

Witness Name: Rt Hon Mark Drakeford MS

Statement No: 1 in Module 2

Exhibits: 195

Dated: 14/09/2023

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**UK COVID-19 PUBLIC INQUIRY**

**WITNESS STATEMENT OF THE RT HON MARK DRAKEFORD MS**

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I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 7 February and referenced M2 – DRAKEFORD – 01.

I, the Rt Hon Mark Drakeford MS, will say as follows: -

**Preface**

1. The pandemic touched the lives of everyone: my own, my colleagues, our communities, but none more so than the many families who lost loved ones. I want to acknowledge this loss at the outset of this statement, just as I have in my previous statements and take this opportunity to express my personal sympathies and sincere condolences, to those affected, and to all who sadly lost loved ones, across the nations. The pain and sadness of their losses will last a lifetime and I will continue to recognise this at every opportunity. Sadly, too many families have lost loved ones. This cruel virus has stolen lives and it has left their loved ones with questions, which they rightly want answered. I would also like to take an opportunity to recognise the suffering of those who continue to live with the debilitating after-effects of the virus. We continue to learn not only of the impacts on our health but on our society as whole. I, and the Welsh Government, are committed and will remain committed to this Inquiry and to learn lessons for the future.
2. This statement relates to Module 2 of the Covid-19 public inquiry. The focus of this module is the UK Government's relationship with the devolved governments in Wales, Scotland, and Northern Ireland as well as the English regional and local authorities. I have been asked in this statement to give my views on the core political and administrative decisions of the UK Government and their inter-relationship with Wales but not the Welsh processes and decisions. These will be set out in Module

2B which has a specific focus on Wales. The period covered by this statement runs from January 2020 to May 2022 (the “specified period”). I make this statement in my capacity as the First Minister of Wales.

### **My Role and My Responsibilities**

3. I was elected as the First Minister of Wales on 12 December 2018 and remain in this position. Following the Senedd election on 6 May 2021, I was re-appointed as First Minister on 13 May 2021.
4. My responsibilities are set out in exhibit **MD/01- INQ000216614**. An important part of my role is to lead inter-governmental relations and, in the context of Module 2, the Welsh Government’s relationship with the UK Government. Whilst I hold this overall portfolio responsibility, each Welsh Minister has their own bilateral relationships with their counterparts in other governments across the UK.

### **My Background**

5. I was born and brought up in Carmarthenshire and attended Queen Elizabeth Grammar School. I studied Latin at the University of Kent and graduated from the University of Exeter as a social worker. I moved to Cardiff in 1979 and worked as a probation officer, a youth justice worker and as a Barnardo’s project leader.
6. Between 1991 and 1995, I was a lecturer in applied social studies at the University College of Swansea (now Swansea University). I then moved to the University of Wales, Cardiff, (now Cardiff University), as a lecturer in its School of Social and Administrative Studies. I was promoted to Senior Lecturer in 1999 and appointed as Professor of Social Policy and Applied Social Sciences in 2003. I continued in that post, alongside my political work, until my appointment as a Minister in 2013.
7. From 1985 to 1993 I was a councillor for South Glamorgan County Council and served as Vice-Chair of the Education Committee during that time. Following Rhodri Morgan’s appointment as First Minister in 2000, I became a special adviser on health and social policy and later served as the head of the First Minister’s political office. I succeeded Mr Morgan as the Assembly Member for Cardiff West when he retired in 2011. Immediately after, I became the Chair of the Welsh Assembly’s Health and Social Care Committee and of the All-Wales Programme Monitoring Committee for European Funds.

8. In 2013, I was appointed as Minister for Health and Social Services in the Welsh Government and served in that role until 2016. Following the May election of that year, I became Cabinet Secretary for Finance and Local Government. Later in 2016, I assumed responsibility for the Welsh Government's Brexit preparations. I became First Minister and Leader of Welsh Labour in 2018 and I was appointed a Privy Counsellor on 13 February 2019.
  
9. There are three points that I would like to make regarding the relevance of my background to decision-making during the Covid-19 pandemic:
  - a. First, I have worked inside the Welsh Government, including a decade in the First Minister's office, since the outset of devolution in 2000. I consider that my accumulated knowledge from this lengthy period at the centre of the Welsh Government greatly assisted my understanding of how devolved government and the machinery of government worked and should work;
  - b. Second, I was fortunate in that I have worked as both Health Minister and Minister for Local Government and was thus familiar with the work of the NHS and local government in Wales and how those bodies interacted with the Welsh Government. Personal relationships with many members across both these sectors had been developed over many years;
  - c. Third, I also had the experience of working as Finance Minister, which helped me to be able to understand the complex issues of government and inter-government finance and thus respond during the pandemic to extraordinary funding issues that suddenly came our way. I was a regular visitor to HM Treasury as Finance Minister dealing with the Chief Secretary and I negotiated the current funding regime for Wales.
  
10. I have had some experience of planning for epidemics before the specified period under consideration in this Inquiry;
  - a. During my time as special adviser to the First Minister, there was a SARS outbreak. I was present at meetings between the Health Ministers of Wales and Scotland and the Secretary of State for Health, to discuss UK pandemic planning. I was involved in both the preparation and the planning of our anticipated response to this potential epidemic;
  - b. Then, during my time as Health Minister, there was an outbreak of Ebola in certain African countries, which threatened to be imported into the UK. Our planning discussions on that occasion were not limited to health, but covered

other areas of government including the management of our borders and how to contain potential infections in people who entered the country from areas with the Ebola outbreak. I was more extensively involved in putting in place all the necessary arrangements on this occasion because, had there been a more widespread incidence, facilities for dealing with Ebola were not distributed in every UK nation;

- c. Neither SARS nor the Ebola outbreak resulted in a serious pandemic within the UK, but I was involved in the preparation and planning and that experience was helpful when it came to Covid-19.

11. All that said, the Covid-19 pandemic was not like anything I or anyone else had experienced before.

### **Context for the Pandemic and Inter-governmental Working**

12. In my view it is impossible to divorce inter-governmental working during the Covid-19 pandemic from the wider context. At the end of 2019 and the beginning of January 2020, Brexit was the dominant issue. It meant that the UK Government and the devolved governments were working at capacity to prepare for a 'no-deal Brexit'. As is well known, there was a lot of political turmoil at this time. The political turmoil had consequences for the relationships between the UK Government and the devolved legislatures. The Brexit referendum had been won by a slender majority, with both Scotland and Northern Ireland voting to remain within the European Union. Within the Conservative Party highly divergent views existed as to the form of Brexit to pursue. The UK Government of the day lost a series of crucial votes in the House of Commons, as the deadline for leaving the EU drew closer. All of this contributed to the political turmoil of the time.

13. The Sewel Convention is a political convention that the UK Parliament will not normally legislate in devolved areas without the consent of the devolved legislatures. Up to the point of the general election in 2019, the convention worked well and where the Senedd did not give its legislative consent to a UK Bill which included provision within the competence of the Senedd, this was largely respected by the UK Government. However, once Mr Johnson became Prime Minister it was regularly breached, with examples including the UK Internal Market Act 2020, the Animal Welfare (Sentencing) Act 2021, the Professional Qualifications Act 2022 and the Subsidy Control Act 2022.

14. Alongside the difficulties in the relationships between the UK Government and the devolved governments created by the way in which the UK Government pursued its legislative agenda, Joint Ministerial Committee (“JMC”) meetings stopped when Mr Johnson became Prime Minister. JMC meetings provide a machinery for heads of government to meet. I refer here to the principal JMC plenary meetings and not the JMC sub-committees, namely JMC Europe and JMC EU Negotiations (JMC EN) which I understand took place during the pandemic period. As set out in the Memorandum of Understanding dated October 2013 (exhibit **MD/02-INQ000256804** refers), plenary meetings of the JMC were to be held at least once a year. I have located an early record of a JMC plenary meeting that took place on the 16 September 2009, where the former First Minister of Wales, the Rt Hon Rhodri Morgan AM was in attendance, exhibit **MD/03 - INQ000256802** refers. Issues on the agenda in 2009 were the economy, swine flu, inter-administration relations and the G20. In recent years, I understand that the JMC plenary meetings took place on 24 October 2016, **MD/04 - INQ000256942**, 30 January 2017, **MD/05 – INQ000256943**, 14 March 2018, **MD/06 – INQ000256944**, and 19 December 2018, **MD/07 – INQ000256941**. Whilst I had attended the 2016 and 2017 JMC in my capacity as then Cabinet Secretary for Finance and Local Government, the first meeting I attended as First Minister was on the 19 December 2018. The two principal agenda issues at that meeting were exiting the European Union and the state of relations. The meeting was attended by the Prime Minister the Rt Hon Theresa May, the First Minister of Scotland, the Rt Hon Nicola Sturgeon, and David Sterling, then Head of the Northern Ireland Civil Service in the absence of a Northern Ireland Executive. Each head of state was supported by ministers from their respective governments. This was the last JMC plenary that took place before the Rt Hon Theresa May’s resignation in May 2019. The JMC plenary was not used at all throughout the course of the pandemic, which is recorded in the evidence that I gave to the House of Lords Constitution Committee on the future governance of the UK, exhibit **MD/08 – INQ000216617** refers.

15. In the absence of utilisation of the JMC approach to general activity, COBR was the highest forum for interaction between governments. COBR meetings are controlled by the UK Government. They decide when they are called and whether or not the devolved governments are to be invited to attend; when the Welsh Government is invited to COBR meetings I will either delegate attendance to the appropriate minister or attend myself. As the narrative chronology below shows, as the UK entered the first lockdown, COBR meetings were held frequently albeit on an ad hoc

basis. However, as we moved to consider removing restrictions, there were long periods without any such meeting at all. When COBR meetings were held, they were not joint decision-making forums. Rather, devolved governments were informed of what the UK Government was going to do. As I set out below, I raised the absence of regular meetings between the Prime Minister and First Ministers of Wales, Scotland, and Northern Ireland on a number of occasions as I consider that it undermined the Four Nations approach to Covid-19.

#### **Initial period (January 2020 – 23 March 2020)**

16. My recollection is that at the beginning of this initial period we became aware of Covid-19 in the UK. By 24 January 2020 I had been advised by Dr Frank Atherton, CMO for Wales (CMO(W)) that there was a significant risk the virus would arrive in Wales. At this point limited information about the virus was available. On 31 January 2020 the World Health Organisation declared a public health emergency. Towards the end of January/beginning February 2020 there was a Covid-19 outbreak on a cruise ship, the Diamond Princess. I recall that by February 2020 discussions were being held about international travel and expected travel in the February 2020 half-term. However, in Wales, we went through January and February 2020 without seeing any direct impact from the virus. As we entered March 2020, Covid-19 and its seriousness became more apparent.
  
17. My perspective in early January 2020 was that the UK Government was following such science as was available and not dragging its heels. It is important to remember that there was never a time when there was a settled body of knowledge about Covid-19. This was particularly the case in the early stages but remains true even to the present day. That said, looking back on matters and given what we now know, there is strong evidence to suggest that more stringent action could have and should have been taken sooner. In the early days of 2020, we did not know that every day mattered. We do now.

#### **Integration of the Welsh Government's systems with those of UK Government**

18. In terms of integration of the Welsh Government's systems with those of the UK Government, at head of government level, they were improvised as the pandemic developed and, essentially, they were ad hoc arrangements throughout the course of the pandemic. As already explained, JMC could have been used but it was not. Indeed, one of the problems was that in reality, if the Prime Minister did not convene a heads of government meeting, it was practically impossible for the heads of the

devolved governments to do so. In other words, if the Prime Minister did not want a meeting, it would not happen. However, towards the end of the pandemic new arrangements were established as a result of the Inter-governmental Review initiated in 2018, prior to my taking up office as First Minister. Since January 2022, all four governments have agreed to use the package of reforms developed during the Inter-Governmental Relations Review as the basis for the conduct of inter-governmental relations. These arrangements seek to ensure mutual respect for the responsibilities of the governments and their shared role in the governance of the UK.

19. COBR meetings are managed by the UK Government and the production of papers to be used at its meetings rests exclusively with them. In practice, this meant that I did not see COBR papers until shortly before the meetings and it was often unclear to me and my advisers what the agenda would be until just before the meeting started. While this was a reflection of the extreme pressure under which the system was operating in all parts of the UK at that time, it nevertheless meant that non-UK ministers were always at a disadvantage in these forums, essentially reacting to proposals which had already been developed by others.
20. The first three COBR meetings in relation to Covid-19 of which I am aware were held on 24 January, 29 January and 5 February 2020. The Welsh Minister for Health and Social Services attended on behalf of the Welsh Government because these COBR meetings focused on health-related issues and that was his portfolio. Following his attendance at COBR, the outcome of those meetings was reported to me.
21. I have been asked whether my absence from these early COBR meetings had any impact on the response to the pandemic. I have reflected on that question, and I do not believe it did. I had full confidence in the Minister for Health and Social Services. We worked closely together, and he had direct responsibility for health.
22. The first COBR meeting I attended was on 18 February 2020. The Prime Minister did not attend this meeting. I attended by telephone. The CMO(W) also attended this meeting. I attended the meeting to share information, discuss actions that might be taken and to receive information about Covid-19 and the UK Government's response to it. The assumption underlying the meetings was that the response to Covid-19 would be a UK response and the decisions would be taken by the UK

Government. As the minutes record at exhibit **MD/09 – INQ000056227**, the Chair emphasised at this meeting that any Coronavirus Bill to be taken through the Westminster Parliament would cover all Four Nations of the UK. At this stage it had not been decided to go down the route provided by public health legislation.

