

Monday, 4 March 2024

1  
2 (10.00 am)  
3 MR POOLE: If I can call Sir Frank Atherton, please.  
4 SIR FRANK ATHERTON (sworn)  
5 Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2B  
6 LADY HALLETT: Thank you for coming back to help again,  
7 Sir Frank.  
8 THE WITNESS: Pleasure.  
9 MR POOLE: Could you please start by giving us your full  
10 name.  
11 A. Yeah, I'm Dr Frank Atherton, Sir Frank Atherton, the  
12 Chief Medical Officer for Wales.  
13 Q. Sir Frank, thank you for attending today and assisting  
14 the Inquiry. If I could ask you whilst you're giving  
15 your evidence to keep your voice up so we can hear you,  
16 but also so it can be recorded.  
17 Sir Frank, you have provided a witness statement for  
18 Module 1 of this Inquiry. You gave evidence also at  
19 Module 1 and you've provided a witness statement for  
20 this module, which is dated 18 December 2023, and we see  
21 it on screen under INQ000391115.  
22 We don't need to go to it, but at page 70 of that  
23 witness statement you have signed it, and are the  
24 contents of that statement true to the best of your  
25 knowledge and belief?

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1 I think it's right to say you have a long and  
2 distinguished career in the field of public health and  
3 medicine.  
4 A. Thank you.  
5 Q. Just some questions, if I may, to start with the role of  
6 the Chief Medical Officer for Wales.  
7 I'm right, aren't I, that although the CMO is  
8 a member of Welsh Government staff, and as such bound by  
9 the Civil Service Code, in practice you are afforded  
10 a high degree of independence when you come to advise  
11 the Welsh Government and a high degree of separation  
12 from their day-to-day concerns; is that right?  
13 A. That's right, yeah. By custom and practice I do have  
14 a degree of independence which some other civil servants  
15 perhaps don't enjoy.  
16 Q. If we can, please, have on screen INQ000668086.  
17 Sir Frank I think this is page 72 in your bundle if  
18 you would rather hard copy.  
19 This is an organisational chart of the Welsh  
20 Government as at November 2019, so just going into the  
21 pandemic. We can see the four director generals, and  
22 underneath Andrew Goodall, who at the time was director  
23 general of Health and Social Services Group, we can see  
24 the CMO post there.  
25 At the start of the pandemic, you therefore reported

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1 A. They are.  
2 Q. Sir Frank, I'm going to be referring you to some  
3 documents during the course of your evidence. I will  
4 give the references so that they can be brought up on  
5 the screen, but I understand you've also got hard  
6 copies, so what I will try to do is provide you with  
7 references to your hard copy bundle as well. But if at  
8 any stage you don't know which document I'm referring  
9 to, just tell me and we will sort it out.  
10 A. Thank you.  
11 Q. Now, Sir Frank, as you said, you are currently the Chief  
12 Medical Officer for Wales and you have been in post  
13 since 2016; is that right?  
14 A. That's right, yes.  
15 Q. As regards your professional background, you studied  
16 medicine at Leeds University, followed which you worked  
17 in a broad range of medical areas, in particular  
18 paediatrics. You then completed your training in  
19 general practice. You worked as director of public  
20 health in Lancashire and Cumbria between 1 August 2002  
21 and 1 May 2012. And you served as president of the  
22 Association of Directors of Public Health between  
23 1 August 2008 and 1 May 2012. I understand you were  
24 also Deputy Chief Medical Officer for Health in  
25 Nova Scotia between 1 May 2012 to 1 August 2016, so

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1 to Dr Andrew Goodall as director general of the HSSG; is  
2 that right?  
3 A. That's correct, yeah.  
4 Q. And I think those reporting lines changed in  
5 November 2021 when Dr Goodall was appointed as permanent  
6 secretary and the director general post was filled by  
7 Judith Paget?  
8 A. Correct, yeah.  
9 Q. Now, as regards your role during the pandemic, would it  
10 be right to say that your main function was to provide  
11 advice to Welsh ministers and Welsh Government policy  
12 officials about the public health implications of  
13 Covid-19 and the measures implemented to deal with it?  
14 A. Yeah, that would be a fair -- fair comment, I think,  
15 yeah.  
16 Q. And of course you had access to a range of advisory  
17 systems which we'll come to look at in a moment, but  
18 would I be right in saying the ultimate responsibility  
19 for that provision of public health advice sat with you  
20 as CMO?  
21 A. Yes, I provided that alongside the chief science adviser  
22 for health and others, but -- and of course ministers  
23 were taking advice from various sources but, from  
24 a public health point of view, I would be the principal  
25 adviser.

4

1 Q. The CMO is supported by a Deputy CMO, and since 2010  
2 that post has been held by Dr Chris Jones; is that  
3 right?

4 A. That's correct, yeah.

5 Q. As you've just referred to as well, the Chief Scientific  
6 Adviser for Health, we're going to hear evidence from  
7 him later, that's Dr Robert Orford, and he held that  
8 post throughout the pandemic; correct?

9 A. Yes.

10 Q. Prior to the pandemic, the CMO business unit, so your  
11 unit, consisted of, I understand, a senior executive  
12 officer and a higher executive officer, both providing  
13 you with administrative support; is that right?

14 A. Mm-hm.

15 Q. You describe in your statement that the pandemic put, in  
16 your words, an unprecedented level of pressure on the  
17 CMO private office and the wider Health Protection Team,  
18 and such were the demands of you in February 2020 that  
19 you raised this with Dr Goodall; is that right?

20 A. I did. Yes, I did raise that, yes.

21 Q. We understand that additional administrative support was  
22 not provided until May 2020, when you were provided with  
23 some temporary support; is that right?

24 A. There was a gradual evolution of support during the  
25 pandemic. I did feel at the beginning of the pandemic,

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1 concerns about lack of support and resource in the  
2 CMO unit, we can look, please, at the penultimate  
3 paragraph on page 2 of this letter.

4 You say:

5 "You are aware that our public health team is  
6 heavily reliant on a small number of key ... [Document  
7 read] ... challenges we now face ..."

8 You say in your statement, Sir Frank, that  
9 Dr Goodall agreed with the overall concerns raised in  
10 this letter and that Public Health Wales re-deployed  
11 some staff to support the response in the coming months.

12 As regards your own office, you say you had more  
13 support from May 2020 through to February 2022, but it  
14 would have been helpful to have that resource sooner in  
15 that initial period January to April 2020; is that  
16 right?

17 A. That is correct, yeah.

18 Q. And in terms of the impact, I think, as you've just  
19 described, it was more administrative support, so would  
20 I be right in saying, as you've alluded to, dealing with  
21 the number of emails, if you went to a meeting having  
22 someone attend that meeting with you in order to take  
23 notes, that type of support that was lacking in that  
24 early period?

25 A. It was. And the context to this is that, you know,

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1 certainly in the earlier months, January, say, through  
2 March/April, there was a lack of support around me to be  
3 able to enable me to manage the amount of information  
4 that I was receiving that was coming in through various  
5 routes. To put it in context, I felt I kind of lost  
6 control of emails towards the end of January. So it was  
7 the administrative support that was lacking. Yeah.

8 **LADY HALLETT:** Could you keep your voice up a little more,  
9 Sir Frank.

10 A. I shall try, my Lady, thank you, yes.

11 **LADY HALLETT:** You're very softly spoken.

12 A. I shall try.

13 **MR POOLE:** I think I'm right in saying that you continued to  
14 express some concerns about that lack of, as you say,  
15 administrative support, because in August you wrote  
16 a letter to Dr Goodall.

17 We can see that letter, it's INQ000066192, and it's  
18 the second paragraph of that letter.

19 You say:

20 "[I'm] ... writing to flag significant concerns  
21 about our ability to manage the next phase of the  
22 pandemic in Wales."

23 Now, I'm going to come back to other concerns you  
24 express in that letter a little while later in your  
25 evidence, but for present purposes, and focusing on the

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1 early in the pandemic, when things were starting to  
2 emerge in about February, February or late January/early  
3 February, I presented to the Executive Committee of  
4 Welsh Government that there was an issue arising, and at  
5 that point I was hopeful that there might have been more  
6 support, administrative support, diverted from other  
7 parts of Welsh Government.

8 Now, to be fair, there were other issues around in  
9 Wales at the time. There was significant floodings.  
10 But at the time it was not seen as possible to kind of  
11 move resources into the health sector and specifically  
12 into my office to be able to support the administrative  
13 needs.

14 I think I do say in the statement as well that  
15 the -- from a professional point of view, we were able  
16 to bring in other professional advisers, which was  
17 extremely helpful.

18 Q. On this issue of lack of administrative support, does  
19 this perhaps explain the lack, then, of formal minutes  
20 and notes of a number of meetings that you attended in  
21 this initial period? So, for example, we know you had  
22 regular meetings with other UK CMOs, including  
23 Professor Whitty, sometimes up to three times a week,  
24 but there are no minutes or notes of those meetings. Is  
25 that a result of this lack of administrative support in

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1 this period?

2 **A.** It is, and I remember discussing this with other -- my  
3 colleagues, the other CPOs, you know, who did have that  
4 kind of support alongside them, people to take minutes,  
5 to take records, to really help them manage the volume  
6 of traffic, and I did feel a bit of an outlier in terms  
7 of how I sat alongside my colleagues.

8 **Q.** Sir Frank, I want to ask you next some questions about  
9 sources of information upon which you drew during the  
10 pandemic and start if I may with UK-wide sources.

11 So, as I mentioned a moment ago, CMO discussions, it  
12 is right to say you had regular meetings with the other  
13 CMOs in the UK, and the Inquiry has heard evidence  
14 already about the structures that existed at  
15 UK Government level and the key individuals involved,  
16 not least your counterpart in England Professor Whitty.

17 Now, Professor Whitty's background is in public  
18 health and infectious disease. You have already  
19 helpfully told us that you came from a general practice  
20 background before taking up various public health roles.  
21 You also make a point in your witness statement of  
22 saying that your background is not in virology or  
23 epidemiology. Would it be fair to say that, given the  
24 particular requirements and the difficulties faced in  
25 the pandemic, that your background and experience meant

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1 **A.** It was never -- it never came to me as a problem at all,  
2 it never -- no, no.

3 **Q.** Now, prior to the pandemic, the UK CMOs tended to meet  
4 quarterly with the chairman of that meeting being  
5 rotated, and I understand during the pandemic those  
6 meetings became much more frequent and you describe in  
7 your statement that during the initial phase of the  
8 pandemic the UK CMOs would sometimes meet daily before  
9 you settled into a rhythm of weekly Friday morning  
10 meetings from around August 2020; is that right?

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

12 **Q.** Now, those meetings, as I understand it, would be  
13 chaired by Professor Whitty. His office would act in  
14 effect as secretariat. As I understand it, any minutes  
15 or notes taken were not shared with other CMOs, so we  
16 don't have a joint agreed record of those meetings. Is  
17 that right?

18 **A.** We do not.

19 **Q.** Assuming that you would have relayed those CMO  
20 discussions back to Welsh ministers and officials,  
21 didn't the absence of an agreed record of those meetings  
22 make that more difficult?

23 **A.** I don't think it was a direct relay of the content of  
24 those discussions to ministers. What those meetings  
25 were about, they were fairly informal, and we were

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1 that you perhaps required, more than Professor Whitty,  
2 to translate the advice of others more expert in the  
3 matters at hand? Would that be fair?

4 **A.** Well, I would certainly not have the level of  
5 understanding of infectious disease epidemiology that  
6 Professor Sir Chris Whitty would have, but I suppose  
7 I would argue that I was the only CMO who had formal  
8 public health training who had been involved, perhaps,  
9 in managing some of the previous incidents, epidemics,  
10 outbreaks, et cetera.

11 So I think when you look at the skills of chief  
12 medical officers, they can come from a range of  
13 backgrounds, of course. But what's really important is  
14 that you know the limits of your knowledge and can draw  
15 on knowledge that you don't personally have.

16 **Q.** The Inquiry heard evidence in Module 1 from Mr Gething  
17 that, as far as Wales was concerned, he said the  
18 relationship with the other CMOs was complicated by the  
19 fact that the CMO in England is not just a UK CMO but he  
20 or she advises the UK Government. So particularly in  
21 relation to areas that have UK-wide ramifications.

22 Did you encounter any problems in that regard,  
23 namely by the virtue that Professor Whitty was  
24 effectively wearing two hats, English CMO and  
25 UK Government adviser?

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1 sharing information, it was about sharing intelligence  
2 information across the four nations. It wasn't -- if  
3 there were issues which arose which needed to be fed  
4 into ministers or into decision-making processes, then  
5 we would take those. But I would agree with your point  
6 that it would have been useful to have a record of them.

7 **Q.** So as a sort of lessons learned going forward, perhaps  
8 formal agreed minutes or records of those meetings would  
9 be useful?

10 **A.** Some note would be useful.

11 **Q.** Now, we'll look at specific meetings that you attended  
12 in due course but is it right that the first meeting of  
13 the UK CMOs in relation to Covid that took place on  
14 24 January 2020?

15 **A.** That's my recollection.

16 **Q.** And having first heard about a novel coronavirus,  
17 I think in your statement you say, some time between  
18 Christmas and New Year 2019. Did you have any liaison  
19 with your CMO counterparts in the period between then  
20 and 24 January 2020?

21 **A.** Well, really I can't remember, but I feel we must have  
22 done. I do remember, you know, Professor Sir  
23 Jonathan Van-Tam was leading on health protection issues  
24 in Chris Whitty's office, and I -- looking back, I feel  
25 sure he would have spoken to us or somehow communicated

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1 with us about the issue in China. So I'm sure there was  
 2 some soft sharing of information before that time, but  
 3 the first formal meeting, as you say, seems to be  
 4 towards the end of January.

5 **Q.** Now, SAGE is another important body about which much was  
 6 heard in Module 2. We understand that SAGE was first  
 7 convened on 22 January 2020. You were not invited to  
 8 attend SAGE until 11 February 2020. Do you think that  
 9 you should have been invited to attend SAGE earlier than  
 10 11 February?

11 **A.** I think it would have been helpful for Welsh Government  
 12 to be represented. Whether it was me personally or not  
 13 is a separate matter, but I do think it would have been  
 14 useful to have Welsh representation.

15 **Q.** Were requests made prior to 11 February for there to be  
 16 a Welsh representative at a SAGE meeting, do you know?

17 **A.** Do you mean requests from Wales to --

18 **Q.** Absolutely.

19 **A.** -- SAGE? I'm not aware of that, no.

20 **Q.** What steps did you take -- prior to 11 February,  
 21 recognising that it would have been helpful for there to  
 22 have been a Welsh representative at these earlier SAGE  
 23 meetings, what steps did you take to ensure that there  
 24 was such a Welsh representative?

25 **A.** Well, as soon as SAGE started to meet formally and we

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1 some of the work that the former Public Health England  
 2 had done, so, you know, initially I would agree with  
 3 that. But I felt that as time went on during the  
 4 pandemic the team, who I think were excellent, in JBC,  
 5 technically excellent people, did go the distance to try  
 6 to incorporate data from the other -- the other nations.  
 7 So I feel it may have been an initial issue which was  
 8 certainly resolved towards the latter stages of the  
 9 pandemic.

10 **Q.** Moving away now from UK-wide sources of information and  
 11 consider Welsh-specific sources. Start with Public  
 12 Health Wales. You say in your statement you had  
 13 a series of ad hoc meetings with Public Health Wales  
 14 colleagues in February 2020. I assume, therefore, you  
 15 didn't have any of those kind of meetings in  
 16 January 2020; is that right?

17 **A.** I really can't remember.

18 **Q.** Was there any record kept of those ad hoc meetings that  
 19 started in February 2020 and continued into March?

20 **A.** No.

21 **Q.** Do you think a record should have been kept or would it  
 22 have been useful to keep a record of those meetings?

23 **A.** It was always my practice to meet fairly frequently with  
 24 the senior -- senior leaders in Public Health Wales.  
 25 We're a small nation, we have very -- I would say very

15

1 started to get invitations, we made sure that we were  
 2 represented through Professor Orford, of course, yeah.

3 It may well be, and I think in Module 1

4 Professor Vallance gave evidence on this, it may well be  
 5 that an invitation may have come through the chief  
 6 science officer, Welsh Government office. I don't know  
 7 if that happened or not, but if it did, it didn't reach  
 8 me.

9 **Q.** Perhaps we can explore that with Dr Orford, who we will  
 10 be hearing from next.

11 The Joint Biosecurity Centre was established by the  
 12 UK Government in June 2020, as I understand it, to  
 13 provide evidence-based analysis and advice to inform  
 14 local government and national decision-making in  
 15 response to Covid.

16 You were a member of the JBC technical advisory  
 17 board; is that right?

18 **A.** That's correct, yes.

19 **Q.** Jo Trott, who's head of Covid-19 project team in the  
 20 Welsh Government, says in her evidence to the Inquiry  
 21 that data and intelligence received through the JBC was  
 22 England-centric. Is that something you're able to  
 23 comment on? Do you agree with those comments?

24 **A.** I feel it may well have been in the early stages. JBC  
 25 was set up as a completely new organisation, it built on

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1 close working relationships, so I'm not sure that having  
 2 a record of the informal catch-up information-sharing  
 3 type meetings would be necessarily -- no, I'm not sure  
 4 that would -- would be necessary. I think every time  
 5 I meet Public Health Wales senior management, to have  
 6 a record of that would be probably overly burdensome.

7 **Q.** Presumably these meetings in February and moving into  
 8 March with Public Health Wales, they were discussing the  
 9 evolving picture of the pandemic?

10 **A.** Yes, it was really situational awareness, thinking about  
 11 what was coming our way, thinking about how we might  
 12 need to respond to it, yes.

13 **Q.** And, as you say, they were sort of information-sharing  
 14 meetings. Would it not, in those circumstances, these  
 15 fairly extraordinary circumstances, have been beneficial  
 16 to have kept a record of those meetings?

17 **A.** With the benefit of hindsight it may well have been  
 18 useful.

19 **Q.** Did it become apparent when the pandemic struck that  
 20 because the SAGE arrangement was a UK arrangement there  
 21 was a need within the Welsh Government for  
 22 a Welsh-specific scientific advice to be given to Welsh  
 23 ministers?

24 **A.** That was essentially the conclusion we reached and that  
 25 was -- led to the set-up of the Technical Advisory Cell

16

1 and Technical Advisory Group that Professor Orford  
 2 and --  
 3 **Q.** As I understand it, TAC was set up in late February and  
 4 sort of TAG followed on soon thereafter.  
 5 I just want to take you to an annual report, it's  
 6 a 2018/2019 report entitled "Valuing our health".  
 7 I'm grateful. We can see that it's INQ000066189.  
 8 And it's page 3, please, in the penultimate paragraph of  
 9 that page we can zoom in there.  
 10 You say, and it's about five lines down on the  
 11 right-hand side:  
 12 "We live in inter-connected world and recent events,  
 13 such as the rise ... [Document read] ... need to  
 14 strengthen this aspect of our public health system."  
 15 Was consideration ever given to establishing  
 16 a structure such as TAG or TAC prior to the pandemic?  
 17 **A.** The TAG or TAC, no. The arrangements that we looked to  
 18 strengthen included putting additional investment into  
 19 Public Health Wales to boost their capacity. So that  
 20 was the main outcome, I think, of this annual report,  
 21 which looking back was quite prescient really.  
 22 As regards TAG and TAC, I've always seen those as  
 23 more akin to part of the emergency response, a technical  
 24 group which you step up when you're managing an incident  
 25 such as Covid.

17

1 to March 2020.  
 2 Now, as we've already touched on, you say in your  
 3 statement that you first heard about the novel  
 4 coronavirus some time between Christmas and New Year  
 5 2019, you had some high level discussions with the UK  
 6 CMOs about what was happening in China and I think at  
 7 that stage, you say in your witness statement, you saw  
 8 the virus as very much contained in China, at that  
 9 period; is that right?  
 10 **A.** Yes, early days, yeah.  
 11 **Q.** And early January you say that there were three  
 12 potential outcomes, so: first, the virus could just  
 13 fizzle out; second, it could lead to limited regional  
 14 spread in other Asian countries; or, thirdly, it could  
 15 become a more widespread global issue. And your view at  
 16 that stage, and one you say was shared with the other  
 17 CMOs, was, based on experience of SARS, the virus most  
 18 likely would fizzle out or be limited to Asia; is that  
 19 right?  
 20 **A.** It is. One caveat would be that that construct was  
 21 really developed by Professor Sir Chris Whitty and  
 22 shared with us and we all agreed that.  
 23 **Q.** On 24 January Dr Orford sent you an email.  
 24 If we could, please, have it on screen. It's  
 25 INQ000252498. I'm grateful.

19

1 Whether you need a standing arrangement for TAG or  
 2 TAC I think is a different point.  
 3 **Q.** In your view would it be beneficial to have a standing  
 4 basis for TAG and TAC?  
 5 **A.** I think I'm fairly neutral on that point at the moment.  
 6 I think having an arrangement which you can step up when  
 7 it's needed is probably a better use of resources.  
 8 **Q.** Now, the Inquiry understands that TAG and TAC provided  
 9 advice to you as CMO and that you would then advise  
 10 Welsh ministers. Just help us, then, was your advice  
 11 independent of TAG and TAC or were you a conduit of TAG  
 12 and TAC advice?  
 13 **A.** I think it evolved over time. I think in the initial  
 14 phases, when TAG and TAC were set up, it tended to route  
 15 to me and I would tend to pass that through to  
 16 ministers. Later in the pandemic, not much later,  
 17 probably by August or September in the first year, 2020,  
 18 it became much more the process that TAG and TAC advice  
 19 would go directly to ministers and I would, of course  
 20 taking account of that advice, provide my separate  
 21 account. But my advice tended, certainly to the Cabinet  
 22 in the formal meetings, to be much more concise than the  
 23 detail which TAG and TAC was providing to ministers.  
 24 **Q.** Sir Frank, I want to ask you some questions next about  
 25 your initial understanding in this early period January

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1 This email attached the minutes of the precautionary  
 2 SAGE meeting that was held two days previously on  
 3 22 January.  
 4 Now, we know there were no Welsh representatives at  
 5 that meeting but the minutes were then shared with  
 6 Dr Orford two days later. We see from the bottom  
 7 email -- please, it's the third paragraph:  
 8 "... it was decided that the [DAs] devolved  
 9 administrations would go through their respective ...  
 10 CMOs ..."  
 11 Prior to receiving that email from Dr Orford, were  
 12 you aware of the decision that effectively  
 13 intergovernmental liaison would be via the CMOs?  
 14 **A.** I -- I wasn't really. I mean, I don't recognise the  
 15 statement, "devolved CMOs ... will be liaising directly  
 16 with the UK CMO", going through ... I don't really  
 17 recognise what that's saying, as I look at it now.  
 18 Yeah.  
 19 Sorry, can you repeat the question.  
 20 **Q.** So this is an email Dr Orford has passed on to you on  
 21 24 January, and this is the email reporting back from  
 22 the precautionary SAGE on 22 January, and in that email  
 23 it is saying:  
 24 "Today a COBR [has taken place] and it was decided  
 25 that the devolved administrations would go through their

20

1        respective devolved CMOs as they will be liaising  
2        directly with the UK CMO, Chris Whitty."  
3        My question was, simply, prior to being sent this  
4        email by Dr Orford, did you know that what was being  
5        envisaged was effectively liaison happening  
6        intergovernmentally via the CMOs of the four nations?  
7        **A.** My simple answer would be no.  
8        **Q.** No.  
9        If we can have a look, please, at those minutes from  
10       that precautionary SAGE meeting.  
11       So it's INQ000383581.  
12       **A.** Is there a --  
13       **Q.** It's tab 7, I hope, in that hard copy in front of you.  
14       **A.** Thank you. Yeah.  
15       **Q.** I'm going to look at page 2 of those minutes, and it's  
16       paragraph 23.  
17       **A.** Yeah.  
18       **Q.** Under the heading "UK head readiness and planning", the  
19       actions that were being taken at this time were testing,  
20       and the minutes read:  
21       "The UK currently has ... [Document read] ... tract  
22       sampling."  
23       Then the next paragraph, paragraph 24:  
24       "DHSC is developing advice for UK healthcare workers  
25       on testing potentially infected individuals."

21

1       not reliant on the Colindale testing.  
2       **Q.** The Inquiry heard evidence at the end of last week from  
3       Dr Chris Williams. He said, talking about this stage,  
4       so late January 2020, most of the big decisions were  
5       being led by Public Health England and that the  
6       overarching plan was a UK one. Do you agree with that?  
7       **A.** Do you mean the overarching plan for testing or for  
8       managing the coronavirus pandemic?  
9       **Q.** Managing -- so the bullet points from this, these SAGE  
10       minutes, it was, you're right, testing, but also  
11       isolation, so general management in this early stage of  
12       the coronavirus was a UK plan, is what Dr Williams said,  
13       and I just want to know whether you would agree with  
14       that?  
15       **A.** Yeah, I would agree with that in broad terms, yes.  
16       **Q.** The same day, so this is 24 January 2020, Chris Whitty  
17       convened a UK CMOs call and it was at that point,  
18       24 January, you say in your statement that Covid-19 was  
19       discussed as a real potential threat to the UK.  
20       Now, do you think at this stage, late January, that  
21       the potential threat posed by Covid-19 was recognised  
22       sufficiently quickly within Wales and the Welsh  
23       Government?  
24       **A.** I think by this stage it was increasingly apparent that  
25       that optimistic scenario of it fizzling out in China was

23

1       Then skip a paragraph, paragraph 26:  
2       "DHSC and PHE [Public Health England] were also  
3       preparing plans for isolating potentially infected  
4       individuals and the follow up of contacts."  
5       Now, the actions referred there are all at UK level  
6       and also refer specifically to Public Health England.  
7       What, if any, equivalent actions were being taken in  
8       Wales at this time? So this is 22 January 2020.  
9       **A.** So the initial -- this is about the development of  
10       testing and testing capacity and testing capability, and  
11       initially that really was a UK-based process, as is  
12       recorded there, quite rightly. The colleagues in Public  
13       Health England at Porton Down were developing tests. So  
14       that was certainly the case in January.  
15       Into February, and as testing started to come  
16       onstream, because it was, initially it's true, available  
17       at UK-level only, in early -- in February and into  
18       March, we in Wales did look to develop our own testing  
19       processes. I had some reservations about that, because  
20       I wanted assurance from Public Health Wales that the  
21       testing that we were developing in Wales was robust,  
22       that it was as robust as the testing that was currently  
23       being done at Colindale. Sorry, I said Porton Down,  
24       I meant Colindale, in England. So the action in Wales  
25       was to develop our own testing processes so that we were

22

1       not going to happen. So from a technical point of view  
2       it looked more likely that there was going to be spread  
3       beyond the boundaries of China and that was already  
4       starting to happen.  
5       I think as I said earlier, my -- I -- my response to  
6       that was to discuss this with, obviously with my  
7       director general, Andrew Goodall, and he then suggested  
8       we take the issue to the Executive Committee of Welsh  
9       Government. So we did have a discussion with the  
10       Executive Committee of the Welsh Government about  
11       coronavirus. It was determined that it would be -- as  
12       I recall at that meeting, it was determined that we  
13       would continue to manage this as a health issue and keep  
14       an eye on what was happening. Of course by that time  
15       there were no cases yet. Certainly in Wales. I don't  
16       think there were any cases in the UK either.  
17       **Q.** Now, the First Minister, Mr Drakeford, has said in his  
18       evidence to the Inquiry that on this day, so on  
19       24 January, you advised him that there was a significant  
20       risk the virus would arrive in Wales. Do you recall  
21       giving that advice to the First Minister?  
22       **A.** I don't recall it, but I'm sure that's correct.  
23       **Q.** Now, despite that advice about a significant risk of the  
24       virus arriving in Wales, Covid-19 is not discussed by  
25       the Welsh Cabinet until 25 February. Does that surprise

24

1 you?

2 **A.** I don't set the agendas for the Cabinet. I think the --

3 from what you're saying it's obviously the case that

4 there were informal discussions between me -- I was

5 keeping Andrew Goodall involve -- informed, the health

6 minister informed and the First Minister informed

7 informally. So it doesn't particularly surprise me,

8 given everything else that was happening in Wales,

9 including the management of the flooding. But of course

10 I wasn't a member of Cabinet, I didn't go to Cabinet.

11 **Q.** Given the significant risk, as you saw it and advised

12 the First Minister about it, that the virus would arrive

13 in Wales, what infection control measures were put in

14 place at this stage, so we're still end of January 2020

15 to minimise the public health risk in Wales?

16 **A.** I can't point to specific protections that were put in

17 place, but really this was a time when, in Wales, and

18 I'm sure in the other nations as well, we were starting

19 to think about what the possible consequences might be.

20 We were thinking about how we might manage individual

21 outbreaks, how we might scale up any response that we

22 needed to have. So it was at the start of that -- we

23 were at the start of that journey of thinking of how we

24 actually scale up responses.

25 Of course saying that it's going to arrive in Wales

25

1 but it was into late February really, we were starting

2 to see issues of capacity there, and at that point

3 I think it's fair to say we all got very worried about

4 the NHS capacity. Yes.

5 **Q.** Dr Sandifer, who as you know between January and

6 November 2020 he was the lead strategic director in

7 Public Health Wales for Covid-19, he's told the Inquiry

8 that, with the exception of yourself, the CMO and your

9 staff, he did not see the same awareness of and urgency

10 about Covid across the rest of the Welsh Government, and

11 he says what he thinks was missing in those first

12 few weeks between 8 January and 20 February was, in his

13 words, national strategic leadership and co-ordination

14 from the Welsh Government, do you share those views?

15 **A.** I think, looking back, I do share the view that the

16 issue was managed too long as a health issue rather than

17 as a cross-government issue, and that -- that I think,

18 looking back, was a mistake.

19 I think as I've already said, in fairness, there

20 were other major issues going on in Wales. There were

21 significant floodings, there was the consequences of

22 Brexit, et cetera. So there were other issues, but it

23 was, I believe, managed too long as a purely health

24 issue.

25 Now, interestingly, I think that was the case also

27

1 doesn't mean that it's going to be a pandemic. We

2 didn't know by that point that it was going to be

3 a pandemic. We had to prepare for something. I think

4 the language we often used at that time was we needed to

5 hope for the best but prepare for the worst.

6 **Q.** Now, at this stage and wearing your lead director of

7 HEPU, which the Inquiry heard quite a lot about in

8 module 2, so that's the HSSG Health Emergency

9 Preparedness Unit, so wearing your HEPU hat, did you

10 have any concerns regarding the capacity of the NHS to

11 respond to a high-consequence infectious disease?

