Rights Alliance for England by**
5 **MR MENON KC**

6 **MR MENON:** Thank you, my Lady.

7 In their authoritative critique of "Britain's Battle
8 with Coronavirus", George Arbuthnott and
9 Jonathan Calvert conclude that the handling of the
10 pandemic by Boris Johnson's government was one of
11 Britain's worst ever failures of state and political
12 leadership.

13 This stark conclusion has been reinforced during the
14 Module 2 hearings, as shocking, at times shameful
15 evidence has been heard on core decision-making. It is
16 inconceivable, we submit, on behalf of the children's
17 rights organisations we represent, Just for Kids Law,
18 the Children's Rights Alliance for England and Save the
19 Children UK, that my Lady will conclude that the
20 government's response to the pandemic was anything other
21 than deficient and dysfunctional in multiple respects.

22 As a nation, we literally sleepwalked into disaster,
23 as over 230,000 people in the UK have tragically died
24 from Covid. Our record in terms of excess mortality and
25 deaths from Covid relative to population is one of the

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1 My Lady, the above matters are not exhaustive, but
2 the Executive Office hopes it is helpful to identify
3 them at an earlier stage.

4 Thank you.

5 **LADY HALLETT:** I'll only just say this, Ms Fee: I'm afraid
6 it's not an early stage, it's closing submissions for
7 Module 2. You raise a number of questions, some of
8 which will obviously be dealt with in more detail in 2C,
9 but some of which we have already explored. And we've
10 completed the oral evidence for 2 now, and I have no
11 plans to re-open the oral evidence, and where you seek
12 clarity on a number of issues that were meant to be
13 explored in 2, I'm afraid the only possible answer is to
14 look in the written evidence to see if that will assist
15 you. Otherwise I'm afraid you may not get the answers
16 that -- perhaps questions should have been asked when
17 the evidence was called.

18 Anyway, I leave matters there, and I think it's now
19 time to break for lunch. I think our stenographer has
20 had a long morning with everyone trying to keep to their
21 time limits, for which I'm very grateful.

22 We shall return at 1.45, and I think, Mr Menon,
23 you're first up.

24 (12.46 pm)

(The short adjournment)

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1 very worst amongst the world's wealthier nations,
2 notwithstanding Boris Johnson's abject refusal to accept
3 so and the heroic efforts of our grossly underfunded and
4 under-resourced National Health Service.

5 It is irrefutable that so many deaths could have
6 been prevented had our government acted more decisively,
7 effectively and humanely at various stages of the
8 pandemic in 2020 and 2021.

9 Understandably, the primary focus of Module 2 has
10 been on the lessons that must be learnt if we are to
11 avoid a similarly cataclysmic loss of life in a future
12 pandemic. Nothing that we have raised in the questions
13 we have asked witnesses, or raise now in our closing
14 submissions, is intended to criticise that focus or
15 deviate from it.

16 However, we trust the Inquiry will agree that, even
17 though children were the least likely of any age group
18 to die from Covid, the overall lasting impact of the
19 pandemic and the government's non-pharmaceutical
20 interventions on children, particularly vulnerable
21 children from lower income backgrounds, was damaging,
22 even devastating, and that this important matter is also
23 worthy of consideration by the Inquiry within its terms
24 of reference.

25 Secondly, if Module 2 is going to investigate the

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1 impact of high level decision-making on the entire
2 population, it would be wrong to ignore the over
3 14 million children who constitute nearly 25% of the
4 population.

5 Thirdly, there is no need for the Inquiry to
6 reinvent the wheel. There have been a plethora of
7 published reports and studies that document the
8 disproportionate and adverse impact of the pandemic and
9 the government's NPIs on children. The evidence is
10 unequivocal and uncontentious. Nobody has suggested
11 anything to the contrary.

12 As to the full extent of harm caused to children, we
13 appreciate that this will be explored in greater detail
14 by the Inquiry in 2025 during a later module on children
15 and education. Nevertheless, my Lady, there are
16 important unchallenged points that can properly be made
17 at this stage about children and core decision-making
18 for the purposes of the interim report which we
19 understand the Inquiry intends to publish in 2024.

20 My Lady will appreciate that there is an urgent need
21 for lessons to be learned quickly as to -- the impact of
22 the pandemic and the government's NPIs continue to be
23 felt by children in terms of, for example, cognitive
24 developmental delays, educational inequality, and
25 increased mental ill health. We urge you not to put

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1 decision-making is concerned, and, secondly, that this
2 invisibility was exacerbated during the pandemic.

3 Indeed, the omission of any mention of children in
4 the Inquiry's original terms of reference drafted by the
5 government, an omission that was only corrected
6 following a public consultation, adds further weight to
7 the concerns of children's rights organisations about
8 how children are often neglected and forgotten by those
9 in power. As does the evidence of Helen MacNamara, the
10 former Deputy Cabinet Secretary, who specifically used
11 the word "invisibility" when describing the government
12 not properly considering the interests of children.

13 The witnesses who had the most to say about children
14 were Professor David Taylor-Robinson, who gave evidence
15 about childhood health inequality pre-pandemic, the
16 importance of play for children and the impact of
17 isolation on children's development, and Anne Longfield,
18 the former Children's Commissioner for England, who gave
19 evidence about the impact of the government's NPIs
20 during the pandemic on children.

21 We do not have time now to elaborate on their
22 evidence, but will do so in our written closing
23 submissions. Suffice to say that we trust my Lady will
24 give their compelling evidence the weight it deserves
25 when considering what the decision-makers should have

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1 children to the back of the queue by delaying all
2 conclusions about children until the later module. We
3 urge you to say as much as you possibly can about
4 children in your interim report, to acknowledge their
5 resilience and sacrifice.

6 Having made those introductory remarks, we now want
7 to make some general observations about the evidence,
8 then we want to focus on the two key issues that
9 featured most in the evidence in terms of impact on
10 children, namely school closures and social distancing
11 restrictions, whilst acknowledging that children were
12 also impacted by many other issues which the Inquiry has
13 yet to explore, including the reduction in safeguarding
14 protection for children in social care, the terrible
15 conditions that children in custody had to endure, and
16 the failure to classify children's play as exercise.

17 Finally, we want to make some brief observations
18 about children's rights and their enforceability before
19 concluding.

20 Turning to the evidence, the fact that children only
21 featured to a limited extent in the 32 days of evidence
22 during Module 2 is indicative of two key points we made
23 in our opening submissions. Firstly, that children are
24 a low political priority in an adult-centric
25 Westminster, and often invisible as far as core

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1 done better.

2 Another key issue for my Lady will be the extent to
3 which you conclude that the government's response to the
4 pandemic was affected by maverick personalities at the
5 heart of government, including Boris Johnson himself.
6 Whilst we do not discount the pernicious influence of
7 Downing Street's toxic culture and lack of diversity,
8 merely eliminating these problems will not embed the
9 change that is necessary to avoid another deficient and
10 dysfunctional pandemic response. Far greater structural
11 change is needed than that.

12 Consequently, whilst we recognise that the emails,
13 WhatsApp messages and diary entries provide a unique,
14 contemporaneous insight into what powerful individuals
15 believed privately, as opposed to what they proclaimed
16 publicly, we ask my Lady not to allow this material that
17 has attracted enormous media attention to assume undue
18 importance and distract my Lady from the more
19 fundamental systemic problems that plagued the
20 government's response to the pandemic.

21 To be blunt, it was the barrel that was rotten and
22 not just the odd apple.

23 In this regard, the evidence of the key political
24 decision-makers, Michael Gove, Matt Hancock,
25 Boris Johnson and Rishi Sunak, was telling: lots of

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1 smoke and mirrors, lots of diplomatic non-answers, lots
2 of blaming others, lots of "I cannot remember". Whilst
3 it's entirely a matter for you, my Lady, we say all four
4 were unconvincing. They gave insincere apologies, they
5 were primarily interested in defending their own
6 reputations, they were quick even when admitting
7 a mistake to fall back on an excuse or qualification
8 that sought to deflect responsibility on to the
9 scientists, or suggest that it is easy to be wise after
10 the fact. It was all so unsatisfactory.

11 Our focus now will be on Michael Gove and
12 Boris Johnson, as they were particularly relevant as far
13 as children are concerned.

14 Michael Gove was prone to digressing and answering
15 a totally different question to the one he was asked.
16 On one occasion when he went off on another tangent,
17 Mr Keith understandably got irritated, interrupted him
18 and tried to reign him in. My Lady had to intervene to
19 calm things down.

20 On another occasion, Mr Gove told Mr Keith that he
21 was concerned that the government did not pay enough
22 attention to the impact on children of some of its
23 measures. However, when I asked him for an example of
24 such a measure, he changed the goalposts and spoke
25 instead of the uncomfortable trade-offs that the

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1 physical health and psychological wellbeing.

2 Secondly, he accepted that the government was
3 unprepared in March 2020 for schools to be closed for as
4 long as they were.

5 Thirdly, he acknowledged that although children have
6 fewer health risks from Covid than adults, particularly
7 older and more vulnerable adults, they suffered
8 disproportionately from the government's NPIs, both in
9 the short and the long term.

10 Unfortunately, Mr Johnson's government failed to
11 learn the necessary lessons from the first wave of the
12 pandemic and the first lockdown, and the consequences
13 were dire, as we now know, in terms of further waves of
14 infection and death, further lockdowns, and further
15 school closures.

16 This was perhaps the government's greatest failing.

17 Finally, no summary of the evidence in respect of
18 children would be complete without a postscript on
19 Rishi Sunak and his evasive evidence about the campaign
20 for free school meals during the holidays, spearheaded
21 by Marcus Rashford. Mr Sunak was keen, when questioned
22 by Mr Keith, to disassociate himself from the entry in
23 Sir Patrick Vallance's diary for 13 June 2021 that
24 Mr Sunak and the Chief Whip had said "Good working
25 people pay for their children to eat and don't want

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1 government had to make to avoid the NHS being
2 overwhelmed. I also asked Mr Gove who in the Cabinet
3 had primary responsibility to consider the impact of
4 NPIs on children. His answer was everybody was
5 concerned about children.

6 My Lady, it is not and has never been our
7 contention, regardless of our criticism of government,
8 that nobody in government cared about children. Our
9 criticism is that in the myriad of complex decisions
10 that must inevitably be made during a crisis, it is easy
11 for government to take an adult-centric approach,
12 resulting in children being marginalised. If children
13 are everybody's responsibility, as Mr Gove intimated,
14 they're effectively nobody's priority. That is the
15 problem.

16 Boris Johnson, although reluctant during his
17 evidence to take responsibility for many of the more
18 glaring mistakes that were made by his government during
19 the pandemic, did make three significant concessions in
20 answer to my questions. Firstly, he confirmed that he
21 had recognised in March 2020, as opposed to with the
22 benefit of hindsight, that school closures were very
23 damaging for children, particularly children from lower
24 income backgrounds, in terms of their development,
25 socialisation, educational attainment, life chances,

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1 freeloaders".

