of informal or private communications.

Thursday, 7 March 2024

2	(10	.00 am)	2		Do both statements remain true to the best of your
3	LAI	DY HALLETT: Good morning.	3		knowledge and belief?
4	MS	HITCHMAN: My Lady, before we begin hearing evidence	4	A.	They do.
5		today, there is a correction to be put on the record.	5	Q.	Thank you.
6		In response to a Rule 10 question yesterday,	6		You are the head of the Welsh Government's team of
7		Dr Llewelyn referred to the impact of austerity on local	7		special advisers, a role to which you were appointed in
8		government over the last ten years, and he stated that	8		December 2018. Alongside that role and since the start
9		the budget had been cut in real terms by about £900,000.	9		of the pandemic you have been the senior special adviser
10		Dr Llewelyn has clarified that the correct figure is in	10		to the First Minister, and you remain in that office
11		fact £900 million.	11		today.
12	LAI	DY HALLETT: A slight difference.	12		Is that all correct?
13	MS	HITCHMAN: May I please call Jane Runeckles.	13	A.	That is.
14		MS JANE RUNECKLES (affirmed)	14	Q.	In terms of your background and career, you began
15		Questions from COUNSEL TO THE INQUIRY	15		working for the Welsh civil service in October 2003,
16	MS	HITCHMAN: Please could you give your full name.	16		when you were appointed as a special adviser by
17	A.	Jane Sarah Runeckles.	17		Rhodri Morgan, who was at that time the First Minister,
18	Q.	Thank you for attending today and for assisting	18		and you provided direct support to the then Minister for
19		the Inquiry. You have kindly provided two witness	19		the Environment, Planning and Countryside as well as the
20		statements for this module. The first is at	20		business minister; is that right?
21		INQ000320679, and this was signed on 20 October 2023,	21	A.	It is.
22		and it concerns your role as a special adviser during	22	Q.	You remained a special adviser until December 2009, when
23		the pandemic.	23		Rhodri Morgan stepped down as First Minister, and you
24		The second statement is at INQ000274119, which was	24		then worked part-time for the Wales Trades Union
25		signed on 15 December 2023, and this concerns your use	25		Congress between January 2010 and August 2015.
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1		Subsequently you returned to the Welsh Government as	1		and their interests to the civil service, to request
2		a special adviser on secondment from the Wales TUC to	2		documents and briefings for them, to hold meetings with
3	support the then First Minister, Carwyn Jones.				civil servants and to engage with the wider civil
4		You then returned to the Welsh Government special	4		service and external stakeholders.
5		adviser team as a direct employee of the Welsh	5		We also have things we can't do, so we cannot take
6		Government civil service in November 2016.	6		any statutory or prerogative power decisions, we cannot
7		Is that all correct?	7		have any part in decision-making around budgets, we
8	A.	It is.	8		cannot have any role in relation to the appointment or
9	Q.	Thank you, Ms Runeckles.	9		management of the civil service staff, and we are
10		I want to start by asking you some questions about	10		there to listen.
11		the role of a special adviser within the Welsh	11	Q.	Thank you, Ms Runeckles.
12		Government.	12		So it would be fair to summarise, as the name
13		As the head of the special adviser team, you have	13		suggests, that the role of a special adviser is to
14		responsibility for 14 special advisers. These advisers	14		advise but not to make any decisions?
15		provide support to the First Minister and to individual	15	A.	Absolutely.
16		Welsh ministers; is that right?	16	Q.	Turning now to 2020 onwards and the beginning of the
17	A.	It is.	17		Covid pandemic, please can you briefly outline how your
18	Q.	Please can you briefly describe the roles and	18		roles and responsibilities as a special adviser changed.
19		responsibilities of a special adviser in the Welsh	19	A.	I don't know that they did change enormously. The
20		Government outside of a crisis period such as the	20		fundamentals that I've just described remained true
21		pandemic.	21		throughout the pandemic period.
22	A.	The role of the of a special adviser is set out in	22	Q.	Thank you.
23		the code, the special adviser code, which I've submitted	23		You explain in your first witness statement that the
24		as part of my evidence. It stipulates those areas that	24		structure of your team changed during the pandemic, and
25		we can do, so primarily to convey the views of ministers	25		the team was rejigged to respond to the handling of the
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pandemic response in late March, and three new members of the team were introduced.

Please could you explain why you restructured your team in this way?

A. It was clear through March that the workload that the team were having to cope with was increasing steadily, and the First Minister, as a former special adviser himself, suggested that it would be useful to bring in additional support for the team, and the three people who we brought into the team at that point were all experienced special advisers and had served under previous First Ministers.

I also asked two members of the team to take a kind of more supervisory role in a way that isn't ordinarily the case in the special adviser team, so there was one of my team who looked after the sort of public services elements and another member of my team who covered the economy and finance side and helped provide a focus for the other members of the special adviser team to be able to have somebody to contact.

21 Q. Thank you.

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You explain at paragraph 12 of your first witness statement that:

"It is unusual in the Whitehall context for special advisers to stay in post for as long as [you] have

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1 were?

- 2 **A.** Yes.
 - Q. What was your relationship with your counterparts in the UK Government and other devolved governments?
- 5 A. Until the pandemic, limited. I had very little contact
 6 with other special advisers. I had met the -- my
 7 counterpart in the Scottish Government before Christmas
 8 in 2020 -- in 2019, when the First Ministers of Scotland
 9 and Wales had done a joint press conference in relation
 10 to some Brexit-related activity. I had no real contact

11 with the special advisers in the UK Government until the

12 pandemic began.

- 13 **Q.** And when the pandemic did begin, how would you describethose relationships?
- A. The relationships with the UK Government special
 advisers were intermittent but quite -- that's not the
 right word -- were frequent in the beginning, in the
 early months, both with the special adviser in the Wales
 Office and a special adviser in Number 10.

My relationships with them deteriorated over the first months of the pandemic and I would guess that by the summer of 2020 we weren't really having any regular contact at all. My relationship with the special adviser to the First Minister of Scotland developed and continue -- has continued.

been ..."

And as we noted earlier, you've worked for three First Ministers and have been a special adviser for nearly 20 years. You also say that:

"In the Welsh Government context, many of the team of special advisers have years of experience of working with the civil service and in Welsh public life."

In your view, to what extent did that longevity of service of special advisers affect the Welsh Government's decision-making?

- A. It was not something I was particularly conscious of at 11 12 the time, but having reflected on the experiences since, 13 the relation -- the fact that we had spent as long as we 14 had understanding the ways in which government works, 15 knowing the individuals with whom we relied heavily 16 upon, certainly in the early months, and having 17 relationships of trust with them, was extraordinarily 18 beneficial.
- 19 Q. Thank you.

Would it be fair to say that you had a very close working relationship with the First Minister?

22 A. Yes

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Q. Would it also be fair to say that there were very few
 people who were quite as close to the centre of Welsh
 Government decision-making during the pandemic as you

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- Q. When you say that your relationship with
- the UK Government special advisers deteriorated, what do you attribute as the cause of that deterioration?
- 4 A. The tensions between the actions taken by the Welsh
 5 Government and the actions taken by the UK Government
- 6 sort of became more and more obvious, and once we
- 7 reached the point through the beginning of May,
- 8 certainly, and I suspect this is a period we'll return
- 9 to, and into the summer, the fact that the Welsh
- 10 Government were taking decisions in a different way to
- 11 the United Kingdom Government just meant that there was
- 12 very little for us to talk about.
- 13 Q. Thank you. And you're correct to say that we'll return
 14 to that period and the divergence between the
 15 governments later today.

I want to turn now to your attendance at meetings during the pandemic.

If we could please have on screen INQ000227534.

This is a document that you have provided which sets out the various meetings you attended as an observer, and it's fair to say, is it not, that save for a period between the end of November 2020 and some time in February or March 2021, when you were largely absent for personal reasons, you attended almost every cabinet

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meeting, ministerial call and meetings with the

		UK C
1		UK Government and the other devolved governments that
2		the First Minister attended?
3	A.	I did.
4	Q.	And you also attended numerous internal Welsh Government
5		meetings, again as an observer; is that right?
6	A.	I did.
7	Q.	You say in your first witness statement that you did not
8		provide any written briefings for these meetings. Is it
9		right, then, that the advice you provided was mainly
10		verbal throughout the entire period of the pandemic?
11	A.	I will have contributed to papers that went to the
12		meetings in internal Welsh Government civil service
13		meetings. I would have had conversations with officials
14		in the run-up to those papers being produced. But in
15		terms of written advice for those meetings, that was not
16		my role.
17	Q.	Thank you.
18		I want to turn now to look at the Welsh Government's
19		initial understanding of and response to Covid-19, and
20		looking first at January and February 2020.
21		In his witness statement to this module, the
22		First Minister says that by 24 January 2020, he had been
23		advised by Sir Frank Atherton that there was
24		a significant risk that the virus would arrive in Wales.
25		Do you recall whether the First Minister shared that 9
1		25 February. Again, in light of the advice from the
2		Chief Medical Officer for Wales, did that surprise you?
3	A.	No. There had been a number of written statements by
4		the minister for health by this time, and the minister
5		for health was keeping the First Minister updated
6		informally, as was Dr Frank Atherton.
7	Q.	Thank you.
8		The First Minister said in his written evidence to
9		Module 2 that looking back on matters, and given what we
10		know now, there is strong evidence to suggest that more
11		stringent action could and should have been taken
12		sooner.
13		And that, for the record, is at paragraph 17 of
14		INQ000273747.
15		Do you agree with Mr Drakeford's assessment?
16	A.	Yes.
17	Q.	Moving now to March 2020, I'd like to look at the
18		cabinet minutes from a meeting on 4 March 2020.
19		This is at INQ000048789.
20		You are listed as an attendee there.

There is a note at the top of these minutes that

"Cabinet will wish to note that these minutes,

except those items in italics, will be published in week

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commencing 13th April 2020."

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states:

4		first COBR meeting on 18 February 2020, and the W
5		Government was represented at earlier COBR meeti
6		the Minister for Health and Social Services. Why did
7		the First Minister not attend the first three COBR
8		meetings, notwithstanding those comments from his
9		Medical Officer?
10	A.	The first couple of COBR meetings, the invitations fo
11		the COBR meetings will have come through to the
12		First Minister's office, the First Minister would
13		determine under other circumstances which minister
14		the most appropriate person to attend, and in the ver
15		early days this was a matter that was being dealt with
16		by the Health and Social Services team and the heal
17		minister was the most appropriate person to attend.
18	Q.	Would you provide any advice to the First Minister or
19		his attendance at meetings such as COBR?
20	A.	I would certainly have had conversations with him ab
21		that, yes.
22	Q.	Do you recall if you had conversations about those fi
23		three COBR meetings?
24	A.	No.
25	Q.	Covid-19 was not discussed by the Welsh Cabinet un
		10
1		This is an instruction that appears on many cabi
2		minutes, obviously with a different date of publication
3		Why is it that italicised items are not to be published
4	A.	It's something you may need to ask the
5	<i>,</i>	cabinet secretary, but I understand that there are
6		items this happens in relation to matters such as
7		those when they're discussing finance, and those wh
8		they're discussing matters that it would be
9		inappropriate to be put into the public domain at such
10		an early point in the publication.
11		The Welsh Government has published minutes
12		cabinet meetings for a very long time, it was one of the
13		decisions taken by the first First Minister I worked
14		for.
15	Q.	Thank you. If we could turn to page 3 of this docume
16	Q.	and paragraph 2.6, the first sentence says:
17		"Modelling by the Scientific Advisory Group for
18		Emergencies suggested that under the reasonable w
19		case scenario, 80% of the population would be infect
20		Then the final sentence says:
21		"The same modelling suggested somewhere in t
22		region of 25,000 deaths."
23		Then looking at paragraph 2.7, this says:
23		"In terms of timescale, an increase in cases was
24 25		·
23		expected over the coming weeks, with significant 12
		· -

information with you at the time? 1 2 A. I do not, no. 3 Q. The Inquiry understands that Mr Drakeford attended his eting on 18 February 2020, and the Welsh as represented at earlier COBR meetings by Health and Social Services. Why did er not attend the first three COBR vithstanding those comments from his Chief e of COBR meetings, the invitations for etings will have come through to the office, the First Minister would er other circumstances which minister was priate person to attend, and in the very was a matter that was being dealt with and Social Services team and the health ne most appropriate person to attend. vide any advice to the First Minister on at meetings such as COBR? ly have had conversations with him about you had conversations about those first eetings? not discussed by the Welsh Cabinet until instruction that appears on many cabinet usly with a different date of publication. alicised items are not to be published? you may need to ask the ary, but I understand that there are ppens in relation to matters such as ey're discussing finance, and those where sing matters that it would be o be put into the public domain at such n the publication. n Government has published minutes of gs for a very long time, it was one of the n by the first First Minister I worked we could turn to page 3 of this document, 2.6, the first sentence says: by the Scientific Advisory Group for suggested that under the reasonable worst 80% of the population would be infected." inal sentence says: modelling suggested somewhere in the 00 deaths." ing at paragraph 2.7, this says:

1	escalation in April and possibly intensification into
2	May and June before the number of new infections started
3	to drop."

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Just returning to what you said about italicised items being inappropriate to put in the public domain, in your view why were these two items not published in the minutes that were published on 13 April 2020?

A. I'm afraid I ... I'm not sure that I'm the best person to answer this question. I was certainly aware of the

to answer this question. I was certainly aware of the figures set out in 2.6, and I distinctly remember the discussions around the reasonable worst-case scenario at this point and the significance of them.

13 Q. Thank you.

Are you able to comment on whether this was the first time that the cabinet was informed about the SAGE planning assumptions?

17 A. I ... I don't know.

18 Q. Thank you.

You explain at paragraph 28 of your first witness statement that in around March 2020 there were an increasing number of meetings with the cabinet, the Minister for Health and Social Services, the chief executive of the NHS, the CMO and others to discuss measures being taken specifically in the NHS in Wales but also preparedness in other sectors. What was the

the meeting rather than in the meeting itself.

2 **Q.** Thank you.

I want to turn now to INQ000303227.

This is a WhatsApp group entitled "AG Quintet", which includes Shan Morgan, Andrew Goodall, Andrew Slade and Tracey Burke.

If we turn to page 4, at the bottom of the page, Dame Shan says as follows on 17 March 2020:

"Thanks all for an excellent CovExCo. Saw Jane R afterwards. She's concerned about new COBR Ministerial structures and lack of DAs."

In her oral evidence to the Inquiry earlier this week, Dame Shan stated that she thought that you and the First Minister were concerned about the predictability of communications and engagement structures with the UK Government. Is that an accurate summary of your concerns?

18 **A.** It is.

19 Q. Why did you think that?

A. By -- by this point, we -- there was no real notice of
 when the COBR meetings were going to happen, what the
 agendas for those meetings would be, until very close,
 sometimes 10, 15 minutes before the meetings began, and
 the First Minister was becoming concerned about the
 levels of engagement that he felt were necessary due to

1 level of your involvement in those meetings?

2 A. Sorry, what was the date you gave?

3 Q. From March 2020.

A. Oh, okay. My involvement would have been to have sat
 and to have listened and to have picked up any action
 points that were appropriate for me to do.

7 Q. Thank you.

You attended a Covid-19 core group meeting on 11 March 2020.

The minutes of that meeting are at INQ000215171.Again, at the top it states that those minutes are

"Not for publication". Are you able to comment on why

13 that's the case?

14 **A.** No

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15 Q. There is a discussion here about various topics,including whether to cancel routine hospital and GP

17 appointments, and the policy on mass gatherings, and

there are a number of questions raised. At paragraph 12 the minutes note that:

"Ministers agreed that there was a need to addressthe questions that had been raised as soon as possible."

Why were these questions not addressed in the meeting itself?

A. I ... I suspect that the minute refers to the fact that
 there was action that would need to be taken following
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1 the urgency of the situation we were in.

Q. That is a point to which we will return later in yourevidence.

I want to turn to look in further detail at the degree of co-ordination between the Welsh Government and the UK Government. You explain in your statement at paragraph 38 that the potential for divergence between the four parts of the United Kingdom was referred to by the First Minister at COBR on 9 March 2020, and this possible divergence was already evident by the Scottish Government's indication at COBR that on 12 March 2020 that it intended to ban gatherings of more than 500 people.

14 What was your advice to the First Minister in
 15 March 2020 as to the adoption of a four nations approach
 16 to a lockdown?

17 A. I was absolutely clear, as he was, that the four nations
 18 approach was the preferable way for us to be responding
 19 to the emerging situation.

20 Q. And why was that?

21 A. An obvious point, the United Kingdom's an island and --

22 LADY HALLETT: Well, three parts of it are.

A. That's an absolutely fair point. I apologise toNorthern Ireland for my slip-up.

The -- and also I think that the most important

1		point was that we didn't at that point, in any way,	1		Dr Boulton sets out the background to the set-up of
2		shape or form, anticipate that we would be in	2		the testing facility, and under the heading "Situation"
3		a situation where we would end up taking the kind of	3		he says that he was contacted on 30 March to arrange
4		decisions that we did under the 1984 Act.	4		a call to discuss the UK-wide key worker testing
5	MS	HITCHMAN: At paragraph 54 of your first witness	5		strategy, and that contact was from Deloitte Consulting.
6		statement, you say that:	6		Then he goes on to say that a call took place on
7		"It was becoming clear towards the end of	7		1 April 2020, at 3 pm, in which he was told that they
8		April [2020] that divergence from the UK Government	8		had set up a testing facility in Cardiff City Stadium
9		decision-making might be necessary."	9		and were ready to accept key workers for testing the
10		And you say that:	10		following day.
11		"A number of things had happened that had put	11		Then Mr Boulton says:
12		pressure on the relationship, including the opening of	12		"I asked them to stand down the facility until
13		a test centre in Cardiff City football stadium by the	13		further discussion and clarity had been sought."
14		UK Government without any consultation with the Welsh	14		He goes on to say, under "Background" that:
15		Government"	15		"It doesn't appear that any communication to [Public
16		And you say that that created "significant	16		Health Wales] or Welsh Government had taken place prior
17		difficulties with data".	17		to this call, nobody in Wales knew they were coming it
18		I want to just look at that specific example of the	18		appears."
19		test centre in Cardiff City football stadium.	19		What was the reaction of this decision by the
20		If we could have onscreen INQ000216485, and this is	20		First Minister and other ministers for whom you advised?
21		an email chain between Dr John Boulton of Public Health	21	A.	
			22	A.	They were very shocked, and dismayed, really, that we
22 23		Wales and other public health officials.	23		were in a situation where a private company had opened
		Given you're not included as a recipient in this	23		a testing centre, that the way in which the NHS in Wales collects data hadn't been taken into account, and the
24 25		chain, I won't go into it in too much detail, but I just	25		fact that any of the responses or the positive tests
23		want to ask you about a couple of points. 17	25		18
1		that came through that test centre, as far as we could	1		" (avoiding as much as I can the dreaded
2		see, wouldn't be fed through into NHS records and into	2		'supposition' I was so rude about earlier)."
3		the data collection that we were responsible for.	3		Could you explain what you mean by that?
4	Q.	Did you ever receive any information as to why there had	4	A.	There are a number of things in here that are bracketed
5		been no communications with Public Health Wales or the	5		later on in relation to Wednesday and Thursday where we
6		Welsh Government?	6		are making suppositions about what might happen in
7	A.	No.	7		relation to engagement with the Welsh Government. We,
8	Q.	You set out in considerable detail in your first	8		at the point I wrote the note, which was Monday,
9		statement the ways in which the UK Government began to	9		I think, the 4th, were unclear as to what that
10		diverge from the devolved governments, including, for	10		engagement would look like for the rest of the week.
11		example, the UK Government changing their messaging from	11	Q.	
12		Stay at Home to Stay Alert on 10 May 2020.	12	-	were not being told when COBR meetings might happen; is
13		On this point, can we have on screen, INQ000222864.	13		that right?
14		This is a note that you prepared for the	14	A.	Yes.
15		First Minister on 4 May 2020; is that right?	15	Q.	And we'll come back to look at COBR meetings in
16	A.	Yes.	16		a moment.
17	Q.	Before we go into the contents of the note, how often	17		You then state, later in your document, that:
18	٠.	would you produce documents like this for the	18		"UK Gvt announcement on continuation of current
19		First Minister?	19		restrictions (again supposition) with further
20	Α.	Very rarely. I have two examples during the period the	20		announcement to follow on Sunday."
21		Inquiry's covering.	21		Then further down the page, you say:
22	Q.	Thank you.	22		"Question from the comms side is going to be do
23	Ψ.	If we could turn to page 2, you set out there what	23		we go hell for leather on our plans on Thursday/Friday
24		you think that the First Minister's schedule might look	24		(ahead of UK Gvt) or do we do something Sunday (again
25		like for the week ahead and you say:	25		ahead of UK Gvt) or do we go for Monday (after UK Gvt)."
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Can you explain why these were the options that you were proposing to the First Minister?