12 **A.** I'm not lead of the Health Emergency Preparedness Unit.

13 I think that's -- you're referring to a colleague of

14 mine that -- this sits within the ... the -- I'm not the

15 technical lead of the HEPU.

16 **Q.** So --

17 **A.** Sorry, there is an officer within the Office of the

18 Chief Medical Officer who does report to me on that.

19 **Q.** So in your position as CMO, did you have any concerns

20 regarding the capacity of the NHS to respond to a high

21 infectious disease at this stage, late January 2020?

22 **A.** I suppose I had two -- two concerns. I think late

23 January was before we were seeing the issues arising in

24 Italy, where -- when Covid first broke out of China, of

25 course, it appeared in Italy, and later in the pandemic,

26

1 in other nations, I think that was probably the case at

2 UK level as well to a degree.

3 **Q.** Now, I think the First Minister in his written evidence

4 has -- would tend to agree with what you've just said.

5 He has rather candidly said in January to February 2020,

6 Covid-19 was not a priority, and he talks about the

7 flooding that you've also spoken about.

8 Going back to your comment that it was managed too

9 long as a purely health issue, when do you think it

10 should have been recognised that this was

11 a cross-government issue that needed to be handled

12 differently?

13 **A.** I think once we started to see cases appearing -- once

14 we started to see pictures in Italy of hospitals really

15 running into stress and -- you know, so probably towards

16 the middle, you know, middle of February probably, if

17 you were to ask me to pin down a time.

18 **Q.** On 5 February you received an email from [redacted] that

19 followed on from a UK CMO's call.

20 If we can, please, have INQ000383585.

21 Sir Frank, if you want it in hard copy it's tab 10

22 of your bundle.

23 **A.** Thank you.

24 **Q.** This email provides a write-up of a call that Chris,

25 presumably Chris Whitty, had with the directors of

28

1 public health, and I'm just looking at the first bullet  
 2 point, it says:  
 3 "CMO outlined current epidemiology of outbreak ...  
 4 [Document read] ... reasonable worst case scenario  
 5 planning."  
 6 Do you think that the use of pandemic flu for  
 7 reasonable worst-case scenario planning was reasonable  
 8 at this stage, so again this is early February,  
 9 5 February 2020?  
 10 **A.** Yes, I do.  
 11 **Q.** The email goes on to state that the CMO agrees that  
 12 planning for mitigation now is wise. Am I right that  
 13 mitigation in this context refers to a set of actions  
 14 and measures aimed at reducing the spread of the virus  
 15 and minimising its impact obviously on public health?  
 16 **A.** Yes.  
 17 **Q.** Was mitigation planning being undertaken by the Welsh  
 18 Government at this stage, early February 2020?  
 19 **A.** So in the same way that Chris Whitty was having  
 20 discussions with the directors of public health in  
 21 England, we were alerting the system in Wales. I don't  
 22 have a record of them, but I used to meet with the --  
 23 and I still do meet with the directors of public health  
 24 on a regular basis. So we had been having discussions  
 25 there.

29

1 **A.** I'm not sure I would agree that containment had failed.  
 2 The plan, of course, that was developed, you know, had  
 3 containment as the initial step and then mitigation  
 4 later, but, you know, we hadn't had a lot of cases in  
 5 the UK at this point, and early in a pandemic, early in  
 6 any infection, when you have sporadic cases, you have  
 7 an aspiration and a hope that you can contain them by  
 8 contact tracing around the patients, and that was the  
 9 initial approach we took in Wales. As you get more and  
 10 more cases, then that becomes untenable and then you  
 11 move to the delay phase and what became the coronavirus  
 12 control plan.  
 13 **Q.** Just a couple of bullet points up, I think it's the  
 14 fifth bullet point, it says:  
 15 "From cruise ship -- 30-50% asymptomatic mild."  
 16 This is a reference to the Diamond Princess. Do you  
 17 consider that there was sufficient evidence as of  
 18 20 February to consider asymptomatic transmission was at  
 19 least likely?  
 20 **A.** I think our understanding of asymptomatic  
 21 transmission -- are you talking about asymptomatic  
 22 infection or asymptomatic transmission?  
 23 **Q.** Transmission.  
 24 **A.** Our understanding grew gradually throughout the  
 25 pandemic. At the early stages of the pandemic,

31

1 There was a parallel strand, of course, around  
 2 keeping chief executives of the health boards aware of  
 3 the situation. That was led by Andrew Goodall and he  
 4 would invite me to meet with the chief executives, often  
 5 by telephone, as well. I'm sure there's records of  
 6 those discussions.

7 So mitigation planning for the -- what might be  
 8 coming would have been -- was starting about the same  
 9 time in Wales, yes.

10 **Q.** If I could ask you, please, to have a look at another  
 11 email, it's an email of 20 February 2020.

12 It's INQ000383626.

13 It's an email from Dr Orford providing you with  
 14 an update on SAGE. It's tab 109, I hope, in your hard  
 15 copy bundle, but we can probably enlarge it on the  
 16 screen for you.

17 It's the sixth bullet point that I am interested in.  
 18 So this is Dr Orford updating you from SAGE, he says:

19 "Likely that UK testing has missed 40% of positives,  
 20 due to delay in testing versus detectability of virus."

21 Then the next bullet point, please:

22 "75-80% likelihood that virus is already in  
 23 circulation."

24 Now, pausing there, this is 20 February, would you  
 25 agree this meant containment had failed by 20 February?

30

1 initially we thought that asymptomatic infection was  
 2 unlikely but that proved not to be the case, that people  
 3 could be infected but not know it, not have symptoms.  
 4 Asymptomatic transmission I think became apparent later  
 5 on.

6 I think that this line actually says that 30 to 50%  
 7 of the -- I think this is about asymptomatic infection  
 8 as opposed to transmission, but I could be wrong.

9 **Q.** The First Minister in his written evidence has said the  
 10 Welsh Government considered asymptomatic transmission  
 11 but concluded that there was insufficient evidence upon  
 12 which to base operational decisions, but as the risk  
 13 became more well understood operational decisions were  
 14 adapted accordingly.

15 Would you agree that, on a precautionary basis,  
 16 asymptomatic transmission should have been considered as  
 17 a likelihood as early as 20 February and operational  
 18 decisions adapted accordingly?

19 **A.** I can only really repeat what I say, which is that our  
 20 understanding grew gradually. I'm not quite sure I know  
 21 what operational decisions might have been differently  
 22 managed, when you talk about the precautionary  
 23 principle.

24 **Q.** We could, please, look at the Welsh Cabinet meeting that  
 25 I mentioned earlier. It's 25 February.

32



1 The minutes of that are at INQ000129852.  
 2 Sir Frank, it's hard copy bundle, if you want it,  
 3 it's tab 17.  
 4 Looks as though from these minutes there were five  
 5 items on the agenda, and if we can please go to the  
 6 penultimate page, page 6, under "Any other business",  
 7 there is here the first mention of Covid-19. It's  
 8 addressed as the last item on the agenda.  
 9 Paragraph 5.1:  
 10 "The Minister for Health and Social Services  
 11 provided ... an update on the Coronavirus ..."  
 12 Then paragraph 5.3, Mr Gething informed Cabinet  
 13 that:  
 14 "The worldwide response was still in the containment  
 15 stage and there had been no imported cases into the UK."  
 16 Now, that's not correct, is it? At the COBR meeting  
 17 you attended with the First Minister on 18 February,  
 18 that confirmed that there were nine positive cases in  
 19 the UK.  
 20 **A.** That may well be the case. I really don't recall.  
 21 I don't think I was at this particular Cabinet meeting.  
 22 **Q.** No, Sir Frank, you weren't at the Cabinet meeting, you  
 23 were at a COBR meeting on 18 February where it was  
 24 confirmed that there were nine positive cases in the UK,  
 25 and I just wanted your views here, where it's being said

33

1 We've got the minutes of this meeting.  
 2 It's INQ000056217. I'm grateful.  
 3 Sir Frank, if you wanted a hard copy, it's tab 22,  
 4 but again I think we'll try to zoom in.  
 5 It's page 5, paragraph 2 I'd like to take you to,  
 6 please. Paragraph 2 on that page, starting:  
 7 "The CHAIR invited the Government Chief Medical  
 8 Officer ... and the ... GCSA to provide a situation ...  
 9 [Document read] ... there was now sustained community  
 10 transmission."So this is now 2 March. It's nearly  
 11 a week since the first Covid was first discussed by the  
 12 Welsh Cabinet, in the minutes we've just seen. It's  
 13 ten days after the lockdowns imposed in northern Italy  
 14 that you've mentioned. There have been cases in the UK  
 15 since late February, and in fact the first case in Wales  
 16 on 28 February. And COBR is being told here that  
 17 contact tracing for the source of infection for the last  
 18 two cases had not been successful and there was  
 19 sustained community infection both in France and  
 20 Germany.  
 21 Did you understand, attending this meeting, that  
 22 containment had been lost, the virus was now in the UK  
 23 and was spreading?  
 24 **A.** I don't think it had been quite lost at this point, but  
 25 we were certainly moving in that direction.

35

1 by Mr Gething that there were no imported cases into the  
 2 UK; that's just not right, is it?  
 3 **A.** From what you say, it can't be.  
 4 **Q.** So it looks as though the Welsh Government appear to be  
 5 proceeding on the mistaken basis on this 25 February  
 6 meeting, first Cabinet meeting to discuss Covid, that  
 7 the virus had not yet hit these shores when it plainly  
 8 had. Would you agree?  
 9 **A.** From what you say, that seems to be the case.  
 10 **Q.** Looking at these minutes there's no consideration by  
 11 Cabinet of what steps should be taken to stop the virus  
 12 from spreading, what infection control measures needed  
 13 to be thought about and put in place. Does it surprise  
 14 that those type of discussions are not minuted, being  
 15 this, the first discussion about Covid by the Welsh  
 16 Cabinet?  
 17 **A.** No, as I say, I'm not a -- at that stage I didn't  
 18 routinely attend Cabinet, I wasn't at this particular  
 19 Cabinet. My reading of Cabinet minutes is that they  
 20 tend to be fairly anodyne notes, they don't contain the  
 21 depth of discussion, often, which -- which goes into  
 22 them, they tend to be rather terse summaries, which is  
 23 what I would interpret this as being.  
 24 **Q.** You attended a COBR meeting on 2 March. That was the  
 25 first COBR meeting that was chaired by Mr Johnson.

34

1 **Q.** On 3 March, so this is the day after these minutes and  
 2 this meeting of COBR, saw the publication of the  
 3 coronavirus action plan.  
 4 I'm grateful, INQ000066061.  
 5 If we could have a look at page 10, paragraph 3.9,  
 6 please. The plan sets out the four nations approach  
 7 with which we're all very familiar: contain, delay,  
 8 research, mitigate.  
 9 Did you consider the degree to which containment had  
 10 already been lost and therefore a strategy in this  
 11 document being published on 3 March referring to  
 12 containment was a failed strategy?  
 13 **A.** I don't know that containment had been lost by that  
 14 stage. I think there was still an ambition that we may  
 15 be able to contain it by the normal methods of public  
 16 health management, that that was still an aspiration.  
 17 The other point I would make is, of course, these  
 18 documents -- this was a UK-wide document, of course,  
 19 which was developed at a UK level, and they sometimes  
 20 take, you know, time to appear, time to go from the  
 21 thinking to the actual publication. And of course at  
 22 this time, as you doubtless know, things are moving at  
 23 a very fast pace.  
 24 **Q.** I want to -- still trying to move through this period  
 25 chronologically, but just take us -- a step to the side

36

1 to deal with mass gatherings if I may.  
 2 On 11 March, the Inquiry has seen evidence that  
 3 Gareth Davies, the then chairman of the Welsh Rugby  
 4 Union contacted the First Minister's office to express  
 5 his concerns about the Six Nations rugby match between  
 6 Wales and Scotland that was scheduled for that Saturday  
 7 14 March here in Cardiff at the Principality Stadium.  
 8 He was concerned about that match going ahead.  
 9 I understand that you were invited to speak to the Welsh  
 10 Rugby Union. And before we sort of look at the advice  
 11 that you gave them if we can just put this in context.  
 12 On 12 March you had dialled into a COBR meeting at  
 13 which this issue of mass gatherings was discussed. If  
 14 we can please have those minutes, it's a hard copy  
 15 tab 30, Sir Frank.  
 16 But it's INQ000056221, and particularly I'd like  
 17 page 5, paragraph 5 and the third bullet point towards  
 18 the bottom of the page pulled up, please, thank you very  
 19 much.  
 20 Now, this notes that:  
 21 "The hardest intervention to call was whether to  
 22 cancel mass gatherings as the evidence was not there,  
 23 especially for outdoor events."  
 24 Then if we can go over the page, page 6, and I think  
 25 it's the ninth bullet point, it starts:

37

1 were to some degree still following, the issue of  
 2 cancelling mass gatherings had been considered, but  
 3 in -- the flu plan, that was discounted as not likely to  
 4 be affected.  
 5 And I believe that SAGE had also looked at mass  
 6 gatherings and the -- both the benefits of cancelling  
 7 them and the potential downsides, the potential risks of  
 8 cancelling them, and that people might gather in small  
 9 numbers in pubs, restaurants, clubs, on trains,  
 10 whatever.  
 11 So I think, you know, that's a long way of saying  
 12 yes. I do think that there may -- preserving the  
 13 pressures on the emergency services should have been  
 14 a factor, it should have been a consideration.  
 15 Communications with the public should have been  
 16 a consideration, but we were following the SAGE advice.  
 17 **Q.** What about the impact on public behaviour? If you allow  
 18 a mass gathering to go ahead, doesn't it rather send  
 19 a message to the public that everything's fine?  
 20 **A.** That's the point I was making.  
 21 **Q.** I mean, you're right, the advice from SAGE, and it's  
 22 recognised in these minutes, that the science -- science  
 23 wasn't there. But even if the events themselves were  
 24 not major vectors for transmission, isn't the  
 25 foreseeable issue people attending pubs and bars, which

39

1 "... Scottish [Gov] ... minded to advise ...  
 2 [Document read] ... more than 500 people."  
 3 Yes, I'm grateful.  
 4 "... minded to advise against gatherings of more  
 5 than 500 people."  
 6 So as to ensure frontline emergency workers were  
 7 able to prioritise the response to the pandemic.  
 8 Then if we can go to page 8 of these minutes,  
 9 please, at paragraph 15.  
 10 The UK Government took the decision not to prohibit  
 11 mass gatherings but it is noted here, it's about  
 12 four lines in, that the Prime Minister "respected the  
 13 Scottish Government's decision to cancel mass  
 14 gathering[s] to manage pressure on emergency  
 15 responders".  
 16 Now, my question is simply this: would you agree  
 17 that banning mass gatherings so that public emergency  
 18 services are not displaced would seem to be a pragmatic  
 19 approach?  
 20 **A.** I think with the benefit of hindsight I would agree with  
 21 that, and I would also think that there may well have  
 22 been an advantage in terms of public communication,  
 23 because it would have given a signal to the public.  
 24 But the context of this, of course, was twofold.  
 25 First of all, in the pandemic flu planning, which we

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1 might not have occurred had the events been cancelled?  
 2 So you wouldn't get, for example, the 20,000 Scottish  
 3 rugby fans that arrived in Cardiff ahead of the match  
 4 that was scheduled for that Saturday. So do you agree  
 5 it would have been prudent to have advised against ass  
 6 gatherings going ahead?  
 7 **A.** With the benefit of hindsight I think that would have  
 8 been a useful thing to do, I think that's a lesson that  
 9 we should learn into future pandemics, yeah.  
 10 **Q.** Now, the decision to lock down, as we all know, was made  
 11 on 23 March, it was announced that evening by Mr Johnson  
 12 and then the First Minister of Wales. You say in your  
 13 witness statement:  
 14 "I was not consulted on the UK national lockdown ...  
 15 I do not recall a CMO discussion or formal change in our  
 16 advice which led to this decision."  
 17 And you say:  
 18 "This was a decision by ministers at COBR -- led,  
 19 I understand, -- by the UK Government. The reality was  
 20 that people were dying, we were looking at what was  
 21 happening in Europe and in particularly in Italy at that  
 22 time and had no choice but to act on the modelling that  
 23 was being presented."  
 24 Do you think you should have been consulted about  
 25 the decision to lock down?

40

1 **A.** I do think Welsh Government should have been consulted.  
 2 This was a time when things were moving exceptionally  
 3 fast and up till quite a late point in the run-up to  
 4 23 March the assumption that we were all working to was  
 5 that we needed to reduce the amount of infection but not  
 6 to reduce it to a level where there would be  
 7 a bounce-back. There was a kind of famous graphic that  
 8 was used I think by Professor Sir Chris Whitty and  
 9 Sir Patrick Vallance, which showed that -- the possible  
 10 negative effects of flattening the curve too much and  
 11 suppressing viral transmission too much, and there was  
 12 a visceral fear that if we did that the virus would  
 13 bounce back and bounce back in the winter months, when  
 14 we were even less able to deal with it.

15 So that was the thinking, up till quite a late  
 16 period leading up to 23 March. It was really in those  
 17 few days, probably between 16 and 23 March, I think,  
 18 that the pictures from Italy, the -- looking at what was  
 19 happening in Italy, looking at the rate of trans -- of  
 20 increase of infection in the UK led to the realisation  
 21 at a UK level that that way of managing the pandemic was  
 22 untenable, and so it felt like an emergency handbrake  
 23 being pulled. But it was pulled by the Welsh -- by  
 24 the UK Government and we were -- we certainly felt that  
 25 it was appropriate to do that by that stage, so we would

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1 **A.** That's right, yes.  
 2 **Q.** Now, that fifth harm, as I understand it, was added in  
 3 July 2021 on the advice of TAC, is that right?  
 4 **A.** Correct.  
 5 **Q.** Now, the Inquiry heard evidence last week about concerns  
 6 being raised in early April 2020 about the  
 7 disproportionate impact that the pandemic was having on  
 8 vulnerable and at-risk groups and those with protected  
 9 characteristics. Why did it take until July 2021 to add  
 10 that fifth harm which dealt with those concerns about  
 11 disproportionate impact?  
 12 **A.** I think it was probably because TAC was extremely busy  
 13 on a range of fronts, and it was something which  
 14 itself -- was June really that late? It doesn't seem to  
 15 me that late, given the -- given the pressures that were  
 16 on TAC and TAG to do other work, particularly around the  
 17 modelling and the thinking of where the pandemic was  
 18 going. I think it was to Wales' credit that we did add  
 19 that fifth element, and it speaks to the fact that we  
 20 take inequality very seriously in Wales, but I don't  
 21 think that that was an undue delay.

22 **LADY HALLETT:** Was the fifth harm added in July '21?

23 **MR POOLE:** 2021, my Lady.

24 **A.** Oh, I'm sorry, I thought it was 2020.

25 **LADY HALLETT:** I didn't think --

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1 agree -- we agreed with the advice, ministers agreed  
 2 with the decision, but ... yeah, that's how it played  
 3 out, I believe.

4 **Q.** Had different actions been taken in the months leading  
 5 up to 23 March could a national lockdown have been  
 6 avoided in your view?

7 **A.** I don't believe so, no.

8 **Q.** Sir Frank, I want to just change topic slightly and ask  
 9 you some short questions just about the 21-day review  
 10 process, because, as we know, once the Health  
 11 Protection (Coronavirus Restrictions) (Wales)  
 12 Regulations were made, they were required to be reviewed  
 13 every 21 days, and you describe in your witness  
 14 statement you contributed to that 21-day review process  
 15 by providing advice to the Welsh Government based on  
 16 an assessment of how any amendments to the restrictions  
 17 would impact on the four harms that had been identified  
 18 by Professor Whitty, those four harms being: first,  
 19 direct harm to individuals; second, indirect harm;  
 20 third, harms from non-Covid illness; and fourth,  
 21 socioeconomic and other societal harms.

22 Now, it's right, isn't it, that in Wales a fifth  
 23 harm was added to that last, namely the way Covid has  
 24 exacerbated existing or introduced new inequalities into  
 25 Welsh society, that's right --

42

1 **A.** It was later than that, sorry, I beg your pardon.

2 **LADY HALLETT:** -- Sir Frank had understood.

3 **A.** I missed that. Thank you.

4 **MR POOLE:** No, Sir Frank, my understanding is it was  
 5 July 2021.

6 **A.** Yeah.

7 **Q.** In light of now realising it was now 2021, would you  
 8 want to change your answer?

9 **A.** So it would have been, it would have been better to  
 10 recognise that formally earlier, but we -- it's not that  
 11 we didn't recognise it or we weren't working on those  
 12 fronts, there was a lot of activity going on, of course,  
 13 around specific aspects of inequality, not least around  
 14 trying to make sure that we protected the interests of  
 15 people from black, Asian and minority ethnic groups but  
 16 also other socio and economically deprived groups. So  
 17 there was a lot of work going on, but I agree with you  
 18 it would have been better to recognise it formally at an  
 19 earlier stage.

20 **Q.** Now, Sir Frank, before we take a break in 15 minutes'  
 21 time I just want to deal with, if I can, a topic, face  
 22 coverings, which is an area where there was a difference  
 23 of opinion between the four nations on this issue and  
 24 just want to explore that with you.

25 On 11 May, the UK Government advised the public to

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1 consider wearing face coverings in enclosed public  
2 spaces such as shops, trains, buses, to obviously help  
3 reduce the spread of coronavirus.

4 Now, you issued a statement the following day in  
5 which you confirmed that you did not recommend the  
6 compulsory wearing of face coverings by everyone when  
7 they leave home and indicated that that should be  
8 a matter of personal choice. In your witness statement  
9 to the Inquiry you give three reasons for that. You  
10 say, first, you were concerned about the stock of PPE,  
11 and the priority was to ensure that there was sufficient  
12 face masks for hospital and care staff. Second, you say  
13 that you thought the use of face coverings would promote  
14 risky behaviours. And third, you say you were concerned  
15 that the face coverings being used in the UK did not  
16 generally meet WHO standards.

17 Now, as to your first point about a concern about  
18 a stock of PPE, had there been sufficient PPE would your  
19 advice have been different, Sir Frank?

20 **A.** There were a number of issues around face coverings.  
21 The risk around PPE was not so much about face  
22 coverings, it was about face masks. I was very  
23 concerned -- and it was actually earlier than 20 -- than  
24 July, I think you mentioned. But my concern is early in  
25 the pandemic, when we were at risk of running out of

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1 **A.** It's an issue I believe that the TAC did look at as part  
2 of their assessment. What we did with face coverings  
3 was we repeatedly asked TAC, and scanned the  
4 international literature of course, for the evidence  
5 about the effectiveness of face coverings, and the  
6 answer continually came back that there was weak  
7 evidence of a small benefit.

8 So our approach in Wales, my approach in Wales was  
9 much more focused on working to maximise the benefit of  
10 the things which we absolutely knew would break viral  
11 transmission. So, yeah.

12 **Q.** In June 2020 the Minister for Health and Social Services  
13 and the First Minister requested specific advice on face  
14 coverings. That advice was sought in light of  
15 requirements being introduced in England mandating the  
16 use of face coverings in hospital settings and public  
17 transport.

18 Can I just look, please, at an entry from your  
19 notebooks, it appears to be dated 7 June.

20 It's INQ000327541. Yes, I'm grateful. It's page 61  
21 of the notebook, and it's -- excellent.

22 There we can see it in front of you, it looks like  
23 it's dated -- top right -- "7/6/20", so June 2020. It  
24 appears to query whether there was sufficient evidence  
25 to suggest mandatory use. Is that what you're referring

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1 PPE -- and I stress at risk, we never actually ran out  
2 of PPE in hospitals in Wales, but my concern was that  
3 there could be a leaching of a scarce resource towards  
4 face coverings in the community, use in the community  
5 which would have been inappropriate because it wouldn't  
6 have provided very much protection and could potentially  
7 denude the health and social care system from the vital  
8 resources that they needed.

9 **Q.** Had there not been a shortage, though, of PPE, would you  
10 have been advising that it was advisable to wear a face  
11 mask?

12 **A.** No, they're two completely different things. The PPE  
13 that was being used in hospitals is medical grade  
14 face masks. The cloth coverings that we used in the  
15 community settings were a completely different thing.  
16 What I'm saying is that I was worried that insisting on  
17 face coverings in the community could in the early stage  
18 of the pandemic, when we were potentially short -- might  
19 face running out of PPE in hospitals, could have led to  
20 face masks being diverted into face coverings.

21 **Q.** As to your second point, namely the promotion of risky  
22 behaviours, what was the basis of that assumption? Did  
23 you seek advice from any behavioural scientists about  
24 concluding that mask wearing could promote such risky  
25 behaviours?

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1 to in this entry?

2 **A.** It probably is. I'm asking myself is there enough  
3 evidence to support mandatory use, yes.

4 **Q.** Sir Frank, as this is the first time that we've looked  
5 at a passage from your notebooks perhaps you can just  
6 help the Inquiry in this regard. Were these  
7 contemporaneous notes that you took personally? So,  
8 for example, would this have been something that you had  
9 written on 7 June 2020?

10 **A.** It would have been something that I wrote then, but it's  
11 important to recognise these are not -- it wasn't  
12 a diary, it wasn't a -- it was really, I keep notebooks,  
13 if I'm going to meet with the First Minister or the  
14 health minister, just to kind of shape my thoughts and  
15 to create my thoughts as to what I need to brief them  
16 on, what I need to say to them, so it's very informal  
17 notes, yeah.

18 **Q.** If we could just have a look whilst we're here at the  
19 next page, page 62, at the top of the page, please.

20 There's a reference to I think it reads "political  
21 chazi" and "alignment". Can you help us, what are you  
22 referring to there? Were you concerned about Wales  
23 adopting a different approach to face coverings than the  
24 other nations?

25 **A.** It's "political choice".

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1 Q. "Choice", I'm sorry.  
 2 A. It's really pointing out that, although I had  
 3 reservations -- the political choice issue is about me  
 4 saying -- I think, this is thinking back four years you  
 5 understand -- that although I couldn't see a good  
 6 argument for mandating public health -- mandating on  
 7 a public health basis the use of face coverings,  
 8 mandating as opposed to recommending -- I couldn't see  
 9 it but I was recognising, and I was very clear with  
 10 ministers, that there was a political choice to be made.  
 11 And it was extremely difficult. I felt I was putting  
 12 ministers in actually quite a difficult position because  
 13 I was taking perhaps a slightly different position to my  
 14 other CMO colleagues on this one. And the alignment  
 15 issue is exactly that, the fact that it became confusing  
 16 for the public that we were not aligned and that we were  
 17 doing something slightly different on face coverings.  
 18 So it was me, really, trying to make sure that ministers  
 19 understood that this was their decision but my advice  
 20 was that the evidence was not robust.  
 21 Q. Do you think that taking this stance, as you rightly  
 22 observe different stance to your CMO colleagues in the  
 23 other three nations, weakened public messaging?  
 24 A. I think it probably did. And when I look back at all  
 25 the time and energy that was spent in Wales thinking

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1 written evidence that he thought that they were useful  
 2 in reinforcing the continued seriousness of the Covid-19  
 3 position. And we've heard in written evidence from  
 4 Rebecca Evans, a Welsh minister at the time, taking  
 5 a similar position.  
 6 Now, in a WhatsApp of 15 July 2020 -- we don't need  
 7 it on screen, I'll just read it to you -- she said:  
 8 "One benefit of masks is that they are ... [Document  
 9 read] ... can't see it."  
 10 I mean, to what extent did you consider and test  
 11 those arguments and perhaps test them with the CMOs of  
 12 the other three nations, or indeed the RCBI behavioural  
 13 scientists that we heard about, for example  
 14 Professor Ann John that we heard evidence from last  
 15 week?  
 16 A. Extensively, I would say. You know, I joined --  
 17 I didn't normally join TAC, but I did join for the  
 18 discussion on face coverings about that time, and it was  
 19 quite clear, and I think it's clear in the TAC advice,  
 20 that opinion within TAC was divided, there were various  
 21 opinions, so there was no very clear recommendation  
 22 coming out of TAC?  
 23 As regards the WhatsApp from Rebecca Evans, I wasn't  
 24 a party to any of that. But I would agree, and I think  
 25 I've already made the point, that from a communications

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1 about face coverings, I do wonder whether it would have  
 2 been a better decision just to simply align.  
 3 I did have one personal issue, which is around the  
 4 use of the 1984 Public Health Act, because I believe,  
 5 having used the 1984 Act in my career, that you need  
 6 very good evidence in order to place restrictions under  
 7 that Act. But I'm not a lawyer, something for which  
 8 I occasionally give thanks.  
 9 Q. Now, Wales was obviously later than the other three  
 10 nations when it came to advising or mandating face  
 11 coverings, in large part, as I think you would  
 12 acknowledge, based on your advice being given to Welsh  
 13 ministers and the First Minister.  
 14 Just some dates: 28 April 2020, Nicola Sturgeon  
 15 advised the use of cloth face masks in enclosed spaces  
 16 on public transport; 7 May, Northern Ireland Executive  
 17 recommended face coverings in enclosed spaces where  
 18 social distancing not possible; similar advice in  
 19 England on 11 May; and yet it was not until 9 June 2020  
 20 that the Welsh Government recommended face coverings.  
 21 Now, a number of your colleagues took a different  
 22 view to you on face coverings. I mean, the Inquiry  
 23 heard last week from Dr Chris Williams. He said he  
 24 verbally argued in TAG in favour of mandatory face  
 25 coverings and the First Minister has also said in his

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1 point of view it became very problematic and it became  
 2 difficult I think for ministers to hold the line -- and  
 3 eventually we moved along that axis from advisory to  
 4 mandatory.  
 5 Q. Did you hear the phrase "mask militancy" being used at  
 6 any stage?  
 7 A. I don't recall it, no.  
 8 Q. Can we, please, have INQ000222863 on screen, which is  
 9 a note.  
 10 It's hard copy tab 96, Sir Frank.  
 11 But this is a note from Jane Runeckles, Jane  
 12 Runeckles being the First Minister's senior special  
 13 adviser. It's dated 10 August 2020. Now, the second  
 14 bullet point is recording a briefing given by yourself  
 15 and Dr Orford to the First Minister on face coverings.  
 16 As we see there:  
 17 "Face coverings -- ... [Document read] ... really  
 18 is your choice FM."  
 19 First Minister.  
 20 So this was obviously recognising that Wales is out  
 21 of step with the rest of the UK but, as you say there,  
 22 this was -- although you were providing the advice, as  
 23 far as you're concerned this was a political choice for  
 24 the First Minister and the Welsh Cabinet to make; is  
 25 that right?

