

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

OPENING STATEMENT
ON BEHALF OF THE COVID-19 BEREAVED FAMILIES FOR JUSTICE CYMRU
MODULE 2B

1. CBFJ Cymru are a group of Welsh bereaved families who came together to campaign for truth, justice, and accountability for all those bereaved by Covid-19 in Wales, following the devastating loss of their loved ones in the most traumatic of circumstances. They have waited a long time to understand whether more could and should have been done to protect people in Wales from this devastating virus. Whilst they remain disappointed that their own Welsh Government ('WG') has refused to open itself to scrutiny in a Welsh specific inquiry, it is significant and welcomed that this UK-wide Public Inquiry has come to Wales to facilitate the participation of the Welsh bereaved. It is of fundamental importance that the voices of the bereaved in Wales are heard. As was painfully evident in Module 2 ('M2'), those in power are often far removed from reality of the lives of the people they are supposed to serve. The decisions made by those in positions of power in Wales must be understood through the lived experiences of people in Wales. It was the Welsh bereaved who saw first-hand the failures and deficiencies in the preparation for and response to the pandemic in Wales, as clearly illustrated in Module 1 ('M1') of this Inquiry. It was the Welsh bereaved who witnessed day after day the individual and systematic failure to adequately protect people in Wales as Covid-19 rapidly spread through hospitals and care homes with not enough testing and PPE. Many were simply not provided with the protection that they deserved. Powerful testimony will be heard in this Welsh specific module from some of those who lost loved ones in Wales to Covid-19. This opening statement touches upon some of those experiences to frame the central questions that this Inquiry must address.
2. Many of those who died of Covid-19 in Wales caught the virus in a hospital or care home, in the context of inadequate infection control. Many witnessed, for example, poor ventilation, a lack of sanitising products and engagement of agency staff who were moved around different wards, hospitals, and health boards.
3. The Inquiry has already heard about deaths in care homes and hospitals in circumstances where there was said to be a lack of adequate PPE/RPE and a failure to provide timely testing. A significant

number of CBFJ Cymru's members witnessed healthcare workers caring for their loved ones whilst not using the correct PPE, for example, one member states, *'I waited 30/40 minutes in the hospital waiting area during the second wave. Nobody was wearing a mask.'* Many of CBFJ Cymru's members experienced issues with the testing of healthcare staff, for example, one states *'My father caught Covid while in hospital. The nursing staff were quite open about the circumstances – the nurses had gone to work thinking they had a cold, when really they had Covid.'* Some CBFJ Cymru members infected their loved ones after working in dangerous conditions in Welsh hospitals with no PPE/RPE and limited access to testing. The WG has been criticised in the Senedd and in internal reports in relation to PPE and testing. The Welsh bereaved want to know whether Wales had a robust system for commissioning and for distributing PPE/RPE and communicating about its use. The Welsh bereaved want to know why there was a delay in the introduction of regular testing of healthcare workers in Wales, and what policy makers put in place for oversight of whether policy was actually being implemented on the ground.

4. In Wales as in England there was discharge from hospitals to the community and crucially into care homes and other hospitals of untested patients, and inadequate testing of staff. By 19 June 2020, 717 people had died of Covid-19 in care homes in Wales. The Welsh bereaved want to know why in Wales testing for those who were the most vulnerable to the virus lagged behind other nations.
5. Some of CBFJ Cymru's members have experience of their loved ones being discharged from a hospital without being tested or without a test result being returned. One member reports, *'my father was tested when discharged, but only told he was Covid positive when he attended a fracture clinic 2 days later.'* Another reports, *'My father, and others, were discharged from hospital to care homes across the borough to make room for anticipated Covid patients. None of these people who were discharged were tested'* and one member states *'My wife was tested upon discharge but was never told her results. Days later, we were both rushed into hospital, as I had contracted Covid from her. I survived, she did not.'* Finally, another member states, *"Since my mother's passing (the Health Board) have informed me, via a Freedom of Information request, that 25 untested patients were transferred from regional acute hospitals to (her) ward between 1 March 2020 and 1 May 2020"*.
6. Many members lost loved ones in the period after the WG began to diverge in its decision making from the United Kingdom Government ('UKG'). The Welsh bereaved want to understand the justification for WG and UKG's different decision making when the core science was the same. They also want to understand whether any decision making by the WG was politically motivated.