- A. So I don't know that these are necessarily the options that I personally was proposing. I think it's clear
- 5 that it was a conversation that was being had beyond me.
- 6 But the important point really is the 21-day review
- 7 period was due to finish on the Thursday, which would
- 8 have been the date that -- the decisions -- cabinet
- 9 would have been taking the decisions, so the decision
- 10 was around -- in this case is around whether or not the
- 11 First Minister does the announcement as close to the
- 12 decision-making point as possible, or whether he holds
- 13 back the announcement of that decision so that
- 14 the UK Government has gone and made the announcements
- 15 they were going to make first.

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- 16 Q. This is, as you say in the note, a question from the
- 17 comms side. The Inquiry will be hearing from Toby Mason
- 18 later today, but please could you give your view on the
- 19 extent to which the Welsh Government's communication and
- 20 public health messaging from this point onwards diverged
- 21 from that of the UK Government?
- 22 A. This is a very key period in this context from my point
- 23 of view. A number of things -- I think I refer in the
- 24 first couple of paragraphs of the note that the fact
- 25 that we had only really become aware in the days before

- 1 need to retain the 'Welsh solutions to Welsh 2 circumstances' approach, particularly in relation to 3 schools where it feels very little we will end up in 4 a different place."
 - Please could you just explain what you mean by this.
- 6 A. We were -- the First Minister was absolutely not looking
- 7 for disagreements to be played out in a public arena as
- 8 far as they possibly -- when they -- when they didn't
- 9 need to be, and we were trying to avoid being in
- 10 a situation where that was the case.

In terms of the schools point, the information that SAGE and -- I'm sorry if I'm jumping ahead -- but the information that SAGE had been asked to look at in relation to England very heavily focused around the

- 15 re-opening of schools, and we were in a different place,
- 16 both with local -- our relationship with local 17 government and in the relationship with the teaching
- 18
- unions and based on the scientific and the health advice 19 that the First Minister and the ministers were receiving
- 20 about the sort of more gradual re-opening, and the focus
- 21 on schools was one aspect of that.
- 22 Q. Thank you.
- 23 LADY HALLETT: Just to follow that, so you at this stage got
- 24 the impression that the UK Government were keener on
- 25 re-opening schools --

- 2 questions from the Cabinet Office, from the
- 3 UK Government, in relation to how to move out of
- 4 restrictions and asked SAGE to do a series of modelling

this period that SAGE was considering a series of

- 5 around some exact scenarios, and these scenarios were
- 6 very England-focused, and it was difficult for us to
- 7 make assessment, similar assessments at that point on
- 8 the basis of the information that was -- they were being
- 9 asked to provide because of the England focus.
- 10 Sorry, I'm not sure I've answered your question.
 - Q. No, that's a point that we will return to, about the
 - involvement of SAGE in advising the Welsh Government.
- 13 A. It was about divergence, wasn't it? The reason this --
- 14 it just is a very significant point at which it was
 - becoming more and more apparent that the differences
- 16 between the way in which -- the approach that we and the
- 17 UK Government were going to take was going to be
- 18 necessary.

Q. Thank you.

- 20 Just returning to your note, further down the page,
- 21 you then say:
- 22 "Whatever we do, I think we can be more confident
- 23 now that we aren't heading into a big collision course
- 24 with them (certainly in the short term) and that is
- 25 obviously a good thing for a number of reasons. We will

- 1 A. Yes.
- 2 LADY HALLETT: -- and the Welsh Government was more cautious
- 3 about re-opening schools?
- 4 A. Certainly that was what the evidence was suggesting to
- 5 us that we should do.
- 6 LADY HALLETT: When you say the evidence, that evidence was
- 7 medical, biomedical evidence, or did it include the
- 8 various other harms that are caused by closing schools?
- 9 A. I'm not ... so both were a consideration. I haven't
- 10 reviewed the paperwork around this in any detail. From
- 11 memory the balancing of the considerations that was
- 12 going on at that point wasn't suggesting that there
- 13 should be a -- the impact of what would happen, were
- 14 schools to re-open at that point, wasn't still fully
- 15 understood, and so the advice that was being given to
- 16 the First Minister and others was that we shouldn't be
- 17 looking at that yet.
- LADY HALLETT: So my question is: was the First Minister 18
- 19 getting advice on the potential for harm for young
- 20 people, children, being denied access to schools, to
- 21 social development, to education, to learning, all the
- 22 rest of it?
- 23 A. My recollection was absolutely, yes.
- 24 LADY HALLETT: He was?
- 25 A. Yes.

MS HITCHMAN: I'd just like to pick up on that point. You say later in your witness statement, at paragraph 47(f), that, regarding the closure of schools and education settings, you facilitated discussions between officials, local authority leaders and support staff and trade union representatives to ensure that they had an opportunity to discuss emerging evidence with scientific advisers and to ensure that ministers had feedback to inform future decisions.

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You don't mention here that you facilitated any discussions with children or parents. Do you recall whether their views were sought?

A. I know that many -- that certainly the minister for education and First Minister and a number of ministers engaged in activities with children and young people, they had sessions of the youth parliament, specifically to hear views of young people, and a number of other fora, I couldn't recollect the exact details of.

This -- my specific involvement in relation to the support staff trade unions was around a period where there were a number of concerns from the support staff trade unions particularly, and the support staff unions had felt and had been in contact with us that their views weren't being taken into account. So it was specifically the support staff trade unions rather than

"There are also some significant dates that we have been talking about, including the question as to whether we change from 21 days to 28. Personally, I really don't think it matters. We are not going to be able to easily align with the [UK Government] and to that end all we [are] really buying are a couple of days for officials to try and pretend we will be better prepared."

What do you mean at the end where you say "try and be better prepared"?

A. Everything at this point -- this is another significant and very difficult moment in what -- the decisions that the First Minister and the Welsh ministers were trying to take. Coming out of the lockdown in some ways was an extraordinarily difficult set of circumstances. There wasn't a blueprint for how this was done and there were an extraordinarily difficult number of issues and balances that needed to be considered.

If you ask me whether or not we were prepared, I would have to say no, I don't ... this hadn't been done before.

LADY HALLETT: What is the reference "21 days to 28"? 22

23 A. The UK Government moved from considering the regulations 24 every 21 days to 28 days, and there was advice from the 25 civil service to the First Minister that we should

1 the kind of more conventional teaching trade unions 2 I refer to.

3 Q. Thank you.

> If we could turn now to INQ000222865 This is a briefing note that you wrote to the First Minister on 9 June 2020; is that right?

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Q. You say about halfway down the first page:

"If we therefore have some 'money in the bank' to 10 introduce further relaxations, how are we making these judgements? I know that there were a number of impact 12 assessments being done but fundamentally the balance of 13 these things will come down (as it has at every other 14 point in this process) to very fine judgements."

> Please could you explain how you were providing advice on those very fine judgements.

17 A. I'm not sure that I was specifically providing advice on 18 those very fine judgements, I think that this note just 19 sets out what some of those things are, and I think it's 20 important for me to say that this note was a very short 21 part of an extraordinarily large number of other 22 documents that the First Minister would have considered 23 at this time.

24 Q. Thank you.

Then a little further down the page, you say:

consider doing the same. He was very clear that he wanted to maintain the 21-day rhythm. It was something that the public were beginning to understand and recognise, and the structure that it provided him, in terms of not only making the public announcement and the public understanding and being very clear about that, but also the series of meetings that happened in between, the cycle of meetings with officials, with external stakeholders, with the Social Partnership Council and others, was beginning to become understood and became a key feature of the way in which he communicated that with the public.

MS HITCHMAN: And finally on the topic of divergence, you conclude in your first witness statement by saying that:

"Overall, divergence between the decisions taken by Welsh ministers and the UK Government (and other parts of the United Kingdom) was necessary for Welsh ministers to properly discharge their functions."

And then you say:

"Welsh Ministers have a responsibility to discharge those functions on the basis of the advice that they receive."

Can we take it from that final sentence that you were advising Welsh ministers to diverge from the UK approach?

- A. No. I think what I was trying to say in that sentence
 was that, once the decision to use the 1984 Act had been
 taken, that the Welsh ministers have statutory
 responsibilities in terms of the exercising of those
 functions and that those functions needed to be
 undertaken based on the advice that they were provided
 by the civil service.
- 8 Q. Thank you.

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I want to turn now to look at a point that we've briefly touched upon, which is the Welsh Government's involvement in COBR meetings.

At paragraph 40 of your first witness statement you say that:

"The control of the COBR meetings and the production of papers for it rest exclusively in the hands of the UK Government. The First Minister did not see COBR papers until very close to the time of the meetings and it was often unclear what the agenda would be until just before the start of those meetings."

How did this late circulation of COBR papers that you describe affect your ability to advise the First Minister?

- A. So it would -- it is not and would not have been the
 case that I would have been providing advice ahead of
 COBR meetings or to the First Minister in relation to
 - a predictable schedule for those COBR meetings fell on
- 3 A. They certainly weren't successful.

deaf ears?

4 Q. Turning back to your first witness statement, you say5 that:

"The tensions that had emerged between the Welsh Government and the UK Government ... were very much evident in the run up to this period [the Welsh firebreak] and I noted at a discussion ... on 31 October where I asked if there would be a COBR meeting and noted 'how many times do we have to ask?""

12 Is it fair to say, then, that by October 2020 the
 13 Welsh Government was still not receiving adequate notice
 14 of COBR meetings?

- 15 **A.** Yes.
- 16 Q. During the pandemic, you made notes in a series ofnotebooks; is that right?
- 18 **A.** Yes.
- 19 **Q.** Were the notes that you made a contemporaneous note or were they made after the event?
- 21 A. They were contemporaneous.
- 22 Q. Could we turn to one of those entries, at INQ000327611.
- 23 At page 2, this is dated at the top 31 July 2020, 24 and looking down the page, there's an entry timed 25 9.20 am, and you say:

31

1 COBR meetings, except possibly in relation to any of the kind of wider political considerations.

Q. Do you have any views as to why those papers wereprovided at such short notice?

- 5 A. No.
- 6 Q. If we could, please, turn to INQ000222503.

7 This is an email chain dated 22 March 2020, and the 8 first paragraph includes an action point for you which 9 states:

"Emphasise to No 10 that we must have a predictableschedule for COBRA and its sub-groups ..."

Could you briefly explain, please, how this action point came about?

14 A. I believe that I called the special adviser at

Number 10, with whom I was already having conversationsrelatively regularly at this point.

17 Q. The Inquiry understands that in early April the

18 First Minister was pressing the UK Government to convene

19 a COBR meeting in good time before 16 April, which was

the date by which the first 21-day review needed to be

21 carried out, so that the four nations could discuss

22 a further set of co-ordinated announcements; is that

23 correct?

24 **A.** Yes.

25 **Q.** So would it be fair to say that your attempts to secure 30

1 "Phone call with Jack Stenner -- Sadiq K."

Is it correct that Mr Stenner was special adviser toSadiq Khan?

4 A. Yeah.

5 Q. You record as follows:

6 "no straight data showing problems but sense that 7 things could change [very, very] quickly."

8 What was that in reference to?

- 9 A. Was the date of this 31 July?
- 10 **Q.** Yes.

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- 11 **A.** I assume it will have been case levels, numbers of12 positive tests.
- 13 Q. Thank you.

Then just further down you say:

"no longer any contact with [UK Government] -- cutout completely."

17 Again, what was that in reference to?

A. I believe that was Jack telling me that Sadiq's office
 had -- no longer had any contact with the UK Government,

20 that they had been cut out completely.

Q. How would you describe the contact between the WelshGovernment and the UK Government at this time?

23 A. Sporadic. From a political point of view. I can't

24 speak for how -- what the contact with the civil --

25 between the civil servants was.

Q. You say at paragraph 62 of your witness statement that 2 discussions with the UK Government moved towards 3 conversations about issues such as how the Joint Biosecurity Centre was going to work and how genuinely joint it was.

Could you just explain what you mean by that?

- A. When we first learnt of the creation of the Joint Biosecurity Centre, I recall the First Minister having been given information about what its purpose was and that there were -- there was genuine welcome for its creation. There were some concerns expressed about how joint, in relation to the involvement of the devolved governments, it would be. Largely these evaporated.
- 14 Q. Thank you.

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The Inquiry understands that on 3 June 2021 there was a meeting between the First Minister and the Prime Minister, you describe this in your first witness statement as a "Summit", at which the Prime Minister committed to resetting the intergovernmental arrangements. You note in your witness statement that the First Minister told the Prime Minister that he believed that the fissures in the UK Government were growing rather than contracting. Was that something that you discussed with the First Minister? Α.

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- 1 A. No.
- 2 Why not? Q.
- 3 A. They were an informal opportunity for the 4 first ministers and the deputy First Minister of 5 Northern Ireland to explore issues, but they were not 6 areas in which -- they were not meetings where sort of
- 7 significant decisions at a four nations basis were taken
- 8 place.
- 9 Q. Thank you.

10 Did anything change as regards intergovernmental relations after that June 2021 summit? 11

12 Α.

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13 LADY HALLETT: You say that they weren't meetings where 14 significant decisions on a four nations basis could take 15 place, but from what I've heard, given the different 16 approaches in Scotland, as you said, Wales and, I may 17 hear, in Northern Ireland, is it likely that had those 18 meetings been held there would have been any decisions 19 taken on a four nations basis, because people weren't 20 agreeing?

21 A. I do think there's a period in the run-up to the 22 firebreak and post that period, in the run-up to 23 Christmas, where there was a significant effort to try 24 to re-align the decisions that had been taken

Q. At this point, how would you describe the relationship 1 2

between the First Minister and the then Prime Minister,

3 Mr Johnson?

4 A. Well, their contact was infrequent, and I believe the

First Minister had a genuine, sincerely held concern 5

6 that some of the actions of the United Kingdom

7 Government, in relation to the way they had handled some

8 of the earlier period, was a genuine threat to the

future of the United Kingdom. 9

10 Q. As we have touched upon, the First Minister was

11 an advocate for a reliable and regular pattern of

contact between all four nations during the pandemic,

13 and we know that there were no Joint Ministerial

14 Committee plenary meetings at all during the pandemic;

15 is that right?

16 A. Yes.

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17 Q. We also know that the principal point of contact was

18 Michael Gove, initially in his capacity as Chancellor of 19 the Duchy of Lancaster, and later as Secretary of State

20 for Levelling Up and the Constitution, and regular calls

21 between Mr Gove and the First Ministers of the devolved

22 administrations started in June 2020; is that right?

23 A. Yes.

24 Q. In your view, were these calls with Mr Gove a suitable 25 substitute for a more codified set of arrangements?

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1 First Minister for whom I work that he would have at 2 earlier stages liked that to be the case.

3 LADY HALLETT: I think my question really is: that may well

4 be in a perfect world, but, given we're not in a perfect

5 world, had those meetings taken place, the

6 Prime Minister and first ministers and deputy

7 First Minister, would it have made any difference,

8 because they weren't going to agree, were they?

9 A. Is there an alternative universe where this was 10 possible? I think there probably is.

11 LADY HALLETT: Beyond my terms of reference, I think.

12 MS HITCHMAN: I want to turn now to a point that you've

13 already touched upon, which is your role in relation to 14 medical and scientific expertise, and whilst of course

15 you did not personally provide medical and scientific

16 advice, a key part of your role, as you say in your

17 witness statement, was to listen and, when points

18 required escalation to ministers, to consider both the

19 speed of that escalation and whether escalation was

20 needed outside of the formal meeting structures that

21 were in place.

22 Is that a fair summary?

23 A. Yes.

24 Q. Presumably we're talking there about advice from the 25 Welsh Government or Welsh bodies such as Public Health 36

previously, and I certainly believe in the case of the 35

1		Wales; is that right?
2	A.	Yes, my contact with Public Health Wales was limited.
3		I don't recall whether by this point I the HPAG
4		subgroup had been created, which was one of the ways in
5		which I did have more regular contact with officials
6		from Public Health Wales. I guess in the context I was
7		referring to Dr Frank Atherton and the chief scientific
8		advisers for health.

9 Q. Thank you.

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There was a point in May 2020 when the First Minister wrote to Sir Patrick Vallance, as chair of SAGE, outlining the desire of the Welsh Government to engage more actively in the work that SAGE was undertaking.

If we could just pull up that letter, which is INQ000299310, it's dated 26 May. In your view, and this is a point that you've already touched upon, but in relation to this letter specifically, why was it necessary for the First Minister to write to Sir Patrick in this way?

20 in this way?
21 A. I did refer to this briefly earlier. It was very
22 noticeable to us towards the end of April and into the
23 beginning of May that some of the work that was being
24 undertaken by SAGE -- I'm sure there was other work
25 beyond this, but some of the work that was being

everything and I feel rather guilty about it! Obviously not that sustainable if this continues for years."

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Pausing there, are they Dr Atherton, as Chief Medical Officer, Dr Orford as Chief Scientific Adviser, and Fliss Bennee, co-chair of TAG and deputy director for digital data and technology?

7 A. I would assume so, yes.

Q. The next message in the chat is an hour and a half later
 and relates to a separate meeting. Why was
 Mr Woodward's point here about the need for more

11 scientists not addressed?

A. As I'm sure we'll come on to, this was a very informal
 conversation and I'm not sure that Tom was looking for
 an answer, or that I was qualified to give him one.

15 Q. And what is your view of Mr Woodward's point that morescientists in the government were needed?

17 **A.** I suspect that the point that Tom was making -- where
18 are we? 22 June -- related to the fact that we had at
19 this point an enormous number of meetings taking place,
20 both internally and with external stakeholders, and we
21 relied very heavily on the three of those -- those three
22 people to attend those meetings, and to explain the
23 evidence that they were hearing.

24 Q. Thank you.

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I want to turn now to look at the methods of 39

1 undertaken by SAGE on modelling in relation to easements 2 from the lockdown was being undertaken based on a set of 3 questions that were being asked to them by the 4 UK Government Cabinet Office, which reflected very specific England-focused questions, something that 5 6 I think Nicola Sturgeon raises in a meeting with the 7 UK Government, I think it's around this time, where she 8 discussed the different term dates in Scotland being 9 a particular consideration. But it was those kinds of 10 issues that we were concerned about.

11 Q. Thank you.

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I want to take you now to a WhatsApp chain, which is at INQ000303220.

This is from a group titled "DrakeSpAds" and includes various people, including yourself.

Is it fair to assume that the group was what it says
on the tin, it was the First Minister's special
advisers?

19 A. It is.

Q. If we turn to page 11, and about halfway down the page,Tom Woodward says as follows:

"Is it just me, or do we as a government need more scientists? Are we looking to recruit more? In England even the departments have their own scientists, while it feels like we all have to bother the same 3 people for

communication that you used to conduct government business during the pandemic.

You say in your second witness statement that from 1 January 2020 to 31 May 2022 you used your personal mobile phone to send WhatsApp messages; is that right?

6 A. It is.

7 Q. You explain that there were three groups that were
 8 routinely used: a ministers' WhatsApp group -- is that
 9 the DrakeSpAds that we have just looked at?

10 A. No.

Q. Separate -- forgive me -- a special adviser WhatsApp
 group, which is the DrakeSpAds WhatsApp group; and
 a WhatsApp group with a small team of Welsh Government
 lawyers?