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1 A. That's correct, yeah.

2 Q. The fifth bullet point, please, on this note, the  
3 First Minister remarks that the public were "completely  
4 mystified" that face masks were not mandated in  
5 supermarkets. I mean, was that taken into account in  
6 the advice that you were giving the First Minister on  
7 this issue?

8 A. I think that's the point I was making about I recognise  
9 that the position that we were taking in Wales was  
10 confusing to the public, and ... yes.

11 Q. If you had your time again, Sir Frank, would you have  
12 effectively mandated the wearing of face masks at the  
13 same time as, for example, the UK Government did in  
14 England?

15 A. I think I probably would, with the caveat that I suspect  
16 it would have been subject to legal challenge because  
17 there wasn't very good evidence to support it. But yes,  
18 I think from all the time and energy that was spent on  
19 face coverings, it would have been better to align.

20 Q. On 11 September 2020 the First Minister issued  
21 a statement which confirmed that from the following  
22 Monday, 14 September, all residents in Wales over the  
23 age of 11 would be required to wear face coverings in  
24 public spaces such as shops.

25 Now, the Inquiry understands you did not provide

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1 agree to this, and so you said the second best option  
2 for re-opening schools in June was the one that was  
3 being adopted.

4 Why did you consider it necessary to make a public  
5 statement to the effect that the second best option of  
6 opening schools was re-opening on 29 June?

7 A. I think I was asked to do that by our communications  
8 team. I can't remember the exact circumstances. The  
9 detailed discussions with politicians on this, and with  
10 the unions indeed, was held by my deputy, Chris Jones,  
11 but I was asked to front the media, the media aspect of  
12 that, yeah.

13 Q. Changing topic again, just briefly on the  
14 circuit-breaker, now, we know a circuit-breaker was  
15 first recommended by SAGE on 21 September 2020. That  
16 advice was reiterated by TAC in later September and then  
17 early October.

18 Given the advice that had been received as early as  
19 mid-September that a circuit-breaker was needed and  
20 would be most effective if implemented early and deeply,  
21 do you think that the Welsh Government should have  
22 implemented a firebreak lockdown sooner than they did?

23 A. I think at that time it was obvious that infection rates  
24 were rising and rising fairly rapidly, so the advice  
25 from Public Health Wales and from TAC was quite clear

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1 advice on that decision, that was advice from the  
2 Deputy CMO, Chris Jones, Dr Jones. In summary, Dr Jones  
3 advised that as incidence has increased it was  
4 appropriate to move away from an advisory to a mandatory  
5 requirement to wear face coverings in indoor  
6 environments where social distancing is not possible or  
7 difficult to observe. At that stage, this is  
8 11 September 2020, did you agree with Dr Jones' advice?

9 A. I don't think I was around at the time. I think my  
10 personal view hadn't changed but I felt that Dr Jones  
11 was giving the ministers a way of resolving the problem  
12 that you just described about public communications,  
13 yeah.

14 MR POOLE: My Lady, if that's an appropriate point.

15 LADY HALLETT: Yes, certainly. I shall return at 11.30.

16 (11.13 am)

17 (A short break)

18 (11.30 am)

19 LADY HALLETT: Mr Poole.

20 MR POOLE: Sir Frank, on 3 June 2020 Kirsty Williams  
21 announced that schools would re-open in Wales on  
22 29 June. The day after that announcement you gave  
23 a press conference in which you stated that your  
24 preferred option would have been to re-open schools in  
25 August to allow more time but that the unions did not

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1 that we needed to make an intervention. With all the  
2 interventions we made when the virus was on the rise,  
3 the approach that I was recommending was "go early and  
4 go hard". We learnt that really through the first wave  
5 and into the second wave.

6 So the simple answer is that the sooner it was  
7 implemented the better, and the length of it was quite  
8 important, because I think Public Health Wales at that  
9 time was advising that three weeks would have been  
10 preferable, but two weeks was the absolute minimum, and  
11 that's the advice I passed on to ministers. It  
12 certainly did have an impact in terms of reducing  
13 transmission, but the impact was relatively short lived.

14 Q. Sir Frank, moving forward quite considerably in the  
15 chronology to 27 November 2021, which is when Omicron  
16 was identified as a variant of concern.

17 If I could, please, ask you to look at, again, your  
18 notebook, there was an entry from 10 December 2021 that  
19 appears to relate to measures in response to Omicron.  
20 Now, your notebook entry, it's INQ000327548, please, in  
21 hard copy it's 77. On page 79, it's about nine lines  
22 down. The note reads:

23 "Likely move to [level] 4 prior to Christmas."

24 We see that, it's about four lines up from the  
25 bottom of the page, so it's been highlighted very

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1 helpfully for us, thank you.

2 Do you think that you had an unduly pessimistic view  
3 of the likely severity of the Omicron outbreak and the  
4 restrictions that were required?

5 **A.** No, I don't. I think at that point we were looking at  
6 Omicron, we didn't know an awful lot about the Omicron,  
7 we understood it to have a high transmissibility  
8 advantage over previous strains of the virus, so we  
9 could see it starting to spread very rapidly. What we  
10 didn't know, what we couldn't know at that point was how  
11 path -- you know, the severity of the illness that it  
12 would cause. So I think that at that point I was --  
13 obviously this note seems to suggest to me that I was  
14 thinking that we would have to go in towards a -- more  
15 of a lockdown sort of situation. As it transpired -- to  
16 your point about, you know, whether I was unduly  
17 pessimistic -- I was pessimistic but my pessimism was  
18 unjustified, and so we were lucky. But sometimes it's  
19 better to be wise than lucky.

20 **Q.** If we can, sticking with your notebook, have a look at  
21 page 101, please.

22 At the very bottom of the page there is an entry  
23 from 21 December 2021, it's the word, in capitals,  
24 "PROBLEM".

25 **A.** Yeah.

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1 is mid-March 2020?

2 **A.** Sorry, I missed your question, they should have been --  
3 you said they were contacted or --

4 **Q.** No, they were advised to take steps but they weren't at  
5 that point in time contacted, mid-March.

6 **A.** Well, the shielding process was managed in the early  
7 phase certainly as a four nations construct, really, so  
8 we were all trying to stay aligned on shielding, but  
9 I think you're right, it moved from advisory to -- it  
10 was never instruction, it was never a directorate, but  
11 the writing out process. Is that what you're asking  
12 about, about the formal writing out?

13 **Q.** So on the -- perhaps if I can help you. So I was asking  
14 you about 16 March, and then on 24 March that is when  
15 you wrote to almost 100,000 people who had been  
16 identified as most vulnerable, and advised them to stay  
17 at home for 12 weeks. How were those people identified,  
18 those 100,000?

19 **A.** Yeah, it was quite a difficult, quite a complex process.  
20 The people in that group were identified initially at  
21 a UK level -- in England actually, an England level,  
22 through their information -- their informatics systems.  
23 Our informatics systems were slightly different, and not  
24 aligned, and so it was actually quite a mammoth task for  
25 our IT folks and to clinicians to work -- to develop

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1 **Q.** "I have given clear [advice] that L4 [so level 4]  
2 restrictions are needed. Ministers stuck on financial  
3 implications -- can afford L2 but not L4."

4 First of all, have I read that correctly?

5 **A.** You have read it correctly, if I can read it correctly,  
6 but yes, that's what it says.

7 **Q.** Can you just explain to us that entry, was your view in  
8 effect that level 4 restrictions were needed but --

9 **A.** Yeah.

10 **Q.** -- because of the economic or financial implications,  
11 the political decision was that they couldn't afford,  
12 effectively, to move to level 4?

13 **A.** I have to confess I don't remember it well but that's  
14 what it reads like to me.

15 **Q.** Sir Frank, I would like to ask you next some questions  
16 now about shielding.

17 Now, on 16 March 2020, the Welsh Government, in  
18 conjunction with the UK Government, announced a package  
19 of measures advising those who were at increased risk of  
20 severely illness from Covid to be particularly stringent  
21 in following social distancing measures, and that group  
22 was then not contacted but were advised to take steps to  
23 reduce social interactions.

24 Do you think that group, that vulnerable group,  
25 should have been contacted at that stage, in -- so this

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1 a similar list in Wales. So we identified them in that  
2 way, that's how we created our shielded group.

3 **Q.** I think I'm right in saying you also asked GPs to make  
4 clinical judgements in relation to their patients in  
5 order to identify the most vulnerable patients. Can  
6 I ask you this: do you think that ran a risk of  
7 inconsistent practices being adopted in relation to  
8 identifying who were the most vulnerable in society?

9 **A.** Yes, but we were keen that, given the risk of missing  
10 people off the list, and given the fact that GPs know  
11 their patients far better than a computer system run at  
12 national level does, that GPs had the power to add  
13 people to the list if they -- in their judgement, that  
14 person was at significant risk.

15 **Q.** Now, just by way of chronology, there were changes to  
16 the shielding policy introduced on 4 June 2020. On  
17 22 June England announced that those shielding could  
18 meet in groups of six outdoors and could form a bubble  
19 with an extended household from 6 July. And then on  
20 29 June it was announced that those shielding in Wales  
21 would be able to form part of an extended household from  
22 6 July. Shielding was then paused in England on  
23 1 August. I think in Wales shielding continued until at  
24 least 16 August. Can I just ask you to, please, look at  
25 a notebook entry.

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1 It's INQ000327541.  
 2 It's page 56, and we see in the middle of that  
 3 page -- it's a sort of spike diagram, you see the words  
 4 "Shielded group" in the centre, and one of the options  
 5 or one of the references is to continue until 16 August.

6 What is being considered here? Is this whether  
 7 shielding should continue in Wales beyond that in  
 8 England?  
 9 **A.** Again, it's difficult to recall from that note, but my  
 10 recall of the issue was that we tried, as  
 11 a four nations, to make common decisions on this, on  
 12 when to pause shielding, and so, as you rightly say,  
 13 England went on 1 August. I think ministers had had  
 14 some discussion with patient interest groups -- it was  
 15 either that or it was with the social forum, and had  
 16 made a commitment to continue to the 16th. So I think  
 17 that was the -- I think, if I recall correctly, that was  
 18 the reason why we went -- we paused it a little bit  
 19 later in Wales than in England.

20 **Q.** If we can just finally turn over the page, I think it's  
 21 page 57 -- I'm grateful -- we see there there's another  
 22 spider diagram, and in the middle the word  
 23 "Omnishambles"?

24 **A.** Yes.

25 **Q.** What's that referring to?

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1 CTI asked you about a moment ago, and I want to go back  
 2 again to that press release of May 2020 that CTI just  
 3 asked you about.

4 So just to be clear, this was at a time when Wales  
 5 was the only nation in the United Kingdom not to  
 6 recommend the use of face coverings and, as we've just  
 7 heard, on 11 May Chris Whitty and the UK Government  
 8 advised the public not to wear face coverings -- sorry,  
 9 to wear face coverings in enclosed public spaces, and  
 10 Sir Chris publicly stated that his advice was on the  
 11 advice of SAGE.

12 Now, I'm just going to quote from your press  
 13 statement from the Welsh Government website in part.  
 14 What you state is this:

15 "I am not recommending the compulsory wearing of  
 16 face coverings by everyone wherever they leave home --  
 17 this should be a matter of personal choice."

18 Then you said a second time:

19 "... I support the public's right to choose whether  
 20 to wear them."

21 You also talk about your concerns around  
 22 discrimination against those people who might not be  
 23 able to wear a mask.

24 Now, you did obviously say a lot of other things in  
 25 that press statement, but will you take it from me that

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1 **A.** Well, reading at the side, the pieces off to the side,  
 2 I mean, this represents a degree of frustration I think  
 3 I had, which is that sometimes information came from  
 4 UK level into Wales very late and left us on the back  
 5 foot on some issues. So if I read down that list --  
 6 I mean, it seemed odd to me that at some point we  
 7 were -- you know, the virus was relatively contained at  
 8 this point, but -- we were lifting restrictions but  
 9 other restrictions were being put in place, including  
 10 face coverings, for example. Why were we doing that?  
 11 Why was Scotland moving more on face coverings than --  
 12 at a time when we were relaxing other things? So it was  
 13 a sense of frustration, I think, that were there things  
 14 happening, that information was not being properly  
 15 shared between policy leads in the different countries.

16 **MR POOLE:** Sir Frank, I'm grateful, they're all the  
 17 questions I've got for you but there are some questions  
 18 from the core participants.

19 **LADY HALLETT:** Ms Heaven.

#### 20 Questions from MS HEAVEN

21 **MS HEAVEN:** My Lady, let me just pull this forward.

22 Good morning, Sir Frank, I represent the Covid-19  
 23 Bereaved Families for Justice Cymru. Just a few short  
 24 topics, please.

25 Can we start with the topic of face coverings, which

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1 you made those comments in that press statement?

2 **A.** Yes.

3 **Q.** Thank you.

4 Now, we know that the science that you were looking  
 5 at at this time was no different from the science being  
 6 looked at by all the other CMOs, and nevertheless you  
 7 advised the Welsh Government to diverge.

8 You have just accepted to CTI that your stance  
 9 weakened public messaging in Wales and was probably  
 10 confusing, and of course you made that note in your  
 11 diary on 7 June regarding political choice and aligned,  
 12 and CTI took you to the Jane Runeckles note from  
 13 10 August which referenced the Welsh Government being  
 14 an outlier and the public being completely mystified  
 15 that you won't mandate face coverings in supermarkets.

16 So, Sir Frank, you made reference a number of times  
 17 in your evidence to CTI to hindsight, but, reflecting on  
 18 the evidence that I've just put to you, will you not  
 19 accept to me that it was clearly obvious to you, as CMO  
 20 at the time, that your divergent approach to face  
 21 coverings was in fact confusing and indeed mystifying  
 22 the Welsh public, and that this must have undermined the  
 23 four nations response to this rapidly evolving threat?  
 24 So will you accept that from me?

25 **A.** No, I won't. I come back to the point that the evidence

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1 was very weak, the evidence for face coverings was very  
2 weak, and that was the evidence that we were all looking  
3 at.

4 **Q.** But, Sir Frank, just to understand my question, what I'm  
5 putting to you is that you knew at the time that your  
6 advice, which was that Wales should diverge, was in fact  
7 confusing the Welsh public, because here we have in  
8 a note from August that the public were mystified; so  
9 you had appreciated that at the time, hadn't you?

10 **A.** I had not. I think what you have to remember is that  
11 for every person, every group, that was advocating more  
12 mandation of masks, there was an equal and opposite  
13 group advocating that masks should not be used. The  
14 public was not aligned on that issue, there was no  
15 single public voice.

16 So, you know, if I look back to where I was at that  
17 time, I believe that my advice was appropriate.

18 **Q.** Your role was to provide leadership to the public,  
19 wasn't it, and to be that single voice?

20 **A.** My role was to provide advice to the ministers on the  
21 best approach to --

22 **Q.** All right. Let's move on then.

23 You have been asked by CTI about what behavioural  
24 science and other expert advice you received and from  
25 whom to justify your advice on face coverings. Just to

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1 coverings as a whole and I would expect that that  
2 covered the behavioural science aspects which would have  
3 been dealt with by their subgroup.

4 **Q.** Okay.

5 You have been asked about face mask militancy and  
6 the reason you have been asked about it is because we  
7 can see in the WhatsApps that this issue comes up from  
8 Welsh Government officials, this concern about not  
9 wanting to promote what's called face mask militancy.

10 Was this concept something that came from you?

11 **A.** It's not a concept I've ever come across, really,  
12 I don't really know what it means.

13 **Q.** Well, the idea that policy should be informed by  
14 a concern around people without masks being  
15 discriminated against by other people in public?

16 **A.** No.

17 **Q.** Okay.

18 Let's move on to my next topic, please, and it's  
19 care homes, and I'm going to show you a document in  
20 a moment, but before I do, let me just give you  
21 an introduction.

22 So we're going back now to the beginning of April,  
23 and this is the 8 April 2020 guidance for care homes  
24 called "Admission and Care of Residents during COVID-19,  
25 Incident in a Residential Care Setting in Wales". And

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1 be clear and so that you understand, Ann John, who  
2 headed up the TAG behavioural subgroup RCBI, who gave  
3 evidence to my Lady last week, suggested that the  
4 divergent approach that Wales took was confusing and she  
5 thought it was damaging to public trust, and she gave  
6 the example of when you could wear a mask on the train  
7 in Wales but as you left Newport you could take it off.  
8 We can't see any evidence in the disclosure that you  
9 commissioned anybody to give you behavioural advice and  
10 to think about the theories that you had come up with to  
11 justify this divergent approach. So just to be  
12 absolutely clear, did you task Ann John to provide you  
13 with behavioural science advice on your theories and in  
14 particular risk behaviour and this risk of mask  
15 discrimination?

16 **A.** That was the role I gave to TAC. TAC was commissioning  
17 the advice. Ann John I think was a member of TAG, the  
18 TAG, the broader Technical Advisory Group, and there was  
19 a behavioural science group that -- a subgroup of TAG.  
20 So I believe that they did adequately look at that  
21 issue.

22 **Q.** Well, we haven't found it in the disclosure, so can you  
23 give us a bit more assistance: do you know when you got  
24 that advice from TAG, behavioural science advice?

25 **A.** The advice I got from TAG was generally on face

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1 this guidance, it was eventually signed off by yourself  
2 and Albert Heaney. Let me just read to you what it  
3 said:

4 "Negative tests are not required prior to  
5 transfers/admissions into the residential setting."

6 "Some of these patients may have COVID-19, whether  
7 symptomatic or asymptomatic ... these patients can be  
8 safely cared for in a care home if this guidance is  
9 followed."

10 So in other words, the Welsh Government introduced  
11 guidance that you signed off, envisaging and indeed  
12 requiring care homes from 9 April to admit people from  
13 hospitals where they had symptoms of Covid-19 without  
14 a test being required.

15 Now, the day before this policy was signed off by  
16 yourself, deputy chief inspector of Care Inspectorate  
17 Wales, Margaret Rooney, wrote an email raising concerns  
18 about this policy and you were copied in to this.

19 So if we could look at this document, please,  
20 INQ000336393, and it's the second page.

21 If you just indicate when you can see that,  
22 thank you.

23 So this is an email from Margaret Rooney, which is  
24 on the other page, but that's fine, we'll just stick  
25 with the cc. We can see there, can't we, that you're

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1 cc'd into that, Frank Atherton.  
 2 I won't read it all out. She's talking about the  
 3 policy:  
 4 "Hi all,  
 5 "I can see this will go out from the [CMO] and  
 6 Deputy Director General of Social Services and  
 7 Integration. I have provided some comments ..."  
 8 If we go down to the last paragraph, that's what  
 9 I want to ask you about:  
 10 "I think it is quite tricky to align the ...  
 11 [Document read] ... say if the virus was to spread in  
 12 such a care home?"  
 13 Okay, so before I ask you about this, context: we  
 14 know at this stage Covid-19 was rapidly spreading  
 15 through care homes, no doubt my Lady will be looking at  
 16 it shortly, but it had come up in the Covid-19 core  
 17 group meeting. The Welsh Government Local Association  
 18 was so concerned that they demanded a meeting with  
 19 Vaughan Gething, which happened on 3 April. And as we  
 20 know, community transition at this stage is sustained in  
 21 Wales.  
 22 So the first question is this: Margaret Rooney was  
 23 right, wasn't she? Requiring hospitals -- sorry,  
 24 care homes to accept patients with Covid from hospitals  
 25 was completely inconsistent with the shielding advice  
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1 Covid, who were asymptomatic in hospital but potentially  
 2 staying in hospital and becoming infected.  
 3 So it was an absolute imperative to get people back  
 4 to the safest place where they could be. Now, these  
 5 were difficult choices, but they were not easy choices,  
 6 and the alternative of keeping everybody from  
 7 a care home in a hospital setting would have led to  
 8 negative consequences in a different direction.  
 9 So was the advice from -- Margaret absolutely wrote  
 10 to us and rightly flagged the issue, but that had been  
 11 taken into account by Public Health Wales as they  
 12 drafted the guidance and by the British Geriatrics  
 13 Society as they provided advice to us as well.  
 14 **Q.** Okay. But just finally, then, this was at a time when  
 15 Covid-19 was rapidly spreading in care homes, there was  
 16 no PPE, there was no testing, and this was going to be  
 17 symptomatic individuals being put into care homes,  
 18 potentially in large numbers. So how did you, as CMO,  
 19 signing off this policy, satisfy yourself that the  
 20 rights of vulnerable people in care homes were protected  
 21 and their lives were not being put at risk? How did you  
 22 satisfy yourself?  
 23 **A.** The first thing is the numbers were not large, they were  
 24 not large. There was PPE, government had worked with  
 25 the care home sector to make sure that they had access  
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1 that was being given in the community, and it obviously  
 2 created a significant risk to life for this vulnerable  
 3 cohort in care homes. Do you agree?  
 4 **A.** So the advice note that you refer to that was sent out  
 5 to the system was an advice note developed by Public  
 6 Health Wales on how to effectively manage this  
 7 situation.  
 8 We have to remember where we were at this point in  
 9 the pandemic, that we were watching Italy -- hospitals  
 10 filling up and falling over, and we were very anxious to  
 11 avoid that in Wales and in the UK. The advice that  
 12 Public Health Wales put together, which included the  
 13 advice about how care homes could receive patients who  
 14 had either been in contact with patients in hospital  
 15 with Covid-19 or who had -- who were symptomatic, that  
 16 advice took account of advice which was issued, I think  
 17 it's -- you know, I think it was advice, from the  
 18 British Geriatrics Society. So the common view was that  
 19 care homes ought to be able to manage cases of  
 20 infectious disease by isolating people within there.  
 21 Now, that's not an easy -- that was not an easy  
 22 decision, I think, for ministers or for anybody to make.  
 23 But it was in the context of the hospitals absolutely  
 24 risking being overloaded and it was in the context of  
 25 patients -- elderly people who were not affected by  
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1 to PPE, although their prime responsibility, hopefully,  
 2 the providers, was to provide PPE. So that was  
 3 happening.  
 4 Public Health Wales had been very deeply involved  
 5 with the care home sector in providing infection control  
 6 advice. So those were the measures which were in place  
 7 to enable people with any infectious disease, let alone  
 8 whether it's coronavirus or any other infectious  
 9 disease, to be managed safely in a care home.  
 10 Now, the other thing to remember, which is quite  
 11 important, is that of course infection was coming into  
 12 care homes from many directions, it was coming in  
 13 largely from the community, and so it was really  
 14 important that we provided that general advice on  
 15 infection control to the care homes so they could manage  
 16 people -- safely manage people coming in from the  
 17 community and from hospitals. Now, that was not an easy  
 18 task for the care homes, I absolutely accept that, that  
 19 was not an easy task, but there was no safer alternative  
 20 that we could see.  
 21 **Q.** Finally, it wasn't long, was it, before this policy was  
 22 reversed? I think it was about a week and a half. It's  
 23 in the statement of Albert Heaney. That's correct,  
 24 isn't it?  
 25 **A.** I haven't read that statement.  
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1 **MS HEAVEN:** Thank you, my Lady.

2 **LADY HALLETT:** Thank you, Ms Heaven.  
3 Ms Foubister.

4 **Questions from MS FOUBISTER**

5 **MS FOUBISTER:** Thank you, my Lady.

6 Good morning, Sir Frank, I represent John's Campaign  
7 and Care Rights UK.

8 In May 2020 you expressed a concern about indirect  
9 harm caused to young people and socially disadvantaged  
10 groups in particular, and you suggested more information  
11 was needed. Did you take any steps to investigate  
12 indirect harms relating to other groups such as those  
13 suffering from dementia or those suffering from  
14 non-Covid medical conditions?

15 **A.** I'm sorry, when you say I expressed a concern, where did  
16 I express that concern? And can you --

17 **Q.** So my reference is to paragraph 160 of your witness  
18 statement. Perhaps we can pull it up or I can read out  
19 what you say.

20 About halfway down paragraph 160 you said:

21 "I informed Ministers [this is around 7 May 2020, at  
22 one of the 21-day reviews] that I was concerned about  
23 indirect harms, especially for the young and for  
24 socially disadvantaged groups and I suggested that we  
25 needed more information on the nature of the indirect

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1 **MS FOUBISTER:** Thank you.

2 Thank you, my Lady.

3 **LADY HALLETT:** Thank you.

4 Does that complete the questions for Sir Frank?

5 **MR POOLE:** My Lady, it does.

6 **LADY HALLETT:** Thank you for your help, Sir Frank.

7 I'm afraid I can't, again, give you a guarantee I won't  
8 ask for your help again --

9 **THE WITNESS:** Thank you, my Lady.

10 **LADY HALLETT:** -- because of course we have the health  
11 module to come, but thank you for your help so far.

12 **THE WITNESS:** Thank you.

13 **(The witness withdrew)**

14 **MR POOLE:** My Lady, if I can call Dr Robert Orford, please.

15 **DR ROBERT ORFORD (affirmed)**

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

17 **MR POOLE:** Could you start by giving us your full name,  
18 please.

19 **A.** Yes, Robert Leslie Orford.

20 **Q.** Dr Orford, thank you for coming today and giving your  
21 evidence to the Inquiry.

22 If I could just remind you to keep your voice up so  
23 we can hear you, but also so your evidence can be  
24 recorded. If I ask you a question you don't understand  
25 and would like rephrased, please do ask me.

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1 harm to these groups for future reviews."

2 So my question is around what other groups you were  
3 considering, in particular those suffering from dementia  
4 or other non-Covid medical conditions, and what steps  
5 you took to think about and investigate indirect harms  
6 for those groups?

7 **A.** So there was a very real concern throughout the pandemic  
8 about the harms to -- you know, the non-Covid harms,  
9 which is what you're referring to, which could fall on,  
10 you know, many parts of the -- of society. We were  
11 worried about people's access to routine healthcare in  
12 particular. So there was quite a lot of work thinking  
13 about how we could boost general practice, how we could  
14 get back into -- you know, as the infections waves  
15 started to recede, how we could restart services for  
16 those vulnerable people that you're talking about.

17 **Q.** And so, in around May, what steps were taken in relation  
18 to those groups?

19 **A.** I can't tell you any specific steps, but there were --  
20 there was a socioeconomic subgroup of -- which was set  
21 up under the TAC, I believe, which was led by our chief  
22 economist, and that was looking at the needs of  
23 particular groups such as that and trying to find ways  
24 to ameliorate the impacts, the negative impacts that  
25 lack of services might have on them.

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1 You have been good enough to provide two witness  
2 statements to this module: your individual witness  
3 statement dated 19 December of last week, we can see  
4 that displayed, and also a corporate statement on behalf  
5 of TAG and TAC, which is dated 23 November, and we can  
6 also see that displayed on screen.

7 You have signed both of those statements with  
8 a statement of truth. Can you please confirm that the  
9 contents of those statements are true to the best of  
10 your knowledge and belief?

11 **A.** They are.

12 **Q.** I'm grateful.

13 Dr Orford, you are currently the Chief Scientific  
14 Adviser for Health in Wales and you have held that post  
15 since 2017; is that right?

16 **A.** That's correct.

17 **Q.** As regards your professional background, you hold an  
18 honours degree and PhD in molecular biology, you  
19 completed a post doctoral fellowship with the Imperial  
20 Cancer Research Fund, before working as an investigator  
21 scientist with the Medical Research Council for  
22 five years. For eight years you worked for the Health  
23 Protection Agency, which later became Public Health  
24 England, and you are a visiting professor of  
25 evidence-based health policy at the University of

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- 1 South Wales; is all of that correct?
- 2 **A.** That's correct.
- 3 **Q.** Throughout the pandemic, you were obviously Chief  
4 Scientific Adviser for Health in Wales. I understand  
5 that your roles and your responsibilities changed during  
6 the pandemic, we'll obviously be looking at how they  
7 changed in due course, but in terms of your role as the  
8 Chief Scientific Adviser for Health and your key  
9 responsibilities at the start of the pandemic, would it  
10 be right to say that you play a crucial role in advising  
11 the Welsh Government on scientific and technical matters  
12 related to health policy and healthcare delivery?
- 13 **A.** That's correct.
- 14 **Q.** And in terms of decision-making, part of your role is to  
15 ensure that the Welsh Government decisions related to  
16 healthcare are grounded in scientific evidence and best  
17 practices, is that right?
- 18 **A.** That's correct.
- 19 **Q.** As regards your role when it comes to crisis management,  
20 such as pandemics or major disease outbreaks, would it  
21 be right to say that the CSAH plays a critical role in  
22 providing guidance and expertise to help manage and  
23 mitigate the impact of such crises?
- 24 **A.** I think prior to the pandemic, that wasn't part of the  
25 role description, but during the pandemic it was.

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- 1 **A.** That's correct.
- 2 **Q.** You had a significant role to play in developing  
3 scientific intelligence during the pandemic, so,  
4 for example, collating local, national and international  
5 information on the virus for use in various data  
6 dashboards and modelling forecasts; is that right?
- 7 **A.** That's correct.
- 8 **Q.** You chaired the Covid-19 Intelligence Cell, CIC, and  
9 were a member of the Health Protection Advisory Group  
10 outbreak subgroup; is that right?
- 11 **A.** That's correct.
- 12 **Q.** And you also led work to prepare for and deliver the  
13 First Minister's weekly briefings, and in that capacity  
14 I understand your job was to ensure that they were  
15 significantly -- sorry, scientifically robust evidence  
16 bases for all Welsh Government decisions; is that right?
- 17 **A.** That's correct.
- 18 **Q.** How did your role, Dr Orford, intersect with the Chief  
19 Medical Officer, Dr Atherton, during the pandemic?
- 20 **A.** Professor Sir Atherton and myself worked very closely  
21 together throughout the pandemic, we corresponded  
22 frequently. My role was to collate, synthesise, present  
23 understandable scientific technical information.
- 24 **Q.** You say in your witness statement that you did not work  
25 closely with the Chief Scientific Adviser for Wales,

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- 1 **Q.** Would I be right in saying that although you are  
2 a member of the Welsh Government, you describe your role  
3 as being independent in the sense that you are free to  
4 provide advice without regard to government policy or  
5 direction; is that right?
- 6 **A.** That is partially correct, in that some of my role is  
7 more policy oriented, but the adviser part of my role  
8 was more an officer role, but part of my role, the  
9 adviser role, is exactly that.
- 10 **Q.** I'm grateful.
- 11 Now, you explain in your witness statement from mid  
12 to late February 2020 your work became entirely focused  
13 on Covid-19 and the scientific response to Covid-19; is  
14 that right?
- 15 **A.** That's correct.
- 16 **Q.** Now, a key part of the response was the development of  
17 TAC and TAG which the Inquiry has heard quite a lot  
18 about already and we'll come back to that in the course  
19 of your evidence in due course. In addition to  
20 establishing and developing TAG and TAC, if I can just  
21 run through a few of your other key responsibilities  
22 during the pandemic. It's right you represented Wales  
23 at SAGE meetings and meetings of subgroups of SAGE and  
24 other important four nation expert meetings; is that  
25 right?

