

Witness Name: Prof Debbie Foster

Statement No.:1

Exhibits: 8

Dated: 16/01/24

UK COVID-19 INQUIRY

WITNESS STATEMENT OF PROFESSOR DEBBIE FOSTER

I, Professor Debbie Foster, will say as follows: -

Background

1. I am Professor of Employment Relations and Diversity at Cardiff Business School, Cardiff University. I was approached in June 2020 by Rhian Davies (CEO of Disability Wales) acting on behalf of the Disability Equality Forum (DEF) of Welsh Government, to Chair and author a report about the pandemic experiences of disabled people in Wales. This report was titled 'Locked out: Liberating Disabled People's lives and rights in Wales beyond Covid 19' (or the 'locked-out' report). I was known to Disability Wales through my academic work and as someone who had served on advisory groups. I understand my name was put forward, because I had prior experience of working with Disability Wales coproducing research with disabled people, I self-identified as a disabled person, I used a social model of disability in my work, and I was an academic who was regarded as independent of Welsh Government.
2. The DEF of Welsh Government comprises of disabled people and representatives from Disabled People's Organisations (DPOs) across Wales. In 2020, the Deputy Minister and Chief Whip, Jane Hutt MS, chaired the Forum. My understanding (as I am not a member of the Forum), is that in late June 2020 a discussion resolved that an investigation into disabled people's experiences of Covid-19 in Wales was

needed. A report was underway investigating the impact of Covid-19 on Black, and Minority Ethnic (BAME) groups in Wales, chaired by a professor who had been appointed by the First Minister. What was different about the proposed DEF report was that the Chair would be nominated by this group and disabled people chosen by the Forum would be members of the Steering Group involved in coproducing its content. The Steering group would report back to the DEF on its progress, and it was hoped that ongoing interactions with the DEF would promote 'ownership' of any report to be produced among disabled people and their organisations.

3. My research expertise is disabled people's employment. I use an 'emancipatory' approach by coproducing knowledge and recommendations from findings with disabled people and their organisations. At the centre of this is disabled people's lived experiences, which are too often overlooked or misunderstood because of their marginal status as a group in society. Disabled people are regarded as active agents in my research, in contrast to traditional 'expert' approaches where they have often been treated as passive recipients of others' perceptions and decisions, or as lacking capacity. I self-identify as a disabled person and my research uses the social model of disability that was developed by disabled scholars in conjunction with the UK disability rights movement. The social model of disability differs from the dominant medical model, in that it does not necessarily view a persons' impairment (or medical condition) as disabling, rather disability is caused by barriers in society - physical, attitudinal, and sensory. Importantly, these are barriers that are amenable to change.

Composition of the Steering Group and method of working

4. I was approached to lead an investigation and author a report about the impact of Covid-19 on disabled people in Wales, by Rhian Davies Chief Executive of Disability Wales (DW), on behalf of the DEF. I accepted and Rhian sent an email to the DEF I was copied into on 27.08.20 [AB/1 –INQ000371210] stating this and asked them to nominate representatives to join the Steering Group SG), which first met on the 6.10.20. The pandemic and its social restrictions were experienced by disabled people differently, because of the introduction of

measures such as social distancing, the wearing of face masks and access to social care, so it was important that different impairment groups were represented in the SG membership.

5. The SG consisted of Rhian Davies (DW); Andrea Gordon, who is visually impaired and works for Guide Dogs for the Blind; Gaye Hampton, a Deaf BSL user, lecturer, researcher and advocate; Natasha Hirst a deaf non-BSL user, independent researcher and active trade unionist; Joshua Reeves, who worked for Leonard Cheshire and lived in an institutional setting; Lee Ellery, whose impairments affect his speech and mobility and Lee had a wide range of experience including working co-productively with local authorities; Debbie Schaffer of Fair Treatment for the Women of Wales (FTWW), who self-identifies as disabled and is an experienced advocate on disabled women's health; Joe Powell, who self-identifies as disabled and is CEO of All Wales People First, an organisation representing learning disabled people; Jon Luxton, Jane Hutt's Special Policy Advisor on disability, who is also a disabled person and wheelchair user, so had experience of physical inaccessibility during the pandemic.
6. Two Welsh Government researchers, Steven Macey and Scott Clifford joined the SG. Steven, a senior researcher with Welsh Government had already been collating information on the impact of the pandemic on groups with different protected characteristics including disabled people. Information he gathered came from a range of sources: official documents, academic publications, blogs, trade unions, national and international human rights organisations, and grey literature from among which were Disabled People's Organisations (DPOs). At the first meeting of the SG on 6.10.20, gaps in existing evidence were identified and a wider call was made to members of the DEF for research they were aware of. Scott, a data analyst reviewed and analysed official Government (UK and Welsh) statistics, including ONS data and presented it to the group in accessible formats. The most troubling statistic Scott was to present to the group was one

that indicated that 68% of all deaths from covid-19 in Wales had been among disabled people.

7. Minutes of meetings were taken by a Welsh Government official, usually Nia Griffiths. I took my own extensive written notes during meetings but have since moved house and am currently unable to locate them. It soon became apparent that this notetaking of our discussions, which included lived experiences of group members during the pandemic, was essential for me to write the report. I suggested therefore, that Rhian Davies take on the role of Chair in meetings so that I could concentrate on notetaking, and because Rhian was familiar with all the members of the SG, DEF, and Welsh Government officials. This is why I described myself as the 'nominal chair' when writing the report. Rhian reported back to the DEF the work being undertaken by the SG and she and I were in contact between meetings to forward plan and agree next steps. It was my personal view that if the report were to be genuinely co-produced Rhian was key to this being achieved, because she had the trust of organisations and individuals within the DEF.
8. The real time accounts of SG members lived experiences, or the experiences of members of their impairment group, were invaluable and allowed me to task Welsh Government researchers to search for further evidence to demonstrate if these experiences were part of a broader phenomenon. The list of evidence was regularly updated and added to as new sources were located. Before each new meeting, Steven and Scott would send any updated evidence they had located to all SG members. Discussions in meetings were led by disabled people not Welsh Government officials, who played support roles. Importantly, this meant that agendas were set by disabled people and the shape of the report was genuinely coproduced by disabled people.
9. Seven SG meetings took place on-line between October 2020-February 2021 using zoom, for reasons of accessibility. As well as regular meetings with Rhian, we were sometimes joined by Jon Luxton and Natasha Hirst to discuss how to take sections of the report forward. Invitations were generated by me through

the University rather than Welsh Government who, for security reasons, used Teams. I sifted over 300 items of documentary evidence collected by Welsh Government officials, analysed, and summarised for discussion by the Steering Group. A bibliography of sources used in the report and considered by the group was compiled by Steven Macey and Scott Clifford into two accompanying reports: the 'Potential impact of COVID-19 on disabled people' evidence paper and the Statistical Article 'Coronavirus (COVID-19) [AB/2 –INQ000371211] and the impact on disabled people in Wales'. These two documents were published on the Welsh Government website however, I am only able to locate the statistical evidence.