15 A. Yes

16 Q. Is that final group the Coronavirus legal hotline group?

17 **A.** Yes

18 **Q.** There are a number of Welsh Government policies and documents that were in place dealing with the use of informal communications, including text messages and WhatsApp, and the Inquiry heard evidence from

Dame Shan Morgan about many of those policies. I won't

23 go into detail about them, but I just want to take you

to two and ask you about two aspects of your use of yourpersonal mobile phone and WhatsApp.

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If I could take you first to a document from January 2020, which is a SIRO notice, senior information risk owner, and this is at INQ000396686, and on page 3, under the heading "WhatsApp", it state:

"In the same way that personal email accounts cannot be use to undertaking Welsh Government business, personal WhatsApp accounts may not be used for Welsh Government business."

Were you aware that conducting Welsh Government business through a personal WhatsApp account was prohibited?

So I think there's two things to say, the first one is Α. I have asked the civil service to confirm that I received this notice, because I did not recognise it when it was provided to me by the Inquiry, and I have had confirmation that I was not on the distribution list to be sent this email.

However, I do recognise that I was -- well, I knew that I was not in a position to use my personal phone for Welsh Government formal decision-making, and I do not believe that that was the case. The groups that I've discussed were used for admin purposes and for team morale. This was a point at which my team was no longer in the office and it was something that we did use to keep in contact and to keep the team together.

text messages (and instant messaging) heightens the need for users to be aware that they may be creating records using this application, and to properly manage and preserve record content."

Were you aware of this policy?

- 6 A. Yes. I don't know that I was sent this document in the same way, but it would be wrong of me to assume that I wasn't aware of the general points.
- 9 Q. Thank you.

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I want to turn now to a few examples of your use of WhatsApp during the pandemic.

If we could turn to the ministerial WhatsApp group.

That's at INQ000303219.

And is it right that this group includes you and ministers including Kirsty Williams, Rebecca Evans, Julie James and others?

17 A. Yes.

> Q. If we can turn to the final page, page 73, on 25 November 2021, you turned on disappearing messages, and the consequence of that was that messages in the chat would disappear seven days after they were sent, except where they were kept.

In her evidence to this module, Dame Shan Morgan expressed her surprise that you turned on disappearing messages, notwithstanding the guidance that we have just Q. We will return in a moment to --

LADY HALLETT: Before you move on, if I may, Ms Hitchman.

But isn't using your personal phone for admin purposes using it for Welsh Government business?

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6 LADY HALLETT: So you were using it wrongly?

7 A. Yes

MS HITCHMAN: Thank you, my Lady.

We'll return in a moment, Ms Runeckles, to a couple of examples in those WhatsApp groups. But I just want to look first at another document, which relates to the preservation of conversations for record-keeping purposes.

That's at INQ000396685.

This is the Welsh Government Information Management and Governance Policy published in August 2018.

On page 17, at paragraph 6.6, it states at the top there:

"Text or 'instant messages' are electronic mail and messaging systems used for the purposes of communication between individuals. Staff should be aware that when using their [Welsh Government] phones in this way they are in fact creating 'public records'. Staff using private phones for [Welsh Government] business may also be creating public records. The ephemeral nature of

discussed.

In light of that guidance, and your acceptance that you were aware of the requirement to preserve records, why did you turn on disappearing messages?

A. My Lady, I think this is something I've reflected on a lot, and I think it would be very useful for people who hold the kind of role that I hold in the future for there to be some clear recommendations about this.

I do not believe that there is any evidence of decision-making in any of these groups, and I think that in areas where we were using this tool, and possibly I should have been using Teams and creating a chat function on Teams, which was the method that the Welsh Government does recommend -- I wasn't sure I knew how in March 2020, but -- and the Welsh Government record-keeping in that regard requires that those messages are deleted after 30 days.

The 2009 document that I also have part of my evidence pack makes it clear in relation to telephone conversations that ministers have records of telephone conversations between ministers and don't need to have formal records kept when they're looking at policy development or in relation to responding to events that happen quickly, and I think that there is a distinction in my mind between the formal records and the

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1	decision-making processes that ministers undertook and
2	this kind of communication. But I'm aware that there is
3	a lot of interest in this topic.
4	LADY HALLETT: Well, in the hearings for 2A in Scotland,
5	I think it was agreed by some of the witnesses that it's
6	not just decision-making that should be recorded, and
7	that's really what the document to which Ms Hitchman
8	just took you indicates, that it goes beyond
9	decision-making. And the importance of keeping records,
10	as I'm sure you appreciate, is not just for the purposes
11	of an inquiry of this kind, but for public
12	accountability.
13	A. I I'm obviously understand the need to take this
14	in terms of future activity.
15	MS HITCHMAN: You just mentioned in your response the 2009
16	document. I think you are referring to the guidance on
17	private office records.

That's at INQ000396684, if we could just pull that up briefly.

At paragraph 5, at the bottom of the page, it says that:

"The records of Special Advisers require separate consideration ... Where Special Advisers have a wider role in the department and have an impact on official business the records originated by a Special Adviser

1 Presumably that's a reference to Rob Orford. 2 "... revealed his big news yet??" 3 You say -- you respond with a question mark. 4 Dylan Hughes says: 5 "The 'important information' from Sage." 6 Helen Lentle responds: 7 "That what Fliss ..." 8 And presumably that's a reference to Fliss Bennee, 9 who we've already discussed. 10

"... said then. Lockdown."

And you respond:

"Fliss just said they recommend a short national 12 lockdown. We are all ignoring her." 13

What did you mean by that?

A. I don't recall. 15

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Why were you having a conversation about something as 16 Q. 17 important as another national lockdown on WhatsApp rather than via official government channels? 18

My notebook on 18 September records a conversation I had 19 A. 20 with Fliss specifically on this point, and there are 21 a considerable number of official records of meetings 22 that happen in the subsequent days and weeks on this 23 point, and I don't believe that we were not taking this 24

25 If we turn to the final page of this chat, disappearing Q. 47

should be retained by the department."

Save where, it goes on to say, their records only mirror those existing elsewhere.

So would you accept that even in your role as a special adviser, you had an obligation to record conversations via WhatsApp?

7 A. I would have interpreted the important part of this as being "where they had an impact on official business". 8

9 Q. Thank you.

> I want to take you to one more WhatsApp conversation which is the coronavirus legal hotline.

That's at INQ000331038.

13 And this WhatsApp group includes you, other special 14 advisers and --

15 A. There's no other special advisers on this group, I heard 16 that said yesterday, it's only me.

17 Q. Forgive me. So this includes you and Welsh Government 18 lawyers?

19 Α. Yeah.

20 Q. If we could turn to page 90, and at page 90 -- forgive 21 me

(Pause)

23 There's an extract here where Helen Lentle says --24 this is 17 September 2020:

"Have RobO ..."

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1 messages are turned on on 15 June 2021, that wasn't by 2 you but by another member of the chat. Do you know why 3 disappearing messages were turned on on this legal 4 advice chat?

5 A. No.

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6 Q. I just have a couple more questions for you,

Ms Runeckles.

At paragraph 35 of your statement you state that you were involved in discussions with the education minister leading to the decision on 18 March 2020 that schools would close early for the Easter holidays, and there's also a ministerial advice dated 20 March 2020 -- and we won't pull it up but, for the record, that's INQ000145342 -- which sets out the advice to the

14 15 minister on this point. 16

Focusing on this period alone, would you agree that the discussion and decision was based perhaps -- perhaps understandably -- on infection control, but that in doing so there was no consideration or discussion of impacts of the Rights of Children Measure 2011 or the United Nations Convention on the Rights of the Child?

22 A. I don't think it would be fair to say there was no 23 consideration, and there were certainly discussions 24 about the impact on children of the decision that the 25

minister for education took.

1	Q. Would you agree that there was no discussion involving	1	in the witness statements generally from the Welsh
2	or consulting the Children's Commissioner for Wales?	2	Government that the Welsh Government was more cautious
3	A. At that point, no.	3	following the first lockdown, and it was more cautious
4	Q. Would you agree that there was no discussion of the	4	and took a more gradual approach to re-opening of
5	mitigation measures or support children may need at home	5	society as compared to the UK Government, and this has
6	if they were required to remain at home for a long term?	6	been presented as one of the justifications for not
7	A. Would I agree that there was no consideration?	7	taking a four nations approach.
8	Q. There was no discussion or consideration of those	8	Now, on divergence, we obviously know that on 11 May
9	mitigation measures.	9	in England the UK Government and Chris Whitty
10	A. There absolutely was.	10	recommended that the public wear face coverings where
11	MS HITCHMAN: Thank you, Ms Runeckles.	11	social distancing wasn't possible, but on 12 May
12	My Lady, I have no further questions.	12	Frank Atherton advised that face coverings was a matter
13	LADY HALLETT: Thank you.	13	of personal choice and he actually told the public that.
14	Ms Heaven, I think you have a question.	14	So do you agree that it isn't entirely accurate, and
15	Questions from MS HEAVEN	15	I'm not suggesting you're doing this, but it is from,
16	MS HEAVEN: Good morning, Ms Runeckles, I represent the	16	generally, the statements, to categorise the Welsh
17	Covid-19 Bereaved Families for Justice Cymru. Just one	17	Government as always cautious in that first easing of
18	very short topic, and it's divergence and justification.	18	the lockdown, of the first lockdown, as compared to the
19	Just to indicate, we don't need to get the statement up.	19	UK Government being perhaps less cautious? Because
20	So you state at paragraph 60 of your witness	20	clearly if we look at the approach on public messaging
21	statement that 11 May 2020 was the point at which Wales	21	and face coverings in May, it's right, isn't it, that we
22	and the UK Government began to diverge in pace and	22	can see the Welsh Government taking perhaps a less
23	messaging, so it was around this time, that's what you	23	cautious approach than the UK Government, who were being
24	indicate.	24	a bit more precautionary? So do you agree on that
25	Now, a narrative has been presented to this Inquiry	25	topic, certainly it isn't right to suggest that the
	49		50
1	Welsh Government were always more cautious? And I'm	1	I think I made that plain by my reaction yesterday, so
2	talking about that May period.	2	I understand the reaction to the lack of notice and
3	A. I don't know that I have suggested that we were more	3	consultation, but given that you're informed by the
4	cautious in the way that you describe, have I?	4	private company that they've set up a test centre and it
5	Q. No, I'm not saying that necessarily you do. I mean, you	5	can be available the next day for key workers, why turn
6	indicate in your statement that in May there was	6	down that opportunity as opposed to saying "Well, if you
7	a change in pace, that's when you saw the divergence as	7	can provide us with the data" you mentioned you
8	beginning. But it is being suggested generally, I think	8	wouldn't get the data fed into the NHS; wouldn't it have
9	in particularly the statement by the First Minister for	9	been better to accept the offer of the testing centre,
10	Wales, Mr Drakeford, that Wales was more cautious	10	with addition with amendments?
11	following that first lockdown. So I'm just asking you	11	A. That's what happened.
12	whether you agree that, on the topic of face coverings,	12	LADY HALLETT: That is what happened?
13	it would seem that the UK Government was more cautious	13	A. Yeah.
14	than the Welsh Government at this time?	14	LADY HALLETT: Right. Thank you.
15	A. We certainly took a different position to the	15	(The witness withdrew)
16	UK Government in relation to face coverings.	16	LADY HALLETT: Very well, I shall return at 11.35.
17	MS HEAVEN: Okay, that's fair enough. Well, thank you very	17	(11.18 am)
18	much.	18	(A short break)
19	That's my question, my Lady.	19	(11.35 am)
20	Questions from THE CHAIR	20	LADY HALLETT: Yes.
21	LADY HALLETT: I just have one question I'd forgotten, and	21	MS COWEN: My Lady, may I please call Toby Mason.
22	I'm sorry to take you back to the test centre,	22	MR TOBY MASON (affirmed)
23	Ms Runeckles.	23	Questions from COUNSEL TO THE INQUIRY
24	I understand the reaction if the Welsh Government	24	MS COWEN: Thank you, Mr Mason.
25	had no idea that this test centre was being set up,	25	Could you please begin by giving us your full name,

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1		please.
2	Α.	Yes, my full name is Toby Rhys Mason.
3	Q.	Thank you. Thank you for assisting the Inquiry, both
4	٠.	through the provision of your witness statement and for
5		attending today.
6		If I can please remind you, when answering
7		questions, please keep your voice up and try to speak
8		slowly so our stenographer is able to keep pace with
9		your answers, thank you.
10		You have produced a witness statement for this
11		module of the Inquiry. That witness statement is at
12		INQ000340123 and that statement has been signed by you
13		on 2 November 2023. Is this statement true to the best
14		of your knowledge and belief?
15	Α.	It is.
16	Q.	Thank you.
17		Mr Mason, you were appointed as head of strategic
18		communications for the Welsh Government in January 2014
19		is that right?
20	A.	That's correct.
21	Q.	To be clear, your role is not a political appointment,
22		is it, you are in fact a civil servant?
23	A.	That's correct, I am a civil servant.
24	Q.	Thank you.
25		Prior to your appointment as head of strategic 53
1	Q.	Thank you.
2		Is it correct that as of approximately
3		September 2022 there were about 144 posts within the
4		Welsh Government and only two of these posts were part
5		of the communications profession, and these posts were
6		either within the central communications division or
7		working to departmental heads of communication; is that
8		right?
9	Α.	There are 140 posts within the communications
10	_	profession.
11	Q.	Yes, thank you.
12		You explain in your witness statement that the
13		communication division's principal role in the overall
14 15		Covid response was to provide communications and
16		handling advice to decision-makers and to communicate those decisions as clearly as possible. Is that
17		correct?
18	Α.	That is correct.
19	Q.	In Dr Goodall's statement he states:
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"The Welsh Government's approach to public health

communications throughout the pandemic was governed by

the principles of clarity, transparency, honesty and

themselves and their families safe at every stage."

Do you agree with that characterisation?

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giving people all the key information needed to keep

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1		communications, you were news organiser in the BBC Wales
2		political unit based in the Senedd in Cardiff Bay; is
3		that right?
4	A.	That's correct.
5	Q.	Thank you.
6		So you were ultimately responsible for all aspects
7		of the Welsh Government's external communications and
8		you were head of the profession for communications
9		during the pandemic?
10	A.	Correct.
11	Q.	In his statement to the Inquiry, Dr Andrew Goodall has
12		summarised the structure of the communications team, and
13		from this statement the Inquiry understands that the
14		central communications division had four components.
15		These components were: the press office, which provides
16		press support for the First Minister, Counsel General
17		and other governmental ministers; the corporate digital
18		team, which is responsible for the operation and content
19		production of the Welsh Government's corporate digital
20		channels; cabinet communications, which delivers major
21		national events; and the central design team which
22		provides services such as graphic design and
23		typesetting.
24		Is that correct?
25	A.	That is correct.
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1	Α.	Absolutely.
2	Q.	Thank you.
3		I'm now going to ask you about the role of the
4		communications profession during the pandemic.
5		In your witness statement, you explain that from the
6		outset of the pandemic, ministers and senior officials
7		within the Welsh Government recognised the importance of
8		clear and consistent communications.
9		You say in your statement that communications advice
10		and guidance was provided as frequently as possible to
11		inform policy and decision-making by both ministers and
12		officials.

Can I please ask, what form did this advice and guidance take?

14 15 It took a wide variety of forms. Every paper that went 16 to cabinet had a communications section within it that 17 would be signed off along with the rest of the cabinet 18 paper. I would also provide more specific papers to cabinet on particular aspects of communications 19 20 handling.

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Our Keep Wales Safe campaign, which we'll probably come on to later, every major kind of iteration of that and every change in messaging was communicated to cabinet so that they understood the overall strategy that we had for the kind of communications approach.

And then, of course, there was the more kind of informal
 communications, handling advice to ministers,
 for example briefings before press conferences.

Q. Thank you.

What sources was your advice based upon?

A. So, we drew information from a wide variety of sources.

Behavioural insights was important and we had
a representative on the RCBI, and you heard from

Professor Ann John, so that was incredibly useful.

We undertook extensive tracker polling during the pandemic, which gave us insight into people's level of trust in the Welsh Government, people's understanding and compliance with the rules at any given time, but we also undertook focus groups and they were really important for us in engaging people's sentiment towards their safety, towards the government actions, and they enabled us, I think, to put together quite a broad set of advice that ministers could then consider as part of their decision-making process.

20 Q. Thank you.

You also explain in your witness statement that your team worked closely with the Public Health Wales communications team, given their responsibility for public health information provision.

Could you please describe your relationship with the

as we know, during a pandemic it's really important to have those trusted clinical non-political voices to the public. So they were really important.

Q. Thank you.

How regularly did you provide advice to Welsh ministers, would you say?

A. As I said in my earlier answer, every cabinet paper would have a communications section, some obviously were more relevant than others, but, I mean, on a kind of informal basis, on a kind of daily basis, when we as the communications leads interacted with ministers, that's the advice we would provide, but there were more formal touchpoints too.

14 Q. Thank you.

In your witness statement you say that as well as attending cabinet you attended meetings of the ExCovid group, the Health Protection Advisory Group, and other senior meetings within the government structure.

Do you think you had sufficient involvement in key meetings and groups during the pandemic?

A. I can say I absolutely did. The importance of communication as one of the key components of the government's response was absolutely recognised by the First Minister, by ministers, by successive permanent secretaries and by senior officials. I think

Public Health Wales communications team in a little more detail?

3 A. Yes, of course.

So Public Health Wales, at the very outset of the pandemic, the four nations pandemic communication plan was triggered and it was very clear that Public Health Wales at that point were the lead in informing the public on --

Q. I'm just going to interject, Mr Mason. I don't mean to interrupt you, but can I just ask you to slow down
11 a little bit. I can feel that your pace is picking up
12 a bit. Sorry, I didn't mean to interrupt you, you were
13 talking about the four nations communications plan.
14 **A.** So Public Health Wales, along with the health
15 communications section of the Welsh Government, worked

effectively as one team in the early stages of the pandemic in order to provide public health advice to people in Wales. That was done on a -- very much a four nations basis. As the pandemic progressed and as the Welsh Government began to put in place its own rules and regulations, then obviously the role of government

communications and ministerial communications began to
 increase dramatically, but Public Health Wales were

always a very important component of our overall
 strategy, because they had the clinical expertise and,

it was really important that we had a seat at the table at those meetings. You'll see from the minutes that

I contributed. And one of the things I think we were
able to do was bring a degree of external perspective to

those discussions through feeding in the focus group results, the social listening activities that we did as well, and I felt that was quite a -- that was a very

8 important part of --

9 Q. Thank you. We will talk about some of those later on,but thank you.

11 At paragraph 48 of your witness statement you say
12 that there was initially no dedicated budget for
13 communications. Are you able to say why that was?
14 A. So the way at that point communications budgeting worked

across the government is that each policy area, when they were undertaking communications, for example climate change communications, the communications budget would come out of that to pay for that activity. So as we went into the pandemic, the -- what effectively happened was that the health communications team, who looked after the -- initially the Stay Home, Save Lives

looked after the -- initially the Stay Home, Save I
 aspect of the campaign that was run jointly with

the UK Government, would have budget in order to promotethat in Wales alongside the UK Government. But then,

and we've spoken obviously about divergence, in May 2020

the budgets for the distinctively Welsh Keep Wales Safe campaign ramped up dramatically and I think reached £12 million in 2021, I understand, which is, you know, a very substantial amount of money for us.

Q. Thank you.

question, can you say what impact did the initial lack of budget for communications have on the effectiveness of the communications strategy employed?

A. I would say that in the early stages, given the four nations approach, the buying power of the UK Government across the UK meant that we were playing to some extent a kind of supporting and, you know, helping role in terms of, for example, making sure that material in Wales was bilingual. The ramping up of budgets that I talked about happened pretty rapidly once

To the extent that you haven't already answered this

18 Q. Thank you.

the divergence happened.

I would now like to turn to the approach taken by your team to communication with vulnerable and at-risk groups and those who were digitally excluded.