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- 1 Professor Halligan, certainly in respect of the pandemic  
2 response, as it was agreed that you would lead from  
3 a science perspective; is that fair?
- 4 **A.** That's correct.
- 5 **Q.** We understand that there were no governance arrangements  
6 in place at the start of the pandemic between the Chief  
7 Scientific Adviser and yourself. Did that present  
8 difficulties in terms of the share of responsibility  
9 between yourself and Professor Halligan at the start of  
10 the pandemic?
- 11 **A.** Fairly early on in the decisions around the formation of  
12 the Technical Advisory Cell I'd had conversations with  
13 Professor Halligan around who was best to lead that work  
14 and I was -- had the best fit. We obviously kept in  
15 contact throughout the period of the pandemic, once  
16 a month.
- 17 **Q.** On 22 January 2020, you emailed the senior private  
18 secretary to the UK Government, Chief Scientific  
19 Adviser, Sir Patrick Vallance, asking to be included in  
20 the read-out of a precautionary SAGE meeting that was  
21 held on that day, 22 January. I don't need to bring up  
22 the email on screen.
- 23 Did you consider it strange that you had to ask to  
24 be included in the read-out from that first  
25 precautionary SAGE meeting?

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1 **A.** I believe there were two emails on that day. The second  
 2 email was describing the devolved nature of health, and  
 3 why it was important to be a member of that group.  
 4 **Q.** And so did you find it strange that you had to prompt  
 5 the UK Government in order to receive a read-out of that  
 6 first precautionary SAGE meeting?  
 7 **A.** Yeah, I think I found it slightly frustrating that it  
 8 took time to access the group.  
 9 **Q.** I mean, I think I'm right in saying your first  
 10 attendance at a SAGE meeting was not until 11 February,  
 11 which was the sixth meeting of SAGE, and then that was  
 12 at the invitation of the UK Government, and even then  
 13 you were attending as an observer, which meant that  
 14 you're not able to participate in discussions. Is all  
 15 of that right?  
 16 **A.** That's correct, yes.  
 17 **Q.** Do you think you ought to have been invited to SAGE  
 18 prior to 11 February?  
 19 **A.** I think it would have been helpful, yes.  
 20 **Q.** Would it also have been helpful to have been able to  
 21 participate, so not simply attend in an observer  
 22 capacity?  
 23 **A.** I can't remember from memory whether I was knowingly  
 24 quiet as an observer, I tend not to be, so I may well  
 25 have not observed, solely observed. I mean, I did

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1 there was more involvement with the devolved  
 2 governments, with the chair seeking the opinion of the  
 3 advisers in the devolved nations, but certainly at the  
 4 beginning more of the emphasis was on the position in  
 5 England and the UK, and I think that was probably the  
 6 right thing to do for things like sentinel surveillance,  
 7 where the numbers were bigger in England because of the  
 8 size of the population.  
 9 **Q.** So although reference has been made to SAGE being too  
 10 England-centric, from what you've just said, do you not  
 11 necessarily see that as a -- as too much of a criticism  
 12 in the early stages of the pandemic, so February/March?  
 13 **A.** I think, you know, in the Civil Contingencies Act, where  
 14 it describes SAGE as a UK forum, I think that really  
 15 should have been a UK forum from the beginning.  
 16 **Q.** So you would have liked to have seen greater UK  
 17 representation and governance on SAGE from the start?  
 18 **A.** Yes.  
 19 **Q.** You say in your witness statement there may have also  
 20 been other political or civil servant influences on the  
 21 UK nature of the science response as there were with  
 22 other parts of the UK Government pandemic response.  
 23 What do you mean by other political or civil servant  
 24 influences on the UK nature of the scientific response  
 25 or the science response?

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1 participate in those conversations, as did my colleague  
 2 at the time.  
 3 **Q.** In terms of SAGE documents, did you have sufficient and  
 4 timely access to SAGE documents?  
 5 **A.** Yes.  
 6 **Q.** At paragraph 41 of your witness statement, you say:  
 7 "SAGE tended to only be interested in the actions of  
 8 the Welsh Government when there were differences in  
 9 policy approaches ..."  
 10 Then you give examples of the Welsh firebreak or  
 11 local interventions in the autumn of 2020. Then you  
 12 say:  
 13 "Unfortunately it appeared as though the devolved  
 14 nations were a second order priority."  
 15 Can you just help us with that, what made you form  
 16 that view?  
 17 **A.** I think probably there's two points there. Firstly, the  
 18 priorities of SAGE were to understand what was coming,  
 19 to be able to describe the nature of the onslaught that  
 20 was going to arrive fairly swiftly with us. But also,  
 21 you know, England is a lot bigger than Wales and the  
 22 devolved governments, devolved nations, so very clearly  
 23 there was a focus on challenges within England, as  
 24 there's not a separate administration of England, so as  
 25 time progressed -- and perhaps we'll come on to that --

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1 **A.** So at different points of the pandemic, when scientific  
 2 information became available, it may have been -- it may  
 3 have gone through other eyes, it may have gone through  
 4 civil servant or ministerial eyes before it met  
 5 advisers' eyes. I hope that makes sense. So I would  
 6 like to see unfiltered advice before it becomes public.  
 7 **Q.** I understand.  
 8 You say also in your witness statement:  
 9 "It might be helpful and timely to revisit the  
 10 current SAGE guidance from a four nations perspective  
 11 and also the UK Government scientific advisory code of  
 12 practice to better reflect the extraordinary experience  
 13 that the pandemic has brought to bear of the provision  
 14 of scientific advice for government."  
 15 To the best of your knowledge, has such a review of  
 16 SAGE guidance taken place?  
 17 **A.** There has been a review of SAGE but I've not been privy  
 18 to the findings of that. That may have been promulgated  
 19 through the CSA network, but I'm unaware of that.  
 20 **Q.** Taking a step to the side and a few questions about  
 21 NERVTAG. Wales were able to have an observer status on  
 22 NERVTAG, but I think you say in your evidence it took  
 23 several attempts to join. Can you help us, when were  
 24 Welsh representatives permitted to join NERVTAG as  
 25 observers?

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1 A. I can't remember the exact dates, it may have been  
 2 around May/June, and those observers would have come  
 3 from Public Health Wales.  
 4 Q. Do you know why it took so long for Wales to be  
 5 permitted to join or have observer status on NERVTAG?  
 6 A. I think that question is best asked of the secretariat  
 7 and chair of NERVTAG. I'm aware that there were  
 8 sensitivities regarding leaks to the media and I think  
 9 probably best to orient those questions that way.  
 10 Q. Catherine Moore, a lead scientist for Public Health  
 11 Wales, describes that Public Health Wales' role on  
 12 NERVTAG was purely observatory but Public Health England  
 13 were very active participants and this skewed the data  
 14 being presented to very much a UKHSA view of the  
 15 pandemic. Have you got any views on that comment?  
 16 A. I mean, Catherine was a member of the Technical Advisory  
 17 Group and she was excellent, you know, she's  
 18 an international expert in virology. In NERVTAG they  
 19 have the best people in virology, and it's like drinking  
 20 from a fire hydrant when you hear the conversations, so  
 21 on those groups you absolutely want the best people  
 22 there.  
 23 As to whether the conversations can be translated  
 24 from what's happening in England to what's happening in  
 25 Wales I think is -- depends on the nature of the

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1 Health and CMO at that point and most of those  
 2 interactions happening between the CMOs.  
 3 Q. You met regularly, as we understand it, with  
 4 Professor Young and Professor Crossman, so your  
 5 counterparts in respectively Northern Ireland and  
 6 Scotland. Are those the bi-monthly meetings that you  
 7 mention in your TAC witness statement?  
 8 A. That's correct.  
 9 Q. Were minutes taken of those meetings?  
 10 A. I don't believe they were, unfortunately.  
 11 Q. Do you think it would have assisted to have minutes  
 12 taken of those meetings?  
 13 A. I really like to have minutes of meetings.  
 14 Unfortunately having the right staffing for secretariat  
 15 support didn't always -- I mean, there were very many  
 16 meetings and so to have the requisite number of  
 17 administrative support people was not always possible.  
 18 I would have much preferred to have minutes.  
 19 Q. Dr Orford, if I can just ask you, you're fairly quietly  
 20 spoken, so if I can just ask you to keep your voice up,  
 21 please.  
 22 A. Of course, sorry.  
 23 Q. Thank you.  
 24 Now, the Inquiry understands that within  
 25 the UK Government there are chief scientific advisers

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1 conversations.  
 2 Q. The Inquiry understands that from June 2020 a Science  
 3 Co-ordination Group was established by GO-Science, the  
 4 Government Office for Science in the UK. Can you help  
 5 us, what was the purpose of that group?  
 6 A. So the Science Co-ordination Group was to understand  
 7 what's coming down the track and the type of papers that  
 8 were in development, and the kind of conversations that  
 9 would be had in forthcoming SAGE meetings and to  
 10 generally share intelligence of what work is happening,  
 11 for example, work that we were leading in Wales.  
 12 Q. What did that group add to the structures that were  
 13 already in place at that stage?  
 14 A. I think they added more informal intelligence sharing,  
 15 situational awareness of what was going to happen next.  
 16 Q. In terms of your liaison with UK Chief Scientific  
 17 Advisers, so obviously outside SAGE, is it right that  
 18 you had limited communication with Sir Patrick Vallance  
 19 and Professor Whitty?  
 20 A. Yeah, most of my interactions with Sir Patrick and  
 21 Sir Whitty were through SAGE.  
 22 Q. Was there any formal arrangement for meetings between  
 23 yourself and Sir Patrick Vallance and Sir Chris Whitty?  
 24 A. No, but I'm, you know, fully aware of Professor Whitty  
 25 having the dual role of Chief Scientific Adviser for

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1 assigned to specific government departments, and those  
 2 CSAs will advise ministers and officials within their  
 3 own department. I think you've described that in your  
 4 witness statement as a "CSA Network", and you say that  
 5 establishing meaningful connections between CSAs  
 6 obviously should be of paramount importance, but am  
 7 I right that the devolved administration governments,  
 8 they're not recognised within that CSA network?  
 9 A. They're recognised as a department and so the CSA for  
 10 government, Welsh Government, is the only member from  
 11 Wales.  
 12 Q. What, if anything, is the consequence of that sort of,  
 13 if you like, partial recognition?  
 14 A. I mean, the purpose of having a network is to ensure  
 15 that you've got good connections between people within  
 16 the network and on the network, and so take,  
 17 for example, the Health and Safety Executive has a CSA,  
 18 being familiar with that person and the work that  
 19 they're leading is, I think, probably better directly  
 20 rather than second-hand.  
 21 Q. Has communication and co-ordination between all the UK  
 22 chief scientific advisers for health changed since the  
 23 pandemic?  
 24 A. No.  
 25 Q. To change topic slightly and ask some questions about

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1 the Covid Intelligence Cell, which I think you  
 2 co-chaired with Fliss Bennee during the pandemic; is  
 3 that right?  
 4 **A.** That's correct.  
 5 **Q.** Just tell us briefly, what's the purpose of the Covid  
 6 Intelligence Cell?  
 7 **A.** So probably best described as a forum to provide  
 8 an ongoing risk assessment narrative, so to be able to  
 9 receive intelligence and data coming in from different  
 10 parts of Wales, synthesise that and be able to produce  
 11 an ongoing assessment of what will happen next, what's  
 12 happening now.  
 13 **Q.** Am I right the CIC was established in September 2020?  
 14 **A.** From memory, yes.  
 15 **Q.** Why was it established then? Was there a need, do you  
 16 think, for it to have been established earlier in the  
 17 pandemic?  
 18 **A.** I think it was established then as other parts of the  
 19 machinery of dealing with a pandemic in a steady state  
 20 were happening, so we were iterating our approach within  
 21 government. The risk management part of Health  
 22 Protection Advisory Group was being established  
 23 alongside the Covid Intelligence Cell. Up until that  
 24 time, most of the situational awareness that I was  
 25 involved in came to the Technical Advisory Group, so it

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1 updates for the Minister for Health and Social Services  
 2 and also the First Minister.  
 3 Then if we can have a look, please, at pages 3 and  
 4 4, I think it's -- yes, it's paragraph 6 that runs over  
 5 the page, we have there a list of TAG members.  
 6 Dr Orford, obviously neither TAG nor TAC had been  
 7 established prior to the pandemic. Why was it thought  
 8 necessary to establish TAG and TAC during a public  
 9 health emergency?  
 10 **A.** As mentioned earlier, lots of the work -- there's far  
 11 more capacity and capability within England to deal with  
 12 these kind of events. Trying to understand the meaning  
 13 of what was coming into a Welsh context was quite  
 14 important. So when would the wave arrive? How big  
 15 would the wave be? What kind of NHS capacity did we  
 16 have available to deal with that? So it was important  
 17 to be able to translate the really important UK level  
 18 work into a Welsh-specific context. So the ... yeah.  
 19 **Q.** I understand that April 2020 saw the first two TAG  
 20 subgroups were formed and then we see gradual evolution.  
 21 I think by the time we get to October 2020 there are  
 22 nine subgroups. You say in your witness statement that  
 23 each subgroup was limited to no more than ten experts in  
 24 a given field. Can you just help me with why that was  
 25 and how those experts were chosen.

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1 made sense to uncouple that conversation and bring it to  
 2 one discrete forum.  
 3 **Q.** Now, you've mentioned the Technical Advisory Cell, so  
 4 perhaps we can move to some questions about that. That  
 5 was established much earlier, that was around  
 6 27 February 2020, I think I'm right in saying?  
 7 **A.** That's correct, yes.  
 8 **Q.** If we can have a look at INQ000068504, please.  
 9 These are, in fact, the terms of reference for the  
 10 Technical Advisory Group. If we can have a look at  
 11 page 2 and the second paragraph there, we see  
 12 a description of the respective functions. So TAG, the  
 13 Technical Advisory Group, the group of scientific and  
 14 technical experts who provide advice and guidance to the  
 15 Welsh Government in response to COVID-19."  
 16 Then:  
 17 "TAC is ... the [cell] core team of public servants  
 18 who ... [Document read] ... and evidence on COVID-19 to  
 19 the wider public as needed."  
 20 So they are the functions of the two bodies.  
 21 If we can please have a look at paragraph 3, just in  
 22 terms of reporting and commissioning, so I'm right TAC  
 23 sits within the Health and Social Services Group. As it  
 24 says here, provides advice to the CMO, director general  
 25 for Health and Social Services, and provided regular

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1 **A.** So I think it's probably that was an optimum level. The  
 2 reason that came about, prior to my work in Welsh  
 3 Government, I'd worked with Public Health England, with  
 4 European Commission co-funded programmes on serious  
 5 cross-border threats to health, on chemicals, and in  
 6 that work we established networks of experts, and some  
 7 of the work packages looked at the number of experts  
 8 that you might need in a particular area to derive  
 9 evidence and derive advice in a fairly swift manner to  
 10 respond to emerging challenges. So, you know, whilst  
 11 the ambition was to have a set number, I think there was  
 12 some degree of variation between the groups as there was  
 13 independence of the chair of the group to decide who  
 14 they wanted and who they needed to help them best answer  
 15 the questions that were posed of them.  
 16 **Q.** Did you ever find it difficult filling sort of the  
 17 capacity? There was some evidence that the Inquiry  
 18 heard at the end of last week that there weren't perhaps  
 19 enough scientists in Wales. Was that a problem that you  
 20 encountered?  
 21 **A.** I'm not -- I'm not sure. I think different groups had  
 22 different challenges. Different groups had different  
 23 makeup, just because of the nature of the material that  
 24 they were talking about. For example, the socioeconomic  
 25 harms group had more economic advisers from within

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1 government than perhaps external experts, whilst the  
 2 virology and testing group had more Public Health Wales  
 3 experts, because of the nature of the material and where  
 4 those experts sat within -- within Wales, whether  
 5 universities or the public health authority.

6 **Q.** You mention there the economic harm subgroup. Something  
 7 that you say in your witness statement is:  
 8 "One mistake I feel SAGE made was, unlike in TAG,  
 9 economic and health, economic advice did not play  
 10 a significant role. One of the key harms arising from  
 11 the pandemic was economic damage and therefore economic  
 12 evidence should have been a key consideration that was  
 13 explored and shared publicly, as opposed to this being  
 14 solely a consideration of the UK Treasury."  
 15 Am I right in saying -- thinking the economic harms  
 16 subgroup was the group responsible then for providing  
 17 economic and health economic advice to TAG?

18 **A.** Yeah, that's correct.

19 **Q.** And did economic evidence play a significant role in the  
 20 advice that TAG provided to the Welsh Government?

21 **A.** It did. I mean, if you look at the advice that we  
 22 shared with policy colleagues and ministers, there was  
 23 always -- many times we provided information from the  
 24 socioeconomic harms group and there were sometimes  
 25 bespoke pieces of advice, for example the social cost of

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1 **A.** I mean, we certainly took the advice of SPI-B and SAGE  
 2 very seriously in Wales, and you can see that in my  
 3 briefing notes to CMO and officials and ministers  
 4 throughout that period. Understanding what the public  
 5 and the population would do during the first lockdown,  
 6 for example, was, you know, ever so important.

7 **Q.** The Inquiry received evidence from Professor Ann John,  
 8 who stated that across all the groups that she  
 9 participated in during the pandemic response, including  
 10 the RCBI subgroup and TAG itself, she said there was  
 11 a lack of representation from ethnic minorities and from  
 12 those of more deprived background. And she said as  
 13 a result those advising policymakers had little direct  
 14 understanding of experiences which may underpin  
 15 behaviours and also their direct impacts. These  
 16 included, for example, living in cramped conditions,  
 17 being unable to order food online, not understanding  
 18 perhaps the mistrust of vaccines and masks. And in her  
 19 view this lack of ethnic and also social diversity can  
 20 result in inappropriate policy responses.  
 21 I mean, do you accept those criticisms?

22 **A.** I do and I don't. I'm not sure what the code of  
 23 practice for scientific advisory committees says around  
 24 this matter, which is an important matter. Part of  
 25 Welsh Government is absolutely about co-production,

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1 a case where we explored costs and impacts associated  
 2 with the cases at different junctures of the pandemic.  
 3 You know, papers on health inequalities were really  
 4 important foundation pieces for the group as well that  
 5 came from that group.

6 **Q.** The TAG Risk Communication and Behavioural Insights  
 7 subgroup we understand held its first meeting on  
 8 22 July 2020, and provided advice to the Welsh  
 9 Government for the first time in October 2021. Do you  
 10 know why it took so long for that subgroup to produce  
 11 its first advice to the Welsh Government?

12 **A.** I mean, there's two reasons there. From the very  
 13 beginning stages of the SAGE group, probably the three  
 14 most important groups were SPI-M, NERVTAG and SPI-B, and  
 15 we had access to the outputs of those groups and as we  
 16 were following a UK plan fairly closely in that period,  
 17 then we didn't really need RCBI at that point. But as  
 18 we became different in our policy choices then we needed  
 19 greater capacity and capability in that area, and  
 20 I described the need for this broadened set of subgroups  
 21 in a paper that was written in the summer of 2020 about  
 22 the approaching difficult winter.

23 **Q.** Do you consider there to have been sufficient regard or  
 24 focus on behavioural science and behavioural scientific  
 25 evidence in Wales particularly during the first wave?

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1 doing things in partnership, and it's really important  
 2 that you do that on wicked problems, and usually policy  
 3 formation happens slowly, not in a matter of hours and  
 4 days, and we've got very good examples of patient public  
 5 involvement in areas like genomics.

6 I think on the matter around the composition of the  
 7 Technical Advisory Group, I'm not aware that there was  
 8 a survey done on the breakdown of the background of the  
 9 participants. I myself am from a working class  
 10 background, I know my other colleagues were. In terms  
 11 of ethnic diversity, again we didn't survey the group or  
 12 actively look. I think if I was to start again, ideally  
 13 prior to a pandemic, I definitely would have looked at  
 14 representation and a fuller understanding of how we  
 15 would get that important information on these very  
 16 difficult policy choices. But there was work looking,  
 17 you know, with focus groups and different surveys that  
 18 were done through Ipsos MORI and Public Health Wales to  
 19 capture that type of information. But I think  
 20 Ann John's point was very valid, that we really need to  
 21 think about the composition of groups.

22 **Q.** Dr Chris Jones, who the Inquiry heard from -- sorry, the  
 23 Deputy CMO, who has provided written evidence to the  
 24 Inquiry, he has expressed discomfort at the number of  
 25 government officials in TAG and the lack of independence

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1 that resulted from this. So he said in his written  
2 evidence to the Inquiry that each TAG meeting was  
3 chaired by Welsh Government officials with several  
4 officials contributing actively in the advice, and in  
5 his view that risked influencing professional and  
6 academic advice. Is that something that you recognise  
7 or what comment do you have on that evidence?

8 **A.** I'm not sure there was much active participation from  
9 policy observers. I actually think it's really  
10 important to have observers, to be able to listen to the  
11 discourse and the debate and, you know, the weight of  
12 evidence. So I'm an advocate for non-scientists to be  
13 part of the conversations, however, not to be able to  
14 restrict the conversation with policy.

15 **Q.** Again, the Inquiry heard from Professor Gravenor last  
16 week, he and members of the Swansea modelling team were  
17 working voluntarily for a large part of the pandemic, as  
18 were a number of other members of TAG and TAC, so were  
19 having to juggle that work alongside their professional  
20 commitments.

21 Were you concerned at the time about the pressure  
22 that that may place on them but also how it may  
23 negatively impact on the quality or the timeliness of  
24 their work product?

25 **A.** You know, can I start by saying how grateful I am for  
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1 This, as I understand it, is the TAC summary advice  
2 actually from 5 May 2020, but we're not, for present  
3 purposes, concerned with the contents. I just want to  
4 know: what was the purpose of these advice summaries.

5 **A.** So there were actually two types of advice summary,  
6 there was an internal summary that contained more  
7 official sensitive information, for example unpublished  
8 discussions and papers from SAGE, and that went to the  
9 CMO, senior officials within health and across  
10 government and ministers, and that was a weekly  
11 publication.

12 It was a bit of a misnomer to say that it was  
13 a brief, that these would sometimes run to 50 or 9-  
14 pages long. And then there was a publicly accessible  
15 version, and this may be one of the earliest examples of  
16 a condensed public version that was able to share more  
17 broadly what we were observing and the information that  
18 was accessible to us at that time.

19 **Q.** So the internal, more expansive version, so say,  
20 for example, if it was commenting on SAGE, that would  
21 contain, would it, within that briefing pack, the  
22 particular SAGE minutes or the SPI-M minutes or  
23 documents?

24 **A.** Yeah, the key points from those papers. I mean, we were  
25 summarising and simplifying abstruse technical

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1 Professor Gravenor's work and all of the academic  
2 contributors to Technical Advisory Group, and there were  
3 over 200 who gave their time freely. In our lessons  
4 learned, we've identified this as an area that would  
5 require improvement, so we can reimburse people for  
6 their time. We were able to write ref letters to say  
7 that their research was contributing to policy and  
8 actions within Wales, which was important, but on the  
9 matter that Professor Gravenor raises around policy, we  
10 didn't have a call-off contract in place that we could  
11 easily fund universities, and I think procurement was  
12 difficult, we didn't have the staff to be able to put  
13 business justification cases in at that time, so that  
14 would be something I'd like to see addressed in the  
15 future.

16 **Q.** If I can just now identify some documents and TAG and  
17 TAC documents with you, as I understand it there were  
18 some three regular briefing documents that went to the  
19 Welsh Government, so I just want to identify what those  
20 are and ask you to perhaps briefly explain each of them.

21 The first is a document called a TAC summary of  
22 advice, so we've got an example up on the screen.

23 It's INQ000066418. You see the first page of it  
24 there, and perhaps we can just go over to the second  
25 page.

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1 information that should be accessible for people without  
2 a scientific degree.

3 The first update to CMO, and my first SAGE meeting,  
4 this was really a continuation and an evolution of that  
5 update. I think there were 131 of them in the course of  
6 the pandemic.

7 **Q.** The second document was the Covid-19 Wales situational  
8 report. We've got an example of that on the screen.

9 What was the purpose of these situational reports?

10 **A.** So this again evolved over time where the TAC summary  
11 had more situational assessment information from a range  
12 of indicators. This then became the alert level  
13 assessment that then evolved into the Covid situational  
14 report, which essentially was a risk assessment bringing  
15 together different strands of evidence to say: this is  
16 the picture in Wales against these indicators and  
17 circuit-breakers.

18 **Q.** And is this an externally facing document or is this --

19 **A.** That's correct, yes --

20 **Q.** -- an internal Welsh Government --

21 **A.** -- publish.

22 **Q.** If we can then identify perhaps the third document, the  
23 TAG contribution for 21-day review of measures, so we've  
24 got this at INQ000048838. We can just stick on this,  
25 which is the index page. What was the purpose of this

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1 document?

2 **A.** So this was the formal commissioning and questioning  
3 from policy colleagues involved in the national  
4 protections and policies that would then supplement and  
5 support ministerial advice and CMOs' advice at that  
6 period.

7 **Q.** As well as these types of documents that we've just  
8 looked at, I assume that ad hoc requests could be made  
9 of TAG and TAC for advice; is that right?

10 **A.** Yeah, I think "ad hoc" is probably the right word at the  
11 beginning. That process, like these documents, evolved  
12 and were iterated over time, so a more formalised  
13 approach to commissioning was adopted over time.

14 **Q.** Perhaps you could just describe for me the relationship  
15 between TAG and TAC and the CMO. Was TAG and TAC  
16 independent of the CMO and his office?

17 **A.** At the beginning, you know, CMO had primacy as the lead  
18 official and so everything was routed through CMO, but  
19 conversations with my co-chair and myself, we thought  
20 there was a need to be -- to be able to report to the  
21 director general of Health and Social Care in case our  
22 advice conflicted with the CMO, which it didn't actually  
23 in that period. It was more detailed but it didn't  
24 conflict.

25 **Q.** Do you think the difference between advice coming from  
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1 any papers related to Covid to the First Minister in  
2 January 2020 because that was not within your roles or  
3 responsibilities during this period. As far as you were  
4 aware, did the First Minister have access to SAGE papers  
5 in January 2020?

6 **A.** Oh, I don't know, you'd have to ask the First Minister.

7 **Q.** Now, Mr Drakeford said in his written evidence to  
8 the Inquiry that it was 24 January when Dr Atherton  
9 advised him that there was a significant risk that the  
10 virus would arrive in Wales.

11 Did you share the CMO's view?

12 **A.** At that point, at that juncture, I wasn't involved in  
13 health protection matters, my work was more facing the  
14 NHS.

15 **Q.** If we move then into February, 25 February you send  
16 an email to Dr Atherton in which you said, and we don't  
17 need to get the email up on the screen you said:

18 "Based on current models demand will significantly  
19 outstrip NHS bed capacity for about 8 weeks during  
20 epidemic peak."

21 Would it be right to say in late February -- this is  
22 an email on 25 February -- that you were concerned about  
23 the capacity in the health service in Wales, how it  
24 would respond to a high-consequence infectious disease?

25 **A.** Yes.

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1 TAG and TAC and advice coming from the CMO would have  
2 been understood by Welsh Government and Welsh Government  
3 ministers?

4 **A.** Do I think that the advice was understood?

5 **Q.** The difference between -- so say if they received advice  
6 from TAG and TAC and they received advice from the CMO,  
7 would they think this was of a piece or would they think  
8 that these are different --

9 **A.** I mean, we met with ministers really frequently and  
10 Sir Frank and I and Fliss Bennee, you know, they knew  
11 that the advice was coming from ourselves and TAG and  
12 TAC or CMO, yeah.

13 **Q.** So I understand that TAC has been stood down and TAG has  
14 been repurposed; is that right?

15 **A.** I wouldn't -- well, the emergency response has obviously  
16 been rescinded, but at -- the capacity and capability to  
17 respond is now within the science evidence advice  
18 division. TAG is still extant although not currently  
19 sitting.

20 **Q.** It is capable of being stood up in the event of a future  
21 pandemic?

22 **A.** In short order, yes.

23 **Q.** Dr Orford, I want to ask you some questions next about  
24 your initial understanding in January to March 2020.  
25 You say in your witness statement that you didn't send  
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1 **Q.** Do you consider that Dr Atherton and the Welsh  
2 Government decision-makers took sufficient heed of  
3 warnings such as the warning contained in your email of  
4 25 February?

5 **A.** At the time I didn't have access, I wasn't exposed to  
6 a Cabinet level or Executive Group conversation, so it's  
7 very difficult for me to comment from my view at the  
8 time.

9 **Q.** Does it surprise you that if the First Minister is being  
10 told by the Chief Medical Officer on 24 January that  
11 there is a significant risk that the virus would arrive  
12 in Wales, that it takes until 25 February for Covid to  
13 be discussed at Cabinet level?

14 **A.** Again, I wasn't privy to agenda setting with Cabinet, or  
15 those conversations. My advice was at that point being  
16 promulgated through the CMO, so I wasn't privy to those  
17 conversations.

18 **Q.** On 27 February you sent an email to Dr Atherton.  
19 If we could please display this, it's INQ000087032.  
20 This is an email sent, as I say, on 27 February. If we  
21 could have a look at the fourth paragraph, please, of  
22 your email -- yes -- it reads:

23 "The SAGE papers add further detail on the  
24 [reasonable worst case] and start to quantitate the  
25 potential numbers of people at a UK level requiring  
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1 hospital support and ventilation. Most of the pan-flu  
2 assumptions hold but some figures (eg duration of  
3 hospital stay) will have a significant impact on NHS  
4 planning when combined with the numbers of people  
5 requiring hospital support. If we estimate the numbers  
6 for Wales as being 5% of the UK totals we will see very  
7 significant impacts for NHS Wales that would far  
8 outstrip capacity for a number of weeks."

9 So at this point, 27 February, were you clear that  
10 unless action was taken, the NHS in Wales would be  
11 overwhelmed?

12 **A.** Yes.