10. Before each meeting, I prepared a summary of evidence for Steering Group members to consider from the sources being collected by Welsh Government researchers, the DEF, and from Steering Group members. I also included debates from discussions about lived experiences from previous meetings. At each meeting Steven Macey would provide an updated list of sources and Scott Clifford any new statistical data available. The group decided the report needed to be organised around a manageable number of themes or chapters that were emerging from this evidence. Five key themes were identified by the group and each subsequent meeting discussed evidence and potential recommendations for each theme/ chapter:

- i The social versus the medical model of disability
- ii Human rights
- iii Health and Well-Being
- iv Socio-economic disadvantages
- v Exclusion, Accessibility and Citizenship.

11. Correspondence with Rhian Davies on 16.11.20 [AB/3 –INQ000371212] suggested Welsh Government had wanted themes in the report to align with their existing 'Action of Disability Framework'. However, because disabled people had expressed criticisms of the Framework and had concerns that it represented Welsh Governments' priorities, not theirs, this approach was resisted by the SG.

12. As well as organising and summarising evidence (including people's lived experiences during the pandemic), I would present a draft preamble to each chapter that reflected discussions that had taken place in the Steering Group on one of the 5 topics. As an academic, I drew on qualitative research skills to convey the voices of disabled people and was mindful that we needed to combine documentary evidence with lived experiences that might not be captured through traditional methods. We also needed to be practical when making recommendations. Drafts of everything I wrote were sent in advance then debated in meetings and additional comments welcomed before being finalised and agreed. I also pulled together drafts of recommendations from discussions within the group often across different meetings. Recommendations in the report were categorised into short, medium, and long-term objectives we wanted Welsh Government to consider. Each meeting would review any gaps in existing data and explore ways of addressing these.

13. A central argument of the report was that decades of disability rights campaigning and legislation had been simply cast aside during the pandemic, largely because disabled people were not present as decision-makers around the table. It was, therefore, an important undertaking and responsibility to produce a report that we agreed upon and that conveyed a strong view among the Group: that it had been necessary to include disabled people more fully in emergency decision-making, as is recognised and expected under the United Nations Convention on the Rights of Disabled People (UNCRDP is preferred over UNCRPD).

Key findings of the 'Locked-out' report.

The social model of Disability

14. The report elaborates how the pandemic amplified pre-existing socio-economic inequalities faced by disabled people (e.g., poverty, poor housing, poor access to social care and employment). It also highlighted ableist social attitudes, which meant at the start of the pandemic little forethought was given to the needs of disabled people in different impairment groups. Examples included: poor anticipation that disabled people might be left isolated, and in some cases

abandoned; some impairment groups had little or no access to food or medical services; travel became impossible for some impairment groups (e.g., those with visual impairments or learning disabilities who needed accompanying); official UK communications were inaccessible to Deaf, sight impaired and learning-disabled people, etc. Assumptions that because disabled people had pre-existing health conditions and many were categorised as 'vulnerable' to covid, moreover, created an "inevitability" in public discourse that there would be high mortalities among this community, which we were mindful to challenge. Disabled people in the Steering Group told me that for these and other reasons they felt a lesser value had been put on their lives since the arrival of covid. Incidences such as the misuse of 'Do Not Attempt to Resuscitate' notices in the UK health service early in the pandemic, reinforced this perception and a medical model of disability. This was particularly concerning when applied to whole categories of disabled people, for example learning disabled and older people.

15. Extracts from the locked-out report help illustrate the conversations that took place within the Steering Group (Extracts are taken from the current Html version on the Welsh Govt. site, which does not contain page no's):

"Evidence we present in this report suggests politicians, policy makers and professionals, have hastily reverted to using a discredited medical model of disability. This medical model defines disabled people by their medical conditions and has been criticised for primarily focusing on what people cannot do because of their differences, rather than what they can do if barriers in society were removed. Medical opinions and expert narratives have dominated the pandemic, despite the emergence of indisputable evidence that socio-economic factors played a key role in deaths caused by COVID-19."

16. In relation to Welsh Government, the report notes that: "The ease by which the social model of disability was abandoned also suggests it was poorly understood or insufficiently embedded in governance and public service decision-making.... We call on Welsh Government, which formally announced a commitment to implementing the social model in 2002, to therefore immediately

re-affirm this and take measures to ensure it is reflected in its actions and decision-making and in the delivery of all services it funds in Wales.” “In doing so we ask that it reviews evidence in this report that suggests decision-making during the pandemic has undermined the social model, in favour of a medical model of disability”.

17. The view of the SG was that Welsh Government's 2002 commitment to the social model had not subsequently been reflected in relevant legislation and policy, or in their early approach to the pandemic. While recognising that the uncertainty caused by an unknown virus required advice from medically trained experts, decision-making related to containing the virus, was ultimately based on social and political judgements.
18. As well as medical discrimination, I recall SG members raised concerns about abuse reported to them by disabled people in public spaces during the pandemic. There were also fears that disabled people would be more dependent upon informal care and the domestic sphere was not always safe. A poor public understanding that some disabled people were unable to socially distance, wear face coverings, or needed to be treated differently, were thought to be the source of some abuse. Reports that people with learning disabilities did not understand some of the guidance being issued and were abused when they did not comply, were disturbing. The report noted that “Welsh Government have responded to complaints received from DPOs as they have arisen” (Locked-Out) and disabled people in Wales unlike England had an established mechanism in the DEF, through which they could have a dialogue with Welsh Government, even if this was largely reactive.