23. On 26 February 2020, the Minister for Health and Social Services attended COBR accompanied by the CMO(W). The meeting was chaired by the Secretary of State for Health. At this meeting, as exhibit **MD/10 - INQ000056216** refers, the Coronavirus legislative policy proposals were to be expedited. It was identified that the “basic principle” of the Civil Contingencies Act 2004 was that if an emergency could be foreseen, then other legislation should be brought forward to deal with it. My understanding is an emergency Coronavirus Bill was thus considered to be the legislative vehicle. The discussion around the legislative options was from the viewpoint of the UK Government – it was the UK Government that exercised the relevant powers in the Civil Contingencies Act. However, my own impression, at the time, was that the Coronavirus Bill would mirror the essential scheme of the Civil Contingencies Act and that the primary decision-making power would remain with the UK Government, to be implemented by the devolved governments. I had not anticipated that the UK Government would use the health protection legislation as the basis for responding to the pandemic. Once that course of action had been determined it placed an onus on the devolved governments to pass corresponding legislation and below, I comment further on the unintended consequences of this decision for divergence.
24. The first Covid-19 positive case was reported in Wales on 28 February 2020.
25. On 2 March 2020, I attended COBR with the Minister for Health and Social Services, and the CMO(W), exhibit **MD/11 - INQ000056217** refers. The meeting was chaired by the Prime Minister. It was the first time he had chaired a COBR meeting relating to Covid-19. At the time I did not think anything adverse about the Prime Minister not having chaired earlier meetings – we were dealing with a health matter, and it appeared at the time to be appropriate for the Secretary of State for Health to chair the meetings. However, reflecting now and looking back on matters through the lens of what was learned subsequently, there is a clear enough case for concluding that the Prime Minister should have chaired earlier meetings and should have been more directly engaged at an earlier stage. The reasons for Prime Ministerial engagement in early COBR meetings would include the signal this would have sent as to the



seriousness of the emerging position; the greater force with which Prime Ministerial involvement communicates the need for cross-government action and the fact that the Prime Minister himself would have been better prepared, through that direct engagement, for the decisions which lay ahead.

26. In the meeting on 2 March 2020, the Prime Minister stated that the UK Government's response would be guided by the science and would focus on helping the most vulnerable and the elderly. That was an approach with which I agreed. It was agreed that the Civil Contingency Act powers could not be used because there was still time to legislate.
  
27. An update on the Coronavirus (Covid-19) Action Plan was given at COBR on 2 March. The Secretary of State for Health and Social Care is recorded as formally thanking the devolved governments for their work. As First Minister, I have no doubt that there would have been a collaborative approach to the plan on an official level. However, I think the reality was that the substance of the Four Nations' Action plan was driven by the UK Government. Welsh Government officials would have engaged to make sure the plan was accurate in relation to devolved matters and to make sure that decisions that we expected to be made at a UK level were fine tuned for Welsh circumstances. The Coronavirus (Covid-19) Action Plan was subsequently published on the 3 March 2020<sup>1</sup>. At the time the Plan was written it seemed to me to be an accurate reflection of the assessments made by the people best placed to understand the data and respond to it. However, it was overtaken by rapidly developing circumstances. This illustrates the real sense of how quickly things were changing on the ground. Advisers were implementing a well-established public health response, but the pandemic was unlike anything that had been dealt with previously.
  
28. I did not attend COBR on 4 March as I was attending a cultural event in Brussels as part of the St David's celebrations, the minutes of which are exhibited as **MD/12 - INQ000056218**. The meeting was chaired by the Secretary of State for Health and Social Care and attended by the Minister for Health and Social Services, the CMO(W), Reg Kilpatrick (who was then Director of Local Government in the Welsh Government) and Chrishan Kamalan (Coronavirus response, part of the Welsh Government Health and Social Services Group). At this meeting, the Minister for

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<sup>1</sup> [Coronavirus \(COVID-19\) action plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/coronavirus-covid-19-action-plan)

Health and Social Services sought clarity from HM Treasury about how funding would be provided to the devolved governments to respond to Covid-19 and an offer was made on behalf of the Treasury to arrange a meeting to discuss that issue before the UK budget announcement. I believe the meeting on 4 March 2020 was the first to consider non-pharmaceutical interventions (NPIs) in detail. Issues such as social distancing, school closures, discouraging mass gatherings and social isolation were discussed. In summing up the Chair noted that some of the decisions would be devolved but agreed that the UK should take a Four Nations approach to this problem and stick to the science.

29. On 4 March 2020 the CMO(W) presented SAGE advice on reasonable worst-case scenarios to Cabinet. The minutes of that meeting are exhibited at **MD/13 – INQ000216456**. At the time the reliability of the forecasts was still uncertain, and the experts were telling us that their understanding was still developing. Nevertheless, the suggestion was bleak, and we relied on the broad thrust of what we were told. Evidence of the impact of Covid-19 was emerging from elsewhere in the world. Italy provided a vivid illustration of the spread and impact of the virus, albeit that differences between our health service and the provision elsewhere continued to make direct comparisons complex.
  
30. It was a comfort to me at this early stage of the pandemic to know that SAGE would meet regularly. The expectation was that relevant expertise would be shared and discussed to enable all ministers to be provided with the necessary evidence upon which to make our decisions. I am a strong supporter of the concept of SAGE. Unfortunately, there was no reliable protocol which made it clear that SAGE worked for all Four Nations, not just England. “Enhanced SAGE Guidance” meant that the Welsh Government (i) had to ask COBR to make SAGE advice available to the Welsh Government and (ii) could not ask SAGE to carry out bespoke research for it without prior agreement from COBR. I consider that from the very beginning the information flows should have been made readily available to Wales and all devolved nations, just as they were to England. In addition, Wales should have had an equal right to go to SAGE and to commission specific pieces of work. By way of example, the Welsh Government were not invited to the precautionary SAGE that was held on 22 January 2020, but an update was provided from the SAGE mailbox to the Welsh Government on 24 January 2020, exhibit **MD/14 – INQ000252498** refers. It was decided at the precautionary meeting that devolved governments would go through their respective Chief Medical Officers. I understand access to

SAGE documents was facilitated by SAGE and that the Welsh Government was given access to an online repository of SAGE documents including all the previous papers on 8 April 2020.

31. Initially the scientific papers received by SAGE were not shared with the Welsh Government. Instead, we would receive summaries of the information received including the science as it emerged. Whilst there are advantages to having the source documents, the summaries provided by SAGE were a useful tool at the time. The pandemic and the response to it was fast-moving. There was a lot of information to absorb and analyse. The summaries enabled ministers, including myself, to understand the scientific information and the response to it that we were being advised to take. Thus, ministers, including myself, did not rely on the actual scientific papers, although the scientists who were advising us did. Thankfully, the Welsh Chief Scientific Adviser for Health (CSAH) was well connected with the relevant scientific community and well regarded by SAGE. He attended SAGE regularly. In addition, the CMO(W) attended the Four Nations CMO meetings which again took place regularly and often presented agreed medical advice to COBR.
32. Returning to COBR, there was a COBR meeting on 5 March 2020, exhibit **MD/15 – INQ000216492**. At that meeting, the CMO(E) advised that the UK Government would need to start preparations to move from the 'contain' phase to the 'delay' phase in the next two weeks. The devolved governments agreed with that approach. It was also noted at this meeting that COBR would now be held daily.
33. The decision to move from the 'contain' phase to the 'delay' phase was made at COBR on 9 March 2020 which was chaired by the Prime Minister. I attended this meeting as did the Minister for Health and Social Services, the CMO(W) and Reg Kilpatrick, Director of Local Government. The context of the meeting can be seen from the minutes at exhibit **MD/16 - INQ000056219**. The Welsh Government has its own note of this meeting at exhibit **MD/17 – INQ000216493**. There are significant differences between the two notes, and they need to be reviewed together. The purpose of the meeting was to discuss delaying the peak of the virus. The meeting highlighted for the first time that the spread of Covid-19 in devolved nations was not at the same stage as England. It was therefore necessary to consider at this meeting whether the implementation of the response should be staged or uniformly implemented. According to the Welsh Government's note of the meeting the First Minister for Scotland and myself raised concerns with the Prime Minister at this

meeting that the UK Government seemed to be moving away from reliance on the medical and scientific advice in two ways. Firstly, the Prime Minister proposed individual isolation of a person where they showed “serious flu like symptoms”. The SAGE paper for the meeting, exhibit **MD/18 - INQ000056179** refers, recommended home isolation of “*symptomatic cases*”, which was defined as “*exhibiting mild respiratory symptoms*”. The policy paper from the CMO(E) and DCMO(E), exhibit **MD/19- INQ000048006** also recommended home isolation where a person had “*mild symptoms*”. The First Minister for Scotland argued that in order to move away from the advice in that way, updated advice would be needed from the four CMOs. The Cabinet Office note of the meeting confirms this to some extent, noting a discussion point at §7 “*further detail on whether there was a need to distinguish between those with serious symptoms and those with mild symptoms would be helpful*”. Also, in the Cabinet Office note the CMO(E) is recorded at §8 as advising that self-isolation for “*serious flu-like symptoms*” should be reiterated to the public now - that was not a change in medical advice – the next step would be for mildly symptomatic people to self-isolate, which should be done in the next 10 days. Secondly, the written advice was to consider household isolation that week. In the Cabinet Office note, the CMO(E) is recorded as advising that household isolations were not required immediately and could be triggered later. The Welsh Government note discloses that I challenged the Prime Minister on that point and expressed the view that if the advice was not going to be followed, we had to be clear with the public about that. However, the Prime Minister did not accept that the proposed course of action was inconsistent with the scientific advice for that meeting.

34. The COBR meeting on 11 March 2020 was chaired by the Secretary of State for Health and Social Care, exhibit **MD/20 - INQ000056220** refers. The Welsh Government was represented by Chrishan Kamalan, Coronavirus response, Reg Kilpatrick, Director of Local Government and the CMO(W). The advice of the CMO(E) to this meeting was that Covid-19 was on an upward trajectory. The UK was thought to be 4-6 weeks behind Italy, which was still thought to be some way behind their peak. As the minutes record, it was accepted that there needed to be an ongoing dialogue with the devolved governments as the Coronavirus Bill progressed. When discussing communications, the different context of the “delay” phase on the border between England and Wales was discussed. At the time this was a hypothetical discussion as the Four Nations approach remained clearly in the driving seat.

35. On 11 March 2020 the first confirmed case of community transmission was reported in Wales.
36. I attended COBR on 12 March 2020, which was chaired by the Prime Minister, exhibit **MD/21 - INQ000056221** refers. Also in attendance were the Minister for Health and Social Services, the CMO(W), Chrisan Kamalan, Coronavirus response and Reg Kilpatrick, Director of Local Government. This meeting finally adopted the policy of home isolation for mild symptoms (which had been discussed on 9 March). There was a debate at this meeting about mass gatherings. It is recorded that in discussion this was said to be the hardest intervention to call as the evidence was not there to prohibit mass gatherings, especially for outdoor events. The minutes record that according to the Chair the advice from SAGE was that there was low confidence in the effectiveness of cancelling mass gatherings on limiting the spread of the virus. I recall that at the time mass gatherings were in my view an unwelcomed distraction for our emergency services. I was also significantly concerned because of the need for consistency of public messaging; not because of any clinical or scientific advice that I had received (see the minutes of the Welsh Government's COVID-19 Core Group meeting on 11 March, exhibit **MD/22 – INQ000216471** at §§ 3 and 9 refers). I felt strongly that to say on one hand stay at home but on another to say that it was fine to attend the Cheltenham Festival, or a concert was confusing. I considered that mass gatherings should be prevented. The First Minister for Scotland agreed and said she would take action in relation to such events in Scotland. I exhibit as **MD/23 INQ000216467** an email sent by my private secretary Carys Evans on 11 March that records that I had discussed the issue of mass gatherings with the First Minister of Scotland who was going to press the Prime Minister at COBR the following day. The COBR minutes of 12 March record that at that meeting the Scottish Government did state that they were minded to advise against mass gatherings of more than 500 because of the impact on emergency workers and the need to prioritise the response to Covid-19. My recollection is that all three devolved nations held the same view as did the Mayor of London. Our views were stated at this meeting and the Prime Minister listened. However, his decision was that there would be no legal prohibition against mass gatherings at this stage. The context for the discussion on mass gatherings at COBR was the imminent Wales v Scotland Six Nations Rugby match and that, from my recollection, was understood by those present at COBR. In the end, the scientific advice that I received did not justify the Welsh Government interfering with whether or not the game proceeded see exhibit **MD/24- INQ000216468**.

37. The scientific advice to the COBR meeting of 12 March, as recorded in the minutes, was that the UK was approximately four weeks behind Italy, the number of cases in the UK was growing, estimated at 5-10,000. It was acknowledged that whilst the epidemic would start slowly it would increase quickly. In this meeting the GCSA outlined that the thinking was to flatten the curve and delay the peak until the summer when it was thought transmission may be lower. The strategy aimed to protect the most vulnerable, with the meeting being advised that a good outcome would be that by September 2020 herd immunity would be established. From my perspective, herd immunity is a well-established term in epidemiology relating to herd acquired resistance through natural exposure or immunisation. It thus did not surprise me that it was being considered and discussed in this meeting.
38. In Wales on or around 15 March 2020 the CSAH and HSS-Primary Care and Health Science wanted to know whether the NHS in Wales was capable of fulfilling the projected capacity requirements (1500 ICU beds, 15,000 beds) to satisfy a herd immunity strategy. If that confirmation could not be provided, then an alternative approach which would include more stringent interventions would be needed. In that event careful consideration would need to be given to a non-herd immunity strategy including length of societal shut down, likelihood of vaccine not being produced, and possible outbreak during winter flu season amongst many others. This accords with my recollection that by this time the projections of what a herd immunity strategy might entail were already demonstrating that it was not a feasible approach. The NHS would be overwhelmed. A different approach was required. These exchanges in mid-March were the final confirmation that herd immunity was not a practical possibility. As far as I was concerned by this point it was no longer a serious policy contender.
39. The next COBR meeting was held on 16 March 2020, chaired by the Prime Minister, exhibit **MD/25 – INQ000056210** refers. I attended this meeting with the CMO(W). Our attendance would have been in a virtual capacity. The Minister for Health and Social Services attended in person.
40. By the middle of March, it was very clear that matters were moving very quickly. Remote participation was both less familiar, and more rudimentary than was to become the case. In-person meetings were still the default position, and participation at a distance came with some sense of being at a disadvantage, albeit

that conscious efforts were made to mitigate this risk. Despite the disadvantages of travelling to London, therefore, the decision was made to ask the Minister for Health and Social Services to attend in person, to ensure that the Welsh perspective could be directly communicated in any decisive conversations. The meeting was told that the UK was now at the cusp of the fast upward swing of the infections. To provide context it is worth noting that by this time in the UK there were 35 confirmed deaths (14 of which were in London), 20 as yet unannounced further deaths and 55 cases in ICU. The first Covid-19 related death was recorded in Wales on 16 March. It is unclear if that death was amongst those set out in the figures provided to this meeting.

