

Thursday, 29 February 2024

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2 (9.59 am)
3 MR POOLE: I call Professor Daniel Wincott, please.
4 PROFESSOR DANIEL WINCOTT (affirmed)
5 Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2B
6 MR POOLE: Could you start by giving us your full name,
7 please.
8 A. My name's Daniel Edward Wincott.
9 Q. Professor Wincott, thank you for attending today and
10 assisting the Inquiry. Can I ask you to, when you're
11 giving your evidence, keep your voice up so that we can
12 hear you but also so that your evidence can be recorded,
13 and if I ask you anything that isn't clear, ask me to
14 rephrase the question.
15 Professor, you are currently a professor of law and
16 society in the School of Law and Politics at
17 Cardiff University; is that right?
18 A. I am, yes.
19 Q. We also see from your report, which we'll come on to in
20 a moment, that you hold undergraduate degrees and
21 masters degrees from the University of Manchester and
22 also a PhD from the London School of Economics; is that
23 right?
24 A. Yes.
25 Q. You are also a fellow of the Learned Society of Wales

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1 professional opinion on the matters to which they refer;
2 is that right?
3 A. It is.
4 Q. We don't -- we can see there also the date. It's dated
5 16 February this year.
6 So, Professor, as the title of your report suggests,
7 you've been engaged by the Inquiry to help explain the
8 Welsh Government's core political and administrative
9 decision-making during the pandemic. Before we look at
10 that in detail, I should say we're going to adduce your
11 report in full in its entirety. And we can see it's
12 fairly lengthy, it contains an awful lot of very helpful
13 information and detail; we're not going to, in the time
14 available this morning, be able to cover all of the
15 topics in your report but what we will try to do is
16 cover the central themes.
17 Before we do that, I just want to be clear about the
18 mechanics of how your report was put together. Am
19 I right that you were initially instructed last year to
20 prepare a report and that was on the basis of your own
21 understanding of the matters identified in your
22 instructions and materials that you could find in the
23 public domain; is that right?
24 A. That's correct, yes.
25 Q. And then more recently, as the Inquiry has obtained its

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1 and a fellow of the Academy of Social Sciences, and
2 I understand you have published extensively on a range
3 of subjects, including on the law and politics of
4 territorial governance in the UK and comparatively as
5 well as on public attitudes to devolution; is that
6 right?
7 A. It is.
8 Q. You've published or contributed also to a range of
9 reports, articles, papers and other public domain
10 material that is relevant to the response of the Welsh
11 Government to the Covid-19 pandemic, I think mostly
12 focusing on the implications of the response to Covid
13 for devolution and also the UK's territorial
14 constitution?
15 A. I have, yeah.
16 Q. You've prepared at the Inquiry's request a report that
17 we can see at INQ000411927, and that, as we can see
18 there, is entitled "Welsh Government core political and
19 administration decision-making in relation to the
20 Covid-19 pandemic".
21 At the bottom of that first page is what is
22 described as an author statement, where you refer to
23 your report, to your duty as an expert to provide
24 independent evidence, and to the fact that the opinions
25 expressed in the report represent your true and complete

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1 own evidence, you have been asked to look at some but
2 not all the evidence that the Inquiry has obtained
3 relating to the issues in your instructions; is that
4 right?
5 A. That is right, yes.
6 Q. So, for example, the Inquiry has provided you with
7 witness statements that it's received from the Welsh
8 Government's various directorates and key
9 decision-makers, such as the First Minister?
10 A. That's right, yeah.
11 Q. Now, you set out at page 84 of your report, we don't
12 need to go to it, but there is a list of the materials
13 that were provided to you by the Inquiry which you've
14 relied on, and then at page 86 you set out the other
15 references upon which you have relied. So are those the
16 principal materials you used to produce your report?
17 A. They are.
18 Q. So, Professor, I'd like to start with a few questions
19 about devolution in Wales, so as to provide some context
20 and set the framework for the core decisions that the
21 Welsh Government took during the pandemic. Once we've
22 done that, we'll look at the arrangements and structures
23 that were in place in January 2020, at the start of the
24 pandemic, and then -- before we turn to some of the key
25 events and look at how the Westminster and Cardiff Bay

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1 governments dealt with each other during the pandemic.
 2 So starting with devolution, at paragraph 54 of your
 3 report, we don't need to have it displayed on the
 4 screen, you describe the model of devolution in Wales as
 5 passing through a complicated and politically contested
 6 series of reforms, and you specifically reference the
 7 Government of Wales Acts 1998 and 2006 and the Wales
 8 Acts of 2014 and 2017.

9 Now, in summary, is it right to say the Government
 10 of Wales Act 1998, that established a devolved
 11 legislature in Wales, the National Assembly for Wales,
 12 which at that time had no primary law-making powers?

13 **A.** That is correct, yes.

14 **Q.** Then the Government of Wales Act 2006 gave the
 15 National Assembly power to pass its own primary
 16 legislation under a system by which limited competence
 17 was confirmed on a -- I think you describe it as
 18 a piecemeal basis, and that's often referred to as the
 19 "conferred powers model"; is that right?

20 **A.** Yes, that's the first stage of the conferred powers
 21 model.

22 **Q.** Next chronologically we have the Wales Act 2014, and
 23 I think I'm right in saying that that extended the
 24 National Assembly's legislative competence in relation
 25 to certain tax matters, and then the 2017 Wales Act and

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1 reservations in relation to Scotland, and that means
 2 that the system in Wales is more constrained in the
 3 range of things it can do than the system in Scotland.

4 **Q.** Thank you, Professor. In a moment I'm going to take you
 5 to a table that sets out some of those conferred and
 6 reserved powers and we'll have a look at that then.

7 Just by way of another contextual topic, which is
 8 that of the mechanics and the structures that give
 9 effect to devolution, if I can I want to group these
 10 into three areas: the first, legislation, which, as
 11 we've already touched on, is the source of devolved
 12 competence; second, the financial arrangements between
 13 the various nations; and then, third, the arrangements
 14 made for intergovernmental discussion and collaboration.
 15 And if I may, I'll just take those in that order.

16 So, legislative competence first. We've already
 17 looked at how that's evolved in Wales, starting with the
 18 conferred powers model before changing to a reserved
 19 powers model. Is it right to say, at least in
 20 principle, that Westminster retains the right to
 21 legislate on devolved matters but normally will not do
 22 so without the consent of the devolved legislature?

23 **A.** Yes, that's right.

24 **Q.** And that informal constitutional convention, that's what
 25 we've heard -- known as the Sewel Convention?

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1 that changed the system from a conferred powers model to
 2 a reserved powers model, and that's consistent with the
 3 models that are adopted in Scotland and
 4 Northern Ireland; have I got that broadly correct?

5 **A.** That's broadly right. I would add one further change,
 6 which was the change under the Government of Wales Act
 7 2006 from the initial model, which moved powers
 8 piecemeal to Wales in a series of fields, and then what
 9 were called full legislative powers following
 10 a referendum in Wales where the full range of conferred
 11 powers were given at the same time. So it's been
 12 a complicated and constant process of change.

13 **Q.** Well, as you say, I think you describe it -- complicated
 14 and politically contested series of reforms?

15 **A.** Yes.

16 **Q.** Could you just describe in a few sentences for us how
 17 a reserved powers model operates.

18 **A.** So in principle it means that the devolved parliament or
 19 legislature is able to pass legislation on any matter at
 20 all except for those matters that are reserved to the
 21 Westminster Parliament.

22 It's correct to say, I think, that that model is --
 23 in Wales, has made Wales more similar to the position in
 24 Scotland in particular, but the list of reservations in
 25 Wales remains much more extensive than the list of

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1 **A.** That's right, yeah.

2 **Q.** So in respect of Wales, this means that the Senedd must
 3 give its formal approval, often in the form of
 4 a legislative consent motion, for the Westminster
 5 Parliament to legislate in areas under devolved
 6 competence?

7 **A.** That's correct, yeah.

8 **Q.** Mr Gove in his evidence to the Inquiry in Module 2 said
 9 that although he is and remains a strong supporter of
 10 devolution both across the UK and in England, he also
 11 believes that the backstop powers of the UK Government
 12 need to be strengthened, and he has said in his evidence
 13 that the pandemic revealed the weakness of a devolution
 14 settlement that failed to reserve key powers to the
 15 UK Government to act in an emergency.

16 Do you have any comment on those statements?

17 **A.** I certainly think the pandemic revealed some weakness
 18 and ambiguities in the devolution arrangements. It's
 19 not clear to me that those weaknesses relate to the
 20 formal ability of the Westminster Parliament to pass
 21 legislation in devolved areas. You know, there was,
 22 even during the pandemic, legislation passed at
 23 Westminster for which consent was sought and -- but that
 24 consent wasn't given, and nonetheless the Westminster
 25 Parliament passed it, like the UK Internal Market Act.

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1 So the "not normally" provision in the Sewel Convention,
2 you know, is invoked at the discretion of the
3 Westminster Parliament.

4 **Q.** Changing tack slightly, in broad terms can you explain
5 the role of the UK Government in policymaking in Wales
6 under the devolution settlement? So does the devolution
7 settlement mean that the UK Government and the Welsh
8 Government really share overall responsibility for
9 policy decisions that impact Wales, each within its own
10 area of responsibility?

11 **A.** So I would say, yeah, each has its own area of
12 responsibility, and normally they deal with those areas
13 as two governments which govern Wales.

14 **Q.** So as we've touched on already, the boundaries of Welsh
15 competence, and it's section 108A of the Government of
16 Wales Act 2006, that sets out the extent of the Senedd's
17 legislative competence, and I don't propose to go
18 through that in detail but, as I said I would, I'll show
19 you a table.

20 This is a table that was prepared by
21 Professor Henderson, who gave evidence in Module 2. We
22 see it at INQ000269372, and it's page 12 of the report.
23 This is part of Professor Henderson's report that was
24 entitled "Devolution and the UK's Response to
25 Covid ...", and we see there in the table it identifies

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1 something we will come back to look at.

2 Just returning then back to your report, and we
3 don't need to have the paragraph up, it's paragraph 44,
4 you refer to "jagged edges", that is to say situations
5 where policy objectives or areas of responsibility
6 overlap or span between devolved and non-devolved areas.

7 Where situations transcend policy areas, so
8 an obvious example being the pandemic, does this mean
9 that the policy outcomes in Wales can to some extent be
10 impacted by decisions of both the Welsh Government but
11 also the UK Government?

12 **A.** Absolutely. Yeah, I think we're going to come on to one
13 of the most significant, which relates to public
14 spending, but ...

15 **Q.** We'll certainly come to funding and public spending in
16 a moment.

17 Does that create, in your view, uncertainty about
18 the extent to which Welsh ministers are responsible for
19 the outcomes of decisions in their names?

20 **A.** I mean, I think Welsh ministers are still responsible
21 for the -- for outcomes of decisions in their name.
22 I mean, for any government, there's a sort of limited
23 bandwidth, limited range of things that any government
24 can do. So governments have to make choices and some of
25 the choices in the context of the pandemic were

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1 devolved policy areas.

2 Now, first up, we can see they are not all common,
3 there are areas where one government has a power and the
4 others do not, for example. Now, we obviously are only
5 concerned with Wales in the third column.

6 We don't need to go all the way down the list,
7 perhaps the most important for our purposes is the
8 first, you see there "Health and social services". So
9 this is a devolved matter in all three devolved
10 administrations. And we can also see in this table
11 other areas such as education, local government,
12 transport, and housing, they're also devolved areas in
13 Wales.

14 If we can turn over the page to page 13, please,
15 here we see the other side of the coin, namely powers
16 that have been reserved to Westminster in relation to
17 each of the three devolved administrations, and again we
18 can see that the position is not uniform across the
19 three nations. We can see the first three, again
20 looking obviously specifically at Wales: constitution
21 foreign affairs, and defence.

22 So none of that fits as precisely into our
23 experience of the pandemic as health, as we just saw
24 over the page, but certainly one can see in each of
25 those the question of borders, certainly, which is

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1 particularly stark. I think that the -- the Welsh
2 Government is particularly constrained by the nature of
3 the devolution settlement and those -- those jagged
4 edges and its relationship with the UK Government. So
5 Welsh Government ministers I think are still responsible
6 for their decisions, but they exercise that
7 responsibility within, I think, particularly tight and,
8 in some respects, uncertain constraints.

9 **Q.** Does the existence of what we're calling these jagged
10 edges also mean it's perhaps easier for decision-makers
11 in the Welsh Government to attribute blame for bad
12 policy decisions to the UK Government and also
13 vice versa? I think some have referred to this as
14 creating an accountability deficit. Have you experience
15 of this?

16 **A.** I mean, I think there can be confusion over
17 accountability. I think there is a -- often a tendency
18 to kind of use, other parts of the UK and in Wales,
19 what's happening in England as a yardstick, so to note
20 when -- when there's a sense that Wales is doing better
21 than England, and I'm not sure that's always -- with
22 respect to a particular yardstick -- I think somewhere
23 in the report, certainly in some of the materials I saw,
24 there was reference to Wales doing more testing than
25 England at a relatively early stage in -- I think in

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1 some of the core Covid group minutes, and I'm not sure
2 that's a helpful yardstick, and there are certainly
3 blame games played. So, you know, that's a feature of
4 the system. And again I think we may come on to this,
5 the institutions for working together are much less well
6 developed than would be optimal in a system like
7 the UK system.

8 Although I would say, just very quickly, there are
9 lots of examples of governments working together
10 effectively, going back through the history of
11 devolution on, for example, city deals, where the
12 UK Government and the Welsh Government have kind of
13 collaborated in -- on specific matters.

14 **Q.** We'll certainly come on to intergovernmental relations
15 and the JMC structure and things like that in a moment.
16 But just sticking with this question of the consequences
17 of granting devolved powers, is one of, would you say,
18 the automatic consequences of granting devolved powers
19 and decision-making authority to the Senedd policy
20 variation? And if that is the case, what, in your view,
21 are the main benefits and disadvantages of policy
22 variation?

23 **A.** I think, you know, devolution is a -- is a machine that
24 creates policy differences or divergences where,
25 you know, governments in different parts of the UK take

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1 what I mentioned earlier, the financial arrangements
2 between the UK Government and the Welsh Government. In
3 broad terms, matters of national finance are reserved,
4 but that obviously poses the question: how is Wales
5 funded? And at least one of the answers to that is to
6 be found in what is known as the Barnett formula. Now,
7 we mustn't let this become a devolution or an economics
8 seminar but can you please explain in a few sentences
9 what the Barnett formula is and how it works.

10 **A.** Right, so, I mean, the Barnett formula is sort of used
11 in, as a phrase, it's used in a number of different
12 ways. Strictly it's to do with the -- how levels of the
13 block grant given by the -- HMT, the Treasury, to the
14 devolved governments, how changes to that are
15 calculated. Broadly speaking, the block grant system is
16 the crucial element and essentially that's under
17 Treasury control and gives block grants to the devolved
18 governments, including the Welsh Government, based on
19 levels of spending for England on matters that are
20 devolved to Wales. So the Treasury decides what's
21 devolved, works out how much has been spent in England,
22 and then gives a population share to -- to Wales.

23 That process is really, I think, about the Treasury
24 maintaining control of the big macroeconomic features of
25 the UK economy. It tends to happen sort of

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1 different approaches. You know, there's a certain
2 amount of concern about different paths being taken for
3 the sake of difference, but the basic principle, and
4 I think this is reasonably well established and, you
5 know, has been recognised, for example, by the
6 Supreme Court, is that the devolved parliaments and
7 legislatures are authentic democratic bodies and that
8 they authorise governments to pursue their own policy
9 agendas.

10 So, I mean, I think it's a legitimate part of the
11 devolution system. Potentially it can have benefits of,
12 you know, policy experimentation, so, you know,
13 something can be tried in one place and then adopted in
14 other places. I mean, you know, an example that isn't
15 related to Covid that's often cited here is the use of
16 plastic bags in supermarkets which, you know, is now no
17 longer routinely done in the way it used to be done.

18 Yeah, I think that's ... you know, so I think
19 it's ... it is a system that generates divergence and,
20 you know, that, in a sense, is its -- part of its
21 rationale.

22 **Q.** As you say, it's an automatic consequence, isn't it?

23 **A.** Yeah.

24 **Q.** If we turn next to the second mechanism and structure
25 that gives effect to devolution, so these are the --

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1 retrospectively, so that the level of the block grant
2 depends on what's actually spent in England on devolved
3 matters.

4 It's also important to note that, and this is quite
5 unusual in international comparison, there are no
6 constraints placed on how the devolved governments can
7 spend the block grant. So if the UK Government spends
8 more on health or on education for England, devolved
9 governments can take that consequential and spend it on
10 whatever their priority is in their -- in their area.

11 But it does mean that the scope for what you might
12 call demand-led spending in Wales is not present in the
13 same way that it would be present for -- for the
14 UK Government in relation to England. So they couldn't
15 suddenly find another big demand for spending and simply
16 borrow or otherwise find the money to spend on it.
17 They're strictly limited to the grant that they have.

18 **Q.** And does that point you've just made there, does that
19 create an extra complexity, then, to the whole question
20 of what powers are devolved?

21 **A.** I think it does. You know, so thinking about this in
22 preparation for this session, I think a characteristic
23 of the Welsh Government is a certain sort of
24 conservatism, a reluctance to take on liabilities that
25 may be open-ended. So, for example, in an unrelated

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1 area, the Welsh Government hasn't had the rail system
 2 devolved to it. There was a moment when that might have
 3 happened and the Welsh Government didn't want it,
 4 I think because it was concerned about the liabilities
 5 of maintaining an old railway -- an old railway stock.
 6 There are a number of other examples of that kind that
 7 might relate to aspirational -- "aspirational"
 8 legislation that I've described in the report where if
 9 legislation grants rights which have financial
 10 consequences, then there's a kind of open-ended
 11 commitment created there, and I think the Welsh
 12 Government has often been reluctant to make those kinds
 13 of commitments, simply -- you know, and that's related
 14 to the fact that it doesn't have the capacity to
 15 necessarily meet open-ended liabilities due to the
 16 nature of the financial system.

17 I'd also say that, in relation to the block grant
 18 system or the so-called Barnett formula, you know,
 19 I think there's a fairly general consensus that Wales
 20 has done, historically, relatively less well compared to
 21 levels of need in Wales than, say, Scotland has done
 22 from the block grant system, and again I think that's
 23 been reflected in a relatively recently innovation of
 24 the adding of a so-called "needs-based" element to the
 25 block grant calculation for Wales which is unique to

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1 Wales is supposed to represent Wales in the
 2 UK Government and represent the UK Government in Wales.

3 Would you like me to expand on that a little bit?
 4 I mean, I think there is a sense that this is a role
 5 that's perhaps somewhat left over from the
 6 pre-devolution arrangements. Again, in the report
 7 I quote Robert Hazell, who is a former civil servant and
 8 professor at Imperial College London, a report he wrote
 9 very early on after devolution where he imagined that,
 10 you know, the territorial secretaries of state would be
 11 consolidated into a single post or certainly the
 12 Scottish and Welsh ones would be, because it wasn't
 13 clear to him, and it's not entirely clear to me,
 14 you know, quite what that role is.

15 **Q.** Certainly during the pandemic, so September 2021, we
 16 know that a UK ministerial post of Minister for
 17 Intergovernmental Relations was created and that post
 18 was occupied by Michael Gove, but prior to that post,
 19 Mr Gove had already been playing a liaison role between
 20 the UK Government and the Welsh Government in his
 21 capacity as Chancellor of the Duchy of Lancaster.

22 Perhaps you alluded to this already, but how did
 23 Mr Gove's role vis-à-vis the devolved administrations
 24 fit with the role of a territorial secretary of state?

25 **A.** I mean, I think there was some tension within

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1 Wales. I think some politicians in Northern Ireland are
 2 quite keen on having it implemented there as well.

3 **Q.** That needs-based element, that was something that was
 4 introduced in 2018/2019. Why did Wales have a higher
 5 need than the other nations of the UK?

6 **A.** I think it's partly to do with sociodemographics, an
 7 older population, it's the nature of the economic base
 8 in Wales, you know, there are very few higher rate
 9 taxpayers in Wales, for example, levels of poverty are
 10 relatively high in Wales and so on. So it's those kinds
 11 of needs.

12 **Q.** Professor, we might come back to briefly touch on
 13 funding again when we talk about the firebreak, perhaps
 14 after the break.

15 I want to now move to intergovernmental
 16 arrangements, and the third of the mechanisms and
 17 structures that I've referred to a moment ago as giving
 18 effect to devolution.

19 Starting with the UK Government, all of the devolved
 20 administrations have their own territorial
 21 secretary of state, and Simon Hart was the
 22 Secretary of State for Wales during the pandemic.

23 What would you describe as being the primary role of
 24 the Secretary of State for Wales?

25 **A.** I think formally speaking the Secretary of State for

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1 the UK Government. I've certainly seen documents that
 2 have been released to me through the Inquiry that
 3 suggest there was some difference of view within the
 4 UK Government as between Mr Gove in that role and the
 5 territorial secretaries of state who I think felt
 6 somewhat sidelined by the liaison role that Michael Gove
 7 played with the First Ministers and Deputy
 8 First Minister in Northern Ireland.

9 **Q.** And from your own research and from the materials that
 10 you've seen, to what extent was the Secretary of State
 11 for Wales involved in pandemic decision-making in Wales?

12 **A.** So I don't think the Secretary of State for Wales was
 13 heavily involved. I've seen some material that suggests
 14 that he relatively early on saw his role -- saw himself
 15 as having a kind of supervisory role that he requested
 16 from the First Minister, that the First Minister
 17 organise meetings with businesses and maybe trade unions
 18 in Wales, and that this seems to have been viewed by the
 19 First Minister and the Welsh Government as a sort of
 20 a -- an issue that needed to be managed and a diversion
 21 of attention from things that they were already doing.

22 I mean, there's quite a lot of material on the role of
 23 the Shadow Social Partnership Council, which is a -- had
 24 already been set up in Wales, and was kind of ramped up
 25 through the pandemic, where Welsh Government ministers

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1 and officials met with businesses and unions, but also
 2 civil society organisations and a range of other actors
 3 on a regular basis. So that kind of activity was
 4 happening, and happening anyway, and I think the
 5 First Minister kind of thought that ... it certainly
 6 didn't seem to be a functionally productive
 7 relationship.

8 **Q.** In terms of the architecture that was in place prior to
 9 the pandemic for the governments of the four nations to
 10 come together, as we mentioned earlier, there was the
 11 Joint Ministerial Committee, the JMC, which was
 12 established in 2001 by a memorandum of understanding
 13 agreed by all four nations. Is it right to say that JMC
 14 was intended as a forum for dispute management, where
 15 the four nations of the UK could come together and
 16 resolve any disputes?

17 **A.** Yeah, it was certainly intended to manage the
 18 relationship between the -- between the governments.
 19 I think its kind of formal dispute resolution role
 20 developed, sort of emerged later. But I would also say
 21 that I'm not convinced it ever functioned effectively as
 22 a dispute resolution forum.

23 **Q.** I think you say in your report, you refer to the JMC as
 24 offering a "limited and light touch form of
 25 [intergovernmental relations]", and then you say you see

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1 Module 2:
 2 "That is not, in my view, how devolution is meant to
 3 work."
 4 What's your view about that statement?

5 **A.** I mean, I think that's quite an extraordinary statement,
 6 really, not least because Mr Johnson himself contradicts
 7 it later on in his statement when he talks about the
 8 intergovernmental review and the intergovernmental
 9 review precisely set up as its apex forum a meeting of
 10 the Prime Minister with the First Ministers of the four
 11 devolved governments.

12 I think there's a -- you know, one can obviously
 13 read too much into individual words, but I think there's
 14 a political significance in the change in that IGR
 15 review from talking about "devolved administrations",
 16 which is again the standard language of Whitehall and of
 17 government in London, to "devolved governments", which
 18 suggests more of a level of equality. You know, you
 19 might imagine if you were working for the UK Government
 20 and told you had to deal with the devolved
 21 administrations that you were dealing with a subordinate
 22 level or a level that you needed to supervise rather
 23 than, you know, a government that was dealing with core
 24 central government policy matters in Wales or Scotland
 25 or Northern Ireland.

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1 it as part of the "devolve and forget" mindset. Can you
 2 briefly explain what you mean by this.

3 **A.** So, I mean, I think there's a general consensus amongst
 4 sort of specialists who study these things that the JMC
 5 system was relatively underdeveloped and weak by
 6 comparative standards. The JMC for Europe was the
 7 formation that met most regularly and worked most
 8 effectively, and "devolve and forget" is a sort of
 9 aphorism that is part of kind of Whitehall terminology
 10 that simply suggests that matters were devolved to Wales
 11 and Scotland and Northern Ireland and then not really
 12 followed up on in Whitehall and that the standard kind
 13 of operating practices for governing England, which, you
 14 know, in some ways understandably -- it's by far the
 15 largest part of the United Kingdom -- just continued
 16 within Whitehall so that it was as if nothing very much
 17 had changed in Whitehall by dint of devolution.

18 **Q.** Now, the Inquiry has heard evidence that there were no
 19 JMC plenary meetings during the pandemic, and Mr Johnson
 20 said in his witness statement to Module 2 of the Inquiry
 21 that he chose not to meet with the First Ministers of
 22 the devolved administrations because, in his view, this
 23 would have been optically wrong for fear that this would
 24 give a false impression that the UK was a federal state,
 25 and Mr Johnson says in his witness statement to

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1 So there's an internal contradiction there,
 2 and I ... so, I mean, I'm, you know -- I wouldn't
 3 speculate on what was going through Mr Johnson's mind as
 4 he wrote the document, but that "optically wrong" seems
 5 to me to be a very strange way to talk about part of the
 6 management of a pandemic, really.

7 Sorry, I'd just note one other thing. You know,
 8 I think in his statement Mr Johnson talks about the
 9 meetings between Michael Gove as CDL, Chancellor of the
 10 Duchy of Lancaster, and later Minister for
 11 Intergovernmental Relations, and the First Ministers as
 12 being the equivalent of a JMC, but it's quite striking
 13 then that in the annex to his report he lists those
 14 meetings as ad hoc and informal.

15 So, you know, if the JMC is the formal set of
 16 arrangements that should be used and that I think
 17 several senior civil servants recommended should be
 18 used, it seems odd and inconsistent then to treat the
 19 organisations -- the meetings that he was saying were
 20 the equivalent of the JMC as ad hoc and informal
 21 meetings. Again, it seems like a fairly low grade way
 22 of managing what, at least in Wales, would be seen as
 23 kind of an important part of the management of the
 24 pandemic.

25 **Q.** So would it be right to say that your view would be that

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1 the CDL meetings or calls that happened over the
 2 pandemic, they were not a suitable substitute for the
 3 JMC plenary meetings?