Was this indicative of WG focus at the time? They want to understand the justification behind the timing and length of the Autumn Firebreak 2020 and whether it is right to blame the UKG funding decisions for the fact that it was not implemented sooner or lasted longer. Why was the request to model a Firebreak only made on 11 October 2020 (despite the recommendations in the SAGE paper of 21 September INQ000061566) with its commencement on 23 October 2020 for only 17 days? Why were the restrictions introduced following the Autumn Firebreak ‘*insufficient to control the growth of the epidemic*’ in the words of Wales Chief Scientific Adviser for Health (‘CSAH’) Dr. Robert Orford? Dr. Orford states in his witness statement that too much of society was opened up at once and that opening hospitality after Wave 1 was a mistake, but he suggests political considerations had a role in preventing more restrictive measures from being introduced after the Firebreak (para 250 INQ000356177_0065). The Welsh Bereaved ask that this is explored in more detail with the spotlight on the logic and rationality of the WG decisions in this period. For example, why did the WG not seek any modelling or other advice on the Eat out to Help Out scheme (‘EOTHO’) and how was it justifiable in December 2020 to close schools but allow pubs and restaurants to remain open including into the New Year? As the Scottish part of this Inquiry heard in Module 2A, on 27 October 2020 Nicola Sturgeon commented ‘*It’s all so random*’ when considering the Autumn hospitality restrictions. Finally, the Welsh bereaved want to know why so many of the crucial decisions that were made by the WG, such as on making face coverings mandatory and testing, were made later than the corresponding decisions of the UKG and other devolved nations.¹

7. Another issue of real concern to the group relates to confusing public messaging by the WG and Chief Medical Officer (‘CMO’) Sir Frank Atherton. For example, in relation to shielding, from 1 August 2020 those who were extremely clinically vulnerable in England were told they no longer needed to shield yet in Wales people were told on 16 July 2020 that the date for ending shielding in Wales was 16 August 2020. This was particularly confusing for the silent generation of older and vulnerable people who were compliant and less likely to challenge official instructions. One member recalls that her father received a letter from Sir Frank Atherton in October 2020 instructing him to no longer shield, even though the prevalence of the virus was increasing at the time. We now know from the evidence heard in M2 that by that by this time SAGE was advocating for national lockdown and that the evidence from Michal Gravenor, of the epidemiology modelling team of Swansea University, is that the Technical Advisory Cell (‘TAC’) was tracking the worsening

¹ INQ00093562

situation of virus spread in Wales in September 2020 and “*by September 11th 2020, it was very clear R was above 1, cases were in the 100 per day while there had occasionally been single figures in early August*”².

8. From the very beginning of their campaigning CBFJ Cymru have called upon those in positions of power who made crucial life and death decisions to give an honest and open account of what happened. This is to ensure not only that there is full transparency as to what happened but most importantly to ensure there is proper accountability so that lessons are learnt. To date the Welsh bereaved have listened in disbelief first in Module 1(‘M1’) as Welsh ministers and advisers sought to justify why it was they were so woefully unprepared for the arrival of the Covid-19 pandemic in Wales and second in M2 as it became clear that many in the UKG, from politicians, civil servants and special advisors (‘SPADs’), struggled to admit their failings and contribution to the woefully inadequate and disastrous response of the UKG in to the pandemic, chief among them the former Prime Minister Mr. Johnson who amongst other things simply failed to act decisively, failed to follow the rules, and presided over a macho and at times misogynistic atmosphere that clearly has no place in our society. There was then Mr. Sunak our Prime Minister, Chancellor of the Exchequer at the time, who struggled with his recollection on so many central issues.
9. This is the backdrop against which the WG and its advisors come to this Welsh specific aspect of the Inquiry. It might be that Welsh ministers, and their central advisors, feel some reassurance from the behaviours clearly exposed in M2. Any government would be hard pressed to match the shocking display of arrogance and central government toxicity within Westminster at that crucial time. However, the Inquiry must guard against unhelpful comparisons. The Westminster yardstick sets the bar particularly low. Rather the WG must be judged not solely by comparison to what was happening in the UKG but by their own standards, by their own evidence and by what they knew and when.
10. The Welsh bereaved expect all those giving evidence in M2 to engage fully and effectively with this Inquiry and to reflect carefully and honestly about what went on and how things could have been done differently. The politicians are asked to put aside their political ambitions and career aspirations and to give frank answers about the justification for decision making and where mistakes were made (not simply in hindsight but reflecting on what was known at the time).