2 However, when I asked him what his view in 2020 was
3 on the government funding free school meals, he said he
4 could not recall. When I asked him whether in June 2021
5 he was opposed to free school meals, he again said he
6 could not recall. And yet it is a matter of public
7 record that in October 2020 Rishi Sunak voted against
8 free school meals during the holidays in the
9 House of Commons, as did Boris Johnson, Matt Hancock and
10 Michael Gove.

11 What is perhaps more controversial, we appreciate,
12 of course, is the alleged "freeloader" comment, and
13 whether the Government Chief Scientific Adviser has
14 accurately portrayed in his diary the true sentiments
15 expressed by Mr Sunak on this matter.

16 **LADY HALLETT:** I'm going to stop you there, Mr Menon. This
17 is not an issue that we explored in any great detail.
18 You had permission to ask the questions that you asked,
19 but as far as this module is concerned, I'm afraid I'm
20 going to stop you. This is bordering on becoming party
21 political and I think I've made my position perfectly
22 plain. Could you please move to what is your next
23 point.

24 **MR MENON:** I'm moving on.

25 Turning next to the vexed topic of school closures,

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1 I wish to make it clear that we are not advocating
 2 a libertarian position that schools should never be
 3 closed for most children during a crisis. On the
 4 contrary, it is the duty of a responsible government to
 5 close schools as a last resort, if such a radical
 6 intervention is necessary to save lives. Indeed, given
 7 the absence in the UK in March 2020 of any system of
 8 mass testing, robust contact tracing and strict
 9 isolation of those with Covid, the government had little
 10 choice but to close schools as the number of Covid
 11 infections and deaths began to raise dramatically. In
 12 fact, if schools had been closed a few weeks earlier
 13 than they were, it is likely that they could have
 14 re-opened earlier, perhaps in May or June, as opposed to
 15 in September.

16 The primary problem in respect of school closures in
 17 March 2020 is that there was no proper plan, no clearly
 18 established framework, no guidance for schools on remote
 19 education, and no arrangements in place for delivering
 20 face-to-face education to vulnerable children and the
 21 children of key workers under the new social distancing
 22 restrictions. And then, to make matters worse, despite
 23 the valiant efforts of schools and teachers, the
 24 government failed to implement measures that
 25 sufficiently mitigated the widespread harm caused to

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1 It was an utter shambles when schools opened for
 2 a day on 4 January 2021 before closing the very next day
 3 for three months, and exams were cancelled for a second
 4 year.

5 It was not just school closures that caused harm to
 6 children. The failure of the government to exempt
 7 younger children in England from the social distancing
 8 restrictions in the summer of 2020, as Scotland did in
 9 July for children under 12 and Wales did in September
 10 for children under 11, caused additional harm to younger
 11 children.

12 Anne Longfield was calling for younger children to
 13 be exempt. Children's rights organisations and child
 14 psychologists in England were calling for younger
 15 children to be exempt. Yet when I asked Michael Gove,
 16 Matt Hancock and Boris Johnson about this, none of them
 17 could give a credible answer as to why England followed
 18 a more draconian approach towards children in Scotland
 19 and Wales.

20 Furthermore, it was unclear whether any of them even
 21 appreciated that the social distancing restrictions in
 22 England disproportionately affected younger children,
 23 who could not leave their homes unsupervised.

24 Michael Gove seemed to say it was because the
 25 government would have been advised by the CMO, the GCSA

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1 children by the closure of schools and the cancellation
 2 of exams.

3 Instead of schools being the first to re-open after
 4 the first lockdown, they were the last to re-open,
 5 precedence being given to non-essential retail,
 6 hospitality and cultural venues.

7 Rishi Sunak was plainly wrong when he told
 8 the Inquiry that schools re-opened before hospitality.
 9 Only certain year groups went back to school in June,
 10 before hospitality re-opened in July. Most children
 11 only returned to school in September.

12 If the government had not been reckless after the
 13 first lockdown by easing restrictions for economic
 14 reasons that inevitably sparked a second wave of
 15 infection and death, it is likely that schools would not
 16 have had to be closed for a second time in January 2021,
 17 thus compounding the enduring harm caused to children.

18 Even those who might be forgiving of the government
 19 for its inaction and complacency in early 2020 on the
 20 grounds that Covid was a largely unknown virus would
 21 struggle to find any excuse for the failure of the
 22 government to learn lessons from the increased
 23 scientific knowledge available by the autumn of 2020 and
 24 make contingency plans in case schools had to be closed
 25 again.

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1 or others that children could spread Covid as easily as
 2 adults, including asymptotically, however he could not
 3 recall who specifically provided the relevant scientific
 4 advice.

5 Furthermore, whilst claiming to be worried about
 6 children transmitting Covid whilst playing outside with
 7 their friends, he did not apparently have similar
 8 concerns about adults transmitting Covid while hunting,
 9 shooting or playing an outdoor sport.

10 Matt Hancock said that although consideration was
 11 given to exempting younger children from the
 12 restrictions, the government decided against it because
 13 clinicians raised concerns about increased transmission
 14 between children from different households playing with
 15 each other and between the adults who were supervising
 16 the children. When I asked him which clinicians, as
 17 the Inquiry has heard no confirmation from
 18 a non-politician about such concerns, Mr Hancock said he
 19 recalled a conversation with the CMO and a WhatsApp
 20 message in which the CMO expressed concerns about
 21 parents on the touchline. This will be a matter that
 22 my Lady will wish to explore in the future module on
 23 children and education, but for present purposes we have
 24 been unable to locate any evidence to support
 25 Mr Hancock's contention.

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1 Boris Johnson said he would have to look back at the
2 discussions but his instinct was that the government
3 wanted to minimise the risk of transmission. When
4 I pressed him as to why England had taken a divergent
5 approach to Scotland and Wales, he said, "I'm not
6 certain in future we would want to do it that way".

7 The Inquiry may wish to explore in Modules 2A and 2B
8 whether there is any evidence that Scotland and Wales
9 exempting children from their social distancing
10 restrictions increased the transmission of Covid. We
11 are unaware of any such evidence.

12 Turning then to children's rights and their
13 enforceability, this is a huge topic which we will
14 develop further in our written closing submissions. The
15 short point we wish to make now is that although
16 children have rights and not just interests under UK and
17 international law, these rights were insufficiently
18 considered by high-level political decision-makers
19 during the pandemic. Consequently many children were
20 deprived of their right to education, their right to
21 play and their right to live free from harm. To
22 recover, they need far more support than they are
23 currently receiving from the state to redress the years
24 of lost learning, lost freedoms and lost hope, and they
25 need the enforceability of their rights to be placed on
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1 pandemic.

2 Thank you.

3 **LADY HALLETT:** Thank you very much, Mr Menon.

4 As you've acknowledged but I'm going to repeat, I've
5 said it before, I very much intend to ensure that the
6 impact on children is fully investigated. It will be at
7 a different level in this module, but, as you know,
8 later in the Inquiry we'll make sure that they are
9 properly covered.

10 So thank you.

11 Ms Davies, oh, there you are.

12 **Submissions on behalf of Solace Women's Aid and Southall
13 Black Sisters by MS DAVIES KC**

14 **MS DAVIES:** Thank you very much, my Lady, thank you.

15 As you know, my Lady, I appear for Southall Black
16 Sisters and Solace Women's Aid, together with
17 Marina Sergides, Fatima Jichi, Ubah Dirie, and
18 Angharad Monk, and we're instructed by Public Interest
19 Law Centre.

20 My Lady, we know that there was a rise in domestic
21 abuse in 2020, and we know that rise was foreseen and
22 was a direct result of the NPIs implemented by
23 government. So the issue is not what the government
24 did, but what it failed to do and what it could and
25 should have done to make a material difference to
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1 a statutory footing.

2 In conclusion, my Lady, we return to the nine
3 recommendations which we set out in our written opening
4 submissions and which we will address in detail in our
5 written closing submissions, but do not repeat now given
6 the time constraints.

7 The children's rights organisations we represent
8 have given great thought to what fundamental structural
9 changes are necessary for children not to be neglected
10 again in a future crisis. Their recommendations, which
11 we commend to you, my Lady, seek to fix the underlying
12 causes of the mistakes made during the Covid pandemic,
13 as opposed to making blanket recommendations on specific
14 issues that may be irrelevant in a future crisis that is
15 very different from the Covid pandemic.

16 If followed and implemented, the recommendations
17 will ensure, we submit, that children's rights are
18 embedded in future decision-making, the government fully
19 takes the best interests of children into account, the
20 Covid generation of children is properly supported, and
21 their contribution to overcoming the pandemic is
22 honoured.

23 We must, as a nation, take decisive action now to
24 prevent a generation of children and young people being
25 defined forever by their experience of the Covid
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1 victims, predominantly women, experiencing domestic
2 abuse.

3 We say there were five main failures: a failure to
4 be prepared well in advance of the first lockdown;
5 a failure to get the messaging right, despite requests;
6 a failure to consider, let alone implement, an exception
7 to the regulations that would have allowed people to
8 provide a safe place to those fleeing domestic abuse;
9 a failure to ensure that all victims of domestic abuse
10 had access to support when the government refused to
11 suspend no recourse to public funds; and a failure to
12 learn lessons from the first lockdown when it came to
13 the second and third lockdown.

14 In terms of what was done, namely funding to
15 frontline services and holding the Hidden Harms summit,
16 we say that this was too little and too late. Whilst
17 the "You Are Not Alone" campaign by the Home Office was
18 a welcome move, it was late, relatively short lived, and
19 without parallel messaging from the whole of government
20 its impact was lost.

21 Underlying all these failures, we say, was a failure
22 to consult early on with the domestic abuse sector as to
23 what they needed.

24 My Lady, the background to these failures is
25 a culture of either indifference or, as you have heard,
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1 misogyny at the very heart of government. But that in
2 itself, whilst shocking and leading to narrow
3 decision-making, is not a sufficient explanation.
4 Government as a whole has responsibility for tackling
5 domestic abuse. That responsibility lies primarily with
6 the Home Office, but also with what was then the
7 Ministry of Housing, Communities and Local Government,
8 MHCLG, and the Ministry of Justice.

9 None of those departments anticipated the rise in
10 domestic abuse or the need to plan for it, they all
11 reacted too late. And that shows a lack of attention to
12 domestic abuse, an indifference to domestic abuse at
13 a corporate level, not solely explained by the misogyny
14 and indifference which we've seen from central senior
15 decision-makers. It is an institutional failure which
16 led to many women facing two risks to their health: from
17 Covid and from domestic abuse. And indeed, in the case
18 of women subject to no recourse to public funds, three
19 risks, because they also faced destitution.

20 We say that for future pandemics government must
21 consult at an early stage with the domestic abuse sector
22 and must include domestic abuse in its pandemic
23 planning.

24 My Lady, you heard oral testimony from
25 Rebecca Goshawk from Solace Women's Aid and you have
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1 living in a nightmare without end. Covid for me was
2 a nightmare."