Human Rights

19. I recall that the SG discussed the impact of emergency legislation (the Coronavirus Act 2000) and were critical of its impact as well as the length of time it was adopted by Welsh Government. “This enquiry found DPOs across Wales have been justifiably alarmed by the consequences of the Coronavirus Act (Commencement No 1) (Wales) Regulations 2020, which suspended key provisions in the Social Services and Well-being (Wales) Act 2014, unless

services were needed to protect an adult from abuse, neglect, or a risk of abuse or neglect. Throughout the pandemic, Disability Wales, on behalf of a range of DPOs, raised concerns that unlike the suspension of the Care Act (2014) duties in England, there had been no express requirement to avoid breaches of the European Convention on Human Rights in Wales” (Locked-out). This matter was raised with the relevant Minister, Jane Hutt who, following this and further consultations did quickly commit to suspending modifications to the Social Care and Well-Being Act.

20. The Steering Group agreed with evidence from The Bonavero Institute for Human Rights at Oxford University cited in the report, that “there has been a failure of the government to embed social and human rights models of disability in its pandemic response”. In doing so it also made the statement that the UK “government’s policymaking in response to the pandemic has failed to fulfil its own Public Sector Equality Duty under the Equality Act 2010 with respect to disabled people” (Locked-out).
21. The “key principles of ‘Voice, Choice and Control’, regarded as central to the philosophy underlying the Social Services and Wellbeing Wales Act (SSWWA) 2014 (and other key Welsh legislation), it was noted in the report, had been seriously eroded during the pandemic. In August 2020, All Wales People First were among DPOs to report the negative effects on their members of, among other things, inaccessible information and poor consultation during the pandemic and the serious detrimental effects on disabled people’s human rights” (Locked-out).
22. The report noted that “Grave concerns were raised in the first lockdown.... and subsequently about the lack of Personal Protective Equipment (PPE) in residential settings, where it is often forgotten that some disabled people reside. Little attention has been paid to restrictions on disabled people’s rights to live independently and their liberty in comparison to older people in similar institutional settings” (Locked-out).

23. The report supported a call by the UNCRPD for “Critical and urgent action” to ensure that disabled people are explicitly included in public emergency planning and health response and recovery efforts.” It was also stressed that “in any future emergency plans the presence of disabled people as decision-makers around the table, was essential” (Locked-out).
24. A key recommendation of the locked-out report on human rights included: “We strongly recommend that Ministers incorporate the UN Convention on the Rights of Disabled People (UNCRPD) into Welsh law, as a priority. This sets out the rights of disabled people and provides a framework for action on how these rights are protected and enforced” (Locked-out). The majority Labour Party did subsequently include in their programme for government plans to explore the feasibility of incorporating the CRDP into Welsh law and have since established a working group to scope this out.

Health and well-being

25. From ONS data brought to meetings of the Steering Group by Scott Clifford the group learnt that in the period March to July 2020, 68%, or almost 7 in every 10 COVID related deaths in Wales were among disabled people. The group was shocked by this statistic, which was also considered alongside data from Public Health Wales (2020) which compared deaths of people with learning disabilities from COVID-19 with deaths among all Welsh residents and suggested the age-standardised rate of deaths was around 3x to 8x higher in this cohort than for the population as a whole.
26. Following this, on the 1.12.20 [AB/4 –INQ000371213] Jane Hutt issued a Statement on behalf of Welsh Government, to mark International Day of Disabled People. This acknowledged that almost 7 out of 10 covid related deaths in Wales were among disabled people and that learning disabled people were disproportionately affected. This also re-stated Welsh Governments commitment to the Social Model of Disability as well as acknowledging the ongoing work of the Steering Group.

27. Data provided by Fair Treatment for the Women of Wales (FTWW) from a variety of sources suggested disabled women in Wales experienced significant anxiety, mental health difficulties and isolation during the pandemic. In North Wales, we were aware that data from Swansea Medical School cited by the BBC, had found 1,700 patients were wrongly discharged and fewer people with mental health conditions contacted their GPs across Wales, compared to the same time in the previous year. Physical distancing, social isolation and social and economic impacts were also thought to be worsening mental health consequences.
28. Concerns were raised about access to NHS services of disabled people with long-term impairments for non-COVID-related health conditions in Wales (one example was of rehabilitation services being withdrawn for people with sight impairments with the risk of total loss of sight). In the first lockdown, 54% fewer patients received operations in Wales. Fears were raised that with long waits post-covid, criteria to decide how patients would be prioritised post-pandemic would be important and needed to be non-discriminatory.
29. The relationship between low health literacy and its association with some impairments was recognised. One example we examined was research that found that, compared to hearing older adults, Deaf older adults and those experiencing hearing loss, may have been at greater risk of COVID-19 related outcomes. Contributing factors are poor access to public information and inaccessible health services caused by an over-reliance on telephone services and inadequate provision of interpreters.
30. Members of the SG relayed instances of disabled people requiring a diagnosis or treatment plan to secure reasonable workplace adjustments, Access to Work funding and welfare benefits such as PIP. Eligibility to benefits and resources of this kind are often dependent on medical evidence and the pandemic had severely slowed down this process.
31. We discussed a survey of over 600 carers across Wales conducted by Carers Wales in 2020 that found “were unaware of, or having to fight for, advice and support. Only 38% had seen information that would help them in their caring role and 41% had not heard of the Carers Needs Assessment. The number of unpaid

carers rose from 1 in 6 to over one fifth of the population in Wales during the pandemic, which is an estimated 683,000 carers. Many will be ‘hidden’ carers and, having taken on caring responsibilities during the pandemic, may find it difficult to relinquish them” (Locked-out report).

Socio-economic disadvantages

32. The preamble to this chapter reads: “In evidence about the impact of COVID-19 on disabled people in Wales produced for this report, we present data that demonstrates a clear link between outcomes and poverty, social deprivation, state benefits, housing and experiences of work and employment. All have contributed to the disadvantages’ disabled people have experienced during the pandemic. The combined weight of evidence from this report and the report produced by the First Minister’s Black Asian minority ethnic COVID-19 advisory group (June 2020) demonstrates a clear link between protected characteristic, socio-economic factors and health and well-being outcomes. Wales, like England, needs to understand its own inequalities better and our recommendations are designed to contribute to decision-making priorities moving out of this crisis, providing opportunities to ‘build back fairer’. Recognising material poverty because of socio-economic disadvantage is, nonetheless, just the first step. Welsh Government needs to distinguish itself from England and be willing to question, interrogate and challenge embedded institutionalised ableism wherever it is found in Welsh society” (Locked-out, 2021).