Before we start, can you please summarise what is meant by digitally excluded.

A. Yes, this is a group of the population who either don't
 have access to internet, social media or struggle to

A. Yes, absolutely.

I'll give three very, very brief examples, if I may, of the breadth of the communications work that we did.

So children and young people were really important. They don't necessarily consume news in the way that maybe adults do, and for that we made quite extensive use of TikTok, which was not a channel that we'd used as a government much at all, but that's where a lot of attention was, so we would actually take on influencers to carry our public health messages to that group.

We also had, and I referred to this in my statement, community teams who were on the ground in multi-ethnic, multicultural communities, speaking directly to people, because one of the insights that we had was that sometimes government is not necessarily the right conduit for government messages.

And then the third aspect, and this is -- goes to the points that we were making, we printed leaflets, we were pretty old-fashioned. We simplified the messages as much as possible and, you know, this was something that the Minister for Social Justice in particular was very, very -- you know, held our feet to the fire. So those leaflets were distributed through all our kind of networks of contacts, to GP surgeries, to community centres, but we also undertook all Wales door drops, so

1 kind of navigate that, and there's pretty robust data on 2 that group.

Q. Thank you. Are you able to say what proportion of the
 Welsh population would be considered to be digitally
 excluded?

A. And this is from recollection, but I think we are
 looking at around about a third of the over 75s, but
 that just gives a kind of indication.

9 Q. Thank you.

You explain in your witness statement that:

"Advice and evidence on the direct impact of NPIs on particular groups was principally a matter for colleagues in policy and science areas, and subsequent consideration by Cabinet on the balancing of relative harms."

You note, however, that:

"... the 'at risk' and vulnerable groups, who may have been digitally excluded, were an important and distinct audience for our communications, which sought to reach groups such as these via the channels most accessible to them."

Please can you explain how you sought to reach these groups, and can you please be mindful when answering this question of efforts made to include older people in this strategy.

we were reaching 1.4 million households.

I hope that gives you a kind of breadth of -- we -you know, if it was -- if we were able to reach people via channel, we would use it.

5 Q. Yes.

A. I just want to say one very brief thing, the importance
 of the daily press conferences --

8 Q. Yes.

A. -- they were a game-changer for us, and the decision of
 BBC Wales to televise those really, I think, made a huge
 difference, because they were -- we were able to reach,
 then, people who may have been digitally excluded.

13 Q. Thank you.

14 LADY HALLETT: Sorry to interrupt.

By door drops, do you mean sticking them through people's letterboxes?

17 A. Yes, you effectively contract Royal Mail to deliver one18 to every household in Wales.

19 LADY HALLETT: Thank you.

20 MS COWEN: Thank you.

21 I'm going to remind you again just to keep your 22 voice slow, and I'm sorry to keep reminding you, but 23 please bear that in mind.

You've touched on this in your answer actually to the previous question but you do note in your witness

statement that there was emerging evidence of the disproportionate impact of Covid-19 on black, Asian and minority ethnic communities, and so particular effort was made to engage with these audiences.

Can you describe anything further that you may have done subsequent to what you described in your earlier answer regarding steps taken by your department to engage with these audiences?

- 9 A. Yes, absolutely, we partnered with a lot of 10 organisations who had particular insights into these 11 communities. We took on a specialist consultancy at one 12 point really to kind of hone how we were doing. I think 13 the work of the Covid-19 race advisory board chaired by 14 Professor Ogbonna was really useful and was a very 15 useful challenge to us. And I think one of the main 16 things we did was, you know, work with community 17 leaders. As I said, a trusted conduit for our messages.
- 18 Overall in your view to what extent did the Welsh Q. 19 Government adequately engage with at-risk and 20 minoritised groups?
- 21 A. I believe we did. You can always do better and there 22 were learnings for us throughout the pandemic, but 23 I think as you can see from the statement and the 24 documents that I've exhibited we did, I feel, as much as 25 we could.

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- 1 messages out to the broadest number of people throughout 2 the pandemic.
- 3 Q. So just to be completely clear, when you say that that 4 was an omission, do you mean that that's an omission 5 from your statement rather than the strategy?
- 6 A. I think it's an omission from the statement. I think we 7 were cognisant of that.
- 8 Q. Thank you.

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I'm now going to ask about engagement across the four nations in terms of communications. You explain in your statement that using the devolved Public Health Act 1984 as the underpinning legislation for NPIs meant that there was always the potential for policy divergence between UK nations, and you say that this made liaison between communications teams in each of the four nations particularly important.

How did you ensure that your team had an effective relationship with the UK Government and other devolved governments?

19 A. 20 This was absolutely -- an absolutely vital part of my 21 and my team's role in this. A lot has been spoken about 22 the potential for confusion due to different rules in 23 different parts of the UK. Very high, if not the top of 24 our list, was to ensure that people in Wales understood 25 the rules that applied to them and what the government's

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Q. Thank you. 1

2 LADY HALLETT: If you're moving on, when you say you could have done better with hindsight, what might you have 3 4 done better?

A. I think that that deep kind of community engagement, we 6 could have expanded potentially those street teams. 7 They were in a number of areas during the pandemic. 8 I think -- yeah, I think that was -- that would be the 9 main thing. And just how important that was in terms of 10 particularly around the vaccination programme.

11 MS COWEN: Thank you.

12 There is no mention of any particular efforts made 13 by your team to reach disabled communities in your 14 statement. Are you able to express a view on why that 15 might be, given that disabled people face significant 16 barriers to accessing information during the pandemic 17 and also faced significant digital exclusion?

18 A. Yes. That is an omission, I think. We -- as with all 19 kind of groups, they were really important. We had the 20 shielding cohort, the shielding group of people, they 21 were written to directly by the Chief Medical Officer on 22 a number of times during the pandemic, and we -- during 23 the press conferences, the First Minister and others 24 would address that kind of group directly. But, 25 you know, we were focused on getting the broadest set of

messages were.

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As I said, at the early stages of the pandemic, in fact up until, and it's been again rehearsed in front of the Inquiry, mid-May 2020, there was -- we were in lockstep in communications terms as much as we were in policy terms. Maybe the tone of government communications was different, but it was very, very clear what the core underlying public health messages were. During that period I think liaison was constructive and worked well. The big issue came at the COBR in mid-May --

- 12 Q. Can I just pause you there.
- 13 A. Yes.

14 Q. We may come to the COBR meeting slightly later. I just 15 want to be clear, you have emphasised the importance of 16 effective liaison. Can I just ask, what did you do to ensure that your team had effective liaison at the 17

18 relevant time?

19 A. No, absolutely. There was liaison at all levels of the 20 communications teams throughout the pandemic. I had 21 contact with the UK Government's director of 22 communications. The health -- our health communications

teams were very closely involved with DHSC, Public 24 Health England and the other devolved administrations.

25 But the really critical point was, once the divergence

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(17) Pages 65 - 68

took place, we formalised a four nations communications group of senior leaders, myself, the head of the UK Government's Covid communications hub and the other devolveds, and that would be a really, really important learning from the pandemic to establish early. I cannot stress that enough.

Q. Thank you.

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The Inquiry understands from your statement that the formal engagement that you describe was in fact a weekly meeting with the head of the Cabinet Office Covid hub and other senior staff. The Inquiry understands that minutes were not taken of these meetings; is that right? A. I don't have meeting -- minutes of those meetings. It may be that -- they were convened by Cabinet Office and the Covid hub. They may have minutes of the meetings. My role was very much to kind of feed back, almost in real time, to colleagues working on Welsh Government communications and campaigns, what the latest thinking and direction of travel was in Whitehall.

20 Q. Thank you.

> In your statement you say that you do not recall any substantial changes to Welsh Government communications strategies as a result of these meetings or any changes to the UK Government communications strategies as a result of their impact upon Wales.

materials, that would run in Wales. So we were able to look at them and advise the UK Government that if there were things in there that ran counter to the rules that were in place in Wales, that they could try at least to not run them in Wales. That was a really important point. And there was guite an important kind of pastoral point as well. You know, we were all working under quite a degree of stress and, you know, it incredibly useful and supportive to talk to colleagues who were in similar positions in the other governments of the UK.

12 Q. Thank you.

> In your witness statement you give the example of the Hands, Face, Space ... Air campaign of March 2021 as illustrating the complexity of trying to get message alignment based on changing rules in each of the four nations. Can you please explain why this was such an instance of complexity?

19 A. I think again, going back to that top line of -- hands, 20 face, space, air are the key protective behaviours that 21 people needed to adopt, based on scientific and medical 22 advice, during the pandemic.

> We had no particular issue with UK Government communications and campaigns running in Wales because so long as they were reinforcing the absolutely key

1 Now, you've already explained that you think a key 2 learning point would be to, in the event of a future 3 crisis, set up this meeting again, so it's clear that --

4 A. Yes.

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5 Q. -- you think it is of value. Can you please explain why 6 you think this group was particularly beneficial?

7 A. Yeah, if I can just clarify on the strategies, what I'm 8 talking about there is the kind of top-level approach, 9 communications approach.

> So we had a very distinctive approach in Wales, the UK Government took a slightly different tone and approach in their communications, and while it was useful to understand what was behind those, these meetings weren't about us telling them "You should change your" --

16 Q. Yes.

17 A. There was none of that. Sorry, the question was in 18

19 Q. It's what you think the benefit of --

20 A. Oh.

21 Q. Sorry, what you think the benefit of this group was.

22 Yeah -- oh, it was -- I think there were -- there were, 23 just very quickly, a number of things. Particularly 24 once we got into 2021 there was really good or much 25 better advance sharing of UK Government campaign

1 behaviours that people needed to keep the prevalence of the virus down, that was a good thing. 2 3 The problem was all the content that sat underneath 4 there. So if you had images of, say, people gathering outdoors and it was clearly more than six people 5

gathering outdoors, the rule in Wales at that time might have been no more than six people can gather outdoors.

So that was the work.

And I have to say that Cabinet Office civil service colleagues were really diligent in terms of trying to do that, but we were dealing with hundreds, if not thousands, of pieces of content at any given time.

13 Q. Thank you.

14 If I can please now turn to document INQ000282302.

15 **A**.

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16 I see you perhaps recognise this document? Q.

This is exactly what we were just talking about. 17

18 Right, well, you may need to help me explain this.

19 Yes. A.

20 Q. In your statement you say that this document was 21 a spreadsheet that was circulated by the UK Government 22 relating to communications activities they planned to

23 carry out.

Can you recall when this spreadsheet was circulated? 25 A. Yes. This would have been -- so that phase 1, 29 March

- in column 3, column A, would have been, I think, 2021,
 and this indicate -- this is a really good example of
 the fact that, after a year, we did get to a point where
 Cabinet Office and the UK Government were very cognisant
 of the issues that were being caused by pieces of
 content --
- 7 **Q.** Yes.
- A. -- giving the wrong impression to people in different
 nations. But this is a tiny part of an even bigger and
 more complicated spreadsheet that we've -- I wanted to
 exhibit this just to illustrate the care that was taken
 perhaps in the latter stages of the --
- 13 Q. Yes.

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- 14 A. -- pandemic.
- 15 Q. Thank you.

You explain in your witness statement that this spreadsheet was circulated and you or your office were asked to input changes that would need to be made to reflect the variations in rules across the four nations.

If we can, please, look to lines 1 and 2 first really, moving across line 1, at column B and C, which have a yellow background, we can see that the cells are labelled "Wales", with column B being a yes/no option and column C being headed "Dates". We can see, moving across line 1, that these column headings are replicated

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run in Wales, this is our -- these are the rules that it need to clearly depict to avoid confusing --

Q. Yes. Thank you.

4 LADY HALLETT: But if you -- sorry to interrupt. But if you 5 take a UK campaign, make it specific to Wales, which 6 I understand the importance to the people of Wales, but 7 then does it have relevance to England?

8 A. So without going too deeply into kind of media buying -9 so, for example, with digital campaigns, you can -- you
10 can have a number of different "meeting up again" pieces
11 of content and they can be sold into -- that one piece
12 could be sold into Welsh-facing --

13 LADY HALLETT: So you can tweak it to fit your different14 audiences?

A. You could. And then that one is -- would be sold into
 media that people in Wales might see. You know,
 WalesOnline, ITV Wales, and it could be differentiated.

One of the big problems we have, if I can just make this point, the problem was that the UK Government, obviously the scale of what they were doing in terms of their media buying, their budgets, was huge. If you buy a cover wrap for The Times newspaper, so the all-encompassing, there's no Welsh edition of The Times. That is sold in Cardiff in the same way that it's sold

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in London. That's --

for Scotland and Northern Ireland, and then there are further columns relating to UK-wide matters.

Can we please look at line 26 of the spreadsheet,
please. So at column A, we can see the phrase "MEETING
UP AGAIN?" Is this row, therefore, about messaging
relating to meeting up again?

7 A. Yes. This would have been, I think, the -- a piece of
 8 content that was encouraging people, as we came out of
 9 the more onerous restrictions, to meet up safely.

10 Q. Thank you.

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There's then more detail provided in column I of line 26, so if we can just scan along to that, please.

Now, still on the topic of meeting up again, column I states that in Scotland, things depend on a child's age. In Wales, it's noted:

"Yes, but it should be clear that there are two households -- also change line 'stick to groups of six from a maximum of two households'."

So can you just explain what meaning should be taken from this entry in the spreadsheet, please.

A. The meaning that should be taken from this entry is that
 that piece of content would have been, would have had
 the representation of a group of people, probably given
 it's around meeting up. What we were effectively saying
 to the UK Government was: if this piece of content is to

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1 LADY HALLETT: So you get the same cover wrap?

2 A. Which would refer to English --

3 LADY HALLETT: Yes, I follow.

4 A. Yes.

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5 LADY HALLETT: Thank you.

6 MS COWEN: Thank you.

Thank you for your explanation of this line on the spreadsheet. We've now looked at one line out of the 29 lines that are on the spreadsheet. Now, I appreciate some of the heading ones are column headings, but there are 29 lines, each line reflects a topic about which public communication was anticipated. Would it be fair to say that at this point the policies across the four nations were so different that clear communications to the public were becoming increasingly difficult?

A. There certainly were differences, as you can say. Some
 of them were sequencing differences, some were more
 substantive.

I think -- and the focus group data and the polling data I think do bear this out -- that from a reasonably early period after May 2020 people in Wales became quite attuned, in fact very attuned, I think, to the fact that the rules that they were being asked to follow may differ, and I think that was the overwhelming kind of imperative that we had in our communications, was just

to illustrate those as clearly as possible.

I do come back to the press conferences, they were absolutely vital. The First Minister always made it clear that if people tuned in at 12.30 every day they would hear from the Welsh Government on the key messages, the progress of the virus, and any changes to Wales would be announced by the First Minister, not by ministers in London.

Q. Thank you.

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You explain in your witness statement that there were occasions during the pandemic where communications and campaign materials from the UK Government were published in Wales against the wishes of Welsh ministers, and you cite the introduction of the Stay Alert messaging which was introduced in England in May of 2020 as an example of this.

You state that:

"At this point the UK Government's media buying strategy was UK-wide."

And you state that it's your recollection that both the First Minister and the First Minister of Scotland expressed opposition to the Stay Alert messaging at the COBR meeting which took place on the afternoon of 10 May 2020, and expressed a view that campaign material featuring this should not be run by the UK Government in

Is it your recollection that the Stay Alert campaign was not discussed in detail in this conversation with the director of the UK Government's communications team?

A. Yes. Just to be clear that this was the Tuesday of the week that ended with the COBR on the Sunday, just to give a sense of where we are with this.

7 Q. Yes.

> A. It's my sense that actually the UK Government had not by this stage settled on what -- their kind of campaign approach, so I wouldn't say there was an attempt not to tell me.

What you see in this email is, I think, pennies dropping in Wales and in the UK Government that the theoretical potential for divergence is about to become real, and you touched on this with Jane Runeckles earlier on.

So my response to that was obviously to make sure that there was a clear record of this conversation, but then what we did was accelerate the development of our own Keep Wales Safe brand. Stay Home, Save Lives, Protect the NHS was going to be withdrawn. So this was the kind of impetus for that.

On the point about Stay Alert, yes, I recall conversations very early on that Sunday morning, as we saw the Sunday Telegraph, and it was a kind of "Oh,

either Scotland or Wales, given the key message in those nations at that point was to stay home.

3 A. Correct.

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Q. You state that you were not given advance notice of the Stay Alert campaign prior to its introduction in England and that your recollection was that the first you were aware of this campaign was when you saw it in the Sunday Telegraph on the morning of Sunday 10 May, which was the day of the COBR meeting itself.

Can we please bring up document INQ000281683, please

This is an email dated 5 May 2020, which you sent to various officials in the Welsh Government, and in this email you summarise a conversation you had with the director of UK Government communications.

16 A. Yes.

17 **Q.** At the fifth paragraph of the email, you state:

> "It is pretty clear that after Thursday/Sunday that from the [UK Government] side 'stay home, save lives' has gone, all marketing collateral will be removed -the question is what it is replaced with. Could be something as simple as 'Stay Safe' as a strapline, with a series of sub-headings around the measures that people and businesses can take (not verbatim but an indication)."

> > 78

that's what they're going with". It was then included in the papers for the COBR meeting that we received a couple of hours before on Sunday.

Neither the First Minister of Wales nor the First Minister of Scotland were content with that. That led to comms colleagues in the UK Government having to unpick very rapidly -- sorry to use media buying again, but their media buying strategy.

But that was also the reason, I think, that the four nations directors of comms group was set up, was in order to try to avoid that crunch that happened on Sunday's COBR.

13 Q. Thank you.

14 Now, there might be an issue as to whether formal 15 notice of the proposed policy change was given, but even 16 if notice was not given, do you think the Welsh 17 Government could have been more proactive in liaising 18 with the UK Government to agree a communications 19 strategy around this policy change?

20 A. Well, as you can see, we were discussing it at very kind 21 of senior levels. It may not be in this email, but 22 I think it might be on the next page of the email that 23 there was an action from the GPS -- yes, if I can read --

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25 Q. Yes.

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A. -- "For awareness, this is an action from yesterday's GPS MIG, which may have prompted the call. Home Office and their counterparts in devolved administrations to ensure there is clear public communication of potential differences following Thursday's review."

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And that was the process. But I think, you know, policy was being decided very close to the wire. Equally, kind of, communications followed that as well.

- Q. You may have answered this already, but just to cover the point, would you agree that the Welsh Government bears some responsibility for confusion around public messaging at this point?
- 13 A. I don't believe so. We were very clear: we spoke to the 14 people of Wales. And we spoke to them through our 15 channels, through the press conferences, through all the 16 interviews that, you know, the First Minister and other 17 ministers did. We made sure that we didn't confine that 18 to Welsh media. So the First Minister would do hundreds 19 of interviews and -- you know, Good Morning Britain, 20 you know, BBC Breakfast, BBC network, and what we were 21 trying to do, from this -- well, before this but 22 particularly from this stage onwards, was really to 23 educate the London media about the reality of what a 24 devolved pandemic was going to look like, and we 25 invested really quite a bit of resource into doing that.

and we worked very well together.

Cabinet Office I think did what they could. I think one area of frustration, I think it's picked up by Professor Henderson in her report to Module 2, was quite frequently the UK Government, the Downing Street briefings, even when they were on devolved matters, barely referenced England, and of course those were broadcast across the BBC and other outlets that cover the whole of Wales, and we did make strenuous efforts at every level, including First Ministerial, to try to appeal to them to be more clear.

We didn't have that problem in the sense that it was very clear that, you know, we were speaking to people in -- people in Wales.

15 Thank you. Q.

> Could we now, please, look at document INQ000282289, please. Thank you.

This is a report summarising the findings of a focus group and the report is dated 21 May 2020. If we turn to page 3 of this document, please, and the first and second bullet points there, they state that:

"Participants voiced regret and concern that the UK is no longer taking a joined-up approach to managing the pandemic across all four nations.

"All participants voiced a strong preference for 83

And to be fair, as time went on, I think the London -the UK-based media that we see in Wales did become much better at reflecting the differences across the four nations.