4 **A.** Certainly in formal terms that's correct, although the
 5 historical record of the formal meetings of the JMC
 6 don't necessarily suggest that would have been
 7 an effective forum for dispensing or making decisions.
 8 You know, the -- again, I don't want to rush ahead, but
 9 the ministerial implementation groups, which had all the
 10 authority of UK Government Cabinet committees, you know,
 11 had devolved representation on -- you know, and
 12 participation, and, you know, whilst I can see, and in
 13 his own witness statements Michael Gove has elaborated
 14 on the tensions and the lack of a perfect system and so
 15 on, I can see that that might be a cause for concern of
 16 other UK Government ministers in relation to bringing
 17 devolved governments into decision-making, into the
 18 heart of UK Government decision-making. You know, that
 19 was a mechanism that I think achieved that to a much
 20 greater extent either than the plenary JMC might have
 21 done unless it was constituted or put into action in
 22 a way that was -- marked a difference with respect to
 23 previous operation of JMC planning(?) ...

24 **LADY HALLETT:** Professor, can I just interrupt for
 25 a second --

25

1 involved in decision-making. I don't think you would
 2 necessarily have to have kind of suggested that the four
 3 parts of the UK had come together for mutual defence
 4 to -- only to -- to make that kind of argument.

5 Sorry, I'm stumbling a bit here --

6 **LADY HALLETT:** Don't worry. We could --

7 **A.** I --

8 **LADY HALLETT:** -- in this way, perhaps: that whatever your
 9 argument that Mr Johnson would promote about unionism
 10 and not, as it were, treating the First Ministers in
 11 normal circumstances as equals because technically in
 12 law they're not, whatever the arguments may be, but in
 13 a pandemic, your argument is, whatever you may normally
 14 think about how these arrangements work, in a pandemic,
 15 because you've all got to work together, then you've got
 16 to make sure that you've got proper arrangements; does
 17 that summarise it?

18 **A.** I certainly think that's right that in a pandemic one
 19 might expect, you know, other kinds of rivalries or
 20 differences of view to be put aside, and that's
 21 an argument that could be made to any of the principals
 22 involved here.

23 I suppose I'm struggling a bit with what is meant by
 24 a unionist argument, because someone can be a unionist,
 25 as the First Minister in Wales is a unionist, and still

27

1 **A.** Sorry.

2 **LADY HALLETT:** -- and perhaps play devil's advocate.
 3 Mr Johnson is obviously a unionist.

4 **A.** Yes.

5 **LADY HALLETT:** And we don't have four nations that are
 6 autonomous, entirely autonomous, and have just come
 7 together for mutual defence and all the rest of it. So
 8 surely his argument would be that the United Kingdom
 9 is -- the United Kingdom Government is technically the
 10 government for the whole of the United Kingdom, and
 11 therefore you don't treat the First Ministers -- I'm not
 12 saying this is my argument, I'm just pushing forward
 13 a possible contrary argument -- as you would treat the
 14 Prime Minister of country X that had come together with
 15 country B and all the rest of it.

16 Wouldn't that be the unionist argument?

17 **A.** I'm -- right. So I'm certainly not arguing that the --
 18 that the -- that weren't kind of difficult choices to be
 19 made between different ways of involving devolved
 20 governments in the management of the pandemic, that
 21 there would be cost to them and so on. The -- aside
 22 from the ministerial implementation groups, though, it
 23 seems to me that the arrangements did mean that the
 24 devolved governments in general and the Welsh Government
 25 in particular were kind of informed about rather than

26

1 argue strongly for devolution and the involvement of
 2 devolved leaders in core decision-making processes in
 3 a way that would be -- in fact, it might be quite
 4 a strong unionist argument to say that there should be
 5 more of an apparatus for managing the relationships
 6 between the governments which respects the
 7 responsibilities of each government.

8 You might think of it more as a kind of argument
 9 that might be made by people who -- by those political
 10 parties that want to leave the UK, that they don't want
 11 to be too entangled in arrangements for UK Government as
 12 a whole. So unionism can include what you might call
 13 a -- I won't try and call it that -- a unitary view of
 14 the union and it can include a devolved view of the
 15 union, and I think Mr Johnson's view is a very unitary
 16 view of the union, which emphasises strongly the ... the
 17 role of the central UK Government. In that world, then
 18 one would want to see rather more care and attention and
 19 interest paid to matters in Wales, in this case, or
 20 Scotland and Northern Ireland in other cases, than it
 21 seems to me is evident from the documents I've seen.

22 I've seen, for example, in -- and it's not just
 23 political, I think it also influences the civil service.
 24 So if you look at the advice given by Sir Mark Sedwill
 25 and then by Helen MacNamara and Simon Case, you see

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1 initially discussion of how the devolved
2 administrations, as the documents say, would be
3 involved, and then in -- at the latter end it's about
4 how the DAs would be managed, and it's not clear to me
5 that a workable system of devolution can be -- that has
6 a legislative parliament can be properly governed if the
7 UK Government sees itself as managing the devolved
8 administrations.

9 **LADY HALLETT:** Thank you very much.

10 Long time taken on it, Professor, but now I know
11 why. I shouldn't -- anyway, thank you, that's very
12 helpful, thank you.

13 **MR POOLE:** Yes, I think devolved waters run deep, Professor,
14 and we will move away from devolution now and talk about
15 Welsh Government decision-making structures, if we can.

16 If I could, please, have INQ000066086 on the screen.

17 This is the organisational chart of the Welsh
18 Government as it entered the pandemic. So at the top we
19 can see the First Minister. Underneath we then have the
20 various Welsh ministers and deputy ministers. Then
21 have, at the time, Shan Morgan, who was the
22 permanent secretary who leads the Welsh civil service.
23 And then beneath the permanent secretary you have the
24 four director generals, so at that stage there were four
25 groups: the Office of the First Minister and Brexit

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1 advisers, but I think they do play a particularly
2 important role here, you know, given that you don't have
3 a kind of senior civil servant team around each, each
4 minister.

5 **Q.** In terms of decision-making during the pandemic, you
6 make a comment in your report, you say that before you
7 were given access to the Inquiry material your
8 impression was that the decision-making processes in
9 Wales during the pandemic were, in your words, overly
10 complex, but then having worked through the full body of
11 material that you have been given access to, you say
12 "a rather more coherent pattern of response from the
13 Welsh Government has come into focus".

14 I just want to ask you, your initial impression,
15 then, of over-complexity, was that due to the sheer
16 number of entities and mechanisms within the
17 decision-making structure or your understanding of the
18 decision-making process, or a combination of both?

19 **A.** So I think it's a combination of both, you know,
20 there -- the Welsh Government did have a number of
21 structures kind of within the government but also,
22 you know, kind of advisory government structures.
23 I think this reflects a kind of orientation of the Welsh
24 Government towards working in partnership. You know,
25 you'll hear quite a lot about kind of co-production and

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1 Group; Health and Social Services Group; Education and
2 Public Services Group; and Economy, Skills and Natural
3 Resources group.

4 So, first of all, we can see from that there are
5 fewer groups than there are Welsh ministers, so
6 a corollary of that is that the groups are not led, so
7 to speak, politically by a designated department-type
8 Cabinet minister. Do you see that as an advantage or
9 a disadvantage when it comes to effective
10 decision-making?

11 **A.** I mean, again I'd say, at the risk of sounding like
12 an academic again, you know, there are -- there will
13 always be advantages and disadvantages. I mean,
14 I suppose a disadvantage might be less capacity for
15 a political minister to drive through a particular
16 policy objective, you know, with the support of
17 a committed group of civil servants. I suppose the
18 advantages would be more in the area of joining up --
19 you know, linking up across different domains of Welsh
20 Government activity.

21 **Q.** Does the structure of the Welsh Government have any
22 implications for the significance of special advisers to
23 Welsh ministers?

24 **A.** Yes, I would -- you know, I think ministers in all the
25 governments in the UK rely very heavily on their special

30

1 partnership working in Wales. But I think it also
2 reflects the relative lack of specialist academic work
3 or what you might call kind of long-form journalism
4 specifically focused on Wales. So, you know, by
5 contrast with Scotland and Northern Ireland, Wales
6 doesn't have a strong Wales-focused media. You know,
7 almost all the newspapers in Wales are essentially the
8 London editions, whereas, you know, even the
9 London-based newspapers in Scotland will have
10 distinctive Scottish editions. And that has all sorts
11 of implications for communication and for messaging and
12 so on in Wales.

13 But it -- at the early stage, because there's
14 relatively little academic research, I was really
15 heavily reliant on what I could find that the Welsh
16 Government had produced in the public domain and then on
17 journalistic accounts, and, you know, I have to say
18 that, you know, for example some of the materials
19 produced by Andrew Goodall, who's listed as
20 Director General, Health and Social Services Group but
21 is now the permanent secretary, are amongst the most
22 complete and comprehensive accounts of Welsh public
23 administration that exist anywhere, I think, you know.

24 So reading, you know, I kind of understood the
25 system as it operated, but, you know, it hadn't really

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1 been set out in that kind of detail in any scholarly
 2 articles, you know, the community of scholars focusing
 3 on these things in Wales is relatively small, much
 4 smaller, say, than in Scotland.

5 **Q.** I understand.

6 Professor, by way of orientation, you deal with the
 7 initial period January to March 2020 starting at
 8 paragraph 104 of your report. I don't need you to pull
 9 it up. But in terms of that period, so the first few
 10 months of the pandemic, in respect of four nation
 11 approach there was -- you say in your report it was very
 12 much one of co-operation between the four governments of
 13 the UK leading up to and including the first lockdown.
 14 Is that a fair summary of your assessment of that
 15 period?

16 **A.** Yeah, I think that's a -- that's a good summary,
 17 although I would also say that, you know, there were
 18 incidents of kind of friction even during that period of
 19 co-operation.

20 **Q.** And I think you've mentioned some of those in your
 21 report, and we will obviously have regard to those.

22 If we just go through the various factors within
 23 that, we know that during that period January through to
 24 March there were a series of COBR meetings, initially
 25 chaired by Matt Hancock as Secretary of State for Health

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1 Then the paragraph above, 3.8, it reads:
 2 "The different phases, types and scale of actions
 3 depends upon how the course of the outbreak unfolds over
 4 time. We monitor local, national and international data
 5 continuously to model what might happen next, over the
 6 immediate and longer terms."

7 Would you agree that this anticipates, this action
 8 plan, in early March, that there might be variations in
 9 response to the virus?

10 **A.** I would, absolutely. I would just note one potential
 11 ambiguity in this paragraph. It says "We monitor local,
 12 national and international data", and it's not clear
 13 what "local" and "national" mean in this context. So
 14 does "national" refer to the whole of the UK? Does it
 15 mean they're monitoring each of the nations, as it were,
 16 of the UK? Does "local" include localities in England
 17 and then the devolved parts of the UK? So, you know,
 18 I mean, this is a standard way of talking about these
 19 data, but the complexity of the UK doesn't kind of
 20 necessarily sit neatly in that kind of language.

21 **Q.** No, Professor, and the questions you ask are good and
 22 valid questions and we'll be hearing evidence later in
 23 these hearings from people that had a hand in drafting
 24 and input into this document.

25 So we spoke earlier about policy variation being,

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1 and subsequently by Mr Johnson. Now, there is a debate
 2 about whether the right person from the Welsh Government
 3 attended. We know Mr Gething attended the first three
 4 COBR meetings, Mr Drakeford's first attendance wasn't
 5 until the COBR meeting on 18 February. Now, I don't
 6 want to spend time on that now, but, as a general point,
 7 the Welsh Government was invited to and did attend COBR
 8 meetings, whether in person initially or remotely;
 9 that's right, isn't it?

10 **A.** Yes.

11 **Q.** One of the products of those early COBR meetings was the
 12 *Coronavirus: action plan*, at INQ000066061, which we can
 13 see on the screen there. That's the first page of the
 14 action plan published 3 March.

15 Now, the first point to note, just from that first
 16 page, not only does the title explain that it's a guide
 17 as to "what you can expect across the UK", but then
 18 immediately underneath that box are the illustrative
 19 logos showing that it was the work not just of the
 20 Westminster Department of Health and Social Care but the
 21 three devolved governments, including, of course, the
 22 Welsh Government.

23 If we can please go to page 10 of that action plan,
 24 that sets out the well known, as we see at
 25 paragraph 3.9, contain, delay and mitigate.

34

1 I think in your words, an automatic consequence of
 2 devolution, so this appears to be expressly recognised
 3 in this action plan.

4 Then if we can have a look, please, at page 17,
 5 paragraph 4.40, we see there a reference back to COBR,
 6 and four lines up from the bottom:

7 "The respective crisis management mechanisms across
 8 the Devolved Administrations have also been stood up and
 9 will operate in very similar terms to that of COBR
 10 within their own nations, and all four co-ordination
 11 centres are linked up on UK-wide planning and delivery
 12 of the response to Covid-19."

13 So it's fair to say, looking at that, would I be
 14 right, that the plan at that stage, this is early
 15 March 2020, was very COBR-centred, COBR would be the
 16 place where the governments of the four nations would
 17 come together and would pursue a combined response to
 18 Covid?

19 **A.** Yes.

20 **Q.** I'd like to just change topic slightly and ask you some
 21 questions about the UK Government's legislative response
 22 to the pandemic and how -- particularly how that
 23 impacted on the Welsh Government's strategic response.

24 So we know that at the start of the pandemic
 25 the UK Government had on the statute books the Civil

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1 Contingencies Act 2004 and that provided ministers with
2 the ability to take emergency powers in the event of
3 a catastrophic emergency and appoint governors,
4 for example, for parts of the UK.

5 Now, it also had on the statute books the Public
6 Health (Control of Disease) Act 1984, which provides
7 that regulations may be introduced to manage
8 an infection which presents or could present
9 a significant harm to health.

10 Now, as we have already touched upon, under the
11 Civil Contingencies Act, decisions would be made, and
12 you deal with this in your report, by the UK Government,
13 and the Welsh Government would be a Category 1
14 responder, so effectively implementing those decisions.

15 In contrast, Public Health (Control of Disease) Act,
16 public health obviously being a devolved matter, Welsh
17 Government would be the entity making the actual
18 decisions for themselves; correct?

19 **A.** Yes.

20 **Q.** So did the choice of which legislation to use to respond
21 to the pandemic, in your view, did that have important
22 implications for Wales and also the type of structural
23 response to the pandemic across the UK?

24 **A.** It did, yeah.

25 **Q.** I think you refer in your report at paragraph 105 to the
37

1 anticipated a four nations approach; yes?

2 **A.** Yes.

3 **Q.** Now, the reason that this is of some interest is that
4 latterly there has been some debate as to whether that
5 particular sort of legislative approach was the right
6 one to have chosen, and as we've just seen, and as you
7 refer to in your report, it's not one that the
8 First Minister anticipated.

9 Now, Mr Johnson in his witness statement to Module 2
10 of the Inquiry -- and perhaps we can have this up on the
11 screen, it's INQ000255836, and this is -- yes,
12 page 30 -- this is Mr Johnson's report at paragraph 126,
13 he says:

14 "Looking back, we should have thought much harder
15 about the legal basis for the measures proposed. There
16 is a respectable argument that we should have used civil
17 contingencies legislation rather than public health
18 legislation. By allowing for at least the appearance of
19 a divergence in approach between the various parts of
20 the UK, we were risking considerable public confusion
21 and frustration -- when clarity of message was crucial."

22 Then perhaps just one further paragraph of his
23 witness statement.

24 Paragraph 153, which is page 37, please.

25 So at 153, I think we are about four lines down, it
39

1 First Minister's evidence to the Inquiry that he
2 expected the UK Government to take the key decisions for
3 the whole of the UK and that you refer to the fact that
4 Mr Drakeford's expectation was that civil contingency
5 powers would be the primary instrument used to respond
6 to the pandemic and that this expectation was one that
7 you say was generally held across the devolved
8 administrations.

9 Now, we know that the decision was made by the
10 UK Government to respond to the pandemic through the use
11 of public health powers, and also the powers under the
12 Coronavirus Act -- and you'll be glad to know I don't
13 intend to get into the fine detail of the Coronavirus
14 Act with you, which of course addressed all sorts of
15 issues relating to emergency measures that were taken
16 and lockdown and so on and so forth.

17 Would you, though, agree in general terms that one
18 of the purposes of the Coronavirus Act was to facilitate
19 a co-ordinated and consensual approach across the UK but
20 also whilst at the same time facilitating deviation
21 where necessary?

22 **A.** Yeah, I think that's right.

23 **Q.** So that Act, the Coronavirus Act, that's really of
24 a piece with the approach that we have been discussing
25 relating to, just a moment ago, the action plan, it
38

1 starts:

2 "It would perhaps have been better, in retrospect,
3 if we had formed policy under the Civil Contingencies
4 Act 2004 so as to bind the United Kingdom together. We
5 should then have met regularly, UK Government and DAs,
6 to decide the policy together and to stick to it."

7 Now, we know from evidence heard in Module 2 that
8 COBR was advised that it wasn't open to the
9 UK Government to use the Civil Contingencies Act to the
10 pandemic because it wasn't an unforeseen event and so
11 the Public Health Act powers were used.

12 The important point to draw from what Mr Johnson is
13 describing, so namely an alternative legislative
14 response, would have seen, would it not, a very
15 different response to the pandemic?

16 **A.** It would have seen a different response to the pandemic,
17 yeah.

18 **Q.** We know from what the First Minister has said, and you
19 have picked up in your report, that once the decision
20 was made to rely upon public health powers as the basis
21 for responding to the pandemic, the First Minister
22 agreed with that decision, his words were it allowed the
23 Welsh Government to calibrate a response which reflected
24 the particular circumstances in Wales, but that
25 decision, that UK Government decision to use public
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1 health powers, was not formally made until 20 March. So
2 is it fair to say that what you've seen that up until
3 then, up until 20 March, it appears that the Welsh
4 Government and the First Minister had assumed the
5 primary decision-making power would remain with the
6 UK Government?

7 **A.** That certainly seems to be the First Minister's
8 understanding of the situation. I have to say that,
9 you know, trying to track through references to
10 different kinds of powers during that early phase is
11 complicated and I remain a little bit unclear about
12 exactly when, kind of, decisions were -- or exactly how
13 these matters were discussed, how far they were aired
14 and so on, at any earlier stages. So there are
15 references to public health powers, I think, in some
16 earlier documents. But, you know, so there's
17 a certain -- a certain amount -- a certain lack of
18 clarity for me, which I haven't been able to resolve,
19 I'm afraid.

20 **Q.** In light of everything we've looked at and discussed, do
21 you feel able to comment on whether the First Minister's
22 assumption that this would be effectively Civil
23 Contingencies Act powers rather than public health
24 powers was a reasonable assumption to hold? Is that
25 something you feel able to comment on?

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1 and the other devolved administrations; is that right?
2 **A.** I'm not sure that's quite right. I mean, things like
3 the furlough scheme and the Coronavirus Job Retention
4 Scheme were UK-wide funding streams so that people
5 across the UK could draw on them and they were drawing
6 on Treasury funds. The block grant consequentials came
7 from spending in England on matters that weren't also
8 covered in Wales, you know. And a colleague of mine in
9 the Wales Governance Centre at Cardiff University who
10 works in the fiscal analysis unit wrote a report in --
11 published in November 2020 where he said at that stage
12 it looked as if in Wales there wasn't disproportionate
13 spending from those central funds as compared to
14 spending in England. So the idea that, as it were, more
15 was spent in Wales from those central funds I don't
16 think -- at least for that first phase of the pandemic,
17 I don't think stacks up.

18 **Q.** I understand. And I think you explained earlier that
19 Barnett funding, it's not ringfenced, so in other words
20 Wales doesn't need to spend it in the same way that
21 England has spent it. But you refer in your report, and
22 I don't think we did touch on this earlier when we were
23 dealing with funding, to the introduction by the
24 Treasury of a Barnett or sometimes, I think, called
25 a coronavirus guarantee.

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1 **A.** Yeah, I mean, I think I would say it was, kind of
2 broadly speaking, reasonable based on what I understand
3 of the situation. You know, I've also seen in some of
4 Michael Gove's evidence, his in-person evidence, as it
5 were, to Module 2, he has made reference to
6 Michelle O'Neill, the Deputy First Minister of
7 Northern Ireland at the time, also expecting civil
8 contingencies would be the basis of the power. So,
9 you know, I think it's reasonable that that was a fairly
10 widespread view, including across a range of different
11 kind of political perspectives.

12 **Q.** Let me move on, but in so doing return to a topic we've
13 already touched on, which is the question of funding.

14 Now, in your report, it's paragraph 113, you refer
15 to the UK Government's Coronavirus Job Retention Scheme,
16 so that's the furlough scheme. You describe it as
17 providing the foundation for pandemic governance across
18 the UK, including Wales.

19 Now, we don't need to go through the detail, but in
20 summary the consequence then of the Barnett mechanism
21 that you described eloquently to us earlier was that
22 where the UK Treasury set up these extremely
23 money-intensive schemes, so furlough, bounceback loans,
24 business interruption schemes and so on, the Barnett
25 mechanism meant that there was extra funding for Wales

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1 Just in a few sentences could you explain first what
2 that is and why you think that is particularly important
3 in terms of the pandemic response in Wales?

4 **A.** Okay, so that relates back to what I was saying
5 previously about -- about how the block grant is based
6 on spending outcomes in England, so that if spending is
7 allocated for England and not actually spent, then any
8 block grant consequential can be clawed back by the
9 Treasury. So effectively what the coronavirus or
10 Barnett guarantee did was it gave the devolved
11 governments comfort that where the UK Government was
12 allocating substantial funds for coronavirus purposes in
13 England, that those funds would be allocated to Wales
14 and the other devolved governments and not clawed back
15 at the end of the -- at the end of the period.

16 So an example would be the UK Government allocated
17 a huge amount of money for its test and trace system.
18 The test and trace system implemented in Wales was much,
19 much cheaper, but the Welsh -- you know, even if all the
20 billions of pounds -- I can't remember exactly what the
21 amount was, I shouldn't say billions of pounds, but even
22 if the substantial allocation wasn't spent in full, that
23 money wouldn't be clawed back from Wales, so they could
24 then confidently allocate it to whatever purposes they
25 felt necessary, without the risk of it being clawed

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1 back.

2 This goes back to my point about the kind of anxiety
3 about open-ended liabilities that I think is a kind of
4 significant feature of the devolved arrangements as they
5 work in Wales.

6 **Q.** We spoke a moment ago about the involvement of COBR in
7 those early months of January to March 2020. I just
8 want to take perhaps a step to one side again and talk
9 about SAGE, so the Scientific Advisory Group for
10 Emergencies, because you make a few points about SAGE in
11 your report that I just want to look at with you.

12 **A.** I'm sorry, could I just make one other point, which
13 I think is really quite an important point, about the
14 structure of public spending and how that affects
15 pandemic response? I mean, not for this pandemic, but
16 thinking about the future.

17 **Q.** Of course.

18 **A.** If we imagined that coronavirus had arrived first in
19 a population centre in one of the devolved parts of
20 the UK, there's no straightforward mechanism whereby the
21 additional spending required to deal with that as it
22 first hit would be generated in the UK system. So,
23 you know, we know that coronavirus hit in London first
24 and the response was keyed around dealing with that
25 issue. But if, say, a group of academics from China had

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1 reference, and, you know, I think that was -- that was
2 sort of partly mitigated by the presence of people who
3 were kind of living the experience of coronavirus in
4 Scotland but to a much lesser extent in England. And
5 obviously that doesn't affect, you know -- academic
6 scientists are on SAGE for their substantive expertise
7 and it doesn't matter, in that sense, where in the UK
8 they live, but if they're bringing their experience to
9 bear, at least on the margins, you know, I think that
10 might be significant.

11 And I think there's a broader issue about the way
12 that data on England tends to dominate UK-wide data and,
13 you know, there are often issues about, you know, on
14 surveys the sample size in Wales being too small to say
15 anything meaningfully -- meaningful about Wales itself
16 and so on. So I suspect these are the kinds of thoughts
17 that were behind Professor Henderson's remark about the
18 kind of England frame of reference.

19 **Q.** I think another point you make about SAGE is that, from
20 what you've seen, Welsh officials and experts did not
21 have direct access to minutes and papers directly from
22 SAGE and its subgroups, although I think it's fair to
23 say that access to SAGE materials did improve, and
24 I think from 8 April 2020 the Welsh Government was given
25 access to an online repository of SAGE documents.

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1 visited one of the universities in one of the devolved
2 cities and that had been how Coronavirus had first hit,
3 it's not at all clear how the emergency spending would
4 have been generated.

5 You know, I suppose it would have had to have been
6 going to the Treasury and asking for some special
7 funding, whereas because it hit in England initially,
8 you know, it was fielded by the standard UK Government
9 arrangements.

10 I hope that's not ...

11 **Q.** That's very --

12 **A.** I hope that's been helpful.

13 **Q.** So just returning to where I was on SAGE and really
14 a few points that you make about SAGE in your report,
15 I think there are three in total, first you make a point
16 about membership, and you refer in your report,
17 paragraph 119, to the fact that:

18 "Relatively few people who work at universities in
19 Wales sit on SAGE or its sub-committees (in contrast,
20 proportionately larger numbers of academics from
21 Scottish universities are members of SAGE)."

22 Briefly, just expand on that point and why you make
23 that point in your report, please.

24 **A.** So I think in her report, Professor Henderson kind of
25 talks about SAGE having a kind of English frame of

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1 Now, the Inquiry is going to hear quite a lot about
2 the Technical Advisory Cell and Technical Advisory
3 Group, TAC and TAG, that were set up in late February
4 and comprised scientific and technical experts that
5 provided independent scientific advice and guidance to
6 the Welsh Government.

7 One of the driving forces behind establishing TAC
8 and TAG was that the advice and guidance from SAGE was
9 not Welsh-specific, as we've just discussed.

10 Rather than creating a completely new advisory
11 structure in the midst of a pandemic, could
12 an alternative approach have been to seek to address
13 some of those problems that you've identified with the
14 SAGE structure with the UK Government, or do you think
15 it was an appropriate or necessary response to set up
16 a new advisory structure in late February?

17 **A.** I mean, I think it was appropriate to set up a -- the
18 TAC/TAG structure. The alternative of negotiating with
19 the UK Government to change SAGE isn't one I've
20 considered in any detail, so ...

21 I mean, I suppose -- I suppose I think it kind of
22 goes with the grain of the sort of public health
23 approach to managing the pandemic, although it -- I'm
24 trying to work out the timeline here. It may be sort of
25 in advance of -- may have been set up in advance of the

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1 First Minister understanding that the -- that the public
2 health legislation would be used. I don't have the
3 dates in front of me, so I can't work out that timeline.

4 **Q.** Well, I think TAG and TAC were set up, there or
5 thereabouts, end of February, and I think the evidence
6 might suggest that it's 20 March that the --

7 **A.** Right, okay.

8 **Q.** -- that it becomes apparent that the UK Government is
9 going to use the public health powers rather than the
10 Civil Contingencies Act.

11 Now, we're going to explore data and modelling with
12 other witnesses, but because you make one comment in
13 your report, I just want to ask you briefly about that
14 before we take a break.