41. The minutes of 16 March COBR record the meeting being informed of four proposed intervention measures which were to be for England and NHS England only. Scotland had its own unique package of measures for the NHS in Scotland. The meeting recognised the importance of the devolved governments having sight of the advertising campaign prior to release as English based media is widely accessible in the devolved nations.
42. The context of the COBR meeting of 16 March was that decisions had already been taken in Wales to prepare for the expected impact of Covid-19 on key public services. We were the first nation in the UK to suspend routine NHS activity on 13 March 2020.
43. At the meeting on 16 March, UK Government advice had shifted in relation to mass gatherings. It was now that they should not go ahead. Public and emergency cover was no longer to be provided to such events. However, this was still to be advice rather than a ban. It was recognised that there needed to be clarity around the definition of a large gatherings as Northern Ireland and Scotland had set this at 500. The Mayor of London argued that mass gatherings should not simply be advised against but should be banned. The UK Government's position remained that mass gatherings would be advised against, not banned. The meeting of 16 March took place after the intense interest which surrounded the Wales v Scotland rugby match. The WRU postponed the fixture on 13 March. The experience led me to support, strongly, the position taken by the Mayor of London – a position which I had already advocated at COBR on March 12.

44. The issue of measures that could be taken in educational settings, short of closure, was also discussed in the meeting of 16 March, with a specific action for the UK Department of Health and Social Care and Department of Education to explore with the devolved administrations measures short of closure.
45. The records show that after COBR on 16 March 2020, four Ministerial Implementation Groups (MIGs) were established: - Healthcare, General Public Sector, Economic and International. The structure as delineated in exhibit **MD/26 – INQ000087163** is silent on the expected interaction with devolved governments. The structure was entirely devised by UK ministers with their own structures in mind. The structure did not fit badly with devolved responsibilities, and I would not wish to argue that there was an alternative that would obviously have been preferable. The significance lies more in the mindset which the proposals exposed: decisions were to be taken by UK ministers, to suit UK ministers, with others invited to accommodate themselves to decisions already taken. The terms of reference for the Healthcare MIG, exhibit **MD/27 - INQ000256812**, demonstrate that it was a UK Government decision-making group to which the devolved governments were invited depending on the agenda.
46. Early on during the pandemic the Secretary of State for Wales and his special adviser were making a number of enquiries of me and my special adviser, Jane Runeckles. One particular example of this type of communication is the Secretary of State for Wales's letter to me on 16 March 2020 asking me to convene a meeting with him and representatives of business and trade unions in Wales, exhibit **MD/28 – INQ000256817** refers. I responded the same day pointing out that the Welsh Government was already liaising with those organisations, as key partners, and that I didn't want to cause any distraction to the efforts that were already underway. I would however invite the Wales Office where it would be mutually beneficial, exhibit **MD/29 – INQ000256819** refers.
47. Education is devolved in Wales. On 18 March 2020 it was announced that schools in Wales would close early for the Easter holidays. They were to be re-purposed to make provision for the children of keyworkers and vulnerable children by 20 March 2020 at the latest.
48. On 18 March 2020 I attended COBR with the CMO(W) and Reg Kilpatrick. The minutes exhibited at **MD/30 - INQ000056211** record that the meeting was chaired



by the Prime Minister. At the beginning of the meeting, he re-iterated the importance of working together, across the Four Nations, to agree an approach to potential school closures. The closure of schools on 20 March (in effect bringing forward the school holidays) was agreed at this meeting. It was also agreed that a minimal school service should be made available for the children of key workers and for vulnerable children, and that schools should be asked to stay open over the holidays to provide childcare for the children of keyworkers. The meeting acknowledged that each of the Four Nations had a current examination regime, but all agreed that they would look to other arrangements to ensure that pupils were awarded the qualifications they would have achieved in other circumstances. The Welsh Government read-out of this meeting, exhibit **MD/31 – INQ000256807**, makes it clearer that Wales and Scotland had already decided by the time of the COBR meeting to re-purpose schools as of 20 March and the COBR decision was being made “in light of” those decisions. The Secretary of State for Education noted that schools were already taking unilateral decisions to close, which is what we had been experiencing in Wales.

49. On 19 March 2020, NHS England published its hospital discharge guidance without giving the Welsh Government any prior notice. Guidance for NHS England is a matter for them. In more normal, orderly times the Welsh Government would probably have been consulted prior to its publication. However, I do not take a sinister view of the lack of prior notice. I consider that we need to remember that we were all working at great pace in extraordinary times and sometimes normal protocols could not be followed and sometimes they were just overlooked.
  
50. I recall that by 16 March 2020 I had received verbal messages from the Mayor of London’s office. I knew that the situation in London was difficult, and I was being asked to add our voice to the need to respond urgently to the situation. I did lend my voice as asked because the situation in London was pressured. I did raise the issue with the Prime Minister, but I was not telling him something he did not already know. Further, in the week leading up to 20 March 2020, my special adviser, Jane Runeckles, had conversations with the special advisers for Nicola Sturgeon, the First Minister for Scotland, and the special adviser to the Mayor of London about the real challenge of London services to cope. My understanding was that the Mayor of London intended to press the Prime Minister at COBR on 20 March 2020 to go further and faster with putting measures in place to prevent the spread of the virus in London. I supported him in that argument, as I had said I would do.

51. On 20 March 2020 at 11.15, my office was provided with a minute of the Prime Minister's Covid-19 Strategy Meeting, exhibit **MD/32 – INQ000256808**, which showed that the Prime Minister was considering closing businesses, and action 3 records: *“CABINET SECRETARIAT to prepare to convene COBR should the Prime Minister's decision be to ask any businesses to close down, and consider whether to invite the Devolved Administrations and / or the Mayor of London depending on the decision on geographical extent.”* I was somewhat surprised at the prospect of the devolved governments not being invited to COBR and I asked for the UK Government to be pressed to ensure the devolved governments were invited, exhibit **MD/33 – INQ000256810** refers.
52. The COBR meeting on 20 March 2020 at 16.00 was chaired by the Chancellor of the Duchy of Lancaster, exhibit **MD/34 - INQ000056212** refers. The Minister for Health and Social Services was at this meeting. The meeting recommended that the Public Health Act 1984 be used rather than the Civil Contingencies Act 2004 as the legal basis for government action in responding to the pandemic.
53. At the start of the pandemic, my expectation was that decisions about governmental responses to the pandemic, including lockdowns, would be taken on a UK-wide basis by the UK Government. Looking back now, I think that assumption was based on my recollection that previous planning for pandemics appeared to assume that civil contingency powers would be the primary instrument used within a widescale pandemic. It seemed to me that this was a generally held assumption amongst governments across the United Kingdom.
54. It was not clear to me that, when this decision was taken, the UK Government fully appreciated the extent to which decisions would then be made by the devolved governments and I cannot recall any early discussion about the possibility that using the Public Health (Control of Disease) Act 1984 would lead to powers being exercised differently in different parts of the United Kingdom. Once the UK Government made the decision to use health protection powers, there was a duty on the Welsh Government to use these powers to protect our population during the pandemic.
55. I recall that in Wales between 18 March and 23 March 2020 discussions shifted to consider the imposition of NPIs and in particular, whether in Wales we needed to

wait for legislative powers under the Coronavirus Act 2020 which had yet to receive Royal Assent or whether public health legislation already in existence could be used to close some businesses, including pubs and restaurants.

56. Over the weekend of 21-22 March 2020, I met the Minister for Health and Social Services and Welsh Government officials. I recall I spoke with the First Minister for Scotland on Sunday afternoon. On 21 and 23 March 2020 I used public health powers to make two sets of regulations in Wales to impose restrictions. I had expected a COBR meeting on 22 March 2020 to discuss the case for lockdown, but this meeting did not take place, **MD/35 - INQ000216469** refers.
57. On 23 March 2023 I had a meeting with my Cabinet, and I placed a call with the First Minister for Scotland and another with the First Minister for Northern Ireland. That afternoon there was also an informal meeting of the Shadow Social Partnership Council. The gathering pace of anxiety about Covid-19 amongst the public and amongst our advisers was reflected in the gathering pace of decision-making.
58. The advice the decision makers was receiving was changing rapidly. Only 10 days or so previously I had been advised that there was no strong public health reason to stop the Wales v Scotland match. Now we were all on the cusp of the first national lockdown and I was receiving advice from the CMO(W) which left me in no doubt that Wales needed to sign up to a national lockdown. Cabinet minutes from 23 March 2020 as set out in exhibit **MD/36 – INQ000048923** note that officials were working on plans to lockdown Wales whether by mirroring plans made by the UK Government or if necessary, to make separate arrangements. There was no active consideration in Wales to move outside the Four Nations approach, but I was concerned that the UK Government appeared reluctant to act.
59. My recollection is that the lockdown strategy was devised by the UK Government in a compressed period of time. My perception was that the UK Government made the actual decision to impose a national lockdown on 23 March 2020. I do not know what discussions took place within the UK Government around lockdown, but I gained the impression that there was a reluctance in some quarters to go down that route. As far as I am aware, the decision in UK Government to move to a national lockdown was actually taken shortly before the COBR meeting on 23 March 2020.

60. The COBR meeting on 23 March 2020 resulted in a Four Nations agreement to enter full lockdown across the UK. The minutes can be found at exhibit **MD/37 - INQ000056213**. The agenda **MD/38 - INQ000056259** and actions arising **MD/39 - INQ000056199** from the meeting have been shared. I also have access to the Welsh Government's notes of this meeting which I exhibit to this statement as **MD/40 – INQ000216491** and **MD/41 – INQ000216526**. At this meeting I recall that I raised the issue of vulnerable people because I was aware that the population of Wales is older, poorer and sicker than the population of the UK as a whole. I was reflecting the nature of the Welsh population and was concerned about how people would access food, medication and would withstand the inevitable loneliness of societal lockdown. I also raised the position of vulnerable children as there were communities in Wales where as many as 80% of the children were in receipt of free school meals. The minutes record that there needed to be joint guidance on how the guidance would affect vulnerable groups, along with highlighting the position of vulnerable school children who would need to be receiving free school meals. The actions from the meeting record that a discussion of free school meals and vulnerable children in relation to social distancing would be taking place at the Public Sector MIG on 24 March 2020 and that the Ministry for Housing, Communities and Local Government would share guidance on social distancing in supermarkets with the devolved administrations.
61. At this meeting the Prime Minister emphasised his wish for all governments of the UK to act together, which was fully appreciated and supported. Notwithstanding this, within 24 hours, the UK Government made an announcement on food parcels being delivered to the most clinically vulnerable people in England without any notice to devolved governments, which I have addressed further below.
62. I believe that the first-time decisions were made with an explicit understanding that four separate deployments of public health powers were at play was on 23 March 2020. On that occasion we decided to adopt a Four Nations approach and because we were acting identically at the outset, the prospect of divergence did not become apparent. However, the possibility of divergence became clear once we moved beyond those initial set of measures and towards the end of April, beginning of May 2020, the differences were beginning to become apparent.

#### **After 23 March 2020**

63. On 24 March 2020 I became aware that the UK Government had made a unilateral decision to provide food to those who were shielding. Prior to this announcement, the Four Nations were seeking to agree a UK-wide approach to this issue, but the UK Government made this decision for England without consulting the devolved governments. We therefore had to react and develop our own system with very little notice, exhibit **MD/42 – INQ000216599** refers. This is an early example of the UK Government making a decision which would have an inevitable impact on others, without advance discussion or notice. Once an announcement was made on food provision in England, the question would immediately be asked about the position in Wales. I did not object to the English announcement on the grounds that we should have been included in it. There were good reasons why it would be more sensible and more effective for us to devise our own arrangements. My objection was that an unsighted English announcement prevented us from having prepared a parallel announcement for Wales and led to the creation of avoidable anxieties and uncertainties amongst the Welsh population.
64. I had a letter from the Secretary of State for Wales on 25 March 2020 essentially asking me why the Welsh Government was adopting a different scheme for NHS volunteers to the UK Government, exhibit **MD/43 – INQ000256820** refers. In order to manage the relationship with the Secretary of State for Wales, on 25 March 2020 I asked Ken Skates, the Minister for the Economy and Transport, to hold weekly calls with the Secretary of State for Wales in order to discourage the random queries, and I would hold a monthly call with him, exhibit **MD/44 - INQ000256813** refers.
65. On 27 March 2020 the Secretary of State sent a letter questioning our decision not to extend business rate relief to businesses with a rateable value of £500,000 and above, exhibit **MD/45 - INQ000256821**. I responded to both letters (25 & 27 March) on 30 March 2020 and pointed out that we had a pre-existing structure for volunteering, Volunteering Wales, that the UK Government announcement on volunteering unhelpfully referred to it as a UK-wide scheme, which it was not, and that the problem was caused by a lack of notice of the announcement. I stated that I would have been happy to have explained this in a telephone call rather than correspondence. I took the opportunity to raise my concern about the lack of advance notice of UK Government announcements (which was being dealt with at an official level in the days prior – see the paragraph below) exhibit **MD/46 – INQ000256823** refers.