3 He refused to let her use her phone, and to
4 emphasise the triple abuse experienced by women who are
5 migrants:

6 "All my documents were with him. Till date my
7 passport and everything is with him. My and my son's --
8 he hasn't given them to us."

9 The second account is in *"When I needed you to
10 protect me"*, and makes the point that abuse increased
11 partly because of the physical restriction of lockdown
12 but also because abusers turned their fear of the virus
13 against women:

14 "When the Covid-19 pandemic began, her perpetrator
15 insisted on her isolating in her room for a week after
16 being outside of the house for 'mere minutes'. Later,
17 he 'assaulted me to get me out of the kitchen because he
18 didn't want me to be around the food that he'd just
19 cooked... I told him how scared I was, he didn't care,
20 you know. He just saw me as an object'."

21 We know from Goshawk and Siddiqui and the documents
22 they produce, including the call for evidence from
23 another 12 domestic abuse organisations exhibited to
24 Siddiqui's statement, that there was an extraordinary
25 increase in demand for domestic abuse services, that
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1 written evidence from her and from Hannana Siddiqui from
2 Southall Black Sisters. Some personal accounts from
3 women are contained in the two witness statements and in
4 the aptly named report, exhibited in the witness
5 statements from Solace Women's Aid, *"When I needed you
6 to protect me, you gave him more power instead"*.

7 Let me read just two of those accounts of what life
8 was like in the double prison of lockdown and of
9 domestic abuse.

10 Raina, whose story is in Hannana Siddiqui's witness
11 statement, says:

12 "It was most horrible at the time. I was always
13 inside the house. He never let me go to the park for
14 a walk. He did leave the house to go for a walk.
15 I was 24/7 inside the house confined to my room. Even
16 using the washroom and kitchen was a task for me.
17 I took one of my kids in the kitchen so I could cook in
18 peace."

19 Pausing, because otherwise she would have been
20 abused while cooking.

21 "I didn't have a choice, for the whole of Covid ...
22 I was only confined to my room. I became mute, I was so
23 depressed, and I didn't feel like talking.

24 "There were constant fights because of him being
25 around all the time. It made me so anxious, I was
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1 traditional methods to find support, such as speaking
2 privately with GPs at medical appointments, were not
3 available. There was not the school support or social
4 worker visiting. It was difficult to access statutory
5 services such as homelessness or social services. And
6 of course women could not stay with or even visit family
7 or friends.

8 We also know that the nature of domestic abuse
9 worsened during lockdown, more women reported the use of
10 weapons, including knives. Women describe being locked
11 in bathrooms or bedrooms as home, as you've just heard.
12 They describe being prevented from using phones or
13 computers to communicate, so they were cut off from
14 their family and friends, something which is deeply
15 controlling and, in lockdown, is deeply isolating. So
16 lockdown was a lonely, frightening and dangerous
17 experience.

18 The domestic abuse sector was having to deal with
19 the extra demand and the additional complexity of cases
20 in circumstances where their funding had been
21 substantially cut over the previous ten years, leaving
22 many of them operating on a shoestring and with the most
23 serious cuts made to the smaller providers, including
24 the by and for providers, mainly those by and for black
25 and ethnic minority women, together of course with
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1 having to reorganise their service provision so that
2 workers could work from home and could support their
3 frontline workers, who were managing their own health,
4 households and their crucial work.

5 My Lady, the rise in domestic abuse and in the
6 intensity of abuse experienced is still being witnessed
7 and dealt with by the domestic abuse sector today. The
8 impact of domestic abuse does not end when lockdown ends
9 or even when the pandemic ends.

10 Let me turn to the five failures.

11 The first failure, failure to be prepared in advance
12 of the first lockdown. The evidence has shown that
13 an increase in domestic abuse was not just foreseeable
14 but was actually foreseen once social isolation and
15 lockdown were contemplated. You have that from accounts
16 in the press from other countries, from Martin Hewitt's
17 evidence that it was self-evident that lockdown was
18 going to put vulnerable people at risk, and from
19 Dame Jenny Harries, who was aware that women were
20 calling helplines once lockdown was anticipated, even
21 before it was implemented.

22 We also know that government was warned by
23 mid-March, domestic abuse charities were campaigning
24 about the risk of increasing domestic abuse. On
25 19 March the Victims' Commissioner and the Equality and
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1 even more concerning.

2 Second failure, lack of consistent and clear
3 messaging. Clarity of messaging is an important part of
4 NPIs. Boris Johnson said messaging was the most
5 important tool we had to deal with the virus. The
6 regulations, including the exemptions to the
7 stay-at-home requirement, needed to be clearly and
8 consistently communicated. Very soon into lockdown, the
9 domestic abuse sector was concerned that it was not
10 clear that women at risk of domestic abuse could leave.
11 The Domestic Abuse Commissioner made that point on the
12 Today programme on 31 March. The Home Office took some
13 steps, Dame Priti wrote in the Mail on Sunday on
14 29 March, the "You Are Not Alone" campaign was launched
15 on 11 April, when Dame Priti and Martin Hewitt did the
16 daily press briefing at Downing Street.

17 But we say that the message was not explicit enough.
18 The guidance used a phrase from the regulations, "escape
19 risk of injury or harm" and did not specifically mention
20 domestic abuse. We say it should have done and should
21 also have made it clear that women leaving in those
22 circumstances could take their children.

23 Dame Jenny Harries said in evidence:

24 "... I'm not sure that if I was somebody frightened,
25 you know, in a domestic abuse situation and about to go
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1 Human Rights Commission both wrote to the Prime Minister
2 and the Domestic Abuse Commissioner wrote to the
3 Chancellor of the Exchequer. They warned of the likely
4 increase in domestic abuse and asked for increase
5 funding to meet this anticipated surge in demand. And
6 it seems to have been those letters, together with the
7 more public campaign, that sparked the Home Office and
8 MHCLG into some action, and we know that from two memos
9 which are the first documents referring to the need for
10 government assistance, particularly funding and
11 messaging. They're on 25 March, within the MHCLG, and
12 on 26 March a memo from Home Office officials to the
13 Home Secretary and the Minister for Safeguarding.

14 So that's when government starts to plan: two to
15 three days after full lockdown is announced and
16 implemented, ten days after social isolation is
17 recommended on 16 March, a month from 28 February when
18 government departments are told to plan for the
19 pandemic, or early March when the scientists start to
20 talk about suppression.

21 You heard Dame Priti Patel's evidence that she and
22 Martin Hewitt were regularly discussing domestic abuse
23 from early March. That may be the case, we don't have
24 the notes of those meetings, but if they were, the delay
25 in not starting to formulate a plan until 26 March is
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1 into lockdown, that I would perhaps have clocked that
2 the message that says 'for an emergency' actually
3 applied to me."

4 We say the most egregious failure of messaging was
5 a lack of consistency across government, and notably in
6 the Prime Minister and Deputy Prime Minister's addresses
7 to the nation when announcing lockdown or the
8 continuation of lockdowns.

9 My Lady, you've heard that none of the
10 Prime Minister's four addresses during 2020 announcing
11 lockdown mentioned domestic abuse as a lawful reason to
12 leave home.

13 On 23 March he listed four exceptions, none
14 referring to the risk of injury or harm, and he
15 compounded that omission by saying "That's all -- these
16 are the only reasons [why] you should leave your home".
17 He finally mentioned domestic abuse on 4 January 2021,
18 after an adviser had flagged up that afternoon that his
19 speech should make it clear, saying "We get kicked every
20 time for not saying it".

21 Dominic Raab's response when asked why domestic
22 abuse was not limited was that there was limited time.
23 We say that is dismissive, an additional short sentence
24 takes a couple of seconds.

25 Boris Johnson, on the other hand, said that in
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1 retrospect it probably should have been made explicit.
 2 Dame Priti Patel's evidence was that she and her
 3 department had raised the issue with Boris Johnson. He
 4 did not remember her raising it.

5 In short, while messaging was developed by the Home
 6 Office, it was done so under pressure and was late. The
 7 regulations and guidance were not sufficiently clear,
 8 and government messaging, particularly the important
 9 addresses from the Prime Minister, was not consistent.

10 The third failure, a gap in the regulations.
 11 Matt Hancock confirmed that the exemption to the
 12 requirement to stay at home, that a person could leave
 13 if they were victim of crime or at risk of injury or
 14 harm, was intended to include domestic abuse.

15 We say that a parallel position to which no thought
 16 was given was equally necessary. That parallel position
 17 is through an exemption to permit friends or family to
 18 offer a person escaping abuse a temporary place to stay,
 19 an informal safe haven.

20 My Lady, you've heard our point that this is
 21 something that is normal, a sister or mother or friend
 22 offers a spare room or sofa. It was all the more
 23 necessary in lockdown given that refuges were at
 24 capacity and were turning women away.

25 Hancock's evidence was that had such a proposal been
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1 Government took a clear policy decision not to suspend
 2 NRPF.

3 Dame Priti's response, when we asked her, was to say
 4 that it was legally challenging to suspend and then to
 5 go back and reinstate. We say that government took
 6 several extraordinary steps in the pandemic for public
 7 health reasons, not least the Everyone In instruction
 8 that all those sleeping rough should be given emergency
 9 accommodation regardless of immigration status. It
 10 cannot have been beyond government to take this step.

11 Deciding not to suspend NRPF, we say, was not
 12 a legal decision, it was a political decision, it was
 13 part of the government's "hostile environment", which it
 14 was not willing to compromise on even during a public
 15 health emergency.

16 Before I turn to the fifth failure, let me deal with
 17 the issue of funding for refuges and other domestic
 18 abuse support services.

19 Government was extensively lobbied from the end of
 20 March and throughout April, not just by the domestic
 21 abuse sector but also by the Domestic Abuse
 22 Commissioner, the Mayor of London and others for
 23 additional funding. On 27 April a month into lockdown
 24 there were three significant events: the House of
 25 Commons Home Affairs Committee issued a devastating
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1 put to him he would have seriously considered it and
 2 would have been inclined to agree. We recognise that
 3 this proposal requires scientific advice but we do
 4 suggest that for future pandemics the opportunity of
 5 an individual providing a temporary place to stay to
 6 someone escaping abuse is at least considered.

7 The fourth failure, not protecting migrant women
 8 subject to domestic abuse. You have the point, my Lady,
 9 that those subject to no recourse to public funds who
 10 were being abused underwent a triple lock of domestic
 11 abuse, of lockdown and of the structural barriers to
 12 leaving, in the form of destitution. These women have
 13 no access to welfare benefits or housing and
 14 homelessness assistance.

15 At a time of public health emergency the
 16 humanitarian measure would have been to suspend NRPF, so
 17 that women fleeing domestic abuse could know that they
 18 would not be destitute, they could claim welfare
 19 benefits, have the opportunity of a refuge place or
 20 obtain homelessness assistance from the council.