15 You say:

16 "The availability of data and capacity to analyse it
17 in a sufficiently timely fashion to inform policy
18 making, was a continuing issue across the UK and in
19 Wales; perhaps reflecting the structure of the sector
20 these issues seem to have been particularly acute in
21 relation to social care."

22 Just, as I say, briefly, in your view are you able
23 to say why that was the case?

24 **A.** So structurally the organisation of social care across
25 the UK, you know, means it's very much a kind of

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1 Now, you deal with the Welsh fire firebreak in the
2 section of your report starting at paragraph 225. Now,
3 we know there are supporters and there are critics of
4 the firebreak, and the evidence as to how effective it
5 was is unclear, and I don't want to discuss any of that
6 with you, Professor. I want to, though, explore two
7 aspects of the firebreak. First, continuation of the
8 theme, differences in government responses. And second,
9 again returning to the impact of funding.

10 Now, the Welsh firebreak is perhaps, would you
11 agree, the clearest example of the Welsh Government
12 adopting a starkly different policy to the UK Government
13 and the other devolved administrations?

14 **A.** It is, it is starkly different. I mean, I think there
15 was something a bit like it in Northern Ireland, but
16 very different to the other governments in Britain.

17 **Q.** Perhaps we can just have a look at minutes of a COBR
18 meeting of 12 October.

19 INQ000083851. And if we could perhaps, please, go
20 to page 7, paragraph 11 of those minutes.

21 You see here the First Minister asked if COBR would
22 be held to discuss circuit-breakers, which he noted the
23 SAGE papers had regularly advised on.

24 Then the same page, further down, at paragraph 16:

25 "The [Prime Minister] said that the issue of circuit

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1 mixed -- mixed provision. You know, a lot of
2 independent provision, increasingly less local
3 government directly provided social care, and, you know,
4 that means that you're gathering data from a range of
5 different charitable or commercial enterprises. And so
6 having comprehensive data on the sector I think is --
7 has proven difficult across the UK and was, I think,
8 difficult in Wales. I think that's been acknowledged
9 and there are kind of data strategies for social care in
10 Wales and so on that were developed subsequent to the
11 pandemic, as I understand it.

12 **MR POOLE:** My Lady, I'm going to change topic, so therefore
13 that might be a good place for a break.

14 **LADY HALLETT:** Yes, of course.

15 Professor, I hope you were warned that we take
16 a break for -- we always say it's for the benefit of the
17 stenographer but I suspect it's for the benefit of
18 everybody. I shall be back at 11.30.

19 (11.13 am)

(A short break)

21 (11.30 am)

22 **LADY HALLETT:** Mr Poole.

23 **MR POOLE:** Professor, I'm going to next ask you some
24 questions about the Welsh firebreak, which, as we know,
25 started on Friday 23 October 2020, ended on 9 November.

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1 breakers and the ability to keep schools open were
2 particular points of interest."

3 Continued success was said to be heavily dependent
4 on individuals' behaviour, the challenge lay in
5 successfully encouraging a tired and frustrated
6 population to absorb new messages."

7 Those minutes can be taken down, thank you.

8 From what you have seen, would it be fair to say
9 that the UK Government had very little appetite for
10 a circuit-breaker?

11 **A.** Yes, I think that's right. You know, there was some
12 very clear evidence in Boris Johnson's Module 2
13 statement that is very sceptical about circuit-breakers,
14 and specifically, you know, critical of the approach in
15 Wales, and actually contrasts it with a tiered approach
16 in Scotland.

17 **Q.** Indeed. And I think you refer in your report to the
18 UK Government's Eat Out to Help Out scheme being
19 an example of, you say, the UK Government giving
20 priority to mitigating economic harms rather than Covid
21 impacts; is that right?

22 **A.** There certainly seems to have been an emphasis on that,
23 especially from the Treasury.

24 **Q.** Turning then to the impact of funding on the firebreak,
25 and you deal with this at paragraph 227 of your report,

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1 and you refer there to the fact that the Treasury did
2 not agree to extend the furlough scheme to cover the
3 Welsh firebreak.

4 Now, the Inquiry is going to look at that issue with
5 some later witnesses and I don't want to with you debate
6 the rights and wrongs of that particular episode, but
7 just as a general point, would you agree that this
8 illustrates a point that we touched on earlier, namely
9 the difficulties faced by the Welsh Government not
10 having the fiscal levers to support individuals and
11 businesses that could not earn income during the
12 pandemic?

13 **A.** Yes, at a broad -- at a broad level. I mean, I think
14 also there was quite a lot of commentary, you know,
15 ranging from The Financial Times and the Institute for
16 Government through to people like Kelvin MacKenzie that
17 sort of suggested that the Welsh Government might be
18 pursuing tighter restrictions and, you know, passing the
19 bill on to the Treasury, which I think is a serious
20 misreading, misunderstanding of the way the finance
21 actually worked.

22 **Q.** Thank you, Professor.

23 Throughout your report you refer to various
24 lessons learned exercises that were carried out by the
25 Welsh Government and also other organisations such as

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1 going, you know, even through the various kind of
2 lockdowns and so on. So I think there's a danger of
3 a kind of false equivalence, when you say there was
4 a lockdown 1 and a lockdown 2 and a lockdown 3; they're
5 actually quite different kinds of lockdowns.

6 Now, that still leaves open the question of learning
7 lessons, and it does make me -- make me reflect that
8 I would want our governments to be able to kind of
9 absorb and understand that difference and kind of
10 modulate their response in the face of that difference.

11 There is, I think, quite a lot of evidence that, due
12 to things like the condition of hospital infrastructure
13 in Wales, that infection protection and control proved
14 particularly difficult, and there are some reports that
15 say, you know, that is due to the physical layout of
16 hospitals in Wales. Now, I haven't seen any kind of
17 comparative analysis of physical layout of hospitals and
18 how that impacted infection rates within Wales or
19 beyond, but it seems to me there is an important point
20 there that governments do need to learn lessons, but
21 they also need to understand that they're addressing
22 a different policy question, you know, perhaps subtly
23 but I think significantly different policy question, if
24 they're trying, as I think they should be trying, to
25 provide a wider range of services, as the pandemic

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1 Public Health Wales. Now, the evidence suggests that
2 the period from late summer to early autumn 2020 until
3 the winter months of 2021 seem to have been particularly
4 challenging for the Welsh Government.

5 One conclusion of a lessons learned exercise carried
6 out by Public Health Wales was that not all lessons
7 identified at the end of the first wave of Covid were
8 actioned successfully, and that's something you note at
9 paragraph 224 of your report.

10 Would you agree that there was an opportunity for
11 the Welsh Government to be better prepared for the
12 second wave of the pandemic in autumn 2020, having been
13 through, obviously, the first wave in the spring
14 of 2020?

15 **A.** Yeah, I've thought quite long and hard about this, and
16 for me I think one of the tricky things to work through
17 is -- is how lessons learned in the first wave might be
18 applied in the somewhat different conditions that held
19 from, you know, the summer 2020 onwards.

20 I mean, it seems to me that there's a quite
21 fundamental difference between that initial emergency
22 response where, in effect, a very large-scale
23 redirection of the NHS was undertaken in Wales and
24 across the UK and then, from summer 2020, much more of
25 an attempt to keep a more normal range of NHS services

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1 emergency continued.

2 **Q.** Thank you, Professor.

3 Now, a change of topic, and my last topic is going
4 to be public health communications, briefly.

5 You deal with this at paragraph 256 or certainly you
6 start dealing with this at paragraph 256 of your report,
7 and you make the point there, which is a point you made
8 earlier this morning, you say:

9 "Compared to Scotland and Northern Ireland, the
10 Wales-specific media is weak, especially in relation to
11 newspapers."

12 So printed media is weak, as you explained earlier.

13 Is it right though to say that Wales does have
14 a distinct radio and television provision, particularly
15 in the Welsh language; that's right, isn't it?

16 **A.** Yep, in the Welsh language. And, you know, there is
17 also a distinct provision in English as well.

18 **Q.** You refer in your report to daily broadcasts of the
19 Welsh Government press conferences, which I think
20 started on 30 March 2020, and you describe in your
21 report as BBC Wales reporting an unprecedented demand
22 for its news output, with more than 700,000 viewers
23 tuning in each day. Would you agree that those daily
24 broadcasts were a key part of the Welsh Government's
25 public health communications strategy?

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1 A. Yes.

2 Q. In your report you also note that although
3 Mr Drakeford's popularity dipped briefly in Wales at the
4 start of the pandemic and Mr Johnson's increased,
5 Mr Drakeford's ratings then increased sharply as
6 Mr Johnson's fell. And I think I'm right in saying
7 you're a member of the Welsh Election Study.

8 And if we can have, please -- it's at page 79 of
9 your report, INQ000411927.

10 Look there at figure 1. This is data I think
11 collected by the Welsh Election Study to compare public
12 attitudes in Wales towards the UK and Welsh governments'
13 handling of the pandemic.

14 We can see there from figure 1 a clear common
15 pattern of higher approval levels for the Welsh
16 Government than the UK Government in terms of
17 communicating decisions handling lockdown and vaccine
18 roll-out.

19 Overall would you say that the Welsh Government
20 employed an effective public health communications
21 strategy during the pandemic?

22 A. I would say overall it did. I think there were,
23 you know, specific examples of mishandled issues.
24 You know, for example there were issues around the
25 firebreak to do with non-essential items in supermarkets

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1 precisely because sustaining high stringency for a long
2 period comes with costs, there's huge pressure to roll
3 them back sooner rather than later and that leaves,
4 inevitably, some residual virus circulating in the
5 population, which lays the seeds for the next wave to
6 emerge. So this kind of tendency to act too late in the
7 first instance and to take measures away too soon in the
8 second instance does tend to lead to the peaks and
9 troughs that these graphs show."

10 Then just very finally, the bottom left-hand
11 quadrant, line 17, he says:

12 "So the countries that were riding the rollercoaster
13 were [I think it's supposed to be suffering] from
14 a trifecta of large health impacts, high, long periods
15 of stringency, and negative economic consequences ..."

16 So do you consider that this criticism of only
17 implementing NPIs when it is too late, resulting in this
18 rollercoaster approach whereby restrictions are ended
19 too quickly only to be ramped up to maximum, is
20 applicable to the Welsh Government's response in autumn
21 2020?

22 A. So around the firebreak?

23 Q. Say from September 2020 onwards.

24 A. So this was a phase when local area restrictions were
25 first put in place and kind of spread -- you know,

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1 and how they were handled and so on, but in general
2 I think the evidence is that their communications
3 strategy was relatively successful.

4 MR POOLE: Professor, thank you very much. I have no
5 further questions for you.

6 LADY HALLETT: Ms Shepherd.

7 Questions from MS SHEPHERD

8 MS SHEPHERD: Professor Wincott, I ask questions on behalf
9 of Covid-19 Bereaved Families for Justice Cymru, and the
10 question that I've got to ask you relates to the
11 evidence of Professor Thomas Hale, which he gave in
12 Module 2 of this Inquiry.

13 The reference is PHT000000030, and it's page 26 of
14 that document.

15 If we could look at the top left-hand quadrant, and
16 it's line 21 onwards, he says:

17 "So we see this rollercoaster tendency where
18 restrictions are put into place only after it becomes
19 apparent there will be a very severe threat to the
20 health system. That's after a large amount of community
21 spread has begun. Because it's so prevalent ..."

22 And it goes over to the next page:

23 "... at that moment, the restrictions need to be
24 more stringent and to be in place for a longer period of
25 time than might have been the case otherwise, but

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1 spread around Wales and then -- and then moved to the
2 firebreak.

3 I mean, I think there was certainly SAGE evidence
4 of, you know, advice that a circuit-breaker should be
5 implemented and, you know, I think that might have been
6 implemented earlier in Wales. I'm not sure the extent
7 to which, you know, the Welsh Government was, you know,
8 trying to -- or anticipating a kind of more general move
9 to a circuit-breaker across Britain, so that may have
10 been one of the things that slowed down that response.

11 And I'm also not sure exactly how and why, you know,
12 circuit-breakers seemed to get identified as two-week
13 periods. It seems to me one of the critical things
14 about a firebreak or a circuit-breaker is that you
15 pre-announce when it's going to end, and that was a very
16 clear feature of the firebreak in Wales, that the
17 government seemed very strongly committed to
18 pre-declaring what would happen afterwards, and that
19 became mixed up with the UK Government then introducing
20 its lockdown that wasn't called a firebreak but lasted
21 longer, a month, but also pre-announced when it was
22 going to end. So, you know, I think there was quite
23 a lot of confusion there.

24 It's also unclear to me, you know, simply because
25 this isn't my area of technical expertise, what -- the

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1 relationship between that firebreak and the emergence of
2 new variants of Covid, which came through September and
3 then became much more prevalent in -- at the end of that
4 year and through the next year, the so-called Kent or
5 Alpha variant and so on.

6 So exactly what the mix of the causes of the
7 significant increase in infections and deaths, you know,
8 towards the end of 2020 and into 2021 would be,
9 you know, I can't determine. But I think there is --
10 there was a sense of -- a sense that that firebreak
11 might have been introduced earlier. There may also have
12 been concerns about funding it as well that influenced
13 the timing. And again, kind of referring back to
14 a previous set of discussions, it is striking to me that
15 when the UK Government introduced the lockdown at the
16 end of October, beginning of November, the Treasury
17 increased the proportion of the furlough that the
18 government paid from 60%, which it had been in October,
19 to 80%, you know, again apparently responding to things
20 in England. Sorry, I'm mixing up things.

21 **Q.** I just want to ask one follow-up question to that, and
22 it's --

23 **LADY HALLETT:** Only if it's within his expertise. I was
24 worried, as you know, Ms Shepherd, that I shouldn't have
25 given permission for this question because it's not

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1 **LADY HALLETT:** Thank you for your continuing help,
2 Professor.

3 **THE WITNESS:** It's a privilege to have the opportunity
4 again.

5 **MR POOLE:** Could you please start, Professor, by giving us
6 your full name.

7 **A.** Yes, I am Sir Ian Diamond and I'm the
8 National Statistician.

9 **Q.** Now, you are in fact Professor Sir Ian Diamond. I was
10 proposing to call you Professor Diamond, is that --

11 **A.** I am very happy for you to call me whatever you wish.

12 **Q.** Now, Professor Diamond, I think you know the drill from
13 Module 2, but if you can keep your voice up so that we
14 can hear you but also so that your evidence can be
15 recorded. If I do ask you something you don't
16 understand, please ask me to rephrase it.

17 Now, Professor, you have been good enough to provide
18 a detailed witness statement for this module, Module 2B,
19 and we can see it there on screen. You signed that
20 statement on 8 January of this year. Is that statement
21 true to the best of your knowledge and belief?

22 **A.** Yes, it is.

23 **Q.** You also provided two witness statements to Module 2 and
24 you also gave evidence in Module 2 on 10 October, and
25 the transcript of that evidence is obviously available

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1 really within this witness's expertise. So, first,
2 what's the question?

3 **MS SHEPHERD:** I was going to ask: no matter the reason for
4 the Welsh Government implementing the firebreak when it
5 did, was the ultimate result that Wales was in
6 a situation where we had this ramp up, ramp down
7 rollercoaster --

8 **LADY HALLETT:** I think, to be honest, that's more for
9 an epidemiologist or a scientist --

10 **MS SHEPHERD:** Thank you, my Lady.

11 **LADY HALLETT:** -- as opposed to a professor of law and
12 politics, so, I'm sorry, but I think I'm going to have
13 to stop you there.

14 **MS SHEPHERD:** Thank you, my Lady.

15 **LADY HALLETT:** Thank you.

16 Thank you very much indeed, Professor. I'm sorry if
17 we did stray beyond expertise. It's my fault,
18 I shouldn't have given permission for that question.
19 But thank you for your help anyway and I'm sorry we
20 can't have a longer seminar.

21 **THE WITNESS:** Thank you.

22 **(The witness withdrew)**

23 **MR POOLE:** If I can please call Professor Sir Ian Diamond.

24 **PROFESSOR SIR IAN DIAMOND (sworn)**

25 **Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2B**

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1 on the Inquiry website.

2 If I can start, though, with just a few questions
3 about yourself. You are the chief executive of the
4 UK Statistics Authority and since August 2019 you have
5 been the National Statistician; is that right?

6 **A.** That's right.

7 **Q.** You are also head of the Government Statistical Service
8 and Analysis Function, and in that capacity you provide,
9 am I right, overall leadership for the Office of
10 National Statistics and the statistics profession across
11 the UK Government?

12 **A.** Yes, I would just clarify I'm head of the Government
13 Statistical Service and I'm also head of the Government
14 Analysis Function. They are two separate -- the
15 analysis function includes the statisticians but also
16 includes economists, operational researchers, social
17 researchers, actuaries and geographers.

18 **Q.** I'm grateful.

19 If we can start, then, please, with some questions
20 about generally data gathering in the UK but also Wales.
21 Dealing first then with the UK Statistics Authority,
22 what is the UK Statistics Authority?

23 **A.** The UK Statistics Authority consists of the Office for
24 Statistics Regulation, which is the regulator of
25 statistics, but, more importantly for this bit, the

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1 Office for National Statistics, which is the operational
2 arm of the UK Statistics Authority. The Office for
3 National Statistics has a responsibility to provide
4 official statistics across largely the economy and
5 population and society and to produce those statistics
6 in order to provide the evidence on which policy can be
7 based.

8 **Q.** Can you please describe to us the way in which the
9 UK Statistics Authority operates in relation to the
10 UK Government but also the devolved administrations.

11 **A.** Yes, I can. With regard to the UK Government, the
12 UK Statistics Authority is independent of government,
13 although we do have a line to the Cabinet Office, but we
14 are entirely independent and have a board with
15 an independent chair, Sir Robert Chote.

16 Statistics is a devolved responsibility to the
17 devolved administrations, and -- I, though, still have,
18 you may call it a pastoral responsibility to the three
19 chief statisticians of the devolved administration, and
20 we meet regularly and we talk and we have a concordat
21 between the ONS and each of the three devolved
22 administrations where we agree to work together to
23 provide statistics where appropriate which have
24 comparability right across the United Kingdom.

25 **Q.** So in the case of Wales, the Chief Statistician for
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1 understood that this information would be crucial
2 information that would inform the government
3 decision-making; that's right, isn't it?

4 **A.** Yes.

5 **Q.** Following that SAGE meeting, the ONS was commissioned to
6 deliver the Covid-19 Infection Survey that you've just
7 referred to. Can you just tell us, what's the
8 importance of the Covid-19 Infection Survey?

9 **A.** At that time, colleagues may remember that test and
10 trace was, I think the best way to say, stretched, and
11 indeed GP services were very stretched. Therefore we
12 did not have an accurate measure of how much Covid was
13 in the population, what the proportion of the population
14 was who at any moment were positive.

15 And that's -- as a statistician, when I was asked
16 what one would do, I'm afraid the knee-jerk reaction is
17 to say "Let's do a survey". And at that time it was
18 unclear, on 16 April, whether one could do a survey,
19 a household survey, where one could do swabs and get
20 that level, but I felt it was possible, and my
21 colleagues rallied round, government said "Let us do
22 this", and so we started. We drew a sample, we
23 recruited a large number of people. For the first
24 three months I would have to say it was England-only,
25 because this was a pilot, and we ran a household survey
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1 Wales during the relevant period was Glyn Jones, who was
2 then succeeded by Stephanie Howarth, who we will be
3 hearing from a bit later on.

4 During the pandemic, did you have much contact with
5 the Chief Statistician for Wales?

6 **A.** Yes, very much. I personally had contact in a number of
7 ways, both formal, so that the Inter Administration
8 Committee -- I know that's a mouthful -- meets
9 quarterly, and that includes everyone, to talk. In
10 addition we had informal contact whenever that was
11 necessary, and we met on regular bases. I would also
12 say that my colleagues across the Office for National
13 Statistics had very regular meetings with colleagues in
14 the Welsh Government; indeed, around the large Covid
15 Infection Survey they were meeting daily to discuss
16 results and to discuss potential analyses.

17 I would also say that we try very hard to produce
18 statistics for the Welsh Government in some areas,
19 particularly mortality. In other areas we are ready to
20 respond to requests.

21 **Q.** Now, Professor, I'm right in saying that you attended
22 a SAGE meeting on 16 April 2020, and the importance of
23 understanding the R number or the reproduction number
24 and the community prevalence for the following two to
25 three weeks was discussed at that meeting, and you
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1 which enabled us to estimate the degree of positivity.

2 With regard to this module, it was successful and so
3 we then started to do it for Wales, and started to
4 produce data on a weekly basis for Wales. And the
5 logistics of going to a household, taking the swabs,
6 then getting them to the laboratory, getting the
7 results -- and it is not simply, I would say, a question
8 of, if you like, ticking positive/not and then dividing
9 by the number, there's quite a lot of statistics that
10 goes into estimating the prevalence, and we did all that
11 and we made estimates twice a week.

12 **Q.** Just to put some dates on that, I think I'm right in
13 saying that the Covid infection study started
14 April 2020?

15 **A.** Yes.

16 **Q.** But as you've just alluded to, I think field work didn't
17 commence in Wales until late June, I think --

18 **A.** That's right.

19 **Q.** -- 29 June, and then it started producing infection data
20 for Wales beginning of August.

21 Why was there that delay in respect of Wales?

22 **A.** Well, it was I would say not a delay. As I indicated in
23 my last response, we went into a pilot initially. It
24 wasn't clear whether people would respond, it wasn't
25 clear that we could get the logistics right, so it was
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1 right to do a pilot. And when it was clear that this
 2 was a successful pilot, that's when other devolved
 3 administrations decided they wished to join and Wales
 4 was the first of those.

5 **Q.** And how did that survey ensure it was able to appreciate
 6 the specific types of data that the Welsh Government
 7 would need?

8 **A.** Well, as I indicated, Welsh Government statisticians
 9 were at our daily meetings, they were also at weekly
 10 meetings that happened, and we aimed always to respond
 11 to requests. So if there was an analysis that Welsh
 12 Government statisticians wanted on that Covid Infection
 13 Survey, then either at the daily meetings or at the
 14 weekly meetings they could say "These are matters which
 15 are important to the Welsh Government we really need to
 16 get some information on them".

17 **Q.** How was information from the Covid infection study
 18 conveyed to Welsh officials? Was it through Welsh
 19 statisticians attending meetings --

20 **A.** No, no, no, formally through -- because of the
 21 importance of pace here -- I mean, at times,
 22 for example, as one moves forward, some of the Omicron
 23 variant doubling time was about two and a half days, so
 24 one couldn't wait a long time before letting government
 25 know the results. And so what we agreed with the

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1 were.

2 **Q.** Professor --

3 **A.** I'm quite happy --

4 **Q.** Professor, perhaps if I tell you, I tell you what they
 5 are --

6 **A.** No, no, no --

7 **Q.** -- and then you tell me if I've got them right.

8 **A.** Yes.

9 **Q.** There's the daily Department for Health and Social Care
 10 Covid-19 deaths data, that's published 2 pm daily for
 11 the UK; is that --

12 **A.** That's right.

13 **Q.** And that data was drawn from NHS England, Public Health
 14 Wales, Health Protection Scotland --

15 **A.** That's right.

16 **Q.** -- and Public Health Agency in Northern Ireland.
 17 And then the second source, ONS weekly death
 18 registrations data for England and Wales, and that was
 19 what was released every Tuesday at 9.30 am, and that
 20 related to the week --

21 **A.** Yes.

22 **Q.** -- that ended 11 days prior; have I got that right?

23 **A.** That's right. Exactly so. And the distinction is that
 24 the ONS data cover all deaths, and with all places of
 25 death, whereas initially the DHSC data were for

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1 regulator was that we would let management information
 2 go to government, and that typically went on a Tuesday
 3 evening, although we published a couple of days later.
 4 Why did we publish a couple of days later? That's
 5 because there was still quality assurance that needed to
 6 be done and work needed to be done to really make sure
 7 that everything was fine, and to get it ready for
 8 publication. But the broad data, a slide pack of
 9 a rather large number of slides went to government right
 10 across all four administrations, went to the Welsh
 11 Government every Tuesday evening, and they then had
 12 those data to work with immediately.

13 **Q.** Now, Professor, I want to ask you some questions about
 14 ONS statistics on fatalities. Now, I appreciate, as
 15 we've said earlier, you've given evidence in Module 2
 16 and I don't want to make you repeat everything that
 17 you've said, but there will be some people following
 18 your evidence today who won't have seen your evidence in
 19 Module 2 or be familiar with it.

20 By way of a very brief overview of ONS data on
 21 fatalities during the pandemic, is it right that
 22 throughout the relevant period, the period we're
 23 concerned with, there were two main published data
 24 sources available on deaths?

25 **A.** Sorry, I thought you were going to tell me what there

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1 hospitals, first point.

2 The second point is that they are -- the DHSC data
 3 would be on the day the hospital was -- recorded, and so
 4 what you tended to find, and I think DHSC data are
 5 really good at very quick estimates, is that at weekends
 6 not so many are recorded so there was always, you know,
 7 a bit of a weekend gap and then ...

8 The ONS data for there, our data come on date of
 9 registration and we receive them and we are able then to
 10 produce them with cause of death, because the death
 11 certificate, as you will be aware, has the opportunity
 12 to write a cause of death and an underlying cause of
 13 death, and that's where we got much, almost all, of our
 14 information on Covid mortality, whether the physician
 15 registering the death recorded Covid either as the prime
 16 or underlying factor.

17 **Q.** So, Professor, which measure, the DHSC data or ONS data,
 18 would be more accurate or more helpful to understand
 19 what was happening in Wales during the --

20 **A.** Well, I think they're both -- I think they're both
 21 helpful. So during the pandemic you would be getting
 22 the DHSC data very quickly, on a daily basis. The ONS
 23 data, which I would argue have, if you like, more
 24 granularity, give more place of death and clearly more
 25 cause of death, that comes on a weekly basis, so it's

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1 a little slower but at the same time gives you
2 an enormous amount of information.

3 So I do think it is important to recognise that,
4 you know, very often in statistics we're able to provide
5 quick information which we are clear about what the
6 pluses and minuses are of, while a little later you
7 have, if you like, a much more detailed and better
8 information. If you're happy to wait those 11 days, as
9 most people were, then that's what I would use.

10 **Q.** Understood.

11 Now, the Inquiry understands that on 31 March 2020,
12 the ONS gave an exemption to provide the DHSC with
13 provisional data on deaths registered weekly in England
14 and Wales. I think the idea was that that would help
15 ministers better understand the spread of Covid-19.

16 Was an equivalent exemption made for provisional
17 data to be shared with the devolved administrations?
18 Obviously specifically --

19 **A.** Er --

20 **Q.** -- the Welsh Government.

21 **A.** Not clear and I would need to check on that.

22 **Q.** Now, before we address fatalities, can we just look at
23 Welsh demographics as they were in 2020, and you outline
24 in your witness statement a number of data point
25 estimating Welsh population demographics in mid-2020.