66. I recall that it was made public on 27 March 2020 that the Prime Minister had tested positive for Covid-19. On 6 April 2020 he was admitted to hospital where he stayed for the following six days. I believe there was a degree of shock within the UK Government about what had happened. In his absence, I felt the COBR meetings that were convened were conducted properly. However, I consider that his illness did have an impact on decision-making - it had a chilling effect, by which I mean his absence constrained what could be achieved as, from a UK Government perspective, the ultimate decision maker was unavailable. I do not know what was discussed within the UK Government as I am not party to their internal discussions, nevertheless my perception was that the Prime Minister's ill-health brought home in a very direct way the reality of the virus. It happened to people who were sceptical about it happening at all. Later on, however, it shocked me how little the experience seemed to have impacted on his response to the pandemic. He did not appear to me to look at it through a different lens after his illness.
67. On 31 March 2020 I attended the Economic and Business MIG when I raised the UK Government's letter to the construction industry encouraging them to carry on work. My concern was that workers should not be put at risk. I was also concerned that our messaging had to be consistent and telling some sectors that they could carry on working created a potential for confusion, exhibit **MD/47 - INQ000216475** refers.
68. The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 came into force in Wales on 26 March and required us to review restrictions every 21 days.
69. Whilst the Prime Minister was unwell on 1 April 2020, I spoke to the First Minister for Scotland. By this point, I was concerned that we were progressing through the first three-week period required by the Welsh regulations and there was no sign of the next COBR meeting.
70. The ongoing correspondence with the Secretary of State for Wales came to a head on 2 April 2020 in a call between him and the Minister for Health and Social Services, exhibit **MD/48 – INQ000256824**. The Secretary of State perceived his role as scrutineer of the actions of the Welsh Government, but this is not the role of the Office of the Secretary of State for Wales; rather it is to ensure Welsh interests are represented at the heart of the UK government and the UK government's

responsibilities are represented in Wales. The Secretary of State was informed during this call that responding to his letters could not be a priority action for the Welsh Government at this critical point in the pandemic. Nor could information be provided to the Wales Office as an interlocutor for the relevant department of the UK Government.

71. During April 2020 there were significant issues in relation to the supply of PPE in Wales. A situation was reached where we were at significant risk of running out of PPE in a matter of weeks. The problem was caused by disruption in the UK supply chain. The Health MIG on 2 April 2020, exhibit **MD/49 - INQ000215183** refers, considered the UK Government proposal to centralise the procurement and supply of PPE; **MD/50 – INQ000216478** is the agenda to that meeting and the papers are exhibited as **MD/51 - INQ000216483**. However, as the emails between the public health agencies of the Four Nations the following day (3 April) demonstrate, **MD/52 – INQ000216487** refers, there were teething problems with the arrangements and the UK Government was not responding adequately to urgent requests for supply of PPE stock, putting Wales in a vulnerable position. As a briefing for the Health MIG on 17 April 2020 makes clear, exhibit **MD/53 - INQ000216598** refers, the supply issues between the UK Government and the devolved governments had not been resolved, PPE stocks would be depleted in Wales in 2 – 4 weeks and the Welsh Government would require re-assurance that central supply could meet the needs in Wales. At the Health MIG on 21 April 2020 it was decided that the UK Government would work with the devolved governments and adopt a UK-wide approach to PPE, exhibit **MD/54 – INQ000216490** refers, and as set out below, by 7 May 2020 Lord Deighton’s PPE programme had been established to secure PPE supply on a UK-wide basis, but the issue then became one of funding arrangements.
72. On 4 April 2020 the First Ministers of Scotland, Wales, and Northern Ireland (and Deputy FM of NI) wrote to the Prime Minister asking for a COBR to be organised in good time before 13 April, when the 23 March measures needed to be reviewed, and asking for the orderly exchange of information in readiness for the meeting. Although hastily arranged COBRs had been understandable hitherto, this milestone was more predictable, exhibit **MD/55 – INQ000256826**. The response to this letter is noted in paragraph 77 below.
73. On 8 April 2020 I spoke to the Chancellor of the Duchy of Lancaster, but no commitment was made by him to hold a further COBR meeting. During this call I

made it clear that I preferred a Four Nations approach, and that Wales would not be ready to lift restrictions at the end of the first three-week period.

74. In the event, we were given one day's notice of the 9 April COBR, exhibit **MD/56 – INQ000256827** refers.
  
75. Prior to attending COBR on 9 April 2020, I had a call with the First Minister of Scotland, the Deputy First Minister of Northern Ireland and the Mayor of London, exhibit **MD/57 – INQ000256829**. All agreed with the line I took at the call the previous day with the Chancellor of the Duchy of Lancaster – that Wales would not be lifting restrictions in the following week – and all shared a concern around messaging in the run up to the review next week to avoid creating any expectations that restrictions would be eased. An email setting out the joint position was sent to the UK Government at 10.23, exhibit **MD/58 – INQ000256839**. I then attended COBR on 9 April 2020, which was chaired by the Deputy Prime Minister. The minutes exhibited at **MD/59 - INQ000083830** accord with my recollection that “*a consistent message was required across the Four Nations to ensure the message landed in the most clear way*”. The Welsh Government note of the meeting, exhibit **MD/60 – INQ000256840** notes that the Secretary of State for Health and Social Care stated that the challenge was to maintain messaging, and that we needed to have consistent messaging across the Four Nations. We stated that our clear message was that people were to stay at home and that the restrictions were remaining in place. There was a need to be clear with the public that we were not heading back to the arrangements prior to 23 March and were not going to throw away everything that we had gained. The Mayor of London argued strongly that the UK Government should not give the impression that the formal review the following week could result in lifting the lockdown – managing expectations was important. He asked that London be involved in the decision-making.
  
76. I also attended COBR on 16 April 2020 with the Minister for Health and Social Services and the CMO(W), exhibit **MD/61 - INQ000083827** refers. The meeting was chaired again by the Deputy Prime Minister as the Prime Minister remained unwell. Amongst the points made to the meeting was that the restrictions needed to remain in place for at least three or four more weeks. The minutes also record that the three-week period was to be used to develop a UK recovery plan which could commence when restrictions could be eased. Early and close engagement between the Four Nations “*was essential*”. The meeting concluded by the Chair stating that



there was to continue to be a four nations approach to “*social distancing measures which should at least last until the SAGE review was completed at the end of that month*”.

77. I wrote a letter to the Chancellor of the Duchy of Lancaster on 20 April 2020, exhibit **MD/62 - INQ000216489** refers, in which I stated:

*“There has been very considerable alignment of policy across the Four Nations through this period and, while respecting specific needs in each of our administrations, this coherence continues to prove very helpful. As we move towards the next set of decisions we may, depending on scientific and medical advice, be in position to consider easing some of the current restrictions. Inevitably this will require more detailed and nuanced judgements, with greater potential for contention and difference, than last week’s clear consensus to extend the present restrictions for another three weeks. For this reason I believe we should endeavour to work even more closely together to agree a common approach where that is possible and to assist appreciation of difference where that is necessary.*

*I believe it would be enormously helpful to establish a regular rhythm to that period in which, as a minimum each week:*

- *officials meet at the early part of each week to share data and analysis;*
- *the Devolved Administrations and the Mayor of London meet with you in mid-week to discuss emerging policy options,*
- *and a COBR at the end of the week consolidates progress and shared understanding.*

*The purpose of these meetings would not be to deal with the here-and-now decisions which are being pursued through the COBR subgroups each day, but to share thinking and ideas about the best ways in which lockdown can be eased, when it is safe to do so.*

*Such a pattern would maximise the chances of us being able to work closely together and reach an agreed set of measures at the end of the period, whatever those measures might be. It would also provide confidence to the nations of the United Kingdom that we are working purposefully together to plan for the future.”*

78. In his response on 29 April 2020, exhibit **MD63 - INQ000256939** refers, which is also a response to the joint letter that was sent to the Prime Minister on 4 April 2020, the Chancellor of the Duchy of Lancaster confirmed that to “*ensure the response to Covid-19 is as effective as it can be, it is crucial we continue to take a coordinated approach to decisions related to the current measures and to ensure communications in these matters remain closely aligned*”.
79. On 23 April 2020 there was call between the First Minister of Scotland, the First and Deputy First Ministers of Northern Ireland, the Mayor of London and myself, exhibit **MD/64 – INQ000256841** refers. There remained real concerns about transmission in hospitals and care settings. Enhancing testing capacity to enable track and trace was the next major challenge. The First Minister of Scotland was considering whether to do anything on face coverings, on an advisory basis, in line with the views of the Mayor of London. All recognised the risk that this might give false assurance.
80. On 24 April 2020 the Secretary of State for Wales sent me another letter seeking to scrutinise the Welsh Government’s Framework for Recovery, exhibit **MD/65 – INQ000256843** in which he made the complaint that it did not contain a reference to the UK Government which would “*not go unnoticed*”.
81. I am aware that on 26 April 2020, my special adviser, Jane Runeckles, spoke to Luke Graham from No 10. During that conversation she emphasised my desire to demonstrate the Four Nations were working well together and that the Four Nations approach was the right approach. Whilst there had been MIGs to discuss practicalities (a few of which I had attended at the end of March / beginning of April), a COBR meeting was, in my view, required to discuss the bigger picture.
82. On 28 April 2020 I sent a letter to the Prime Minister, exhibit **MD/66 – INQ000256845**, attaching the Welsh Government Framework for Recovery and emphasised that any steps to be taken at the end of that 21-day review period should be cautious and modest and my preference was that they were agreed and co-ordinated. I also highlighted the importance that the job retention scheme was not withdrawn too early putting pressure on people to return to work. I drew his attention to regulations which we had made in Wales putting a duty on employers to take reasonable measures to ensure the safety of employees. Notwithstanding this letter, the Prime Minister announced on 30 April 2020 that the UK Government

would set out a comprehensive plan the following week for re-opening the economy, schools, and travel without consultation with the Welsh Government.

83. On 1 May 2020 I participated in a phone call with the First Minister of Scotland and the Mayor of London, exhibit **MD/67 – INQ000216494** refers. All governments were considering possible options for achieving controlled, phased moves out of lockdown when the time was right. We agreed that it was important for the devolved governments and the Mayor of London to hear from the Chancellor of the Duchy of Lancaster early that week about the UK Government thinking. I discussed my intention to write to the Chancellor of the Duchy of Lancaster and ask for a meeting the following Monday to get a sense of whether the UK Government was intending on easing restrictions the following Thursday, i.e., at the end of the second 21-day period of review. The consensus of those on the call was that we all preferred a UK-wide position, but we were not prepared to take decisions to ease restrictions without having seen the evidence upon which the UK Government would rely to support such a decision.
84. The same day, 1 May, I spoke to the Secretary of State for Wales. I expressed my view that weekly contact in the three-weekly cycle would have kept us and the UK Government in touch and would have maximised the chance of coming to a joint conclusion on what to do at the end of week two of the three-week cycle. By now 21-day reviews were emerging as a significant feature of Covid-19 regulation in Wales. They became an important part of the strategic response to the pandemic in Wales. In contrast the UK Government reviewed the restrictions on what appears to me to be an ad hoc basis. I consider that it would have been better if all Four Nations had committed to a regular pattern of review, every three weeks, and that the timings of the reviews had been co-ordinated across the UK.
85. As set out above, my preference was to stay aligned with the UK Government, but the lack of formal engagement made that difficult and made it increasingly likely that we in Wales would need to develop an approach in response to the situation in Wales.
86. By now it was becoming clearer that SAGE was considering the implications of options/scenarios for easing lockdown restrictions for England only, which I understand they had been asked to undertake by the UK Cabinet Office.

87. A Chancellor of the Duchy of Lancaster call with the First Ministers of Scotland, Wales and the First and Deputy First Ministers of Northern Ireland took place on 5 May 2020 when all the devolved First Ministers stated their commitment to working on a Four Nations basis. Concerns about the sharing of data from SAGE were expressed by me by the First Minister of Scotland. It was during this call that I asked for formal sight of SAGE papers.
88. Following this conversation, my special adviser has a note in her diary of a Four Nations phone call with the Prime Minister on 7 May 2020 after a UK Government Cabinet meeting. The Prime Minister explained that the Cabinet had reviewed the existing measures in England and that they would stay in force for the time being. He outlined that the UK Government hoped to set out a roadmap, that he hoped it would be able to be supported by the devolved governments but that he hoped to give more detail in a COBR meeting on Sunday. In relation to the UK Government's roadmap, there was a difference in approach to that in Wales. As can be seen from the Ex-Covid<sup>2</sup> minutes on 7 May 2020, exhibit **MD/68 - INQ000216499** refers, my then Permanent Secretary had been told in a conversation with counterparts in the UK Government that the view in Westminster was that the population was "*over complying*" with the work from home message and were overlooking the part of the message which said that if you cannot work at home then you should go to work and practice social distancing. Reportedly, the Prime Minister wanted to correct the "*over compliance*". The Prime Minister was very concerned about the economic outlook. As I made clear at COBR on 10 May (see below), we were not ready in Wales to move on from the stay-at-home message.
89. Also, on 7 May 2020 there was a Health MIG which discussed the need for a Four Nations approach to the supply of PPE and the need for arrangements to be put in place with HM Treasury to ensure the devolved governments received funding for the provision of PPE commensurate with the funding made available to the UK Government exhibits **MD/69 - INQ000216512**, and **MD/70 – INQ000216508** refer. HM Treasury agreed to work with the devolved governments to address this issue. Funding arrangements were a source of potential disagreement between the UK Government and devolved governments at a series of points during the pandemic. The fundamental choice lay between agreeing a single UK wide pot of money from

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<sup>2</sup> This was a meeting of key officials across policy areas in the Welsh Government to receive regular across-the-board updates.

which all costs would be met, or a Barnett driven allocation of funding for devolved governments to manage. In my view these decisions were generally navigated to an agreed conclusion. In the case of PPE, I am sure that we were better able to provide a service which met the needs of Wales because the funding was in our own hands and therefore capable of being applied in ways which reflected Welsh circumstances and, indeed, Welsh standards of propriety.