21 Government was lobbied extensively to suspend NRPF
 22 during the pandemic, not just from the domestic abuse
 23 sector but also from the Mayor of London, Labour and SNP
 24 MPs, the Domestic Abuse and Victims' Commissioners, the
 25 Local Government Association and Liberty. Despite that,
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1 report on Home Office preparedness for coronavirus
 2 domestic abuse and the risks of harm within the home.
 3 And I say that not to impeach or question it but simply
 4 to refer to its publicly available contents.

5 Public Interest Law Centre, acting on behalf of
 6 Southall Black Sisters and Solace Women's Aid, sent
 7 a letter before claim to the MHCLG threatening judicial
 8 review, and over 750 people sent emails to Priti Patel
 9 and Robert Jenrick.

10 The Home Office had provided £2 million on 11 April
 11 when it launched its "You Are Not Alone" campaign but
 12 more substantial funding was not announced until 2 May
 13 when £76 million was announced of which £27 million was
 14 earmarked for the domestic abuse sector.

15 We say that announcement was a direct result of
 16 campaigning by the domestic abuse sector, of the threat
 17 of legal action and of the Home Affairs Committee's
 18 report. We asked Dame Priti about that, particularly
 19 the threat of legal action, and she said she could not
 20 give a categorical response. We do note, and we'll give
 21 you details in our written submissions, of an MHCLG
 22 submission to the minister on 5 May which refers
 23 explicitly to the threat of judicial review.

24 Even that money announced on 2 May did not start to
 25 be allocated until 19 June, and only came through around
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1 July. The point is, my Lady, that although funding was
2 requested before lockdown started, from 19 March, it did
3 not reach domestic abuse organisations during the first
4 lockdown at all, in March, April, May or June, and so
5 those organisations, already chronically underfunded
6 from ten years of austerity cuts, spent the whole of the
7 first lockdown struggling with unprecedented demand and
8 insufficient resources. And I should add that domestic
9 abuse workers were not automatically treated as
10 key workers, they faced struggles for PPE, testing and
11 even access to early vaccination.

12 The fifth and final failure, my Lady, is the failure
13 to learn lessons from the first lockdown. Boris Johnson
14 made a point in his witness statement of saying that
15 lessons had been learned, specifically about domestic
16 abuse and child abuse, and the government wanted to
17 ensure that services supporting women and children
18 remained available and steps were taken to tackle these
19 crimes. When asked what steps were taken, he responded
20 with the Ask for ANI scheme, which came into effect in
21 February 2021, and the Domestic Abuse Bill.

22 While what is now the Domestic Abuse Act is very
23 welcome, it did not receive Royal Assent until
24 April 2021, and only started to come into force from
25 July 2021, and so it is not an answer to what steps were
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1 The TUC and its sister organisations seek to be the
2 voice of those at work. That has been our aim in this
3 module, and will be the focus of our closing
4 submissions.

5 My Lady, by way of preliminary observation, the
6 themes upon which we will address you will be familiar.
7 Centrally, we suggest that the themes of our previous
8 submissions to you, as to disproportionate impacts in
9 the workplace, as to financial support for
10 self-isolation, as to paucity of consultation and so on,
11 have only been strengthened by the evidence as it has
12 emerged.

13 There is a wealth of evidence as to occupational
14 exposure being a significant risk factor in the
15 transmission of the virus, and of occupational exposure
16 intersecting with socioeconomic inequalities.
17 Independent SAGE reported that people in the lowest paid
18 occupations are twice as likely as those in higher
19 occupational groups to die from Covid-19.
20 Professor Ferguson explained that the poorest in society
21 had the least ability to comply with measures to work
22 from home and were most exposed to the virus.

23 The documents which record high-level
24 decision-making do refer on numerous occasions to the
25 particular impact on vulnerable groups of certain
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1 taken to protect women during the second and third
2 lockdowns from the first lockdown. Lessons were not
3 learned by government from the first lockdown.

4 My Lady, we will submit detailed recommendations for
5 you in our written submissions, but we say that,
6 crucially, government failed to consult early on with
7 the violence against women and girls sector, and that
8 was a mistake that should not be repeated in the future.

9 Above all, my Lady, in another pandemic, victims of
10 domestic abuse should not be left without support,
11 isolated, lonely, frightened and abused. And preventing
12 that abuse needs to be a government priority and not
13 an afterthought.

14 Thank you, my Lady.

15 **LADY HALLETT:** Thank you very much, Ms Davies.

16 Right, it's now Mr Jacobs.

17 **Submissions on behalf of the Trades Union Congress by**
18 **MR JACOBS**

19 **MR JACOBS:** Thank you, my Lady. These are the closing
20 submissions on behalf of the Trades Union Congress.
21 I appear with Ms Ruby Peacock and we are instructed by
22 Thompsons Solicitors.

23 In this module the TUC is working in partnership
24 with the Welsh TUC, the Scottish TUC and the Northern
25 Ireland Committee of the Irish Congress of Trade Unions.
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1 sectors being closed, retail and hospitality being often
2 cited examples. That was certainly an important
3 consideration. Jobs and livelihoods are fundamental to
4 wellbeing.

5 The blind spot, we say, was a lack of focus on
6 safety for those who were attending work.
7 Disproportionate transmission and deaths within
8 vulnerable groups arose ultimately in those who were
9 attending work rather than those who were not.

10 It is right to acknowledge that some of the causes
11 of unsafe workplaces are structural and pre-existing.
12 As considered in Module 1, stretched health services and
13 stretched and fragmented social care services are
14 a fault line. More broadly, we have described before
15 the relevance of a working population that has a growing
16 proportion in low income work and in insecure work.
17 That view finds strong support in the work of the SAGE
18 Ethnicity Subgroup which is before you in this module.

19 We also mention again, in brief passing, the
20 pre-existing paucity of health and safety enforcement by
21 an underfunded HSE and overburdened local authorities.
22 The Inquiry has now heard evidence of the government
23 grappling after the first lockdown with the difficult
24 balance of returning to work within the R budget. Safe
25 workplaces would have made the aim of returning to work
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1 so much more achievable and less deadly. In the event,
2 the return to work was managed against a vacuum of
3 enforcement. We remind you, my Lady, of our view that
4 it is an important issue for future modules in this
5 Inquiry.

6 An issue that this module has grappled with is
7 financial support for self-isolation. The context is
8 one of low sick pay provision. As the Chancellor was
9 briefed during the pandemic by his advisers within the
10 Treasury, the UK has the lowest sick pay provision
11 amongst all OECD countries. This issue was alluded to
12 in oral evidence by Mr Hancock, who spoke of his own
13 wish that statutory sick pay be doubled.

14 When the pandemic arrived, the inadequacy of sick
15 pay provision provided the most obvious disincentive to
16 compliance with self-isolation, particularly amongst low
17 income and vulnerable groups.

18 Of course those we represent campaigned vociferously
19 on the issue, but it is now apparent that a number close
20 to the centre of government were making the very same
21 call for action. Several witnesses it appears to us
22 have spoken quite passionately about the issue they were
23 struck by the comparatively disadvantaged experiences of
24 those on poorer incomes who were working at greater risk
25 to keep the country going.

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1 rent is highly problematic and needs addressing. And
2 the fact that some others may break self-isolation in
3 different ways for some other reason is really neither
4 here nor there. We suggest that on analysis the
5 Treasury rationale is paper thin.

6 The Treasury did reluctantly agree to provide funds
7 to the Test and Trace Support Payment scheme, however it
8 was devised to be a low profile scheme with a low
9 take-up rate, and so it proved to be.

10 Safety at work was also hampered by a lack of
11 meaningful consultation with sectoral partners,
12 including unions. The evidence of those we represent is
13 that there was some attempt at consultation but it was
14 perceived to fall short of meaningful engagement. The
15 disclosure indicates that the government, at its core,
16 was one that was dismissive of mature engagement.

17 It is pithily summarised by Mr Johnson having
18 stated, in the context of decision-making on return to
19 work, that the government "can't have the bollocks of
20 consulting with employees and trade unions".

21 When put to Mr Johnson, he said the sentiment isn't
22 necessarily that of a Prime Minister engendering
23 a dismissive approach to consultation. We say, what
24 farcical nonsense.

25 There are numerous examples of this approach

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1 The assiduously diplomatic Professor Whitty
2 described heated debate on the issue. It is evident
3 that there was a real roadblock, namely the Treasury,
4 and the Chancellor in particular, that is particularly
5 evident in Sir Patrick's diaries, not least in the
6 reference to Simon Case's advice given to the
7 Prime Minister that he will need to persuade Rishi
8 personally.

9 Mr Sunak's oral evidence that financial support for
10 self-isolation was not relevant early in the pandemic,
11 as test and trace had not got going, was revealing. For
12 the many thousands in low-paid, high-risk jobs who never
13 stopped working, self-isolation was a crucially
14 important safety measure from day one onwards, but one
15 that was hugely difficult without support. It is
16 evident that it is an issue that was still not grasped.

17 The justification by the Treasury for its opposition
18 to greater support is with reference to survey data
19 which suggested that return to work was just one reason
20 for non-compliance.

21 My Lady, breaking self-isolation to attend work was
22 high consequence in terms of transmission of the virus,
23 particularly for low-income sectors with high
24 vulnerability. Someone attending to a production line
25 in a processing plant because they are worried about the

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1 festering through government decision-making, whether
2 it's resistance to making any meaningful changes to sick
3 pay or viewing schools as a battleground with the
4 unions.

5 The lack of consultation also had an impact upon the
6 quality of workplace guidance. We make no apology for
7 being a broken record on this issue. For all the
8 abstract acknowledgement of disproportionate impacts
9 which are so easy to state, it is ultimately in concrete
10 measures such as those in relation to workplace safety
11 that solutions can be found. All too often workplace
12 guidance was late, lacking in understanding of the
13 practical realities of workplaces, and too discretionary
14 and too generic.

15 In April 2020, Andy Burnham and Steve Rotherham
16 wrote to Alok Sharma to urge his department to provide
17 greater clarity in the guidance, and they warned that on
18 social media it was awash with stories and images from
19 unsafe workplaces, and the mayoral offices were
20 receiving hundreds of reports of guidance being flouted.

21 My Lady, the resistance to consultation and dialogue
22 fits a broad pattern. It is also reflected in the
23 evidence given by those in local government, including
24 the metro mayors, by those in respect of the devolved
25 administrations, and by the Children's Commissioner.

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1 This morning Mr Friedman spoke powerfully on this very
2 issue in respect of the disabled. It is a symptom, we
3 would suggest, of what Helen MacNamara's internal review
4 reported, that many felt there was a belief that
5 intellect will out, implying that a small core of people
6 is clever enough to think their way out of the problem
7 without support; diversity of thought was not
8 recognised. A vitally important lesson, we say, is the
9 need for a mature, open form of government.

10 Another neglected aspect of workplace safety arose
11 out of the movement of staff between care homes.
12 Carl Heneghan gave evidence that Covid was identified as
13 three-fold higher in staff working across different
14 care homes. The failure to grapple with this issue at
15 an early stage in the pandemic not only seeded the
16 pandemic in the most vulnerable section of the
17 population but also contributed to the unequal impact,
18 given the profile not only of those reliant on the
19 sector but also of the care sector workforce.