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1 be their first house. So the "usually resident"
2 population is one that we use a lot.

3 Sometimes local authorities make a point of saying
4 "Well, actually we want to know how many services to
5 deliver". So let us take a place like Cardiff, the
6 number of people usually resident, shall we say, on
7 a Sunday evening is rather different to the number of
8 people that Cardiff has to provide services for on
9 a Wednesday lunchtime. So the usually resident
10 population is a clear distinction of those people who
11 are there, not necessarily those people who will be
12 there at different times during the day and week. And
13 of course does not include people who are short-term
14 visitors, eg tourists.

15 **Q.** Now, you say in your report that the median age of the
16 population of Wales, 42.4 years, are you able to help us
17 with how that compares to the UK as a whole?

18 **A.** Yes, it's a little older, and indeed Wales has
19 a slightly higher proportion of people over 65, and
20 I think that's worth saying.

21 **Q.** In terms of demographic spread, how does that compare to
22 the rest of the UK?

23 **A.** Well, Wales -- Wales is a very heterogeneous place, so
24 what you have around South Wales and particularly around
25 the old mining areas north of Cardiff is a very highly

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1 Just before we come to those figures, can you just
2 explain how those estimates were developed.

3 **A.** Sure. So in 2020 we were working from the 2011 census,
4 using what we call a cohort component method to update
5 year on year. That basically means we start with the
6 2011 census, we add on births, we take off deaths and we
7 make an allowance for migration. I'd have to say that
8 by 2020 you're about as far away from the previous
9 census that you get. We are still very proud of those
10 estimates, but then in 2021 we did an unbelievably good
11 census in Wales, and so there will be a distinction
12 between 2020 and 2021.

13 **Q.** Now turning to the actual figures, and you've set these
14 out at paragraph 11 of your witness statement for this
15 module, and I don't need you to turn it up, but the
16 estimated usually resident population for Wales in
17 mid-2020 was 3.17 million.

18 **A.** Yes.

19 **Q.** What is the importance of the "usually resident" measure
20 for somewhere like Wales?

21 **A.** Well, put pretty simply, that doesn't include houses,
22 for example, that are second homes. So, you know, we
23 don't have people there. There may also be people who
24 report that, you know, they are working or living
25 somewhere else but maintain a house in Wales, which may

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1 dense population and one with relatively high degrees of
2 deprivation. On the other hand, as you go north from
3 there or west, it becomes a very rural population. As
4 such, you have a real mix. So that South Wales area
5 looks not unlike, for example, the area going
6 from Manchester across to Leeds and around, whereas the
7 northern and western group much more like the
8 Lake District.

9 **Q.** Professor, you have produced a number of figures also in
10 your witness statement about Welsh economic activity.
11 Where do those figures come from? Is that the census or
12 the two censuses --

13 **A.** Well, partly from the census, where we're able to ask
14 people: what do you do? (inaudible) proportion, but we
15 also run a labour force survey, which is a very large
16 survey which tells us about activity and inactivity, and
17 those data we use as well.

18 **Q.** It's right to say, isn't it, that a greater percentage
19 of usual residents aged 16 and over in Wales were
20 economically inactive compared to those in England?

21 **A.** That's absolutely right, and again this is one of the
22 reasons that I spent a little time a moment ago talking
23 about the geography of Wales, a lot of that inactivity
24 is in that area, that old industrial area to the north
25 of Cardiff.

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1 **Q.** Changing topic slightly, and talking about four nations
2 co-operation now, if I may, at the very beginning of the
3 pandemic, so January to early March, you say there was
4 less immediate contact between the UK Government and the
5 devolved administrations. Can you just explain a bit
6 what you mean by less immediate contact.

7 **A.** Well, I think initially, as I indicated earlier, we do
8 have good relations, but statistics is a devolved
9 responsibility, we meet as chief statisticians
10 quarterly, and initially the Welsh Government was --
11 Statistician was working on Welsh Government issues, we
12 were much more focused into Whitehall, and it was only
13 as things started to evolve that we said "Come on, we
14 need to get together here and really work together".

15 **Q.** Were there any specific challenges or delays in
16 establishing collaboration with Wales and the Chief
17 Statistician for Wales?

18 **A.** No, no.

19 **Q.** I'd like to now move on to talk about mortality data, if
20 I can.

21 If we can have, please, INQ000396876, and this is
22 table 6. This -- as it says at the top, "Death
23 registrations involving Covid-19,
24 March 2020-February 2022, UK, England, Wales, Scotland
25 and Northern Ireland and region of England".

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1 deaths, and what one is doing there is taking the
2 difference between the deaths that occurred and
3 a measure of expected deaths. Now, that's the measure
4 that you might expect to have had. And for this table
5 what we were doing was taking the mean of the deaths in
6 the previous -- in that week, in the previous
7 five years. So you take the difference between the two,
8 and of course that could be either positive or negative.
9 If it's positive then you've got more deaths than you
10 would have expected, and if it's negative then fewer.
11 And in this case, we are reporting for those particular
12 periods much higher mortality than would have been
13 expected.

14 **Q.** If we can just see a few things from this table, England
15 have the highest percentage excess death registrations
16 when looking at the whole time period, and also two of
17 the three lockdown periods. So the periods March to
18 June 2020 and January to May 2021. That's right, isn't
19 it?

20 **A.** Yes.

21 **Q.** This was true when looking at excess deaths using either
22 numbers of death registrations or age-standardised
23 mortality rates?

24 **A.** That's right.

25 **Q.** During the second lockdown, so August to December 2020,

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1 In terms of what we can see in that table, Wales has
2 the second highest age-standardised mortality rate of
3 deaths involving Covid-19 144.6.

4 **LADY HALLETT:** Sorry, just before you go on, Mr Poole, can
5 we just say, "involving Covid", does that mean Covid
6 appears on the death certificate?

7 **A.** Yes.

8 **LADY HALLETT:** Thank you.

9 **MR POOLE:** Thank you, my Lady.

10 So that was greater than the UK average, which was
11 143.2. England slightly higher at 145. Was that
12 difference between Wales and England would you say
13 that's statistically significant?

14 **A.** No.

15 **Q.** On the other hand, was Wales' age-standardised mortality
16 rate significantly higher than the rates for Scotland
17 and Northern Ireland?

18 **A.** Yes.

19 **Q.** Now, it might help to break this information down by
20 wave.

21 Could we, please, have table 13 from your Module 2
22 witness statement, which is INQ000271436, please. So
23 the table straddles those pages.

24 What's the source of this data, Professor?

25 **A.** So what we are looking at here is what we call excess

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1 we can see Northern Ireland had the highest percentage
2 above average when looking at numbers of death
3 registrations but in fact Wales had the highest
4 percentage when looking at age-standardised mortality
5 rates; is that right?

6 **A.** That's right.

7 **Q.** Meaning that when one controls for the age composition
8 of Northern Ireland and Wales, Wales fared the worst
9 during the second wave than all of the other --

10 **A.** During the second -- yeah, no, you're absolutely right.

11 During the second wave mortality in Wales was the
12 highest of the four administrations across the UK.

13 **Q.** If we can please look at another chart, it's
14 INQ000412042.

15 This shows weekly -- excess weekly deaths in Wales.
16 Can you perhaps describe what we can see in this chart,
17 Professor?

18 **A.** So what this chart does is not only give you the picture
19 of excess deaths, but, by using different shades, and in
20 this case the blue, the blue are those deaths which
21 involve Covid. And so what you can see, I would
22 suggest, quite clearly, are three things: firstly, in
23 that first wave, there was a very strong peak of deaths
24 in April 2020, and that that peak, the excess was
25 largely driven by Covid.

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1 The second thing I would say, and you've just
2 referred to it, is a very high peak in the autumn and
3 early part -- autumn of 2020 and early part of 2021, and
4 again that was largely driven by Covid.

5 The third point I would make is that following those
6 two very, very big peaks, the numbers of deaths later on
7 in 2021 and into 2022 do not have those peaks of
8 excesses. While sadly there remain a number of Covid
9 deaths marked in blue, a -- due to a number of things,
10 improved treatment, improved -- the brilliance of
11 vaccination and other things, the actual mortality due
12 to Covid went down greatly while at the same time as
13 some of the new variants, I'm thinking particularly of
14 the Omicron variant came in, the actual proportion of
15 the population who had Covid got very much bigger than
16 it had ever been before.

17 So, if you go back to March/April 2020, the
18 proportion of the population overall we would suggest
19 with Covid was relatively small but if you got it,
20 particularly if you were old or frail, then very, very
21 sadly, the prospect of mortality was high. By the end
22 of the period the probability of actually having Covid
23 had increased, but due to all those factors,
24 vaccination, better treatment, and indeed perhaps the
25 evolution of the virus, the probability of mortality had

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1 Covid-19 by [a] five-year age group, [in the period]
2 March 2020 to June 2022 ...". Can you please just talk
3 us through what we see here. What does this tell us
4 about the age distribution of Covid-19 deaths in Wales?

5 **A.** It tells us very, very simply that mortality in Wales
6 was very largely restricted to the elderly.

7 Now, we know from other places that often there were
8 comorbidities that may have played a role in mortality
9 for younger people. We don't see that very much.
10 That's not to say, clearly -- there are small numbers of
11 people aged 40-44 and 45-49 who, very sadly, would have
12 died, but basically what this is showing is that
13 mortality in Wales was restricted to the elderly.

14 **Q.** Now, I think you conducted your own work into excess
15 deaths per age group and you've set this out helpfully
16 in your witness statement and -- to show the effect of
17 Covid on different age groups compared to deaths in
18 non-Covid years.

19 Am I right if I was to summarise the work you
20 carried out as concluding that the highest excess
21 mortality was observed in those aged 45 to 49 years old,
22 with age-specific rates between this period March 2020
23 to June 2022 being recorded as 16.8% above the five-year
24 average?

25 **A.** I think that's right but I would have to say, and it

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1 reduced greatly.

2 **Q.** That's very helpful, thank you, Professor.

3 Can we please have another chart on screen, it's
4 INQ000412042. I think it's at page 2 of those slides.

5 Now, this is showing "Daily deaths with Covid-19 on
6 the death certificate", comparing Wales and then
7 comparing it to the UK.

8 What does this comparison show us, Professor?

9 **A.** Well, much, I would have to say, as what I've said
10 previously. I would say also very clearly that we have
11 put different Y axis scales there, so there's not
12 a complete comparison, so don't think that the numbers
13 in Wales were rather bigger than the numbers in England,
14 but it's making the point, I think, very, very clearly,
15 firstly, that the trends largely mirrored across the UK
16 and in Wales, but secondly you really can see that big
17 peak towards the end of 2020, beginning of 2021, which
18 is the point we've just been making about mortality in
19 Wales sadly being rather bigger than anywhere else
20 during that second wave.

21 **Q.** If we can move then to talk about deaths in Wales by
22 age, and do so by reference to another chart.

23 It's -- I think it's the same INQ but page 7 -- yes,
24 I'm grateful.

25 This shows "Age-specific death rates involving

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1 comes back to the point I've just made, and I'm not
2 trying to make a statistical point but a -- if you have
3 a very small number, then it doesn't take a very big
4 number for that to be quite a big proportion. So yes --
5 and, you know, you're right, the good news is that
6 people aged 45 to 49 do not have very high mortality,
7 and so that small amount of mortality is a relatively
8 high percentage. But it does not, as that graph that
9 I've just talked to shows, become a high mortality
10 compared to those older ages.

11 **Q.** I understand.

12 If we can move then away from age and focus on
13 place -- we can have the chart, thank you, it's page 8
14 of the same document -- and just talk us through again
15 what we see there, in particular, if you could, the
16 negative figures for hospital and hospice.

17 **A.** Right, well, when we are looking here is at the excess
18 deaths by where the death occurred, and I will come, if
19 I may, to "Hospitals" and "Hospices", but if I could
20 just make a point about the positive ones first.

21 We saw a significant increase in deaths at "Home".
22 Now, some of that could be Covid, others of it could be,
23 for example, cardiovascular disease or whatever,
24 you know, where people had not gone into hospital. We
25 also see a significant increase in care homes than we

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1 might have expected.

2 And I just want to say a few words again about
3 "Other communal establishments" and "Elsewhere", because
4 the percentages are high, but, as the point I made
5 earlier, they are high percentages of small numbers.
6 And the "Other communal establishment" is a very big
7 group which includes all kinds of things, including,
8 for example, student halls of residence where there was
9 no mortality or almost no mortality, but it does include
10 sheltered housing, and that's where we think much of
11 that increase comes, you know, where, one, again --
12 because people are looking after themselves, although
13 they are very elderly, mortality there is relatively
14 low. And the "Elsewhere", which includes all kinds of
15 things, does include those people who were pronounced
16 dead, sadly, on arrival at hospital. And again, we
17 would suggest that that could include a wide range of
18 areas, including cardiovascular disease or whatever,
19 but, you know, sadly, that's there.

20 So let me then return to "Hospital". The first
21 thing to say is that, yes, the numbers are below zero
22 but they're tiny below zero and I might suggest, and can
23 I just stress in what I'm about to say that I am
24 speculating, I do not have firm evidence, but we do know
25 that a lot of illnesses people didn't go to hospital,

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1 estimates at that period around ethnicity. We were able
2 then to make longer -- we then moved to using data that
3 we were able to get in England from Public Health --
4 from GP records, and we used those for England in the
5 future.

6 What that showed was a high degree of association
7 between mortality and ethnicity and mortality and
8 deprivation, and we see that in Wales as well, where
9 we're able to look. And we did not do work following
10 2020 for Wales but we did offer to work with colleagues
11 in Wales and offer the code to them, and the 2011 census
12 data were made available in Wales to the SAIL Databank,
13 and to Digital Health and Care Wales.

14 **Q.** I understand, because I think that links to a question
15 I was going to ask. Stephanie Howarth suggests in her
16 statement to the Inquiry that the SAIL Databank that
17 you've just referred to has access to GP data obviously
18 in Wales. Would that have enabled some parity between
19 statistical publications for --

20 **A.** Yeah.

21 **Q.** -- Wales and England? Is the lack of this linked
22 information in Wales, in your view, a significant gap in
23 identifying and understanding socioeconomic or public
24 health trends --

25 **A.** I do think it's as a mortality. The better you are able

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1 for all kinds of reasons, because the hospitals were
2 absolutely stretched doing wonderful things dealing with
3 Covid patients, and so that could have led to just
4 a small reduction despite the fact that we had looked at
5 those peaks.

6 And very similarly with hospices, I would suggest
7 that people were choosing perhaps to stay at home if
8 they had, for example, sadly, terminal cancer, rather
9 than going into hospices.

10 **Q.** Professor, in your statement -- and we can take that
11 chart down, thank you -- in your statement you describe
12 how there was only limited understanding of the way in
13 which socioeconomic characteristics contributed to
14 deaths in Wales unlike in England. Can you just start
15 by explaining why that is.

16 **A.** Very simply, in order to make good estimates, there
17 needs to be enough data to make estimates from, and so
18 we did make estimates as best as we could during the --
19 during 2020, often linking mortality data back to the
20 2011 census. Now, that presents problems, because, if
21 you think about it, many people who were in the 2011
22 census would have moved home, would have migrated
23 internationally, so we had to use a number of quite
24 complex statistical techniques to be able to make those
25 estimates, and we were able, for example, to make some

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1 to link data, the more granular the information that you
2 can get, and the better that information is.

3 **Q.** What have you been able to measure to gain
4 an understanding of sociodemographic trends in Wales?

5 **A.** Well, we were able to look at geography, and I think it
6 is important to note that the areas with the highest
7 levels of mortality, Rhondda Cynon Taf, Merthyr Tydfil,
8 are those areas where one would find associations with
9 deprivation and to something you mentioned earlier,
10 inactivity, which could be due to ill health. So we're
11 able to say that.

12 We did find some early data around ethnicity, and we
13 were also able to look at what is called the Index of
14 Multiple Deprivation. Now, this is an index which is
15 put together from a large number of variables, typically
16 those in censuses, and which is able to go to
17 a relatively small geography, and one is able to then --
18 what one typically does is take the five quintiles, and,
19 say -- let's go from the areas of most deprivation to
20 the areas of least deprivation, and what we're able to
21 say is that there is a clear gradient, a clear gradient,
22 between the most deprived and the least deprived areas
23 in terms of mortality.

24 **Q.** Do you have any other breakdown of deaths by, say,
25 religion, disability status or occupation --

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1 A. No.

2 Q. -- group?

3 A. I would say -- just a point I would make is that my
4 colleagues would say that they can see no real reason
5 for some of the things in those areas that we found in
6 England not translating across to Wales, but it would be
7 for the Welsh Government to have done that work.

8 Q. I think, just to illustrate a point you've made, if we
9 can have, please, INQ000396876, it's figure 5, from your
10 witness statement to this module. This shows proportion
11 of excess deaths by local authorities in Wales. Does
12 that largely accord with your findings about deprived
13 quintiles --

14 A. Yes.

15 Q. -- that you've just referred to?

16 A. I mean, as I say, these are local authorities, so if you
17 look at somewhere -- I mean, given it's just down the
18 road, Newport, there are some pretty poor areas in
19 Newport, but there are also some less poor areas. So
20 overall if you look at Newport it looks like it's in the
21 middle. On the other hand a place like Merthyr Tydfil
22 is much more uniformly deprived.

23 And so I think it is important when you look at
24 local authorities to understand that the heterogeneity
25 in terms of deprivation across those local authorities

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1 of --

2 A. Yes, sorry --

3 Q. -- September 2020 --

4 A. For what it's worth I will just add it. I didn't know
5 if you wanted to address it later.

6 You can see for Wales that the percentage goes up
7 and then goes down again and then goes up again, and
8 that accords with the firebreak that the Welsh
9 Government brought in.

10 Things then flatten off in the early summer of 2021.
11 There is then an increase. And then in late 2021, when
12 the Omicron epidemic came strongly in towards -- that
13 you actually see the highest percentages that we have
14 seen.

15 And I would point out that, again, these are
16 national data, and if you were to look at the
17 age-specific numbers, which have higher confidence
18 intervals around them, you do at times get above 10% of
19 the population in some age groups at that time testing
20 positive.

21 Of course, as I've indicated earlier, that has less
22 of an impact on mortality thanks to the brilliance of
23 vaccination and also better treatment, but once you've
24 got very, very high proportions of people who are
25 testing positive and therefore out of work, you are

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1 so that -- you know.

2 And it is also the case, I mean, there was no
3 question at all, that places like Powys have very --
4 relatively low areas, but let us not pretend that there
5 is not deprivation in rural areas, it's just it can be
6 hidden compared with urban areas.

7 Q. Understood.

8 I want to move away from mortality data and talk
9 a bit about infections data. And we touched upon this
10 when we were talking about the Covid-19 Infection
11 Survey, and remembering then that that only began to
12 publish data for Wales in August 2020.

13 Can we, please, have INQ000412042 on display.

14 Thank you.

15 Professor, can you just talk us through what this
16 chart shows.

17 A. What it shows is the percentage of the overall
18 population of the four administrations who tested
19 positive in any period. Note the four arrows to the
20 left-hand side which indicate, as you've rightly pointed
21 out, when each administration started to collect data.
22 So what you clearly see is an increase in positivity in
23 the autumn of 2020 -- and I don't know, sir, if we're
24 going to discuss the firebreak at any time?

25 Q. By all means. I mean, this accords with the firebreak

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1 actually starting -- or not able to work for that
2 period, you are actually starting to have enormous
3 impacts on the economy, and that is something I think
4 that we need to remember in that latter period.

5 Q. Thank you, Professor.

6 And we can take that chart down, please.

7 The Covid-19 Infection Survey was, I think I'm right
8 in saying, able to generate data about likelihood to
9 become infected based on some sociodemographic
10 characteristics; is that right?

11 A. That's right.

12 Q. But that data was UK-wide data rather than Wales-only
13 data; is that correct?

14 A. That's right.

15 Q. Can we please have another chart displayed. It's
16 INQ000396876. It's -- thank you, yes. It's that
17 figure 10:

18 "Likelihood of testing positive for Covid-19 by core
19 demographic characteristic, UK, 29 August to
20 11 September 2021."

21 Again, Professor, perhaps you can just talk us
22 through what this chart shows us.

23 A. Well, what it shows, and it comes back to many of the
24 points that I've been making, and that is that if you
25 are in a larger household, the probability of testing

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1 positive increases. If you are in a more deprived area,
 2 the probability of -- well, this graph shows the lower
 3 the deprivation, the lower the rate. The opposite of
 4 that, clearly, for higher deprivation. Also shows that
 5 the major -- the big urban areas and, indeed, the
 6 slightly less big urban areas had higher probabilities.
 7 And it also shows that there is a variation but very
 8 little difference in terms of the probability of being
 9 positive between non-white populations as a whole,
 10 people of colour, and the white population.

11 **Q.** I was going to move on to ethnicity data. Are estimates
 12 able to be produced for mortality in Wales across ethnic
 13 groups?

14 **A.** We have produced them for 2020. I'd have to say the
 15 numbers of people of colour, broadly defined, are in
 16 single figures, and so it would be very hard to make any
 17 strong assumptions and we have not done it post 2020.
 18 You'd need to talk to Stephanie Howarth about that.

19 We have shown for -- in that period for England and
 20 Wales, that there were strong differences by ethnicity
 21 of mortality. And we would argue for a number of
 22 reasons that -- we cannot hide from the fact that in our
 23 country people of colour are more likely to live in
 24 deprived areas, are more likely to be in
 25 multigenerational households, all the kind of things --

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1 sample size in England was extremely big, the sample
 2 size in Wales -- and remember that it's not just the
 3 sample size but the proportion testing positive means
 4 that you're actually working with relatively small
 5 numbers, and that makes estimating some of the models
 6 almost impossible.

7 **Q.** Now, data gaps, Professor, were identified for those
 8 with protected characteristics in Wales by the Equality
 9 and Human Rights Commission's 2018 paper "*Is Wales
 10 Fairer?*" Are you aware of that report and its finding
 11 on this question of data inequalities for --

12 **A.** I'm aware it talks about disability.

13 **Q.** A point to note, I mean, moving to -- that was a 2018
 14 paper. Moving forward two years, during the pandemic
 15 there were no datasets -- or no datasets that permitted
 16 any meaningful comparison were available for the impact
 17 of the pandemic on ethnicity, occupation, religion,
 18 disability status; that's right isn't it?

19 **A.** I mean, disability, I would have to say, is a major data
 20 gap for our country. And we do have a question on the
 21 census which asks about limiting long-term illness, and
 22 that gives you some information but it doesn't actually
 23 help, in terms of the granularity, as to whether you
 24 might have -- be hard of hearing or whether you have
 25 musculoskeletal problems.

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1 and are also less likely to be in occupations which
 2 enable them to work from home, and all those reasons
 3 would have contributed to those factors.

4 **Q.** I was talking about mortality just then, but what about
 5 infectiousness in Wales, were estimates able to be
 6 produced for infectiousness across ethnic groups?

7 **A.** No, well, we found that very difficult and we tried in
 8 many ways. The reason for that is while we've got quite
 9 a number of people in our sample, the proportions
 10 positive are often very small, and so actually trying to
 11 fit strong models becomes very, very difficult because
 12 you've got very, very small numbers of people who were
 13 positive.

14 So, you know, you've got -- you know, once you start
 15 getting sort of very tiny numbers of people in different
 16 socioeconomic groups, for example, you can't actually
 17 model, so we just produce individual data and we suggest
 18 that many of the things we find for the UK as a whole
 19 would hold in the four nations.

20 **Q.** So is -- does that explain why that -- it could be done,
 21 for example, for England, but it --

22 **A.** Yes.

23 **Q.** -- couldn't be done for Wales?

24 **A.** The sample size -- I mean, these kinds of statistical
 25 models are driven by how much data you've got, and the

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1 So we do, I believe, have a data gap around
 2 disability, and indeed we at the ONS have been trying to
 3 engender some conversations about that.

4 **Q.** What actions did the ONS take to support the Welsh
 5 Government assess the unequal impact of the pandemic?

6 **A.** We offered support at any time. We offered at different
 7 times to share some of the code that we had developed.
 8 And, as I indicated, we enabled the census data to be in
 9 Wales and we have the Covid Infection Survey data which
 10 were held in our Secure Research Service, and Welsh
 11 statisticians were able to access those data very easily
 12 and very quickly.

13 **Q.** Now, a point that we touched on yesterday with
 14 Professor Ogbonna, would it assist if ethnicity data was
 15 recorded by coroners and registrars on death
 16 certificates?

17 **A.** I'm not completely convinced about that. And the reason
 18 I am not convinced about it -- let me start by saying
 19 I'm 100% convinced that we need to get mortality by
 20 ethnicity, but the point I would make is that when one
 21 gets to the death certificate, the person who most knows
 22 about their ethnicity is sadly no longer with us. Which
 23 is fine, you know, if it is a very close relative who is
 24 reporting, but it doesn't necessarily need to be that.

25 So I'm personally not convinced about putting ever

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1 more data onto death certificates. What I would prefer
2 to see is that we had a system, for example through the
3 health service, which routinely collected good ethnic
4 data and where we committed on a very regular basis to
5 link those data together, and to be able to publish
6 differentials in mortality by ethnicity.

7 So I'm -- let me be clear, I'm 100% convinced about
8 the need to produce more -- you know, I'm not just --
9 I would suggest ethnicity, I would also add disability
10 or add other areas. But I would argue the best way to
11 do it is through having those data available through,
12 for example, the health service and then linking them
13 in. Which we can do very easily and very quickly.

14 **Q.** Did you or your colleagues at the ONS collect any data
15 from Wales on Long Covid, Professor?

16 **A.** Yes, we did. And it is self-reported, and again one of
17 the advantages, I would argue, of the Covid Infection
18 Survey that we've talked about thus far during this
19 morning's conversation is that it was longitudinal in
20 nature. What does that mean? That means that we go
21 back to the same households over time. That enables us
22 to follow up and to ask people: have you still got the
23 symptoms? And what are the symptoms? And that enabled
24 us to make overall estimates for Wales. And to answer
25 perhaps your following question "Could you get down to

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1 Government, and we can see from your statement that UKSA
2 and the ONS worked closely with scientific and expert
3 groups within the UK Government, and at paragraph 153 of
4 your witness statement you state that your engagement
5 with scientific and expert groups in the devolved
6 administrations was much more limited. Briefly, why do
7 you think your engagement was more limited with those
8 groups in the devolved administrations?

9 **A.** Well, I mean, very simply, because we, if you like, were
10 not able to just say "We're coming". And so, yes, we
11 did go and present to the Technical Advisory Cell of the
12 Welsh Government, and we did have conversation, but we
13 are waiting, in many cases, to be asked, whereas with
14 the UK Government you know, I was part of SAGE, I was --
15 as indeed were colleagues from the Welsh Government.
16 I would have to say that also particularly the chief
17 data officer of Public Health Wales, a woman called
18 Fliss Bennee, attended them of the same meetings that
19 I attended, with, for example, the Joint Biosecurity
20 Centre and all kinds of things. So the Welsh were at
21 many of the meetings. But we only attended,
22 for example, the Technical Advisory Cell when invited.