90. There was a further call between the Chancellor of the Duchy of Lancaster and the First Ministers of the devolved governments on 8 May 2020, exhibit **MD/71 – INQ000256846**. The devolved governments were told that the UK Government would share its roadmap the next day. The Chancellor of the Duchy of Lancaster indicated that the Prime Minister was to announce on 10 May 2020 that workers should return to work if they could safely do so and that vulnerable children should return to school. There was a recognition that different jurisdictions might move at different pace depending on the progress of disease in those nations, and practicalities e.g., different school calendars, but this did not undermine a Four Nations approach. The devolved governments emphasised that they would keep the stay-at-home message, and the Chancellor of the Duchy of Lancaster stated that he would emphasise this point to the Prime Minister. He also agreed to ensure that the devolved governments had enough time to contribute meaningfully to COBR.
91. On 10 May 2020 the Prime Minister chaired a COBR meeting via teleconference which I attended as did Shan Morgan, the Permanent Secretary, **MD/72 – INQ000083828** refers. The minutes reflect that there continued to be an agreed Four Nations approach to controlling the spread of the virus, which was to be based on scientific advice, whilst acknowledging that the spread of disease may mean differing responses at different times. Actions of this meeting included: (i) that the Four Nations were to work together to explore how the newly established Joint Biosecurity Centre ('JBC') could operate most effectively across the UK; and (ii) to consider a UK-wide approach to international borders.
92. As to (i), I was provided with a ministerial advice document on 2 June 2020, exhibit **MD/73 - INQ000103912** refers, which identified the problems with the JBC as first established – namely that it did not sufficiently reflect the devolved decision-making structures. However, the advice discloses effective collaboration at official level to ensure that those initial deficiencies were addressed so that the JBC was an

effective way of monitoring the spread of Covid-19 across the UK. This resulted in a letter from the Secretary of State for Health and Social Care to the Minister for Health and Social Services on 16 June 2020 setting out ministerial agreements in relation to the JBC, exhibit **MD/74 – INQ000216522** refers.

93. As to (ii), this discussion was precipitated by a paper produced by the General Public Services MIG on 7 May 2020, contributed to by the UK and devolved governments, exhibit **MD/75 – INQ000216496** refers, and led to a ministerial advice document being submitted for a decision by me on a joint approach to regulations on international travel, **MD/76 – INQ000216503** refers. I discussed the proposed regulations with the Chancellor of the Duchy of Lancaster, the First Minister of Scotland and the First and Deputy First Ministers of Northern Ireland on 17 May 2020, exhibit **MD/77 – INQ000216505** refers, when a common approach was agreed to be discussed further at the imminent MIG meeting. Ultimately, we decided that our regulations should be in line with the English regulations as set out in exhibit **MD/78 – INQ000216513**.
94. It was at the COBR meeting on 10 May that the UK Government formally shared its intention to change its message from 'Stay at Home' to 'Stay Alert'; something Wales, Scotland and Northern Ireland made clear they could not and would not support. I did not believe this was appropriate for Wales and the Welsh Government chose to retain a 'stay home' policy. During the meeting, I made the point forcibly that all messaging in Wales needed to reflect our policy and legal position and therefore only messages relevant to Wales should be published and broadcast here. From this point on, the Welsh Government's communications and public health messages were distinctively Welsh and focused on the objectives and policy decided by the Cabinet in Wales. This was not without its challenges given the dominance of English media. However, we made use of every possible channel at our disposal, including along the Welsh border where there was the greatest potential for confusion about the rules in place.
95. At this COBR I emphasised that we needed a consistent pattern of ongoing engagements – not fits and starts. We needed an agreed pattern in which officials share information, meetings with the Chancellor of the Duchy of Lancaster, and culminating in a COBR. I was of the view that the more we talked and shared, the more chance there was that we would stick together. The Prime Minister agreed that

ministerial engagement should be reliable and regular and that we should make sure that was done as set out in exhibit **MD/79 – INQ000216537**.

96. It was also at this meeting that I raised concerns about the proposal that people may drive to outdoor spaces. This was really problematic for us in Wales. I stressed how important it was that the messaging was clear. I emphasised that 'stay local' was our clear message and guidance. I also raised concerns about a potential message to avoid public transport - our view was that public transport could be used if it was done safely, and if we were now saying that it is not safe, then that would be problematic in getting people back to work safely.
97. On 12 May 2020 I wrote to the Prime Minister, exhibit **MD/80 – INQ000256848** setting out again the case for a regular and reliable rhythm to engagement between all four governments of the UK in the weeks leading up to the next review of the coronavirus regulations. I stated that in my view, over the preceding few days, all parts of the UK had moved together, taking the first cautious steps towards ending lockdown. Yet the public perception had been of a degree of confusion as to what applied to the UK and what applied in the devolved jurisdictions. I believed this might have been avoided, with better outcomes for all our administrations, through stronger and more systematic joint working in the period before decisions were made.
98. On 13 May 2020 the Secretary of State for Wales wrote to me, exhibit **MD/81 – INQ000256850**, requesting, because the Welsh Government attended COBR and there was Four Nations co-operation, that he attend the equivalent structures in the Welsh Government, including the Counsel General's external advisory group on Wales's recovery from the pandemic. I responded on 20 May 2020, exhibit **MD/82 – INQ000256851** refers, and I explained that the devolved governments were invited to COBR and MIGs when the agenda included devolved matters and that he or the Parliamentary Under-Secretary of State for Wales were invited to join the Welsh Government's Covid Core Ministerial Group, when reserved matters were on the agenda.
99. There was a call with the Chancellor of the Duchy of Lancaster on 17 May 2020, exhibit **MD/77 – INQ000216505** refers. We discussed the regulations made in relation to international travel and the exemptions for France and Ireland. I noted that we were two weeks away from the next 21-day review so it would be helpful if

we could establish a rhythm of ministerial discussions – I proposed that we met that week to discuss ideas coming to the surface, rather than leaving discussion until the final week. The Chancellor of the Duchy of Lancaster assured me that he would ensure the meeting happened in the second week of the cycle and wrote to me on 21 May 2020 setting out his agreement with my suggested approach, **MD/83 – INQ000216507** refers.

100. From this point onwards, the calls between the Chancellor of the Duchy of Lancaster and the First Ministers of Wales, Scotland and Northern Ireland and deputy Minister of Northern Ireland became the primary ministerial meeting between the Four Nations. There were very few interactions with the Prime Minister from this point. Hereafter, these meetings are referred to as 'CDL calls'.
101. I spoke to the First Minister of Scotland and the First Minister and Deputy First Minister of Northern Ireland and the Mayor of London on 19 May 2020 to share information about the current situation. These informal meetings were an opportunity to provide an update on how the impact of the virus on our respective nations. At this time, I recall the pattern of transmission was already improving in London compared to the previous weeks, and it was an opportunity to share thoughts on how the virus may progress throughout Wales and other devolved governments.
102. My special adviser has a note of a telephone conversation that I had with the Chancellor of the Duchy of Lancaster on 25 May 2020. On 28 May (again noted by my special adviser), there was a call between the Prime Minister and myself, the First Ministers of Scotland and Northern Ireland and the Deputy Minister of Northern Ireland, by which time there was recognition that the Four Nations were following their own paths. The Prime Minister said that he fully appreciated the different ways in which the devolved governments were responding and said he would communicate that loudly and clearly, allowing for recognition of where the R number was different across the United Kingdom. I was grateful for at least a recognition that this needed to be the case.
103. At about this time, and in response to the way in which it had become apparent that SAGE was providing advice based upon questions to it from the UK Government, I wrote to Sir Patrick Vallance as Chair of SAGE on 26 May 2020 outlining the desire



of the Welsh Government actively to engage more directly in the work it was undertaking, rather than through the UK Government - exhibits **MD/84 - INQ000216615** and **MD/85 - INQ000216616** refer. Discussions with the UK Government moved towards conversations about issues such as how the Joint Biosecurity Centre was going to work and how genuinely 'joint' it was. Talk of 'joint' decisions on NPIs had by now vanished.

104. On 3 June 2020 my office was informed by the Welsh Government Permanent Secretary, exhibit **MD/86 - INQ000256854** refers, that the Permanent Secretary for No10 Downing Street had just announced that the MIGs were being replaced by a new committee structure: (i) the Prime Minister's Strategy Group; and (ii) the Operations Committee chaired by the Chancellor of the Duchy of Lancaster. He stated that, "*more often than not*" the devolved governments would be invited to the Operations Committee. My officials had no prior knowledge of this announcement and had concerns that cancelling the MIGs without replacing the intergovernmental aspects would impact on UK-wide approach on some devolved matters. A consistent Four Nations approach cannot be achieved without the opportunity to contribute to discussion in a joint decision-making process.
105. On 12 June 2020 I wrote a letter to the Chancellor of the Duchy of Lancaster, exhibit **MD/87 - INQ000216519**, expressing my disappointment to find out through official channels that the COBR machinery had been stood down, that SAGE was being scaled-back and that there had been a series of important announcements by the UK Government with little or no consultation with the devolved governments. The UK Government's Operations Committee, which replaced MIGs, had met without our knowledge to discuss the JBC. I pointed out that the formal machinery which should be used to discuss the issues was the JMC, which had not been used since the general election. I stated that the absence of four nation engagement gave the impression that the UK Government had given up on a Four Nations approach. I asked for regular meetings to be established. I received a response to this letter on 22 July and which is address in paragraph 109 below.
106. On 16 June 2020 the Secretary of State for Wales wrote to all Members of the Senedd and local authority leaders, exhibit **MD/88 - INQ000256858** in which he criticised Welsh Government policy on when the tourism industry would re-open and the lack of a pathway to recovery and stated that he believed action was needed. He concluded the letter "*I write to ask you all to do everything in your power this*

*week to encourage the Welsh Government to set out a roadmap for the tourism and hospitality industries in Wales. With an announcement on Welsh Government lockdown measures due this Friday, time is of the essence.”* The letters from the Secretary of State for Wales were ill-judged and ill-informed, while continuing to distract those whose efforts were diverted towards dealing with the impact of the pandemic in Wales.

107. On 17 June 2020 I spoke to the First Minister of Scotland by telephone to discuss the next steps within our respective nations. This was followed on 19 June by a call with the Chancellor of the Duchy of Lancaster. Engagement between the Four Nations continued but there was no structure to the calls.
108. In the 19 June 2020 CDL call, exhibit **MD/89 – INQ000256859** refers, the UK Government were asked to provide more detail on the JBC and what the UK Government was doing on COBR and SAGE due to concern that the devolved governments would have reduced access under the new structure.
109. In the 23 June 2020 CDL call, exhibit **MD/90 – INQ000216523** refers, we were informed that UK Government Cabinet was to consider that afternoon whether to change the social distancing rule. The underlying advice had not been shared with the devolved governments (prior to that morning) and there had been no consultation with us.
110. In the 6 July 2020 call, exhibit **MD/91 - INQ000216524** refers, I stated that the international travel regulations had been a low point in inter-governmental communication, made worse by the UK Government briefing the press that the devolved governments were the cause of delay when we had done everything practicable to facilitate a joint approach. But this was the exception not the rule. UK Government were to share the evidence and protocols being developed for managing outbreaks. Good progress had been made on formalising the agreement for the establishment of the JBC.
111. In the 17 July 2020 CDL call, exhibit **MD/92 – INQ000216525** refers, we were informed that the UK Government was about to publish the UK Government's rebuilding plan, which was sent to us 15 minutes before the meeting. They were aiming for a return to office working and would announce an extra £3 billion for the NHS with Barnett consequentials. I made a plea for clarity that it was made clear

that they were England only measures. The Welsh Government were keen to maintain home working because of its benefits in reducing the risk of transmission as well as meeting wider objectives of reducing pollution etc.

112. On 22 July 2020 the Chancellor of the Duchy of Lancaster replied to my letter of 12 June, exhibit **MD/93 – INQ000256861** refers. In this letter he confirmed that the MIGs had been replaced with new committees, but the CDL calls would continue with the territorial Secretaries of State, in addition to the meetings of the health ministers, the business ministers, and the CMOs.
113. On 23 July 2020 I wrote to the Chancellor of the Duchy of Lancaster encouraging the UK Government to adopt British Sign Language at its conferences, as we had been in the Wales, exhibit **MD/94 – INQ000216528** refers, to ensure that the communications were inclusive of the deaf community. The response to this letter is set out in paragraph 115 below.
114. In the CDL call on 24 July 2020, exhibit **MD/95 – INQ000256862** refers, it was generally agreed that the co-operation on international regulations had improved. The Welsh Government would continue focus on enforcement of social distancing regulations, rather than any relaxation of the requirements. It was agreed that there would be a joint statement on cross-border co-operation going into the winter as differences in messaging would not be helpful.
115. By July 2020, as we were coming out of lockdown, I and my ministers were unambiguously committed to a public health approach. I am not close to the inner workings of the UK Government but my perception from the very beginning was that the UK Government had to balance, on the one hand, those within it who wholeheartedly wanted to adopt a public health approach and those who felt that there were other harms, the avoidance of which should take priority.
116. The CDL call on 5 August 2020, exhibit **MD/96 – INQ000216544** refers, was initiated by the First Minister of Scotland to provide an update on the Aberdeen lockdown. She raised two issues for the UK Government: (i) financial support for businesses that had to close, once furlough scheme closed; and (ii) the role of international travel - two cases returned from Spain – and the need to consider greater restrictions

on travel, and/or strengthening the messaging around quarantine requirements. HM Treasury was looking at targeted support for local lockdown areas.