² INQ000347979 p 31, para 102

11. In M2 some of the most insightful and illuminating evidence came from contemporaneous sources and in particular informal communications such as WhatsApps. The Inquiry has worked tirelessly to obtain this material in the face of persistent delay, late disclosure, and non-disclosure. It remains a real concern on the part of the Welsh Bereaved that many Welsh politicians and SPADs are now stating they either didn't use informal messaging for anything other than minor administrative matters and hence did not need to retain this material or that such messaging was simply deleted. The messages disclosed clearly show WhatsApp was being used by officials and certain ministers to discuss policy and the pandemic response. They also show WG advisors during Wave 1 systematically deleting communications, including at the highest levels. SPADs can be seen reminding themselves that they "*agreed to clear out WhatsApp chat once a week*" and sending reminders that others do the same. The Welsh bereaved are shocked to see Jane Runeckles, the most senior SPAD for the First Minister for Wales ('FMW') Mark Drakeford turning on disappearing messages on 25 November 2021. The WhatsApp messages also show that despite initially stating in Plenary in the Senedd on 7 November 2023 that he did not use WhatsApp, Mr. Drakeford was regularly using WhatsApp to discuss WG policy, to make announcements and even ask for clarification on the rules. At the highest levels WhatsApp was being used to conduct government business implicitly endorsed by the Permanent Secretary Shan Morgan through her own such use of it. The Welsh bereaved look forward to hearing how the WG justify the use of WhatsApp for government business when its use was clearly prohibited before the pandemic.³ They also remind the Inquiry of the words of the First Minister's official spokesman, as reported in the press on 7 November 2023 that, "*staff were regularly reminded of the need to maintain and retain robust records relating to decisions taken throughout the pandemic*".⁴
12. **Early Response** – There must be close scrutiny of the WG's early response to the threat of the virus, including whether valuable time was lost in January and throughout February 2020 This was when the threat was emerging, but the virus had not yet arrived and there was time to make decisions on preparations for things that were bound to be required. There was time to focus on, for example, the whole range of infection prevention measures and policies for hospitals and care settings, on how to build hospital capacity whilst protecting the fragmented social care sector from the predictable demands on it and dissemination of PPE. The disclosure before the Inquiry in M2b indicates that the WG's response to Covid-19 was slow, chaotic, and disjointed with the WG

³ INQ000396686 and INQ000396685

⁴ <https://www.bbc.co.uk/news/uk-wales-politics-67343907>

focusing on other priorities until after the first case had arrived in Wales. Even then the response continued to be slow in some quarters.

13. This Inquiry heard in M2 that by 4 February 2020 the UKG should have been “*electrified*” (as it was put to Sir Chris Whitty⁵). The WG should have been equally electrified by that point. The WHO had declared a public health emergency of international concern on 30 January 2020. A precautionary SAGE had met on 22 January 2020. On 4 February 2020 SAGE confirmed human to human transmission had occurred outside China, doubling time of 4 – 5 days and was discussing the need to gain time to prepare the NHS. The seriousness of the situation was clear: the influenza planning assumptions which SAGE had decided should be used, as they applied to Wales, were set out in the *Wales Health and Social Care Influenza Pandemic Preparedness and Response Guidance, February 2014* – and referenced up to 50 % of the population experiencing symptoms, of which 1 – 4 % would require hospital treatment, and 12,000 – 15,000 excess deaths.⁶
14. The fact that there was no known case in Wales until 28 February 2020 cannot be used to justify slow engagement and planning by the WG in these critical early weeks for the devastating pandemic that was clearly on the horizon. On 12 and 13 February 2020 WG officials received by email the shocking SAGE planning assumptions and UKG RWCS communication plan⁷. Why did it take until 20 February 2020 for the Health and Social Services Covid-19 Planning and Response Group to first meet, whose remit it was to consider the risk assessment for the latest RWCS for Covid 19 and to co-ordinate contingency response planning across HSSG⁸? Why were WG ministers only presented with the RWCS in Cabinet on 4 March 2020 and why did it take the Core Covid Group until 11 March 2020 to meet.⁹
15. The Inquiry should note the observations of PHW’s then Lead Strategic Director that: “*What I think was missing in the first few weeks from 8 January 2020 when I first became aware to 20 February 2020 when the H&SSG Coronavirus Planning and Response Group first met, was national strategic leadership and co-ordination from Welsh government*”¹⁰.