Q. Thank you.

We're actually going to come to that point now. I'm going to ask you about some questions about differentiation in communications campaigns.

You note in your witness statement the issue of English-specific campaigns being launched in UK-wide publications. You explain that:

"In light of this, the Cabinet Office made efforts at very short notice to restrict the media buying to England only, but this gave an early indication of the complexity of delivering different messages to different parts of the UK."

Is it fair then to say that the Cabinet Office did attempt to help the Welsh Government and the other devolved nations when it became aware of issues such as

A. Yes, they did. And I have to say, my relations -- as I say in my statement, but for the record, my relations with civil servants in Cabinet Office and other devolved administrations, even when there were policy differences between administrations, were always polite, respectful

a joined-up, UK-wide ... [Document read] ... leading to an increase in the spread of the virus."

What was your view of this feedback at the time, that being May 2020?

A. So this was a really important kind of way of taking the temperature. I think the point I would make is that the Welsh Government's preference was for a joined-up UK-wide response, where there would be greater, you know, co-ordination of approaches between the four nations. I think, as Jane Runeckles said earlier on, once the 1984 Public Health Act is brought in, then divergence becomes a theoretical and then a practical possibility.

I do -- I do think -- I think later in this focus group I think the participants were also very clear that they favoured the Welsh more cautious approach to what was happening in England, and I think that's quite important to note.

I don't think -- if you look at the report as a whole, that is not a criticism of the Welsh Government, but they are voicing a preference that the situation we are now in is potentially complex and confusing.

24 Q. Did you take any steps to address the point raised by 25 this feedback at the time?

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- A. We just redoubled our efforts to make sure that people 1 2 in Wales had clarity about the rules as they applied to 3 them.
- 4 Q. Thank you.
- 5 LADY HALLETT: Of course it isn't just differences between 6 what the Welsh Government were doing and 7 the UK Government were doing, Scotland did things 8
- 9 A. Yes. Yes, no, that's entirely true. I mean, the big 10 issue that we had was the porosity of the media border, particularly between England and Wales, but yes, from 11 12 a citizens' point of view there would also be --13 you know, the First Minister of Scotland would be on the 14 6 o'clock news announcing a slightly different, be it 15 sequencing or set of rules. Yes.

16 MS COWEN: Thank you.

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I'd now like to turn to ask you about Wales-specific communication during the pandemic.

You explain in your witness statement that you took a decision that communications within specific pandemic related programmes would be undertaken using the overarching Keep Wales Safe brand in order to build on the trust and recognition that that campaign had accrued. That campaign was developed by the Welsh Government in May of 2020, as what you term 85

that we flexed it at different times. So we were looking at the data modelling from TAC and TAG, and if it became clear that there was a large potential second or even third wave coming, we would be flexing our campaign planning to have a much harder edged approach. So maybe in the summer months it would be "Let's keep Wales safe together", with that very cautious but more permissive view on meeting up.

In the winter, when prevalence was higher, we moved to a much harder edged "Disrupt the transmission to keep Wales safe". So we, yeah, we found it to be a really, kind of, useful -- you know, a really powerful approach.

And I just would also say how bought in our public sector partners were to it, because we did it in a way that enabled them to adapt that content very easily for their kind of local areas with an overarching national brand

18 Q. Thank you.

> I would just like to pick up on one thing that you talked about earlier in your statement, that was the use of social listening reports.

> Can we please bring up document INQ000282290, please.

Now, this is an example of a social listening report. It's from 2 November 2020. If we go to page 1 a distinctively Welsh brand to communicate the regulations in Wales.

Can you please explain how you arrived at the

4 decision to launch the Keep Wales Safe brand? 5 A. Yes. So this goes back to the email that we saw earlier 6 on, which was, at the point of divergence, we couldn't 7 simply -- at that point it was not tenable or correct to 8 follow UK Government messaging, and if there was to be 9 broader divergence, then it needed to be very clear to 10 people in Wales who -- that we were speaking to them.

> Keep Wales Safe was a phrase that I think the First Minister had been using in some of his even quite early press conferences, and what we found interesting was, in our focus groups, when we asked people "What do you want? What do you want from your government?" overwhelmingly they said "We want to be kept safe and we want our families to be safe".

So we then worked that up very rapidly in May into a campaign, we tested that back with the focus groups, and there was -- they said "Yes, this speaks to us in terms of a Welsh identity but also, you know, the imperative that we want". And I think that enabled us to have an umbrella brand across all our, kind of, communications activities across all sectors.

The really important thing with Keep Wales Safe is

of the document, under the heading "Topic mentions in Wales", we can see there the nature of the summaries produced by the social listening research. If we can go to the bottom of page 1, under the heading "Firebreak", we can then see snapshots of the top issues that have been picked up on.

Is it fair to say that the social listening exercise produces a very high-level summary and then pulls out specific quotations?

You mentioned earlier that you thought these reports were particularly useful -- can you explain, is that right? Did you mean to say that or have I misconstrued you?

14 15 they are a useful general indicator of sentiment, but 16 I think we would never advise ministers and our senior 17 officials, you know, to treat them as being necessarily 18 representative of public sentiment as a whole. It is 19 a useful additional and quite immediate tool, alongside 20 polling and focus groups, but also the feedback that we 21 were getting from our partners as to sentiment on the 22 ground in relation to --

- 23 Q. I see.
- 24 -- for example, compliance with regulations.
- 25 Q. Thank you.

No, they were useful. I think with social monitoring

I'd now like to ask some specific questions about the public messaging campaigns implemented during the pandemic.

If I may, please, begin by asking: why was the focus of public messaging on protecting the NHS and not on other sectors, for example care homes?

6 7 Α. So that campaign was very much a UK Government campaign, 8 that's ... it was launched I think in -- you know, in 9 March. I -- my understanding is that the -- from what 10 I've read, the polling that they were doing, because they did even more kind of polling and focus grouping 11 12 than we did, indicated that the -- a primary driver of 13 people's behaviours were to protect the NHS and, in 14 order to gain the kind of compliance with the 15 regulations and the stay-home rules, that that would be 16 the primary driver. But we weren't closely involved in 17 the development of that campaign, we assisted with the

19 Q. Thank you.

way that it ran in Wales.

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Second, were communications always delivered in the Welsh language? Do you consider there was parity with English language communications?

A. Yes. We took bilingualism -- well, we have a statutory
 responsibility as a government to communicate in both
 languages and not treat one less favourably than the

I'd now like to ask some questions about the effectiveness of Wales' communications strategy.

You explain in your witness statement that your focus group work and your polling enabled you to assess the extent to which the messages and communications were resonating with the public, and the extent to which people were accessing those messages and the likely reaction to potential future restrictions in different circumstances.

Can we please bring up document INQ000066103, please.

This is a further focus group report, and this group -- this report, sorry, is dated 13 May of 2020.

Could we please turn to page 2. Thank you, I see that we have that.

That is a summary of the key findings. I would just like to look at two in particular.

The first is at paragraph 4, and that states that:

"Despite some initial confusion, participants felt the distinction between UK and Welsh Governmental announcements is relatively clear."

To what extent do you consider that that was due to your communications strategy?

A. As I've said to the Inquiry, that was our objective and
 it was -- it was good to see that being reflected in

other. Yeah, it was -- and one of the things that we did was, and we've kind of built on this since the pandemic, is rather than just slavishly translate English into Welsh, you can actually have more, kind of, Welsh idioms that would appeal to, kind of, Welsh speakers as well. So, yes, it was a really important part of our work.

8 **Q.** Thank you. Reports provided to the Inquiry have also commented on how the government's use of the term "following the science" was very damaging. To what extent was this a message that featured in the Welsh

12 Government's communications strategy?

A. I wouldn't necessarily say it was part of the strategy.
 It was used by ministers at, kind of, press conferences
 and in interviews. From my point of view, having seen
 how carefully ministers weighed the, kind of, scientific
 and medical advice that was in front of them, they - that was their decision to use that.

19 Q. Do you have a view on the impact of -- that kind of
 20 messaging had on the accountability of political
 21 decision-makers and the public perception of who made
 22 decisions?

A. I think it was very, very clear who was accountable for
 the decisions made in Wales through our communications.

25 Q. Thank you.

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1 the -- back to us in the focus groups.

2 Q. Thank you.

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Could we now, please, bring up document INQ000327735, please.

This is Dr Goodall's statement.

Can we, please, turn to paragraph 463, which is at page 115 of the statement. Thank you.

In this part of Dr Goodall's statement, he summarises the reach of the Keep Wales Safe campaign. He states that it was significant:

"... for example, between April and September 2021,
it reached the following percentages of the Welsh
population ..."

And there is therein set out a breakdown of different groups and how the messaging was being received.

Of note, in relation to the C2, D and E groups, the reach is 93.45%, that's in fact the lowest percentage in the summary. Why do you think the campaign had the lowest reach amongst individuals in those groups?

A. I couldn't say for sure. What I would say is that these
 reach numbers are very, very high across the board for
 any other campaign that a government would run. I'm not
 sure, it could be a mix of the media buy, but -- no,

25 these are very, very high numbers generally.

Q. Thank you. 1

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If we then, please, look at paragraph 464 of the statement, that's at page 116, thank you.

This states that in the tracker poll carried out in mid-August of 2021, awareness of Keep Wales Safe peaked at 81% of all adults in Wales.

Do you have a view on why this figure is lower than the figures in the previous paragraph?

- 9 A. Yes. So reach -- reach is a theoretical percentage that 10 is generated by -- if a campaign runs across these 11 channels at this frequency, that is what the reach of 12 the campaign is. Awareness, which is really important, 13 is more along the lines of: if you ask people to 14 spontaneously say what is the Welsh Government's key 15 message or what is their campaign, if they reply to you 16 "It's Keep Wales Safe", that is the awareness level, and 17 81% is very good for that, for any campaign.
- LADY HALLETT: So, putting it -- again, sorry, to go back to 18 19 Scotland, but just so I'm following. So I heard a bit 20 in Scotland about the FACTS campaign and so, had 21 I looked at the reach figures, they might have been 22 quite high because that was the theoretical number that 23 the campaign --
- 24 A. Yes.
- 25 LADY HALLETT: But then when people were asked if they
- 1 A. Yeah.

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Q. I don't propose to read the message out, but you can see certainly the text of the message and the concerns that are raised regarding co-ordination.

Do you agree that co-ordination and consistency between the different parts of the Welsh Government at a time of increasing concern around the virus was vitally important?

- A. My recollection of this period was, it wasn't so much 10 co-ordination of the government's approach to tackling 11 the virus, my recollection is that different -- we were 12 at a stage when the questions around whether people 13 should work from home or not were becoming very, very 14 live. I think it was more there were some departments 15 that were telling their staff "You should work from 16 home", others saying "No, come into the office", 17 I think, and I think the concern -- because we had to 18 be, you know, an exemplar, as a Welsh Government, in 19 terms of that, and I think -- I think it was more around, kind of, the internal processes.
- 20 21 Q. So would you agree that an inconsistent approach from 22 within the Welsh Government would have also been 23 confusing for the public and would impact on public 24 perception as regards the severity of the virus and 25 trust in the government?

understood what FACTS stood for --

2 A. Yes.

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LADY HALLETT: -- they didn't. 3

A. They didn't. So that would be --4

LADY HALLETT: So that's the awareness figure? 5

6 A. That would be more on the awareness figure, yes.

I mean, our decision was we used Keep Wales Safe as

8 an umbrella brand, as I said, and the protective

9 behaviours would sit underneath there rather than have

10 an acronym.

LADY HALLETT: Sorry to interrupt. 11

12 MS COWEN: Thank you.

13 If I could now ask for document INQ000388424 is 14 brought up, please.

I'm sorry, I think that's probably a mistake.

16 LADY HALLETT: It's all been redacted.

17 MS COWEN: Sections of it have.

18 If I can ask you, please, to look at a message on 19 page 2, please, and this is a message of 14 March 2020 20 that is timed at 14.48.39.

> This is a message between you and Shan Morgan on WhatsApp, and in this message there is reference to concerns being raised about co-ordination and inconsistency of approach between different parts of the government.

> > 94

- Yes, I think that was the concern.
- 2 Q. Can I please then just ask you to look at the message at 3 14.57.07. Shan Morgan therefore says:

4 "OK -- Thanks. Sometimes inconsistency is actually 5 flexibility."

6 Why would you agree with that statement given what 7 you've just said?

8 A. It ... this was a -- so there were people ... I think 9 a blanket work from home -- there were -- there were 10 some of us who attended the office throughout most of 11 the pandemic on the basis that there needed to be really 12 close -- and things were moving so quickly that there

13 needed to be really close, kind of, co-ordination, so

14 I guess there was an element of there needed to be some

15 flexibility that people -- people could. But, you know,

16 I think the point about consistency is really important.

17 MS COWEN: Thank you very much.

18 Thank you, my Lady, that concludes my questions.

LADY HALLETT: Thank you very much. 19

I think there's a question or questions.

Questions from MS HEAVEN

- MS HEAVEN: Good afternoon, I think, Mr Mason. My name is 22
- 23 Kirsten Heaven and I represent the Covid-19 Bereaved
- 24 Families for Justice Cymru. So can I start with the

25 topic of face coverings, please.

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	The day is 0. June and iffe the day of	1		militara.
				militancy".
				(Pause)
	, ,			So if we can just zoom in, please, it's quite hard
				to see, it's at the very bottom. There we go:
				"Hope all goes well at the press conference it
				all sounded a bit muddled"
		•		Then we think it's you said:
	-			"A number of heads banged ahead together thrown
				as narrow a ring around it has I possibly can to avoid
				all the knock ons. Still pretty worried. Transport
				colleagues in the loop from the TFW side."
				Is that you?
Q.				That is, yes.
			Q.	Thank you very much. Well, I'm not going to ask you
				about that.
				,
	-		Q.	,
				it's the director of communications that's speaking to
				Shan Morgan.
Q.				Yeah.
			Q.	So, again, before I get the email up that I'm allowed to
				ask you about, a little bit more context.
				5 June, the World Health Organisation publishes
				advice on face coverings, and we know that it
		25		recommended that government should be saying that you
	97			98
	should wear a face covering, but it also recommended	1		this point in time?
	medical masks for vulnerable populations. So that was	2	A.	Yes, that's what the email says, yes.
	people over 60 with underlying health conditions.	3	Q.	What we know eventually happened is that a press
	So let's look at the series of emails between	4		statement went out. I think probably Vaughan Gething
	yourself, Fliss Bennee and others trying to sort out the	5		has given his statement to the public. He makes no
		6		mention that the WHO are telling vulnerable people to
		7		have medical masks. We'll come on to that in a moment.
		8		But the press statement that goes on to the
	•			government website is just a few pages up. So if you
				scroll up, please, there is a few iterations but the
				final version that goes out is at 002, and it goes on to
				003.
Α.				So if we can just look at 002 there:
	•			"Three-layer face coverings"
٠.	•			And 003, it goes down.
	•			Now, we don't need to read it but you can take it
	believe [Document read] sectoral guidance.	17		from me that there is no reference in this press
	A. Q. A. Q.	 Q. Thank you. So we have some very clear divergence there. Before I ask you about your email communications on that day trying to sort out the press statement, can I just ask you to confirm we've seen some WhatsApps, I put them to Shan Morgan, we understand they're with you but your number, I think, was redacted. A. Yes, that's correct. Q. Yes. So can I just ask you, just if we could bring them up on screen, just so we can confirm you are the person speaking to Shan Morgan. It's INQ000388424-004. My Lady this is the communication around banging of heads on the morning of the 9th and "face mask 97 should wear a face covering, but it also recommended medical masks for vulnerable populations. So that was people over 60 with underlying health conditions. So let's look at the series of emails between yourself, Fliss Bennee and others trying to sort out the press statement on the day Vaughan Gething gives his announcement. So it's INQ000215458, and it's 0007, please. Sorry, let's start at 0006. Now, this is the email from yourself there. I'm just going to read it to you. Has it come up on the screen? This is the A yes. Q. So you say: "I'm really concerned about the handling of the 1230 press conference following the 9am call. I don't 	Vaughan Gething's press statements on face coverings. No doubt you will remember that, but just to give us all a quick reminder: five days before, the UK Government had announced face coverings were mandatory on public transport in England, and in this statement obviously we know Vaughan Gething is simply saying that face coverings will be recommended where social distancing is not possible. You're nodding your head, no doubt you remember that well. 11 A. I do. Q. Thank you. So we have some very clear divergence there. Before I ask you about your email communications on that day trying to sort out the press statement, can I just ask you to confirm — we've seen some WhatsApps, I put them to Shan Morgan, we understand they're with you but your number, I think, was redacted. A. Yes, that's correct. Q. Yes. So can I just ask you, just if we could bring them up on screen, just so we can confirm you are the person speaking to Shan Morgan. It's INQ000388424-004. My Lady this is the communication around banging of heads on the morning of the 9th and "face mask 97 should wear a face covering, but it also recommended medical masks for vulnerable populations. So that was people over 60 with underlying health conditions. So let's look at the series of emails between yourself, Fliss Bennee and others trying to sort out the press statement on the day Vaughan Gething gives his announcement. So it's INQ000215458, and it's 0007, please. Sorry, let's start at 0006. Now, this is the email from yourself there. I'm just going to read it to you. Has it come up on the screen? This is the — A. —yes. Q. So you say: "I'm really concerned about the handling of the 1230 press conference following the 9am call. I don't	Vaughan Gething's press statements on face coverings. No doubt you will remember that, but just to give us all a quick reminder: five days before, the UK Government had announced face coverings were mandatory on public transport in England, and in this statement obviously we know Vaughan Gething is simply saying that face coverings will be recommended where social distancing is not possible. You're nodding your head, no doubt you remember that well. A. I do. 12 Q. Thank you. So we have some very clear divergence there. Before I ask you about your email communications on that day trying to sort out the press statement, can I just ask you to confirm we've seen some WhatsApps, I put them to Shan Morgan, we understand they're with you but your number, I think, was redacted. A. Yes, that's correct. Q. Yes. So can I just ask you, just if we could bring them up on screen, just so we can confirm you are the person speaking to Shan Morgan. It's INQ000388424-004. My Lady this is the communication around banging of heads on the morning of the 9th and "face mask 97 should wear a face covering, but it also recommended medical masks for vulnerable populations. So that was people over 60 with underlying health conditions. So let's look at the series of emails between yourself, Fliss Bennee and others trying to sort out the press statement on the day Vaughan Gething gives his announcement. So it's INQ000215458, and it's 0007, please. Sorry, let's start at 0006. Now, this is the email from yourself there. I'm just going to read it to you. Has it come up on the screen? This is the A yes. Q. So you say: "I'm really concerned about the handling of the 1230 press conference following the 9am call. I don't

Okay. Now, you appear to be concerned here that if the Welsh Government were to go out in public on 9 June,

believe ... [Document read] ... sectoral guidance,

developed with stakeholders ..."

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so in other words Vaughan Gething, and on the website, and tell the vulnerable people in Wales that the WHO are now recommending that they should have medical grade

masks, that this would cause really major implications for policy; is that right? That was your concern at

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24 So, I'm kind of reading this as we go along.

to the Welsh public?

25 Q. I appreciate that, yes.

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from me that there is no reference in this press

statement to the fact that the WHO were recommending

Can you assist us with why that was the case and was

that vulnerable people should have access to medical

that on your advice, that that information should not go

- A. If we were -- this statement says we're following WHO 1
- 2 advice, I would assume that that recommendation is that
- 3 people in Wales should wear three-layer face coverings.
- 4 In the previous email that we looked at there was
- 5 reference to a TAG paper, the Technical Advisory Group
- 6 paper.
- 7 Q. Yes, I'll come on to that in a moment, because that
- 8 piece of information is also missing from the TAG paper
- 9 and I was going to ask you about that separately.
- 10 A. Okay.
- Q. If we just focus on the initial question --11
- 12 **A**. Yes
- 13 Q. -- which is that the WHO, we know, was saying vulnerable
- 14 people had to have access to medical grade masks. It's
- 15 missing from Vaughan Gething's press statement, it's
- 16 missing from the press statement on the Welsh Government
- 17 website. So I'm just seeking your assistance as to
- 18 whether or not that was on your advice, because
- 19 obviously I've just read to you an email which says that
- 20 the issue of medical grade masks "will be pushed beyond
- 21 today".