13 **Q.** The First Minister in his written evidence to the  
14 Inquiry has said that although the Welsh Government was  
15 aware of Covid-19 in January and February, it was not  
16 a priority. I mean, do you think that the Welsh  
17 Government appreciated the threat of Covid-19 in January  
18 and February 2020, or is that not something you can  
19 comment on?

20 **A.** Yeah, I guess, you know, those reflections are probably  
21 best placed with ministers and more senior officials,  
22 but certainly from my perspective the advice was: this  
23 is coming. How big will it be and when will it arrive  
24 were obviously first order questions for me at that  
25 point.

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1 we didn't know whether people were -- who were infected  
2 with no symptoms or pre-symptoms or paucisymptomatic, in  
3 that they had mild symptoms, were able to transmit. So  
4 that wasn't until a lot later that there was sufficient  
5 evidence to say asymptomatic people could transmit,  
6 because certainly that was different from SARS-CoV-1.

7 **Q.** In your update to Dr Atherton of 20 February -- if we  
8 could perhaps have this on display, INQ000310085 --  
9 sorry, it's the same document. Seventh bullet point  
10 though now -- you state that there was a 75 to 80%  
11 likelihood that the virus is already in circulation. In  
12 your view, what were the implications of this regarding  
13 next steps to be taken by the Welsh Government in  
14 response to Covid-19?

15 **A.** So, again, this is information flowing from SAGE and at  
16 the time the sentinel surveillance system was not  
17 particularly sensitive, so it was guesswork as to how  
18 many infected or infectious people were in the UK at  
19 that time. And I suspect it was from the genomic  
20 evidence there were probably a handful of people in the  
21 UK with the virus and, when was that, 20 February,  
22 so ... so, yeah, it was a commentary on likelihood of  
23 people being, you know, the virus already being here in  
24 the UK.

25 **Q.** Sticking with this same document but going up to the

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1 **Q.** In late January/February 2020, although you say that  
2 there was uncertainty about asymptomatic transmission  
3 and viral shedding before symptoms developed, you say in  
4 your statement that you considered it a possibility.  
5 That's right, isn't it?

6 **A.** Yeah, it's ... patients or people being asymptomatic and  
7 asymptomatic transmission are different. So I think we  
8 just need to be very careful in how we're defining that.

9 **Q.** If we can have a look, please, at an update that you  
10 sent Dr Atherton on 20 February. This is following  
11 a SAGE meeting of the same date.

12 Yes, it's INQ000310085.

13 The email at the top of the chain, fifth bullet  
14 point, please, it refers to the -- yes, it says:

15 "From cruise ship -- 30-50% asymptomatic-mild."

16 Reference then obviously to the Diamond Princess  
17 cruise ship.

18 So is it right that by late February 2020 you and  
19 Dr Atherton were aware that there was asymptomatic  
20 transmission and that the rate might be as high as 30%  
21 to 50%?

22 **A.** Again, I think we need to be really careful here. So  
23 this information is coming from SAGE. This is saying  
24 whether people are infected, so testing positive, and  
25 whether or not they've got symptoms, and at that point

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1 fourth bullet point:

2 "Contact tracing to continue until trigger event  
3 detected eg local transmission not linked to travel.  
4 Number likely to be increased."

5 Were you confident in the contact tracing  
6 arrangements that were established in Wales at this  
7 time?

8 **A.** So we had very few molecular tests to be able to detect  
9 people carrying the virus at that time, so, you know, to  
10 have the sufficient numbers of contact tracers available  
11 I think would have been difficult.

12 **Q.** In his witness statement to this module  
13 Dr Quentin Sandifer from Public Health Wales states that  
14 by 12 March it was clear that Public Health Wales'  
15 capacity to conduct contact tracing was reaching a limit  
16 without a large expansion in the workforce to undertake  
17 this activity. Do you agree with Dr Sandifer's  
18 assessment? Was this your view at the time?

19 **A.** Dr Sandifer would be far better placed than I to comment  
20 on the capacity of contact tracing in Wales at that  
21 juncture, so if he says it's correct then I assume it is  
22 correct as I wasn't directly involved in  
23 operationalisation of contact tracing at that point.

24 **MR POOLE:** My Lady, we're about to move into March 2020, so  
25 that might be an appropriate moment.

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1 **LADY HALLETT:** Certainly. I hope you were warned you may go  
2 over lunch.

3 **THE WITNESS:** Thank you.

4 **LADY HALLETT:** 1.45, please.

5 **(12.45 pm)**

6 **(The short adjournment)**

7 **(1.45 pm)**

8 **LADY HALLETT:** Mr Poole.

9 **MR POOLE:** Dr Orford, the UK *Coronavirus: action plan* was  
10 published on 3 March 2020. In your witness statement,  
11 you say:

12 "... prior to its publication I had commented by  
13 email on 1 March ... that the document was Anglocentric  
14 and needed to better reflect the devolved nature of  
15 Health and the responsible organisations in Wales."

16 First of all, I suppose, did the final version take  
17 on board your comments?

18 **A.** That's a good question. I can't recollect reading the  
19 last version, but I recollect seeing comments from other  
20 colleagues, a summary of comments back from devolved  
21 governments, making the same comment, that it needed to  
22 reflect the UK rather than the position in England.

23 **Q.** Why do you feel the action plan was Anglocentric?

24 **A.** I mean, quite often if you see documents that have been  
25 drafted fairly swiftly -- I think that email probably

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1 and now having a look at this document, given the  
2 worsening clinical picture do you think the advice  
3 should have gone further than recommending further  
4 control measures simply being considered? Should the  
5 advice have actually recommended the introduction of  
6 further control measures at this stage?

7 **A.** That's a good question. Hypothetically, should we have  
8 urged a lockdown sooner? I think that's what we were  
9 saying here, that you needed to go sooner.

10 And just to try to fit this into context of what was  
11 happening, I believe there was a SAGE meeting on  
12 16 March where there was a discussion that the doubling  
13 time was shorter than previously thought, and perhaps  
14 there were more cases in the community than possibly had  
15 been picked up through the ICU sentinel surveillance.  
16 So the picture was pretty bleak at this time that we  
17 were some way down the track.

18 **Q.** Could we, please, have a look at an email that you sent  
19 to Dr Atherton on 22 March. It's INQ000350513.

20 This was an email in response to an email he had  
21 sent with information from Sir Chris Whitty on the  
22 UK Government strategy.

23 You say at page 1, first -- or second substantive  
24 paragraph:

25 "I'm not sure I agree ... [Document read] ... needs

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1 came on a Sunday night to about 200 people -- often  
2 you'll find references to "the NHS"; well, there's four  
3 NHS organisations within the UK, so unless you're  
4 looking through a telescope from devolved government  
5 perspective, it's not easy to capture all those nuances  
6 of the differences in devolved governance.

7 **Q.** On 12 March Wales like the rest of the UK moved from  
8 contain to delay and then on 17 March the First Minister  
9 advised that the public should limit non-essential  
10 contact, work from home where possible and avoid social  
11 venues. In your view, did that advice go far enough on  
12 17 March?

13 **A.** I think probably from 17 -- well, before 17 March it was  
14 looking pretty precarious and actually we probably  
15 should have gone further then.

16 **Q.** If we have a look please on 20 March, it's a TAC  
17 Covid-19 briefing document. INQ000083241, thank you.

18 If we can look at page 1, first paragraph, TAC  
19 advised that the risk of exceeding NHS capacity was  
20 higher than previously considered.

21 Then paragraph 2, please:

22 "TAC [recommended] that further ... [Document read]  
23 ... and decrease the risk of exponential growth in  
24 demand."

25 Picking up on your answer to the previous question

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1 to be done as soon as possible...eg tomorrow (2-3)."

2 Why did you disagree with the UK position on the  
3 second wave, the bounce-back as some have called it?

4 **A.** I'm not sure I'm disagreeing at that point. I haven't  
5 got the document from Chris Whitty to refer to, but  
6 I think at that point I'm highlighting the need for more  
7 testing, more contact tracing, as well as the  
8 suppression methodology.

9 **Q.** As we know, the UK, including Wales, entered lockdown on  
10 23 March. Do you consider the lockdown in Wales was  
11 imposed early enough?

12 **A.** At the time, the discussion was that we were possibly  
13 a couple of weeks behind London, and that London was  
14 further advanced than us because of the nature of the  
15 seeding of the infection into the UK. In hindsight,  
16 scientific papers suggest a week earlier would have been  
17 better, so if the UK had gone into lockdown on the 15th  
18 then that would have been better than the date it did go  
19 into lockdown, in hindsight.

20 **Q.** I think you refer in your witness statement to  
21 a modelling study that showed that introducing measures  
22 one week earlier would have reduced by 745% the number  
23 of Covid cases in England by 1 June. Is that right?

24 **A.** That's correct, yeah. It's not my work, but that is the  
25 finding of the paper.

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1 Q. And that would have resulted in approximately 21,000  
2 fewer hospital deaths and 34,000 fewer total deaths, and  
3 also the total time spent in lockdown would have been  
4 halved, from 69 days to 35 days?

5 A. According to the model, yes.

6 LADY HALLETT: But what happens if you do then get another  
7 high wave?

8 A. I think we did get another high wave.

9 LADY HALLETT: Exactly.

10 A. Yes.

11 LADY HALLETT: So how does one look at those figures? If  
12 you've had those figures for the length of the lockdown  
13 and then you get another high wave, the number of deaths  
14 overall, can one say whether there was any impact on  
15 those?

16 A. Depends when you intervene on that second wave, I guess.

17 MR POOLE: So timing of further restrictions in, say,  
18 autumn/winter 2020 would have been critical?

19 A. Yes.

20 Q. Before we leave March, can I just ask some questions  
21 about the advice you provided to the Welsh Government as  
22 regards transmission risks of allowing mass gatherings  
23 to go ahead.  
24 If we could have a look, please, at INQ000271446, at  
25 page 13. I'm grateful.

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1 I'm not certain that this document is one that  
2 I drafted, I think it was probably drafted by comms  
3 colleagues with some advice from myself within it, and  
4 the advice that I gave was the advice of SAGE and the  
5 calculations from the modellers regarding the impact,  
6 the potential impact of those events.

7 Q. I mean, the events foreseeably entailed people  
8 travelling for the match, so we've heard that 20,000  
9 Scottish rugby fans travelled to Cardiff in advance of  
10 the rugby match, and they foreseeably would have  
11 entailed people meeting in pubs and bars ahead of the  
12 match. From a public health perspective, would it not  
13 have been prudent to advise against mass gatherings  
14 going ahead?

15 A. I think in the benefit of hindsight, it would have made  
16 sense, just the optics of this, to stop the events going  
17 ahead. But from an epidemiological perspective, then  
18 perhaps closing all bars at the same time to stop  
19 displacement activities. So whilst the risk of these  
20 individual events were negligible compared to the whole  
21 population where transmission happens all of the time  
22 everywhere, actually what the -- what they presented to  
23 the public was that these events are okay.

24 Q. Are you aware that the advice from Public Health Wales  
25 was that the match should be postponed or cancelled?

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1 So this is an email that was sent on 9 March from  
2 the principal private secretary to the First Minister.  
3 The email asks for advice in relation to cancelling  
4 major events due to coronavirus. Your reply is at the  
5 top of page 11, I think, and it's dated 11 March.

6 So you send a technical briefing on mass gatherings,  
7 and we can see that briefing -- I don't -- perhaps if we  
8 can bring up that briefing.  
9 It's INQ000271447.

10 Bottom of page 3 of this briefing, in answer to the  
11 question "Should I continue to attend or run sports  
12 events?" the briefing advises that:  
13 "There is presently no scientific evidence ...  
14 [Document read] ... the situation evolves."  
15 Then over the page, page 4, first paragraph, in  
16 answer to the question "Why is the Six Nations [rugby]  
17 going ahead this weekend?" the briefing states:  
18 "The 4 CMOs position on the science not supporting  
19 ... [Document read] ... bodies to make their own  
20 decisions ..."  
21 Is it right that the advice that you were giving and  
22 that TAC was giving at this time was based on the view  
23 that the events themselves would not be major vectors  
24 for transmission?

25 A. Yeah, that's correct. The advice that I was giving --

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1 A. I don't think I was aware at the time that that was  
2 their advice but, you know, that is their  
3 responsibility, to provide public health advice.

4 Q. The evidence that Sir Chris Whitty has given to the  
5 Inquiry on 21 November, he spoke about the consequences  
6 of allowing mass gatherings to go ahead.  
7 If we can just, please, see a passage of the  
8 transcript of his evidence, it's -- I'm grateful.  
9 So internal page 189, lines 13 to 19, so  
10 Sir Chris Whitty said there allowing mass gatherings and  
11 sporting events to go ahead "signalled to the general  
12 public that the government couldn't be that worried",  
13 and he stated:  
14 "So I think that the problem was not the gatherings  
15 themselves, which I don't think there's good evidence  
16 has had a major material effect directly, but the  
17 impression it gives of normality at a time that what  
18 you're trying to signal is anything but normality."  
19 Professor Whitty also stated that debating the  
20 closure of schools "whilst allowing sporting events to  
21 continue and mass gatherings to remain open" was, in his  
22 words "logically incoherent to the general public, quite  
23 reasonably".  
24 Do you agree with Sir Chris Whitty's views --  
25 A. I do.

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1 Q. -- as expressed there?  
 2 A. Yes, I do.  
 3 Q. We can change topic, Dr Orford, talk about testing.  
 4 Now, from 22 March 2020 you were the senior responsible  
 5 officer for testing; is that right?  
 6 A. That's correct, yeah.  
 7 Q. If we could, please, have on display INQ000309871.  
 8 Which is an email of 22 March, Quentin Sandifer from  
 9 Public Health Wales emailing you and Tracey Cooper  
 10 regarding testing.  
 11 Now, in this email Dr Sandifer expresses concern  
 12 about Wales losing out in relation to testing kits.  
 13 Dr Sandifer says:  
 14 "Above all else I am really worried that National  
 15 politics could trump public safety and need in Wales and  
 16 we end up losing out badly in Wales."  
 17 What did you understand to be Dr Sandifer's concern  
 18 about national politics trumping public safety?  
 19 A. That's a really good question for Dr Sandifer. My  
 20 understanding that the whole of the world were looking  
 21 for tests for Covid, including UK Government, and  
 22 including Welsh Government, including Public Health  
 23 Wales, and Public Health Wales were concerned that  
 24 an agreement had been struck with a company that wasn't  
 25 honoured because of other power plays going on at UK

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1 Middle of that page, the email specifically  
 2 references being let down by Roche, and that is what  
 3 you've just alluded to a moment ago, if I can perhaps  
 4 give a summary of the situation and you can tell me  
 5 whether I've got it right.  
 6 There was an announcement made by Mr Gething on  
 7 21 March that the Welsh Government would have access to  
 8 6,000 Covid tests a day by 1 April. That appears to  
 9 have been based on an agreement that the Welsh  
 10 Government believed it had or at least was negotiating  
 11 with the Swiss pharmaceutical company Roche, however  
 12 Roche ended up supplying tests to the UK Government for  
 13 use in England, and then, after agreement, with the  
 14 devolved administrations. Is that more or less  
 15 an accurate summary?  
 16 A. I think that agreement would have been with Public  
 17 Health Wales and Roche rather than the Welsh Government,  
 18 was my understanding. And I don't think that was  
 19 a written agreement, I think it was a verbal agreement.  
 20 Q. We have a look, please, at page -- yes, page 2,  
 21 paragraph 4 of -- let me just check.  
 22 If we can have actually, please, INQ000309905  
 23 displayed. This is an email from Tracey Cooper to you  
 24 and others -- yes, I'm grateful, thank you.  
 25 So page 2 and paragraph 4 of this email, it is said

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1 level.  
 2 Q. Did you have concerns at this point in time, so this is  
 3 22 March, about whether Wales would be able to rely on  
 4 UK-wide initiatives to scale up testing capacity in  
 5 Wales?  
 6 A. So I was unaware at that time if there was or wasn't  
 7 a UK testing plan, and so on 23 March, the next day, or  
 8 on the 22nd, I asked who was responsible for  
 9 co-ordinating testing in Wales, it turned out to be me,  
 10 I was given that privilege, and by the 23rd we'd  
 11 assembled a group, including Public Health Wales, to  
 12 draft a high-level testing plan to scale up testing,  
 13 partly because of this problem.  
 14 Q. On 27 March you were asked questions about the testing  
 15 strategy on behalf of Mr Gething.  
 16 The email that I'd like displayed is INQ000383998,  
 17 thank you.  
 18 So on the second page we can see there:  
 19 "The Minister [Mr Gething] ... has a number of  
 20 questions he would like answered before the testing plan  
 21 can be published."  
 22 And the email refers to concerns regarding testing  
 23 capacity and concerns about being reliant on UK  
 24 initiatives. Now, your reply is the text that we can  
 25 see in red in this email.

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1 there, I'm reading from (a):  
 2 "It is clear that the situation is rather chaotic  
 3 and the ... [Document read] ... will be met."  
 4 Would it be fair to say that there was little trust  
 5 that UK-wide testing initiatives could be relied upon at  
 6 this stage?  
 7 A. I think there was a great deal of uncertainty at that  
 8 stage.  
 9 LADY HALLETT: I think it's right to say for those that  
 10 haven't followed this that this incident involving Roche  
 11 and the number of tests has been highly controversial as  
 12 to whose memory is accurate.  
 13 A. Yeah, absolutely.  
 14 LADY HALLETT: Is that fair?  
 15 A. But I think Tracey's emails are fairly -- you know, are  
 16 accurate at the time, they were captured with the  
 17 knowledge at the time.  
 18 MR POOLE: Was there a concern that you would be competing  
 19 with the UK Government in the supply of testing  
 20 materials?  
 21 A. Yes.  
 22 Q. Now, we know that a testing plan was published in Wales  
 23 on 7 April 2020. The Inquiry understands that the Welsh  
 24 Government published the document "Test, Trace, Protect"  
 25 setting out its strategy in relation to health

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1 surveillance in the community on 13 May, so that  
2 strategy was published four months after the global  
3 emergency was evident. Why did it take four months for  
4 that testing strategy to be developed?

5 **A.** So the first test plan wasn't published but it was  
6 finalised and agreed by the then Minister for Health and  
7 Social Services on 27 March, so four days later than we  
8 brought the group together, and the principal  
9 objectives -- they've had six work packages, with the  
10 first one being to scale tests. That plan was then  
11 shared with devolved governments and UK Government.

12 **Q.** Dr Orford, change of topic. I'd like to ask you some  
13 questions about discharging patients from hospital to  
14 care homes next and also the related question of testing  
15 as well.

16 On 13 March 2020 the minister for health and  
17 social care made a public statement announcing  
18 a framework of actions aimed at allowing health and  
19 social care providers to make decisions to assist with  
20 the timely preparation for the expected number of  
21 confirmed cases, and we can see that on the screen  
22 there.

23 At point 4 of that announcement we can see it said:

24 "Expedite discharge of vulnerable patients from  
25 acute and community hospitals."

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1 Did you or TAG or TAC advise on this?

2 **A.** No.

3 **Q.** On 9 April 2020 Public Health Wales issued guidance on  
4 the admission and care of care home residents. The  
5 advice was that negative tests were not required prior  
6 to transfer and admission into a residential setting.  
7 Again, did you or TAG or TAC advise on that?

8 **A.** No.

9 **Q.** On 17 April 2020 there was a meeting of the closed  
10 settings group which was a Public Health Wales group as  
11 I understand it, albeit, I think I'm right in saying, it  
12 had some overlap with TAG and TAC membership; is that  
13 right?

14 **A.** It's possible that members of that group -- I'm not sure  
15 who was on the group, so it's difficult for me to answer  
16 but, you know, we're a relatively small organisation, so  
17 there may have been some overlap.

18 **Q.** If we could, please, have INQ000336421, thank you.

19 This is an email sent following the meeting of that  
20 closed settings group on 17 April. Page 2 of the email  
21 chain, at "Action 3" reads:

22 "[Welsh Government] Policy officials verbally  
23 outlined a clear ... [Document read] ... communication.  
24 Lead WG policy officials."

25 Did you agree with the change of policy regarding

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1 Then at point 7:

2 "Suspending the current protocol which gives the  
3 right of a choice of home."

4 Is it right to understand the purpose of these  
5 measures was to ensure timely discharges and basically  
6 try to eliminate delays related to care home choice so  
7 as to maximise the number of hospital beds that were  
8 available in the event of a surge in hospital demand?

9 **A.** That would make absolute sense. I'd no involvement in  
10 writing these policies, so those questions might be best  
11 addressed to those involved in the policy decisions  
12 here.

13 **Q.** Do you agree though that expediting the discharge of  
14 vulnerable patients from hospital into care homes  
15 presents a clear risk that obviously had to be managed?

16 **A.** Oh, I think there were, you know, significant risks  
17 around hospitals and care homes throughout the pandemic.

18 **Q.** If we could, please, have INQ000336353 on screen, which  
19 is an email exchange on 31 March between the Deputy CMO,  
20 Dr Jones, and various HSSG officials.

21 If we can, please, go to page 3 -- we're there  
22 already, thank you -- Dr Jones replies, right at the top  
23 of the page:

24 "I would think ... [Document read] ... be positive  
25 the next."

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1 the testing of patients discharged from hospitals to  
2 care homes?

3 **A.** Again, I wasn't involved in these policy discussions,  
4 I'm not sure I was included. What was the date, sorry?

5 **Q.** The date of this is 17 April.

6 **A.** No, I was no longer involved in testing at that point.

7 **Q.** Please can we have INQ000228309 displayed, please.

8 This is an email thread from 31 March and 1 April  
9 between you, Dr Thomas Connor, Chris Williams, Public  
10 Health Wales, and other members of TAC. We can go to  
11 page 6. We can see that the conversation begins with  
12 you explaining that the issue of nosocomial transmission  
13 has come up at SAGE and that it had come up in relation  
14 to Wales due to the Aneurin Bevan outbreak.

15 If we can, please, go up to page 3 of this email  
16 chain, there's an email from Dr Connor. He writes,  
17 I think it's the fourth paragraph, second line -- second  
18 line in -- thank you. So, second line:

19 "In this case we have a cluster of 50-70 ...  
20 [Document read] ... such testing has to be rapid to be  
21 useful."

22 So Dr Connor's there saying that weekly testing  
23 might have missed all of the transmission of  
24 a particular outbreak, isn't he?

25 **A.** Yeah.

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1 **Q.** Then if we can go right up to the top of the chain,  
 2 page 1, you state, first paragraph:  
 3 "As Tom suggests a sequential approach to testing  
 4 ... [Document read] ... if sounds like a sensible  
 5 approach?"  
 6 I just want to take you on the same theme just to  
 7 a document that you emailed two hours later -- or,  
 8 sorry, Chris Williams emailed you this document  
 9 two hours later. It's the CDC, Centers for Disease  
 10 Control, prevention study.  
 11 I'm grateful, we've got it on the screen there.  
 12 That study looked at asymptomatic and presymptomatic  
 13 Covid-19 infections in residents of a long-term care  
 14 nursing facility.  
 15 We could have a look, please, at page 2 of that  
 16 study, looking at the top left-hand box:  
 17 "What is already known? Once Covid is introduced in  
 18 ... [Document read] ... contribute to SARS-Cov-2  
 19 transmission."  
 20 Now, this is the report that Mr Hancock in his  
 21 evidence to Module 2 described as a game-changer in  
 22 terms of the scientific evidence underpinning testing  
 23 policy advice in the UK.  
 24 This was emailed to you. Did you view this study in  
 25 the same way as Mr Hancock, namely a game-changer as  
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1 was more about how you establish that sentinel  
 2 surveillance system within staff groups rather than  
 3 asymptomatic or presymptomatic testing per se. But  
 4 there were plenty of papers that came through NERVTAG  
 5 around asymptomatic and presymptomatic people and  
 6 testing.  
 7 **Q.** Now, on 16 April England introduced mandatory testing of  
 8 all patients prior to discharge to a care home, and as  
 9 we know that policy was not introduced in Wales until  
 10 a couple of weeks later. I just want to show you if  
 11 I can the ministerial advice that was submitted to  
 12 Mr Gething on 30 April.  
 13 If we could have a look at page 2 of the ministerial  
 14 advice, it's the fifth paragraph and the second bullet  
 15 point, right down at the bottom:  
 16 "We also intend to increase testing within care  
 17 homes ... [Document read] ... capacity becomes  
 18 available."  
 19 Then page 4, please, paragraph 16, impact of  
 20 asymptomatic care home residents:  
 21 "Whilst it is unclear what ... [Document read] ...  
 22 half of residents with Covid-19."  
 23 Were you aware that that study had been discussed in  
 24 the Public Health England meeting on 20 April and,  
 25 later, a NERVTAG meeting on 24 April?  
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1 regards asymptomatic transmission and the need to  
 2 introduce routine testing, especially in environments  
 3 such as care homes?  
 4 **A.** So, you know, tend not to have game changing papers in  
 5 science, it tends to be the accumulation of pieces of  
 6 evidence to then form a consensus, and then you can say  
 7 whether you're confident in that consensus or not.  
 8 Just on the practicalities, if I can go back ever so  
 9 slightly, I think probably around that time there were  
 10 in the region of a thousand tests a day available in  
 11 Wales within hospitals generally. There are  
 12 105,000 staff in the NHS in Wales. 36,000 of those are  
 13 nurses and 9,000 of those are doctors and dentists, and  
 14 15,000 are allied health professionals and healthcare  
 15 scientist, who I'm responsible for. There are 23 --  
 16 sorry, there are 10,000 beds within the NHS. There are  
 17 80,000 social care workers and 23,000 residential beds.  
 18 So that's excluding other key workers. So there would  
 19 be a huge demand for tests to test everyone.  
 20 So the conversation with Chris Williams and  
 21 colleagues was more about how you can create a web that  
 22 acted as a kind of surveillance system, where you didn't  
 23 have to seek -- test everybody once a week, so you could  
 24 pick up where outbreaks were and manage them  
 25 effectively. So I think Chris's sharing of this paper  
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1 **A.** Yeah, I think that was the "Easter six", it was called  
 2 the Easter six care home outbreak analysis that was  
 3 brought from NERVTAG to SAGE a couple of days later.  
 4 **Q.** And the preliminary results were that 75% of residents  
 5 were positive for Covid but only 25% were symptomatic,  
 6 and 50% of staff were positive but only 29% of those  
 7 were symptomatic. You were aware of those preliminary  
 8 results?  
 9 **A.** Yeah, and again the conversation around whether somebody  
 10 could be asymptomatic and transmit hadn't quite been  
 11 landed. I think probably WHO advice was still the same  
 12 around symptomatic individuals and a case definition was  
 13 still around people with the cardinal symptoms of  
 14 Covid-19.  
 15 **Q.** We can -- back to this ministerial advice, if I can,  
 16 please, ask for page 5, paragraph 19 to be pulled up,  
 17 thank you:  
 18 "The current position in care homes was to isolate  
 19 ... [Document read] ... everyone was positive for  
 20 Covid."  
 21 Then the ministerial advice expresses concerns about  
 22 the number of tests that would be required to test care  
 23 home residents and staff on a routine basis, which is  
 24 I think something you've also just alluded to.  
 25 Is it right, policy decisions on testing are  
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1 obviously constrained by capability -- capacity? Is it  
2 your view that had capacity been increased, there would  
3 have been a sound evidential basis for regular testing  
4 of asymptomatic care home staff and residents? In other  
5 words, would the policy have been adopted sooner if  
6 capacity was greater?

7 **A.** So hypothetically would we start at the position we  
8 ended at? I mean, logically, I would say yes. However,  
9 there was much more testing in the UK than there were in  
10 other countries. So, I mean, the logistics at the time,  
11 not just the scale of the need, was actually to bring  
12 testing to care homes themselves where we couldn't  
13 reasonably expect care home residents to go to testing,  
14 as well as knowing who lived in care homes and who  
15 worked in care homes. There was quite a demand,  
16 a logistical demand and a digital demand, on colleagues  
17 to operationalise the policies that came thick and fast.  
18 So it was a real challenge for colleagues.

19 **Q.** Dr Orford, was the change in policy on care home testing  
20 driven by what was happening in England rather than the  
21 scientific advice provided in Wales in your view?

22 **A.** That's a very good question and I think probably best  
23 aimed at colleagues who were leading on testing at this  
24 time, which, you know, again was a significant  
25 operational challenge with many people needing to work  
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1 groups.

2 **Q.** On 18 September TAC advised that more needed to be done  
3 to bring the R rate back down below 1. We can see the  
4 summary advice of 18 September on the screen. If we  
5 have a look at page 2, the fourth bullet point, please,  
6 it says:

7 "A package of non-pharmaceutical interventions  
8 (NPIs) on local and national scale may be needed to  
9 bring ... [Document read] ... length of time for which  
10 they are required."

11 So TAC there advising action would be most effective  
12 if implemented early; correct?

13 **A.** Correct.

14 **Q.** Circuit-breaker or firebreak, so in other words, as we  
15 all know, a short period of lockdown, that was  
16 recommended by SAGE on 21 September. I don't think you  
17 attended, but Fliss Bennee attend on behalf of TAC. We  
18 can see those minutes there.

19 If we could have a look at page 2.2, please:

20 "SAGE advice was that a package of interventions  
21 would need to be adopted to ... [Document read] ... to  
22 low levels."

23 If we can have a look, please, at point 6 on that  
24 page:

25 "The more rapidly interventions are ... [Document  
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1 together at a national level to get things right.

2 And again, you know, comparing England and Wales is  
3 difficult because there's greater capacity and  
4 capability in England as it's 20 size -- times bigger,  
5 but I honestly don't know the details around any  
6 differences in that policy and the timings of the  
7 policies therein.

8 **Q.** We move into August. That saw the start of the Eat Out  
9 to Help Out scheme, and we know that's a scheme  
10 implemented by the UK Government. Were you asked to  
11 advise on that initiative?

12 **A.** No.

13 **Q.** I want to ask you some questions next about firebreak.  
14 Before, I would just like to ask you a question about  
15 data, if I may.

16 On 18 September 2020, the ONS released data that  
17 demonstrated that 68% of deaths from Covid-19 between  
18 2 March and 14 July 2020 were among disabled people.  
19 Following the release of those statistics, was any  
20 research carried out in Wales as to why that mortality  
21 figure was so high?

22 **A.** We wrote several papers on mortality statistics, working  
23 closely with colleagues in Knowledge and Analytical  
24 Services, as well as papers on health inequalities of  
25 the absolute and relative impact on different population  
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1 read] ... geographical area."