23 **Q.** Professor, just finally then, from me, we heard evidence
24 yesterday from Helena Herklots CBE that deaths of people
25 in care homes were not counted early in the pandemic.

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1 socio-economic groups?", no. But, we were able to
2 identify levels of Long Covid self-reported, and that
3 peaked at 4%. 4%. One in 25 people reporting that they
4 had experienced Long Covid, and that's self-report, ie
5 "I'd had symptoms for at least 12 weeks", and in some
6 cases for a year.

7 **Q.** The Inquiry understands that information was requested
8 from Number 10 about Long Covid in February 2021 and
9 from that point the ONS provided updates at DHSC
10 ministerial round tables on Long Covid. Has the Welsh
11 Government made a comparable request?

12 **A.** I'm not clear whether there was a request -- there was
13 certainly -- I'm not aware of a request formally to me.
14 But as I indicated right at the beginning, statisticians
15 in the ONS were meeting on a very regular basis with
16 statisticians in Wales, and those conversations
17 regularly included discussions about analyses, which
18 would have been asked for.

19 And indeed I think the other thing to say about the
20 Long Covid is that we were able to make some small
21 disaggregations and to say that Long Covid was more
22 likely to occur amongst women and also amongst those in
23 the more deprived areas.

24 **Q.** Professor, just returning to a topic we touched on
25 earlier, about collaboration with ONS and Welsh

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1 This might well be a question for Stephanie Howarth
2 rather than you, but are you aware of why those deaths
3 weren't counted in Wales?

4 **A.** No. We were able to do, as -- I mean, we've looked at
5 the data that I've shown you already, and we do get
6 place of occurrence. What I can't tell you is why they
7 weren't counted initially.

8 **MR POOLE:** Professor, thank you, they're all the questions
9 I have for you.

10 **THE WITNESS:** Thank you.

11 **LADY HALLETT:** Thank you, Mr Poole.

12 I think we have some pre-approved Rule 10s. I think
13 it's Ms Gowman.

Questions from MS GOWMAN

14 **MS GOWMAN:** Thank you, my Lady.

15 Professor, I ask questions on behalf of Covid-19
16 Bereaved Families for Justice Cymru.

17 My first question relates to the data available to
18 SAGE to inform its advice, and indeed you've confirmed
19 in your evidence that you were part of SAGE. Do you
20 agree with the evidence of Professor Ailsa Henderson in
21 Module 2 that, firstly, SAGE focused overwhelmingly on
22 data from England, and, secondly, that sometimes data
23 from England was described as UK data for the purpose of
24 SAGE advice?
25

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1 **A.** I would have to say that I would agree that a lot of the
 2 data which were looked at were England-centric. I would
 3 also, though, say that Welsh, Scottish and
 4 Northern Irish colleagues were at every SAGE meeting,
 5 and on very many occasions I can recall
 6 Sir Patrick Vallance making an effort specifically to
 7 bring in those colleagues to ask ... and as I said
 8 before, the Welsh Government did have a Technical
 9 Advisory Cell and we presented to that cell when
 10 invited.

11 **Q.** But focusing specifically on SAGE, and you've accepted
 12 candidly that SAGE did seemingly focus on data from
 13 England, but you've rightly pointed out that there was
 14 attempts to draw in data from Wales, what was the
 15 breakdown between English-centric focus and the attempts
 16 made to bring in Welsh data? Where did it go --

17 **A.** Well, I think -- I mean, I think -- I mean, just for
 18 absolute clarity, I didn't say that it was totally
 19 English-centric --

20 **Q.** No --

21 **A.** -- I did say --

22 **Q.** Yes.

23 **A.** And I would also say that much of the modelling that
 24 went on used the Covid Infection Survey that I've had
 25 the privilege to talk about this morning. And that's

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1 the summer of 2020, said, "Look, we need across our four
 2 administrations, we need a very clear definition", and
 3 there were different definitions and I brought that
 4 together and I made it happen. Previous to that,
 5 you know, it may be that people misinterpreted, but,
 6 you know, typically the footnotes would have been --
 7 made it very clear what those data were.

8 I do think, and I've said this many, many times,
 9 very early on in the pandemic there were a lot of data
 10 moving around and I don't think always that the
 11 visualisation of those data was absolutely brilliant,
 12 and we worked -- we being ONS and many others -- worked
 13 very hard to move from what I would call a data deluge
 14 into insight by moving to really ask questions.

15 I mean, this morning has been an absolutely fine
 16 example of that, where you can -- you get some really
 17 good questions and you can say what the data says about
 18 them. And that I think was something that happened very
 19 quickly, but early -- you know, in February/March, early
 20 April 2020, there were a lot of data around, which was
 21 one of the reasons we started the survey.

22 **Q.** And something that we can learn moving forward --

23 **A.** I think it's a real lessons learned. I mean, I do try
 24 to address in my witness statement some lessons learned.
 25 I do think that whoever -- I mean, I very much hope

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1 UK-wide. So much of the data on which, for example, the
 2 mathematical models were used, was based on UK-wide data
 3 and therefore included Wales.

4 So I wouldn't -- I would not like, with respect, to
 5 put a percentage on things. I am conscious that Welsh
 6 colleagues, Scottish colleagues, Northern Irish
 7 colleagues, had every opportunity to input and that much
 8 of the modelling that went on would have used UK-wide
 9 data.

10 **Q.** Thank you.

11 Moving on to my next question, and for context, the
 12 Welsh Government liaised with the UK Government to
 13 provide daily aggregate data to feed into the
 14 UK Government's Covid-19 dashboard, and with that in
 15 mind, do you agree with concerns raised by some in Welsh
 16 Government, for example former Chief Statistician
 17 Glyn Jones, that "definitions of data items were not
 18 always clear at the outset" and that this "posed a risk
 19 of misinterpretation by assuming data across four
 20 nations comparable" when that was not always the case?

21 **A.** I don't think there was -- actually I disagree with --
 22 Glyn Jones is someone I respect enormously. I think --
 23 look, initially there were different definitions.
 24 I have no doubt about that. And indeed I got a group
 25 together in, I recall, June, I think it was June, but in

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1 there isn't another pandemic like this, but I do believe
 2 that the National Statistician should be right at the
 3 heart very, very early. I do believe that we need to
 4 make sure we are sharing data much more easily and much
 5 more quickly. And indeed I do believe we should be
 6 sharing those data now so that we are ready. And I do
 7 believe we need very much to be learning.

8 Perhaps, I mean, you and your colleague who talked
 9 before would not need to learn this, but I think
 10 sometimes it is the question that we need to make sure
 11 we are asking questions. If you just came to tell me
 12 something interesting about whatever, I might tell you
 13 something interesting but it might not be the answer you
 14 needed. So really focusing on questions and learning to
 15 focus on questions is something that we, as a nation,
 16 need to improve in our data literacy.

17 **Q.** Thank you, Professor.

18 Very, very briefly, one final question on the
 19 Covid-19 latest insights tool that you've already
 20 mentioned. Did that tool incorporate data from Wales
 21 and analysis specific to Wales?

22 **A.** Yes, it did, where -- in those datasets which were
 23 UK-wide.

24 **Q.** I'm grateful.

25 **A.** So Covid Infection Survey, Opinions and Lifestyle

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1 Survey, designed UK-wide, able to produce data which
 2 would include Wales.
 3 **Q.** And more specific because it was answering questions, as
 4 you put it?
 5 **A.** 100%.
 6 **MS GOWMAN:** Thank you, Professor --
 7 **THE WITNESS:** Thank you very much.
 8 **MS GOWMAN:** Thank you, my Lady.
 9 **LADY HALLETT:** Thank you very much, Ms Gowman. I think
 10 there were suggested possible extra questions, but
 11 I have been told what they were, and one of them
 12 I think, about infection surveys in schools, could be
 13 asked of the next witness, because it's a Welsh-specific
 14 question, and I think the other question that I have
 15 been told about I'm afraid is not for this witness who
 16 is not an expert in public health, so there are no
 17 further questions.
 18 Thank you very much indeed, Professor, I'm very
 19 grateful. I'm not going to give you a guarantee I'm not
 20 going to ask you again to help, but --
 21 **THE WITNESS:** Were you to ask me again, let me be very
 22 clear, it is a privilege to be able to --
 23 **LADY HALLETT:** Very kind of you to say so. Thank you very
 24 much indeed.
 25 **THE WITNESS:** Thank you very much.

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1 **A.** It is.
 2 **Q.** If we could please start with a few questions about
 3 yourself. You are the Chief Statistician and head of
 4 profession for statistics in the Welsh Government, and
 5 that's a role that you have held since July 2020?
 6 **A.** That's correct.
 7 **Q.** What are your responsibilities in that role?
 8 **A.** So as the Chief Statistician I am the Welsh Government's
 9 principal adviser on official statistics. I oversee the
 10 independent production of official statistics in the
 11 Welsh Government. I also have a role as head of
 12 profession then in building the statistical capability
 13 and capacity within the Welsh Government, and I oversee
 14 the implementation of the code of practice for
 15 statistics.
 16 **Q.** Is it right that you remain operationally independent in
 17 terms of decision-making around official statistics?
 18 **A.** That's correct, yes.
 19 **Q.** Now, we'll come to hear more about its work in due
 20 course, but does the Knowledge and Analytical Services,
 21 or KAS, within the Welsh Government sit within your
 22 directorate?
 23 **A.** It does. So Knowledge and Analytical Services is made
 24 up of two parts and the statistics part is the section
 25 that I lead.

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1 Thank you very much.
 2 **(The witness withdrew)**
 3 **LADY HALLETT:** What time is it? 1.55.
 4 **(12.54 pm)**
 5 **(The short adjournment)**
 6 **(1.55 pm)**
 7 **LADY HALLETT:** Right.
 8 **MS SPECTOR:** My Lady, please can I call Stephanie Howarth.
 9 **LADY HALLETT:** Thank you.
 10 **MS STEPHANIE HOWARTH (affirmed)**
 11 **Questions from COUNSEL TO THE INQUIRY**
 12 **MS SPECTOR:** Please could you give us your full name.
 13 **A.** I'm Stephanie Howarth.
 14 **Q.** Ms Howarth, thank you for attending today and assisting
 15 the Inquiry. Whilst you give your evidence, could you,
 16 please, try to keep your voice up. This assists people
 17 who are listening here but also helps the stenographer
 18 who is making a note of the proceedings. If I ask you
 19 anything that isn't clear please just ask me to repeat.
 20 You were asked by the Inquiry to provide a witness
 21 statement addressing your role as Chief Statistician for
 22 Wales, and we can see the statement that you were good
 23 enough to provide on screen before you. Now, you signed
 24 this statement on 15 January 2024. Is that true to the
 25 best of your knowledge and belief?

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1 **Q.** Now, you have seen the statement that Glyn Jones has
 2 provided to the Inquiry on behalf of KAS dated
 3 8 December 2023. Do you agree with the contents of that
 4 statement?
 5 **A.** I do.
 6 **Q.** So moving to KAS now, please can you briefly outline
 7 what KAS is and what its role is within the Welsh
 8 Government.
 9 **A.** So KAS is Knowledge and Analytical Services. It's
 10 a part of the Welsh Government that brings together the
 11 analytical professions, so statisticians, social
 12 researchers, economists, to provide analytical evidence
 13 and advice for Welsh Government ministers and officials
 14 to enable them to do their roles.
 15 **Q.** To broadly summarise the work that KAS did during the
 16 Covid-19 pandemic, is it correct that it established new
 17 data collections, acquired data from other bodies and
 18 third party organisations, provided analysis and advice
 19 to ministers and officials on Covid data, including the
 20 compilation of weekly data monitors, published and
 21 communicated regular Covid-19 statistics, and
 22 contributed to the work of TAC, TAG, Public Health Wales
 23 and Digital Health and Care Wales on statistical
 24 matters?
 25 **A.** That's correct, and also we maintained a range of our

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1 regular statistical publications as well, that might not
2 have been specifically about Covid-19 but were still
3 important to understanding what was happening in Wales.

4 **Q.** Ms Howarth, is it right that prior to the first national
5 lockdown, neither the Chief Statistician nor KAS, in
6 general, were actively involved in reporting on or
7 briefing on the spread of Covid-19 as this was being led
8 by Public Health Wales and by TAC?

9 **A.** That's broadly correct. So from the start of March
10 Knowledge and Analytical Services had started to become
11 more involved in work around Covid-19, but most of this
12 work, in terms of reporting on things like infection
13 levels and deaths, was being led by Public Health Wales.

14 **Q.** I'm now going to ask you some questions about the data
15 compilations that were provided by KAS during the
16 pandemic. Was the assembly of statistical information
17 about Covid-19 a key strategic priority for KAS for the
18 Welsh Government at the outset and during the pandemic?

19 **A.** That was certainly one of our main responsibilities.
20 And bringing together the wide range of data that was in
21 circulation was a key responsibility of KAS, to bring
22 all that into one place.

23 **Q.** And one such repository of key data or key information
24 for the Welsh Government was the Covid-19 analysis hub
25 which was stood up on 23 March 2020; is that right?

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1 data monitor, which I understand was produced on
2 3 April 2020. Ms Howarth, how was that different to the
3 hub?

4 **A.** So the hub was a structure, a team essentially, within
5 Knowledge and Analytical Services that was co-ordinating
6 the role of statistics in the pandemic. The monitor was
7 one of the products that the hub produced, and it was
8 a compendium of statistical information about the
9 pandemic, so that that information was there in one
10 document and could easily capture the trends around
11 Covid-19 and its associated harms in Wales.

12 **Q.** You've alluded to it already but am I right in saying
13 that Public Health Wales also published their own weekly
14 Covid-19 data, including their Covid-19 data dashboard,
15 which was circulated around senior Welsh Government
16 officials and ministers?

17 **A.** So Public Health Wales would publish daily information
18 on their dashboard around cases and deaths and testing.
19 The Welsh Government -- if we're talking about the data
20 monitor here, this wasn't something that was initially
21 published, this was something that was circulated within
22 the Welsh Government, although in time it did become
23 a public-facing document.

24 **LADY HALLETT:** Can I just interrupt to say that I'm afraid
25 you've both got the same failing I have, which is

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1 **A.** Yes.

2 **Q.** Initially the hub published all new data related to
3 Covid-19 cases and deaths, and this was then later
4 progressed to topics such as care homes, testing and
5 contact tracing; is that right?

6 **A.** Broadly. So Public Health Wales led on the publication
7 of rapid surveillance data around cases and deaths and
8 ONS then on deaths data from death certificates. But
9 the hub had a role in re-using that information and
10 bringing it together for use within the Welsh
11 Government.

12 **Q.** How frequently was the data on the hub updated?

13 **A.** It would really vary by source. So there was a range of
14 data sources that we were using, some of these were
15 daily so we would use the daily information that was
16 coming from Public Health Wales on things like the
17 number of cases and the number of deaths. There was
18 also daily information around school attendance and the
19 number of people in hospitals, but some other sources
20 would be less regular, might be weekly. So,
21 for example, some data around testing and contact
22 tracing, those things tended to be slightly less regular
23 than daily, but still much more frequent than we might
24 have been used to prior to the pandemic.

25 **Q.** Coming slightly later in the chronology was the Covid-19

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1 speaking very quickly.

2 **MS SPECTOR:** Yes, please do remind me of that as we go
3 through.

4 **LADY HALLETT:** I'm afraid it's something I have to remind
5 myself of on occasion. Thank you.

6 **MS SPECTOR:** Thank you, my Lady.

7 By April 2020, if I were, say, a senior government
8 official and I wanted to understand what was happening
9 in hospitals, is it right that I could check the data
10 monitor published by KAS or the Public Health Wales
11 weekly dashboard or any of the other publicly available
12 information from, say, the ONS?

13 **A.** So for information about hospitals, that was broadly
14 made available within the Welsh Government, so the data
15 monitor would have been one of the main ways that we
16 circulated that information.

17 **Q.** Please can we have on screen INQ000271847.

18 This is the HSSG response to Covid-19 lessons
19 learned document produced in August of 2020.

20 Ms Howarth, am I right in saying that KAS
21 contributed to that lessons learned report?

22 **A.** Yes.

23 **Q.** If you look, please, at page 3, in the middle of the
24 column, penultimate paragraph:

25 "Not always clear cut split in responsibilities

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1 within KAS between health stats and covid hub."
 2 In the next paragraph:
 3 "Multitude of dashboards being prepared for
 4 different purposes sometimes with similar but slightly
 5 different data flows. In terms of [Public Health
 6 Wales], this was sometimes done without any regard to
 7 what else was happening in the system. This then leads
 8 to duplication of similar outputs between [Public Health
 9 Wales] and [Welsh Government]. Creates confusion in the
 10 media and the public."

11 Was that a fair criticism of the way in which data
 12 was presented during the first wave?
 13 **A.** I think it's certainly fair to say that data was
 14 available from multiple places, and part of the reason
 15 for bringing a product like the data monitor together,
 16 and eventually then publishing it, was to have one place
 17 that brought together all the key information. But that
 18 being said, there were times, and I think that's what
 19 this information is referring to, where new things would
 20 be published by other organisations, for example Public
 21 Health Wales, that we weren't necessarily aware of in
 22 the Welsh Government that were going to happen, which
 23 I guess was a missed opportunity to co-ordinate better
 24 and think about presenting one collective message so
 25 that you could avoid that potential confusion.

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1 performance team, which is part of the health policy
 2 area, but KAS was also a team that used that data. So
 3 it wasn't coming directly into KAS.

4 **Q.** We'll look at some charts based on the data that was
 5 provided in due course but before then I want to ask, if
 6 I may, about some of the limitations of the KAS data
 7 received from health boards during the first wave.

8 First, the Inquiry understands that there were
 9 issues with precisely what was measured and what could
 10 be measured in hospitals. Andrew Nelson, the chief
 11 information officer at Cym Taf Morgannwg University
 12 health board, has highlighted the following three
 13 issues, and I'll read those out.

14 Number one, before 24 March 2020 it was difficult
 15 for health boards to even work out the number of
 16 admissions to hospital due to Covid-19 as this was
 17 dependent on mining free text fields from the emergency
 18 department datasets, which would have been prone to
 19 error.

20 Number two, there was no data differentiating
 21 community-acquired infections from hospital-acquired
 22 infections, meaning that the case load of Covid-19 in
 23 the community could be overestimated or it could be
 24 underestimated.

25 And number three, data did not distinguish between

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1 **Q.** I'm now going to change topic and ask you about NHS
 2 management information. We will hear during the course
 3 of this module that hospital information was a key part
 4 of pandemic response and informed Welsh Government
 5 decision-making. Focusing on the early days of the
 6 pandemic and the first wave in particular, was data on
 7 hospital admissions to intensive care and admissions in
 8 general a critical dataset for Welsh Government
 9 decision-makers during that time?

10 **A.** It was certainly one of the datasets that was used a lot
 11 and very significantly, yes.

12 **Q.** We heard this from Professor Sir Ian Diamond this
 13 morning, but at that time there was no mass programme of
 14 community testing, meaning that hospital admissions was
 15 crucial for the government to understand the spread of
 16 Covid-19 in communities; is that right?

17 **A.** Yes.

18 **Q.** It's understood that KAS received data from hospitals on
 19 admissions due to Covid-19, patients in hospital
 20 suffering from Covid-19, bed capacity, ICU capacity,
 21 ventilator figures and so forth. Is that right?

22 **A.** Yes. Actually, can I just clarify? So we were one user
 23 of that data, so the data was collected by Digital
 24 Health and Care Wales and it was provided to the Welsh
 25 Government. Initially it was provided to the NHS

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1 the numbers of patients admitted due to Covid-19
 2 compared to the numbers admitted for a different reason
 3 but who happened to have Covid-19.

4 **LADY HALLETT:** Pause. The transcript is not running,
 5 I don't know if it's just mine or whether it's
 6 because -- no, it is back. I think it's because you were
 7 speaking too quickly, Ms Spector.

8 So we have -- the last one the [draft] transcript's
 9 got recorded "... it was difficult for health boards to
 10 even work out the number of admissions to hospital due
 11 to Covid-19 ..." and there we stop. So that was
 12 number one.

13 So can we finish number one and then go back to the
 14 others, please? Sorry about this.

15 **MS SPECTOR:** Madam, I think that might have been number
 16 three.

17 **LADY HALLETT:** No, I think that was --

18 **MS SPECTOR:** For ease, I'll go through all of them once
 19 again. Thank you, my Lady.

20 Number one, before 24 March 2020 it was difficult
 21 for health boards to even work out the number of
 22 admissions to hospital due to Covid-19 as this was
 23 dependent on mining free text fields from the emergency
 24 department datasets, which would have been prone to
 25 error.

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1 Number two, there was no data differentiating
2 community-acquired infections from hospital-acquired
3 infections, meaning that the case load of Covid-19 in
4 the community could be overestimated or underestimated.

5 Number three, data did not distinguish between the
6 numbers of patients admitted due to Covid-19 compared to
7 the numbers admitted for a different reason but who
8 happened to have Covid-19.

9 Do you agree with the issues that Andrew Nelson has
10 identified?

11 **A.** Broadly, but I think there's probably some nuance to
12 some of those. So the second point, around
13 hospital-acquired and community-acquired Covid-19,
14 I know Public Health Wales did publish information
15 around hospital-acquired Covid-19. And then the final
16 point was around, I think, those who were in hospital
17 for Covid-19 reasons and those who had incidental Covid,
18 for want of a better term, from I think it was
19 January 2022, so relatively late on. There was
20 information available that made that distinction, but
21 certainly for the majority of the pandemic that wasn't
22 in place.

23 **Q.** Is it fair to say that each one of those issues had the
24 potential to make healthcare data in the first wave less
25 reliable for policymakers?

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1 by" --

2 **LADY HALLETT:** "Had not been reported".

3 **MS SPECTOR:** "... that had not been reported [my apologies]
4 to Public Health Wales by Betsi Cadwaladr University
5 health board ... [Public Health Wales] and Welsh
6 Government officials have sought assurances from across
7 health boards and trusts concerning the robustness of
8 the current process."

9 Then if we move to under the heading "Inconsistent
10 approaches across Health Boards" at paragraph 11, on
11 page 2:

12 "For example, as a result of not using a single
13 system, [Public Health Wales] have reported a number of
14 generic issues during the past few weeks which include:
15 delays by health boards in the reporting of deaths;
16 reported ambiguity in the definition of what constitutes
17 a death to be reported through surveillance and the
18 inclusion of deaths occurring outside of a hospital."

19 Then finally, under the heading "Multiple reporting
20 streams and unclear reconciliation processes",
21 thank you:

22 "Health Boards are required to report data to
23 a number of different organisations: [Public Health
24 Wales], internal briefings to the Board and key local
25 stakeholders, to the NHS Wales Informatics Service ...

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1 **A.** I'm not a policymaker so I can't necessarily comment on
2 how the information was used for policymaking purposes,
3 but I think there's a couple of points here that --
4 there was a range of statistical information. So you
5 have things like the testing data, the hospitalisation
6 data and the mortality data, and those things
7 collectively tell you about the trends of what was
8 happening in Covid-19. But then I guess what -- was it
9 Mr Nelson who made this statement? I think the point
10 that he's making here as well is about the underlying
11 health data systems within Wales and that they perhaps
12 do not offer the flexibility to collect information in
13 new and changing ways, and that's a point I would agree
14 with. Some of these kind of legacy data systems
15 potentially made that more challenging to do at pace.

16 **Q.** Moving on from data gathering to data reporting. In
17 a review that was undertaken by the Welsh Government in
18 April of 2020 a number of matters were identified.

19 Please can we have that document on screen,
20 INQ000066087, for those following.

21 It's titled "Review of mechanisms for reporting
22 Covid-19 deaths in Wales".

23 If we look at page 1, paragraph 6:

24 "Following the identification on April 23rd of 84
25 deaths that had [now] been reported to Public Health

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1 and to the Office of National Statistics ... These
2 reports have different purposes and often a different
3 basis, which can lead to inconsistency in the results
4 being produced."

5 Did KAS review and agree with each of those findings
6 at the time that this report was produced?

7 **A.** So this report was prior to me becoming
8 Chief Statistician so it wasn't something that I was
9 directly involved in, so this was the previous
10 Chief Statistician who led on this work, but my
11 understanding is that he was involved in developing this
12 report and so, I expect, would likely have agreed with
13 those statements.

14 **Q.** Please can we now look at, again, the HSSG lessons
15 learned review document at INQ000271847, and the final
16 paragraph in the central column of page 2:

17 "The issues that arose in mortality surveillance are
18 well documented in the review but could have been
19 avoided by greater roles and responsibilities and
20 adherence to some principles around management of
21 administrative data which KAS could have advised on.
22 There was a lack of clarity on who was reviewing the
23 mortality data and ensuring LHBs were submitting
24 surveillance data."

25 Ms Howarth, do you accept that finding, that KAS

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1 could have done more in those early days to ensure the
2 quality and consistency of hospital data?
3 **A.** So I think the point that this is making is about not
4 hospital data but about mortality data, which was being
5 collected through the rapid surveillance measures that
6 Public Health Wales had put in place, so this wasn't
7 something that KAS were directly involved in, but it's
8 making the point that the types of quality assurance
9 processes that we use within Knowledge and Analytical
10 Services, these approaches, if we'd been asked to advise
11 on it, would have avoided those kind of errors and that
12 missed reporting happening.

13 It's fair to say that in Public Health Wales they
14 didn't have government statisticians with the same kind
15 of experience and background that we have in Knowledge
16 and Analytical Services, and if they had they might have
17 had greater awareness of the kind of toolkits that we
18 use around the quality assurance of administrative data
19 that might have better helped identify that some of
20 these returns were not being made from some health
21 boards on that rapid mortality surveillance.

22 **LADY HALLETT:** On what basis do you work? Do you have to
23 wait to be asked to provide a report or to analyse data
24 or can you do something off your own bat?

25 **A.** So do you mean in terms of working with Public Health
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1 until the first lockdown, so the Public Health Wales
2 statisticians were doing the work at that stage. Do you
3 think it might have been helpful if you had been -- if
4 your department had been asked for its assistance
5 earlier on?

6 **A.** Potentially. I mean, the role of reporting public
7 health statistics is a role for Public Health Wales, but
8 I think this experience has shown that -- the value that
9 government statisticians can bring in terms of both the
10 quality assurance of data and the ability to communicate
11 that data as well, and understand user needs, and
12 I think that there was potentially an opportunity that
13 we could have got involved earlier, yeah.

14 **LADY HALLETT:** Thank you. Sorry to interrupt.

15 **MS SPECTOR:** Not at all, my Lady.

16 I'm now going to ask about a different aspect of
17 Wales' healthcare data management.

18 The Inquiry understands that Wales occupies a unique
19 position within the UK due to its Secure Anonymised
20 Information Linkage (SAIL) Databank; is that right?

21 **A.** Yes.

22 **Q.** To begin, can you explain what that databank is and what
23 it does?