⁵ Module 2 Transcript, 21 November 2023 p 166

⁶ INQ000083240_0007

⁷ INQ000320718 and INQ000320720

⁸ INQ000391115_0028

⁹ IQ000309736 and INQ000320721

¹⁰ INQ000267867_0038

16. The Inquiry must investigate whether there was co-ordination such actions that were being taken in January and February 2020, and the significance of the CSAH's observations that, if TAC or a similar structure had been available prior to the pandemic it is possible "*we would have reacted differently from January onwards*"; and that "*more WG coordination meetings in January and February 2020 would have been helpful*" ¹¹.
17. In the lead up to the first national lockdown on 23 March 2020, agreed by all Four Nations, evidence in M2 demonstrated that the UKG failed to act with the focus and speed required to anticipate and prepare for interventions. It is suspected the same picture emerges as regards the WG's response.
18. The WG and UKG did not advise against mass gatherings until 16 March 2020. The Welsh Rugby Union called off the Six Nations Rugby match due to take place on 14 March 2020. The Stereophonics played 2 concerts in Cardiff on 14 and 15 March 2020. FMW Mr. Drakeford's position at the 12 March 2020 COBRA was that mass gatherings should be restricted but UKG disagreed. He says, "*In the end the scientific advice I received did not justify the WG interfering with whether the game proceeded*"¹². It is not clear what that advice was. The scientific advice Vaughan Gething says he received on 11 March 2020 stated a 5% reduction in cases and a 2 % reduction in infection related deaths was predicted by restricting mass gatherings¹³. There needs to be close scrutiny of what the WG's rationale actually was for its decision on this issue.
19. **Response to asymptomatic transmission** – It was recognised at an early stage that asymptomatic transmission was a possibility. Knowledge of the extent of asymptomatic, pre-symptomatic, and pauci-symptomatic transmission continued to accumulate over time: see minutes of NERVTAG and SAGE January 2020 to June 2022.¹⁴ SAGE minutes 28 January 2020 state, "*There is limited evidence of asymptomatic transmission, but early indications imply some is occurring. PHE developing a paper on this.*"; 4 February 2020: "*asymptomatic transmission cannot be ruled out and transmission from mildly symptomatic individuals is likely*". NERVTAG minutes 21 February 2020 record as regards evidence from Singapore, South Korea and Japan: "*the evidence suggests that 40% of virologically confirmed cases are asymptomatic*"⁶. An email update from Dr Orford of

¹¹ INQ000390618_0057

¹² INQ000273747 p13

¹³ INQ000320750_0002

¹⁴ INQ000248853

20 February 2020 stated, “*From cruise ship – 30-50% asymptomatic-mild*”.¹⁵ CBFJ Cymru seek answers as to whether ministers were informed of this risk and if so, when.