20 It is clearly an issue that needs to be grappled
21 with in future pandemic planning.

22 We address distinctly decision-making in respect of
23 education. The outcomes were undeniably poor. If
24 a central aim was to keep schools open, the attempts to
25 do so resulted ultimately in the very lengthy

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1 stuff. Get back to school'."

2 My Lady, these were not simply flippant comments,
3 they were the policy. The formal minute of the same
4 meeting was to the same effect. It recorded the point
5 being made that "schools should not be told of
6 a fallback plan as it would allow them to have an excuse
7 not to open in September", and "explicit contingency
8 plan guidance for schools should not be shared in
9 advance to avoid undermining momentum towards a full
10 re-opening".

11 It was hopeless as an approach, given the obvious
12 cause for caution going into the winter. It was also
13 a callous way to treat teachers, who were, as a matter
14 of intentional government policy, left guessing as to
15 what any contingency planning might be and leaving them
16 to respond on the hoof as and when late changes of the
17 course of action were announced.

18 My Lady, it was not by accident, it was by design.

19 The ramifications of the no plan B approach were
20 numerous, but they will no doubt be considered in the
21 subsequent module on education.

22 The quality of decision-making appears to have been
23 further hampered by a relationship with the sector and
24 unions in particular that not only lacked constructive
25 collaboration but was positively oppositional.

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1 restrictions on attendance commencing in January 2021.

2 For the purposes of this module, it is evident that
3 poor outcomes were symptoms of significant flaws in the
4 decision-making processes within central government.

5 Coming out of the first lockdown, there was a need
6 for careful and advanced thinking as to how re-opening
7 schools might be managed whilst keeping the R rate
8 below 1. As Mr Johnson expressed, schools were terrific
9 reservoirs of the virus.

10 At a Covid-O meeting on 6 August 2020, the
11 Department for Education presented an options paper on
12 return to school. It might have been more ambitious in
13 respect of its considerations of NPIs within schools,
14 but it did consider contingencies such as local closures
15 and rotas with the necessary advance notice to schools.
16 Consideration was also given to managing the opening of
17 schools within the overall R budget, and the decisions
18 that may need to be made about other sectors in order to
19 allow schools to stay open safely. That goes to a point
20 raised by Mr Menon just a few moments ago.

21 The Prime Minister's response as recorded in
22 Sir Patrick's diary was an emphatic rejection of those
23 contingencies:

24 "... 'Don't want to hear about plan B and C for
25 failure ... We are no longer taking this Covid excuse

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1 In questions to Mr Johnson, we asked about the
2 policy on face masks in schools, which was obviously
3 considered privately to be a mess, and which had been
4 arrived at further, according to Simon Case, to
5 a no surrender approach of Gavin Williamson to unions,
6 for which he had full backing from the PM.

7 My Lady, we conclude with two more general points,
8 the first being the culture in Westminster.

9 There is a narrative pushed by some external to this
10 Inquiry of the infighting spreading from Number 10 in
11 particular being titillating evidence but ultimately
12 irrelevant.

13 My Lady, we don't agree. On analysis, there are
14 various ways in which the corrosive culture impaired and
15 frustrated decision-making. We see key ministers being
16 sidelined from decision-making processes,
17 an unwillingness of civil servants to step into key
18 roles, voices of senior civil servants being sidelined,
19 and so on.

20 Mr Johnson appears to have presided over and either
21 promoted or certainly acquiesced in that culture. We
22 were struck, as Ms Mitchell on behalf of the Scottish
23 Covid Bereaved were, by the words of Mr Johnson in
24 a WhatsApp when finally he complained to Mr Cummings of
25 "a totally disgusting orgy of narcissism by a government

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1 that should be solving a national crisis".
 2 My Lady, hear, hear.
 3 That was the honest assessment of Mr Johnson at the
 4 time. It was the correct assessment. To some witnesses
 5 it is just Westminster. We would suggest that resigned
 6 acceptance by some of such behaviour simply underlines
 7 the need for this Inquiry to make strident findings on
 8 the issue, and in doing so to seek to effect much needed
 9 cultural change.
 10 Finally, the timing of lockdowns.
 11 Whilst these oral hearings have focused heavily on
 12 events leading to the first lockdown, the response to
 13 subsequent waves of the infection were as deadly.
 14 Fundamentally, it was a misnomer to approach the second
 15 wave as a choice between prioritising health or the
 16 economy. No one, when it came to it, was in favour of
 17 letting it rip and seeing huge numbers of daily deaths
 18 and overwhelming of the NHS. Yet that was the
 19 trajectory as reliably predicted by the scientific
 20 advice.
 21 On a realistic and balanced analysis, the question
 22 from late September 2020 was whether to take action
 23 earlier or later. It was also known that later would
 24 mean longer.
 25 The lesson from the first lockdown had been go
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1 these closing submissions. So these submissions will
 2 not cover those issues in the depth that they will
 3 deserve in a later examination.
 4 The focus of the oral evidence for much of this
 5 module has been on the often chaotic and, it seems,
 6 consistently poor internal workings of national
 7 governance. But that is by no means the limit to the
 8 issue that this module has to consider about structure
 9 of governance.
 10 There are four basic points that my clients wish to
 11 emphasise about the oral evidence you've heard. The LGA
 12 recognises that urgent and grave policy decisions as to
 13 how to bring the country through the pandemic had to be
 14 taken centrally and under great pressure. Yet it's
 15 obvious now, and it must have been then, that no policy
 16 would be successful if it could not be delivered
 17 effectively. And at all times through the pandemic in
 18 England it was for local government to operationalise
 19 those policy decisions that did not directly involve
 20 hospitalisation.
 21 So to make the best policies that would neither be
 22 a muddle nor ineffective, central government engagement
 23 with local government was an absolutely necessary
 24 prerequisite for good governance.
 25 Three issues follow: did such engagement happen? If
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1 earlier and go harder, but the policy as implemented was
 2 to do the opposite. It cost lives and the consequences
 3 of a very lengthy later lockdown.
 4 My Lady, these matters must be the subject of
 5 careful and detailed focus by the Inquiry in its report.
 6 My Lady, those are the submissions on behalf of the
 7 TUC and its sister organisations. They have been
 8 grateful to have the opportunity to seek to assist you
 9 in this important module of the Inquiry. Thank you.
 10 **LADY HALLETT:** Thank you very much indeed, Mr Jacobs.
 11 Mr Allen.
 12 **Submissions on behalf of the Local Government Association by**
 13 **MR ALLEN KC**
 14 **(Pause)**
 15 **LADY HALLETT:** Is the microphone on?
 16 **MR ALLEN:** No -- it will be. I think you probably heard me
 17 anyway.
 18 **LADY HALLETT:** I did.
 19 **MR ALLEN:** I shall start with a word, if I may, about future
 20 modules.
 21 The LGA wishes, if possible, to be
 22 a core participant in those modules that look more
 23 deeply into social care and test and trace, and there's
 24 much more detail to be explored in relation to those
 25 topics than can be covered in this module, or indeed in
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1 not, why not? And in preparing now for the possibility
 2 of another pandemic, what recommendation should you make
 3 to ensure a better connection between policymaking and
 4 operational delivery?
 5 Did proper engagement happen? In short, no. The
 6 detail of the LGA's perspective is set out in its former
 7 chief executive, Mark Lloyd's witness statement. There
 8 are many examples of when it could have been done better
 9 that you've also heard from in this oral evidence, and
 10 we shall reprise some of those.
 11 Consider first the evidence from three city mayors
 12 who should have been crucial partners of government,
 13 London's Sadiq Khan, Greater Manchester's Andy Burnham,
 14 and Liverpool's Steve Rotherham. Each gave compelling
 15 evidence showing the disconnect between policy and
 16 operations.
 17 Mr Khan made multiple requests to attend COBR
 18 meetings but was never invited by government on the
 19 grounds that other mayors and leaders would also have to
 20 be present.
 21 Mr Burnham, who'd previously chaired swine flu COBR
 22 meetings, pointed out how attendance would have provided
 23 a structured environment where serious issues could have
 24 been properly raised, such as financial support for
 25 affected workers. He also said he asked the government
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1 for patient identifiable data of people who tested
2 positive for Covid, but this was refused for weeks and
3 weeks and weeks.

4 Mr Rotherham told you of his shock to discover in
5 the early stages of the pandemic, only through the news,
6 that those repatriated from Wuhan would be isolating in
7 his area.

8 The central theme of their oral evidence,
9 non-engagement, played out during the pandemic across
10 the whole of local government. Thus, all three first
11 learned about major Covid updates affecting their cities
12 only after seeing them in the news.

13 Likewise, as a whole, councils learnt about new
14 policies and guidance at the same time as members of the
15 public, when the televised 5 pm daily briefings were
16 broadcast.

17 Requiring policy implementation before the necessary
18 structures and support mechanisms are in place was bound
19 to be futile in securing a full effective implementation
20 which could be explained and justified locally.

21 Next look at data management and its use. In our
22 world, the best use of available data is key to good
23 governance, yet data sharing was a key challenge in the
24 early stages. The ability of local government to
25 establish effective data sharing protocols varied

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1 system was inherently flawed, and that he grew more
2 sceptical about its efficacy. Matt Hancock said about
3 Tier 3:

4 "I was in despair that we had announced a policy
5 that we knew would not work."

6 And even in his evidence, Mr Johnson quickly
7 acknowledged this policy "[ran] out of road" and that
8 "we didn't achieve it".

9 Look also at the interface between police and local
10 government on the issue of enforcement. Martin Hewitt,
11 then chair of the National Police Chiefs' Council,
12 instances an occasion when Mr Hancock signed off the
13 exact wording of new regulations at 11.46 pm when police
14 officers were expected to enforce this 16 minutes later,
15 at 12.01.

16 Local government was equally out of the loop, though
17 expected to support the operationalisation of the
18 regulations.

19 Look also at test and trace and isolate. The
20 evidence on TTI provides a paradigm of the consequences
21 of policy made without operational input. It is simply
22 extraordinary. Mr Johnson should have said that he was
23 initially told the UK was well covered and had ample
24 preparations and a very good test and trace system by
25 the contracted system. It was simply not true. The

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1 significantly across England and indeed in the devolved
2 nations. On this, the module heard from
3 Gavin Freeguard, who spoke about local government
4 feeling central government didn't understand what data
5 might be needed, how it might be used or its full
6 benefits.

7 Even before the pandemic, he spoke of hearing many
8 concerns that data sharing was very much a one-way
9 relationship and councils are not supplied with
10 information that could be valuable to them in running
11 their local areas, and this problem played out during
12 the pandemic.

13 Local government could complement the national
14 system rather than duplicate or compete with it, but to
15 do that it needed to be fully engaged. We have indeed
16 given much written evidence about this in Mark Lloyd's
17 second witness statement.