33. Evidence that substantiates the above was considered by the Steering Group, beginning with the amount of disabled people in Wales living in **poverty**:

“The [Welsh Index of Multiple Deprivation \(WIMD\)](#) is the official measure of deprivation for small areas in Wales. Figures produced from the latest pooled APS dataset (2017 to 2019) were analysed for this report, alongside the recently released WIMD 2019 data. The resulting analysis showed that disabled people were more likely to be living in deprived areas, specifically:

- a third (32.3%) of people aged 16 to 64 living in the most deprived 10% of small areas were disabled, whereas 18.2% of people aged 16 to 64 living in the least deprived 50% of small areas were disabled. These figures compare with 21.8% of disabled people in the total population.
- 13.8% of disabled people aged 16 to 64 in Wales were living in the most deprived 10% of small areas. This compares with 8.1% of non-disabled people aged 16 to 64 in Wales.
- 57.2% of disabled people aged 16 to 64 were living in the most deprived 50% of small areas compared with 46.3% of non-disabled people”
(Locked-out, 2021)

34. The report also found that during the pandemic, living costs increased for most disabled people and many disabled people lost income because of an inability to work, made worse by loss of formal and informal support. Disabled women have been identified as significant low earners most dependent on ‘legacy benefits’ that did not increase.

35. Pre-existing poor and inaccessible **housing** proved problematic for disabled people during the pandemic, with many experiencing increased problems with the inaccessibility of housing because of the withdrawal of external assistance. This affected basic tasks such as the ability to make a meal or use the bathroom without assistance. Our recommendations included “need for further Wales-wide guidance on what constitutes ‘priority’ housing” and “for Wales to establish accessibility standards for social housing with DPOs” (Locked-out, 2021)

36. In terms of **employment**, the report noted that “For the year ending September 2020, the recorded employment rate among disabled people in Wales aged 16 to 64 was 48.5%. The equivalent figure for those not disabled was 80.6%. This demonstrates the level of employment disadvantage in Wales and equates to a disability employment gap of 32.1 percentage points, which is slightly lower for women than for men (28.9 percentage points compared with 35.4 percentage points)” (Locked-out, 2021)

37. "Type of occupation or industry employed in, critical key worker designation, exposure to COVID-19 associated with occupation, insecure employment tenure and self-employment, all emerged as significant during the pandemic." Furthermore, in Wales, analysis of this group "[from the APS](#) (based on occupations that could be directly matched to those listed in the [Welsh Government guidance](#)) (2019), by disability status (Equality Act definition), found that 15.4% of an estimated 491,000 critical workers were disabled, broadly equivalent to the proportion of disabled people in all employment (15.0%). The proportion of employed disabled people who were critical workers was slightly higher than the equivalent proportion of employed non-disabled people, 34.7% compared with 33.6%" (Locked-out, 2021)
38. In terms of disabled people's lockdown, key points for Wales are summarised below:
- a. "36,400 (15.9%) of the people employed in industries told to close due to COVID-19 identified as disabled. This is slightly higher than the 15.0% in all employment.
 - b. A higher proportion of employed disabled people work in industries told to close (16.6% compared to 14.7% of non-disabled employees)." (Locked-out, 2021)
39. Welsh Govt published additional data on disabled people in high-risk occupational groups that showed:
- a. "33.2% of employed disabled people in Wales were in high-risk occupations and 4.2% were in the highest risk occupations. This compares to 30.7% and 3.7% of employed non-disabled people, respectively. It also found 16.6% of people employed in the highest risk occupations were disabled (compared to 15.0% of people employed in all occupations).
 - b. Proportions of disabled and non-disabled employed women in high-risk occupations were similar (41.0% and 39.8% respectively), but markedly higher than the proportions of disabled and non-disabled men (23.6% and 22.9% respectively)" (Locked-out, 2021)

- c. It also became evident from experiences of disabled people that the UK Government's Self-isolation Support Scheme was not working and an urgent review of sick pay provisions to enable workers to self-isolate, was required.
40. "Those on low incomes and in insecure work, which this report shows include a significant number of disabled people, were found to be worse affected. 1 in 4 (27%) of low-income workers, those earning less than £15,000 per year, reported no action had been taken by employers to reduce the risk of coronavirus infections, while over two-thirds (38%) on insecure contracts said no measures had been taken to prevent transmission at work (TUC, 2020)" (Locked-out, 2021)
41. Welsh Government were quicker to act than England in the provision of some benefits during the pandemic. However, our report emphasised how the pandemic exposed the limits of Welsh devolution, with other devolved Governments able to vary benefit eligibility. The report recognised the need for "more and better data about the relationship between state benefits and socio-economic disadvantages in Wales" (Locked-out, 2021), which Welsh Government has acted upon by establishing a Disability Disparity Evidence Unit within the Equalities Unit. It also concluded it is "essential that Wales has greater autonomy over this area of decision-making" (ibid) for social security and welfare benefits. It has become increasingly apparent since the pandemic, with the establishment of a Disability Rights Taskforce (DRT), that devolved power in the key areas of welfare, employment and justice is needed to achieve joined up policymaking and address Wales specific socio-economic and demographic challenges.
42. The Steering Group very much welcomed "the introduction of the socio-economic duty of the Equality Act in Wales on 31 March 2021. This Duty was rejected in England but must be a key part of Wales's commitment to 'build back better' and fairer. The Duty applies to eligible public bodies and their "strategic decisions", and it is important that disabled/ diverse groups in Wales are central to setting objectives at the planning stage" (Locked-out, 2021).
43. Welsh Government also saw the potential benefits of learning lessons from pandemic homeworking, which in some instances (but not all) can benefit

disabled people. It launched an initial investigation of the potential benefits of homeworking to the Welsh economy and environment. It has also acknowledged that homeworking should be a choice and needs to be appropriately supported by employers. Disabled people are not regarded as key beneficiaries of homeworking because they are not well represented in professional, clerical, and managerial roles, where homeworking was most prevalent. However, there is little data on disabled people's experiences of homeworking generally and Welsh Government through the DRT have proposed to address this evidence gap in Wales.