20. On 30 April 2020 Vaughan Gething received ministerial advice that there was evidence that asymptomatic care home residents can be a source of infection to others.¹⁶ The Inquiry should ask the meaning of the entry “*There was a 4 nations group on testing but Wales did not seem to be fully plugged in*”.¹⁷ Even the UKG (whose policies also delayed in taking account of asymptomatic transmission in care homes) changed its policies earlier than the WG to factor in the risk of asymptomatic transmission.¹⁸
21. Mr. Drakeford in his witness statement states there needed to be sufficiency of evidence before operational decisions could be based on it.¹⁹ Operational decisions should have been taken which factored in the risk, rather than operational decisions which ignored the risk because the scientific evidence was not yet clear.
22. Guidance dated 8 April 2020 stated: “*negative tests are not required prior to transfers/admissions into the residential setting.*”²⁰ It appears this guidance was not only problematic because of the risk of asymptomatic transmission but it envisaged a plan to discharge potentially infectious patients into care homes whether they were asymptomatic or not: “*some of these patients may have Covid 19, whether symptomatic or asymptomatic. All of these patients can be safely cared for in a care home if this guidance is followed.*”²¹ In an email of 7 April 2020, the Deputy Chief Inspector of Care Inspectorate Wales made a point apparently ignored by decision-makers - that it was “*quite tricky to align*” the messages that high-risk citizens needed to shield whilst care home providers were “*being encouraged to accept patients with Covid 19 into a home where many other high risk people live and there may be no existing cases of Covid 19*”.²² Vaughan Gething in his statement says that the plan was that isolation facilities in care homes would be in place to manage such discharges,²³ however, given it was known that care homes with vulnerable residents provided a setting conducive to rapid spread of viruses and respiratory pathogens, and that outbreaks could

¹⁵ INQ000383626

¹⁶ INQ000116607

¹⁷ Ibid, para 11

¹⁸ Evidence of Matt Hancock, Transcript, 30 November 2023, p.5

¹⁹ INQ000371209, p.27, para 83

²⁰ INQ000283271, p.3

²¹ INQ000283271, p.2

²² INQ000198279, p.1

²³ INQ00039127, p.129

have devastating consequences, it is submitted that both the WG and PHW should be asked to clarify how the rights of older people can be said to have been sufficiently protected when developing this policy.

23. **Understanding of the airborne nature of the virus (aerosol transmission) and the need for relevant protective measures** – It must be investigated whether the WG failed properly to

acknowledge that Covid-19 was spread by aerosol transmission, and to adapt their public messaging, issue appropriate guidance to healthcare services, and to focus of their NPIs appropriately. Professor Sir Chris Whitty’s witness statement in M2 confirms that several possible routes of transmission were recognised early, and this included aerosol transmission.²⁴ Evidence given by Professor Catherine Noakes (chair of the Environmental and Modelling Group (EMG) of SAGE) in M2 was clear; there was no reason not to guard against airborne transmission in the January to March period.²⁵ In fact, the evidence base was weak for all routes of transmission, yet there was a tendency to assume there was evidence of transmission for other routes and a need to evidence airborne transmission, and that, on a precautionary basis, it would have been appropriate to indicate that aspects such as ventilation mattered.²⁶

24. As early as 5 May 2020, the EMG advised there remained significant uncertainty around the relative contribution of different transmission routes, and therefore the approach to risk should be on the well-established hierarchy of control. The EMG’s advice continued to identify the importance of aerosol transmission as a potential route of transmission throughout 2020, which led to advice on, inter alia, mask-wearing and ventilation. An advice dated 30 September 2020 confirmed that ventilation is an important factor in mitigating against aerosol transmission, and that it is important to improve ventilation in multi-occupant spaces with low ventilation rates.²⁷ However, Catherine Noakes’s statement from M2 confirmed that “*many buildings including a large proportion of hospitals do not meet current design standards particularly for ventilation rates*”.²⁸

25. However, the EMG’s advice appears not to have been taken on board by WG in a timely manner. On 23 July 2020, SAGE endorsed an earlier EMG paper on airborne transmission; noting its findings on the importance of good ventilation.²⁹ This meeting was attended by Dr Rob Orford

²⁴ 1N0000248853, p.100

²⁵ Transcript 19 October 2023, pp. 17-18

²⁶ Ibid

²⁷ INQ000075008

²⁸ INQ000236261, pp.4-5

²⁹ INQ000119954

(CSA for Health for Wales). However, the minutes of the Core Group meeting 8 July 2020 show that at that point the WG's position was there may be a need to consider impact on enclosed ventilation systems "*should the advice change*" from the Welsh virologists.³⁰ Given the EMG were the specialist experts on the transmission of the virus, CBFJ Cymru query why the advice from the Welsh virologists would need to change.