117. I had a response to my letter dated 23 July 2020 referring to British Sign Language from the Chancellor of the Duchy of Lancaster on the 20 August 2020. Exhibit **MD/97 – INQ000256940** refers. It was acknowledged by the CDL that the Welsh Government continued to show leadership in ensuring communications were as accessible as possible and suggested that officials work together to ensure that appropriate lessons are shared across the nations.
118. In addition, I had calls with the First Minister of Scotland on 20 July, 7 September, 18 October, 21 November and 23 November 2020.
119. There was also a Four Nations call with the Prime Minister on 31 July 2020 and a phone call with the Prime Minister on 21 September 2020.

### **The Autumn of 2020**

120. The next CDL call was 7 September 2020, exhibit **MD/98 – INQ000216545** refers, to agree a joint statement on the 'hands, face, space' campaign, which I was content to run in Wales so long as it was consistent with our position on social distancing. Various other points relating to financial support to support quarantine and the effective operation of the JBC were discussed.
121. In the CDL call on 19 September 2020, exhibit **MD/99 – INQ000216546** refers, we were informed that the UK Government was planning to mandate self-isolation and offer financial support; the devolved governments would receive Barnett consequentials. The need for a COBR meeting as soon as possible was acknowledged by the UK Government. The Four Nations shared their likely approach to local restrictions – England was to adopt a tiered approach and Wales was to adopt a 'stay local' approach.
122. I had a telephone call with the Prime Minister on 21 September 2020, exhibit **MD/100 – INQ000216547** refers, during which we further discussed the approach in Wales to local restrictions and the continuation of the 'work from home' message in Wales, which was about to change in England.

123. COBR next met on 22 September 2020. This was the first COBR since 10 May. As already stated, I consider that after the first national lockdown, COBR should have met more frequently than it did. It was essential to discuss not only how the UK went into lockdown but also how we were to come out of lockdown. After the first three weeks, the regulations needed review. Things had not changed significantly on the ground but by the time of the second review, we were taking tentative steps away from lockdown and, in my view, COBR should have met more frequently to share ideas and exchange views between heads of government. I do not know why the UK Government thought COBR meetings were unnecessary during this period.
124. The COBR meeting on 22 September 2020 was chaired by the Prime Minister. I attended by video conference as did Shan Morgan, Reg Kilpatrick, the DCMO(W) and my special adviser Jane Runeckles. The meeting was convened in response to the recent rise in Covid-19 numbers. The CSA(E) told the meeting that if nothing changed case numbers could reach 50,000 a day by the middle of October, with deaths reaching large numbers by the middle of November 2020. A Four Nations approach, with agreement on messaging and measures, was requested. As can be seen from the minutes at exhibit **MD/101 - INQ000083849**, the First Minister of Scotland made the point that as much alignment as possible was important, but this was challenging when information was shared via press release from the UK Government. I made the point that I agreed with the broad thrust of the measures but that there needed to be clarification from HM Treasury on the funding arrangements to support those self-isolating in the devolved nations. I am also minuted as stating that *“there should be regular, reliable COBR meetings to ensure alignment in the response to the increase in cases”*. That had long been my view.
125. The four CMOs had met the previous day, and all had agreed that the alert level should be raised to level 4.
126. Following this COBR meeting a joint statement was issued by all Four Nations to demonstrate our shared commitment to tackling Covid-19 and its consequences.
127. I also sent a letter to the Prime Minister dated 28 September 2020, exhibit **MD/102 – INQ000198489** refers, in which I reiterated the comments I had made at the COBR meeting on the 22 September about my significant concerns about infection risk

arising when people were travelling from areas of high infection rates to other parts of the UK with lower rates.

128. I recall that the summer of 2020 had provided some respite from the worst of Covid-19. Restrictions were gradually and partially eased. The better weather appeared to reduce transmission of the virus and socially distanced meetings outside contributed to a significant reduction in the spread of the disease. Modelling advice suggested that we should expect an upswing in infection later in the autumn, as the weather deteriorated, and people spent more time indoors.
129. In practice, the disease returned more quickly and with greater intensity than the modelling had originally suggested. Numbers turned up in September, driven along by a number of factors: the impact of travellers returning from Covid-19 hotspots abroad (the Welsh Government consistently argued for a more precautionary approach to travel into and out of the UK); the return of schools; the first stirrings of a new variant of Covid-19 (the 'Kent' variant) with considerably higher levels of transmissibility.
130. By October the numbers were rising rapidly in Wales and England. Numbers in Scotland were lagging behind. The advice from SAGE was clear: a circuit breaker was needed and would be most effective if implemented early and deeply. The effectiveness of local restrictions was discussed in the CDL call on 5 October 2020, exhibit **MD/103 – INQ000216582** refers.
131. COBR met on 12 October 2020, exhibit **MD/104 - INQ000083851** refers. I attended this meeting as did Jane Runeckles, my special adviser and Reg Kilpatrick. The Mayor of Liverpool was in attendance because the infection rates in Merseyside had been going up. The main discussion was around the operation of the tiered approach in England and how it was determined by the JBC. I expressed a desire on the part of the Welsh Government, given its proximity to some of the high-risk areas in England, that the UK Government should back its tiered system with regulations. As the UK Government would not regulate travel out of high-risk areas, I believed the Welsh Government had no choice but to take action and make regulations to prevent travel from high-risk areas into the medium and low risk areas. At this meeting I asked if COBR would be held to discuss circuit breakers, which SAGE papers regularly advised upon, but received no assurance that it would.

Again, the issue of financial support needed to enable devolved governments to take necessary measures was raised and a discretionary fund was proposed by the devolved governments. The concern was that HM Treasury ought not to be able to frustrate essential public health actions in any part of the UK.

132. I followed up the discussion at the COBR meeting with a letter to the Prime Minister the following day, exhibit **MD/105 – INQ000198495** refers, urging the Prime Minister to introduce regulations in England to restrict travel from high prevalence areas because guidance had not proved effective. I made it clear that this was not about travel over the border between England and Wales, but about travel out of high prevalence areas into low prevalence areas wherever they may be. This letter was supported by the First Minister of Scotland, exhibit **MD/106 – INQ000256868** refers, although not apparently by the Secretary of State for Wales exhibit **MD/107 – INQ000256870** refers.
133. The context in Wales at this time was that on 15 October 2020 Cabinet agreed a Wales-wide firebreak 'in principle' subject to further advice. The Firebreak Implementation Group met on 15 and 16 October 2020. I and the Minister for Health and Social Services met with the group on 17 October 2020 ahead of Cabinet discussions on 18 and 19 October 2020.
134. The Prime Minister responded to my letter of 13 October on 15 October, exhibit **MD/108 – INQ000216550** refers. The Prime Minister stated that they had chosen not to regulate because enforcement would be resource-intensive, and the guidance was clear. I responded on 16 October, exhibit **MD/109 – INQ000256872** refers and informed the Prime Minister that we had begun consideration of a two-three week firebreak in Wales starting on 23 October 2020.
135. I also wrote to the Chancellor of the Exchequer on 16 October 2020 seeking an extension to the Job Support Scheme for the firebreak that was proposed in Wales. Exhibit **MD/110 - INQ000216554** refers. A response was received from the Chancellor on the 19 October in which he advised that the Job Support Scheme could not be brought forward from the 1 November to 23 October 2020, exhibit **MD/111 - INQ000216555** refers. I responded to the Chancellor on the 20 October, exhibit **MD/112 – INQ000216553** in which I expressed deep disappointment with the

Chancellor's response. I asked the Chancellor to recognise the exceptional circumstances and waive the usual requirements.

136. On 23 October 2020 the Welsh Firebreak came into effect. Had we had the confidence that the UK Government would provide the money needed to support people during the firebreak we probably would have implemented the lockdown sooner. However, it was hard for Wales to take the initiative because that meant we had to take the decision without financial support provided by the UK Government. Nevertheless, I felt strongly that we needed to implement the fire break to delay the spread of the virus, because that was what the science was telling us.
137. The Prime Minister responded to my letter of 16 October a week later, on 23 October 2020, exhibit **MD/113 – INQ000256877** refers, although not directly to my request for a COBR on circuit breakers.
138. From my perspective, October 2020 was a very challenging month for intergovernmental relations. All nations were anxious about the public reaction to a further lock-down period. The lagging numbers in Scotland made the case for such action especially challenging there. In Wales and England, the situation was different, because the numbers were painting essentially the same picture. The Welsh Government wanted to follow the relevant SAGE advice whereas the UK Government was more reluctant, or hesitant, in taking that path. It was my perception that within the UK Government, the ongoing battle was still being fought between those who believed that public health measures had to command a priority, and those who believed that the avoidance of other harms needed to come first. In my mind, the outcome of these different approaches was that, in Wales, we believed we ought to do everything that was needed to combat the disease, whereas in England the internal debate appeared to be resolved by doing the minimum necessary to allow for a plausible claim that public health advice was being followed.
139. The Chancellor of the Exchequer refused to fund the consequences of a public health decision taken in Wales. That decision was, in my view, one of the most misguided decisions of the whole pandemic. It demonstrated that the Four Nations of the UK were to be treated differently by HM Treasury. It was, in effect, acting as a Treasury for England, not a Treasury for the UK. This was vividly illustrated when, within a few days of the Welsh firebreak a similar set of measures were adopted for



England. Funds to support that cause of action were then released by the UK Treasury. Those funds extended to Wales, but only because of decisions taken in response to the public health position in England, not because of the public health needs in Wales.

140. The Welsh firebreak produced the gains which had been expected through early action. Those gains, however, were more short-lived than the modelling available to the Welsh Government had anticipated, with a rapid return to rising covid numbers. While not apparent at the time, I believe that this escalation in infections demonstrated the already-present impact of the new 'Kent' variant of the disease in Wales, with its increased transmissibility and additional virulence.

#### **After the Firebreak and the lead up to Christmas 2020**

141. COBR met on 2 November 2020, exhibit **MD/114 - INQ000083829** refers. I attended together with the Minister for Health and Social Services. The discussions in that meeting and the actions taken from it showed what I hoped at the time was a commitment to returning to a Four-Nation approach. Again, the financing of restrictions was a major issue for the devolved governments and whether the furlough funding would be available to the devolved governments where a lockdown was needed. A paper for the meeting, exhibit **MD/115 - INQ000256879** stated that there should be a co-ordinated approach by the Four Nations on policy measures, in particular testing, vaccines and the forthcoming Christmas period. It recommended a cross-UK officials working group be established, or an existing forum repurposed, to develop this work. This could be supplemented by weekly cross-UK ministerial discussions on the subject led by the Chancellor of the Duchy of Lancaster. This is exactly the sort of UK-wide, regular rhythm of meetings that I and the other devolved governments had been calling for, for some time.
142. At the CDL call on 11 November 2020, exhibit **MD/116 – INQ000216557** refers, an update on mass testing was provided. I offered my congratulations to those involved on the progress on lateral flow testing and stated that we now needed to understand the interplay with mass vaccination. Potential benefits included: care home visiting, reducing school absence, potential to come out of self-isolation, participation in sporting or arts events. There was a broad consensus across the

Four Nations that there should be consideration of a national relaxation of current restrictions to facilitate some family gathering for Christmas.

143. The joint approach to Christmas relaxations was picked up at the CDL call on 18 November 2020, exhibit **MD/117 – INQ000256881** refers. Proposals for mass testing were also discussed and it was agreed that they would be picked up by COBR the following week. On 19 November 2020 my Private Secretary proposed a joint news conference, exhibit **MD/118 – INQ000256882** refers. However, the Deputy Private Secretary to the First Minister of Scotland expressed frustration that the UK Government had briefed the press on the discussions on the Christmas easements before anything had been agreed, exhibit **MD/119 – INQ000256883** refers, and ultimately the view was taken that a joint conference was not necessary, exhibit **MD/120 - INQ000256884** refers, but there was to be a joint statement, which was approved at COBR on 24 November 2020, exhibit **MD/121 - INQ000083850** refers.
144. At a CDL call on 2 December 2020, exhibit **MD/122 – INQ000216559** refers, we were informed that there was to be an overhaul to the inter-governmental machinery and a paper had been produced for discussion at a joint ministerial committee (EN) the following day.
145. Christmas relaxations were also picked up as a theme at a CDL call on 9 December 2020, exhibit **MD/123 – INQ000256886** refers. I emphasised the experience in Wales since the firebreak demonstrated how quickly hard-fought gains can be lost – the figures in Wales were by this point very concerning. Subject to final decisions the following day, the Welsh Government intended tighter restrictions straight after 27 December, taking advantage of the natural firebreak of the second half of the Christmas holiday. The discussion continued on 16 December 2020, exhibit **MD/124 – INQ000256887** refers, and it was recognised that there would be differences in each jurisdiction to reflect their particular circumstances. During the 19 December 2020 CDL call, exhibit **MD/125 – INQ000216563** refers, the UK Government confirmed that regulations taking some areas into tier-4 restrictions were coming into force in England. Following this discussion, I issued a statement advising that the alert level 4 restrictions in Wales were being brought forward from midnight instead of the Christmas period, exhibit **MD/126 – INQ000216561**.

146. There were COBR meetings on 21 December 2020, exhibit **MD/127 – INQ000063074, MD/128 – INQ000256896**, and 23 December 2020, exhibit **MD/129 – INQ000063101**, to look urgently at the impact on UK border controls following travel bans imposed by European partners.
147. The raft of COBR meetings in late November and throughout December 2020 all concentrated on what should happen during the winter holiday period. Again, the advice of SAGE was clear: go deep and go early. In Wales, we agonised about what to do. The Cabinet met daily. We wanted to avoid closing schools early if we could and to keep society as open for as long, we could. In Wales, we took the advice from SAGE, and we closed schools early. The UK Government took a different approach.