18 Take also the evidence about tiering. Many today
19 have made reference to that already, and you will recall
20 how Boris Johnson, deciding against a circuit-breaker
21 lockdown in September 2020, preferred a regional
22 three-tier system to be operationalised in England from
23 14 October 2020. But this occurred without proper
24 engagement with local government. And so you had the
25 evidence from Michael Gove saying that the tiering

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1 contracted system was not only way off the mark, but
2 developed in complete ignorance of the capacity of local
3 government.

4 As the LGA's former chief executive, Mark Lloyd, has
5 said in his witness statement, councils have deep
6 knowledge of their local communities, their local health
7 and social care system, and had the skills to support
8 and make contact tracing work, yet they were not engaged
9 from the outset, even though environmental health
10 officers and public health specialists had been doing
11 this for many years.

12 Only as the pandemic progressed was there increasing
13 recognition of the vital value of local leadership when
14 directors of public health, chief executives and civic
15 leaders were brought in to provide that perspective.
16 They were then able to inform the development of local
17 outbreak plans that ensured the challenges of Covid-19
18 were understood and addressed.

19 Consider also the evidence of Age UK director
20 Caroline Abrahams. She re-emphasised what she called
21 the "strong words", in her witness statement, that the
22 government's response to the first wave was deeply
23 ineffective because of policymakers' complete
24 misunderstanding of what happens in care homes. She
25 spoke of the long time for policymakers to respond to

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1 the reality of people living in care homes, often having
2 very significant health issues, supported by too few
3 staff. She also said of the hesitation on the part of
4 government to intervene or to provide support to
5 services which were predominantly provided by the
6 private or voluntary sector, contrasting this with the
7 steps the government took to protect the NHS.

8 Why was this? It would seem this is likely to be
9 the consequence of a long-term neglect of the realities
10 of this sector. This you will consider in a later
11 module, we know. For now, the LGA asks you to recall
12 how Professor Watson noted that the cuts to social care
13 funding before the pandemic reduced the capacity of
14 local authority services to provide social care and
15 support, and how Professor Shakespeare noted that
16 funding pressures on councils contributed to linked
17 pressures on fee levels for care providers, leading to
18 fewer staff and unmet need in the period before the
19 pandemic.

20 There can be no doubt that the significant and
21 sustained funding pressures facing adult social care and
22 support stymied its ability to respond effectively when
23 the pandemic arrived.

24 But we also remind you that Caroline Abrahams said
25 that it was the arrival of Sir David Pearson to sort out

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1 and it's as true here as there. When it comes to
2 dealing with authority, people tend to trust their local
3 council rather than national remote sounding bodies,
4 because they relate to their area and circumstances,
5 what's going on in their street or neighbourhood.

6 Putting it more positively, the LGA submits it was
7 essential to understand what local councils could
8 already do well and how they could be helped to do it
9 even better in the face of the new social pressures and
10 extra demands during the pandemic.

11 And so here are the LGA's recommendations for future
12 good governance.

13 First, it must be recognised that in a pandemic
14 locally driven processes and responses will be more
15 speedy and better designed to secure the necessary
16 co-ordination and collaboration between agencies. By
17 contrast, centrally prescribed top-down policy lacking
18 such local involvement will always be sub-optimal.

19 So local organisations that should always be brought
20 into the policy making as soon as possible to inform
21 and, where possible, help to co-design national
22 decisions.

23 First among these is the LGA being the only
24 association which can speak for all authorities and
25 which covers all bases. There are important other

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1 the government's response to social care as being the
2 single biggest reason things got better. His
3 involvement was so significant because Sir David, as
4 a former director of adult social services, and indeed
5 a former president of the Association of Directors of
6 Adult Social Services, brought real local government
7 experience on the operationalisation of these issues.

8 And so to my last question: why was there not the
9 necessary engagement with local government?

10 There seems to have been a multitude of evasions
11 about this, from blaming local government itself to
12 blaming the dysfunctional way the centre of government
13 worked during the pandemic. But it won't do to blame
14 local government. The LGA stood ready at every stage to
15 input directly and to convene experts to support policy
16 making.

17 Mr Lloyd's first witness statement is 111 pages
18 long, and many of them demonstrate exactly this point.
19 And in any event, it's up to central government to get
20 the information necessary to make good policy. Its
21 failure was to ignore councils' special role in the
22 community. Yet every central government should know
23 that local councils, with local knowledge and local
24 community relations, play an essential part in public
25 life. In the US, they say that all politics is local,

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1 relevant, more specialist representative organisations
2 such as the Association of Directors of Public Health
3 and the associations of directors of adult and
4 children's social services, who should also be involved.

5 Local government must be represented at the highest
6 level in COBR. Of course COBR meetings should not be
7 too big, and so cannot have all councils as members, but
8 the LGA, with its width of membership, and long
9 experience in disseminating policy, can provide that
10 representation, where necessary subgroups could include
11 leaders or mayors of specific councils.

12 Improved engagement in this way would help optimise
13 key decisions such as the proper balance between the
14 needs of the NHS and of the social care sector, and the
15 arrangements for the flow of the central data and
16 intelligence from national agencies to local public
17 health teams. It would also improve transparency, and
18 the timely and effective communication of central
19 government policies as they develop during a future
20 pandemic.

21 My Lady, many more technical recommendations have
22 been made in Mr Lloyd's witness statement, which I shall
23 not repeat but urge you to adopt.

24 So, my Lady, the LGA thanks you for the opportunity
25 to participate in this module so as to bring the

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1 concerns of local government for the future good
 2 governance of any future pandemic to the fore.
 3 **LADY HALLETT:** Thank you very much, Mr Allen.
 4 We will break now. I shall return at 3.15.
 5 **(2.58 pm)**
 6 **(A short break)**
 7 **(3.15 pm)**
 8 **LADY HALLETT:** Mr Stanton.
 9 **Submissions on behalf of the British Medical Association by**
 10 **MR STANTON**
 11 **MR STANTON:** Thank you, my Lady.
 12 This statement on behalf of the British Medical
 13 Association focuses on the impacts of government
 14 decisions on doctors and healthcare workers. The BMA
 15 recognises that a pandemic will necessarily be
 16 challenging for healthcare and public health systems,
 17 and their staff. However, the scale and severity of the
 18 impact of Covid-19 was not inevitable, and was made
 19 worse by poor government decisions.
 20 The UK Government was slow to act, too quick to ease
 21 protections, it failed to adopt a precautionary
 22 approach, failed to adequately consider the impact of
 23 decisions on those at greatest risk, and its response to
 24 the pandemic was significantly hampered and restricted
 25 by a lack of NHS and public health capacity.

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1 The 16 March measures might have succeeded in bringing
 2 down the R number but the NHS was so close to being
 3 overwhelmed that there was no time to wait and assess
 4 their impact, and the UK went into a mandatory lockdown
 5 a week later.
 6 Within this system, that was already stretched to
 7 breaking point, doctors and healthcare workers were
 8 vulnerable and exposed. They were described as the
 9 canary in the coalmine, because they are the first group
 10 to be infected, and their risk of infection was six
 11 times greater than in the general population. They are
 12 the essential component of the NHS, without which
 13 numbers of ICU and hospital beds are meaningless, and
 14 yet they were inadequately protected throughout.
 15 The failure to provide adequate protection against
 16 the risks of aerosol transmission is an issue of serious
 17 and ongoing concern and one which the BMA has repeatedly
 18 raised before the Inquiry. Despite it being predictable
 19 in February that the virus would transmit by aerosol,
 20 the requirement of FFP3 respirators when treating
 21 patients with Covid-19 was downgraded in March to
 22 fluid-resistant surgical masks, which do not protect
 23 from airborne transmission and are not PPE. And this
 24 remains the position in England today.
 25 The evidence of Professor Catherine Noakes supports

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1 Regarding NHS capacity, the Inquiry has heard a lot
 2 of evidence across Modules 1 and 2 about the importance
 3 of NHS capacity in responding to a pandemic. The
 4 response of Sajid Javid to your question, my Lady, about
 5 lessons learned typifies this shared view. He said:
 6 "... in responding to a pandemic ... your available
 7 health capacity has ... a big determinant ...
 8 "We don't have many beds per head in the UK, in
 9 England, for example ... it's around 100,000. If you
 10 look at countries like Germany, France, other comparable
 11 countries ... they have more than double, triple,
 12 sometimes quadruple the number of beds that we have got.
 13 Similar for ventilator units, ICU units, doctors and
 14 nurses per head. NHS capacity is absolutely key to
 15 dealing with the next pandemic."
 16 Similarly, the Inquiry's summary of references to
 17 the likely impact of the pandemic on the NHS within
 18 government meetings and communications between
 19 14 February and 22 March demonstrates the significance
 20 of this issue. There were 47 references to NHS capacity
 21 in March alone, including the compelling evidence from
 22 22 March that in the worst-case scenario ITU capacity in
 23 London would be overwhelmed in just nine days.
 24 This rapidly deteriorating position and the limited
 25 available capacity forced the hand of decision-makers.

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1 the view that aerosol transmission was overlooked in
 2 favour of droplet transmission. Paragraph 10.11 of her
 3 witness statement suggests a number of reasons for the
 4 reluctance to fully acknowledge this risk, including the
 5 significant resource and operational implications for
 6 hospital infection and control measures.
 7 It is perplexing that, just at the point when
 8 airborne transmission was becoming more widely
 9 acknowledged, a stop order was placed on further
 10 procurement of FFP3 respirators from 30 June 2020, when
 11 a July 2020 survey by the BMA found that shortages of
 12 respirators remained.
 13 The failure to adequately respond to the risk of
 14 aerosol transmission has had a direct impact on the
 15 protection of healthcare workers, with 40% of
 16 respondents to a BMA survey reporting as late as
 17 July 2021 that they were not being provided with
 18 respirators, despite working with Covid-19 patients.
 19 In this regard, the BMA invites the Inquiry to
 20 consider the extent to which considerations of cost and
 21 practicality were prioritised over safety.
 22 There is also little evidence that the potential
 23 personal impacts on doctors and other healthcare workers
 24 were considered by decision-makers. All too often the
 25 risks to the NHS were characterised as organisational,

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1 for example, references to the NHS becoming
2 "overwhelmed" or the need to "save the NHS", without
3 consideration of the personal circumstances and risks
4 taken by the people who work in it.

5 This tendency can be seen in an email chain between
6 Number 10 and the Cabinet Office over 13 and 14 April,
7 referred to in the evidence of Simon Ridley and since
8 published by the Inquiry. The emails raised concerns at
9 reports that 20% of infections and 10% of deaths were
10 due to infections acquired in hospitals and that while
11 by this time the R number had been brought below 1
12 within the community, it was still above 1 in hospitals
13 and care homes.

14 Notably, these concerns were not raised in the
15 context of patient and staff safety, but with reference
16 to workforce absences, stories about PPE in the media,
17 and the need to avoid delaying the lifting of social
18 measures. There was no expression of concern for the
19 safety of the people working and being cared for in
20 these environments, and the reported response of the
21 Department of Health and Social Care was that this was
22 not an issue of concern.