24 **A.** Certainly, so the SAIL Databank is run by
25 Swansea University. It's what's known as a trusted
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1 Wales or more generally?

2 **LADY HALLETT:** Yes.

3 **A.** So I have a role as a -- kind of a leadership role
4 across the official statistics system but generally it
5 would be that people might come and ask for our advice
6 on particular topics, and that has happened on regular
7 occasions. But throughout the pandemic it was perhaps
8 more that we were proactive in giving that advice
9 because of the lack of experience, I guess, in Public
10 Health Wales in using the code of practice of
11 statistics, for example.

12 **LADY HALLETT:** So during the pandemic you became proactive
13 but generally you would wait for the statistician at
14 Public -- or statisticians, I can never say the word, at
15 Public Health Wales to come to you and ask for help,
16 advice?

17 **A.** In normal times, yes. We do have a regular six-monthly
18 get-together of all the official statistics producers in
19 Wales, which is an opportunity to understand what each
20 other is working on in normal times. So yes, normally
21 we would expect lead officials in each organisation to
22 raise issues with the Chief Statistician.

23 **LADY HALLETT:** I'm sorry to take you back to right at the
24 beginning -- I'm sorry about this, Ms Spector, I'm sorry
25 to interrupt -- but when -- you didn't get involved
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1 research environment. So it's a secure virtual
2 environment where data can be deposited and researchers
3 can apply to use that data for public good research
4 purposes. And the thing that's particularly unique
5 about the SAIL Databank is that all these different data
6 sources can be linked together in a secure and
7 anonymised way so you can learn more about a particular
8 topic than you can from using any of those individual
9 datasets in isolation.

10 **Q.** So the value is as much in the linking as it is in the
11 collection of that data?

12 **A.** Yes, definitely.

13 **Q.** The Inquiry understands that during the pandemic many
14 relevant datasets were supplied to SAIL to enable them
15 to be linked, including data relating to social care
16 workers, children's attendance at schools, emergency
17 department datasets, data from healthcare workers, risk
18 assessments and the ZOE symptom tracker app; is that
19 right, by way of example?

20 **A.** Yes, I believe so. Not all of those would have come
21 from the Welsh Government but that's the kind of data
22 that would be available in SAIL, yes.

23 **Q.** Was KAS and TAC able to use this kind of data linking to
24 support analytical work required in the pandemic
25 response?
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- 1 **A.** Yes, it was used considerably.
 2 **Q.** What kind of work was able to be done with it?
 3 **A.** So there would be work carried out either by analysts
 4 based in the Welsh Government or through the academic
 5 community as well. We brought together this One Wales
 6 partnership, it was called, which was looking to bring
 7 together those with relevant experience in this area to
 8 support the pandemic.
 9 Some examples of the kind of work that my team did
 10 were things like linking together the shielded persons
 11 list with other data sources like the school workforce
 12 census, for example. So that could tell us about the
 13 number of teachers and school staff who were on that
 14 shielded list, which you can then use to help inform
 15 planning for return to school.
 16 **Q.** For our purposes today, I want to look at the work SAIL
 17 was and perhaps was not able to do concerning Covid-19
 18 datasets and some protected characteristics.
 19 The former Chief Statistician Glyn Jones said in his
 20 statement to the Inquiry:
 21 "A key challenge identified early on was the quality
 22 of data held by the NHS on ethnicity and the
 23 availability of Covid mortality data by ethnicity."
 24 Do you agree with what he has said in his statement?
 25 **A.** Yes.

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- 1 improving coverage of things like ethnicity within that
 2 dataset. So, as an example, I think I recall
 3 a colleague saying that it improved missingness within
 4 the ethnicity dataset from around 30% missingness to 10%
 5 missingness. So you've still got some records that do
 6 not have ethnicity data within them but considerably
 7 fewer than prior to bringing in the census data.
 8 **Q.** If that's the census data, moving on from that, the
 9 evidence that the Inquiry has heard is that England has
 10 significantly more detailed information on ethnicity in
 11 other socioeconomic categories to link to Covid-19
 12 outcomes, as much of this had been taken from English GP
 13 records. Now we've heard that Wales had the benefit of
 14 the SAIL Databank, why could this be done in England and
 15 could not be done in Wales?
 16 **A.** I'm not sure I'd agree with that because I think GP data
 17 is available within SAIL and a range of other datasets
 18 as well which bring together a whole range of different
 19 characteristics. That's a very strong position in
 20 Wales, that we've had all this data available to link
 21 for a number of years. I think perhaps the question
 22 here is about where that data is held in different
 23 places.
 24 So I know Ian Diamond talked earlier about not being
 25 able to carry out specific pieces of analysis within ONS

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- 1 **Q.** To run through some of the challenges that he describes:
 2 Data on ethnicity is not recorded on death
 3 certificates in England and Wales. We've heard about
 4 that already.
 5 Many healthcare records do not record the ethnicity
 6 of the patient.
 7 Initial reporting of Covid-19 deaths in confirmed
 8 hospital cases through the Welsh Clinical Portal
 9 surveillance form did not record ethnicity before
 10 May 2020.
 11 And then there's the "*Is Wales Fairer?*" report
 12 in 2018 which had already commented on the clear gaps in
 13 the data in Wales on protected characteristics. Is all
 14 of that correct?
 15 **A.** Yes, that's correct.
 16 **Q.** What all of this meant in practice was that the data
 17 we've described on hospital admissions, on ICU
 18 admissions, deaths relating to Covid and so forth, none
 19 of that could be grouped by protected characteristics
 20 like ethnicity; is that right?
 21 **A.** Some of it could be but there would be some weaknesses
 22 in the data, and that's where the acquisition of
 23 the 2011 census was so valuable. So the former
 24 Chief Statistician had made the case for that to be
 25 deposited in SAIL because it was so valuable in

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- 1 because ONS didn't hold that data but that data did
 2 exist in SAIL and it's more that ONS hadn't used the
 3 data in SAIL. It wasn't that it didn't exist in
 4 a linked format in some way. So ONS only had access
 5 itself to information about England.
 6 **Q.** So in summary, it was more of an access issue rather
 7 than not having a data or having not linked the data?
 8 **A.** Yes.
 9 **LADY HALLETT:** I'm sorry, I'm not following. Ms Spector's
 10 question was: why is it England had better ethnicity
 11 data than Wales? Is that right, was that the question?
 12 **MS SPECTOR:** My Lady, the question was more related to the
 13 fact that: why does it seem to be the case that that
 14 data could be extracted from English GP records when
 15 GP records exist in the SAIL Databank in Wales?
 16 **LADY HALLETT:** But was the introduction to that point that
 17 England had better ethnicity data?
 18 **MS SPECTOR:** Yes, my Lady, yes.
 19 **LADY HALLETT:** I don't think you've answered why did England
 20 have better ethnicity data than Wales, as far as I can
 21 tell. But maybe you have and I've misunderstood.
 22 **A.** No, that's a fair question, and I don't know if England
 23 does have better ethnicity data than Wales. My
 24 understanding was that if you're looking at health
 25 records, for example, there are common challenges across

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1 both health systems, and that's why linking data
2 together is so beneficial.
3 **MS SPECTOR:** To perhaps put the question in a slightly
4 different way, do any gaps remain in the KAS, in the
5 SAIL datasets in relation to the ability to disaggregate
6 health information by protected characteristics?

7 **A.** There are certainly a range of issues related to
8 availability of data on protected characteristics and
9 they would affect data available in SAIL but also data
10 that exists outside of SAIL as well, and we've already
11 noted ethnicity being one particular example.

12 I think that's particularly acute for Wales because
13 Wales is a small nation with a small ethnic minority
14 population, so if you are collecting data through
15 surveys, for example, you have to have a very large
16 survey in order to be able to break the data down by
17 different ethnic minority groups. So that's
18 a particular challenge.

19 There are other challenges related to disability,
20 for example, where most data is collected under the
21 medical model for disability. We do not, as
22 a statistics system across Wales or the UK, have
23 an established method for collecting data through the
24 social model for disability, although that is something
25 we're actively looking at at the moment.

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1 **A.** That would have come from the ONS data, which would
2 cover all care homes. There was also an additional
3 source from Care Inspectorate Wales, so
4 Care Inspectorate Wales is required to be notified of
5 a death of a care home resident and the Welsh Government
6 had access to that information from relatively early on
7 in the pandemic. I know we began publishing it from
8 early May but we would have had access to it internally
9 earlier than that.

10 **Q.** Now, the ONS has published a number of blogs and lessons
11 learned reports during the pandemic, and one of these is
12 called "Glimmers of light for adult social care
13 statistics", dated 8 July 2021, which you can see before
14 you on the screen. That blog summarised the concerns
15 that the ONS had been raising relating to adult social
16 care in Wales and amongst all UK nations, it's not
17 unique to Wales.

18 Its findings, as you can see on the screen before
19 you, were that:

20 "[1] Adult social care has not been measured or
21 managed as closely as healthcare, [with] a lack of
22 funding [leading] to under investment in resourcing in
23 data and analysis.

24 "[2] There is an unknown volume and value of
25 privately funded provision of adult social care."

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1 **Q.** Moving on now to data on social care.

2 Yesterday this Inquiry heard evidence from
3 Helena Herklots, the Older People's Commissioner for
4 Wales, who described that initially in the first wave
5 the data on deaths from Covid-19 did not include older
6 people who died in care homes. Is that correct?

7 **A.** So perhaps it would be helpful to set out the two
8 different sources of data around Covid-19 mortality. So
9 you have the rapid surveillance data that is collected
10 by Public Health Wales that comes through their e-form
11 that was used to collect this information. That
12 information predominantly focused on deaths in
13 hospitals. My understanding is it was never designed to
14 be full coverage of all deaths, it was about being able
15 to rapidly identify trends in mortality. So it may have
16 captured some deaths in care homes, but it wouldn't have
17 captured all deaths in care homes.

18 The ONS data which comes from death certificates
19 would capture all deaths and would be attributed to
20 Covid-19 where that was mentioned on the death
21 certificate.

22 **Q.** Are you able to assist us with a date when the Welsh
23 Government was in receipt of reliable and comprehensive
24 data of all people who died in care homes due to
25 suspected or confirmed Covid-19?

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1 Just moving on:

2 "Robust, harmonised data supply to ensure comparable
3 statistics from both public and private providers is
4 problematic, as data collection processes are not always
5 standardised."

6 And moving on:

7 "Data quality is variable within and across local
8 authorities, with inconsistent interpretation of data
9 reporting guidance by local authorities."

10 The post goes on to say, just in the next sentence
11 below:

12 "As data issues go, as the pandemic has highlighted,
13 there is not so much a gap as a chasm, with consequences
14 to our understanding of social care delivery and
15 outcomes."

16 Now, as I've said, those findings are not addressed
17 uniquely to Wales, but is it fair to say that these
18 problems persisted in Wales in March 2020?

19 **A.** Yes, I think that's a fair summary.

20 **Q.** Now, in terms of listing the changes that have been made
21 since then, the blog proceeds to list five tangible
22 changes being made by the UK Government on this issue
23 for data in England, such as the monthly publication of
24 a statistics report on adult social care in England.

25 Just regarding actions being taken in Wales, the post

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1 simply says "the Welsh Government remains committed to
2 improving the data it captures on social care".

3 So can I ask you: what is the Welsh Government,
4 assisted by KAS, doing on this issue?

5 **A.** So I think there's probably two different strands to
6 this: there's things specifically related to the
7 pandemic and then there's social care data more
8 generally.

9 So during the pandemic I've already mentioned the
10 data that was available from Care Inspectorate Wales, so
11 that was a new source of information that we began using
12 to learn more about the pandemic and how it affected
13 care homes.

14 We also stood up a weekly, what we referred to as
15 a checkpoint survey of local authority social services.
16 Social care and social services generally doesn't have
17 the same kind of timeliness of information that the
18 health service has, and so this weekly survey was a way
19 of understanding the demand and local social services'
20 ability to respond to that demand during the pandemic.

21 Outside of the pandemic, more broadly, we have been
22 putting a lot of effort in recently into improving data
23 around adult social care and adult social services more
24 broadly. So this year, for example, we will start
25 collecting what we're calling an adult census of people

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1 "DHSC/PHE are asking the DAs to confirm what they
2 are doing about information about staff number deaths --
3 would like an update on this urgently."

4 In the next email thread, at the bottom of page 2,
5 an email from a further member of Public Health Wales
6 reads:

7 "In meeting with Minister [meaning Vaughan Gething]
8 where he agreed we hold our line that there is no
9 reporting on NHS staff deaths, in Wales, by [Public
10 Health Wales]."

11 Then the final email in that thread on page 1 says:

12 "We do need a handle on HCW deaths ourselves."

13 In March and April of 2020, do you know whether KAS
14 was asked to assist Public Health Wales in identifying
15 healthcare worker or social care worker deaths?

16 **A.** I don't know if we were asked in that specific period,
17 it wasn't something I was involved in, but I do know
18 that Public Health Wales did add a flag around
19 healthcare worker deaths and social care worker deaths
20 in their e-form that they use for rapid surveillance and
21 mortality purposes as a way of helping to collect this
22 information.

23 **Q.** Do you know when that took place?

24 **A.** I think that was added in early May, from memory.

25 I do know also that colleagues in Knowledge and

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1 who use social care services, so that will give us much
2 more granular information about people who use local
3 authority social care services.

4 **Q.** Moving on now to occupation data.

5 Another group at higher risk of contracting Covid-19
6 were healthcare workers and social care workers.

7 With that in mind, please, can we look at document
8 INQ000395589.

9 If we could please go to the bottom of page 4 and
10 the top of page 5, this is an email thread between
11 members of Public Health Wales about data reporting in
12 Wales, and we can see that Dr Frank Atherton was copied
13 in to those emails.

14 The first email in the thread was sent on
15 14 April 2020. If we look at that first sentence that's
16 highlighted in yellow:

17 "They [meaning the ONS] are looking at developing
18 a new process for capturing deaths in HCWs [healthcare
19 workers] and adult SCWs [social care workers] -- this
20 was discussed with the DAs at the weekend and is under
21 review."

22 Then if we scroll up to the thread on page 3 and
23 an email sent on 15 April, again from a member of Public
24 Health Wales, and if we look at the second sentence
25 highlighted in yellow:

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1 Analytical Services asked the Office for National
2 Statistics as well to provide information from their
3 mortality data that would tell us the numbers of
4 healthcare workers and social care workers in Wales who
5 had died from Covid-19.

6 **LADY HALLETT:** Do you know what the argument was in relation
7 to no reporting?

8 **A.** I don't know. My suspicion might be that it was because
9 there would perhaps be very small numbers and you might
10 not want to disclose some information about someone that
11 wasn't public, but that's just a guess.

12 **LADY HALLETT:** Thank you.

13 **MS SPECTOR:** In your opinion, was that an important dataset
14 to try and receive?

15 **A.** Yes, there was certainly a lot of interest in
16 understanding the potential risk that healthcare workers
17 and social care workers were experiencing and having
18 reliable statistics on that was an important thing to be
19 able to do. The differentiation, I should probably
20 make, the ONS data doesn't necessarily tell you about
21 in-service deaths from Covid-19, so it would tell you
22 whether someone had died from Covid-19 but not
23 necessarily whether it was something that had been
24 acquired in the line of work, for example.

25 **Q.** Moving on now, we'll look at some of the charts that you

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1 provided with your witness statement concerning Covid-19
2 infections and hospital data in Wales.

3 So first please can we have figure 1(a) in your
4 witness statement INQ000399709.

5 This illustrates the weekly hospital admissions for
6 Covid-19 and non-Covid-19 conditions in Wales from
7 March 2020 to June 2022.

8 Are you able to explain to us what this chart shows?

9 **A.** Yes, so this is the weekly hospital admissions for
10 Covid. It includes both suspected and confirmed cases.
11 And you can see that that blue line at the bottom shows
12 the Covid-19 cases with some distinct peaks in the early
13 phase of the pandemic in sort of March/April 2020, and
14 then other peaks towards the end of 2020, early 2021.

15 **Q.** If we could now, please, have on screen INQ000412041 and
16 the slide on page 2.

17 This chart shows the number of beds available
18 compared to the number of patients across hospitals in
19 Wales, and we can see here that the pale orange line
20 represents confirmed and suspected Covid patients; the
21 orange line, designated Covid beds; the pale blue line,
22 total patients in hospital; and then that dark blue
23 line, all general and acute beds.

24 For clarity, am I right in saying that that red line
25 for designated Covid-19 beds does not represent maximum

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1 meaningfully exceeded in Welsh hospitals. However, the
2 figures that we see are combining all hospitals and
3 health boards. Are you able to assist us with whether
4 there were certain hospitals or health boards that were
5 more consistently near or at capacity during the
6 Covid-19 pandemic?

7 **A.** I'm afraid that's not a level of detail that I can help
8 you with.

9 **Q.** If we now look at the chart on page 5, of INQ000412041,
10 this chart shows invasive ventilated beds in Wales,
11 April 2020 to June 2022. Just, again, are you able to
12 talk us through what we can see in this chart?

13 **A.** Yes, so there are two series here. The blue line
14 represents the number of invasive ventilated beds that
15 were available, these would typically be in a critical
16 care environment but not always in a critical care
17 environment. And then the yellow or orange line is the
18 beds occupied, and that is for both Covid-19 and
19 non-Covid-19 patients.

20 And similar to some of the previous series you can
21 see some distinct peaks in the early and second phase of
22 the pandemic.

23 If we look at beds available, there were a larger
24 number of beds available that offered invasive
25 ventilation earlier in the pandemic and then that drops

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1 capacity for Covid-19 patients in hospital because
2 designated -- beds that were not designated for Covid-19
3 could still be used for Covid-19 patients?

4 **A.** Yes, that's correct. Generally we would look at
5 occupancy across the hospital as a whole rather than
6 designated Covid-19 beds per se.

7 **Q.** With that caveat in mind, are you able to talk us
8 through what this chart shows?

9 **A.** Yes, so if we're looking specifically at the Covid-19
10 series at the bottom there, it follows a similar
11 trajectory to the admissions data in the previous slide.
12 It shows that there were peaks in the spring of 2020 and
13 again in late 2020 and early 2021, and that at times the
14 number of confirmed and suspected Covid patients was
15 close to or slightly over, in some cases, the designated
16 Covid beds, although noting that there would still be
17 other capacity available.

18 **Q.** Can we also see that the availability of those Covid-19
19 designated beds was more limited in the second wave than
20 in the first wave at times?

21 **A.** Yes.

22 **Q.** We're going to hear about decisions that were made in
23 Wales in waves 1 and 2 based on concerns about hospital
24 capacity later in the next two weeks. This chart
25 suggests that capacity was never near to being

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1 after the first phase.

2 **Q.** I'm grateful.

3 Finally I want to look at some charts concerning
4 Covid-19 and discharges from hospitals into care homes
5 in Wales during the pandemic.

6 Now, the ONS has published figures that there were
7 13,630 deaths in care homes overall in Wales during the
8 Covid-19 pandemic. Just over 30% of those deaths were
9 registered during the first wave, and 40% or so of those
10 were registered during the second wave. Is that
11 information correct?

12 **A.** I don't have the figures to hand, but that sounds
13 correct.

14 **Q.** We've discussed already a reason why those numbers might
15 have been slightly under-reported in care homes in the
16 first wave. Is it likely that official figures of
17 deaths caused by Covid-19 in care homes in the first
18 wave might be even lower still because there may have
19 been undiagnosed Covid cases due to less testing and
20 less clinical experience of staff in the early days of
21 the first wave?

22 **A.** That is potentially possible and I think that would be
23 the same case for deaths outside of care homes as well,
24 and that's why sometimes it's helpful to look at excess
25 deaths overall rather than just Covid or non-Covid

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1 deaths.

2 **Q.** Please can we now have on screen INQ000271757.

3 Now, am I right in saying that this is research that
4 KAS conducted into discharges from hospitals to
5 care homes between March and May of 2020?

6 **A.** Yes, that's correct.

7 **Q.** We can see from the top of paragraph 2, page 1, KAS
8 analysed 1,729 discharges from hospitals to care home
9 settings, analysing how many patients were tested prior
10 to discharge and how many of those patients subsequently
11 passed away.

12 That number 1,729, can I ask, was that all
13 discharges from hospitals to care homes in Wales, or was
14 it a sample size that had been taken by KAS?

15 **A.** This analysis was started before I was
16 Chief Statistician so I wasn't involved at that time,
17 but my understanding is that should be all the
18 discharges that were able to be identified at that
19 point.

20 **Q.** What this study did is it counted those who had
21 themselves been discharged from hospitals into
22 care homes and died rather than those who might have
23 been infected from someone being discharged with
24 Covid-19 into a care home and who then subsequently
25 died; is that right?

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1 that bar, we know that the Welsh Government announced on
2 24 April that mass testing would commence for all
3 patients being discharged to care homes, which was
4 followed by new guidance on hospital discharges on
5 29 April. But we can see in that bar for 27 April that
6 the number of patients discharged without a test
7 continued, given that we can see some navy blue space at
8 the bottom of it, and we can see that that continued to
9 the end of May; is that right?

10 **A.** That is what the chart shows. I guess there could be
11 some occasions when it might have been a data issue,
12 that we couldn't necessarily link a discharge record to
13 a testing record, that could be a recording and
14 reporting issue, but I couldn't say that with certainty,
15 but it does show within the data that there were some
16 discharges that did not have a test record associated
17 with them after that point.

18 **Q.** If we then go to table 3 on page 8, that slightly breaks
19 down the numbers of discharges that we're talking about
20 in the period that we're looking at. We can see that
21 for certain health boards the figure of discharges after
22 the change of guidance was as high as 50% in April and
23 29% in May, so after the policy change; is that right?

24 **A.** That is right, but it's worth noting that there are some
25 very small numbers involved there. So the Hywel Dda

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1 **A.** Sorry, could you repeat that?

2 **Q.** I can. The study counted people who had been discharged
3 from hospital with or without a test and who had
4 subsequently died from Covid-19 rather than people who
5 might have been infected by those people who had been
6 discharged without a test?

7 **A.** Yes, that's right, it didn't attempt to look at that
8 issue around whether discharging from a hospital to
9 a care home was related to an outbreak of Covid-19, it
10 was simply looking to describe the number of discharges
11 that happened and the testing activity associated with
12 that. There was other work that had tried to look at
13 that more complex question.

14 **Q.** If we look at the final paragraph on page 1:

15 "Of the 81 discharged patients who by the point of
16 data extraction on 30 June 2020 had died of COVID-19
17 related causes, 62 did not receive a test in hospital
18 prior to discharge ..."

19 If we then look at page 7 in the chart in the middle
20 of that page, which is chart 3, that chart shows the
21 proportion of discharges to care home settings where
22 a test was taken in hospital prior to discharge and
23 those that did not have the test, and we can see that
24 dark blue there is "No test taken".

25 If we focus on the week commencing 27 April, and

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1 example in April, for example, is 1, which leaves
2 a percentage of 50%, so it's useful to look at the
3 numbers as well as the percentages.

4 **Q.** If we look at the numbers for Aneurin Bevan for May,
5 that gives a slightly higher -- not much, but a slightly
6 higher -- number of discharges, and we get the 17%
7 there.

8 In terms of the conclusions that could be drawn from
9 that table, what is it that KAS concluded, looking at
10 those results, about the discharges that were continuing
11 despite the change in guidance?

12 **A.** I mean, I think our conclusion was that there were still
13 some records where there appeared to be a discharge from
14 hospital to care home without a test record after the
15 point at which the guidance changed. That could be
16 because it wasn't possible to link a record, that could
17 have been a data reporting issue, or it could have been
18 genuinely that no test was undertaken.

19 **Q.** Who did KAS send the results of this study to?

20 **A.** So it wasn't something I was directly involved in, but
21 I believe that they were shared with senior officials in
22 the Welsh Government working in health and social care
23 in around late summer 2020.

24 **Q.** Finally on this topic, the Vivaldi care home study was
25 conducted by the ONS in the UK to measure the impact of

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1 Covid-19 in care homes in May to June of 2020, and am
2 I right in saying that that study concluded that care
3 homes using bank or agency nurses most days were more
4 likely to have more cases of Covid-19, and care homes in
5 which staff received sick pay were less likely to have
6 cases of Covid-19 in residence?

7 **A.** I believe that's what the study found, yes. It's
8 a study that just covered England, however.

9 **Q.** You pre-empted my next question. Is any similar study
10 being undertaken in Wales or has been undertaken in
11 Wales?

12 **A.** So the report that you referred to with the bar charts
13 in it does refer to a particular piece of research by
14 Public Health Wales where they had looked at the risk
15 factors associated with outbreaks in care homes, and
16 I think they had found -- if you'll excuse me reading it
17 so I don't get it wrong --

18 **Q.** Please.

19 **A.** -- but their conclusion was that they found that large
20 care homes were at considerably greater risk of
21 outbreaks throughout the pandemic and the exposure to
22 discharge from hospital was not associated with
23 a significant increase in risk after you take into
24 account the care home size.

25 **Q.** My final topic is about data sharing, firstly between
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1 that definitions across the UK were inconsistent in
2 their recording of deaths, for example, how data on
3 Covid-related admissions and hospitalisations were
4 measured for each nation, and the fact that Wales
5 included suspected cases for some measures where other
6 nations didn't?

7 **A.** On hospitalisations, yes, that's correct. Broadly we
8 were able to work together to understand the
9 differences, but at the outset there, there were
10 certainly differences there.

11 **Q.** Were those differences that were worked out quite
12 rapidly in the course of the pandemic?

13 **A.** So I think perhaps those differences carried on
14 throughout the course of the pandemic but we were able
15 to understand where we could and couldn't compare data
16 better, if that makes sense.

17 **Q.** Are any steps in motion to attempt to harmonise that
18 kind of data collection for future --

19 **A.** So I think we probably learned quite a lot from that
20 experience. I think each nation in an attempt to be
21 helpful moved quite quickly to start collecting its own
22 data, but that then potentially meant that we had some
23 small differences in the definitions we used across
24 the UK. That's something we've learnt from in,
25 for example, the response to the Ukraine -- the invasion
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1 KAS and the Welsh Government and the UK Government.

2 In terms of the speed of data sharing, Glyn Jones in
3 his statement describes how for some areas the flow of
4 data was generally slow or inhibited from the
5 UK Government's end to the devolved administrations, and
6 he particularly cites the Department for Work and
7 Pensions. Do you agree with what he says about that?

8 **A.** Yes, I do agree with that.

9 **Q.** Are there any other examples of areas that were
10 particularly affected by delayed sharing speeds?

11 **A.** I think the Department for Work and Pensions' data
12 sharing is probably the most noteworthy one. There were
13 examples of very good data sharing; the Department for
14 Transport, for example, was incredibly helpful in
15 sharing data around mobility and trips that people were
16 taking. Generally data sharing was quite positive, so
17 those exceptions were few and far between. One other
18 that's worth noting perhaps is that we have been looking
19 to acquire the data from the Covid-19 Infection Survey
20 for SAIL, which is something we've not been able to do
21 yet.