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- 22 So I'm just seeking to understand, is that something 23 that you advised needed to stay out of the press
- 24 statements, needed to not be given to the Welsh public 25
 - and pushed to a later date?

- masks. Now, that was the final version that was 2 published. But what I want to understand from you is: 3 do you recollect, was there an earlier version of the TAG paper which did talk about vulnerable people having 5 access to medical masks?
 - The reason I ask you that is because if we look at your email again, and that's at 0007, it does reference the TAG paper "bringing a huge number of queries and demands like the provision of medical grade masks to vulnerable people".

So that would seem to suggest that at one point there was a TAG paper talking about vulnerable people having medical masks, and that that might have then been removed from the one that was eventually published. Can you assist on that?

- A. So I was not closely involved with development of TAG 16
- 17 papers, I didn't sit on TAG, I don't -- I don't recall.
- 18 This is kind of a note after a discussion. But, again,
- 19 whatever TAG published in the end was their
- 20 responsibility.
- 21 Okay. And you could only work on that, presumably,
- 22 because you're not the scientist, essentially?
- 23 A. I'm definitely not a scientist.
- 24 MS HEAVEN: No.
- 25 My Lady, I've got one more question. Have I got 103

- A. I -- we have this email -- I don't know what the 1
 - sequence of events were on this morning. What I do know
- is that while there were, kind of -- I could give 3
- 4 communications advice about the way particular things
- would land, ultimately this would have been signed off 5
- 6 by Fliss Bennee and others as being the correct
- 7 government position.
- 8 Q. Would you accept from me, looking at your email, it's
- 9 very clear, isn't it, that you knew that the WHO were
- 10 talking about vulnerable people needing access to
- 11 medical grade masks? You obviously knew that on that
- 12 day, didn't you? It's in your email.
- 13 A. I presume I did from the email. I don't -- again,
- 14 I haven't gone back and looked at the WHO advice itself
- 15 at this stage.
- 16 Would you have drafted Vaughan Gething's statement to
- 17 the press that day?
- 18 **A**. No.
- 19 Who would have drafted that then?
- 20 A. It would have been drafted by the relevant press
- 21 officer, I think.
 - 22 Q. And I did say I was going to assist you on the TAG
 - 23 paper. So the TAG paper that was eventually published
- 24 on 9 June made no reference to the WHO recommendation
- 25 that vulnerable people should have access to medical
- 1 time?

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- LADY HALLETT: Yes, certainly. 2
- 3 MS HEAVEN: Let's just get through these very quickly then,
- 4 so -- they're just straight questions, you'll be pleased
 - to hear.
- 6 Why were media communications initially so focused
- 7 on hand washing, with no focus on Covid-19 being
 - airborne and asymptomatic? So we're looking here at
- March to June 2020. 9
- 10 A. That was the scientific advice from SAGE and the chief
- 11 medical officers at the time.
- 12 Q. Okay.
- 13 Again, was there any discussion on public messaging
- 14 around mitigation for airborne or asymptomatic
- 15 transmission? So do you remember when that discussion
- 16 came in?
- 17 A. Ventilation -- I don't remember exactly when ventilation
- 18 became a greater issue, I remember it becoming more and
- 19 more important. And that's why I think we referred to
- it earlier on, HF -- Hands, Face, Space ... Air came in. 20
- 21 I would say on that that we incorporated that into our
- 22 messaging, but it was a good example, that
- 23 the UK Government worked up a campaign called let's Stop
- 24 Covid Hanging Around, it was quite a dramatic campaign,
- 25 and that was an example of a campaign that we were very

		UK C
1		happy to run in Wales by the UK Government because it
2		addressed one of the key emerging preventative
3		behaviours.
4	Q.	Finally, in late 2021 the Welsh Government ran its Stop
5		Covid Hanging Around campaign and that was by that stage
6		to stress that Covid was airborne, so did you ensure
7		that the Welsh Government's communication on this was
8		aligned with Public Health Wales and NHS Wales
9		communications to challenge any misleading or confusing
10		guidance from Public Health Wales that might not have
11		aligned with what the Welsh Government were saying?
12	A.	I wasn't aware of any advice that didn't align with
13		that. As I say, this was a good example of, as the
14		science developed and the understanding of the virus
15		developed, the communications adapted with it.
16	MS	HEAVEN: Okay, thank you very much.
17		Thank you, my Lady.
18	LA	DY HALLETT: Thank you, Ms Heaven.
19		Ms Foubister.
20		Questions from MS FOUBISTER
21	MS	FOUBISTER: Thank you, my Lady.
22		Good morning, Mr Mason, I represent John's Campaign
23		and Care Rights UK.
24		In your witness statement and today you've spoken
25		about communication with the vulnerable groups, and you 105
1		the director of social services. What communications
2		would have come from them in relation to things that
3		might affect the care sector?
4	A.	I don't know specifically, my role was around the kind
5		of the entirety of external communications, but
6		I would imagine that there was that information as
7		knowledge of the virus and its impact developed, that
8		there would be communication at that level between the
9		Welsh Government, Care Forum Wales and the sector more
10		generally.
11	Q.	So it wasn't part of your role specifically to deal with
12		communications for the care sector specifically?
13	A.	No.
14	Q.	Are you aware that concerns have been raised that
15		communications relevant to the care sector were
16		inconsistent, confusing and unclear?

A. I wasn't aware of that specifically.

care sector?

Q. Then you might not be able to help with my next

A. I don't -- I don't, in terms of that sort of specific

question, but do you have any ideas about what could be

done to improve clarity of communications with the

sector. What I do know is that we tried at all times to

whole country about what the level of risk was and the

be very, very clear in all our communications to the

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Inquiry 7 March						
1		referred to particular efforts with black, Asian and				
2		minority ethnic communities given the disproportionate				
3		impact of Covid-19 on them.				
4		Were you aware that Covid-19 and its response had				
5		a disproportionate impact on the care sector,				
6		for example that in the first three months of the				
7		pandemic nearly 40% of Covid deaths were of people in				
8		care homes?				
9	A.	Yes, I mean, the issue of care homes was very live				
10		within the government, yes.				
11	Q.	What particular efforts were made to communicate with				
12		those involved in the care sector, be it carers, people				
13		being cared for at home or living in care homes? Were				
14		particular efforts made, and if so what were then?				
15	A.	So if I divide that into two quick parts. Obviously all				
16		our campaign work around preventative behaviours was				
17		aimed at the entire population, which would include				
18		those working in care homes. Where there were more				
19		specific, kind of, technical, sector-specific advice to				
20		those working in care homes and those operating				
21		care homes, they would have come on a, kind of,				
22		stakeholder basis from the director of social services				
23		within the Welsh Government out into those out into				
24	_	that sector.				
25	Q.	So you refer to specific stakeholder perspective from 106				
1		steps people could take to protect themselves.				
2	Q.	Did you have any expert advice on the communication				
3		needs of people in the care sector?				
4	A.	Not to my knowledge.				
5	Q.	Finally, was there a single person who was responsible				
6		for ensuring that guidance and communications relating				
7		to restrictions were clear and consistent?				
8	A.	Do you mean for the care sector or more generally?				
9	Q.	In general or the care sector specifically.				
10	Α.	In general terms, we as a government had a collective				
11		responsibility for making sure that the communications				
12		around regulations and behaviours were clear. On the				
13		care sector more specifically, that would sit, I think,				
14		with probably the relevant Welsh Government department				
15 16	^	or the local authority director of social services.				
16 17	Q.	Do you think it might be helpful going forward for there				
17 18		to be someone specific targeted with ensuring clear consistency in communications for future situations like				
19		this?				
20	A.	Yes, I mean, I that was ultimately my responsibility				
21		and the responsibility of the wider government				

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Thank you very much, Mr Mason. I think we've put 108

1		you through the difficult task of marking your own	1		one correction to that.
2		homework for long enough, so thank you for your help.	2		If we can have paragraph 12, thank you very much.
3		(The witness withdrew)	3		You refer in the second and third sentence there to
4	LAD	DY HALLETT: I shall return at 1.45.	4		attending a tabletop exercise held on 12 February 2020,
5	(12.	.50 pm)	5		but I understand, having considered this further and
6		(The short adjournment)	6		having seen the minutes of that tabletop, you can now
7	(1.4	95 pm)	7		confirm that you did not attend that exercise, so we
8	LAD	DY HALLETT: I hope we haven't kept you waiting.	8		should just score through those second and third
9		E WITNESS: Not at all.	9		sentences of that paragraph; is that right?
10	MR	POOLE: Can I call Simon Hart, please.	10	A.	
11		MR SIMON HART (sworn)	11	Q.	Subject to those corrections, are the contents of those
12	Q	Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2B	12		statements true to the best of your knowledge and
13		POOLE: Could you please start by giving us your full	13		belief?
14		name.	14	Α.	
15	Α.	Yes, Simon Anthony Hart.	15	Q.	
16	Q.	Mr Hart, thank you for attending today and for your	16		of Commons, and MP for Carmarthen West and South
17	٠.	evidence and assisting the Tribunal.	17		Pembrokeshire. You previously, though, served as
18		If I can ask you to just keep your voice up so that	18		Secretary of State for Wales from December 2019 until
19		I can hear you, so that everyone hears you, but also so	19		July 2022; is that right?
20		your evidence can be recorded.	20	A.	Correct.
21		If I do ask you something that you don't understand,	21	Q.	
22		just ask me to rephrase it.	22	α.	that you were asked to provide a statement to this
23		If we could, please, have a look at your witness	23		module. If I can, I would like to ask some general
24		statement, please, at INQ000270271.	24		questions about the role of the Secretary of State for
25		That is dated 30 August. Now, we just need to make 109	25		Wales and also the Wales Office, before moving on to 110
1		explore with you the relationship between the	1	A.	
2		UK Government and the Welsh Government during the	2	Q.	73
3		pandemic.	3		"[The Wales Office] was not responsible for making
4		So during the period with which we are concerned,	4		key policy or operational decisions in response to the
5		namely January 2020 to May 2022, you were the	5		pandemic in England or Wales"
6		Secretary of State for Wales and David TC Davies was the	6		But you say you had a:
7		Parliamentary Undersecretary of State for Wales; is that	7		" crucial role during the Specified Period in
8		right?	8		ensuring Wales was fully considered in UK Government
9	A.	Correct.	9		decision making relating to the pandemic response,
10	Q.	You tell us at paragraph 8 of your witness statement	10		feeding in views and opinions from Wales and, so far as
11		that the office of the Secretary of State Wales has only	11		we were able, ensuring co-operative working between the
12		a very small number of policy responsibilities, you say	12		UK Government and the Welsh Government."
13		most notably as custodians of the Welsh devolution	13		Is that right?
14		settlement, ensuring its smooth and effective operation.	14	A.	That's also right.
15		Now, the Inquiry last week heard evidence from	15	Q.	And that's how you saw your role during the relevant
16		Professor Wincott about the devolution settlement.	16		period?
17		I don't want to get into a discussion with you about	17	A.	Correct.
18		devolution. It is right, though, as Secretary of State	18	Q.	The Secretary of State for Wales is a member of the
19		for Wales, you were responsible, were you not, for	19		UK Cabinet; correct?
20		representing Wales' interests in matters that are	20	A.	Correct.
21		reserved to the UK Government?	21	Q.	You also attended COBR meetings during the pandemic?
22	A.	Correct.	22	A.	
23	Q.	You were also responsible for ensuring that the concerns	23	Q.	Was the expectation that you would serve effectively as
24		and priorities of Wales are taken into account in the	24		the voice of Wales at UK Cabinet meetings?
25		decision-making of the UK Government; is that right? 111	25	A.	Not exclusively, because Welsh Government was not at 112

1 a lot of the COBR meetings, but at cabinet, yes. 1 supersede the Joint Ministerial Committee system, and 2 2 Q. So at cabinet you are the voice for Wales -this provides a three-tier committee structure. 3 A. 3 Correct. So top tier of engagement we have the Prime Minister Q. -- but at COBR, because it wasn't just you representing 4 4 and heads of devolved governments council. Then if we 5 Wales there, sometimes it would be the First Minister, 5 can zoom out we can see the middle tiers there 6 the minister for health? 6 consistent of a general inter-ministerial standing 7 A. Indeed. 7 committee, and the finance inter-ministerial standing 8 Q. I want to ask you next some questions about 8 committee. And then if we can zoom out again, the 9 intergovernmental relations, and that's a topic I'll 9 lowest tier is -- consists of inter-ministerial groups. Just help me, where does the Wales Office fit into 10 come back to a bit later on when I look at certain 10 periods during the pandemic, but just generally I think 11 this new three-tier committee structure? 11 12 you were aware that the UK Government and the devolved 12 A. It fits into all of it, if that's not an evasive answer, 13 administrations concluded at an intergovernmental review 13 because the Wales Office has different levels of 14 of intergovernmental relations -- it was January 2022 14 responsibility, different levels of ministerial rank, as 15 that a report was published. 15 you said, starting with cabinet but also across a lot --16 If we can have INQ000083215, thank you. First page, 16 a number of cabinet committees and other government 17 third paragraph, please. 17 committees as well. 18 18 As it says in this paragraph: It's also -- its relationship with other government 19 "Following a review of intergovernmental relations 19 departments, OGR -- OGTs, I think we call them, is quite 20 this document sets out new structures and ways of 20 relevant in all of this, because we -- therefore there 21 21 working." is a sort of interlocking role that the Wales Office 22 22 If I can just have a look at, I think it's page 3, plays. But actually most of it is all conducted at 23 paragraph 11, we see there these new what are called 23 official level. I think some of it's -- only two 24 24 "Engagement Structures", so in other words the ministers, as you know, in the Wales -- so most of this 25 intergovernmental relations framework that is to 25 is done at official level, and that spreads across all 114 1 three of those tiers. 1 advocate for what he described as a reliable and regular 2 Q. Do you have a view how this new set of arrangements set 2 pattern of contact between all four nations, and 3 3 out and described here, this three-tier system, whether the Inquiry's heard evidence that those CDL calls, the 4 that would be effective at managing intergovernmental 4 calls between First Ministers of the devolved 5 5 relations were there to be a future pandemic? administrations and Mr Gove, began in around June 2020. 6 6 A. It's -- one of the things I think we will come to is You attended those calls; is that right? 7 7 whether the process and the outcomes totally overlapped. A. Yep. 8 **Q.** Now, given that Mr Gove was leading on those calls on I'm not sure that this current structure necessarily 8 9 does -- would achieve that, for reasons that we'll come 9 behalf of the UK Government, what was the purpose of 10 to. I think it's a step in the right direction. 10 your attendance on those calls? 11 I think the arrival, actually, of Michael Gove on the 11 A. He tried to include as many different, I suppose, 12 12 scene to oversee these processes did make a profound political stakeholders, you could call them, as 13 difference to the way the various governments in the UK 13 possible, so it made absolute sense to him that any 14 worked together. So I think it's an important piece of 14 government department which had a -- which was active in 15 work, but I don't think it's the magic solution that 15 any of the devolved nations should be part of those 16 everybody's looking for, either in terms of pandemic 16 calls. For example -- I think DWP, for example, would 17 control or indeed any of the other policy areas which we

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24 A.

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Q.

wrestle with and where devolution ends and where

which dawned on us during all of this is nothing is

Q. You have touched on the calls with Michael Gove, the

You're aware that the First Minister was a very vocal

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truly devolved and nothing is truly reserved.

so-called CDL calls.

reserved matter begin. And I think one of the things

17 have been a part of that, say, as a major part of the

18 Welsh economy. So he would have had as many people --

19 the cast list was always quite big, but it was

20 deliberately big.

- 21 Q. Would the cast list change depending on the topic that 22 was to be discussed on the call or was the cast list 23 effectively --
- 24 A. It might do by a -- but not by much --
- 25 Q. But you --

- A. -- might be occasions -- I think there would have been 1 2 occasions, actually, when we weren't included but Welsh 3 Government were. I definitely remember that in COBR, 4 there were occasions when it was considered that the 5 most crucial decision-making body would have been Welsh 6 Government, therefore there wasn't any point in the 7 Wales Office being there. That was fine, completely 8 accepted that, and that was a decision which was taken 9 just according to the agenda and the way in which the 10 disease control was going at the time.
- MR POOLE: Mr Hart, you're talking quite quickly and I'm 11 12 told that the stenographer is finding it quite difficult 13 to record your evidence.
- 14 LADY HALLETT: It's very difficult to change one's speech 15 patterns, I know.
- 16 A. I shall slow down.

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- 17 **LADY HALLETT:** I think you just have to breathe a lot more.
- MR POOLE: Now, the First Minister in his written evidence 18 19 to the Inquiry has described these meetings, so these 20 meetings and calls with Mr Gove, as working well, 21 because, he says, all participants came together looking 22 to share information, solve problems and work together 23 on agendas of common concern.
- 24 Do you share the view of the First Minister? 25 A. Yeah, I think by and large that's fairly accurate.
- 1 responsibility that he did, it was actually much more 2 productive for him to be the person who chaired those 3 meetings and who had those direct relationships with the 4 First Ministers than the Prime Minister himself. 5 I think it made perfect sense.
- 6 Q. Now, as Secretary of State for Wales, you obviously want 7 to ensure that the concerns and priorities of Wales are 8 taken into account in the decision-making of the 9 UK Government, and as we discussed earlier that was one 10 of your roles as Secretary of State for Wales.

Did you consider these calls with Mr Gove an adequate replacement for meetings that would have taken place, for example, under the JBC(sic)?

14 A. Well, the manner in which they took place, which was 15 largely remote, was inevitable because we were subject 16 to Covid restrictions.

> I thought the meetings were quite productive. Gove chaired them well. They covered the subjects which we needed to cover and there was significant official activity in the run-up and in the aftermath of those meetings. So even though the meetings themselves might have been relatively brief and reasonably crisp, what they covered and the decisions they reached were, as I say, by and large one of those activities of activity I don't remember too many people complaining about at 119

2 of people were anticipating. Also, given there was 3 a wide range of views on our Covid response, expressed 4 by a lot of people with some very polarised political 5 opinions, it was remarkable that they worked as well as 6 they did. 7 Q. So this is possibly one of the more positive examples of 8 intergovernmental relations during the course of the 9 pandemic? 10 A. Yeah, I think I'd agree with that. 11 Q. Mr Johnson has said in his written evidence to 12 the Inquiry that he chose not to meet with the 13 First Ministers because, in his view, this would have 14 been optically wrong for fear that this would give 15 a false impression that the UK was a federal state. 16 Now, wearing your Secretary of State hat, what's your 17 reaction to that statement of Mr Johnson's? A. I think it made sense. It made sense at the time and 18 19 when I re-read it now it still makes sense. There had 20 to be some kind of structure. There was probably no 21 structure that everybody would have agreed with, but if 22 the PM was the field marshal, Gove was the general, and 23 there needed to be some kind of pyramid which people 24 understood and could refer to, and it was quite right

I think in many respects they worked better than a lot

- 1 the time.
- Q. I think, just for the transcript, I think I said JBC; 3 I obviously mean JMC.
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- 5 Q. Now, we'll come to look at some of the letters you 6 exchanged with the First Minister during the pandemic 7 a little later in your evidence, but how often would you 8 actually speak with the First Minister of Wales during 9 the pandemic?
- time to time. We would have been in the same COBR 11 12 meetings from time to time. Did we have a regular 13 dialogue of phone calls on a, you know, pre-determined 14 date? No, we didn't. But actually I don't think we 15 needed to, and I think sometimes there's a sort of
- 17 for everything, but actually we met when we needed to.
- 18 People met when they needed to, hopefully no more, and
- 20
- 21 In light of your answer to that question it might be 22 that you agree with the First Minister on this point.
- 23 The First Minister in his written evidence has described
- 24 you as being peripheral to his interaction with the
- 25 UK Government. Now, have you got any comment on that? 120

A. Yeah.

that, with CDL, Michael Gove being -- having the wide

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- A. It's an interesting expression. I don't necessarily 1 2 disagree with it because the point of contact was CDL to 3 the First Minister, so that was fine. We were there, 4 ourselves, the Scottish secretary, and one or two of 5 those were there for a slightly different reason, so 6 that -- I'm not parochial about that point. I think 7 I might have phrased it differently but I don't disagree 8 fundamentally.
- 9 Q. I would like to ask you next about the period leading up 10 to the first national lockdown. The impression one gets 11 from reading your witness statement is that it wasn't 12 until mid-March that, to use your words, the gears of 13 governments changed and the focus shifted to managing 14 the pandemic. Is that a fair reading of your evidence?
- 15 A. Oh, it was definitely the case that in the early stages 16 of awareness, when the nation, the UK, became aware of 17 the pandemic, and what it was capable of, and what the 18 worst-case scenario could look like, then that process 19 started to speed up --
- 20 Q. Sorry to interrupt you, just stopping you there, when do 21 you say that was, that people became aware, within 22 government, about reasonable worst-case scenario and 23 that there would be a need to speed up the response?
- 24 A. The moment when the severity of what was heading in our 25 direction became really apparent, I think, was in the

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frustratingly slow, and even with the -- even with the urgency with which we knew we had to address this, and the realisation that there was an emergency probably already upon us, let alone heading our way, still the machine takes a bit of time to get up to the, you know, appropriate speed.