23 Meanwhile, and as described in evidence by
24 Professor Banfield of the BMA, doctors were updating
25 their wills, and making sure their life insurance was up
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1 disproportionate impact of the virus on people from
2 ethnic minority backgrounds, and of the shocking
3 statistics in this area, including analysis by the
4 Health Service Journal which found that 94% of doctors
5 who died with Covid up to April 2020 were from ethnic
6 minority backgrounds, even though this group makes up
7 only 44% of NHS medical staff.

8 The Inquiry has heard evidence about the review by
9 Public Health England into disparities, and particularly
10 the impact of the pandemic on ethnic minority groups
11 published in June 2020. However, there has been little
12 evidence of any tangible steps taken by government and
13 ministers to address these disparities.

14 Another key area where a lack of capacity
15 significantly hampered the UK's ability to respond to
16 the pandemic is the lack of public health capacity
17 including crucially testing and contact tracing. The UK
18 entered the pandemic with inadequate test and trace
19 capability, exacerbated by many years of underfunding in
20 local and national public health, which meant that
21 Public Health England was unable to rapidly scale up its
22 contact tracing capacity when Covid-19 emerged as
23 a threat. This greatly limited the options available to
24 decision-makers, including actions to contain and
25 suppress the virus.
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1 to date.

2 The witness statement of Helen MacNamara
3 demonstrates real insight into this issue at
4 paragraph 89(sic) where she states:

5 "We kept being told that NHS capacity was elastic.
6 My concern was that even if it was elastic that was not
7 the same as being infinite ... It was only much later
8 that I realised that what was meant by NHS capacity
9 being elastic was the capacity of people working in the
10 NHS to work themselves into the ground to keep people
11 alive. So yes they would cope, but the knock on impact
12 of that would be the consequences for the people
13 involved. We had thought we would see the consequences
14 of a broken NHS in the winter of 2020/21. I fear that
15 it took longer for the break to show and we are living
16 with the consequences of stretching it too far in terms
17 of what is happening now."

18 These consequences include historically high levels
19 of waiting lists, a crisis in staff retention and
20 recruitment, significant numbers of doctors still
21 suffering from Long Covid and moral distress and injury
22 for doctors and other healthcare workers who felt unable
23 to provide the right level of care, including for their
24 non-Covid patients.

25 Finally, on impact, the Inquiry is aware of the
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1 Public Health England did in fact call for greater
2 capacity and resources from at least 12 February, but
3 these calls do not appear to have been acted upon. Such
4 was the lack of focus in this area that politicians,
5 including Matt Hancock and Boris Johnson, told
6 the Inquiry that they had wrongly assumed that the
7 necessary testing and contact tracing capacity existed,
8 only to find that it needed to be built mid-pandemic.

9 The reason given for the decision to abandon test
10 and trace on 12 March was because the UK was moving from
11 the contain to the delay phase of the pandemic response.
12 However, the reality is that there was no meaningful
13 testing capability, and what little testing capacity
14 existed at this time was needed for healthcare settings.

15 The Inquiry has heard about the relative success of
16 South Korea, which operated a more effective test and
17 trace system, partly because of their previous
18 experience of MERS. Just as South Korea learned from
19 MERS, it will be important that the UK learns from the
20 Covid-19 pandemic, and maintains sufficient test and
21 trace capacity and capability, so that future
22 decision-makers have this essential tool available to
23 them. However, there are signs that vital pandemic
24 infrastructure has already started to be dismantled,
25 something raised as a significant concern by Sajid Javid
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1 in his evidence.

2 A final point about public health relates to the
3 range and diversity of the scientific advice available
4 to government. In his witness statement,
5 Professor Banfield raised concern at a lack of
6 independent public health expertise within SAGE, and
7 Professor Peter Horby told the Inquiry that it would
8 have been helpful to SAGE to have had greater expertise
9 from frontline public health practitioners, because,
10 while there were people in the room with public health
11 expertise, "that's different from being at the frontline
12 running a public health department in a local council or
13 on the ground". He said that science needs to be placed
14 in both the policy context and the operational context,
15 and that this would have helped refine the advice given.

16 Regarding the timing of decisions in the early
17 months of 2020, it is clear that much of February was
18 lost to confusion and indecision. While a number of
19 factors likely contributed to this, the BMA suggests
20 that an area of focus for the Inquiry should be on the
21 way that risk was communicated.

22 Boris Johnson was briefed on 4 February that
23 a reasonable worst-case scenario would be up to 300,000
24 deaths, but it was not until a paper was produced on
25 28 February in which the reasonable worst-case scenario

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1 This shock was described by Professor Halpern as
2 a bolt from the blue, the penny had dropped. All of
3 this calls for serious consideration of a more refined
4 approach to risk assessment and to the communication of
5 risk as suggested by Professor Horby.

6 Over the entire period of the pandemic there was
7 a failure to take a sufficiently precautionary approach.
8 This is evident on a range of issues, including
9 asymptomatic and aerosol transmission, the delay in
10 imposing protective measures, and in seeking to open up
11 too soon and too quickly.

12 A more precautionary approach, for example through
13 a focus on ventilation and mask wearing, could have been
14 taken without significant economic impact, and at key
15 moments of easing throughout the pandemic the BMA called
16 for such an approach, which generally was not heeded.

17 There was little evidence that the UK Government
18 learned from the mistakes of the first wave leading in
19 to the inevitable second wave, despite the wide
20 acknowledgement that it had the potential to be even
21 worse than the first, and at a time when vaccines
22 remained unavailable. Instead, the country opened up
23 too quickly, typified by the reckless Eat Out to Help
24 Out initiative, which was decided without scientific
25 input, despite the obvious risk of adversely impacting

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1 of 520,000 deaths was posited that he became alarmed.
2 During this period, the probability of the worst-case
3 scenario occurring increased from 10% in early February
4 to the expression used on 28 February of "increasingly
5 likely although not yet certain".

6 A number of witnesses have referred to the
7 difficulties in expressing and communicating
8 probability. Professor Whitty said that when
9 probability was expressed in remote terms, it can lead
10 to an underestimation of the risk. Lord Stevens said
11 that during February there was a lot of ambiguity about
12 the probability of the reasonable worst case happening
13 and there needed to be greater clarity.

14 For the ultimate decision-maker not to have fully
15 understood the nature of such a serious threat suggests
16 the need for better understanding and communication of
17 risks within government.

18 That this was a collective and not just
19 an individual failure is made clear by the widespread
20 shock over the weekend of 13-15 March as the centre,
21 Number 10 and the Cabinet Office, were confronted by the
22 realisation that the reasonable worst-case scenario
23 would materialise much sooner than had been thought,
24 with the very real prospect of the NHS becoming
25 overwhelmed.

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1 Covid transmission rates, and in which respect a study
2 from 2020 suggests it was responsible for between 8% to
3 17% of new infections.

4 Once cases began to rise again, the delays and
5 indecision through the summer and autumn of 2020
6 necessitated a further national lockdown. This was
7 rightly referred to by Professor Angela McLean as
8 a "terrible moment", and powerfully described in her
9 evidence in these terms:

10 "... we delay and delay a decision, and then we have
11 to slam the brakes on as hard as possible with the
12 attendant social costs and economic costs."

13 Sadly, this lack of a precautionary approach and
14 failure to learn from mistakes continued throughout the
15 pandemic, including through the summer of 2021, when the
16 government encouraged the freedom narrative which
17 contributed to the widespread view that the virus had
18 been fully contained, only for protective measures to be
19 required once again in December 2021 in response to the
20 Omicron variant.

21 My Lady, as a concluding point, it is accepted that
22 there was a need to take account of the economic impact
23 of the pandemic. However, there was a tendency towards
24 a false dichotomy that the choice was between public
25 health and the economy, when in reality these were

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1 inextricably linked. It was possible to have better
2 protected both public health and the economy, and the
3 economy would have been supported, not undermined, by
4 more precautionary public health measures.

5 Given the inevitability of further pandemics, there
6 is an urgent need to find this balance. It will involve
7 increasing NHS and public health capacity, coherent risk
8 based planning and strategies, and a precautionary
9 approach that protects those most at risk.

10 Thank you, my Lady.

11 **LADY HALLETT:** Thank you very much, Mr Stanton.

12 Mr Cohen. Ah, there you are.

13 **Submissions on behalf of the UK Statistics Authority by**
14 **MR COHEN**

15 **MR COHEN:** My Lady, I appear for the UK Statistics
16 Authority.

17 The Authority has been very grateful for the
18 opportunity that you and your team have afforded them to
19 participate in these hearings and to hear what is being
20 said. Every minute of the hearings has been carefully
21 considered, and the Authority remains determined to
22 learn any possible lessons from that which has occurred.

23 My Lady, a number of themes have been drawn out by
24 the Authority from the evidence that has emerged, and
25 I'm going to comment briefly on them on behalf of the

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1 differences in age distribution in different countries.

2 The final point to make about that table, my Lady,
3 is that mortality is dependent on a very large number of
4 variables, and indeed, like any statistic, interpreting
5 requires some caution. It may be that, on one view,
6 those statistics tell the Inquiry something about the
7 measures that were put in place in one country versus
8 another, but it is equally possible that other variables
9 in those different countries have had an effect on the
10 results. So some caution is required before
11 interpreting that table as if it were a ranking of
12 different countries.

13 My Lady, the second point that the Authority wishes
14 to make is about data sharing and data access. A common
15 theme in the evidence that you have heard has been the
16 concern, particularly early in the pandemic, as to data
17 sharing and getting hold of the information that was
18 required.

19 You may recall, my Lady, that Professor Sir
20 Ian Diamond enlarged on this in evidence, observing
21 "sharing data, or being able to link data together, has
22 the potential to provide evidence to improve the lives
23 of all our fellow citizens in a way that almost nothing
24 else does, and that requires easy, ethical, privacy
25 enhanced data sharing".

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1 Authority.

2 The first is that in recent weeks, and indeed this
3 morning, you've heard evidence and submissions by
4 reference to a table which was originally presented in
5 evidence by Professor Sir Ian Diamond, the National
6 Statistician.

7 The reference for that is INQ000292765, page 10.

8 My Lady, plainly it is not the role of the Authority
9 to seek to referee any dispute between different
10 core participants as to what the statistical evidence
11 that they have presented means. If anything, my Lady,
12 that's a matter for you. However, I am instructed to
13 offer some observations by way of context in relation to
14 that information.

15 The first point to make is that those statistics --
16 which were, as I say, presented in evidence by the
17 National Statistician -- represent the best available
18 information, and the Authority stands by them.

19 The second point to make is that, to an extent, some
20 of the data in that table has been corrected, because it
21 is based on a standard European population and control
22 mechanisms have been used. Most particularly that means
23 that the age distribution of individuals in a given
24 population has been corrected and, as such, what that
25 data cannot be said to have been skewed by is

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1 My Lady, that is a clarion call on behalf of the
2 data professionals involved in this process, and the
3 ultimate need is to ensure that there are clear and
4 consistent ways in which data can be shared. This might
5 involve systems such as the integrated data service
6 that's currently being developed by the ONS, which
7 involved using trusted research environments to ensure
8 that data can be shared in a way which also commands
9 public confidence, because the Authority is very well
10 aware of the concerns that the public legitimately have
11 at ensuring that their privacy is respected.