22 **Q.** In terms of data sharing and conformity of datasets, we
23 know that each of four nations had their own datasets
24 and means of measuring Covid-19 cases and deaths.
25 Especially at the onset of the pandemic, is it correct
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1 of Ukraine and the data-related demands for that: we
2 worked together across the nations to come up with
3 a single set of statistics. So it's about learning to
4 take a couple of days to work together to avoid those
5 kind of issues in future.

6 **Q.** My final question is about the ONS. Professor Sir
7 Ian Diamond earlier today was asked whether there were
8 any changes in collaborating with KAS during the course
9 of the pandemic and he said that there weren't any. Is
10 that something that you agree with?

11 **A.** We certainly had very positive relationships with the
12 Office for National Statistics. We were involved very
13 closely in things like the development of the Covid-19
14 Infection Survey, they were very amenable to our
15 requests for data and for additional analysis. However,
16 I do think they were probably more closely embedded with
17 the UK Government than perhaps the Welsh Government, and
18 that potentially meant that UK Government requests were
19 perhaps prioritised or understood more than requests
20 from the Welsh Government.

21 **MS SPECTOR:** My Lady, those were all of my questions.

22 **LADY HALLETT:** Thank you very much.

23 I think, Ms Gowman, you have permission for some
24 questions.

25 **Questions from MS GOWMAN**
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1 **MS GOWMAN:** Thank you, my Lady.
 2 Ms Howarth, I ask questions on behalf of Covid-19
 3 Bereaved Families for Justice Cymru.
 4 Firstly in respect of the Covid-19 analysis hub
 5 established on 23 March 2020, just briefly, you've
 6 described today that the responsibility of the hub was
 7 to bring existing information together for use within
 8 Welsh Government. In other words, it provided Covid-19
 9 statistical analysis to inform advisers and
 10 decision-makers in the Welsh Government; is that a fair
 11 summary?

12 **A.** Yes.

13 **Q.** So an important function?

14 **A.** Yes.

15 **Q.** The former Chief Statistician, Glyn Jones, states in his
 16 witness statement that the hub started life as a team of
 17 seven people; is that correct?

18 **A.** That is correct, yes.

19 **Q.** Initially did the staff in the hub act on a voluntary
 20 basis alongside other responsibilities?

21 **A.** That is correct, although most of those other
 22 responsibilities were largely paused, which enabled them
 23 to contribute to the work of the hub.

24 **Q.** And that may answer my next question, but do you
 25 question that the limited team of seven and the fact

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1 yourself with the policy team.

2 **Q.** And in future, what lessons do you think that can be
 3 learned from that scenario?

4 **A.** I think it shows that you need suitable analytical
 5 capacity within an organisation to be able to work
 6 collaboratively with policymakers. I don't necessarily
 7 feel like there was a deficiency in the use of analysis,
 8 but I think that we potentially could have gone further
 9 in anticipating some of those demands. But also it
 10 creates a significant impact on the small number of
 11 individuals concerned in terms of their own wellbeing,
 12 and I think a large capacity can help avoid some of
 13 those challenges as well.

14 **Q.** Avoids burn-out?

15 **A.** Yes.

16 **Q.** Yes.

17 Secondly, we know that five new analytical posts
 18 were agreed in June 2020 for the hub, and six new posts
 19 were agreed in November 2020. What isn't clear from the
 20 evidence at the moment is whether those posts were
 21 filled. Are you able to assist?

22 **A.** They were, but it took a period of time for them to be
 23 filled.

24 **Q.** Do you agree with your colleague, Glyn Jones, that,
 25 notwithstanding these vacancies having been advertised

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1 that staff were acting on a voluntary basis alongside
 2 other responsibilities, did that in any way impact on
 3 the hub's ability to respond to requests in the early
 4 stages of the pandemic?

5 **A.** So there were a range of other statistical and
 6 analytical staff also supporting the hub, so they
 7 weren't the only people responding to requests. So if
 8 an example would be helpful, the team that leads on
 9 economy and labour market statistics would help
 10 contribute to work around that topic related to the
 11 pandemic. But that notwithstanding, I think it was
 12 a big ask for a small team to be able to accommodate the
 13 growing number of analytical demands during that time.

14 **Q.** And certainly Glyn Jones suggests that by the summer of
 15 2020 demand was outstripping supply; is that fair?

16 **A.** Yes.

17 **Q.** What impact do you think that that had on the hub's
 18 ability to respond to policymakers to inform
 19 decision-making?

20 **A.** So I think we did -- the key information was made
 21 available and we were able to work with policy
 22 officials, but perhaps the thing that we were less able
 23 to do was be more proactive. It was much more reactive
 24 to the kind of demands that people had for statistics
 25 during that period, rather than more closely embedding

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1 and indeed, as you've set out, eventually being filled,
 2 recruiting sufficient specialist resources remained
 3 a constant challenge throughout the pandemic and,
 4 secondly, that this meant that certain projects could
 5 not be adequately resourced?

6 **A.** It was a challenge to resource analytical roles. There
 7 are only a finite number of analysts within government.
 8 We benefitted from being able to bring in, for example,
 9 colleagues from arm's length bodies, we had a small
 10 number of loans from the Office for National Statistics,
 11 but it was a continual challenge to be able to fill the
 12 analytical capacity that we needed.

13 **Q.** And in terms of the second part of the question, did
 14 that mean that certain projects couldn't be adequately
 15 resourced?

16 **A.** There were -- generally I think it probably meant that
 17 we were slower to do things than we might have liked
 18 rather than they couldn't happen, but there were some
 19 examples where -- one particular noteworthy one was the
 20 Technical Advisory Cell had a dashboard, an internal
 21 dashboard, that they had brought together to interrogate
 22 some key sets of data, I would have liked that Knowledge
 23 and Analytical Services together with our digital
 24 colleagues would have been able to do that, but we
 25 didn't have sufficient capacity to be able to do that,

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1 so that was something that was contracted out.
 2 **Q.** And aside from that example that you've given, how else,
 3 if at all, did the resourcing constraints impact on
 4 policymakers during the pandemic?

5 **A.** I think broadly we were able to meet policy demands,
 6 I can't think of a specific example that impacted
 7 policymaking, but it did often mean that people had to
 8 go above and beyond and work long hours to do so.

9 **MS GOWMAN:** Thank you, Ms Howarth.
 10 Those are my questions, thank you, my Lady.

11 **LADY HALLETT:** Thank you very much.
 12 Mr Gardner, I gather there's a question the
 13 Children's Commissioner would like asked.

14 **MR GARDNER:** Thank you, my Lady. I wonder if I might lean
 15 forward and obtain a ...

16 **LADY HALLETT:** A lectern for one question, Mr Gardner.

17 **MR GARDNER:** My eyesight, my Lady.

18 **LADY HALLETT:** Actually it's user technology, isn't it?
 19 I hadn't thought about that.

20 **Questions from MR GARDNER**

21 **MR GARDNER:** Ms Howarth, the Inquiry has just heard from
 22 Professor Diamond. I don't need you to turn to it, but
 23 in his first statement at paragraph 166 he refers to
 24 a school infection survey and notes that that was
 25 an England-only study. Are you able to confirm if any
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1 **LADY HALLETT:** Thank you, Mr Gardner.
 2 I think you have one further question that
 3 John's Campaign wishes you to ask. Yes, Ms Spector.

4 **Further questions from COUNSEL TO THE INQUIRY**

5 **MS SPECTOR:** Yes, I do, my Lady, thank you.
 6 Ms Howarth, you confirmed that the rapid
 7 surveillance data did not cover all deaths, it did not
 8 capture all deaths in care homes, but that ONS would
 9 have captured all of those deaths. How did the
 10 publication of that data work?

11 **A.** Of the ONS data?

12 **Q.** Of the ONS data, yes.

13 **A.** So ONS published that data on a weekly basis, I think it
 14 was, with an approximately ten-day lag, I believe, from
 15 memory. And I think as part of that they would
 16 regularly break down data by place of death.

17 I think it might also be useful to add that we
 18 shared data from the Welsh Government with ONS, the
 19 Care Inspectorate Wales data I mentioned, which helped
 20 them to produce their analysis around deaths of
 21 care home residents as well.

22 **Q.** Sticking with the ONS data, would earlier figures that
 23 may not have included care home deaths have been updated
 24 retrospectively when the complete ONS data was received?

25 **A.** So I'm not an expert in ONS's mortality data but my
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1 equivalent study was taken during Covid relating to
 2 Wales?

3 **A.** There wasn't an equivalent study in Wales, no. I recall
 4 that we had discussions with ONS about their survey to
 5 understand how it worked, determine if it might be
 6 possible to extend to Wales, but from memory I recall it
 7 was quite an expensive survey to get up and running and
 8 there wasn't necessarily the funding available to do
 9 that.

10 **Q.** So you wouldn't have been involved in risk profiling,
 11 but -- correct me if I'm wrong?

12 **A.** No.

13 **Q.** But the result of that would be that those who were
 14 making decisions about risk profiling wouldn't have had
 15 data available to them specifically about schools in
 16 Wales, then?

17 **A.** It depends what data you mean. So they wouldn't have
 18 had that specific data from the infection survey but
 19 there were other sources of data. Colleagues in
 20 Swansea University, for example, had linked together
 21 a range of data to understand transmission in schools.
 22 So there were a range of different data sources but the
 23 school infection survey run by ONS was an England-only
 24 survey.

25 **MR GARDNER:** I'm grateful. Thank you, my Lady.
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1 understanding is it should cover all deaths that have
 2 a death certificate. So that would be regardless of
 3 where the death occurred, so they should all be in
 4 there, is my understanding.

5 **Q.** Forgive me, I think the question simply is about whether
 6 earlier figures would ever be corrected to account for
 7 later figures?

8 **A.** I'm not clear on how the ONS mortality data works, but
 9 I imagine that there would be updates for any late
 10 returns, for example, or delays in registration that
 11 were received.

12 **MS SPECTOR:** I'm grateful, my Lady.

13 **LADY HALLETT:** Thank you very much indeed, Ms Spector.
 14 Thank you very much indeed for your help, I'm very
 15 grateful to you.

16 **THE WITNESS:** Thank you.

17 **LADY HALLETT:** We'll break now, I think, we might as well
 18 between witnesses, and I shall return at 3.15.

19 **(3.00 pm)**

(A short break)

20 **(3.15 pm)**

21 **MR POOLE:** I call Dr Robert Hoyle, please.

DR ROBERT HOYLE (affirmed)

22 **Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2B**

23 **MR POOLE:** Dr Hoyle, could you start, please, by giving us
 24
 25
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1 your full name.

2 **A.** Robert Thomas Hoyle.

3 **Q.** Thank you very much for attending today and giving your
4 evidence.

5 Can you please remember to keep your voice up so we
6 can hear you, but also so your evidence can be recorded.

7 If at any stage you need a break, do say, and if
8 I ask you anything that you don't understand, please ask
9 me to rephrase it.

10 Your witness statement for this module of the
11 Inquiry is at INQ000347980 and we see the first page
12 there. We don't need to go to it but, page 26, you
13 signed that statement on 30 October last year. Can you
14 confirm that the contents of that statement are true to
15 the best of your knowledge and belief?

16 **A.** It is.

17 **Q.** I'm grateful.

18 Dr Hoyle, are you at present the head of science for
19 the Welsh Government Office for Science?

20 **A.** I am.

21 **Q.** That's a role you've held since May 2019?

22 **A.** Yes.

23 **Q.** Before that you worked in the Welsh Government's Science
24 division to support the then Scientific Adviser for
25 Wales, who was Professor John Harries, and you managed

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1 **A.** So the Chief Scientific Adviser is a public appointment,
2 and normally reports to the First Minister, although for
3 pay and rations, if I can use that phrase, we sit within
4 ETC, which is Economy, Treasury and Constitution, at the
5 moment, but we sit within the Economy portfolio of the
6 minister Vaughan Gething.

7 **Q.** As a very broad overview of your role during the
8 pandemic and the various advisory groups that you
9 served, I think I'm right in saying that you were
10 a member of the Technical Advisory Group from
11 13 April 2020, that's what's known as TAG?

12 **A.** Yes.

13 **Q.** And you were also a member of the Technical Advisory
14 Cell, TAC, from mid-April 2020?

15 **A.** Yes.

16 **Q.** You were also a member of the international group and in
17 fact chair of the international intelligence subgroup
18 from September 2020 to the end of 2022; is that right?

19 **A.** That's right.

20 **Q.** And that's the international intelligence group
21 perhaps -- I think known, shorthand, as IntTel; is that
22 right?

23 **A.** Yes.

24 **Q.** One of the issues in this Inquiry is the degree to which
25 the Welsh Government understood and engaged with

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1 the Engineering Centre for Manufacturing and Materials.
2 And prior to 2010 you worked in the energy and
3 manufacturing sector; is all of that correct?

4 **A.** Yes.

5 **Q.** Is it also correct that you have served all four
6 officially appointed Chief Scientific Advisers for
7 Wales?

8 **A.** Yes.

9 **Q.** Can you please provide a very brief overview of the
10 roles and responsibilities of the head of science for
11 the Welsh Government?

12 **A.** My main role and principal role is to support the Chief
13 Scientific Adviser for Wales, of which we've had four
14 that I've served, and that is principally about
15 providing scientific advice and evidence to government,
16 although we do do other things. One other piece of work
17 that we are doing at the moment is related to medical
18 radioisotopes and that is quite a technical issue,
19 related to the supply of medical radioisotopes to the
20 NHS and other health services.

21 So -- but that, again, is about collecting evidence
22 and data and information to support policy development
23 or strategy development.

24 **Q.** Just help us, where does your office sit within the
25 structure of the Welsh Government?

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1 pandemic strategies of other countries as a potential
2 model or as a guide for their own pandemic response.

3 So as the chair of IntTel, you were involved in the
4 surveillance and collection of data from other
5 countries' pandemic responses; is that right?

6 **A.** I was, yes.

7 **Q.** Can you briefly explain to the Inquiry the purpose of
8 IntTel?

9 **A.** The main purpose, as set up, was to observe what was
10 happening elsewhere in the world and to see whether
11 lessons could be learnt from elsewhere in the world that
12 might be applicable to Wales.

13 **Q.** Am I right IntTel was set up in September 2020?

14 **A.** Yes.

15 **Q.** How did IntTel come to be established at that time
16 during the pandemic?

17 **A.** Prior to that and prior from -- right from the start of
18 the work, we started in March, we started to look at
19 within the Welsh Government Office for Science what was
20 happening elsewhere within the world, in different
21 countries, to see how the pandemic was developing in
22 different countries, and then over a period of time it
23 was felt, because of things that were happening within
24 TAG, that we should formalise it more by creating
25 an international subgroup of TAG. So we went from being

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1 a sort of localised activity within the Welsh Government
 2 Office for Science to a broader activity which included
 3 a range of experts from external to the Welsh
 4 Government.

5 **Q.** So the surveillance and collection of data from other
 6 countries was going on within TAG from March 2020, but
 7 it became formalised and put into a specific subgroup in
 8 September 2020; is that accurate?

9 **A.** Not quite accurate, it was -- the international
 10 intelligence work that was going on was conducted by the
 11 Welsh Government Office for Science, principally myself
 12 and members of my team, and then we reported --
 13 I reported to TAG on a regular basis the international
 14 situational report, as it's often or was often known, so
 15 I reported not every week or not every meeting but on
 16 a frequent basis about what was happening elsewhere, and
 17 then when other subgroups were being formalised and
 18 sort of growing out of activities and the need to pursue
 19 discrete lines of research or evidence gathering, then
 20 I formalised this into an international group, what
 21 became IntTel, in September of 2020.

22 **Q.** I understand. What kind of requests were made about
 23 international comparisons, what kind of evidence or
 24 information was sought from IntTel?

25 **A.** From TAG or from elsewhere?

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1 interesting to investigate.

2 **Q.** I think you say in your witness statement that many
 3 requests were verbal and knee-jerk or had a panic
 4 flavour about them. Is that right? It was more
 5 reactive than formal considered commissions?

6 **A.** Certainly in the early days, yes. Things were happening
 7 so quickly that a sort of more formal commissioning
 8 system didn't materialise. The requests were typically
 9 in meetings, "Please could you have a look at whatever",
 10 in TAG meetings, and we would go off and have a look at
 11 whatever and report back.

12 Over time, that became less panic-stricken, shall we
 13 say, or -- panic-stricken is not quite the right word,
 14 but fast-moving.

15 **Q.** You've referred to some countries that you looked at
 16 data from. Did you consider data and intelligence from
 17 South East Asian countries, so, for example, Taiwan,
 18 Vietnam, South Korea, who already had extensive
 19 experience in effective mitigations from viruses such as
 20 SARS?

21 **A.** Yes, we did.

22 **Q.** In the course of evidence tomorrow, the Inquiry is going
 23 to hear from Dr Roland Salmon who was an advocate for
 24 a Welsh approach to the Covid-19 pandemic that more
 25 closely resembled Sweden's response to the pandemic. Is

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1 **Q.** From TAG.

2 **A.** Right. Initially we had requests that came through TAG
 3 from ministers or directly from TAG, from TAG meetings
 4 to investigate issues that were relevant at the time.
 5 One of the issues that we looked at in considerable
 6 depth was the difference between the pandemic in
 7 Latin America and how that was progressing to how it was
 8 progressing in Western Europe, in Northern hemisphere.
 9 And what we're looking at there, to see whether
 10 there was a difference between northern hemisphere and
 11 southern hemisphere developments of the pandemic. Of
 12 course this comes down to seasonality and whether the
 13 pandemic had a strong seasonal component to it or not.
 14 So we looked at the different hemispheres at the same
 15 time because they have different seasons. If it's
 16 summer in the northern hemisphere it might be winter in
 17 the southern hemisphere. So that was one piece of work
 18 that we looked at.

19 Another piece of work that we did was on the R0
 20 value and we submitted a paper to the First Minister on
 21 that. But it varied, the requests that were made of us
 22 were varied. But that didn't stop us exploring our own
 23 issues where no requests were forthcoming because we
 24 were observing about what was happening at the time and
 25 we picked up on things that we thought would be

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1 that a matter that you considered in IntTel?

2 **A.** At great depth, yes.

3 **Q.** Could you just provide the Inquiry with a brief overview
 4 of the course chartered by Sweden in the course of the
 5 pandemic and how this differed from the Welsh approach.

6 **A.** Sweden didn't insist on a harsh lockdown in the manner
 7 that many other Western European countries did, or
 8 indeed countries across the world did. They had a much
 9 more laid-back approach to it, and in the early days it
 10 looked like they were handling the pandemic more
 11 effectively. Which raised the question about the
 12 effectiveness of lockdowns. However, when we dug into
 13 it in a bit more detail, it became obvious, and one
 14 clear point became obvious to us, the number of single
 15 occupancy households in Sweden is much higher, that's
 16 one person per household, in Sweden than many other more
 17 populated and more densely populated countries. So they
 18 had a degree of built-in self-isolation that many other
 19 countries didn't have and don't have, which meant that
 20 you can't make direct comparisons between densely
 21 populated countries and less densely populated countries
 22 like Sweden.

23 **Q.** I think you may be close to answering this question
 24 already, but what are your views about the viability,
 25 then, of Wales and the UK in general mirroring Sweden's

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1 strategy?

2 **A.** We have much greater densities of population and much

3 higher population in our major cities than many parts of

4 Sweden, so I don't think you can draw the same

5 conclusions or lessons from Sweden and expect them to

6 work in the UK. The conditions are different.

7 **Q.** Did you receive proper feedback on the work that IntTel

8 did? Did you feel as though you received sufficient

9 consideration?

10 **A.** From TAG?

11 **Q.** Yes.

12 **A.** It was variable. On several pieces of work we received

13 no feedback, on other pieces of work we did receive

14 feedback, but it was somewhat ad hoc. But there again

15 that was partly a reflection of the rapid changing

16 nature of what we were doing and looking at. Quite

17 a few of the things that we looked at and were requested

18 to look at, things had moved on by the time that we'd

19 looked at them, because inevitably it takes time to look

20 at some of these things. But overall there were times

21 when I wished there could have been more feedback.

22 **Q.** And who would you say is responsible for the lack of

23 feedback?

24 **A.** That would come down to the chair and the deputy chair.

25 **Q.** Do you feel as though TAG and TAC and Welsh ministers

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1 formulated by TAG communicated onward to the Welsh

2 Government and ultimately the Welsh ministers?

3 **A.** As I understood it, the information that we provided was

4 assimilated and assessed by the TAG/TAC leadership, the

5 chair and co-chair, and then passed on as appropriate to

6 the Chief Medical Officer and other Welsh Government

7 people, and ultimately to ministers.

8 **Q.** How transparent was that communication of advice to

9 Welsh ministers through either the CMO or the Chief

10 Scientific Adviser for Health?

11 **A.** It wasn't particularly transparent, but that's not to

12 say that it wasn't happening. It was just that we

13 didn't witness it. I didn't witness it to any great

14 extent.

15 **Q.** Did you ever see any kind of record of what advice had

16 been given verbally from, say, Dr Atherton or Dr Orford

17 to Welsh ministers?

18 **A.** No.

19 **Q.** If there had been dissent or debate within TAG, are you

20 aware of whether that debate was accurately conveyed to

21 the Welsh Government, Welsh ministers?

22 **A.** I ... I can't answer that, I'm afraid, I don't know.

23 **Q.** Perhaps put another way, is TAG advice formulated as

24 a consensus view or as an overview of a debate on any

25 one topic?

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1 took IntTel sufficiently seriously as an information

2 resource during the pandemic?

3 **A.** Sufficiently -- perhaps not sufficiently seriously.

4 I think a lot of the focus, and rightly so, of TAG and

5 TAC was what was happening in Wales, and that meant that

6 they didn't have necessarily the bandwidth to cover,

7 you know, a much broader perspective as to what was

8 happening in the rest of the world.

9 They did take great notice when things like the new

10 variants started to appear, like the Delta in India or

11 the Brazilian variant or the Omicron variant, and so on.

12 But there again that was transitory because things were

13 happening so quickly, and the threat to the UK was

14 obvious, and so they took much more interest in what we

15 were doing.

16 **Q.** Do you view this -- if I can call it sort of insularity

17 as a shortcoming, being too Welsh-focused?

18 **A.** I wouldn't say it was a shortcoming, no. I think it was

19 an insufficiency but not a shortcoming.

20 **Q.** Now, during the course of the pandemic, did you attend

21 most TAG/TAC meetings?

22 **A.** Yes, apart from on the occasion when I was actually on

23 holiday, I made a point of attending every single one of

24 them.

25 **Q.** And how or by whom were the discussions and advice

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1 **A.** Most of it was consensus view, yes.

2 **Q.** In that sense similar to SAGE?

3 **A.** Yes.

4 **Q.** Do you consider in your experiences of TAG that there

5 was sufficient challenge on TAG and also TAC, was there

6 sufficient challenge on issues or was there a culture

7 where people didn't feel able to speak up and challenge

8 during a discussion or debate?

9 **A.** There was plenty of -- can I use the phrase -- soft

10 challenge, but really hard challenge I didn't feel there

11 was sufficient.

12 **Q.** Were there, though, meaningful debates within TAG and

13 TAC that actually affected the advice or the outcome of

14 the advice that was then passed on to the Welsh

15 Government?

16 **A.** Well, there were certainly debates, there were certainly

17 debates, but it was done in a very collegiate manner.

18 But I can remember on occasion there was serious

19 challenge, really off the wall challenge, and I felt

20 that at the time that wasn't particularly well received.

21 Soft challenge was quite acceptable, and there was a lot

22 of encouragement for soft challenge, but not really hard

23 challenge of the type that -- you know, questioning

24 whether lockdown at all was a good idea.

25 **Q.** So, I mean, would it be fair to say that TAG was used by

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1 Welsh ministers as a place where information or advice
2 could effectively be rubber stamped?
3 **A.** No. No, I don't think that was the case.
4 **Q.** Were you and your colleagues on TAC -- TAG informed
5 about how your advice impacted policy, did you see the
6 advice feeding into policy decisions by Welsh ministers,
7 or do you think you should have been appraised of that?
8 **A.** I think, yes, we -- for instance, the firebreak
9 lockdown, we debated that long and hard within TAG, and
10 that did feed through to a lockdown, a firebreak
11 lockdown, in the autumn time of 2020, I think it was.
12 So we'd debated it and I think that did feed through
13 into the discussions and decision-making by ministers.
14 **Q.** Dr Hoyle, I will come a bit later on to look at some of
15 the TAG advice around the firebreak lockdown.
16 Just before moving away from this topic, Welsh
17 Government in general, as head of science you suggest in
18 your witness statement that the value of science was not
19 understood by decision-makers in Wales and you say is
20 fragmented across different portfolios in the Welsh
21 Government. What impact do you think this had on the
22 Welsh Government's response to the pandemic and what
23 lessons should be learnt from that?
24 **A.** That is a general statement rather than a specific
25 statement related to the scientific advice being

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1 which it had spread across the world, it was more or
2 less unstoppable at that point and that, you know,
3 drastic action would be necessary.
4 **Q.** Was this a commonly held view in the Chief Scientific
5 Adviser, so that's Professor Halligan's office at that
6 time, mid-February?
7 **A.** Not really, no.
8 **Q.** Do you think that the Welsh Government appreciated the
9 potential scale of the pandemic at that stage in
10 mid-February?
11 **A.** I think it was dawning on certain people, yes, and the
12 Chief Scientific Adviser for Health, it was dawning on
13 him, the scale of the challenge here -- or the scale of
14 the threat.
15 **Q.** When did you start discussing the pandemic within the
16 Chief Scientific Adviser's office?
17 **A.** The week before the lockdown, approximately, I think
18 I gave my date in my statement, and I made a note in my
19 diary of, you know, "Started work on Covid", although
20 I'd of course started work long before then, I'd been
21 monitoring it since December 2019.
22 **Q.** So you've identified in mid-February that a major
23 intervention would be needed to prevent a dire outcome
24 and yet in the Chief Scientific Adviser's office Covid
25 was not discussed until the week before lockdown, so

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1 provided by -- for Covid. I think ministers did seek
2 scientific advice on Covid-related matters, but my
3 comment there was a more general comment about
4 scientific advice generally informing policy and
5 strategy within Welsh Government.
6 **Q.** I understand.
7 If we can now talk about the initial stages of the
8 pandemic, so the particularly January, February and
9 March period. You say in your witness statement that
10 you were reporting to your son in the middle of February
11 that Covid-19, in your words, "will change the world",
12 and you say by that stage, so again this is
13 mid-February, it was obvious to you that the genie was
14 out of the bottle and there would have to be a major
15 intervention to prevent a dire outcome.
16 Why was it obvious to you in mid-February that
17 a major intervention would be required?
18 **A.** The rate at which it was spreading across the world and
19 the number of countries in which it had started to
20 appear and in certain countries, like Italy, the impact
21 that it was having on some of the communities in,
22 I think it was northern Italy. Not to mention,
23 of course, the impact that it had on communities in
24 China. So to me it was obvious from the rate at which
25 it was spreading within communities, but the rate at

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1 that would be sort of the week before 23 March.
2 **A.** The Chief Scientific Adviser for Wales, we did -- I did
3 raise it with him on occasion, but it was a case of:
4 that's someone else's problem. That was the response
5 that we had.
6 **Q.** So that was Professor Halligan's response to you
7 informing him of your views?
8 **A.** He didn't state that, but that was the implication of
9 his actions or lack of actions, that it wasn't for him,
10 and that it would be a Health issue.
11 **Q.** Do you consider that action was required by the chief
12 science adviser?
13 **A.** For Health or for Wales?
14 **Q.** For Wales.
15 **A.** Wales.
16 **Q.** So we're talking about Professor Halligan, your office.
17 **A.** I went out of my way to encourage him to engage in this
18 and to do things. He eventually took that advice, but
19 not until very late in the day. I think he could and
20 should have done more.
21 **Q.** What is it that the CSA and the CSA's office could and
22 should have been doing in terms of preparedness and
23 response in this period mid-February to mid-March 2020?
24 **A.** I think engaging much more closely with the Chief
25 Scientific Adviser for Health, the Chief Medical

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1 Officer, ministers and others, and offering to engage
 2 and offering to undertake whatever was requested of
 3 them, so offering work.
 4 **Q.** Now, was the work that you've just identified as what
 5 should have been doing, was that work picked up by
 6 others, so for example the Chief Scientific Officer for
 7 Health, Dr Orford?
 8 **A.** It was -- after the lockdown, he -- that's when we got
 9 engaged in TAG and TAC, so the -- I don't know how it
 10 happened, but I think the request must have come through
 11 and the expectation that at least we should engage in
 12 TAC and TAG if nothing else.
 13 **Q.** Did you find it a difficulty at the time reporting to
 14 Professor Halligan on the one hand as the
 15 Chief Scientist and Dr Orford in your capacity as
 16 a member of TAG and TAC?
 17 **A.** There was no difficulty, no.
 18 **Q.** Now, in your opinion, was a national lockdown necessary
 19 in March 2020?
 20 **A.** Yes.
 21 **Q.** Do you think greater regard should have been given to
 22 the experience of countries that were several weeks
 23 ahead of the curve, so you I think mentioned Italy
 24 earlier, in the lead-up to that decision to enter
 25 a national lockdown?