26. CBFJ Cymru want to know whether the WG properly acknowledged the airborne nature of the virus, whether it made sure it had the up-to-date scientific knowledge about aerosol transmission and reflected this in its advice and actions and was informed of and acted on the learning from the EMG and SAGE.
27. Scientists recognised early on that FFP3 masks are required for proper protection from aerosol transmission³¹ (see also the Royal Society Report³²). BMA Cymru reported that throughout 2020 many of its members were concerned about a lack of FFP3 masks.³³ On 31 January 2022, BMA Cymru issued a press release on the failure of the WG to endorse the use of FFP2 and FFP3 masks stating, "*The vast majority doctors in Wales are appalled that, 2 years into the pandemic, their need to be protected as they carry out their work in the face of the virus is still being ignored by the Welsh Government*".³⁴ CBFJ Cymru are deeply concerned about the spread of infection in hospitals to healthcare workers and want to know what response the WG has made on FFP3 masks for healthcare workers.
28. This Inquiry must consider whether the WG has properly investigated and implemented all the relevant low harm measures that could help prevent the spread of the virus, including the most effective types of masks, public messaging, and actions for better ventilation in indoor environments including in hospitals.
29. **Consideration of Older People** - The WG was also late in introducing testing of residents and staff in care homes. This was in place in England from 28 April 2020 and in Scotland from 1 May 2020.³⁵

³⁰ [INQ000311825], exhibit MD/102 to witness statement of Mark Drakeford

³¹ [INQ00047771/2] Review of data on persistence of SARS-CV-2 in the environment and potential infection risk, to Public Health England internal/NERVTAG review, 14/2/2020, on Inquiry website.

³² Covid-19: examining the effectiveness of non-pharmaceutical interventions from the Royal Society, 24 August 2023 [INQ000250983/60] Available on Inquiry website.

³³ INQ000118683

³⁴ [INQ000118732] exhibit to fourth witness statement of Professor Philip Banfield [INQ000399171/18]

³⁵ INQ000053221, pp.7-8

Wales only changed its approach to such testing from 16 May 2020.³⁶ Vaughan Gething states this could have been implemented earlier but the decision was based on advice on the relative value of testing, referring to TAC advice.³⁷ He also suggests different actions would have been taken “*with the knowledge we have now*”. It is difficult to understand why, at the time, Wales did not have the same knowledge and come to the same conclusions as other nations on testing. When lateral flow tests became available, Wales was also later than England in introducing regular testing of care home staff and residents.³⁸

30. The evidence shows that the concerns about older people in care homes were such that on 15 April 2020 the Older People’s Commissioner for Wales called for the WG to publish a specific action plan setting out what would be done,³⁹ but it was not until 30 July 2020 that the WG agreed to the request.⁴⁰ In the meantime, the Commissioner and others enlisted the involvement of the Equality and Human Rights Commission (EHRC) because of concerns about the situation of older people. The summary of their work done with the WG states there were shortcomings in the decision-making processes with regards to equality and human rights considerations during the first months of the pandemic including an absence of Equality Impact Assessments, and the WG had not been able to adequately evidence appropriate consideration of older people. The Commissioner states many challenges could have been avoided by planning and engagement with care homes at an early stage.⁴¹

31. **DNACPR** – There is evidence that one of the issues that caused great distress for older people and their families was the issue of DNACPR; that there were concerns about blanket policies, a lack of consultation with the person and/or their family and instances where the person and/or their family was unaware the DNACPR decision was in place. CBFJ Cymru agrees with the Commissioner on the need to review how the DNACPR decision process works and where improvements can be made⁴².

32. **Face coverings & face masks** – Other countries were much quicker to implement mandates for face coverings than the WG.⁴³ On 28 April 2020, First Minister Nicola Sturgeon advised the use of

³⁶ INQ000053221

³⁷ INQ000391237, p.131

³⁸ INQ000227387, INQ000082636

³⁹ INQ000181739

⁴⁰ INQ000276281, p.47

⁴¹ IQ000181725, p.22

⁴² INIQ000276281_0055

⁴³ INQ000192101

cloth face masks in enclosed spaces and on public transport. On 7 May 2020, the Northern Irish executive recommended face coverings in enclosed spaces where social distancing was not possible. Similar advice was given in England on 11 May 2020. It was not until 9 June 2020 that the WG recommended face coverings in circumstances where social distancing is not possible. On 5 June 2020, the WHO advised national governments to encourage the general public to wear face masks or face coverings in certain circumstances as one of many public health measures. Face coverings became mandatory on public transport from 15 June 2020 in England, 22 June 2020 in Scotland, and on 10 July 2020 in Northern Ireland. Wales was the latest of the 4 nations and only imposed mandatory face masks on public transport from 27 July 2020. In Scotland and Northern Ireland, face coverings became mandatory in shops on 10 July 2020, and from 24 July 2020 in England. As to other indoor spaces, England extended the list of places where face masks would be mandatory on 24 July 2020. The WG did not impose similar restrictions until 14 September 2020.