12 My Lady, the third topic that I want to visit
13 briefly on behalf of the Authority is the difficult
14 issue of including information as to ethnicity on death
15 certificates.

16 My Lady, as Sir Ian Diamond explained, he entirely
17 agrees with the sentiment that it is vital that there is
18 accurate information about the ethnicity of those who
19 have died. You heard evidence, particularly from
20 Ms Badenoch, in which she suggested that she wasn't
21 clear why that wasn't recorded, and it might simply be
22 that it was not something anyone had ever really thought
23 about. My Lady, there's no criticism of the witness for
24 that observation, but in fact it is an issue which has
25 been given the most anxious consideration.

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1 The system is under change: in 2024 and from then on
2 there will be a way of taking the self-identified
3 ethnicity from a person's medical records and including
4 that in mortality data, and the work that you heard
5 evidence about from Professor Nazroo also continues to
6 try and find the best and innovative ways of tracing out
7 ethnicity and mortality and linking them together. But
8 there is a real concern about taking a situation in
9 which a person has died and is unable to say "Actually,
10 no, that is not my ethnicity", and effectively deeming
11 it after they've died to be the case. It's an issue
12 which causes grave concern.

13 So this is a matter on which work is ongoing. It
14 doesn't necessarily admit to an easy answer, my Lady,
15 and the Authority is anxious that well-meaning
16 recommendations that ethnicity ought to go on death
17 certificates don't open a course which would be unwise.

18 My Lady, the final theme to visit is really probably
19 the most important single point that the Authority wish
20 to raise, and represents something of a -- well, it's
21 a point that they certainly emphasise greatly.

22 You heard evidence from a number of witnesses,
23 including Mr Cummings and others, that there was a lack
24 of scientific literacy in Number 10 and in other parts
25 of government, and there were references to the need to

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1 **MR COHEN:** Yes, my Lady.

2 **LADY HALLETT:** -- and the number of caveats that you said in
3 relation -- don't use it as rankings, although you also
4 said the Authority stands by the figures.

5 What would be the best description, a very rough
6 guide? I mean, is there any -- are you in a position to
7 be able to give me any description?

8 **MR COHEN:** My Lady, it may be best for us to do this in
9 writing --

10 **LADY HALLETT:** Thank you.

11 **MR COHEN:** -- because the statistical experts on whose
12 behalf I speak are doubtless all too aware that I am not
13 a statistical expert, and they would want to make sure
14 that what's said is accurate.

15 **LADY HALLETT:** If they could provide, in as laywoman's
16 terms, as best they can, how reliable it would be as any
17 kind of guide, that would be a great help, and
18 explaining what you've explained about the caveats.
19 Because, as you know, some core participants have placed
20 some considerable emphasis on it.

21 **MR COHEN:** My Lady, yes.

22 **LADY HALLETT:** Thank you very much indeed, Mr Cohen. I'm
23 sorry to press you.

24 Mr Phillips? There you are.

25

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1 bring in external professionals who could provide their
2 expertise on these matters.

3 The Authority would simply say that it's important
4 not to overlook, whenever a crisis emerges, that the
5 UK Government is already fortunate enough to have very
6 expert individuals in bodies such as the UKSA but also
7 in GO-Science, and, rather than rushing to bring in
8 external individuals, one of the paramount lessons of
9 this experience is the need to ensure that the
10 government's own scientific expertise is used as rapidly
11 as possible and that, for instance, figures such as the
12 National Statistician are involved from the very first
13 to ensure that they are able to give their perspective
14 and to feed into the process.

15 My Lady, you will receive some additional written
16 submissions from the Authority, but that is all I say on
17 their behalf today, save for acknowledging that they
18 have listened with sorrow and great sympathy to the
19 evidence that you've heard from those who have been
20 directly affected by the Covid pandemic, and they
21 reiterate their sympathy and condolences to each of
22 those individuals.

23 My Lady.

24 **LADY HALLETT:** Mr Cohen, can I press you on one point that
25 you raised, just in relation to the table --

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1 **Submissions on behalf of the National Police Chiefs' Council**
2 **by MR PHILLIPS KC**

3 **MR PHILLIPS:** My Lady, as you know, the National Police
4 Chiefs' Council is a national co-ordinating body that
5 represents all UK police forces, and of course in this
6 Inquiry it is a core participant representing UK
7 policing. The police were, on any view, one of the key
8 frontline organisations during the pandemic.

9 In his oral evidence to you, former assistant
10 commissioner Martin Hewitt, who chaired the organisation
11 throughout, noted two particular impacts of the pandemic
12 on policing.

13 First, the NPCC recognised very early on that the
14 pandemic required a dedicated police response. The
15 national co-ordination of that response, established in
16 March 2020, was Operation Talla. As you know,
17 Operation Talla covered just about every area of
18 policing activity, and deployed the available resources
19 of the NPCC.

20 Secondly, it was clear to the NPCC that normal
21 policing activity, including the prevention and
22 detection of crime, would have to carry on despite the
23 challenging conditions and would, of course, continue
24 after the end of the pandemic, whenever that was.

25 As I said in my brief opening submissions, the

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1 pandemic of course posed a wide range of challenges in
2 every aspect of public and private life. Policing and
3 police officers faced many such challenges, as the
4 pandemic affected every part of the service.

5 On the one hand, there was the impact of the virus
6 itself. Officers had to discharge their duties without
7 knowing how long the pandemic would last, what the
8 impact of infections and isolations would be on police
9 resources, how the safety and welfare of individual
10 officers and members of staff, as well as the people
11 they came into contact with, could be effectively
12 ensured; and you may remember Martin Hewitt succinctly
13 put it that you can't police at 2 metres' distance.

14 On the other hand, the police were expected, under
15 the Coronavirus Act and the Covid regulations, to
16 interfere with people's lives and with their freedom of
17 movement in a way that neither the police nor the public
18 had ever experienced before.

19 In his evidence to you, Mr Hewitt described seeing,
20 at the start of the pandemic, the policing measures
21 implemented in other countries where the virus had
22 spread ahead of the UK, and thinking that such measures
23 had not been seen since the Second World War.

24 Operation Talla was therefore an unprecedented
25 national response to this unprecedented situation.

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1 Any attempt to assess the police response to the
2 pandemic solely by reference to the number of FPNs
3 issued involves focusing disproportionately on the final
4 stage of the four Es process. The overwhelming majority
5 of police contact with the public and the police's
6 achievement in securing compliance with the regulations
7 came as a result of the first three Es.

8 The four Es guidance of course reflected another
9 fundamental point highlighted both by Mr Hewitt and by
10 Dame Priti Patel in their evidence to you, which is that
11 in this country we have policing by consent. The task
12 faced by the police in the pandemic was to encourage the
13 public to comply with regulations which were judged by
14 government to be both in everyone's best interests,
15 whilst at the same time retaining their trust, and
16 I said to you in my opening that that was a formidable
17 assignment.

18 Dame Priti Patel in her evidence said that the
19 police had been asked to almost do the impossible.
20 Their task was as always to enforce the law, and
21 I stress again that it was no part of their remit to
22 enforce government policy, still less to enforce
23 government guidance.

24 However, as you've now heard from a number of
25 witnesses, that task was made the more difficult by the

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1 However, my Lady, it bears repeating that at all
2 stages of the pandemic the work of the NPCC and of
3 Operation Talla encompassed far more than the
4 enforcement of the Covid-19 restrictions, in terms of
5 the co-ordination of that national policing effort.

6 Moreover, the NPCC itself played no direct role in
7 the enforcement of the regulations, the policing issue
8 on which the Inquiry has chosen to focus during this
9 module.

10 As you know, and so far as enforcement by the police
11 was concerned, this remained at all times the
12 responsibility of individual officers and forces.

13 However, a vital aspect of the NPCC's work was the
14 production, the dissemination of clear and accurate
15 briefings and formal guidance for forces in conjunction,
16 of course, with the College of Policing.

17 The key guidance, as you will recall, was issued by
18 the NPCC and the college in March 2020, and it was the
19 four Es approach: engage, explain, encourage, enforce.
20 That approach, I would suggest, was inherently flexible
21 and the message was simple: enforcement was the last
22 resort after the first three Es had been undertaken.

23 As Martin Hewitt explained to you, compliance, not
24 enforcement, was the object of the exercise and, I would
25 suggest, the proper metric of success.

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1 frequent changes to the regulations, by the speed of
2 those changes, by the lack of consultation and little or
3 no notice given to the police before changes were
4 enacted, and of course by the frequent discrepancies
5 between the terms of the legislation on the one hand and
6 government guidance or ministerial statements concerning
7 it on the other.

8 You heard, I would suggest, compelling evidence from
9 Martin Hewitt about the difficulties which this caused
10 the service in the largely uncharted territory of
11 public health policing, despite what he also emphasised
12 to you was a very strong working relationship with the
13 Home Office. So it was significant that the then
14 Home Secretary herself accepted in her evidence to you
15 that the process of enacting regulatory changes was
16 "suboptimal at every single level".

17 It's no exaggeration to say, my Lady, that UK
18 policing and its leaders had to draw very heavily on
19 their reserves of flexibility and resilience as they
20 adapted to the novel responsibilities conferred on the
21 service and sought to keep the public safe.

22 My Lady, the issue of the enforcement of Covid
23 regulations has played a very minor part in these
24 hearings, which have of course been largely devoted to
25 high level government decision-making. Indeed, it's

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1 been a striking feature of the many, many hours of
 2 submissions you've heard so far today that none has made
 3 any reference to, still less any criticism of, the
 4 enforcement by the police of the regulations: a fair
 5 indication, I would suggest, of the very modest role the
 6 question has played in these hearings. It features,
 7 you'll remember, as a single sub-issue in your lengthy
 8 list of issues, and only one day of evidence was
 9 directed to it. On that day, you heard, as I've said,
 10 from Mr Hewitt on behalf of the NPCC, and my submission
 11 to you is that his evidence was considered, balanced,
 12 reliable and authoritative.

13 My Lady, we'll put in detailed written submissions,
 14 of course, drawing on that evidence and on the other
 15 material the Inquiry's gathered in in relation to
 16 policing, but of course if we can assist you in any
 17 other way, we're ready to do so.

18 **LADY HALLETT:** Thank you very much indeed, Mr Phillips.

19 I understand that those who are still to speak were
 20 given a listing of tomorrow and would prefer to stick to
 21 tomorrow. So unless there's anybody who is particularly
 22 anxious to speak tonight, we shall pause now and return
 23 for 10 o'clock tomorrow; and I'm extremely grateful to
 24 everyone who has spoken today for admirably, almost to
 25 a man and woman, sticking to their time limits.

1 Thank you very much. 10 o'clock tomorrow.

2 (3.55 pm)

3 (The hearing adjourned until 10 am
 4 on Thursday, 14 December 2023)

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