Could argue that -- you know, when was that? Did it happen at all? And we could talk about that. But the effort started early on, but the machine, the lag time would have been a few weeks, yeah.

- 11 Q. Because obviously mid-March is but a week before the 12 national lockdown on 23 March, so does it not strike you 13 as worrying that it wasn't until mid-March that the 14 gears of governments changed?
 - A. I -- with the benefit of hindsight, could we have done things differently? Could we have done things faster? I think that's something which clearly this Inquiry will reach a conclusion on. I do remember the numerous meetings at the time, either in COBR or in Cabinet, or in the margins of all of those meetings, meetings -internal meetings with officials in the Wales Office and other departments at the time. I just ... I remember everybody coming to terms with what the lockdown actually meant. Nobody in government has ever done anything like that before. Nobody had really been faced

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first COBR meeting that was called. And I will have to refer to the notes as to when that was. But the first COBR meeting was when all of the -- I think, pretty well the whole cabinet plus Welsh Government and many others were in the room, and I think it was at that stage that Patrick Vallance and Chris Whitty explained in pretty stark terms what was -- what was likely -- what was possible, what might happen. I think at that moment everybody refocused and put a significant amount more priority into whichever element of disease control or avoidance that we were responsible for, and everything else got parked while we were trying to -- while we were trying to achieve that.

Q. Now, obviously that first COBR meeting was well before mid-March and it's -- just going back to your statement, where you say that it wasn't until mid-March that the gears of governments changed.

Just before I ask the question, just to be clear, when you say the gears of governments, plural, changed are you talking here UK Government, Welsh Government or both?

22 A. I think it's both. I can't -- I'm not here to speak for 23 Welsh Government but I think it's both because --24 you know, governments don't do 0 to 60 very quickly, 25 they're big machines, they're inherently and

> with what the economic consequences, what the social consequences were of what we were heading towards, and that sense of inevitability, that we were about to embark on something that nobody in the -- nobody in any of the countries affected by Covid had ever done before.

So we were aware of what the sort of medical risk was, we were also becoming increasingly aware of what the economic risk was, and trying to find a balance which protected the economy, protected people's livelihoods and jobs at the same time as managing disease control. And there was a -- I just remember a very -- a passage of time when we were -- there was an expression at the time, if you remember, which was about "following the science", and I think that was often misinterpreted as just follow the medical science, that was the only science out there to follow. There was behavioural science too, and we were conscious of and worried of how much public patience that we could demand and expect when we went into lockdown.

So although it wasn't quite your question, that question about did we go into lockdown too late, too soon, right time, was as much governed by what we thought we could expect of the public, as it was some of the medical advice that Chris Whitty and Patrick Vallance were giving at the time. It was a very

fine balance, and a lot of difference of opinions on that. And, you know, history will now relate as to whether that balance was right and, if we did it again, would we come to a different timing conclusion. Q. Now obviously, Mr Hart, we're concerned in this asper

Q. Now obviously, Mr Hart, we're concerned in this aspect of the Inquiry with the Welsh Government's core decision-making during the pandemic, and you mention in your witness statement that you in fact had to give evidence to a Senedd committee on 9 March, I think you say, and you make a point of saying in your witness statement:

"There was nothing unusual in this event other than to note, in hindsight, the complete lack of any mention of the growing pandemic ..."

Then you also go on to say that in this period,
January to March, your engagement with Welsh ministers
was nothing out of the ordinary and that your feeling at
the time was one was getting on with business as usual.

So the sense one gets from your witness statement is that your understanding was the Welsh Government were not engaging with the pandemic at this stage up until, as you say, mid-March, when the gears of governments changed. Is that right?

A. I think it would be wrong to deduce from that that there
 was any complacency on the part of Welsh Government in
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friend of the Welsh Government ..."

So perhaps acting as a critical friend of the Welsh Government, do you think that the Welsh Government was slow to recognise the seriousness of Covid in the period January to March 2020?

A. I think, by the way, we were a critical friend of UK Government too, it was our job to be able to report into other departments, and indeed Number 10, of our experiences and observations from what was going on in Wales, so it wasn't exclusively for the benefit of Welsh Government.

Given where we were and given the manner with which we were -- the way in which we were addressing the disease, which was through public health legislation rather than through civil contingencies legislation, I don't think I could sit here in all honesty and say that Welsh Government were deliberately slow on the uptake. I think Welsh Government reacted, given the resources and knowledge that it had at the time, probably much the same as other governments. That may one day be concluded as being too little, too late. That's not for me to conclude. But I didn't witness anything which would enable me to say -- to give you an affirmative answer on that.

Q. You've mentioned the legislative choice that was made in 127

their defence. I think there was -- I can't underestimate how much, at the time, people were learning as we went along. I just cannot underestimate the fact that this was territory nobody, literally nobody, had ever been in before. And my recollection of it was that, as people became aware of the risks and understood more about the disease and what it was capable of, everybody I came across, whether they were politicians or whether they were officials, whether they were volunteers, members of the public or anything else, more and more people literally devoted every hour of the day and every ounce of their energy to trying to do their bit to do the right thing at the right time.

And sometimes in the recollection of this it almost seems like people, sort of, didn't care or they made callous decisions for thoughtless reasons, whether it's -- whether it was Welsh Government, who I know you take evidence from, or anybody else I saw, but particularly the civil service and officials, I -- we might have made some profound mistakes but the desire to try to get this right was very evident very early on, as soon as people became aware of what was -- as I say, the expression I use -- what was heading our way.

Q. In your statement talking about your role you say:

"[It] evolved, increasingly, to that of a critical 126

your previous answer, so the fact that the Civil
Contingencies Act was not used but public health powers
were used to respond to the pandemic, and you say in
your witness statement that, whilst this had the
advantage of bespoke approaches being adopted to respond
to the particular circumstances of the pandemic in each
nation, you say it had the disadvantage of a confusing
plethora of different requirements and restrictions
establishing internal borders in the UK which had not
existed to the same extent previously.

Now, the Inquiry has heard evidence in Module 2, in particular from Mr Johnson, who in his view said that the UK, in the event of a future pandemic, should be treated as a single epidemiological unit, and the best approach is a UK-wide one with no differences between the four nations.

Do you share that view?

A. I shared it at the time and, looking back now, I'm even more emphatically of that belief.

And it looks from the First Minister's written evidence that he's not a million miles away from that position either. He, I think, expresses surprise that the crisis wasn't dealt with by way of civil contingencies legislation. I think that's quite early on in his own evidence. And if there was a single

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thing -- if there was a single sentence which I could 1 2 conclude my evidence to you, it would be that. It is 3 that area, it is that decision, which, if we were to do 4 it again, I would do differently, more so than pretty 5 well everything else.

6 Q. When you say "do it differently", so not use public 7 health powers, and the quid pro quo would be, what, to 8 use the Civil Contingencies Act?

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A. I remember a minister in COBR when the debate took place very early on and the question was raised about: do we proceed on the basis of public health legislation or civil contingencies? And the conclusion was reached that it was more appropriate via public health legislation.

I think, if my memory serves me right, because that would only need to go to Parliament for renewal less frequently than civil contingencies legislation would. I think we would have had to update civil contingencies legislation more frequently than we would public health, so the decision was reached. And I remember a minister just saying in the meeting "If this isn't a civil contingencies emergency I don't know what is". And so there was some question right at the start about whether -- about which road we should go down. And it may not have changed -- if we had done that, by the way,

early phase of the national lockdown all four nations worked closely together, but by May 2020 you say you had become "concerned about the risk of this unity of purpose starting to fray", and you specifically identify the Prime Minister's announcement of 10 May. So that's the announcement where the UK Government changed its overarching public health message from Stay Home, Save Lives to Stay Alert, Save Lives but the decision was taken in Wales, Scotland, Northern Ireland to keep the message of Stay Home, Save Lives.

Now, it would be right, would it not, that 10 May was a real turning point in terms of four nation co-ordination?

A. I'm not sure who is making that assertion.

I go back to what I said earlier on. This was a period of intense and unpredictable activity, and I think there were moments when the relationship between four nations worked well and there were moments when it didn't. I think that was entirely to be expected. It might well have been the case if we'd been under civil contingencies legislation as well, who knows. And if there was another, God forbid, pandemic, I have absolutely no doubt that there would be similar

We were -- we were -- we were fighting something 131

it may not have changed the outcome, there might have still been decisions which were taken which might not have been, with the benefit of hindsight, the right ones, but what we would have been able to do is present, I think, a much more consistent and much simpler, much plainer set of proposals, restrictions, principles than we were able to do subsequently.

And I'm not obviously pointing a finger of blame. It was inevitable, once we had three, four different administrations, all with sort of slightly different ideas about how to deal with this, but a population which was very fluid, this was going to lead to problems. And I found it increasingly disturbing that we were looking at the problem through the lens of a political boundary, geographical boundary, between England and Wales, in my case, rather than looking at the population and the way the population and the economy crosses the border, without -- without a second thought for that kind of thing.

And, you know, as I say, I've concluded on many occasions if I had the power to change it that's what I would have done.

23 **Q.** Now, one of the obvious implications of using public 24 health powers, as you allude to, is divergence, and you 25 make the point in your witness statement, you say in the

nobody had ever had any experience of doing before, and the idea that that could be kind of seamlessly resolved by just a series of more regular meetings is for the birds. This was always going to be very, very complex, very, very contentious, it was going to trigger all sorts of political and practical rows.

So, turning point, there were high points, there were low points, but I don't think there was a turning

Q. You say in your witness statement that increasingly over 10 time you were left with the feeling that Welsh ministers 12 actively sought differentiation in their approach, 13 compared to the UK Government's in England, and you say 14 "for no other reason than to be different and to set 15 Wales apart from other nations in the UK", so in other 16 words you thought Wales were being different for the 17 sake of being different?

A. It was -- I -- I'm afraid with -- more in sadness than anger, I do believe that to be the case, because if you approached the whole thing from the point of view of outcomes rather than processes, it was difficult to see any evidence which suggested that the outcomes were going to be or were any different as a result of some of the divergent policies which were emerging.

The rates of spread, all of the things which we read

about with increasing horror every day were largely the same over the whole of the UK. You could make some perfectly reasonable differentiations based on population dynamics and that sort of thing, but the idea that there was any significant geographical difference between Scotland, Wales, Northern Ireland, England wasn't supported by evidence, in my view.

And so -- and where you have a population, and we frequently used to publicly have this debate at the time, where there's 100,000 people every day of every week who are going over the border from England to Wales for work purposes or medical purposes or whatever it might be, we were picking up, and we were simply representing the views of quite a lot of stakeholders, quite a lot of stakeholders in the Welsh economy at the time, we were picking up increasing frustration from people saying "I don't understand the difference,
I don't know whether" -- I mean, when I used to go to London, I mean, I remember Great Western used to send out a tannoy message halfway under the Severn Tunnel saying "Put on your mask", or "Take off your mask".

Anything which led to confusion, anything that led to contempt, anything that led to sort of lack of confidence in the process that was in place were potentially dangerous, in my view, and that's why we

regulations was going to be compromised. And that ultimately was bad for everybody. And that's why we said what we did.

Q. If we can please have a look at a document, it's an email read-out of a meeting that you had with Ken Skates on 26 March 2020.

It's INQ000128940.

If we can have a look, please, at the second bullet point:

"[Secretary of State] ..."

So this is you, Mr Hart:

"... thanks [Ken Skates] for this, but says there have been some occasions where [Welsh Government] has decided to do things differently without immediate clarity as to what differences have been pursued. [Secretary of State] raises diversion on business rates and definitions of key workers, particularly in cross-border areas. These can look like political opportunism, even though, there are likely valid reasons for divergence."

So you appear there to concede that whilst it might look like the Welsh Government are simply making decisions for the sake of being different, there are likely to be valid reasons for divergence. Do you stand by that?

were articulating the views, to UK Government as well as Welsh Government, that we should stick as closely as we possibly could to similar measures across the whole of the UK as was possible, and every time we diverged from that, I -- rather than save lives, I think what it did is cause confusion.

Q. Now, confusing public messaging is one thing, but here
aren't you going further than that, you're saying that
the Welsh Government's motivation for making decisions
was simply to be different for the sake of being
different; is that really what you're suggesting?

A. It was unquestionably a reflection of what people within
 Wales were telling us and Welsh stakeholders were
 telling us, the Welsh economy was telling us. And in
 the absence of any evidence to suggest that the
 divergence was going to have the effect that it was
 argued, then it was difficult to reach any other
 conclusion from time to time.

So I don't say this with any sense of glee. I think in a moment of national, international emergency like this was, I think the risk of that being the only conclusion that people could reach was heightened and what genuinely worried me was if that's where people -- what people were thinking, then their enthusiasm, if there was such a thing, for complying with the

A. I was -- I thought Ken Skates, by the way, was one of
 the standout performers in Welsh Government during this
 process, and he was somebody who was able to leave any
 party political differences well behind him in our
 shared desire to reach the right place.

I think this was me being as tactful as I possibly could in the circumstances, but I think if Ken was here he would -- we talked about this a lot. If there were valid reasons for divergence, I'm not completely sure what they were, and more importantly I'm not completely sure what effect they had.

12 Q. We've talked about the Prime Minister's announcements,
 13 so the change of UK Government policy to -- from Stay
 14 Home to Stay Alert.

The public statement the Prime Minister made -- we can see it, it's INQ000065338 -- we don't need to read it but just to make the point that this change of policy obviously applied to England only, yet if we were to read that statement, you can take it from me that there is very little in there to suggest that these were England-only measures, and that was a concern we heard from Toby Mason a moment ago.

My question is simply this, Mr Hart, that was a concern raised by the Welsh Government; did you take any steps as Secretary of State for Wales the voice of

Wales in the UK Cabinet to ensure that UK Government public health communications were clearer when they were only meant to apply to England?

A. Frequently I remember our sort of comms people talking to the media about making clear what was Wales only, what was UK-wide, what was England-only. It was an ongoing problem, it would often occur every day.

And it absolutely illustrates the point I was trying to make about the civil contingencies route, because we were frequently in situations where BBC Wales for example would be reporting the First Minister's position minutes before there was a press conference in London with the Prime Minister making his comments, and any gap in between those two things was immediately seized on by people who were either angry or confused. Neither of those sentiments was helpful as far as disease control was concerned.

And it absolutely illustrates why I think if we were to relive this pretty dreadful time we'd need to do it on a UK-wide basis, because the idea that there was an England-only problem or a Wales-only problem is nonsense, it was a UK -- it was a global problem but it was definitely a UK problem, and the idea that we could subdivide it into even smaller responses I think just made the situation more complicated than it needed to

represent our views to Welsh Government". So that's exactly what we did. And I think it's -- in precisely the same way, by the way, as I think Welsh Government were not shy in doing when it came to UK Government decisions, and there's quite a lot of references in the media to an ongoing critique being provided by the First Minister of Boris Johnson during this time.

And I actually -- I don't object to that. I mean, I think it caused a bit of confusion, which I do object to, but I think the idea that any of us should be above or beyond some degree of scrutiny is -- is -- I don't feel comfortable with that at all, and frankly we should all, you know, in our -- in our roles we should be prepared for a bit of that, and I think in a moment like this it's absolutely right that we should say "Hang on a minute, are you sure you've got this right?" That's all that was

Q. Moving into April, we know that on 24 April the Welsh Government published "Leading Wales out of the coronavirus pandemic: a framework to recovery". Don't need that to be displayed, but on the same day you wrote to the First Minister, and if we could have your letter -- it's INQ000256843 -- like to look at the third paragraph, please.

This is talking about that framework, a framework 139

1 be.

Q. On 2 April 2020 you spoke to Vaughan Gething, and we'vegot a note of that call.

It's INQ000256824.

And it's I think eight lines up from the bottom of that email on that first page:

"SH said he felt he had a role to scrutinise/interrogate decisions whilst not wanting to get in the way."

Then if we can go further up that email chain, I think it's seven lines down in the second email, Vaughan Gething says that he:

"... did not pick an argument over [your] self-appointed scrutiny role."

Now, we discussed obviously the role of the Secretary of State for Wales earlier on; was scrutinising and interrogating decisions of the Welsh Government really part of your role?

18 Government really part of your role?

19 **A.** Yeah. I think it was. Absolutely I think it was. We
20 were having representations from individuals,
21 professionals, public servants, businesses, all the
22 time, every day of every week, asking us --

Q. Within -- sorry to interrupt you. Within Wales?

A. To the Wales Office. In Wales, yes. Welsh businesses,
 Welsh public servants coming to us saying "Please
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for recovery, and you say:

"As written, the framework alludes to the possibility of a separate path for Wales out of the lockdown."

Then the next paragraph, please, if we zoom out and zoom back in, bottom of that page:

"I also note that the framework does not mention the UK Government once, despite us being a key partner of the Welsh Government as we respond to the outbreak. This will not go unnoticed. Our Governments are working well together and I believe we need to demonstrate our continuing commitment to do so."

What do you mean when you say "This will not go unnoticed"? By whom will it not go unnoticed?

A. People who were increasingly concerned that there was
 a disconnect between UK Gov and Welsh Government, and it
 wanted to at least have the confidence that there was
 a joined up collegiate approach, not only to the
 economic package but also to disease control, as
 indicated in reference to military support in there.

And I just thought it would have been helpful, rather than sort of feeling indignant for being left out, I just thought it'd be helpful for the public to know that the full joined up might of the UK and Welsh Government was acting in lockstep in order to achieve

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2 observation to make. And it would have -- it would have 3 minimised the opportunity for the media to suggest that there was more -- more of a division than was the case. 4 5 So I thought it was a helpful suggestion that -- in 6 a comms sense, which we should have signed up to. 7 Q. Would it be fair to describe this as a bit of a shot 8 across the Welsh Government bows to fall into line? 9 A. No, not really. No, no, no, no. I think that --10 I don't think people should see demons where demons 11 don't exist. We were, as I've said before, in a period 12 of very intense activity, and I think it is perfectly 13 reasonable for UK Government and devolved government 14 during that time to challenge each other, to try to 15 better understand the reasons behind and the evidence 16 behind divergence, if divergence is necessary. 17 Perfectly happy to do that in relative privacy of 18 an exchange of letters, but I don't think -- I don't 19 think that it was necessarily unsurprising that from 20 time to time that could be contrived as being 21 inflammatory. It wasn't intended to be inflammatory but 22 I think the idea that we should, you know, shine a light 23 at each other's policy areas and activities from time to 24 time is -- is part and parcel of a response to a crisis 25 of this magnitude.

these aims. I thought that would have been a helpful

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1 the pandemic?