44. The vital role of the third sector during the pandemic in supporting disabled people was recognised by the Locked-out report. However, the resources of these organisations were, and have remained, stretched because of the poor financial position of Welsh Government post-pandemic.

45. Exclusion, Accessibility & Citizenship

46. This chapter of the Locked-out report focused on evidence and reports by disabled people of significant social exclusion during the pandemic, which was not unique to Wales. "We identify inaccessible public spaces, services, practices, public ignorance, poor communications and policy-decisions, as new barriers faced by disabled people. A fundamental failure to consider basic requirements of different impairment groups and to consult adequately, lays at the heart of this" (Locked-out, 2021)
47. "Early official medical categorisation of some people as 'shielding', not only caused confusion, but excluded some disabled people and those supporting them from accessing life-saving vital goods and services." The report noted that: "Some disabled people who should have been shielding did not receive shielding letters (for example blind and visually impaired people) and others received them without understanding why. This led to inconsistent access to food and other commodities. Evidence suggests shielding has affected some groups of disabled people disproportionately, for example, people with mental health issues, learning disabilities, older disabled people." Our recommendations included: "a system of self-registration for those 'shielding' in Wales. Early introduction would

have gone some way to preventing problems experienced by disabled people who found themselves excluded from priority access to medicines, food and services and we recommend this is introduced as part of future emergency planning” (Locked-out, 2021).

48. The report recognised that isolation, loneliness, and confusion were experienced by many during the pandemic, but disabled people faced an additional “loss of power, voice, choice, and citizenship, which impacted on essential day-to-day living and rendered them helpless and psychological traumatised. Society is difficult enough for disabled people to negotiate during times of stability, but when physical and social norms change overnight and public space and services close or fail to adequately take account of accessibility needs, disabled people become disenfranchised, socially, and physically excluded and ‘othered”” (Locked-out, 2021).
49. Digital exclusion was a concern that was brought to our attention. Digital Communities Wales began to address digital exclusion during the pandemic by improving access to digital devices and training. However, the digital requirements of disabled people required further attention. Thus, our report argued that “Technology does not obviate the need for information to be provided in different formats and for some people its use in some contexts can never replace direct human contact. There has been an assumption during the pandemic that technology is available and accessible to all, which needs to be challenged. Digital exclusion has been reported by Deaf BSL-users and older Deaf people unfamiliar with technology.” We also flagged the prospect of problems that “if some public services continued to operate remotely in the future, it would be necessary to act upon the extent of digital poverty and variables influencing it in Wales for example geography, income, education, disability, age, gender and ethnicity and accessibility” (Locked-out, 2021).
50. Evidence of increased domestic abuse of disabled people under ‘stay at home’ pandemic conditions was considered by the group. “ONS reported a 7% increase in police-recorded domestic abuse related offences between April to June 2020 compared to 2019. Provisional data indicates there were 64 domestic homicides recorded by the police in England and Wales between January and June 2020, of which 30 occurred in the period April to June: an increase in the number of domestic homicides recorded by the police compared with the same

six-month period in the previous year. ... Isolation and restricted access to pre-existing support networks, including those provided by local authorities, increased dependency of disabled people on abusers (Locked-out, 2021).

51. Some groups of disabled people experienced difficulties accessing public health messages and double disadvantages were experienced by disabled people from Black Asian Minority Ethnic communities, where English might not be a first language. Information in a variety of different formats was missing during part of the pandemic, so too was clear and consistent guidance that was differentiated as 'local' or Welsh. This has been a particular concern of DPOs representing people with learning disabilities and it is noted that the Welsh media could and should be playing a more proactive role.
52. It is important to note that the Steering Group received significantly more criticisms from disabled people and DPOs about the behaviour of local authorities in Wales than of Welsh Government. Disabled people and their organisations had reported to us that "Welsh Government had been largely accessible and had reacted quickly and appropriately to problems raised" (Locked-out). This contrasted with treatment of disabled people by some local authorities. "Disabled people believe their under-representation in decision-making processes and/or a poor commitment to co-producing solutions is most problematic. Regional Partnership Boards, for example, bring all public service bodies together and hold funding on a local level, but citizen representatives are too few to represent the variety of lived experiences of disabled people. Systems need to be in place to ensure different impairments and intersectional characteristics are adequately represented" (Locked-out, 2021).

My personal reflections on the Locked-out report

53. The inquiry Chair has requested my "personal views" of the report and the role I played in it as an individual. I have structured my reflections this way because I feel the report itself was a genuine attempt to co-produce a document between myself and representatives of the DEF, with support from Welsh Government researchers. As such, although I am author of the report, the process of bringing and considering evidence (including lived experience) and analysis of its implications for disabled people, was genuinely collective.

54. When asked to 'Chair' and author the locked-out report I had anticipated greater oversight from Welsh Government officials but was pleasantly surprised that those officials that attended SG meetings limited themselves to playing support roles: providing and responding to requests for evidence, data, and taking minutes. The DEF had made it clear that they wanted a report that would be co-produced by disabled people and genuinely reflect their views.
55. From the few conversations I had with my colleague Prof Emmanuel Ogbonna, who had been appointed by the First Minister to examine the impact of covid-19 on BAME communities in Wales, it felt that in comparison, our group had been left largely to our own devices. This was interpreted by some SG members as evidence that Welsh Government viewed our work as less important. The advantage of this was we were subjected to minimal scrutiny, and this provided us with opportunities to debate and detail critical evidence. As far as I was concerned, I was coming to meetings with drafts of each section/ chapter to go into the report and Welsh Government officials were receiving copies and were not attempting to censor content, so we continued with this approach.
56. When a full draft of the report was complete it was formally submitted to Welsh Government in March 2021, and I recall there being a significant pause in their response to it. Some members of the Steering Group speculated that perhaps we had been forgotten and no one had read it. A lot of media attention at the time was focused on the disproportionate number of deaths among BAME people, especially in care and health settings. Relatively little attention was being paid to the plight of disabled people.
57. Reflecting on my individual role in the report, I interpreted it in a number of ways: I was someone with established research skills, my academic expertise meant I was familiar with theoretical, methodological and socio-economic debates affecting disabled people; I was a facilitator in that I valued and wanted to hear the voices of disabled people; I was also someone who had experiences of being disabled, so brought my own lived experience to the task. I was told that I brought some degree of independence and status to the Report. I was a professor that had not been appointed by a Minister or by Welsh Government, but nominated by the DEF. It was also important to the SG that I was not offered or received any payment for the role. Some members of the DEF whose organisations were dependent on Welsh Government funding expressed concerns to me that they

would have been hesitant to be critical if they had not had the opportunity to feed their views through me as a third party. In this respect I was a conduit and was able to give voice to disabled people anonymously, where needed.