2 Presumably, as Fliss Bennee attend on the behalf of  
3 TAC, you were made aware of that SAGE advice?

4 **A.** Absolutely. I may well have been at SAGE, that meeting,  
5 but it's not recorded.

6 **Q.** Four days later, so this is 25 September, the need for  
7 early intervention was reiterated by TAC. I don't need  
8 to go to the advice, I'll just read a summary:

9 "If the current measures do not bring R below 1 then  
10 further restrictions will be needed to control the  
11 epidemic in ... [Document read] ... the more effective  
12 they will be."

13 Then on 2 October there was a rather more stark  
14 warning from TAC. We see the advice there, if we can  
15 have a look at page 2, please, fifth bullet point:

16 "Unless measures bring R below 1 ... [Document read]  
17 ... scenario planning levels."

18 So, in other words, the NHS would become  
19 overwhelmed; correct?

20 **A.** Yeah.

21 **Q.** Are you aware at this stage of any planning undertaken  
22 for further restrictions to be implemented?

23 **A.** I mean, I can't remember the interactions with the Covid  
24 policy colleagues at that time regarding -- sorry,  
25 I can't remember the conversations that were going on at  
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1 that time.  
 2 **Q.** If we have a look at 9 October, please, this is another  
 3 TAC summary advice we can see at INQ000066397 -- thank  
 4 you very much.

5 If we have a look at page 2, "Current situation in  
 6 Wales", in the middle of the page:

7 "For the first time in this ... [Document read] ...  
 8 test positivity.

9 "We are continuing to monitor how the ... [Document  
 10 read] ... planning scenarios."

11 Notwithstanding the clear direction from SAGE that  
 12 we saw in the minutes a bit earlier, the obviously  
 13 deteriorating picture, why at this stage wasn't TAC  
 14 clearly recommending the need for a firebreak?

15 **A.** So can I go back to the last question, please? Is that  
 16 okay?

17 **Q.** Of course.

18 **A.** At the time there were local interventions, so  
 19 understandably there were challenges around national  
 20 interventions and concerns and there was a great deal of  
 21 interest around hyperlocal interventions and local  
 22 interventions to reduce harm, reduce economic harm, and  
 23 not to put areas that had lower incidence into protected  
 24 measures at that time.

25 So, you know, I can't remember which local  
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1 authorities. So I think in hindsight, you know, perhaps  
 2 they weren't the best idea.

3 **Q.** Whilst I appreciate there may have been different policy  
 4 initiatives being pursued, so we have local lockdowns at  
 5 this time going on, but looking at what we've looked at  
 6 so the SAGE minutes, the TAC advice that's getting more  
 7 and more stark, culminating in this advice of 9 October,  
 8 so, going back to my question, why wasn't TAC  
 9 recommending clearly at this stage the need for  
 10 a firebreak lockdown or a short lockdown across the  
 11 whole of Wales?

12 **A.** I think they had, through this period, you know, the  
 13 preceding documents had said we need a national  
 14 intervention and a SAGE document said the same thing and  
 15 I think broadly throughout the pandemic Wales followed  
 16 SAGE advice.

17 **Q.** Can we, please, have INQ000385719 displayed.

18 Which is an email sent to you by someone at Public  
 19 Health Wales on 11 October. So this is shortly ahead of  
 20 a scheduled meeting to discuss Welsh strategy and  
 21 a potential firebreak. The email highlights key areas  
 22 for discussion at this meeting.

23 Do you agree that there remained -- just looking at  
 24 this email that starts, "I have put some high level  
 25 points that will help us focus the discussion" -- there  
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1 authorities were in what state during that period, but  
 2 there was a lot of policy activity around intervening  
 3 and monitoring and measuring, but still the epidemic was  
 4 growing in Wales.

5 **Q.** Reference to local interventions, we know that in  
 6 sort of late September early October there were  
 7 effectively local lockdowns within Wales within some of  
 8 the councils there?

9 **A.** Yes.

10 **Q.** Is that what you're referring to by local --

11 **A.** I am, yeah. And there was work done that was led by  
 12 Fliss Bennee in Wales looking at the impact of those  
 13 local interventions to see whether or not they were  
 14 having the desired effect. So, you know, to be able to  
 15 change policy, realistically you need to bring evidence  
 16 to show whether or not things are working.

17 **Q.** The First Minister in his written evidence to this  
 18 module has described those local interventions as -- his  
 19 words were a "failed experiment"; do you agree with  
 20 that?

21 **A.** I'm not sure where the origin of the idea around local  
 22 interventions came from, whether that was UK Government  
 23 or Welsh Government, but certainly I felt it made things  
 24 more complicated, that you had to have more legislation,  
 25 more policies in place, across different local  
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1 remained a lack of clarity in respect of what the  
 2 strategy for Wales should be at this point in time and  
 3 who was responsible for identifying that strategy?

4 **A.** Yeah, I think this email's from Giri Shankar, who was  
 5 a member -- he's director of health protection in Public  
 6 Health Wales and, you know, a really excellent member of  
 7 the Technical Advisory Group. Not being able to  
 8 remember word for word the policies, but certainly lots  
 9 of conversation around balancing harm, that every  
 10 intervention had associated harms and benefits, so  
 11 whether that was relieving pressure on the NHS but that  
 12 would incur economic harm and other associated indirect  
 13 harms. So I think it would have been very difficult for  
 14 a minister to stand up and say "These are the absolute  
 15 levels of harms that we're willing to tolerate or that  
 16 we're working to", so I think it was very difficult to  
 17 be clear on what balanced harms look like.

18 **Q.** Can I ask you to have a look, please, at an email of  
 19 15 October that you sent to the First Minister,  
 20 Mr Gething and Dr Atherton as well as some others.

21 Yes, thank you, that's the email on the display.

22 You effectively provide a summary of the  
 23 epidemiological modelling work that had been undertaken  
 24 to analyse the effect of a firebreak, and in that second  
 25 paragraph there we can see you say:  
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1 "There are some key conclusions that we would like  
2 to share ... [Document read] ... message is the need to  
3 find ways to sustainably lower R following any  
4 firebreak."

5 So although your email comes with the caveat that  
6 this is a work in progress, is the reason that you're  
7 sharing this with the First Minister and the minister  
8 for health and social care because the situation in your  
9 view called for immediate action?

10 **A.** Yeah.

11 **Q.** This is 15 October.

12 **A.** Absolutely.

13 **Q.** Now the Inquiry understands that the Firebreak  
14 Implementation Group was established on 14 October and  
15 the purpose of that group was to consider advice  
16 regarding a potential firebreak in Wales.

17 If we could have a look, please, at INQ000315913.

18 It's an email from you to Reg Kilpatrick on  
19 18 October. The subject is "Covid Fire Break  
20 [Implementation Group]". You open by saying that:

21 "The other side of the firebreak needs a look a lot  
22 different to now re: testing and isolation."

23 And then point 5 you say:

24 "Would very much welcome sight of a ... [Document  
25 read] ... been missing this."

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1 this point in time?

2 **A.** No.

3 **Q.** There was advice produced, further advice from TAG  
4 produced on the firebreak measures on 18 October.  
5 I don't want to go that to advice, other than to just  
6 note that TAG recommended a two to three-week hard  
7 firebreak to bring R below 1 in order to lessen the  
8 impact and slow the growth of the epidemic in Wales, and  
9 then a firebreak was announced on 19 October.

10 Given everything we've just looked at, the  
11 increasing infection rates, the anticipated impact on  
12 health services, do you think a firebreak should have  
13 been implemented earlier than it was?

14 **A.** I think with the benefit of hindsight, yeah, earlier  
15 would have been better. It would have got the  
16 prevalence lower, but, you know, it did what it intended  
17 to do and pushed the epidemic back.

18 **Q.** Do you think the firebreak was of sufficient duration?

19 **A.** I think that's a question around -- in the modelling  
20 there was some difference between two weeks and  
21 three weeks, there were marginal gains of having three  
22 weeks, and four weeks was better than three weeks, so  
23 that was from the modelling. But from the actuals, from  
24 the observed information post-firebreak, it probably  
25 worked as well as a three-week firebreak in that it

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1 So do I take it from that that your view was that  
2 economic considerations had not been factored into  
3 decision-making regarding the firebreak up to this point  
4 in time?

5 **A.** So can I just go back on the phasing of the firebreak?  
6 Is that okay?

7 There was some advice around, and I think it came  
8 from SAGE, around the timings of firebreaks, that if you  
9 got them to coalesce with harm term or school holidays  
10 then you'd lessen the educational impact, and so there  
11 was some logic in phasing the Welsh firebreak around  
12 autumn half term. And that was something that we'd  
13 considered much earlier in the pandemic, around school  
14 holiday phasing, but I think the way in which the  
15 pandemic was progressing, in terms of its doubling time,  
16 where small numbers become very large numbers very  
17 swiftly, that phasing didn't -- obviously didn't work as  
18 well as it could have.

19 The affordability of turning the economy off was  
20 a separate set of conversations that I was aware of, but  
21 being presented with the economic argument that those  
22 figures weren't as easy to come by as perhaps  
23 projections around direct harms.

24 **Q.** From a public health perspective, did you consider that  
25 there was any other option than to impose a firebreak at

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1 pushed the pandemic back probably 38 days in Wales and  
2 then slowed the next period of growth for the next  
3 couple of weeks.

4 **Q.** In your -- one of your witness statements, your TAG and  
5 TAC witness statement, you describe the period leading  
6 up to and after the firebreak and the subsequent  
7 lockdowns in England and Wales as a key moment where  
8 there was a significant difference between Wales and  
9 England. You then go on to say:

10 "England did not follow SAGE's advice to intervene  
11 early and also did not support Wales to do so  
12 financially. Given the subsequent number of infections,  
13 hospitalisations and deaths in the autumn/winter of  
14 2020/21 arising from the circulation of [different  
15 variants, including] Alpha variant the policies proved  
16 to accrue significant harm in Wales."

17 Can you just explain how the different approach in  
18 England accrued significant harm in Wales?

19 **A.** Well, if money had been made available to extend the  
20 firebreak, I mean, that's what I've been led to believe,  
21 then perhaps we could have had a three-week firebreak,  
22 and certainly from the advice that we were given it was  
23 better to be in lockstep across the UK with clearer  
24 public health messaging, that probably would have been  
25 better if everybody had followed the SAGE advice at that

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1 point, but I've not seen the economic argument from the  
2 Treasury, say, on not having a firebreak across the UK  
3 at that point.

4 **Q.** You say in your witness statement that the advice or  
5 your advice was not reflected in the ministerial advice  
6 that was prepared regarding regulations that would come  
7 into force after the firebreak period ended on  
8 9 November.

9 If we can just have a look at that ministerial  
10 advice, please -- thank you.

11 If we have a look at page 4, paragraph 17, the  
12 advice refers to keeping the virus at a manageable  
13 level, which it describes as or below Rt 1.2.

14 Do you consider or did you consider an Rt value of  
15 or at below 1.2 keeping the virus at a manageable level?

16 **A.** No, and I think Professor Gravenor gave a good  
17 explanation of what R of 1.2 meant, it still means  
18 you're in exponential growth. I think our advice was to  
19 keep it at or below 1, which would have been difficult  
20 as well.

21 **Q.** I mean, why do you think the virus was not held at  
22 a sustainable level following the firebreak lockdown?

23 **A.** Because there were too many relaxations and there were  
24 more opportunities for mixing over the general  
25 population.

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1 **Q.** If we can have a look, please, at some TAG policy  
2 modelling advice that was published on 1 December 2020.  
3 It's INQ000321023. If we can have a look at the bottom  
4 of page 1, the advice there states:

5 "The most efficient way to reduce harm from covid-19  
6 and pressure on the NHS is to ... [Document read] ...  
7 restrictions as soon as practically possible (high  
8 confidence)."

9 Now, we know Wales entered level 4 restrictions on  
10 19 December. Now, having regard to mounting concerns  
11 throughout November and December 2020, do you consider  
12 that there was avoidable delay in the Welsh Government's  
13 decision-making over moving to alert level 4,  
14 effectively a lockdown?

15 **A.** Again, some of these questions are for ministers and  
16 policy colleagues, but the advice at the time, based on  
17 the modelling, was: go earlier. As it was throughout  
18 the pandemic. But again, very difficult decisions.

19 **Q.** I'd like to ask you some questions now about the winter  
20 of 2021 into May 2022, and you've dealt with the advice  
21 provided by TAG and TAC during that period in your  
22 witness statement, and obviously we will have regard to  
23 that so just a few questions, really, about the Omicron  
24 variant.

25 We know that was identified as a variant of concern

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1 **Q.** TAG published a statement on 7 December on NPIs in the  
2 pre-Christmas period.

3 We've got that at INQ00035042.

4 If we can just turn to the bottom of page 2, please,  
5 it's the penultimate bullet point on that page:

6 "Policy modelling suggests that introducing Tier 3  
7 restrictions prior ... [Document read] ... patients, and  
8 deaths."

9 Now, no further restrictions were imposed following  
10 this advice. Why do you think the advice of TAG was not  
11 acted upon at this time? So this is 7 -- sorry,  
12 2 December.

13 **A.** I can't quite remember when the tiers were brought in,  
14 but certainly that advice came from SAGE advice around  
15 the analysis of the impact of tiers, which I -- from  
16 memory, I think 40 out of 43 areas in Tier 3 showed  
17 a reduction in transmission and prevalence in those  
18 areas. So that was the advice.

19 But as to why Cabinet decided not to or policy  
20 colleagues didn't put that as their policy  
21 recommendations, I don't know. I can't quite remember  
22 the phasing of post lockdown restrictions, but  
23 I remember there being discussions around alert levels  
24 and what would be the sufficient -- what would be the  
25 right tier to go into.

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1 on 27 November 2021. Eluned Morgan, in her written  
2 evidence to the Inquiry, has described the decision to  
3 reintroduce some restrictions in response to Omicron as  
4 an example of a decision that may have been taken  
5 differently had more information been available.

6 She has said in her statement that:

7 "At the time there were information gaps in relation  
8 to the efficacy of the vaccinations deployed through the  
9 vaccination programme ... [Document read] ... available  
10 earlier."

11 Do you agree with that view? Were there gaps in  
12 relation to the efficacy of the vaccination programme at  
13 that time?

14 **A.** Yeah, I agree. I think whenever a new variant emerged,  
15 trying to characterise it in terms of impact on  
16 vaccination status or the case -- case to  
17 hospitalisation ratio, the number of people that became  
18 infected that would then go on to be hospitalised, there  
19 was some degree of uncertainty. I believe, from memory,  
20 there was a high scenario of a 2.5 case hospitalisation  
21 ratio and a low scenario of 1%, that these were just in  
22 the bounds of, you know, reasonable scenarios. So there  
23 was some uncertainty. And then new evidence came  
24 available, probably from UKHSA, at the time, to say that  
25 the lower estimate was more likely. So whilst we would

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1 have a significant number of cases, which we did, which  
2 would obviously impact Long Covid too, the stress on the  
3 NHS would be lower. So then there was a change in  
4 advice when the lower estimates became the more likely  
5 estimates.

6 **MR POOLE:** Dr Orford, thank you. They're all the questions  
7 I've got for you, but there are some questions from  
8 core participants.

9 **LADY HALLETT:** Ms Heaven.

10 **Questions from MS HEAVEN**

11 **MS HEAVEN:** Thank you, my Lady.

12 Just to say that, no criticism of Mr Poole, but he's  
13 asked my question, so I've agreed with him to ask the  
14 same way but in a slightly different way, so you're not  
15 surprised looking at the spreadsheet.

16 Good afternoon, Dr Orford, I represent the Covid-19  
17 Bereaved Families for Justice Cymru.

18 Can I just go back to the firebreak, then, please.  
19 We obviously understand that that specific request came  
20 from you to Michael Gravenor and his team on 11 October  
21 to model a firebreak.

22 Now, if I -- before I ask you the specific question,  
23 if I can just fill you in on some of the evidence  
24 my Lady's heard.

25 So Michael Gravenor told the Inquiry that if there'd  
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1 a moment ago and you just indicated that you knew that  
2 four weeks was better than three weeks. So can I just  
3 check with you, then, was it your understanding, and  
4 indeed did you know, as a result of Michael Gravenor's  
5 modelling, that four weeks would push the virus deep  
6 into December, seven to nine weeks? Was that your  
7 understanding?

8 **A.** That was my understanding, and I'm pretty certain that  
9 was shared with policy colleagues around that time, and  
10 then there were separate requests that came for further  
11 modelling.

12 **Q.** So that was going to be my next point, just to be very  
13 clear on what the Welsh Government knew. You have been  
14 critical in your witness statement about Welsh ministers  
15 departing from TAG/TAC advice in the easing of the  
16 firebreak, and we've just seen the email that you sent  
17 to ministers on the 15th where you said the take home is  
18 act sooner for longer, three weeks rather than two. TAG  
19 then recommends two to three weeks.

20 So, just so that my Lady's absolutely clear on your  
21 evidence, were Cabinet ministers, and in particular the  
22 First Minister for Wales, Mark Drakeford, and  
23 Vaughan Gething, told in no uncertain terms that  
24 an autumn firebreak for four weeks would reduce  
25 community transmission deep into December, seven to

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1 been a longer firebreak, this would have resulted in  
2 very low prevalence of the virus into December. He  
3 said, in effect, it would have pushed it deep into  
4 December. He said a four-week firebreak would give  
5 a seven to nine-week suppression time period, which  
6 of course would have meant that Wales would have faced  
7 a period of high winter transmission, plus the emergence  
8 of the Alpha variant, from a starting point of much  
9 lower community prevalence than it in fact had to face  
10 in December 2020. And of course that was bringing it  
11 much closer to when the vaccine arrived in December.

12 I asked Michael Gravenor if the Welsh Government  
13 had -- knew of his modelling results, and this is what  
14 he said. So he said the report for the five to  
15 seven weeks and then the three to five weeks was in the  
16 report that went in for the two to three-week firebreak,  
17 but it did not include his results for the four-week  
18 firebreak.

19 But when I asked him about the Welsh Government  
20 would have known about the effects of a four-week  
21 firebreak, so that's the seven to nine-week suppression  
22 time, he essentially said they had all the evidence, it  
23 was easy to extrapolate to a four-week firebreak, it was  
24 a matter of common sense.

25 Of course CTI has asked you a bit about this  
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1 nine weeks, and closer, of course, to the time when the  
2 vaccine would arrive? Were they told that in no  
3 uncertain terms?

4 **A.** I'd have to go back and check on the modelling papers  
5 and the internal TAC summaries that were shared around  
6 that time. However, separate conversations that  
7 considered not just the science, the affordability  
8 for example, would have been had within government. So  
9 perhaps those questions are best addressed to policy  
10 colleagues who are responsible for developing those  
11 policies and advice to ministers.

12 **Q.** Just to push you a little bit though because we've seen  
13 your email to ministers though where it says two to  
14 three weeks. Did you specifically say to ministers,  
15 "But four weeks would push it deep into December"; do  
16 you recall?

17 **A.** I'm pretty certain we had advice going through at that  
18 time -- so I've not got it in front of me -- with  
19 different policy modelling outputs. So I'd have to go  
20 back and check what the papers were at that time, but  
21 there was more than one policy model made at that point.

22 **MS HEAVEN:** Okay, thank you, my Lady, that's my question.

23 **LADY HALLETT:** Thank you, Ms Heaven.

24 Yes, Ms Foubister. You haven't been negotiating  
25 with Mr Poole about your question?

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1 **MS FOUBISTER:** Thank you, my Lady. No, I haven't, just the  
2 one from me.

3 **Questions from MS FOUBISTER**

4 **MS FOUBISTER:** Good afternoon, Dr Orford, I represent John's  
5 Campaign and Care Rights UK.

6 My question is about evidence and decision-making.

7 So I would like to refer you to your individual witness  
8 statement, which is the one dated 19 December 2023,  
9 that's INQ000390618.

10 Hopefully we can turn to paragraph 190.

11 190 is at the bottom of the page and it goes on to  
12 the next page a bit unfortunately, so hopefully we can  
13 see all of it.

14 While we're getting there I'll tell you what I'm  
15 going to be directing your attention to, and that's that  
16 at paragraph 190 you refer to a paper called  
17 the Executive Committee in April 2020.

18 If we can just zoom in to paragraph 190. Thank you  
19 very much.

20 So you refer to the paper which is focused on "How  
21 can we use evidence better, to inform effective  
22 policies", and then if we can go down the page a bit,  
23 it's over onto the second bit of the page, to (IV),  
24 where you note that one of the recommendations of that  
25 paper was that the Welsh Government needs to embed

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1 policies.

2 So there's work like that going on throughout Welsh  
3 Government about how we improve our analytical capacity  
4 and capability as an organisation. So that work is  
5 ongoing.

6 **MS FOUBISTER:** Thank you very much.

7 Thank you, my Lady.

8 **THE WITNESS:** Thank you.

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

10 Thank you very much, Dr Orford, that completes the  
11 questions we have. I'm not sure whether we're going to  
12 have to ask you to come back. I'm sorry, it's the  
13 nature of the module --

14 **THE WITNESS:** No problem.

15 **LADY HALLETT:** -- system that we've introduced, because we  
16 have so many issues to investigate. But thank you for  
17 your help so far anyway.

18 **THE WITNESS:** Thank you, your Ladyship.

19 **(The witness withdrew)**

20 **LADY HALLETT:** Mr Poole.

21 **MR POOLE:** My Lady, I'm in your hands whether we, before the  
22 next witness, we take our 15-minute break now or we hear  
23 15 minutes of evidence.

24 **LADY HALLETT:** It's now 3 o'clock, so what's better for you?

25 **MR POOLE:** I think probably, to allow arrangements to be

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1 a better culture of evidence use within policy  
2 development.

3 So my question to you, Dr Orford, is for your views  
4 on what specific changes have been or should be made to  
5 ensure that the views and evidence from stakeholders and  
6 experts are taken into account by core decision-makers?

7 **A.** Thank you.

8 So this work has come from the -- so this was  
9 April 2022 -- from the Strategic Evidence Board, so  
10 there's a recognition by the executive group of Welsh  
11 Government the need for more evidence to be embedded  
12 within policymaking. And I think that observation --  
13 you know, the chief science adviser,  
14 Sir Patrick Vallance and Angela McLean currently, are  
15 doing work to ensure there's greater scientific literacy  
16 within the civil service, where there's a relatively  
17 small percentage of civil servants that have a degree in  
18 science, broadly they have degrees in humanities. Some  
19 of the work that we've done in the Health and Social  
20 Services Group is to develop a division called SEA,  
21 Science Evidence Advice. Within SEA there are important  
22 functions like SPI functions, which we call science  
23 policy interfaces, so people who are able to support  
24 policy colleagues, ask evidence-informed questions to  
25 support them in developing and evaluating their

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1 made, if we take it now.

2 **LADY HALLETT:** Very well, back at 3 o'clock.

3 **(2.45 pm)**

4 **(A short break)**

5 **(3.00 pm)**

6 **LADY HALLETT:** Is anybody else feeling the chill? Could we  
7 sort out the temperature, please.

8 **MR POOLE:** Could I please call Dame Shan Morgan.

9 **DAME SHAN MORGAN (affirmed)**

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

11 **MR POOLE:** Could you please start by giving us your full  
12 name.

13 **A.** My name is Shan Elizabeth Morgan.

14 **Q.** As you give your evidence this afternoon, if I could ask  
15 you to keep your voice up so that we can hear you but  
16 also so that your evidence can be recorded. If I ask  
17 you anything you don't understand, please do ask me to  
18 rephrase it.

19 Dame Shan, you have provided a witness statement to  
20 this module, we have it there on the display, you've  
21 signed that on 13 December last year. I was going to  
22 say, are the contents true to the best of your knowledge  
23 and belief, but before I do that, I think you need to  
24 make a couple of corrections, if I just walk you through  
25 those.

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1 If we can, sorry, have page 18 of the witness  
 2 statement up, just see if those have been made already.  
 3 No they haven't.  
 4 Now I understand that the meetings you refer to  
 5 these paragraphs, so paragraphs 60, 61 and 62 as being  
 6 hosted by Mark Sedwill, which you refer to as Covid-O  
 7 meetings, were in fact Cabinet Secretary meetings, not  
 8 Covid-O meetings, and you did not attend any Covid-O  
 9 meetings; is that right?  
 10 **A.** That's right.  
 11 **Q.** We will make those corrections to those paragraphs 60,  
 12 61 and 62. Other than those corrections, are the  
 13 contents of that statement true to the best of your  
 14 knowledge and belief?  
 15 **A.** Yes.  
 16 **Q.** I'm grateful.  
 17 You were asked to provide a witness statement to  
 18 this module in your capacity as the former  
 19 permanent secretary of the Welsh Government. In  
 20 particular, you were asked to outline any role you  
 21 played in key decisions that were made by the Welsh  
 22 Government during the pandemic. Before I ask you  
 23 questions about that, can I just start with a few  
 24 questions about your career.  
 25 You joined the civil service in 1977. You were then  
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1 January 2020.  
 2 We can see at the top the First Minister, below him  
 3 a number of Welsh ministers and deputy ministers, and  
 4 then we see your former role as permanent secretary  
 5 sitting below those ministers and deputy ministers.  
 6 Now, we'll come on to the specifics of your role in  
 7 a moment, but essentially am I right that the permanent  
 8 secretary is the head of the civil service within the  
 9 Welsh Government?  
 10 **A.** That's correct.  
 11 **Q.** You have the director generals, each of those director  
 12 generals that we can see there, the four of them at that  
 13 stage, each of those are senior civil servants reporting  
 14 to you; is that correct?  
 15 **A.** It is.  
 16 **Q.** Now, Andrew Goodall, in his witness statement to the  
 17 Inquiry, who we'll be also hearing from tomorrow  
 18 morning, he has said that:  
 19 "Despite the range of responsibilities we [namely  
 20 the Welsh Government] are a compact administration. All  
 21 ministers and senior leaders are under one roof and are  
 22 frequently in the same room together. This enables the  
 23 organisation to take advantage of being able to work in  
 24 a highly integrated way, and make decisions at pace."  
 25 Do you agree with that description that he gives of  
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1 seconded to the European Commission in Brussels between  
 2 1984 and 1987, before returning to the UK where you were  
 3 appointed private secretary to the permanent secretary  
 4 of the employment department within the UK Government in  
 5 1990.  
 6 You were appointed head of the employment and  
 7 training strategy unit at the Government Office for  
 8 London in 1992.  
 9 In 1997, you were seconded to the British Embassy in  
 10 Paris as labour and social affairs attaché, and served  
 11 as ambassador to Argentina and Paraguay between 2008 and  
 12 2012.  
 13 And then in 2017 you were appointed as the Welsh  
 14 Government permanent secretary, and also appointed  
 15 Dame Commander of the Order of St Michael and St George;  
 16 and I think I'm right in saying that you retired from  
 17 the civil service in October 2021.  
 18 Is all of that accurate?  
 19 **A.** It's all accurate.  
 20 **Q.** Start with some questions, if I may, then, about the  
 21 structures of the Welsh Government.  
 22 If we can please have on screen INQ000066086. This  
 23 shows the organisational structure of the Welsh  
 24 Government as at November 2019, so namely the  
 25 organisational structure going into the pandemic in  
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1 the Welsh Government?  
 2 **A.** Yes, I do.  
 3 **Q.** Professor Wincott, whom we heard from last week, he gave  
 4 evidence that initially one might get the impression  
 5 that the decision-making processes in the Welsh  
 6 Government are overly complex, but he went on to say  
 7 that having worked through the full body of material  
 8 that he had been provided with to provide his report, he  
 9 said a rather more coherent pattern of response from the  
 10 Welsh Government has come into focus. Do you have any  
 11 comments on Professor Wincott's evidence in that regard?  
 12 **A.** Yes, I think that's -- I can understand why he made that  
 13 comment. I think it's fair to say two things: first,  
 14 that the structures evolved over time and I think became  
 15 less complex; and, second, that in any case because the  
 16 Welsh Government is a very small organisation people  
 17 knew each other very well and they were often on the  
 18 different -- the same person might be on different  
 19 structures within the Welsh Government, and that meant  
 20 that people were very well integrated.  
 21 **Q.** So would you say that being a compact administration was  
 22 an advantage when it came to decision-making during the  
 23 pandemic?  
 24 **A.** I think it was.  
 25 **Q.** Turning then to your former role as permanent secretary  
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1 and the role of the civil service in Wales generally,  
2 all civil servants in Wales are bound by the Civil  
3 Service Code and, as such, they're expected to carry out  
4 their roles with dedication and commitment to the core  
5 values of the civil service, namely integrity, honesty,  
6 objectivity and impartiality.

7 Now, you say in your witness statement that, for all  
8 practical purposes, as permanent secretary you were  
9 accountable to the First Minister. Just tell me, what  
10 does that mean in practice?

11 **A.** It meant that in practice I was clear that it was the  
12 First Minister who set my priorities for action, and in  
13 fact who made a very significant contribution to my  
14 annual civil service appraisal. My line manager  
15 formally was the Cabinet Secretary, but it was very  
16 clear in my contract and in the ways of working that  
17 I was very directly accountable to the First Minister  
18 for everything I did in that role.

19 **Q.** You describe in your witness statement the role of  
20 permanent secretary as having three main components.  
21 Perhaps if I just identify those: first, principal  
22 accounting officer. So by that you mean managing and  
23 accounting the proper expenditure of public money; is  
24 that right?

25 **A.** That's right.

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1 **Q.** Would it be right to say that the Welsh Cabinet is the  
2 central decision-making body of the Welsh Government?

3 **A.** It would be absolutely right.

4 **Q.** And that remained the case, as far as you're concerned,  
5 throughout the pandemic?

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

7 **Q.** Now, as permanent secretary you attended meetings of the  
8 Welsh Cabinet, but you say in your statement you  
9 intervened rarely and, when you did, this was in your  
10 capacity as principal accounting officer. By that do  
11 you mean your interventions would usually concern  
12 sort of staff, budgetary issues?

13 **A.** Exactly so.

14 **Q.** Although the Cabinet led on collective decisions  
15 relating to the Welsh Government's pandemic response,  
16 obviously individual ministers were required to make  
17 decisions in their own portfolios; that's right, isn't  
18 it?

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

20 **Q.** I just want to explore with you now some points about  
21 what informed decision-making during the pandemic. I'll  
22 start, if I may, with the ministerial advice process.  
23 Can you just explain -- we've got an example up on  
24 screen very helpfully, this is from 22 March -- but can  
25 you just explain what a ministerial advice document is?