33. Therefore, at each stage, Wales was behind the rest of the UK when it came to rules about wearing masks in indoor spaces. If it is contended that wearing face masks would promote risky behaviour, then the evidential basis for that opinion must be identified. The justification for not mandating this last resort measure must be robustly challenged.

34. **Science advice – Technical Advisory Group (‘TAG’) / Technical Advisory Cell** - During the pandemic, the WG established TAG, TAC and several subgroups⁴⁴ “*not to recreate all of the SAGE mechanisms but to allow us to just simply translate the implications of that into the Welsh context*”⁴⁵. The Inquiry should scrutinise whether SAGE’s English-centric focus was justifiable, whether SAGE and its subgroups ought to better reflect the devolved nature of the UK, and whether the establishment of TAG and TAC and its subgroups was necessary.

35. Professor Chris Jones, Deputy Chief Medical Officer, has expressed discomfort at the number of government officials in TAG and implications for independence and risks of influence over professional and academic advice⁴⁶. It appears that there were issues as to TAC’s resilience and staff retention and noted gaps in skills and expertise. Evidence suggests demand often outstripped capacity to respond effectively to policy makers, which begs the question whether the WG’s access to rapid analytics during a rapidly progressing pandemic was left wanting⁴⁷.

⁴⁴ INQ00068507; INQ000356177

⁴⁵ Dr Andrew Goodall, Transcript 3 July 2023, pp 108-109

⁴⁶ INQ000326303

⁴⁷ INQ000350575_0003

36. Evidence before the Inquiry in respect of one subgroup is that *“the engagement [with TAG] was never really formalised and the commissioning of work was almost completely informal and haphazard. Many requests were verbal and responding to some specific point with almost a ‘knee-jerk’ or ‘panic’ flavour to them...”*⁴⁸, that there was *“little consideration”* of its reports on TAG; and that there was little or no communication across the different subgroups⁴⁹ resulting in duplication of work. The Inquiry should consider whether these concerns were common across subgroups and the impact on provision of scientific advice and policymaking.
37. The Inquiry should examine the interface between science advice and policy. In particular i) did policymakers without scientific backgrounds need support to ask the right questions: ii) did advisors and analysts have insufficient understanding of policy/policy-making process; and iii) did policy teams need additional support to translate evidence presented at TAC/TAG into policies. CBFJ Cymru was concerned to read that there had been only a *“low level of challenge”* from policy teams to TAC and other scientific advice, and agrees, if correct, this would be *“surprising given high level of uncertainty during the pandemic”* and suggests *“a sign of policy weakness”*.⁵⁰ The question arises whether scientific advice always flowed into policy making as opposed to being discussed in other arenas (INQ000350575_0005) and whether strident policy stances were being taken without being informed by scientific input.⁵¹
38. The interaction between TAG/TAC and its subgroups and UKG and other Devolved Administrations must be examined. It is said that Wales struggled to have its voice heard at UK fora and was considered a *“small fish in a larger pond”*⁵² and there are concerns as to whether WG access to data may have been inhibited. If this is correct, what were WG doing about it?
39. **Modelling** – A significant contribution was made by academics and others offering services and expertise to the WG and PHW. However, did WG acted as quickly as they should have at the start in taking up offers of support and mobilising expertise in Wales and was there was appropriate treatment of professionals? It is also of real concern that at the start of the pandemic Wales did not have any modelling capability and so simply did not know the likely impact of Covid-19 on Wales

⁴⁸ INQ000347980

⁴⁹ INQ000183844

⁵⁰ INQ000350575_0004

⁵¹ See for example WhatsApp dated 6 December 2020 at 13:00 INQ000303220_0090

⁵² INQ000349840_007-008

in the early stages, leading to overreliance on SPI-M models, notwithstanding their “*poor fit*” for Wales.⁵³ This was a clear a planning failure that has yet to be explained.