58. I should add that although this was a report asked for by the DEF the SG was mindful that intersectional concerns might not be adequately represented in our report. To try to address this we organised an on-line 'intersectional Focus Group' on the 17th of December to capture the concerns of disabled people, in particular, from LGBTQ+ and BAME communities.
59. There were several iterations of the Report because I was keen to incorporate both verbal and written feedback from members of the SG and then discussed these amendments with them collectively at subsequent meetings. This was an extremely time-consuming process but ensured 'ownership' of the Report. On the 15.02.21 a final draft of the Report was circulated to SG members for comments and was discussed at a meeting held on the 18.2.21. At this meeting a title for the report was debated and I recall thinking what we had produced was potentially impactful and had drawn on a balance of conventional evidence and lived experience. In places, we were aware the report adopted a critical tone and were concerned that for this reason it might not be welcomed by Welsh Government. Pauses in communications between SG members and Welsh Government officials at this time fuelled these fears. On the 12th of March 2021 [AB/5 –INQ000371214], however, an email was sent by Rhian Davies to all SG members saying that a meeting had been proposed for the 18th of March with the First Minister to discuss the report and that Jane Hutt MS and Vaughan Gething (the Health Minister) would attend. The possibility of addressing the recommendations in 'Locked-out' by setting up a Disability Rights Taskforce had been discussed.
60. On the 18.3.21 the disabled SG members met the First Minister, Mark Drakeford. A meeting between members of the SG had preceded this to ensure that everyone attending had an opportunity to speak and contribute to the debate. The First Minister acknowledged that the Locked-out Report was powerful and raised serious concerns that should be addressed so that lessons could be learnt coming out of the pandemic. His approach was supportive, and he outlined his vision of a Disability Rights Taskforce that would be Minister led to ensure it had influence and the recommendations of the Report would be

addressed. Jane Hutt MS (later to become Minister for Social Justice, indicated that she would take on the role of Chair). There was a fear among SG members that a Taskforce might only update existing policy, which it was felt the covid-19 crisis had demonstrated had failed disabled people. SG members, therefore, emphasised the need to capture disabled people's lived experiences in the policy making process and the need to co-produce solutions with Welsh Government as partners. The FM reiterated his support for the Social Model of Disability and the approach put forward by the SG, I recall, appeared to be largely accepted.

61. On the 24.03.21 Jane Hutt MS issued a Written Statement entitled 'The Rights of Disabled People in Wales' [AB/6 –INQ000371215]. This referred to the Locked-out Report findings and recommendations prior to its publication and announced the establishment of a Taskforce. The Statement also reaffirmed the commitment of Welsh Government to the Social Model of Disability.
62. Achieving co-production can be difficult and time consuming. Essential elements for it to be successful are meaningful participation, trust, and ownership of outcomes. I heard from DPOs that while they felt Welsh Government often grasped the issues they raised, delivery of outcomes in the past had led to some mistrust between them. In this respect I was conscious that I might need to build bridges with Officials. The time it took for Welsh Government to publish the Locked-out Report did stretch the SGs trust. It wasn't until the 1.07.21 that the SG received an email [AB/7 –INQ000371223] with an embargoed version of the report and Welsh Governments response to it. It stated that publication of the report would be accompanied by a statement from the Minister for Social Justice on the 2nd of July.
63. Had Welsh Government refused to publish the report I think the strength of feeling in the SG was such that they would have published it independently. However, Welsh Government did publish the report in its entirety and after some initial confusion surrounding the version that appeared on the web site.
64. A period of tension between the SG and Officials followed, prompted I believe, by different visions of what the proposed Taskforce would try to achieve. The SG had been asked to propose Terms of Reference for the Taskforce, which it appeared were more ambitious than had been anticipated by Welsh Government Officials. I say Officials, because it did appear that when it was possible to have

conversations with the Minister for Social Justice, she was very open to disabled people shaping the terms and objectives of the Taskforce.

65. I have been asked whether in my opinion “Welsh Government has taken adequate steps to address the recommendations of the Report” and the “role of the Disability Rights Taskforce in taking this work forward”. I will outline my response below.

The Disability Rights Taskforce (DRT)

66. The ‘birth’ of the Disability Rights Taskforce was much slower than anticipated and reasons given for delays by Welsh Government Officials included staff shortages and the need to focus resources on the crisis unfolding in Ukraine. I came to appreciate during my time working with Welsh Government, that resources were stretched thinly, and this often meant that only one or two key policy concerns could be given full attention at one time. As well as Ukraine, the Equalities Unit was actively involved in the development of an anti-racism strategy that had emerged out of Prof Ogbonna’s strand of work. From what I could gather this had also originally been a much better funded initiative.
67. Delays and lack of information about how the Taskforce would be taken forward did cause anxiety among SG members. A more limited objective of updating the existing ‘Welsh Government Framework for Independent Living’ was put forward by Officials several times and was rejected by SG members, who had envisaged a much wider-ranging consideration of the themes and recommendations put forward in the Locked-out report, many of which illuminated pre-existing socio-economic problems before covid arrived. An email dated 13/07/2021 AB/8 – INQ000398861 from Rhian Davies sent on behalf of and received by SG members to Alyson Francis of Welsh Government, outlines some of these tensions.
68. Although we knew that one of the Chairs of the Taskforce would be Jane Hutt MS, Minister for Social Justice and Chief Whipp, it was proposed that the DEF could choose another co-Chair. I was approached to perform this role. My feeling (and I may be wrong) was that I was not Welsh Governments preferred candidate, nevertheless, I will say that Welsh Government Officials have subsequently worked with me as co-Chair in an increasingly constructive, open,

and trusting way and the Taskforce could not have achieved what it has so far without their positive input and commitment.