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1 **Q.** Second, as we have discussed, leading the Welsh civil  
2 service; and then third, you were principal policy  
3 adviser to the First Minister.

4 Just as regards that third aspect of the role, would  
5 it be right to say you had general responsibility for  
6 overseeing the quality of advice that was presented to  
7 the First Minister and also Welsh ministers, but you  
8 were not directly involved in the provision of advice  
9 itself?

10 **A.** That is correct.

11 **Q.** You go on to say in your witness statement that:

12 "In practical terms, my responsibility as Permanent  
13 Secretary was to ensure that the right people were in  
14 the key positions supporting Ministers and that they had  
15 the right skills, experience and support to discharge  
16 those roles effectively."

17 Did you find that at all challenging during the  
18 pandemic?

19 **A.** It was challenging in that, again, being a small  
20 organisation, there was a relatively small central core,  
21 if you like, of people who had the high level policy  
22 skills that ministers needed in order to prepare actions  
23 for the pandemic to prepare legislation, so we were  
24 heavily reliant on a relatively small core of people at  
25 the centre.

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1 **A.** It is a classic civil service submission, policy  
2 submission document. So it will be drafted by the  
3 relevant civil servants and they will identify the key  
4 issues, they will set out a range of options, the impact  
5 of the different options, and they will give advice to  
6 the relevant minister about the range of options.

7 **Q.** So if we just look at this by way of example, not really  
8 the substance of it, we can see the top right where it's  
9 come from. So it's come, in this case, from the public  
10 health division. We can see who has cleared it, and we  
11 can see the date it's been generated. And then perhaps  
12 if we can just come out -- thank you -- to the table,  
13 there we can see who needs to make a decision. So for  
14 this particular ministerial advice, a decision was  
15 needed.

16 Perhaps if we can, sorry, scroll out -- sorry, the  
17 words in bold -- we can see a decision there was needed  
18 by the whole Cabinet in this example, and then the table  
19 summarises the advice what's been recommended and the  
20 timing.

21 Obviously the advice is then set out in the body of  
22 the document, and if we could go please to page 6, the  
23 annex that we see there, this is called clearance  
24 tracking. So am I right this identifies if the  
25 ministerial advice raises, as we see there, financial

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1 legal or governance issues; and then there's a statement  
2 assuring the quality of advice, and then a copy list of  
3 who the advice is going to. Is that -- that's all  
4 roughly accurate?

5 **A.** Totally accurate.

6 **Q.** When would a ministerial advice be used?

7 **A.** It would be used on any issue of significance requiring  
8 a decision by ministers.

9 **Q.** And who in particular would have input? Presumably it  
10 depends on the subject matter of the advice, does it?

11 **A.** It does indeed. It would be senior civil service  
12 officials who would make sure that they liaised with  
13 colleagues in other relevant parts of the organisation  
14 to make sure that there was a joined-up response across  
15 the whole of the government.

16 **Q.** And how were decisions made under the ministerial advice  
17 process recorded?

18 **A.** They were recorded through a decision report, which was  
19 then normally included on the Welsh Government website.

20 **Q.** So these would be externally facing decision reports?

21 **A.** That's right.

22 **Q.** Now, the ministerial advice that we've still got, the  
23 example we're looking at, at page 1, I think it says at  
24 the bottom -- yes, decision report:

25 "This decision does not require a decision report."

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1 needed to take an urgent decision, so sort of outside  
2 Cabinet? Presumably that happened during the pandemic?

3 **A.** There were processes for doing that and for making sure  
4 that any such decisions were made on the basis of  
5 evidence, and that they were properly recorded.

6 **Q.** When you say "properly recorded", how would a decision  
7 being made by an individual minister, say, outside  
8 Cabinet or outside this ministerial advice process? How  
9 would they be recorded generally?

10 **A.** It would be recorded in pretty much the same way as  
11 ministerial advice.

12 **Q.** The Inquiry understands that in April -- I think they  
13 started on 6 April -- was the introduction of daily  
14 ministerial calls. Did you participate in those calls?

15 **A.** I was present, I think, at all of them, all that I could  
16 be present at. They were open to senior officials to  
17 attend.

18 **Q.** Again the Inquiry has received evidence to the effect  
19 that decisions were not usually taken during these calls  
20 unless obviously the urgency of the situation required  
21 it. Does that accord with your recollection?

22 **A.** That is correct. There were times when I think the need  
23 for a decision was flagged up in those calls, it was  
24 an opportunity to do that, but the decision would then  
25 be taken and recorded outside of those ministerial calls

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1 Is that just again because of the subject matter of  
2 this particular ministerial advice?

3 **A.** Yes.

4 **Q.** Because it concerns legislation; is that right?

5 **A.** Yes.

6 **Q.** Now, presumably outside this process and definitely  
7 during the pandemic, urgent decisions needed to be made  
8 that wouldn't allow time for this process to be  
9 followed. Did you have experience of that during the  
10 pandemic?

11 **A.** Inevitably. The -- there were three core elements to  
12 decision-making in the Welsh Government. You've  
13 described the first one, which was ministerial advice on  
14 individual policy areas; the second process was Cabinet,  
15 where Cabinet papers on generally cross-cutting big  
16 issues were prepared, with input from a wide range of  
17 civil servants; and the third was the 21-day review  
18 process during the pandemic. And I should add that for  
19 each of these processes there was also a template  
20 setting out the requirement to evaluate the equality  
21 impact assessment.

22 **Q.** We'll be coming to equality impact assessments  
23 specifically a bit later on, but just sticking with this  
24 process, so ministerial advice, Cabinet and then 21-day  
25 review process, what about where an individual minister

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1 which usually lasted about half an hour a day.

2 **Q.** Change of topic slightly, and ask you some questions now  
3 about the Welsh Government executive committee known as  
4 ExCo. Can you help us, when was ExCo established?

5 **A.** It had been -- it had been operating in a similar format  
6 when I first arrived in early 2017. I then, if you  
7 like, developed it to do what I felt it needed to do,  
8 and it became the core corporate decision-making  
9 meeting.

10 **Q.** I understand -- and I'm right in saying, am I -- that  
11 you chaired ExCo throughout your time as  
12 permanent secretary?

13 **A.** I did.

14 **Q.** Just briefly describe the role and function of ExCo,  
15 please.

16 **A.** ExCo was there to give me assurance that all decisions  
17 about corporate issues were taken with all relevant  
18 members of the senior Welsh Government team attending  
19 and contributing.

20 **Q.** And in terms of membership, am I right then that ExCo  
21 comprised director generals and senior policy officials?

22 **A.** Yes, largely on the corporate side, because one of the  
23 things about the staffing of the Welsh Government is  
24 of course it's not like a Whitehall department, it is  
25 a whole of government organisation, and at the time that

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1 I was permanent secretary there was no chief operating  
 2 officer and those functions came under my group, so  
 3 therefore some of those people needed to be represented  
 4 at ExCo for those kinds of decisions.

5 **Q.** The Inquiry is aware from Andrew Goodall's witness  
 6 statement that as well as ExCo there is something known  
 7 as the Welsh Government Board. Was that something that  
 8 was in existence during your tenure as  
 9 permanent secretary?

10 **A.** Very much so, that was a well established body, it met  
 11 about every six weeks, and it was a body that oversaw  
 12 governance and general organisational strategy for the  
 13 Welsh Government. It focused very heavily on  
 14 governance, risk assessment and preparations of the  
 15 annual report for the Welsh Government. It also looked  
 16 after oversight of delivery of the First Minister's  
 17 priorities for government, and it would carry out on  
 18 that basis horizon scans and sort of policy discussions  
 19 to look at progress.

20 **Q.** I want to next ask you about some changes to the  
 21 structures that we've been talking about, and also  
 22 changes in personnel that happened during the pandemic.  
 23 In your witness statement, paragraph 38 of your  
 24 witness statement, you explain that a committee named  
 25 ExCovid was established in February 2020, which you

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1 "For example, ExCovid was set up with the intention  
 2 of it being the senior decision-making and resource  
 3 allocation body under Ministers, and I think that its  
 4 terms of reference still reflect that. But we have  
 5 found in practice that the pace and breadth of decisions  
 6 needed made it impossible for ExCovid to fulfil that  
 7 role and instead it acts in a strategic co-ordination  
 8 and information-sharing role, which works very well; but  
 9 is not how we envisaged it at the start."

10 So, first question: I mean, do you agree with that  
 11 comment?

12 **A.** Yes, I do.

13 **Q.** Did the actual role played by ExCovid change from its  
 14 intended role and, if so, why did it change?

15 **A.** I think it evolved very quickly indeed to reflect what  
 16 the organisation needed. It needed to make sure that  
 17 everybody was joined up, that information was shared  
 18 across the organisation, that everybody had access to  
 19 the same understanding of what was happening. But,  
 20 going back to what I said earlier on, it was very clear  
 21 that decisions other than about resources, all policy  
 22 decisions were for ministers.

23 **Q.** Generally, whilst we're looking at one of these lessons  
 24 learned documents, do you believe that the lessons  
 25 learned exercises that were undertaken by ExCovid

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1 chaired until your departure from the civil service in  
 2 October 2021; is that right?

3 **A.** That's right.

4 **Q.** Just briefly tell us, what was the purpose of ExCovid?

5 **A.** The purpose of ExCovid was to bring together the key  
 6 senior policy officials and operational officials  
 7 involved in responding to the pandemic. It followed  
 8 a format that had been successful in preparations for  
 9 a no-deal Brexit, and therefore I adopted that. So it  
 10 was a similar but expanded membership to ExCo, which was  
 11 the sort of corporate decision-making function. ExCovid  
 12 was not there to take decisions other than in relation  
 13 to prioritisation of areas of work and re-prioritisation  
 14 of resources within the organisation.

15 **Q.** In October 2020, I think you decided that ExCovid would  
 16 undertake a lessons learned exercise. We'll return to  
 17 this in a bit more detail later in your evidence, but  
 18 just turning to one document at this stage.

19 If I can have INQ000300004 -- thank you very much --  
 20 this is the response of the permanent secretaries group  
 21 to that lessons learned exercise; so that's a group that  
 22 sits under you. On this page under "Observations: What  
 23 do you think worked less well?"

24 So we're looking bottom right, thank you. And then,  
 25 "For example", yes:

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1 involved adequate self-reflection on the areas that did  
 2 require improvement?

3 **A.** I think so. I think we got better at it as time went  
 4 on, and they -- I found them incredibly valuable. It  
 5 was an important mirror for us to look at, and of course  
 6 it gave rise to follow-up action as well.

7 **Q.** As of December 2021, I understand that ExCovid's role  
 8 and remit were transferred to ExCo. Now, I appreciate  
 9 you had left post by this time. Are you able to comment  
 10 as to why it transferred back to ExCo?

11 **A.** I can't comment from any particular knowledge.  
 12 I imagine Andrew Goodall, my successor, decided that  
 13 there was at that point some duplication and the need  
 14 for ExCovid, which I think we had all felt was a very  
 15 valid body, had gone away.

16 **Q.** I mean, given that the membership of ExCovid was, as  
 17 I understand it, the normal membership of ExCo plus  
 18 I think five additional members, why was it felt that  
 19 ExCo, which was a body already in existence, couldn't  
 20 simply absorb the work that was undertaken by ExCovid?  
 21 Was there a need for there to be two bodies?

22 **A.** I believe there was a need for two bodies. In the  
 23 beginning ExCovid met, I think, twice a week at the most  
 24 difficult times and we did something in ExCovid that we  
 25 didn't do in ExCo, which was to have what we called

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1 deep dives on subjects, which meant that policy  
 2 officials across the whole of the Welsh Government were  
 3 being exposed to, for example, the risks involved in  
 4 a very wide range of policy areas.

5 **Q.** You referred there to deep dives, and I think it's also  
 6 known as sort of challenge sessions, and in your witness  
 7 statement you specifically recall a deep dive into the  
 8 harms to children and young people. Can you recall what  
 9 other deep dives were undertaken?

10 **A.** There were a very wide range. We looked at the  
 11 vaccinations programme, we looked at international  
 12 comparators, we looked at children and young people,  
 13 I think a couple of times, we looked at care homes, the  
 14 winter planning of the NHS; a very wide variety over  
 15 time.

16 **Q.** If I can ask you now about some changes to roles rather  
 17 than changes to structures.

18 If we can have a look, please, at INQ000299055.  
 19 Bottom email, please, on this chain, it's an email from  
 20 you on 20 March to the four director generals, copies in  
 21 a number of other officials within the Welsh Government.  
 22 Yes, at the top of the page, you say:

23 "I'm picking up signals that SpAds and Ministers are  
 24 getting increasingly concerned about a lack of overall  
 25 coordination on our policy response to Coronavirus."

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1 capacity as the director with responsibility for civil  
 2 contingencies and emergency planning. I think I'm right  
 3 in saying Reg Kilpatrick also led the resilience team  
 4 which was operating out of the Emergency Coordination  
 5 Centre Wales, as is acknowledged in this paragraph we're  
 6 looking at. Is the new team that's being proposed in  
 7 this email, is that the Covid project team, can you  
 8 recall?

9 **A.** The new team with Tim Render was a small, time-limited  
 10 team. I knew -- I'd worked with Tim when I was in  
 11 Brussels, I knew him well, I knew he had some really  
 12 good experience when he worked in DEFRA on crisis and  
 13 emergency planning for dealing with floods. I wanted to  
 14 bring that expertise into the centre.

15 Going back to what I said early on, I was conscious  
 16 that we were heavily reliant on quite a small core of  
 17 staff and we moved them around, as Andrew Slade agreed  
 18 to do there. We had to be very flexible, very fast  
 19 acting to make sure that we were moving people with the  
 20 right skills to the right place.

21 **Q.** Was this new team, the intention being that Tim Render  
 22 would head up, was that new team given a name?

23 **A.** I don't remember the name, I'm afraid.

24 **Q.** Could the work of Tim Render, the Covid project team,  
 25 could that have been absorbed into ExCovid or the

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1 Can you explain to me what did you understand those  
 2 concerns to be and when were they first raised with you?  
 3 This is obviously an email of 20 March 2020.

4 **A.** The concern I picked up was that we weren't joining up  
 5 well enough across the whole of the Welsh Government,  
 6 that was something that I was trying to rectify with the  
 7 establishment of ExCovid, so we intensified that  
 8 process.

9 **Q.** You say in this email Andrew Slade -- who was at the  
 10 time, I think, director general for Economy, Skills and  
 11 Natural Resources -- could move some of his senior staff  
 12 to a wider role within Welsh Government. And then,  
 13 three paragraphs down, in respect of Tim Render, I think  
 14 it's suggested that he says there:

15 "... head up a new team responsible for policy  
 16 response co-ordination and strategic planning."

17 And then goes on in the fourth paragraph, you say:

18 "The new team would obviously sit alongside Reg's  
 19 role on ECC(W), COBR and LRFs/SCGs, Amelia's work on  
 20 shielding and Jo's role as head of the Preparedness  
 21 Group. But I'm clear we need some serious forward  
 22 planning alongside the other excellent teams we have in  
 23 place."

24 Now, at this stage ExCovid had been established,  
 25 I think Reg Kilpatrick was a member of ExCovid in his

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1 resilience team or any other team in existence?  
 2 I suppose my question is: did there need to be another  
 3 team added to already a multiplicity of teams?

4 **A.** ExCo was not a team, ExCo was a committee. The Covid  
 5 project team was what evolved over time to provide some  
 6 of the underpinning work. So Tim sat within that for  
 7 a while, before he moved back to his previous role in  
 8 what was called ESNR, working on rural affairs.

9 **Q.** If we could -- I think it's in the same chain but  
 10 further -- yes, further up page 6. Thank you very much.  
 11 This is an email from Des Clifford, it's right at the  
 12 bottom of the page, second paragraph, third line, where  
 13 he is saying:

14 "One possible drawback to creating the mooted  
 15 central policy approach (and I agree that Tim is good at  
 16 this sort of thing) is that it risks baking in further  
 17 confusion about accountability ... [Document read] ...  
 18 to the central team as opposed to existing directorate  
 19 structures."

20 Did you appreciate the concerns that were being  
 21 expressed here by Des Clifford about confusions about  
 22 accountability lines?

23 **A.** I did, but I felt I knew the skills that Tim could  
 24 bring, and he for me was the right person at the right  
 25 time to add those skills.

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1 **Q.** In June 2020 you were involved in the establishment of  
2 the recovery secretariat. We don't need the email,  
3 thank you. That was implemented in, as I said, in  
4 June 2020 on your advice to the First Minister. Can you  
5 just briefly explain why the recovery secretariat was  
6 established and what its role was?

7 **A.** The recovery secretariat was established to take  
8 a forward look. Much of the infrastructure that we've  
9 talked about so far was about the immediate response to  
10 the pandemic, but it became clear that we needed to do  
11 more forward planning, forward thinking on how we would  
12 work to -- towards a recovery, and that's what the  
13 recovery secretariat was there for.

14 **Q.** And Simon Brindle was appointed to the role of director  
15 of recovery. In Reg Kilpatrick's witness statement to  
16 the Inquiry, he outlines at around this time -- so this  
17 is June 2020 -- responsibility for the 21-day review  
18 process transferred to Simon Brindle. Does that accord  
19 with your recollection?

20 **A.** It does.

21 **Q.** Was it right that, up until that transfer, it was  
22 Reg Kilpatrick that had been responsible for the 21-day  
23 review process; is that right?

24 **A.** That's right, it came under him until he was promoted to  
25 director general, and then it moved across pretty much

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1 pandemic, in particular the policies that were in place  
2 during your time as permanent secretary, dealing with  
3 the use of informal communications, which obviously  
4 include text and WhatsApp.

5 Just like to look at some of those policies with  
6 you. First is a document from January 2020, it's  
7 INQ000396686, it's called a SIRO notice, Senior  
8 Information Risk Owner notice, and it's entitled  
9 "Social media".

10 As we can see from the box at the top of this page,  
11 the purpose of the notice is to indicate  
12 organisation-wide changes to procedures that must be  
13 adopted by all divisions of the Welsh Government.

14 And if we could please go to page 2 of this  
15 document, under the heading "WhatsApp" it says:

16 "A summary of our position on WhatsApp is that its  
17 use does not allow us to comply with our legal  
18 responsibilities as a data controller. The ...  
19 [Document read] ... may not be used for Welsh Government  
20 business."

21 Now, it is right, isn't it, that the Welsh  
22 Government did not allow the use of WhatsApp on Welsh  
23 Government devices, so Welsh Government mobile phones?

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

25 **Q.** Now, the Inquiry does however understand that a number

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1 the same time to Simon Brindle.

2 **Q.** If we can have on screen, please -- I think it's another  
3 organogram, it's INQ000066097, but this time we've moved  
4 forward to January 2021. We can see that  
5 Reg Kilpatrick, along with being director for local  
6 government, is now director general Covid-19, and we see  
7 his name at the bottom of that group.

8 Now, in your witness statement you confirm that in  
9 September 2020, following discussions between yourself  
10 and the four director generals, and also obviously the  
11 agreement of the First Minister, Reg Kilpatrick was  
12 appointed to this new director general role.

13 If we look at this organisational chart, as at  
14 January 2021 Reg Kilpatrick, as a new director general,  
15 appears obviously still to sit under -- within  
16 Tracey Burke's group as director general for education  
17 and public services.

18 Was the intention that Reg Kilpatrick would be  
19 a director general, would lead his own group, or sit  
20 within one, or was this a distinction without any  
21 meaning?

22 **A.** The intention was that he should lead his own group, and  
23 he did.

24 **Q.** Dame Shan, I'd like to next ask you some questions,  
25 then, about informal methods of communication during the

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1 of Welsh ministers and officials, including yourself,  
2 did have WhatsApp on personal mobiles and also, in the  
3 case of Welsh ministers, Welsh ministers had WhatsApp  
4 enabled on their Senedd mobile phones. You were aware  
5 of that?

6 **A.** I wasn't aware of that actually.

7 **Q.** So at the time you weren't aware of the point I made  
8 about the use of WhatsApp on the Senedd phones?

9 **A.** Not on the Senedd phones, because I have no -- no  
10 contact with -- direct contact with the Senedd  
11 structures. But obviously I was very clear, in line  
12 with this memo, that the Welsh Government phones could  
13 not support WhatsApp.

14 **Q.** But you were aware -- obviously you were using WhatsApp  
15 on your own personal mobile; were you aware that Welsh  
16 ministers and Welsh officials were using WhatsApp on  
17 their personal mobiles?

18 **A.** I wasn't directly aware, but I would have assumed that  
19 they would do.

20 **Q.** Now, there's no definition of "Welsh Government  
21 business", but would you accept that discussing and  
22 commenting upon Welsh Government policy on the personal  
23 WhatsApp account would fall foul of this notice?

24 **A.** I think what this notice is making clear, and what I'm  
25 confident didn't happen, is that no decisions should be

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1 taken in relation to Welsh Government business by  
 2 WhatsApp on private mobiles.  
 3 **Q.** We'll come on to the content of some of the messages in  
 4 a moment, a bit later in your evidence. But it's right,  
 5 isn't it, that throughout the pandemic, whilst you were  
 6 permanent secretary, you were in a WhatsApp group with  
 7 Andrew Goodall, Andrew Slade, Tracey Burke? I think  
 8 that group is frequently referred to as "the quintet",  
 9 so that's a reference to the regular meetings  
 10 established across the director generals.

11 So in that group, to take one example, which we'll  
 12 come back to in a moment, you sent a message asking:  
 13 "Any questions for my phone call with Chris Wormald  
 14 at 1400 hours."

15 Would you agree that a question of that nature,  
 16 although it is not making a decision, but a question of  
 17 that nature is conducting Welsh Government business?

18 **A.** I would say that it was just a way of getting quick  
 19 information, much more quickly than by any other route  
 20 available. It would obviously have come ultimately in  
 21 an email, so through the proper channels, and after the  
 22 meeting with Chris Wormald I would have sent round  
 23 a short note, not via WhatsApp but via email, that could  
 24 be recorded. So for me that was just a quick heads-up  
 25 that we needed some urgent action, rather than any kind

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1 and preserve record content."

2 Is that -- as we've just discussed, that's putting  
 3 in black and white what we've just discussed, namely the  
 4 importance of retention of --

5 **A.** Exactly.

6 **Q.** -- records, if they're created on, as it says, ephemeral  
 7 means such as text messages or ...

8 So this policy was informing those working within  
 9 the Welsh Government about this need for proper  
 10 management and preservation. This obviously was  
 11 a policy that was in place throughout the pandemic.  
 12 That's right, isn't it?

13 We haven't seen anything -- this was in place,  
 14 although it's dated "last reviewed February 2019", it  
 15 was in place whilst you were permanent secretary?

16 **A.** That's right.

17 **Q.** Now, the next document, please, INQ000396694.

18 Now, this is an email sent on 29 October 2020. It's  
 19 copied to you. If we can just have a look at the second  
 20 paragraph, please:

21 "In the last few weeks ... [Document read] ... civil  
 22 servant."

23 Then it goes on talk about:

24 "Our corporate platform is ... [Document read] ...  
 25 chat feature."

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1 of decision or business being conducted.

2 **LADY HALLETT:** For those who don't know him,  
 3 Sir Chris Wormald, permanent secretary at the Department  
 4 of Health and Social Care in the UK Government.

5 Thank you.

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

7 So for you the key would be, even if there has been  
 8 a conversation in WhatsApp, it is recording after the  
 9 event the -- if it is Welsh Government business, that  
 10 has to be recorded either by an email or some other form  
 11 that is retained?

12 **A.** That is very clear in the guidance.

13 **Q.** We can have a look at a second document, INQ000396685.  
 14 This is, as it says there, Welsh Government information  
 15 management and governance policy published August 2018  
 16 and then last reviewed February 2019. Can we have  
 17 a look at page 2, please. It describes the policy, so  
 18 its policy defines the way Welsh Government information  
 19 and records should be managed. You're described as the  
 20 policy owner. We don't need to go to it, but you signed  
 21 this policy off on page 7.

22 If we could have a look, please, at page 17,  
 23 paragraph 6.6, it says here:

24 "Text or 'instant messages' are electronic mail and  
 25 messaging systems used for the ... [Document read] ...

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1 Prior to receiving this email, were you aware that  
 2 Welsh Government officials were not following policies,  
 3 were not recording discussions back to iShare as they  
 4 should have been, and, perhaps more worryingly, were  
 5 being pressured into using personal WhatsApp accounts  
 6 for Welsh Government business?

7 **A.** I was not aware that anybody was under any pressure at  
 8 all to use WhatsApp, personal WhatsApp accounts for  
 9 Welsh Government business. Had I heard that, then  
 10 I would have stamped on that immediately, obviously.  
 11 I had discussed this issue with Peter Kennedy because  
 12 I was the policy owner myself, so I was aware of his  
 13 concerns.

14 I should say in this whole area of informal  
 15 communications there were, if you like, sort of four  
 16 safeguards, I think: the messages coming out from  
 17 directors general themselves, very clear messages about  
 18 what was acceptable, what needed to be recorded. There  
 19 were similar messages going to the senior leadership  
 20 group, the group of Welsh Government directors that met  
 21 on a regular basis, and we used that for sort of  
 22 cascading core messages. That was one of them.

23 We were very conscious that an Inquiry would be  
 24 coming along in due course, and that we needed to make  
 25 sure that all records were preserved.

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1 Third point, the circulars, the reminders that  
2 you've highlighted here.  
3 And then the sort of final element was something we  
4 called the internal control questionnaire, which was  
5 completed annually as part of the governance process for  
6 assuring the annual report, and each director was  
7 required to complete a questionnaire which set out the  
8 extent to which they had observed all of these practices  
9 properly. That was signed off at director general  
10 level, and there was subsequently a Welsh  
11 Government-wide discussion to make sure that we really  
12 had challenged the responses.

13 So I think that there were four levels, if you like,  
14 to give me assurance that the messages were going  
15 through that, whilst certain things were acceptable on  
16 WhatsApp, any kind of policy discussions or decisions  
17 were not acceptable; nothing like that could take place  
18 on private or any other WhatsApp.

19 **Q.** With those four levels in place, did it surprise you  
20 then when you received on 29 October 2020 this email  
21 notifying you that there were people within the  
22 organisation, civil servants feeling pressured to use  
23 personal WhatsApps to conduct effectively Welsh  
24 Government business?

25 **A.** I don't recall specifically, but I'm sure it would have  
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1 that I had at that point left the Welsh Government, so  
2 I wouldn't have been directly aware of it.

3 **Q.** If messages concerning Welsh Government business are not  
4 otherwise being retained, as we've agreed they should  
5 be, would you agree that it is contrary to the policies  
6 on record retention that we've just been going through  
7 to have turned on disappearing messages in a chat  
8 involving Welsh Government ministers on  
9 25 November 2021?

10 **A.** I have to say personally I'm not familiar enough with  
11 the technology to know what that means in practice, but  
12 I think the messages were very clear from the circulars  
13 and from all of the -- all of the instructions that came  
14 out to private offices that we needed to maintain proper  
15 records, both for the Welsh Government but also for  
16 a future Inquiry.

17 **Q.** Final document on this topic, INQ000396461. It's  
18 an email sent to all private secretaries to Welsh  
19 Government ministers. It's dated 19 April 2021. Just  
20 reading from the first paragraph:

21 "As I mentioned at our Heads of Branch meeting last  
22 week, it is important that ... [Document read] ... in  
23 iShare ..."

24 Then skipping to the third paragraph:

25 "Any and all official business that may have been  
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1 surprised me.

2 **Q.** Can we please look at INQ000396684.

3 This is the last policy document I want to take you  
4 to. It's called "Guidance on private office records".  
5 It's dated 17 June 2009. Paragraph 4 on this first  
6 page, just talking about really scope of this guidance:

7 "This guidance applies to all information which is  
8 created in any ... [Document read] ... or government  
9 policy."

10 Perhaps if we can go to the next paragraph,  
11 paragraph 5:

12 "The records of Special Advisers require separate  
13 consideration ... [Document read] ... might need to be  
14 introduced."

15 Now, you referred a moment ago to Welsh ministers'  
16 WhatsApp group, which was a chat that was extant during  
17 the pandemic. Having looked at the various policies and  
18 guidance we've just been through, was your reaction to  
19 the fact that on 25 November 2021 Jane Runeckles -- who  
20 is the head of the Welsh Government's team of special  
21 advisers and the special adviser to the  
22 First Minister -- turned on disappearing messages in  
23 that chat?

24 **A.** My reaction is surprise, given that there was very clear  
25 guidance to all private offices. I should point out  
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1 ... [Document read] ... record of Welsh Government's  
2 business."

3 Now, that document from April 2021, that's some  
4 seven months before the disappearing messages function  
5 is enabled in the ministers' WhatsApp chat, and that's  
6 specifically drawing the attention of ministers' offices  
7 to the preservation of information for a future Inquiry.

8 Do you agree that it's plain that even if decisions  
9 which -- you've made this distinction earlier -- were  
10 not being formally taken by informal communication  
11 methods, anything of business value, as it says in this  
12 email, should be formally summarised, stored in iShare?

13 **A.** Yes.

14 **Q.** Whilst you were permanent secretary, are you aware that  
15 that is something that was being undertaken in respect  
16 of text and WhatsApp messages?

17 **A.** It was certainly a message that was given very, very  
18 regularly because, as I said, we were immensely  
19 conscious that we needed to preserve a proper public  
20 record for the future.

21 **Q.** Change topics next, and I'd like to ask about your  
22 involvement in the initial phase of the pandemic, so the  
23 period January to March 2020. You say in your witness  
24 statement that it is difficult to be precise about when  
25 you first became aware of Covid-19 in your official  
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1 capacity, but that you were on the circulation list of  
2 an official internal Welsh Government update on the new  
3 virus on 30 January 2020.

4 Now, we know the first meeting of ExCovid took place  
5 on 18 February 2020. Would this have been the first  
6 meeting that you attended in an official capacity  
7 regarding Covid, to your recollection?

8 **A.** To the best of my recollection, yes.

9 **Q.** Now, by this time, so mid-February, you were presumably  
10 aware that this new virus posed a serious threat to  
11 public health in Wales. Were you aware of that?

12 **A.** I was aware.

13 **Q.** What work had been done by you, or perhaps your office,  
14 prior to this meeting of ExCovid on 18 February, to  
15 begin to co-ordinate the response of the Welsh civil  
16 service to respond to Covid?

17 **A.** I think the first thing to say is that the health  
18 professionals led the initial part of the response to  
19 Covid, as you would expect, given their expertise.  
20 January I recall as a period of great uncertainty, with  
21 growing awareness of the threat. That was a time when  
22 the health team were focused on linking up with  
23 colleagues in the UK Government. I was very conscious  
24 that the CMOs, as you may have heard earlier, had  
25 a really excellent communication network, so I think

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1 **Q.** And who was responsible for producing that?