## 2021

148. A COBR meeting took place on 1 January 2021, exhibit **MD/130 – INQ000256888**, and 20 January 2021 but there are no notes available of the discussion.
149. There was a very sobering CDL call on 4 January 2021, exhibit **MD/131 – INQ000216564** refers. The JBC was moving to alert level 5 and there was to be a national lockdown. The Prime Minister was keen to agree a common position with the devolved governments on restrictions on international travel within the next 24 hours as well as establishing unity of messaging around the grave situation.
150. At the CDL call on 6 January 2021, exhibit **MD/132 - INQ000256889** refers, the Chancellor of the Duchy of Lancaster reported on plans for COVID-O to meet the same day to discuss requiring all international arrivals to provide proof of negative Covid-19 tests, as a further defence, in addition to quarantine requirements. This was followed up on 15 January 2021 by a Four Nations call, exhibit **MD/133 - INQ000216567** refers, when it was agreed travel corridors would be suspended to respond to the threat of new variants - which led to my announcement exhibit **MD/134 - INQ000216566**.

151. The CDL calls turned to vaccination on 20 January 2021, exhibit **MD/135 - INQ000216570** refers. On vaccine rollout, there was a risk that a triumphalist tone would undermine restrictions, when advice from SAGE remained very sobering.
152. Border controls were further discussed during the CDL calls on 27 January 2021, exhibit **MD/136 – INQ000256890** and 30 January 2021, exhibit **MD/137 - INQ000256891**. Travellers from high-risk countries would be required to isolate in hotels, the list of exemptions would be reviewed, and there would be improved enforcement of self-isolation. Discussions were continuing with the Irish Government about the Common Travel Area with a view to ensuring as far as possible a common approach across UK and Ireland. Concern was expressed that the proposed changes did not go far enough and that they should aim to cover all those coming into the UK.
153. An update on the vaccine rollout was given at the CDL calls on 22 February 2021, exhibit **MD/138 – INQ000256892**, 24 February 2021, exhibit **MD/139 – INQ000256895**, and 17 March 2021, exhibit **MD/140 - INQ000216572**; and the figures on the vaccine efficacy were very encouraging. As a result, conversation turned to how a phased return to school would work. As case numbers fell, there was continuing concern about the risk of importation and the strengthening international travel restrictions was raised.
154. At this point in Wales, we were seeking to achieve a balance between opening up society to permit at least some family contact whilst also protecting the public, consistent with our overall approach of seeking to balance the immediate health risks of Covid-19 with the longer-term harms from restrictions, such as on mental health and wellbeing.
155. At the CDL call on 23 March 2021, exhibit **MD/141 – INQ000216573** refers, the new UK Health Security Agency was discussed. We were told that the new agency would absorb the JBC, PHE and Test and Trace. Good progress had been made on reform of inter-governmental relations.
156. International travel lists and domestic vaccination certificates were discussed at CDL calls on 31 March 2021, exhibit **MD/142 - INQ000216574**, and 28 April 2021, exhibit **MD/143 – INQ000216583**. I cautioned that we needed to be very careful that

certificates did not risk marginalising certain communities, so testing was an important part of the considerations as well as vaccination status. There would need to be exemptions for children and those with certain medical conditions. The use of certificates could even be counterproductive by having a negative impact on behaviour and providing a false sense of security. Other measures such as social distancing were proven to reduce transmission. There would be significant cross-border issues if England were to roll out certificates and Wales did not. I was clear that international travel was the single biggest threat to sustaining the progress we had made, and the smaller the green list, the better. These concerns were picked up by the Minister for Health and Social Services at the CDL call on 26 May 2021, exhibit **MD/144 - INQ000216584** refers.

157. Following the elections in May 2021 there was a more formalised 'Summit' with the Prime Minister on 3 June where, from memory, I recall that he committed to re-setting the inter-governmental arrangements. I made it clear that I believed that the fissures in the United Kingdom were growing rather than contracting. At this Summit I explained that the machinery of the United Kingdom which was meant to sustain the Four Nations coming together – the JMC - had not met since Mrs May ceased being Prime Minister. I pointed out that the JMC had played no part at all in the Covid-19 pandemic which all Four Nations had faced together. I welcomed the weekly calls with the Chancellor of the Duchy of Lancaster, both the fact that they had been regular and reliable but also the spirit in which they were conducted by Mr Gove, but as I explained to the Prime Minister, they were no substitute for a more codified set of arrangements. My brief for the summit is at exhibit **MD/145 – INQ000216587**.
158. Those CDL calls continued at pace on 9 June 2021, exhibit **MD/146 - INQ000216588**, and 14 June 2021, **MD/147 – INQ000216589** refers. The Delta variant was on the rise. There was to be a domestic trial of the certificates. The vaccination programme had very high levels of coverage in older and more vulnerable groups for both doses, second doses were less for the younger age groups - particularly those in their 40s and 50s who were more vulnerable to infection and hospitalisation. It was agreed that there should be a pause in the move to Step 4 which could allow for 10% more vaccinations to be given.
159. The Mayor of Manchester attended the CDL call on 23 June 2021, exhibit **MD/148 – INQ000216611** refers and made a complaint that it was difficult to communicate

the restrictions and the point was made, again, that if the UK Government put restrictions into regulations, it would aid communication.

160. On 23 June 2021 I wrote to the Chancellor of the Duchy of Lancaster, exhibit **MD/149 – INQ000216607** refers, to express disagreement with proposals for relaxation of the self-isolation requirement for international travel. I emphasised that it was important that decisions about international borders should be taken on a UK-wide basis and I expressed hope that changes would not be made without a Four Nations agreement.
  
161. Information provided at the CDL calls on 30 June 2021, exhibit **MD/150 – INQ000216590**, 14 July 2021, exhibit **MD/151 – INQ000256897** and 21 July 2021, exhibit **MD/152 – INQ000256898** demonstrated, that the link between case rate, hospitalisations and deaths had been significantly weakened. I set out the position in Wales: we had the highest levels of natural immunity in the UK and were leading the way on the rates of vaccination. As a result, the Four Nations were reducing their alert levels. Clarity of messaging was a challenge for all Four Nations, and more unanimity where possible would be helpful – that could only happen if the UK Government gave more notice of its announcements to the devolved governments. Wales would move to the same position on no self-isolation for fully vaccinated returning travellers from amber list countries, despite reservations – in reality, we had no practical choice. Neither the Scottish nor Welsh Governments had made a decision on the use of vaccination certification yet with more work required on issues such as equity, ethics, data flows, Welsh language, and whether an approach seen as coercive could undermine the consensual approach to vaccination to date.
  
162. On 23 July 2021 my Private Secretary received an email informing me that the UK Government was proposing to relax international travel restrictions for fully vaccinated arrivals from the European Union and the United States of America, exhibit **MD/153 – INQ000256899** refers. It was due to be discussed at a Covid-O meeting. My view was that the risks from international travel remained real, and that the UK Government's approach was not proportionate to that risk. The Welsh Government would, once again, be in the position of having to follow what was decided, but I thought that we should continue to voice our reservations and concerns. On 28 July 2021, the Welsh Government issued a press release, exhibit **MD/154 – INQ000256901** refers, to the effect that there remained clear public health

risks posed by re-opening international travel at that time and the UK Government's decision to further remove quarantine requirements was regrettable. However, as we share an open border with England it would have been ineffective to introduce separate arrangements and we would implement the decision for Wales. There was a call with the Secretary of State for Transport on 4 August 2021 during which he justified the lack of engagement with the devolved governments in relation to the implementation of the 'traffic light system' on the basis that there was a need for more consultation within Whitehall, rather than with the devolved governments, this time but that they would be consulted in the future, exhibit **MD/155 – INQ000256902** refers. There was also a disagreement during this call as to whether the four CMOs had been adequately consulted on the JBC methodology. On 5 August 2021 I wrote to the Prime Minister expressing my frustration at the decision to adopt the 'traffic light system' for international travel and the failure to invite the devolved governments to Covid-O on 4 August 2021, exhibit **MD/156 – INQ000256904** refers.

163. The statistics were starting to deteriorate by the time of the CDL call on 8 September 2021, exhibit **MD/157 – INQ000216591** refers, when I discussed our plans to boost immunity levels.

164. The appointment of Michael Gove as Secretary of State with responsibility for Inter-Governmental Relations, and especially the actions of his Permanent Secretary Sue Gray, did lead to improvements. It brought to a conclusion the much-delayed review of Inter-Governmental Relations which had been initiated under my predecessor Carwyn Jones, when Theresa May was Prime Minister. It led to a better-established process for ministerial engagement between the Four Nations. At official level it provided a mechanism to follow up concerns raised. Yet the development did not eliminate all difficulties. Some disagreements between the Four Nations on certain policy matters are inherent in any system. Others were the product of the ad hoc nature of this latest development. Mr Gove was a skilful lead Minister, but he was a centre forward without a team lined up behind him, and where the manager was largely absent. It seemed to me that there was no commonly understood machinery of government across Whitehall to support the role of the Secretary of State for Intergovernmental Relations. Mr Gove, particularly through the efforts of his Permanent Secretary, could be an effective problem solver – but the problems were often the product of the administration to which he belonged.

165. There was a Covid-19 Operations Committee meeting ('Covid-O'), chaired by the Chancellor of the Duchy of Lancaster, to which the Welsh Government was invited on 17 September 2021, exhibit **MD/158 - INQ256905** refers. The new UK Travel Framework was agreed to be implemented in regulations. There was also a Covid-O on 17 September 2021 which was attended by a number of UK Government cabinet ministers and the Welsh Minister for the Economy, exhibit **MD/159 – INQ000256906** refers. A discussion about testing requirements at the border took place and the Welsh Government raised concern about the Delta variant.
166. There was a call with the Secretary of State for Levelling Up and the Constitution ('SSLUC calls') (Michael Gove had moved from the position of the Chancellor of the Duchy of Lancaster but continued to chair the meetings) on 7 October 2021, exhibit **MD/160 – INQ000216592** refers. The numbers in Wales as we headed into the winter were too high. I expressed my wish that the UK Government would continue to require facemasks in public places and on public transport, as we continued to do in Wales – the difference in messaging was causing problems. I also expressed a view that the messaging around work at home should be consistent across the UK reflecting SAGE advice which confirmed the efficacy of this measure.
167. A discussion took place between the Prime Minister and the First Ministers of the devolved governments on 18 October 2021, exhibit **MD/161 – INQ000256912** refers. The Prime Minister expressed his pleasure at the vaccination programme and the completion of the inter-governmental review which should form the basis for trust and respect moving forward. I highlighted the ongoing impact of Covid-19 on the social care sector. This was followed by a SSLUC call on 20 October 2021.
168. The Covid-O on 21 October 2021, exhibit **MD/162 – INQ000256913**, and 28 October 2021, exhibit **MD/163 - INQ000256915**, discussed opening up, and the Welsh Minister for Health and Social Services pressed the UK Government on how they would monitor new variants and be able to react. He also argued that the advice the advice of the JCVI and CMOs was required before the list of recognised vaccines was changed – this was supported by the UKHSA.
169. On 5 November 2021 I wrote to SSLUC, exhibit **MD/164 – INQ000256917** refers, to express my disappointment at changes to the recognised vaccination policy and emphasises that collaboration between all governments of the UK was essential in



relation to international travel, given the significant devolved responsibilities in this area.

170. Christmas relaxations were on the agenda again for the SSLUC call on 17 November 2021, exhibit **MD/165 – INQ000216596** refers, where I reiterated that it would help messaging if the UK Government made face coverings mandatory.
171. That call was followed the next day by a Covid-O on 18 November 2021, exhibit **MD/166 – INQ256919** refers, which picked up the concerns previously expressed and discussed a paper on contingency plans for red list arrivals in the event of a new variant. Vaccine eligibility was again contentious. At the Covid-O on 25 November 2021, exhibit **MD/167 – INQ000256920** refers, it was noted that a new variant of concern had led to a suspension of travel from certain African countries, including South Africa, which were added to the red list. UKHSA was to undertake a number of actions in relation to the new variant, including the scaling-up of managed hotel quarantine capacity - which the Welsh Government had previously argued should not have been reduced to the level it was at.
172. We repeatedly raised our concerns with the UK Government about the risks of relaxing international travel rules too quickly precisely because of the risk of introducing new variants into the UK. We warned against the removal of PCR tests for returning travellers. We also raised the following issues with UK Government when announcements were made in relation to international travel: the replacement of PCR tests with LFD on day two; the removal of all countries from the red list; recognising WHO EUL vaccines both international and domestically; and the continuation of managed quarantine hotels. However, these decisions were often taken by the UK Government without due respect to the views of the devolved governments in what are devolved policy areas.
173. On 29 November 2021 I wrote jointly with the First Minister of Scotland to the Prime Minister calling for a COBR in relation to the Omicron virus, exhibit **MD/168 – INQ000256922** refers. We argued that it was important for us to agree that if the conditions in a devolved nation were to require more significant interventions than in England, the agreed package of financial support would be available to that nation. We did not want to be in a position again where our public health

interventions were negatively impacted by a lack of financial support but could be switched on as required for England.

#### **December 2021 – May 2022**

174. The Prime Minister responded on 1 December 2021 stating that he had asked the Secretary of State for Health and Social Care to respond, and he would do so shortly, exhibit **MD/169 – INQ000228015** refers.
175. There was agreement at the Covid-O on 4 December 2021, **MD/170 – INQ000256923** refers, to add further African countries to the red list and that all Four Nations would introduce a pre-departure testing requirement.
176. On 7 December 2021 the Secretary of State for Health and Social Care responded to my joint letter with the First Minister of Scotland of the 29 November. The response, at exhibit **MD/171 – INQ000256925**, did not directly answer our points but instead setting out what had been decided at Covid-O over the previous few days.
177. Against the context of growing concern over Omicron, at the SSLUC call on 8 December 2021, exhibit **MD/172 – INQ000216613** refers, the UK Government informed us that they were introducing face masks in various settings, vaccine certificates for some hospitality and large events, and work from home messaging. I requested a meeting to discuss a firebreak at Christmas.
178. This was followed by a COBR meeting on 10 December 2021, exhibit **MD/173 - INQ000083854** refers, the first since January 2021. The devolved governments asked for support from HM Treasury and were told to use existing financial arrangements. The Welsh Government note of the meeting, exhibit **MD/174 – INQ000256930**, discloses a discussion to the effect that doing nothing was not an option but the crude way the debate was being framed by the UK Government as health versus the economy was not helpful as failing to address the health issues would inevitably have an economic impact, and the right way to talk to the public was about balancing the impacts. The Chief Secretary to the Treasury said he would speak to his officials and look again at how they could help the devolved governments.