69. I had numerous debates with Rhian Davies and Welsh Government Officials throughout May 2021, about what form the Taskforce should take. On the 2.07.21 Welsh Government formally published the 'Locked-out' Report and its response to it. The latter accepted the findings and recommendations of the Report in full and the Disability Rights Taskforce was formally constituted in November 2021. Given that the Locked-out report was submitted to Welsh Government, its findings presented to the First Minister on the 18th of March and responded to it March 2021 with the proposal for a Taskforce, this represented a delay of 8 months.
70. I have been asked "In your view, has the Welsh Government done enough/ acted quickly enough in its response to the Report? My view is that the response of Welsh Government appeared slow, which was frustrating given the amount of work that had gone into the compilation of the Report. Once the Taskforce was formally established it experienced further delays in its operation and its work, many I was told, due to staffing problems. Its work, therefore, did not properly begin until 2022 and because of continued resource issues and identification of new work, it will now likely continue longer than originally expected into 2025. In terms of having done enough, I feel Welsh Government should be congratulated for the way it has worked with myself and DPOs to establish a unique Taskforce that has operated co-productively. My co-Chair Jane Hutt, Minister for Social Justice, has taken an active role in the Taskforce and has been an extremely committed, open and supportive. Welsh Government has acknowledged the vital contribution that disabled people's lived experiences and the Social Model of Disability can make to improving the policy process and has shown a real openness and willingness to learn and give disabled people a genuine voice. Officials appointed to support the work of the Taskforce have been at all times committed.
71. I will reserve my final judgement as to whether Welsh Government has done enough, until the eventual content of the 10-year Disability Action Plan for Wales is published and its outcomes are clarified. My view is that Welsh Government has been brave and shown willing to address criticisms in the Locked-out Report by working innovatively and constructively with disabled people. My only regret

is that Welsh Government doesn't always have more resources to turn this work into desperately needed actions more quickly.

72. The 'Locked-out' Report helped to shape four key principles that have underpinned the Taskforce. The first was it recognised a need to work within a UK social model of disability and that this had to be embedded into everything that Welsh Government did. Social Model training was made available to all Taskforce participants. The second was that disabled people's lived experiences took and takes precedence in all discussions. Significantly, lived experience was acknowledged as evidence of equivalent status to all other sources. The third principle committed Taskforce participants to working co-productively. While the fourth acknowledged the importance of disabled people's human rights contained in the CRDP. This last principle was particularly important to DPOs, who wanted to ensure that the ruling Labour Party in Welsh Government prioritised an election manifesto pledge to incorporate the CRPD into Welsh law.
73. It would be misleading to say that the importance of these principles to disabled people were immediately grasped by all Welsh Government officials. Agreeing to work using a social model of disability was the least contentious, given Welsh Government had already committed to this. Understanding exactly what this implies is still being addressed. The value of disabled people's lived experiences has also been appreciated by many officials, because there have been tangible benefits from previous diversity initiatives, most notably work with BAME communities and with women who had experienced domestic violence. Agreeing how to operationalise the principle of working co-productively, has at times proved more challenging, although there has been a genuine commitment to learn.
74. Civil servants have played a central positive role in organising the DRT. Co-production introduces uncertainty, especially where disabled people demand a degree of power and control in shaping agendas and recommendations that usually only policy-leads and politicians hold. Having a team of civil servants willing to have debates with colleagues about the controversies and conflicts that co-production can throw up, has been invaluable. In effect, Welsh Government has had to create a new space at a strategic level for disabled people to be active participants in. This is not only an approach that contrasts sharply with paternalistic, patronising, and segregated approaches of the past, but within this

space disabled people are recast as important, knowledgeable, and active citizens.

75. Debate in the new Taskforce began with a discussion of the social model of disability and the need to raise awareness of it in the organisations culture, in language, policy, and practice. It was agreed that training should be provided by a DPO. Training began with members of the Taskforce and has tried to cover all participants in Working Groups. Social model training has since been extended to other public service organisations including several regulatory bodies in Wales.
76. Despite initial uncertainty about the purpose of the Taskforce, nine Working Groups were established to coproduce recommendations. These are: Embedding the Social Model of Disability (to include Human Rights); Independent Living & Social Care; Independent Living and Health & Well-being; Communications and Public Services (including technology); Accessible Transport; Employment & Income; Housing; Disabled Children & Young People; Access to Justice. It was also agreed that a disabled person with lived experience and knowledge of the area, would Chair each of the Working Groups. The work of 3 of these groups is ongoing at the time of writing.
77. Once recommendations are agreed these are presented to a full meeting of the Taskforce co-chaired by the co-Chairs. The relevant Minister for whom the recommendations sit in their portfolio is invited to the Taskforce meeting to hear them and comment. I should stress, there was no pre-existing blueprint for this process, rather it evolved from discussions between Welsh Government officials, DPOs, and co-Chairs. This demonstrates the openness of Welsh Government to listening to and responding to disabled people.
78. I am happy to speak further about the ongoing work of the Taskforce but hope this provides some clarity regarding the on-going work and purpose and the innovative way in which it operates.

Liaison with Welsh Government

79. The Inquiry wishes to understand better the engagement that I and the SG had with Welsh Government and any impact on decisions taken during the pandemic. I wish it to be noted that I had no ongoing formal means of communicating with a Minister during the pandemic and the writing of the

Locked-out Report. Apart from the civil servants that attended our SG meetings, little contact was, moreover, sustained with Welsh Government officials. There were, however, two members of the SG that had regular meetings with Welsh Government. Rhain Davies of DW who met routinely with officials and Jane Hutt (as Chair of the DEF). Jon Luxton was also a Special Advisor to the same Minister.