2 **A.** I believe it was Liz Lalley.

3 **Q.** To change topic again and now move on to the  
4 co-ordination and relationship with the UK Government,  
5 you say in your statement that:

6 "... I and the Permanent Secretaries for Scotland  
7 and Northern Ireland also attended regular informal  
8 four-way meetings with the Permanent Secretary for the  
9 Department for Health and Social Care, Chris Wormald,  
10 who established these meetings in order to exchange  
11 views on Covid-19 developments and to share information.  
12 The first of these meetings took place on 6 March 2020  
13 and they continued regularly throughout the specified  
14 period."

15 Now, as we've already seen throughout the pandemic  
16 there was a WhatsApp group with Andrew Goodall,  
17 Andrew Slade, yourself and Tracey Burke.

18 Can we, please, have that WhatsApp group,  
19 INQ000303227. I think we're beginning at the bottom of  
20 page 4, so this is on -- yeah.

21 So top of that page, 17 March, you say, amongst  
22 other things -- so the second entry at the top of that  
23 page, 19.26:

24 "Thanks for an excellent CovExco. Saw Jane R  
25 afterwards ... [Document read] ... structures and lack

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1 during that whole period of January and later February,  
2 people were drawing on and strengthening their existing  
3 networks to understand what the evidence was telling us,  
4 what the data was telling us.

5 My first meeting of ExCovid, as you said, was  
6 18 February. It followed on from an important email  
7 that Reg Kilpatrick sent a little earlier that month  
8 drawing everybody's attention to the fact this was  
9 something we needed to prepare for in a more  
10 co-ordinated way across the whole of the Welsh  
11 Government. He had already stood up the ECC(W) from  
12 5 February, although it had to expand later.

13 So there was quite a lot of action going on.  
14 February, particularly in mid-February, I remember us  
15 shifting up a gear and then really continuing with  
16 engagement intensifying as we moved towards the period  
17 of the lockdown.

18 **Q.** You say in your witness statement that another standard  
19 process adopted by ExCovid was the implementation of  
20 a risk register, which was a document that recorded the  
21 extremely broad range of operational risks that the  
22 Welsh Government faced as a result of the pandemic.  
23 When was the first risk register produced by ExCovid,  
24 can you recall?

25 **A.** I think it must have been April or May.

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1 of DAs."

2 Then Tracey Burke replies at 8.11:

3 "Quite a download through Shan but best we know it.  
4 I ... [Document read] ... from them...How best to raise?  
5 Tracey."

6 You then reply at 8.13:

7 "I have a 3 DAs call this morning I hope and we'll  
8 discuss it. I'm ... [Document read] ... development  
9 we're seeing."

10 Tracey then replies:

11 "Good. Vital we have sight of work of these  
12 groups -- vital."

13 Then you reply:

14 "Of course! Signs not good so far..."

15 Then Andrew Slade replies at 10.04:

16 "Yes. And I fear [Welsh Government] describing UK  
17 [Government's] Budget ... [Document read] ... kept quiet  
18 on that topic."

19 So just focusing, if I may, on the comments made  
20 about COBR, what did you understand to be  
21 Jane Runeckles' concerns about the new ministerial  
22 structures and, as she says in her WhatsApp, the lack of  
23 DAs?

24 **A.** I think her concern was the same one that the  
25 First Minister had expressed for some time, which was

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1 the lack of predictability about structures. COBR  
 2 meetings happened between about January and May, and  
 3 they came back again sort of autumn and winter, but they  
 4 died away in between, during which time there was the  
 5 ministerial implementation groups, although those too  
 6 died away. So I think Jane's concerns I think reflected  
 7 what I know were the First Minister's concerns about  
 8 predictability of communication and engagement  
 9 structures with the UK Government.

10 **Q.** You referred in your answer to ministerial  
 11 implementation groups. Now, the Inquiry has heard  
 12 evidence from Welsh ministers and officials to the  
 13 effect that although ministerial implementation group  
 14 meetings took place regularly throughout April and  
 15 May 2020, they were usually initiated by the  
 16 UK Government, often at short notice, and they say with  
 17 the agenda being set by the UK Government. Does that  
 18 accord with your recollection and your experience at the  
 19 time?

20 **A.** It does.

21 **Q.** Did you have -- take any action to secure the attendance  
 22 of Welsh ministers and officials at those ministerial  
 23 implementation group meetings?

24 **A.** There was a joint letter. Once the ministerial  
 25 implementation groups started dying away, a joint letter

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1 "The process feels [so it's second paragraph down]  
 2 more and more like announcing a concept and working back  
 3 ASAP in detail and practicalities -- this reflects.

4 "The speed of events has meant that some of the  
 5 spirit ... [Document read] ... announcements.

6 "As we discussed earlier it feels like creeping  
 7 divergence ... [Document read] ... raise but happening  
 8 all round.

9 "Are we ensuring we are... [Document read] ... are  
 10 doing."

11 Then Tracey Burke says at 13.12:  
 12 "Yes agree to both Andrews' points ... [Document  
 13 read] ... homes et cetera. Tracey."

14 To which you replied at 14.05:  
 15 "All excellent points but call now postponed.  
 16 I can cover them ... [Document read] ... the Tim team.  
 17 What do you think?"

18 Now, the "Tim team", that's the reference to the  
 19 team you envisaged being headed up by Tim Render that we  
 20 referred to earlier?

21 **A.** That's right.

22 **Q.** In terms of these messages, though, at this time -- so  
 23 this is 20 March -- did you feel there was a lack of  
 24 co-ordination between you and your senior officials  
 25 within the Welsh Government and your counterparts within

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1 went from me and from my counterparts in the Scottish  
 2 Government and Northern Ireland to complain about the  
 3 lack of engagement with the devolved administrations and  
 4 the failure to establish a structure which would enable  
 5 us to have the kinds of discussions that we needed to.

6 **Q.** In your view, would there have been a benefit to using  
 7 the existing Joint Ministerial Committee rather than  
 8 these newly created ministerial implementation groups?

9 **A.** No. The JMC is a very kind of formal structure. It  
 10 didn't meet once during the pandemic, which I think is  
 11 very telling. I believe it has since been revised and  
 12 strengthened, but it was a very formal and formulaic  
 13 sort of meeting. I attended a number in my time.

14 **Q.** Returning to some WhatsApp messages, then, we're looking  
 15 at INQ000303227. I'm grateful, yes.

16 We're -- so just to orientate ourselves,  
 17 20 March 2020 you sent a message to the group, saying:  
 18 "Any [questions] for my phone call with Chris  
 19 Wormald at 1400?"

20 Andrew Slade replies:  
 21 "From my perspective, his take on lockdown and  
 22 timing. Lots of intel ... [Document read] ... useful to  
 23 have/gauge his view."

24 Then at page 6 Andrew Goodall says, so this is at  
 25 13.04 is the message:

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1 the UK Government?

2 **A.** I think to be fair things were very fast-moving but,  
 3 yes, I did. I think there was -- there was quite  
 4 a variation in the degree of engagement between  
 5 different parts of Whitehall and the devolved  
 6 administrations. Those departments like DEFRA and  
 7 actually the Department of Health had a much better  
 8 understanding of how best to work with devolved  
 9 administrations. But that was very mixed across the  
 10 whole of the UK Government.

11 **Q.** What did you understand by Andrew Goodall's reference in  
 12 these WhatsApp messages we've just seen to "creeping  
 13 divergence and the spirit of sharing has been  
 14 disappearing"?

15 **A.** I think he -- I took it that he was concerned that, from  
 16 the centre, there were anxieties about differences  
 17 between the devolved administrations and the UK  
 18 Government.

19 **Q.** Now, we know -- certainly the Inquiry's heard evidence  
 20 to the effect -- that early June 2020, that's when MIGs  
 21 were replaced by Covid-S, which was the Prime Minister's  
 22 strategy group, and Covid-O, which was the operations  
 23 committee now chaired by Mr Gove. The Inquiry  
 24 understands that the devolved administrations and  
 25 certainly Welsh Government were not invited to attend

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1 Covid-S meetings, and were only invited to attend  
2 Covid-O meetings on a standing basis from October 2020.  
3 Is that right? Does that accord with your recollection?

4 **A.** That's right.

5 **Q.** I'd like to change topic now and ask some questions, as  
6 I said I would earlier, about equality impact  
7 assessments.

8 Now, as with any new policy, when making decisions  
9 in respect of NPIs during the pandemic you would accept  
10 that there was a general duty, obviously, on the Welsh  
11 Government to consider vulnerable groups and those with  
12 protected characteristics; yes?

13 **A.** Yes.

14 **Q.** The Inquiry understands that no equality impact  
15 assessments were carried out for the initial 21-day  
16 review of the coronavirus regulations, nor in fact the  
17 next three reviews, so there were no equality impact  
18 assessments carried out in respect of the restrictions  
19 for nearly three months after the initial lockdown;  
20 that's right, isn't it?

21 **A.** My understanding is that there was a great deal of work  
22 going on, that there weren't -- that the team were under  
23 such pressure and ministers under such pressure that it  
24 wasn't always possible to prepare a formal equality  
25 impact assessment, but nonetheless I should emphasise

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1 maths, that's nearly two months -- do you accept that  
2 full impact assessments could and should have been  
3 undertaken for those subsequent 21-day reviews?

4 **A.** I do. There was -- I received during that period  
5 a number of letters from the Reverend Coombs, from the  
6 head of the EHRC in Wales, and we had a number of very,  
7 very worthwhile and positive discussions together.  
8 I had to explain that in the early days it was very  
9 difficult to publish equality impact assessments because  
10 the resource available within the Welsh Government for  
11 translating those impact assessments into Welsh was very  
12 thin, and obviously it was a period when we had to  
13 prioritise translation of the legislation.

14 And I should say that, as you might expect, it was  
15 not legal for us as a government to publish anything in  
16 English only, we had to publish the English and the  
17 Welsh versions together. So that was an issue.

18 I do think that Dr Coombs -- I got the impression  
19 that she was reassured by the information that we gave  
20 her about the work that was actually going on, and that  
21 was extremely important, and the commitment that  
22 ministers were making in their decision-making process  
23 to ... the effect of all legislation on different  
24 communities within Wales.

25 **Q.** Now, the Inquiry has got, and I think you in fact refer

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1 that all three of the decision-making processes that the  
2 Welsh Government used involved a detailed template which  
3 took the drafters through the process of an equalities  
4 impact assessment. We called it an integrated impact  
5 assessment, because it covered a very wide range.

6 So ministerial advice, as I've said already, plus  
7 Cabinet papers, plus the 21-day cycle, each had their  
8 own template for assessing the equalities impact of any  
9 policy or restriction or lifting of restrictions that  
10 was being considered.

11 So I think that whilst there were times when there  
12 were no formal -- no formal impact assessments  
13 published, there were -- there was always a great deal  
14 of thought given to the impact of different restrictions  
15 on different communities within the Welsh Government.  
16 And not just because there was a template setting it  
17 out, but also because I think all of us were very clear  
18 that it mattered a great deal to Welsh Government  
19 ministers, in particular the First Minister, that we  
20 should address all aspects of inequality in everything  
21 that we did.

22 **Q.** Now, obviously I can understand that the initial  
23 regulations were drafted under exceptional circumstances  
24 over a very short space of time, but in respect of the  
25 next three 21-day reviews -- so obviously, doing the

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1 in your witness statement to the correspondence you've  
2 mentioned with the Reverend Coombs, so there were  
3 letters back and forth in July 2020, early 2021,  
4 culminating in the response from you on 10 March 2021.  
5 Would you say that the process for publishing EIAs  
6 improved after March 2021, after you had had that  
7 exchange with the Reverend Coombs?

8 **A.** I believe it did, although I'm conscious that I had to  
9 reply to one of her letters that we'd actually published  
10 the impact assessments in the wrong part of the Welsh  
11 Government website.

12 **Q.** Now, in Wales there's a duty under the Rights of  
13 Children and Young Persons (Wales) Measure 2011, also  
14 the Children's Rights Scheme 2021, a duty on the Welsh  
15 Government to have regard to the United Nations  
16 Convention on the Rights of the Child in exercising its  
17 functions which in turn requires considerations of the  
18 best interests of the child, and the Children's Rights  
19 Scheme also requires the Welsh Government to undertake  
20 a children's rights impact assessment as part of  
21 an integrated assessment.

22 Now, can you help us, were children's rights impact  
23 assessments undertaken by the Welsh Government?

24 **A.** They were, and the Welsh Government website does contain  
25 those that were carried out. Just as an example --

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1 because I checked this, obviously -- in February 2020  
 2 there was a children's rights impact assessment on alert  
 3 levels and restrictions in Wales. November the same  
 4 year, there was one on adoption and fostering  
 5 regulations. The following year there was a children's  
 6 rights impact assessment on moving to remote working.  
 7 They were carried out regularly as separate significant  
 8 impact assessments on their own, as well as the impact  
 9 on children and young people being considered in the  
 10 integrated impact assessments that we've been talking  
 11 about earlier.

12 **Q.** If I can change topic, please, and ask some questions  
 13 about your engagement during the pandemic with the Welsh  
 14 Local Government Association.

15 On 21 March 2020 Chris Llewelyn, who is the chief  
 16 executive of the WLGA, emailed you and the directors  
 17 general requesting early engagement with the Welsh  
 18 Government. Were structures and processes put in place  
 19 to ensure early and effective engagement with local  
 20 government?

21 **A.** There were already very good networks between officials  
 22 who needed, for policy and operational reasons, to work  
 23 closely with local government. So, for example,  
 24 Reg Kilpatrick had excellent relations with his  
 25 colleagues in local government in a variety of areas.

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1 The first topic, please, is again the issue of  
 2 WhatsApp and deletion of message chats by members of the  
 3 Welsh Government.

4 Just so that you fully understand the context of my  
 5 question, obviously we've had disclosure of extensive  
 6 WhatsApps and we can see that WhatsApp's been used for  
 7 a range of issues by special advisers and Welsh  
 8 ministers touching on Welsh Government business work  
 9 related activity from, for example, pre-announcing  
 10 policy to officials, asking for clarification on  
 11 government policy, policy discussions, seeking  
 12 assistance on what officials and ministers should do in  
 13 certain circumstances.

14 This is just a short list, but you get the idea.

15 So you have been asked about the disappearing  
 16 messages being turned on by Jane Runeckles. I just want  
 17 to give you another example. There are quite a few, but  
 18 I'll just give you another one. To be clear, you're not  
 19 in this WhatsApp chat, okay.

20 This is a WhatsApp chat called "Drake SPADs" and  
 21 it's 24 September 2020, and we don't need to name the  
 22 SpAd, but there's a special adviser who says as follows:

23 "Just realised I've deleted the chat on this group  
 24 for a very long time, will do now and recommend others  
 25 to do so."

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1 The same with Tracey Burke, who was the DG responsible  
 2 for education; for obvious reasons she needed those.  
 3 What we did, as a result of invitations from the head of  
 4 the WLGA, Chris Llewelyn, was set up meetings with him  
 5 and with the 22 -- well, the chief execs of the 22 Welsh  
 6 local authorities in order to exchange views and ideas  
 7 and concerns.

8 I would say honestly that I could have done more.  
 9 I think it would probably have been a very good idea had  
 10 I invited the chief exec of the WLGA to become a member  
 11 of ExCovid, or at least come from time to time when  
 12 there was an area of particular interest. I think  
 13 I could have done more to establish that level of  
 14 regular contact, and in retrospect I think I should have  
 15 established myself a pattern of regular one-to-ones with  
 16 both the CEO of WLGA and of SOLACE, the Society of Local  
 17 Authority Chief Executives.

18 **MR POOLE:** Dame Shan, they're all the questions I've got for  
 19 you, but I understand there are some questions from  
 20 core participants.

21 **LADY HALLETT:** Yes, Ms Heaven.

#### 22 Questions from MS HEAVEN

23 **MS HEAVEN:** Thank you, my Lady.

24 Good afternoon, Dame Shan, I represent the Covid-19  
 25 Bereaved Families for Justice.

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1 Then he says noting "I" seems to mean "I have not",  
 2 okay.

3 So, as I said, there are others, I'm just giving you  
 4 one example. So you're obviously surprised about the  
 5 Jane Runeckles turning on deleting messages, but do you  
 6 agree that if other SPADs, special advisers, are  
 7 deleting messages and encouraging others to do the same,  
 8 there was obviously an issue on retention of WhatsApps  
 9 that went much wider than Jane Runeckles? Is that  
 10 a fair comment, do you think?

11 **A.** I think all I can say that there was a very clear  
 12 message that had gone to private office about what the  
 13 proper procedures were. I am not aware personally of  
 14 the -- of the messages that you're referring to. I did  
 15 read some of the WhatsApp chain that came through, but  
 16 it was very long.

17 Something that struck me that I was certainly  
 18 reassured by was that where ministers were asking for  
 19 clarification of particular policy areas or decisions,  
 20 then the SPADs -- and I think it was, from recollection,  
 21 usually Jane Runeckles -- said that they would send  
 22 an email to set that out.

23 So I was reassured by that kind of response, but  
 24 I can't really comment on the deletion of messages  
 25 beyond saying that it was very clear from the circulars

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1 that had been sent to private office that that was not  
 2 appropriate, that was not right.

3 **Q.** No, so if special advisers are deleting messages and  
 4 encouraging others to do the same, you'd agree that was  
 5 clearly wrong, shouldn't have happened?

6 **A.** That was not in line with our policy.

7 **Q.** Did you ever turn on disappearing messages or delete  
 8 WhatsApps?

9 **A.** I didn't turn on disappearing messages and, as I said  
 10 earlier, to be honest I wouldn't know how to, but I know  
 11 I deleted a few early messages. I have no recollection  
 12 of why, beyond I suppose just an attempt at  
 13 housekeeping. But I am very glad that the entire  
 14 conversation has been made available to the Inquiry,  
 15 because others and I think notably Andrew Goodall kept  
 16 all his WhatsApp messages, very properly.

17 **Q.** Okay, thank you.

18 I'm going to move on from WhatsApps now to the  
 19 separate topic of face coverings. And just so that we  
 20 can situate it, this is 9 June 2020 and, as we know, on  
 21 that date Vaughan Gething gave a press statement  
 22 announcing the latest position that the Welsh Government  
 23 was taking on face coverings. And, I mean, he said  
 24 a lot in that press conference, but the gist of it was  
 25 that the Welsh Government was recommending face  
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1 or --

2 **A.** Not in detail, I'm afraid.

3 **Q.** Okay. Well, let me see if I can assist you. So the  
 4 first thing is you're talking about something having  
 5 gone wrong. What had gone wrong? What was the concern  
 6 around this announcement that had to be made on 9 June  
 7 which, as we know, was clearly diverging from UK  
 8 Government policy?

9 **A.** I don't know what had gone wrong.

10 **Q.** Okay, fine.

11 Moving on, then, you were talking here about face  
 12 mask militancy. So that's your phrase, and just to see  
 13 if you can assist us with what you meant by that, see if  
 14 I can assist you, do you mean that there may be a risk  
 15 that certain people would have a go at other people for  
 16 not wearing a mask?

17 **A.** Yes.

18 **Q.** Okay.

19 So just to understand, then, why this was a concern  
 20 for you: in the context of this policy announcement, was  
 21 it being anticipated that the Welsh Government divergent  
 22 approach on face coverings particularly on public  
 23 transport could result in people having a go at other  
 24 people, say for example an English person coming on the  
 25 London train to Wales wearing a mask might then have  
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1 coverings on social transport -- sorry, on public  
 2 transport where social distancing was not possible, and  
 3 of course we know by this time the UK Government had  
 4 announced that on public transport face coverings were  
 5 mandatory. So at this point on 9 June, we have this  
 6 divergent approach on public transport, Wales versus  
 7 England.

8 So I want to ask you about a WhatsApp exchange where  
 9 you appear to be discussing this policy announcement.  
 10 So if we can get up, please, INQ000388424, and it's 004,  
 11 please. The entry is right at the bottom.

12 Now, I appreciate that this -- it's tricky to  
 13 remember hundreds of WhatsApps, so let me just take you  
 14 to it. It's at the very bottom here, and it starts off  
 15 with -- on 9 June at 10.32, you say:

16 "Hope all goes well at the press conference -- it  
 17 all sounded a bit muddled at 9 am."

18 Then we have somebody whose name has been redacted  
 19 saying:

20 "A number of heads banged together ... [Document  
 21 read] ... from the TFW side."

22 Then you respond again:

23 "Good -- huge scope for multiple misinterpretation  
 24 and face mask militancy."

25 Okay. So first of all do you remember this exchange  
 202

1 a go, when they got into Wales, because somebody didn't  
 2 have a mask on? Was that what you were concerned about,  
 3 do you think?

4 **A.** I think that would always have been a possibility, but  
 5 I also think that there was very clear advice given to  
 6 people about what was -- what the rules were in Wales  
 7 and what the rules were in England.

8 **Q.** But why, just on this face mask militancy, why are you  
 9 concerned that there may be face mask militancy? Why  
 10 was --

11 **A.** I was concerned about people being angry.

12 **Q.** Okay. Why?

13 **A.** Because there was such a lot of emotion at the time  
 14 around the pandemic, not surprisingly, and I was  
 15 concerned about any anger amongst -- amongst people.

16 **Q.** Does this maybe suggest that there was a degree of  
 17 hesitancy, certainly within certain quarters of the  
 18 Welsh Government, about mandating and requiring Welsh  
 19 people to wear face coverings in public, that there was  
 20 a hesitancy?

21 **A.** I didn't detect any hesitancy. I think you've heard  
 22 earlier today from Sir Frank, who will have explained to  
 23 you the advice he gave to the Welsh Government at  
 24 different times. So I would not say there was any  
 25 hesitancy. I think the Welsh Government and ministers  
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1 at all times were very clear about the decisions they  
 2 had taken. So, no, not hesitancy.  
 3 **Q.** What expert evidence did you have to suggest that this  
 4 concept of face mask militancy was something that had to  
 5 be considered or given any credence at all? Did you  
 6 have any expert advice?  
 7 **A.** I had no expert advice, I wouldn't describe that comment  
 8 there as ... as a comment of significance beyond general  
 9 concern about people's reactions to each other when they  
 10 were under the horrendous pressure of the pandemic.

11 **MS HEAVEN:** Thank you very much.

12 Thank you, my Lady, those are my questions.

13 **LADY HALLETT:** Thank you, Ms Heaven.

14 I understand that we've had some extra questions  
 15 come in. Mr Gardner, do you have a question?  
 16 We're running out of stenographer time, so just to  
 17 make sure everybody understands, I will cut people short  
 18 when we get to the stage where we're running out of  
 19 time, over running out of time.

20 So, Mr Gardner, was there a question you wanted to  
 21 put?

22 (Pause)

23 Actually have I got the right ...?

24 Yes, very well, ask your question, Mr Gardner.

25 **Questions from MR GARDNER**

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1 human rights, those were very -- those were significant  
 2 documents which inevitably had to draw on a range of  
 3 information.  
 4 **Q.** So in effect am I -- would I be correct to say, as  
 5 Sally Holland said in her evidence, that certainly in  
 6 the early stages of the pandemic, children's rights  
 7 impact assessments were not being habitually undertaken  
 8 at the time of the decision to which they relate?

9 **A.** I think it depend what you mean, because I am confident  
 10 that none of our ministers would have taken any  
 11 decisions that had an impact on children and young  
 12 people without having considered those factors.

13 **Q.** I'll come back to that, I think, in the general point,  
 14 but --

15 **LADY HALLETT:** I'm not sure you will, Mr Gardner, I'm afraid  
 16 we're going to have to cut you short there. I'm sorry.

17 **MR GARDNER:** There, my Lady, or just one?

18 **LADY HALLETT:** There.

19 **MR GARDNER:** I'm grateful.

20 **LADY HALLETT:** I'm sorry, Ms Foubister, I thought you were  
 21 looking at me quizzically, I'd completely forgotten I'd  
 22 given permission for you to ask one. You wanted to ask  
 23 permission to ask a second one, is that right?

24 **MS FOUBISTER:** I think we have two pre-approved ones, and it  
 25 was a further one, but I can -- if we have time, I'll

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1 **MR GARDNER:** Dame Morgan, I just want to pick up from where  
 2 we were in your answers to Counsel to the Inquiry  
 3 relating to children's rights impact assessments.

4 Would you agree with me that for CRIAs to be  
 5 effective, there should be contemporaneous documents?

6 **A.** Sorry, for what to be effective?

7 **Q.** For them to be effective documents, they should be  
 8 completed contemporaneously?

9 **A.** Ideally, I would agree with that, but there are  
 10 of course circumstances where it's not absolutely  
 11 possible to do that, if there are competing priorities.

12 **Q.** And how would they go about considering the impact of  
 13 policies and decisions if they're not completed  
 14 contemporaneously?

15 **A.** They would draw on contemporaneous evidence. I think  
 16 that is the point, and that takes us back to the need to  
 17 record all evidence and how decisions were taken.

18 **Q.** But how would they be in the mind of the decision-maker  
 19 if they're not being completed alongside the decision?

20 **A.** The -- I think in most cases they were. It depends  
 21 whether you're talking about the integrated impact  
 22 assessment that was carried out at the time of the  
 23 ministerial advice paper or at the time of the  
 24 discussion on the 21-day review. If you're talking  
 25 about the separate impact assessment on children and

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1 ask permission --

2 **LADY HALLETT:** Thank you.

3 **MS FOUBISTER:** -- to ask the other ones.

4 Thank you, my Lady.

5 **Questions from MS FOUBISTER**

6 **MS FOUBISTER:** Good afternoon, Dame Shan, I represent  
 7 John's Campaign and Care Rights UK.

8 I'm going to refer to your witness statement, which  
 9 is INQ000371233, on page 10 at paragraph 33, and you say  
 10 at the beginning of this paragraph that you believe that  
 11 the Welsh Government had a strong focus on vulnerable  
 12 and at-risk groups, and you cite initiatives such as the  
 13 BAME advisory group. Do you believe that the government  
 14 had the care sector in mind?

15 **A.** I do believe that.

16 **Q.** Are there any examples of comparable initiatives in  
 17 relation to carers or people who require care?

18 **A.** I'm afraid not having had notice of the question, I ...  
 19 I can't give an example that springs to mind, but -- but  
 20 I know that Welsh Government ministers were looking at  
 21 all vulnerable groups and looking at whatever they could  
 22 do to manage the pandemic across the whole country.  
 23 I can't at the moment think of a specific example. I'm  
 24 sure there will be an opportunity to do that in later  
 25 parts of the Inquiry.

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1 **Q.** You explained deep dives to us earlier this afternoon,  
 2 and you mentioned specifically a deep dive on  
 3 care homes. Do you recall what that covered and would  
 4 it have covered, for example, consideration of the  
 5 indirect harms of the Covid response on people in  
 6 care homes?

7 **A.** I think I referred to a deep dive on social care, and  
 8 I don't recollect the detail of that discussion. But  
 9 the whole point of the deep dives was to look very  
 10 broadly at the immediate and the longer term impacts of  
 11 any restrictions, any policy developments. So I am  
 12 quite sure that we would have covered that.

13 **Q.** And so just to be clear, because I think earlier you  
 14 referred to care homes and just then you said  
 15 social care, would it have covered things like unpaid  
 16 care, domiciliary care, rather than just being limited  
 17 to care homes?

18 **A.** I don't recall I'm afraid in sufficient detail to be  
 19 able to say confidently.

20 **MS FOUBISTER:** My Lady, that leads me to the one we don't  
 21 have permission for yet, if there's time for me to  
 22 request it.

23 **LADY HALLETT:** It's about whether -- well, you can ask the  
 24 first one, which is the health professionals led in  
 25 initial part of the Covid response.

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1 Thank you very much for your help, Dame Shan. I'm  
 2 tempted to ask you what it's like going from the  
 3 diplomatic service to running the civil service in  
 4 Wales, but I think maybe for another time.

5 Thank you very much for all you have done.

6 **(The witness withdrew)**

7 **LADY HALLETT:** Right, that completes today's evidence.

8 **MR POOLE:** My Lady, it does.

9 **LADY HALLETT:** We shall return at 10 o'clock tomorrow.

10 **(4.24 pm)**

11 **(The hearing adjourned until 10 am**  
 12 **on Tuesday, 5 March 2024)**

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1 **MS FOUBISTER:** Yes.

2 So, Dame Shan, earlier you explained that health  
 3 professionals led the initial part of the Covid  
 4 response. Does it follow that you considered their  
 5 involvement became less pronounced as the pandemic  
 6 progressed and, if so, do you think that was right or do  
 7 you think they should have remained at the forefront of  
 8 the response?

9 **A.** Not at all, I think the rest of us joined in. It's that  
 10 way around, that we went from -- we went from a response  
 11 by the Welsh Government that was led by the excellent  
 12 health professionals to a Welsh Government-wide  
 13 response. At the beginning it was the health minister  
 14 who led in discussions and negotiations with the  
 15 UK Government, for example, but as time moved on and it  
 16 was clear that there -- what the potential impact of the  
 17 pandemic might be across Wales, then the whole of the  
 18 Welsh Government took part in those discussions.

19 So rather than the health professionals being put on  
 20 one side, we were heavily dependent on them throughout  
 21 the whole process, and, as I said, I think  
 22 Andrew Goodall led that process really outstandingly.

23 **MS FOUBISTER:** Thank you.

24 Thank you, my Lady.

25 **LADY HALLETT:** Thank you very much indeed.

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44/21 58/5 59/13 69/5	115/4	<b>I passed [1]</b> 56/11	171/13	92/21 92/21 95/22
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127/11 128/15 145/23	205/23	<b>I presented [1]</b> 8/3	40/14 45/22 46/16	112/6 113/25 115/1
156/12 166/19 169/16	<b>I guess [1]</b> 113/16	<b>I probably [1]</b> 53/15	49/9 49/9 49/11 49/13	116/8 119/24 120/1
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203/14	26/22 49/2 62/3 65/10	<b>I read [2]</b> 58/4 62/5	56/3 57/12 57/13	125/11 126/15 134/21
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81/23 85/1 109/18	183/10 188/7 200/1	<b>I received [1]</b> 195/4	124/4 124/6 138/20	171/23 176/24 181/25
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<b>I come [1]</b> 64/25	<b>I honestly [1]</b> 130/5	142/23 186/14	185/12 185/23 200/17	208/8 208/18 208/23
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