179. On 11 December 2021 there was a meeting between permanent secretaries, exhibit **MD/175 – INQ000256926** refers, when it was disclosed that following COBR, the Prime Minister had requested a “giant” booster campaign “as fast as possible” and by the end of December. There would be no budget constraints and there would be consequential funding. This was followed up in a SSLUC call on 12 December 2021, exhibit **MD/176 – INQ000256927** refers.
180. All countries were removed from the red list at the Covid-O on 14 December 2021, exhibit **MD/177 – INQ000256928** refers.
181. The issue of availability of financial levers to the devolved governments was discussed again at COBR on 15 December 2021, exhibit **MD/178 - INQ000083855** and exhibit **MD/179 – INQ000216608** refer. As a consequence, I wrote to the Prime Minister on 16 December 2021, exhibit **MD/180 – INQ000228013** refers, to address further the issues on funding which had arisen at COBR. The debate spilled into the next COBR meeting on 19 December 2021, exhibit **MD/181 - INQ000083852** refers, chaired by the SSLUC.
182. There was a Covid-O on 5 January 2022, exhibit **MD/182 – INQ000256931** refers. The testing requirements were removed for fully vaccinated travellers, vaccine certificates were lifted, and the red list remained empty. I did not agree with this decision and wrote to the Prime Minister on 18 January 2022, exhibit **MD/183 – INQ000256933** refers, to set out the Welsh Government's significant reservations about the progressive erosion of public health protections against the risks posed by international travel. The Secretary of State for Transport responded to my letter on 23 January 2022, exhibit **MD/184 – INQ000256935** refers, emphasising the business case for relaxations. The debate on testing was continued at the SSLUC call on 10 February 2022, exhibits **MD/185 – INQ000216597**, and **MD/186 – INQ000216612** refer.
183. I have explained at the outset of this witness statement the context in which the Four Nations were interacting in relation to Covid-19, i.e., Brexit. At this meeting on 10 February 2022, I stated the following which demonstrates that the underlying issues were still ongoing as of February 2022:

*“We are battling away to try and reach position where we can agree Welsh participation in number of UK Bills – not easy, but we are succeeding in more Bills than failing. Thanks to Sue Gray for her work on this. There are still a number where the risk is we end up in the position of looking to the Sewel Convention. Worried this is precursor to bigger issue on EU retained law – want to lay a marker down that a serious discussion is needed on approach of UKG in relation to EU retained law where area is devolved. Have to avoid any risk that UKG Ministers would take powers to override devolved parliaments on areas not within UKG Ministers’ purview.”*

## **Reflections**

184. Reflecting on the chronology I have set out above and the process of decision making, my view is that we (the Four Nations) worked quickly and responded to the swiftly unfolding crisis as quickly as we could at the time. In retrospect things could have been done differently and better. Had we known then what we know now, e.g., I think it would be very likely that a national lockdown would have been implemented before 23 March.
185. Throughout the pandemic there was a sense that engagement with the devolved nations was ad hoc. Inter-governmental machinery was not used as it should and could have been. During the pandemic COBR was used for discussion around a relatively few but significant decisions and primarily as circumstances worsened rather than as they improved. Many other decisions were discussed and made in other forums such as MIGs. I consider that the decision-making process would have worked better if there had been an established history of joint working with the Prime Minister upon which we could have drawn in a crisis. Unfortunately, that history did not exist.
186. JMC meetings provide a machinery for heads of government to meet. The JMC was not used at all throughout the course of the pandemic.
187. Indeed, JMC meetings had stopped when Boris Johnson became Prime Minister; whilst I had sat in meetings with the First Minister of Scotland and the First Minister of Northern Ireland, I had not had the same experience of meeting with the Prime Minister. Instead, we were brought together for the first time around a table to respond to Covid-19. It would have been much better if working relationships were already established. A joint history of working together could have been used and accelerated to meet the unfolding crisis.

188. The British and Irish Council did not play a significant role in co-ordinating the response during the pandemic. When it met (virtually) it did allow for a fuller understanding of the Republic of Ireland and the Crown Dependencies and how they were responding to the pandemic. The most direct discussions usually involved Northern Irish colleagues and the Republic of Ireland. The ongoing path to Brexit cast its shadow over all these encounters.
189. During the pandemic, the Secretary of State for Wales was peripheral to my interaction with the UK Government. The Office of the Secretary of State for Wales is not an intermediary between the UK Government and the Welsh Government. The inter-relationship between governments relies upon Ministers meeting and discussing matters directly with their counterparts in UK Government and those within the other devolved nations. Similarly, officials in the Welsh Government interact with their counterparts. These relationships continued during the pandemic. As can be seen from the correspondence set out above, the Secretary of State for Wales perceived his role as scrutinising the Welsh Government, constantly seeking explanations for policy differences and making inappropriate requests to be inserted into devolved decision-making structures and other groups. By contrast where the Office of the Secretary of State for Wales did have identified functions – as in dealing with requests for military assistance – they were effectively discharged.
190. The special advisers employed by the Welsh Government were involved in regular communications with the UK Government and the devolved governments in Northern Ireland and Scotland. Their role was to share and gather information as appropriate, to ensure there was a common understanding at official level of the Covid-19 situation across the whole of the UK. They had a role in supporting my preference for a Four Nations approach and in communicating Wales's interests at official level on a UK-wide basis. There were a number of official level fora for discussion: Covid Directors discussion; a X-UK Forum run by the constitution team in the Cabinet Office, attended by Covid leads; and a UK-DA planning meeting, which supported these meetings and ministerial level meetings. One early example of special advisers across the UK communicating to resolve issues came on 28 March 2020 when special advisers for the Welsh and Scottish Government raised the issue with the special adviser for No10 Downing Street of the UK Government communications in Wales and Scotland in those nations, exhibit **MD/187 – INQ000256814** refers.

191. During the pandemic Welsh Ministers were speaking to their counterparts in the devolved nations as were officials, and decisions were being made which did not make it onto a COBR agenda. Sometimes these meetings were held at short notice, sometimes without agenda or papers. My feeling, and views expressed to me by Welsh Ministers, was that in many cases the UK Government called these meetings with the devolved governments to inform them of decisions already made rather than to provide a forum for joint decision making. By contrast, at official level, my impression is that there were good relationships between the officials in all Four Nations and that they, including the CMOs, worked well together. I should also reflect in this statement that the Welsh Government worked well throughout the crisis with the governments in Scotland and Northern Ireland.
192. Sometimes decisions were made by the UK Government without any prior consultation of any sort with the devolved governments and first we would hear of that decision was in the press. An example was when the Secretary of State for Health and Social Care announced that there would be 100,000 tests, exhibit **MD/188 – INQ000215183** refers. From my perspective the UK Government made an announcement without any evidential basis in the expectation it would drive activity on the ground. In contrast in Wales, we considered the evidence, planned, and then made any necessary announcement. At times it may have led to different implementation timescales in Wales, but it meant we could deliver on our promises. I felt in this way we maintained public confidence and hence a high rate of compliance. There were areas where we worked well together, and vaccinations is an example of this as there was consistent messaging across the United Kingdom for people to come forward and get vaccinated.
193. Towards the end of the pandemic new arrangements were established as a result of an Inter-governmental Review which had commenced as early as 2018. Since January 2022, all Four Nations have agreed to use the package of reforms developed during that Review as the basis for conducting inter-governmental relations. These arrangements seek to ensure mutual respect for the responsibilities of the governments and their shared role in the governance of the UK. The new arrangements are a positive step. However, by the time the new arrangements were implemented, the increasing instability of the UK Government and the Northern Ireland Executive meant that they could not, at the time, be fully implemented. The Council of Ministers never met while either Mr Johnson or Ms Truss were Prime Minister. At the time of writing, it has never met with a full complement of attendees.

194. I have been asked to what extent informal or private communications were used to facilitate Four Nation decision-making with the UK Government - decisions were made using the channels I have set out above. I did not use private channels of communications with the Prime Minister, UK Ministers or advisers or UK civil servants to discuss Four Nations decision-making and the response to the pandemic. During the specified period, I did have some informal exchanges with the Chancellor of the Duchy of Lancaster and First Minister for Scotland. I can confirm that steps are being taken to recover all such messages from my phone. Any messages recovered will be made available in full to the inquiry without any prior redaction.

## **Conclusions**

195. Once the determination was made to rely upon public health powers as the basis for responding to Covid-19, the responsibility for decision making was dispersed to each UK nation. I believe that this allowed the Welsh Government to calibrate a response which reflected our particular circumstances, and which sustained the broad support of Welsh citizens.

196. The possibility of divergence, however, placed a new onus on effective communication and joint efforts between the Four Nations. Here the machinery of government proved unequal to the task. From an early stage onwards, I repeatedly made the point to the UK Government that there needed to be a regular, reliable rhythm of ministerial meetings, so that the most up to date information could be shared, emerging thinking discussed and public health messaging made as effective as possible. The JMC mechanism was available for these purposes, but the Prime Minister, before Covid-19 began, demonstrated a marked disinclination to use it. As a substitute, COBR meetings, often ad hoc and ill-prepared, provided a hand-to-mouth forum for dealing with escalating phases of the pandemic. The pressure of events at the point of rapidly rising numbers at least renders some of this understandable. It is far less possible to be forgiving of the abandonment of COBR as a forum for engagement once circumstances allowed for an easing of protective measures. Recovery, in terms of health, economy and well-being would also have

been strengthened had the Prime Minister, and First Ministers of the devolved governments come together to plan that path together.

197. In the absence of such coordinated leadership, meetings between portfolio ministers, dealing with specific aspects of the pandemic, did take place, although too often as a forum for communicating decisions already taken, rather than joint consideration. In some crucial instances major announcements were made by UK ministers, without even this level of engagement. When this was accompanied, as was too often the case, by a lack of clarity as to whether such announcements were relevant only to an English audience, or more broadly, avoidable communication confusion inevitably followed.
198. From the point when they were initiated, calls with the Chancellor of the Duchy of Lancaster were welcome and worthwhile. There was, however, an inherent limitation in Mr Gove's ability to persuade all his colleagues to demonstrate the same respect for the devolution settlement which he, himself, evinced. That capacity could only have been exercised by the Prime Minister but respect for devolution was not a viewpoint he shared.
199. Another important issue which continually arose during ministerial meetings, and which has still not been resolved, is the fact that although the devolved governments have policy responsibility in areas that are relevant to responding to a pandemic, they do not always have the necessary financial levers to execute those policy decisions if they require funding over and above the Barnett consequential funding. HM Treasury operates on the basis that when the UK Government wishes to implement a public health response in England, consequential funding is then made to the devolved governments. The process does not operate in reverse. It was never possible for the Welsh Government to trigger funding in that way, however significant the public health need. The answer is to ensure, in future, that a genuinely level playing field is agreed, in which public health emergencies are treated equally, for Treasury purposes, in whichever nation of the United Kingdom they occur.
200. The Government which I lead in Wales is one which firmly believes that the United Kingdom is better for having Wales as a member, and that Welsh is better for being a member of the United Kingdom. Throughout the pandemic I saw many examples



where that was demonstrated in practice: in vaccine development, and in deploying the financial firepower which only a state of the size of the UK was able to mobilise. My frustrations were always at those instances where I believed the constituent nations of the Union could have come together more reliably and purposively to promote better decision-making. I reject the suggestions which some have made that a more effective response to the pandemic would have been mobilised if every decision had been centralised, and the United Kingdom treated as an undifferentiated, homogeneous whole where devolution did not exist. My call for a reliable and regular pattern of engagement was based on the belief that this would contribute to better decision making in every part of the United Kingdom.

201. During the period of the crisis, much work at official level proceeded on that constructive and collaborative basis. What is needed now is a similar approach between ministers. The new intergovernmental arrangements have the potential to assist in bring this about, but they have never been fully implemented and, in any event, need to be animated by the necessary cooperative spirit for them to take the strain of responding to a prolonged and profound emergency.
  
202. Notwithstanding those weaknesses, I do wish to praise the efforts that officials from all Four Nations made to collaborate and co-operate during an unprecedented public health emergency, and I wish to recognise the funding that was made available to Wales over the course of the pandemic. The reforms that were taken forward by the Chancellor of the Duchy of Lancaster in conjunction with the devolved governments are welcome. It is crucial that the UK and devolved governments continue to engage and co-operate in regular meetings – only then will processes and relationships be well-established enough to take the strain of an emerging emergency in a way that was unfortunately not consistently the case for Covid-19.

### **Evidence to other Fora**

203. I have given evidence to the House of Lords Constitution Committee (14 July 2001) and the Welsh Affairs Committee (4 March 2021). The transcript of my evidence is exhibited as **MD/189 – INQ000216618**, and **MD/190 – INQ000216617**. I have also appeared before the Senedd Committee for the Scrutiny of the First Minister on 3 July 2020, 22 October 2020, 11 February 2021, 16 December 2021 and 31 March

2022. The transcripts are exhibited as **MD/191 - INQ000256945**, **MD/192 - INQ000256948**, **MD/193 - INQ000256946**, **MD/194 - INQ000256947** and **MD/195 - INQ000256949**.

204. I have contributed to the Welsh Government lessons learned process, but these sit more appropriately within the inquiry's terms of reference in respect of Module 2B.

**Statement of Truth**

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

**Signed:**

PD

**Dated:** 14/09/2023