40. The Swansea Modelling team was only running from May 2020; initial offers of assistance seemingly had not been taken up by the WG and PHW in February and early March. Despite the clear demand for this modelling the WG did not provide financial support for this work until October 2020, but expected professionals to work for free on top of their existing jobs. There does not appear to have been adequate and timely behavioural modelling based on Welsh specific data at the start of the pandemic and quite possibly into the second wave. Evidence in M2b indicates the TAG subgroup on risk-communication and behavioural insights was only established in July 2020⁵⁴ and only published its first advice on 29 October 2020.⁵⁵ The Inquiry is asked to scrutinise the utility of SPI-B advice in the Welsh context.

41. **Intergovernmental relations** – There should have been no place for playing politics in a pandemic with lives at stake. The WG and UKG and other Devolved Administrations (DAs) should *all* have interacted on the basis that the sole aim was to collaborate for the most effective response to the pandemic. They should have striven to reach agreement and to align policies where possible. Where policy could not be agreed, they should have informed each other of proposed policies and co-ordinated their actions in a sensible way that would minimize confusion for ordinary people. The WG’s interactions with UKG must be scrutinized to see if it did these things. We know from what we heard in M2 that there wasn’t a proper structure for regular meetings between First Ministers of the DAs and the Prime Minister particularly after COBR ceased to meet regularly after May 2020. However despite this, and despite the wrong mindset being held by *some* UKG politicians towards working with the DAs, the evidence shows clearly that there *were* in fact plenty of fora for regular contact and discussion between WG and UKG at many levels: the Four Nations’ CMOs, meetings of officials, meetings of the First Ministers with Michael Gove, the regular meetings of the Four Nations health and social care ministers’ and their WhatsApp group are just some examples.

42. It is surprising therefore to see in the Core Group Meeting minutes of 6.5.2020 the entry: “*It had been difficult to obtain clarity from the UKG on its policy for England*” (in relation to care home testing policy). It must be ascertained what the WG proactively did to ensure it was informed of

⁵³ INQ000409575, p.14 paragraph 29

⁵⁴ INQ000068503

⁵⁵ INQ000068503

important UKG policy changes. It is difficult to see that there can be any good reason why the WG would not be able to get information about policies at the UKG level quickly after their adoption by UKG even if UKG did not take the step of alerting the WG in advance. The wider question of course is whether the WG genuinely sought to forge relations that would enable the best chance of alignment of policy - or whether there was a tendency towards silos and a default position of blaming UKG, when the WG itself could have been more proactive in forging better channels and relations.

43. **SAGE and NERVTAG** -The Inquiry must examine whether Wales had the full benefit of the scientific expertise at the UKG level from SAGE and its sub-committees: what did the WG do to try to secure a presence on and get information from SAGE before 11 February 2020 when the CSAH joined SAGE, and to have a presence on NERVTAG There is a real question that needs to be asked about whether the learning from these science bodies was effectively fed into WG decision-making - or did information get lost among the plethora of bodies?
44. **Concluding comment** - CBFJ Cymru is angered by what they have learned in preparing for this Inquiry and the apparent reluctance or refusal of the WG to acknowledge and learn from their mistakes. They feel the WG has ignored their concerns. The work of this Inquiry is therefore of huge importance to them. We conclude with the voice of one of the many in Wales who tragically lost loved ones, whose questions about what happened and why must be answered in this Inquiry:

“With zero infection control for an airborne virus my dad didn’t stand a chance when admitted to hospital for a gallbladder infection in Oct 2020. So many missed opportunities to protect him: Covid symptoms not recognised, little testing & PPE, no segregation, no risk assessment. Sent home to free up beds following a 21 patient outbreak. No one checked anything. A woefully inadequate complaints process has meant we are still without answers. He was a lovely, decent, respectful man who loved life. A life that was taken away from him much too soon. Older people cannot be disregarded in this way again.”

**CRAIG COURT
HARDING EVANS SOLICITORS**

21 FEBRUARY 2024

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