80. My impression was that the above-named people conveyed some of the issues being raised by the SG to Welsh Government Officials and Ministers, but I was not privy to the content of those meetings. I was also aware that progress reports about the work of the SG were being made to the DEF. I personally had limited exchanges with Welsh Government officials during the pandemic and my views were not sought. On-going advice and evidence were not sought from me, and I had no channels through which I could convey this, except through other members of the SG. This situation contrasts with the current one I find myself in, where I am regularly consulted by the Secretariat as co-chair of the DRT, on a two-weekly basis.
81. In relation to questions about the importance of the role of the DEF during the pandemic, I must clarify that I was not and have never been, a member of the DEF. I was invited to present the Report's findings to the Forum and did so. I understood that being an academic and having had no prior or current relationship with Welsh Government were factors that shaped the DEF's choice of me as their representative. Given my position in relation to the DEF I would, therefore, find it difficult to pass an informed judgement about whether I shared the views about the Forum expressed by Jon Luxton.
82. On reflection, it appears odd that I wasn't invited to DEF meetings while authoring the Report and acting as the nominal chair of the SG and its chosen representative. In the absence of any formal mechanism for me to raise matters with relevant Officials and Ministers connected to the evidence we were gathering this would have at least been a means for me to raise concerns. My feeling at the time was that this was because our enquiry had been set up by the DEF, which gave us a different status to the race enquiry, which had been established by the First Minister. The advantage of this was that no boundaries were imposed when authoring the Report and, as the chosen representative of disabled people, I was able to build trust and genuinely coproduce it. The

disadvantage was that I had no formal mechanism through which I could communicate concerns about evidence under consideration with decision-makers in Welsh Government.

83. In answer to a question posed by this Inquiry. I have not given, or been asked to give, evidence to the Senedd or any committees of the UK Parliament in relation to the response to Covid-19. I did volunteer to give evidence to the Public Accounts and Public Administration Committee, Chaired by Mark Isherwood on the 12th of January 2021, along with Debbie Schaffer of FTWW about the lessons we learnt from the 'Locked-out' report and how working co-productively in the public sector might in the future help avoid some of the problems that arose during the pandemic.

Information gathering and data collection.

84. I have described elsewhere in this Statement the way in which information and data was gathered for the purpose of writing the 'Locked-out' report. No limitations were placed on the data collected in the compilation of the Report.

Public health communications and public confidence

85. In response to a question asked by this Inquiry: I did not play any role or was asked to play a role in the development of the Welsh Government's public health messaging over the course of the Pandemic. Minutes of our SG meetings were taken by Welsh Government officials and meetings did discuss concerns about access in relation to messaging raised by members of the group. Joe Powell, (CEO of All Wales People First) raised concerns about the way messaging was confusing for members of his organisation, which represented people with learning disabilities. My understanding was that he also raised concerns in other forums, and these were discussed.

The public-health and coronavirus legislation and regulations

86. I have been asked to set out in my statement clarification of the following:
87. I played no role in providing guidance or advice on the enforcement of public health and coronavirus legislation.

88. I played no direct role in reviews of the temporary provisions of the Coronavirus Act 2020. The SG did discuss these provisions and I was aware that our concerns about them were discussed by Jon Luxton with the Minister he reported to.
89. The SG identified groups of disabled people at risk in relation to the enactment of public health and coronavirus legislation and regulations. These groups and the types of risks they experienced were identified in the 'Locked-out' report and reference is made to them above in the section of this witness statement that outlines key findings in the Locked-Out Report.
90. Through the processes used and described elsewhere by the Report's SG, to consider evidence and lived experiences, we identified different groups of people, including those described by this Inquiry as "at risk, vulnerable and those with protected characteristics under the Equality Act 2010." These groups included disabled people and those with mental health conditions, older people, and people with intersectional characteristics.

Lessons

91. There are, in my view, many lessons to be learnt from what happened during the pandemic and I feel we are still learning these as the work of the Disability Rights Taskforce continues. I am happy to expand in more detail about my observations if required, but because of pressure of time I will limit myself to a few key points.
92. Proximity of politicians and policymakers to communities in Wales means devolved Governments have distinct advantages over central Government, particularly in relation to their ability to consult marginalised groups and those with protected characteristics in decision-making. During the pandemic, Welsh Government were able to use the pre-existing DEF for this purpose: a means of communication not available to disabled people in other parts of the country. My impression, however, was that while invaluable, DEF meetings were infrequent and were inevitably concerned with *reacting* to reported events and ongoing concerns. This exposed a central issue raised in the Locked-out Report: that many of the mistakes made that disadvantaged disabled people during the pandemic, might not have done so had disabled people been involved in planning and were present in greater numbers among key decision-makers from

the outset.

93. The over-reliance on medical opinion and perspectives during the pandemic also requires further analysis. Had social scientists been involved in planning and decision-making in equal numbers and an Equalities Reference Group been established to capture the problems arising for people with protected characteristics, these groups may not have experienced such a disproportionate number of deaths. Yes, it was an emergency and events were unprecedented, but the Equality Act and Human Rights legislation were not suspended, and we now have opportunities going forward, to plan. For many disabled people the clock was turned back. They lost their independence, some their human rights, and others their lives. The needs of disabled people are not 'special' they are different, and my view is they experienced disproportionately because this very simple fact was not properly acknowledged early enough.

94. Given the reaction of Welsh Government to the challenges it faced during the pandemic, notably its early establishment of investigations into the disproportionate number of deaths occurring among the BAME and disabled communities, in my view it reacted significantly quicker and appropriately than the UK in acknowledging the role that socio-economic factors played in the pandemic. The establishment of Taskforce's to address the findings of investigations and a willingness to engage with these communities to explore potential solutions has been brave and innovative. This approach should be commended, and benefits could be gained if this approach were replicated elsewhere. However, I remain concerned that Wales and communities in Wales will work hard to produce progressive solutions to the problems caused by the pandemic, which will require funding that is simply not available to implement them. Welsh Government is not large and is highly dependent upon third sector organisations and the goodwill of institutions such as universities, to provide free or inexpensive skills and labour. This model is much too precarious and the future needs to be built on solid foundations.

95. One thing that my involvement in the Locked-out Report and subsequent DRT has taught me is that it is essential that Wales is given greater powers and

resources alongside greater devolved responsibilities, especially in areas of welfare, employment, and justice. To be able to tackle the socio-economic inequalities in Wales, many of which are historical and longstanding, but contributed to deaths during the pandemic, it is essential that it can act and deliver on the innovative policy making process it has begun to put in place.

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: _____

Personal Data

Dated: ____16.01.24_____