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1 lockdown in March 2020 was necessary. Is that because
 2 you believe it was inevitable, because of the spread of
 3 the virus, or had it become inevitable because not
 4 enough had been done early enough?
 5 **A.** It was inevitable because of the spread of the virus.
 6 **LADY HALLETT:** So you think, even if other things had been
 7 done earlier, we couldn't have stopped the lockdown?
 8 I mean, supposing --
 9 **A.** Sorry --
 10 **LADY HALLETT:** -- better prepared, for example, supposing
 11 people had acted more quickly?
 12 **A.** I think by the -- I think by the time that the
 13 discussions were being had, it was probably too late to
 14 avoid a lockdown.
 15 **LADY HALLETT:** Well, that's really what I'm asking. Had
 16 more been done earlier -- we'll never know.
 17 **A.** We'll never know. But looking about what happened
 18 subsequently, I think by the time that January had come
 19 along it was already too late to avoid a lockdown.
 20 **LADY HALLETT:** Fine. Thank you.
 21 **MR POOLE:** At the time, did you think lockdown should have
 22 come sooner?
 23 **A.** Yes.
 24 **Q.** How much sooner?
 25 **A.** In my statement I say possibly up to two weeks earlier.

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1 **A.** Well, I think at UK Government level they were looking
 2 at what was happening in other countries and the
 3 necessity for regional or total national lockdown.
 4 Within Welsh Government, I wasn't privy to any
 5 discussions regarding lockdown, I wasn't aware that
 6 a decision had been made by ministers and an approach to
 7 UK Government to seek a national lockdown, I wasn't
 8 aware of that until January this year. My view at the
 9 time was that the leadership and decision-making came
 10 from the UK Government rather than Welsh Government,
 11 although I've since learnt that the Welsh
 12 First Minister, the Scottish First Minister and the
 13 Northern Ireland minister approached UK Government
 14 Prime Minister the day before the national lockdown was
 15 announced. That's how I understand it happened. But
 16 I didn't learn that until, as I say, January this year.
 17 It wasn't visible at the time.
 18 **Q.** But in terms of what you knew from your own experiences
 19 at the time and in the position you were in the CSA's
 20 office, and also by the end of February TAC had been
 21 established, your impression was that this was -- there
 22 was no discussion of a national lockdown, this was
 23 something being led by UK Government?
 24 **A.** That was my impression at the time, yes.
 25 **LADY HALLETT:** I'm sorry to interrupt. You said that

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1 I think five to seven days earlier would have been
 2 appropriate.
 3 And I think there's a subtle timing issue here. We
 4 value our freedoms as a democratic country, and ability
 5 to move around and all the rest of it, and so it needed
 6 to get to a certain stage before widespread lockdown
 7 would be acceptable to the local -- to the national
 8 population. So it's a timing issue.
 9 I think we could have gone probably five to
 10 seven days earlier than we did, but it needed to become
 11 prominent enough in the population's mind and the threat
 12 obvious enough for a lockdown to be acceptable. So it's
 13 a trade-off.
 14 **Q.** So in terms of what you attribute the delay in
 15 implementing the first national lockdown, would it be
 16 right to say that you would say it was due to a lack of
 17 political leadership or a lack of political confidence
 18 in making a unilateral decision to lock down?
 19 **A.** What do you mean by unilateral decision?
 20 **Q.** Obviously we're looking at the Welsh Government --
 21 **A.** I think it would have been untenable for the Welsh
 22 Government to make a unilateral lockdown ahead of a UK
 23 national lockdown, and I think ministers realised that.
 24 Because we are such a small part of the UK in population
 25 terms, I think the challenge -- there would have been

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1 huge challenges in getting the population to accept it.
 2 And not only that, the political ramifications and
 3 accusations, as we've seen with many other things not
 4 related to this. So I think it was a national lockdown
 5 or nothing.

6 **Q.** Did TAG have involvement in the decision to lock down,
 7 was TAG commissioned to advise on the national lockdown?

8 **A.** I -- I wasn't part of TAG at that time, so I can't
 9 comment.

10 **Q.** In your view, if the lockdown had been implemented
 11 earlier, what effect would this have had on the first
 12 wave case progression and fatalities?

13 **A.** It would have smoothed the peak, and it would have
 14 prevented as many people being infected -- and
 15 fatalities, it would have reduced the number of
 16 fatalities in the first wave.

17 **Q.** What about across the extent of the pandemic?

18 **A.** I'm not convinced it would have made that much
 19 difference over the whole lifetime of the pandemic,
 20 until the point at which the whole population was
 21 effectively immunised either through infection or
 22 immunised through vaccination.

23 **LADY HALLETT:** Do you mean by that that, even if you had
 24 managed to flatten the peak -- or whatever the different
 25 analogies are that people use -- in the first wave and
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1 part of the cause of the spread of the next virus -- the
 2 next wave. The virus had never gone away -- and still
 3 hasn't -- so all that had been happening is we'd
 4 suppressed it, so it was -- to my mind it was inevitable
 5 that it was going to come back, which is what it did.

6 **Q.** Am I right in saying that TAG and TAC, they weren't
 7 commissioned or asked to advise on the Eat Out to Help
 8 Out scheme, to your knowledge?

9 **A.** To my knowledge, yes.

10 **Q.** You've mentioned the firebreak lockdown already. What
 11 are your views on the need for a firebreak lockdown in
 12 October 2020?

13 **A.** It was necessary to flatten the curve.

14 **Q.** Can we, please, have INQ000313251 on the screen.
 15 These are TAG notes from 18 September 2020 which
 16 analysed the worsening picture across Europe. If we
 17 just look at the bottom of that page, please, starting:
 18 "The most recent data has shown that in Spain
 19 incidence per 100k has raised across the country
 20 dramatically. France has also changed rapidly in the
 21 last fortnight. Indications are the UK is currently
 22 travelling down a similar path."
 23 So just pausing there, you say:
 24 "Indications are the UK is currently travelling down
 25 a similar path."
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1 therefore reduced the number of infections and deaths,
 2 you were always going to get the second wave and
 3 therefore overall the number of infections and death
 4 would have stayed the same; is that what you're saying?

5 **A.** Yes.

6 **LADY HALLETT:** Thank you.

7 **MR POOLE:** Moving beyond the lockdown into perhaps the
 8 summer of 2020, did you think that TAG/TAC had a clear
 9 objective following the lockdown of what Welsh ministers
 10 were trying to achieve with their NPIs strategy? So,
 11 for example, minimise fatalities, expedite a way out of
 12 lockdown, protect vulnerable groups, and so on and so
 13 forth.

14 **A.** The -- I asked the question on my first meeting about
 15 what the strategy was, and essentially it was to reduce
 16 harm or harms, and I was never convinced that it was any
 17 clearer than that.

18 **Q.** What are your views on the effect of Eat Out to Help Out
 19 on the transmission of the virus and the caseloads in
 20 the autumn and winter of 2020?

21 **A.** In a small way it contributed to the re-emergence of
 22 the -- into a new peak, but no more so than many of the
 23 other release activities that were going on at the time
 24 through the summer of 2020, allowing people to go on
 25 holiday and that kind of thing. So I'm not -- it was
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1 What did you mean of this worsening picture in
 2 mid-September 2020?

3 **A.** That a new wave was developing.

4 **Q.** Did you think that this signalled the inevitability of
 5 a further lockdown to control those growing case
 6 numbers, or were there windows for earlier or different
 7 or less stringent intervention measures in your view?

8 **A.** In my view, as I said on several occasions to the
 9 Technical Advisory Group, NPIs and harsh and rigorous
 10 application of NPIs do work to suppress the virus and
 11 the pandemic, so I think given what was happening in
 12 Spain, and you just looked at the trajectory and the
 13 rapid increase, almost an exponential rise in cases in
 14 Spain and other countries, the UK was showing very,
 15 very, very similar characteristics, so in my mind it was
 16 inevitable that some kind of intervention would be
 17 necessary, it was just a matter of when and what. But
 18 given the nature of these things, the what tends to be
 19 a lockdown or firebreak or whatever.

20 **Q.** What is your view on the purpose of a firebreak lockdown
 21 and the consequences that that might have on the overall
 22 course of the pandemic?

23 **A.** The main purpose is to stop the health services from
 24 being overwhelmed by a massive wave of infections and
 25 seriously ill people.
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1 Q. And in respect of the Welsh firebreak, do you think that
2 the decision to impose it when it was imposed was taken
3 at the right time in Wales?
4 A. Pretty much, yes.
5 Q. What about the length of the firebreak? We know it was
6 a two-week firebreak that spanned three weekends. Was
7 that long enough, in your opinion?
8 A. Erm ... probably. It's -- whether it went on for, you
9 know, a few more days you could argue about, but I think
10 it was an appropriate length, yes.
11 Partly it's about mindsets and introducing a -- or
12 reintroducing a certain mindset in the population to say
13 that if we don't undertake certain protective measures,
14 then this thing is going to get out of control. And so
15 it's -- there is an expectation that government does
16 something, and this is government doing something, which
17 sets the mindset for the population. So it's as much
18 a psychological thing, I think, as a real control of the
19 virus, but certainly a lockdown will control the virus
20 or suppress it.
21 Q. Now, Dr Hoyle, just changing topic, I want to talk to
22 you briefly about discharge from hospitals into
23 care homes.
24 Were you involved in the decision to discharge
25 untested asymptomatic patients into care homes from
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1 enlighten us. Thanks."
2 Why did you feel the need to send that email, what
3 did you think of the Welsh Government's approach to
4 discharging patients from hospital into care homes at
5 that time?
6 A. Well, there's two things going on here: one is
7 discharging patients from hospital to care homes and
8 whether they are tested or not; and then there's the
9 ongoing issue of testing patient and care home occupants
10 on an ongoing basis. And they're not quite the same
11 thing. And I think this relates to testing of people in
12 care homes, not testing prior to discharge from hospital
13 to care homes.
14 So I think we need to be careful about conflating
15 two different things here.
16 Q. No, obviously, there are two issues, but you here are
17 raising with the Chief Scientific Adviser for Health,
18 Dr Rob Orford, a point about something that's been said
19 by the First Minister about there being no value to
20 testing for Covid in care homes, and I just want to
21 know: why did you feel it necessary to send this email,
22 having heard that?
23 A. Okay. This is not my normal way of phrasing such
24 emails. I made it very explicit by stating
25 "Peter Halligan is keen to understand", not me. So it
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1 hospitals --
2 A. No.
3 Q. -- or was TAG involved in that decision?
4 A. I don't know whether TAG was involved, but I think that
5 was probably before my time at TAG.
6 Q. You referred earlier in your evidence to there being
7 a lack of hard challenge in relation to some issues that
8 were raised with TAG and TAC. Are you able to help us
9 there? The answer may be no, given the answer that
10 you've just given, but in respect of this decision to
11 discharge untested asymptomatic patients, was that
12 subject to harder challenge within TAG or TAC?
13 A. I think the decision was made before I joined TAG, so
14 I can't say.
15 Q. If we can please have a look at INQ00034698, this is
16 an email that was sent 30 April. It's an email that
17 I think in fact you sent to Dr Rob Orford and
18 Fliss Bennee concerning, as we can see from the title,
19 the subject, "FM's [First Minister's] comments about no
20 value in testing in care homes", and you write:
21 "Dear Rob, Fliss,
22 "Peter Halligan is keen to understand the rationale,
23 evidence and advice behind the First Minister's comments
24 last night on the telly that there is no value to
25 testing for Cov-19 in care homes. Please can you
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1 was in response to a request from Peter Halligan that
2 I send this request. Normally I would say a little bit
3 less tersely than this, or frankly than this. So the
4 way I read it now, and I do have a vague recollection of
5 it, it was a specific request from Peter Halligan for me
6 to send this request off to Rob and Fliss.
7 Q. Do you share either the concern or perhaps it's just
8 a question as to why the First Minister made the
9 comments that he did? Do you share Professor Halligan's
10 concern?
11 A. Well, I think there's a real issue, again, coming back
12 to the difference between discharging untested people
13 from hospitals to care homes, and that's different from
14 the issue of ongoing testing of care home residents.
15 Now, I think there isn't a huge lot of benefit in
16 ongoing testing of care home residents so long as they
17 are and have been well isolated and protected. There is
18 a lot of benefit in testing people who have been
19 discharged to care homes, so as to prevent influx of
20 asymptomatic people but infected people that would
21 impact other residents of the care homes.
22 Q. Now, in your witness statement you link discharges to
23 care homes with the fact that Covid-19 is an airborne
24 virus. What is the relevance of Covid-19 being
25 an airborne virus on this question of hospital
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1 discharges, and what consideration was given to whether
 2 Covid-19 was in fact an airborne virus at this time?
 3 **A.** At the time there wasn't -- there was a lot of debate
 4 about whether it was actually an airborne virus or
 5 whether it was passed by touching or fomites, I think
 6 the phrase is used, you know, objects. My view at the
 7 time that it was pretty obvious that it was
 8 an airborne -- mainly airborne transmissible virus. The
 9 impact that that would have would be on control of
 10 asymptomatic but infected people within care homes, and
 11 the threat that uncontrolled discharge, the threat that
 12 that would pose to care home -- other care home
 13 residents.
 14 **Q.** Those concerns that you've just expressed to us, did you
 15 raise those concerns at the time, how that might affect
 16 hospital discharges to care homes, either within TAG or
 17 within the CSA office?
 18 **A.** I don't believe I did, no.
 19 **Q.** Do you think you ought to have done at the time?
 20 **A.** Yes. And to follow up on this, we did look at testing
 21 and regime testing across different European countries,
 22 in care homes and other healthcare settings, and we did
 23 prepare a paper on that, which is not part of my
 24 evidence but we did, and I have it with me at the
 25 moment.

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1 that a lot of -- most of the TAG members didn't have the
 2 same life experiences that people who live in the more
 3 deprived parts of Wales or amongst some of the
 4 communities of Wales have and did have, and so couldn't
 5 relate to some of the motivations and behaviours that
 6 were being exhibited by some of these communities.
 7 **Q.** Would it be fair then to characterise this as a form of
 8 groupthink within TAG?
 9 **A.** Groupthink by omission, perhaps, and unconsciously.
 10 Yes, I think there was a degree of soft groupthink based
 11 on the nature of the membership of TAG. If I could
 12 explore that a little bit more, virtually all the
 13 people -- the members of TAG were either public sector,
 14 HE or other -- you know, the health sector people, all
 15 of whom could work from home on a regular basis, and so
 16 they didn't have the same lived experiences as other
 17 parts of the population. So from that respect there was
 18 a degree of unconscious bias.
 19 **Q.** Could that have been remedied perhaps by commissioning
 20 more evidence in the area of behavioural science?
 21 Should there have been more data about behavioural
 22 behaviour to inform TAG's thinking in this area about
 23 non-compliance with NPIs?
 24 **A.** Only limitedly. I think the best to have addressed that
 25 would be to invite other people from other walks of life

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1 **Q.** Dr Hoyle, just again changing topic and I want to
 2 understand a bit more about the issue of behavioural
 3 non-compliance.

4 So as I understand it, during the pandemic in Wales
 5 there were a number of hotspot areas or areas where it
 6 appears that transmission was high and perhaps
 7 compliance was low, and so, for example, there were
 8 concerns about high case rates and lack of isolation,
 9 lack of social distancing in regions like Caerphilly and
 10 Rhondda Cynon Taf in September 2020, leading up to the
 11 firebreak. You recall those instances?

12 **A.** Mm-hm.

13 **Q.** How did TAG approach the problem of differential
 14 transmission and differential compliance with NPIs?

15 **A.** I think with great difficulty. Although there were,
 16 you know, NPI controls in place and expectations on the
 17 population to comply with the expectations, with the NPI
 18 controls, it was obvious that certain areas and certain
 19 groups were not complying. But I'm not sure that TAG
 20 really had a solution to that.

21 **Q.** Did the group of scientists who sat on TAG, do you think
 22 they fully understood or apprehended the nature and the
 23 causes of lower compliance in certain areas or amongst
 24 certain groups?

25 **A.** I think overall, no, and I think the reason for that is

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1 to the TAG activity. Inevitably if you commission
 2 a piece of behavioural science advice, it's done by
 3 academics and academia who are experts in sort of
 4 behavioural science, rather than lived -- experts in
 5 lived experience, and I think there's a subtle
 6 difference there.

7 **Q.** Was non-compliance attributed to behavioural fatigue?

8 **A.** Partially.

9 **Q.** And do you think rightly?

10 **A.** Inevitably, I think, rather than rightly.

11 **Q.** Now, the Inquiry has seen a 5 June 2020 TAC summary of
 12 advice document which includes a SAGE advice in it,
 13 advising on the increased risk from Covid-19 to minority
 14 ethnic groups. Now, I don't propose to display the
 15 summary of advice for the purpose of this question, but
 16 the advice suggests that this should be urgently
 17 investigated, with consideration given to how enhanced
 18 risk of poor outcomes could be managed and reduced.

19 The Inquiry heard yesterday from Professor Ogbonna
 20 about how Black, Asian and Minority Ethnic Covid-19
 21 Advisory Group, how that came to be established, how it
 22 then reported later in June 2020.

23 In your view, were issues about the need to
 24 understand and mitigate the factors that made certain
 25 minority groups more vulnerable to poor outcomes

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1 sufficiently considered before June 2020 when that
2 advisory subgroup reported?

3 **A.** This is a very difficult area. My view, that there
4 was -- people were inhibited from discussing frankly and
5 objectively and dispassionately some of the issues
6 involved. And I think you've just demonstrated that, if
7 you don't mind my saying so, by saying you're not going
8 to display the evidence in this hearing.

9 **Q.** Well, I think, in fairness, that's a limitation of time
10 and because it's a long document --

11 **A.** Okay.

12 **Q.** -- Doctor.

13 But in terms of you saying people felt inhibited,
14 I just want to explore that with you. What do you mean
15 by people felt inhibited?

16 **A.** The whole issue about religion, ethnic minority,
17 disadvantaged people, is, you know, LGBTQ, as it now is,
18 quite emotive, and I think there was a reluctance
19 amongst some to really explore some of the issues
20 involved in any great depth.

21 **Q.** What was the effect of that reluctance, that meant it
22 simply didn't get discussed, didn't get looked at by
23 TAG?

24 **A.** Well, it -- some of the symptoms were looked at by TAG,
25 but I think the attribution of cause was not necessarily

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1 **Q.** Changing topic, to talk about face masks now briefly.
2 We've heard your evidence about Covid-19 being
3 an airborne virus and the concerns that you had about
4 that, and TAG's approach to this issue. Were you
5 present when TAG discussed the question of face masks
6 throughout the spring and summer of 2020, or was that
7 before your time?

8 **A.** Well, from when I joined TAG in April 2020 I would have
9 been present, yes.

10 **Q.** So can we just, please, have on screen INQ000221076.
11 This is a -- I think it's an IntTel report produced
12 on mask wearing based on emerging evidence. It's dated,
13 as we can see from the top, 20 January 2021. Are you
14 able to briefly summarise the key findings of that
15 report, Doctor?

16 **A.** Yes, the key finding of this is that face masks prevent
17 transmission. The best advantage is it prevents
18 transmission or helps prevent transmission from people
19 who are infected, and there was reasonably good evidence
20 so that if you're infected and you wear a face mask,
21 then the chances of you transmitting it to others is
22 reduced because the viral particles are caught in the
23 face mask. There is less good evidence to protect
24 people who are not infected from picking up the virus
25 from airborne virus, although there's -- it's debatable

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1 appropriate. There was a desire to try to attribute
2 cause to populist things, if I can use that phrase.

3 **Q.** If I can ask you to keep your voice up, please, for the
4 stenographer, thank you, Dr Hoyle.

5 In conversations had by TAG, what reasons were
6 ascribed to higher transmission and higher fatality,
7 mortality rates amongst black, Asian and minority ethnic
8 groups?

9 **A.** Well, I think there was a tendency to try to attribute
10 it to some of the inequalities, societal inequalities
11 that exist. At the time there was a lot of people
12 within the health professions who were ethnic minority,
13 and they were being exposed because of their line of
14 work, and there was a sort of view that maybe this is
15 because of -- the increased infection rate amongst these
16 people was due to their ethnicity rather than, you know,
17 a disproportionate -- a large amount of them in a noble
18 pursuit such as the health service.

19 **Q.** You referred earlier to an issue that you had with TAG,
20 you said lack of lived experiences or lack of similar
21 lived experiences. I mean, does this indicate a lack of
22 diversity also on TAG?

23 **A.** A lack of social diversity, yes. Not necessarily ethnic
24 or religious diversity, but a lack of social hierarchy
25 diversity.

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1 whether there is a small advantage.

2 **Q.** Now, we know that Wales mandated the use of face masks
3 on 14 September 2020, which was significantly later than
4 other European countries and later certainly than
5 England, Scotland and Northern Ireland, and it was
6 a significant difference between the four nations of
7 the UK. Do you think that that was the correct approach
8 for Wales?

9 **A.** No, I think we should have mandated it much earlier than
10 we did.

11 **Q.** And when you say "much earlier", when do you think it --

12 **A.** At least as early as the other nations of the UK.

13 **Q.** Is the fact that Wales failed to mandate the wearing of
14 face masks earlier and adopt perhaps one might say
15 a more precautionary approach, is that a further example
16 of perhaps a reluctance or reticence on the part of the
17 Welsh Government to learn from actions of other
18 countries? I referred earlier to a sort of insularity;
19 is that an example of that or not, in your view?

20 **A.** I think at the time, if memory serves me correctly, the
21 evidence wasn't very strong. This report here,
22 of course, postdates that, this is in 2021, so I think
23 another four months or so after we mandated it in Wales.
24 The evidence wasn't very strong, and I think Welsh
25 Government ministers and the Chief Medical Officer

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1 decided on the basis of the weak evidence that it wasn't
 2 appropriate to mandate face masks in public places.
 3 I don't think that was quite the right approach.
 4 I would have gone earlier, as I said earlier.
 5 Okay, I'm going to stop there, unless you've got
 6 more questions.
 7 **Q.** Let's move to another NPI, social distancing.
 8 **A.** Yeah.
 9 **Q.** You explain in your witness statement that there was no
 10 science, you say, to underpin the extent of social
 11 distancing in terms of metreage; is that right?
 12 **A.** Yes.
 13 **Q.** Is that something you raised or is that something that
 14 was discussed within TAG at the time and, if so, what
 15 were those discussions?
 16 **A.** I vaguely remember some discussion about this, but it
 17 wasn't a particularly hot topic that I recall, the whole
 18 issue about whether it was 1 metre, 1.5 metres,
 19 2 metres, 2.5 metres or some other distance. And
 20 I quote those because those were the numbers used by
 21 different countries, the World Health Organisation
 22 advice and so on. So there was no clear advice or
 23 evidence from other countries about what was appropriate
 24 distance other than the obvious statement that further
 25 is better.

1 **MR POOLE:** Dr Hoyle, those are all the questions I've got
 2 for you.
 3 I don't think there are any Rule 10 questions,
 4 my Lady.
 5 **LADY HALLETT:** Thank you very much indeed, Dr Hoyle. I hope
 6 we haven't kept you too long, we're very grateful for
 7 your help.
 8 **THE WITNESS:** You're welcome, thank you.
 9 **(The witness withdrew)**
 10 **LADY HALLETT:** Right, it's 10 o'clock tomorrow. Thank you
 11 very much.

12 **(4.15 pm)**

13 **(The hearing adjourned until 10 am**
 14 **on Friday, 1 March 2024)**

1 **Q.** Obviously there were a number of factors that are in
 2 play when making these determinations about distance,
 3 one of those being an economic consideration, and we
 4 know in the UK the UK Government in England reduced
 5 social distancing of 2 metres to 1 metre and the Welsh
 6 Government didn't follow suit and they stuck at
 7 2 metres. Was that something that TAG was -- or can you
 8 tell us, is that something that you were involved in
 9 in TAG or that TAG advised on?
 10 **A.** We did report on, in our situation reports, IntTel TAG
 11 reports, different countries and their social
 12 distancing, but again I would say that further is
 13 better, so it would be better to remain 2 metres rather
 14 than 1 metre.
 15 **Q.** The Inquiry understands that you were asked to advise on
 16 school closures and looked at comparisons overseas about
 17 the first wave. Can I ask you: did other countries in
 18 Europe follow Wales' approach to close schools during
 19 October 2020 and then again during December 2020?
 20 **A.** Some countries did, some countries didn't.
 21 **Q.** Was any country to your knowledge, especially any
 22 European country, closing schools but at the same time
 23 keeping sort of hospitality open or vice versa?
 24 **A.** I -- without doing a detailed trawl through my notes,
 25 I don't know, I can't remember.

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