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2 A. I think it worked fantastically well. I think it was 3 one of those examples of where everybody sort of got 4 over themselves and were able to join in a common 5 endeavour. And the MoD -- I remember being vaccinated 6 myself from a guy from -- seconded to Tenby from 7 Cambridge and was incredibly proud of the work they did, 8 really felt he was contributing to the "war effort", as 9 he described it. And those kind of examples were --10 I think, you know, raised the morale of everybody in the area and who was affected by them. 11

Q. Just staying on the topic of intergovernmental relations, part of your -- I think it's paragraph 39 of your witness statement.

Perhaps we could have this displayed, so it's INQ000270271.

And it's page 9 of your witness statement, paragraph 39. You refer to some correspondence between yourself and the First Minister during this period, so we're now in May 2020, and you say:

"It also became increasingly clear to me that the open and unified 'big tent' approach of the UK Government since the start of the first national lockdown, whereby Ministers from the devolved administrations had been invited to attend a wide range

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Q. Now, this letter, and we don't need to go to the 1 2 relevant part of it, but it refers to the "Military Aid 3 to Civil Authorities process". Can you just very 4 briefly explain what that process is for us.

A. It's basically where Welsh Government come to us requesting assistance from the Ministry of Defence, normally in the form of personnel, more often than not for ambulance support with the Welsh ambulance service and also through the vaccination programme.

of service personnel to assist with the vaccine roll-out or the medical response, that required a sign-off from the MoD and from the Wales Office. That was the same in Scotland as well as in Wales, and I don't think there was a single occasion where we declined a MACA request.

And each time that a request was made for X number

16 Q. So all requests were approved?

17 A. I'm pretty certain. Right at the end, I think there 18 might have been a MACA request or two where the number 19 bid for wasn't met but -- for example, there might have 20 been 100 personnel bid for, the MoD was able to release 21 50 or 75. Those are my -- I've just made up those 22 numbers, but there was sometimes a bit of a deal to be 23 done, simply because of the availability of personnel at 24 the time

25 Q. Do you consider that the MACA process worked well during

> of UK Cabinet meetings including COBR-M and various Ministerial Implementation Groups (MIGs), was not being reciprocated by the Welsh Government."

Was it your view that co-operation between the two governments was essentially a bit of a one-way street? It felt a bit like that at times, and -- it didn't cause us sleepless nights, I might add, and we weren't exactly looking for extra meetings to go to, there were plenty to choose from. What we thought it would -- what we were trying to achieve here was the ability to turn to the press, turn to the public in Wales to say, you know, we are arm in arm. UK Government Welsh Government arm in arm.

was to be in the same room, not necessarily with a speaking part or a vote or a power of veto or anything like that, just to be there. In the same way that the First Minister and others attended COBR meetings, we thought it would be helpful if David TC Davies, who we mentioned earlier on, was able to attend a weekly meeting in Cardiff or something like that. We thought optically that would be quite beneficial.

25 Q. I think it's right, isn't it, that the First Minister

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And we thought the best way or one way of doing that It turned out that view wasn't shared, but we gave

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wrote to you and effectively said "You're welcome to come along to meetings but only when reserved matters are on the agenda"?

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A. And, with great respect, I think it sort of slightly shines a light on the problem. In Covid there was no such thing as devolved or reserved. You know, every penny of Covid support, every soldier who turned up to help the vaccination programme, every measure that was put in place was actually funded by UK Government. And that's not a boast, it's just the way that it is. And so none of this -- nothing would have happened without the -- without the whole of the UK Government operation behind.

Even if I accept that there were some areas of devolved activity with which we have no immediate responsibility -- which I'm, you know, in many respects happy to accept -- that didn't mean that there wasn't some value from having the same people in the same room so that we could turn to the public and turn to the professional services in Wales and say "Don't worry we're not allowing some political differences to get in the way of decision-making here". And I thought that would be helpful and I believe that to be the case still today.

Q. The ministerial implementation groups which we heard 145

1 was an awful lot of focus on process, and I think that 2 was -- you know, as if every problem in the world could 3 be resolved by a meeting. And I think, you know, 4 Michael Gove's view was: no, we need to -- you know, 5 implementation and outcomes are what really matters and 6 we will therefore -- you know, we will evolve this 7 relationship. But the idea, if indeed it is implied, 8 that somehow there was a sort of sidelining exercise 9 going on, is, you know, nothing -- I don't recognise 10

Q. The Inquiry's received evidence from a number of Welsh ministers and Welsh officials to the effect that meetings with their UK Government counterparts were often at short notice, sometimes without an agenda or papers, and that the general feeling was that meetings were held with the devolved administrations effectively to inform them of decisions already made rather than as a forum for joint decision-making. Is that something that you recognise?

20 A. Is that in the context of Covid or just more widely?

Q. During the pandemic, particularly in the context of MIGs
 and then MIGs being replaced by Covid-O and Covid-S, and
 intergovernmental relations generally.

A. I thought -- I thought the complaint was that meetings
 didn't exist, but apparently the meetings did exist.

a bit about were wound down middle of 2020, and that was done without any consultation with the devolved administrations, and the First Minister had reason to write to you setting out his concerns about that.

We don't need to bring the letter up, it was a letter on 22 June 2020 where he said:

"... I am concerned about the way that machinery is being wound down and the intermittent contact in recent weeks."

That concern having been raised with you, what did you do to ensure that those concerns were factored into UK Government decision-making?

13 A. From memory -- I have to rely on memory here -- we at 14 that stage were reverting to the model that existed 15 before the pandemic, and I don't think there was --16 I don't think as far as Michael Gove was concerned, as 17 the Minister for the Union, there was any particular 18 decision taken that liaison with, the relationship with 19 Welsh Government or Scottish Government was in any way 20 going to be reduced, it was just taking on a -- it was 21 just, in a sense, taking on a new format.

And this is going to sound a bit chippy, it's not meant to be, you know, I think there's a huge difference between sort of outcomes and process here and, if I was to be respectfully critical of the First Minister, there

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Q. Well, we know -- we know -- we have CDL, we had MIGs, they were replaced by Covid-O, Covid-S, some Welsh officials were only invited to aspects of those meetings, you had CDL calls, so there's no issue that there were meetings.

A. But this is what, you know -- this is why I feel strongly about civil contingencies thing because, you know, there are areas which are devolved and there are areas which are reserved and that's fine, you know, for example defence, foreign affairs are reserved matters, health is devolved, but where you have -- where you have military assistance in the delivery of health, then the lines get blurred. And I'm not aware and I don't remember during the pandemic any Welsh ministers ever saying to me -- I stand to be corrected by the way -- that they had had an unsatisfactory meeting with a particular colleague and could I do something about it. Most of the time I think people recognised, as I've said before, that a large number of people were working as hard as they could in dealing with a very unknown enemy and that if there were slip-ups or if there were meetings which should have gone on longer or should have been curtailed sooner and if there were -- if there was

it wasn't as a result of some kind of contempt for 148

something wrong with the process, nine times out of ten

devolved government, it was probably just the fog of
 war.

Q. Change topic and ask you some questions about travel restrictions next. So we know that in September 2020 rates of infection were rapidly rising in Wales. Local health protection areas, essentially local lockdowns were put in place in a number of areas, and the Inquiry's received evidence that those local lockdowns were not as effective at slowing the rate of infection as they had hoped and more stringent measures needed to be brought in. You then have the Welsh firebreak which came into effect Friday 23 October for two weeks.

And the First Minister wrote to the Prime Minister on 28 September -- I don't propose to have the letter displayed -- but he then had to write again on 13 October, and in that second letter the First Minister noted that ... hasn't had a response to the 28 September letter but he goes on to urge the Prime Minister to introduce regulations in England to restrict travel from high prevalence areas because guidance had not proved effective. And then the day after that you get a similar letter, or the Prime Minister received a similar letter from Nicola Sturgeon on behalf of the Scottish Government.

to your letter.

It's INQ000226115, please.

It's 19 October, so the First Minister explains that the regulations mirror restrictions already in place in local health protection areas but he goes on to explain that the decision has been made on the advice of the CMO for Wales, that's Dr Atherton, and we see he quotes -- it's the fourth paragraph there -- Dr Atherton's advice:

"I fully support the proposal to restrict travel from high-Covid transmission areas to protect the public health of people living in areas which have lower rates of virus in circulation; often areas which are remote or less densely populated. This is a sensible and necessary approach in line with the existing restrictions for travel that are in place for the 17 health protection areas across the country'."

I mean, do you accept that the Welsh Government was

effectively following scientific advice in the decision it made regarding the travel restrictions?

A. It was following -- it was following Dr Atherton's comments, that's not really -- but I don't think that was really our point at the time. Our point at the time is that there were different bits of advice that UK Government was relying on and we were -- and people

who were travelling around the UK rather than just

If we can just have a look at your letter of 15 October, it's INQ000256870, and the first line says you are seeking "urgent clarification of issues arising from your recent announcement", about travel from England into Wales.

I suppose, just pausing there, when you wrote this letter on 15 October were you aware of this -- these two unanswered letters written by the First Minister to the Prime Minister about this very issue?

10 A. Can't remember. Sorry.

11 Q. Third paragraph, second sentence, you say:

"As far as the evidence you rely on is concerned: this, too, needs to pass scrutiny."

When you say "pass scrutiny", do you mean by the UK Government, by the Senedd, by who? A. I think the ... I think by the public, actually, who were increasingly anxious to understand upon what evidence any of these decisions were taken, not necessarily members of the public who were fundamentally against lockdown, by the way, but people who had strong views in both directions. And again, at the risk of sounding like a broken record, this -- it is these kind of difficulties that arise as a result of different policies in different parts of a small island.

Q. If we just have a look at the First Minister's response

around England or just around Wales were confused about the fact that there were two conflicting bits of advice and no supporting, necessarily -- so visible and compelling -- supporting evidence of one over the other or vice versa. Therein lies the problem.

And the moment -- we were concerned the moment there is any confusion about these things is when the -- you lose public confidence and people start thinking "I'm not sure what I'm supposed to do or where I'm supposed to do it or where the rules kick in or where they don't".

And I thought it was quite revealing, but not in a sinister way, the lengthy exchange in WhatsApp messages amongst -- which is part of the evidence pack -- between Welsh ministers, members of Mark Drakeford's own Cabinet were expressing a surprisingly large amount of confusion themselves as to what they were able to do.

So this is not sort of some, you know, a high-handed sort of UK Gov critique. Mark's own team were WhatsApping each other saying, "I don't actually fully understand the rules", "Can anybody tell me if I can go from here to there?", "Not sure if it's a work event or not", "Not sure if I'm covered by ...", "Do I have to wear a mask?" All of that is laid out in some detail in

their WhatsApp exchanges. And that's not a criticism, it's an observation in fact that there was significant confusion. And then if you had -- if your travel or your work happened to take you across the border, let's say you live in Montgomeryshire but your medical care is provided by the Royal Shrewsbury Hospital in England, those were dilemmas people were having every single day, "I'm not quite sure when I move into another jurisdiction what rules ..." As a result of all of that, people just reverse out of the whole thing, and that's where the confusion arises. LADY HALLETT: I'm afraid the stenographer's struggling, Mr Hart.

14 A. I'm so sorry.

LADY HALLETT: We've got several -- multitudinous "unclears"
 on the [draft] transcript, so for those who are
 following the transcript, if you could slow down, we'd
 be really grateful.

19 A. Of course.

20 MR POOLE: Mr Hart, just moving topic, I want to ask you21 a few questions about PPE.

Now, PPE is going to be dealt with in a later module, so, again, these are just some high-level questions anchored in a couple of documents.

If we can have a look at the 31 March letter that 153

My question is simply this: did you have concerns about the provision of PPE in Wales at any stage during the pandemic?

A. I think we all did, we had concerns over PPE across the whole of the UK, and part of that was because there were concerns about PPE across the whole of the planet where Covid was an issue. Normally you can tap into an undisturbed market. In this instance, because everybody's market was disturbed in terms of the provision of these items, that became a whole lot more difficult.

What I do recall very clearly, particularly on the point about ventilators, was at one stage -- I was in a meeting with Matt Hancock and Vaughan Gething when this was raised -- at one stage there was a belief that ventilators were probably the most important item that we could acquire in volume in order to help people who were the worst affected by the disease. It was literally within about a fortnight of that that the medical advice had moved on and had begun to focus much more on earlier intervention with patients, and so the urgency around ventilators had subsided a bit, but we also knew that we were buying PPE in vast quantities as a UK Government and I just thought it was a helpful thing to be able to make the offer to Welsh Government,

you wrote to the First Minister.

It's INQ000113643.

And you -- it's the last paragraph on that page, you asked:

"Second, we are, as you know, making excellent progress in ordering more ventilators and PPE and in sourcing new opportunities to manufacture them. It would be helpful to know the Welsh Government's outstanding needs in this regard. I would be grateful for this information even if you have already fed it in via other routes."

Then you wrote again about PPE, it's 14 April, that is INQ000113621. And I think I'm looking at the -- yes, so it's the fourth -- it's the last paragraph of the first page and over the page, you say:

"It is because we need to meet this challenge as four united nations that I am writing to highlight the breadth of UK Government support that is at your disposal should you wish to use it. Not only do we need plan effectively and distribute supplies equitably but we also need to do so at speed. Whilst it is your Government's responsibility to quantify and distribute the PPE equipment that is needed across Wales, I wanted to reassure you that we in UK Government will continue to do whatever we can to assist you in that operation."

and if they were deficient in any of these items it was worth talking to us because we were -- had people all over the world trying to buy stuff in in volume. That said, not necessarily knowing that it would be used, as in the ventilator case, but we -- so we thought that would be a helpful -- a helpful offer to make.

Q. Mr Hart, finally just some questions about your engagement with local authorities in Wales.

You say in your witness statement that throughout the pandemic you met with a range of stakeholders in Wales without Ken Skates or any other Welsh ministers being present and those were meetings, I think I'm right in saying, with Welsh local authorities, police forces and business sector. How did those meetings feed into your engagement with the Welsh Government?

A. I think, from memory, certainly the businesses and I think there's an annex in one of the evidence packs about the businesses that I'd met -- normally at their invitation, I should add -- who had changed their business model often to make PPE or to do, manufacture things like hand sanitiser, and wanted to be able to market their -- market their achievement as much as their product actually. A lot of these people do something that they consider to be of huge public service, which it was. These were not people who were,

you know, onto a good thing and making money, but they were doing what they thought was right, which was responding to the call for help. And so it was always extraordinarily uplifting to go to some of these factories, a sort of gin distillery making a hand sanitiser. But the pride with which the owners and workforce displayed for what they were doing was, you know, one of the sort of few good bits about all of this

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In terms of police, I don't remember quite -- we used to have frequent -- frequent -- bi-monthly meetings with the chief constables as a matter of course. I suspect during this particular period they were more focused on the enforcement of regulation obviously than they would normally.

And local authorities, similar but not particularly specific. But where there were concerns, I think for example my own local authority had a particularly difficult time with some of the travel restrictions. being a coastal constituency, a lot of people coming in and out, there was quite a lot of pressure on the local authority around enforcement, and indeed the police for that matter. But where necessary we would feed that back into UK Government departments and where necessary back into Welsh Government departments. But I don't 157

The process, which I mentioned, is civil contingencies legislation. And I think, but stand to be corrected, that under civil contingency planning -- regimes already in place, for example there are -- there's a structure for what happens in the event of -- fill in the relevant gap, that I think already exists. I think the Cabinet Office will, if there was a major terrorist event, for example, in Wales or some kind of climatic catastrophe or some kind of -- or some kind of pandemic, civil contingency regime already exists. I couldn't tell you necessarily what it is but it's undoubtedly simpler than the one we were looking at earlier.

And I do believe it needs to be simple. I don't think it is particularly simple. I think it's, as I say, too much orientated around process and not orientated enough around outcomes.

And I could -- you know, if you gave me ten minutes and a piece of paper I could draw you one which would be simple and effective. I haven't been asked to do that, by the way, but I would because I think it is -- I think it is possible, and I suspect the Cabinet Office have said "Here's one we made earlier".

22 23 LADY HALLETT: I receive written evidence all the time and 24 take into account both written and oral evidence, 25 Mr Hart, so if you want to consider yourself

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remember any particular sort of rub on that, I think it 1 2 was all conducted at a -- in a reasonably civilised way. 3 MR POOLE: Mr Hart, they're all my questions for you, but

there are some questions from core participants. 4

Questions from THE CHAIR

6 LADY HALLETT: Just before Ms Heaven asks any questions that

I've given permission for, could I ask you this,

8 Mr Hart: going back to one of the earliest questions

9 that Mr Poole asked you, talking about a new system,

10 obviously attempt's been made to come up with a new

11 system. It looks a pretty complicated system to me,

12 but --

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13 The IGR, the intergovernmental --

14 LADY HALLETT: The one about several tiers and --

15 A. Yes.

16 LADY HALLETT: Right, and titles that weren't exactly easy

17 to remember. But can we just put to aside normal

18 circumstances, what structure do you think would be best

19 placed to serve the people of Wales, England, Scotland

20 and Northern Ireland in an emergency if you're going to

21 get the right involvement of the devolved nations with

22 the UK Government? Have you thought about what would be

23 the best structure, or do you think the Gove type

24 structure was the --

25 A. I have. I think there's structure and there's process.

1 commissioned to come up with a possible --

THE WITNESS: Okay. 2

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3 LADY HALLETT: -- it would be interesting.

4 Thank you, Ms Heaven.

Questions from MS HEAVEN

6 MS HEAVEN: Thank you, my Lady.

Good afternoon, Mr Hart, I ask questions on behalf of Covid-19 Bereaved Families for Justice Cymru.

Can I start by asking you about a document, please, 10 so I'm going to bring something up on the screen.

It's INQ000414516.

12 If you can just indicate when that's come up.

13 This is a tweet that you published on

14 1 November 2020 from X, Twitter formerly known, where 15 you state as follows:

"The furlough scheme has protected 400,000 jobs across Wales & will now continue until Dec. Welsh Gov didn't ask for a furlough extension, they asked for a different scheme to be brought forward having already been told that it was impossible."

Then you do a little hand emoji down to the letter that Mark Drakeford, First Minister for Wales, had written to the Prime Minister, and then you say:

24 "It's disingenuous. Work with us Mark?"

If we just scroll down, for completeness, we see

that's 1 November, and the letter itself which is
16 October 2020. It's the request that we know went to
the Prime Minister is then below.

So my first question is this: would you agree with me that as Secretary of State for Wales to publish a tweet firstly calling the First Minister for Wales disingenuous and, secondly, publishing what seems to be private correspondence between the First Minister for Wales and the then Prime Minister of the UK Government was deeply inappropriate and obviously liable to damage the UK Government's relationships with the Welsh Government at a time when the country was facing an unprecedented national emergency?

So do you agree with that?

15 **A.** I don't, I don't think you would expect me to and
16 I don't, and I think part of the reason I say that, and
17 these things are always borderline calls and it's -- and
18 Twitter is never probably the ideal platform on which to
19 have these disagreements, I recognise that, but this
20 particular situation about financial support was

especially frustrating given -Q. I don't want to cut you off. I'm absolutely going to

23 come to the substance.

24 A. Sure.

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25 **Q.** I will be asking you about the substance of the concern.

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1 A. Oh, definitely --

2 LADY HALLETT: Just before you go on, you said it was the

3 then Prime Minister; it was the then Chancellor of the

4 Exchequer. It's when Mr Sunak --

5 MS HEAVEN: Yes.

6 LADY HALLETT: -- was Chancellor.

7 MS HEAVEN: Thank you, my Lady.

8 LADY HALLETT: So --

9 MS HEAVEN: The then Chancellor of the Exchequer, so that

we're absolutely clear. I think you are.

11 A. Yeah. No, I understand.

12 Q. It's a letter to Rishi --

13 **A.** No, I understand.

10

14 Q. -- Sunak, the then Chancellor.

15 A. I was given a free hand in much of my comms.

16 I didn't -- I didn't operate to Downing Street orders.

17 **Q.** But was this tweet -- were you asked to put this tweet

out, or did you do it of your own volition?

19 A. I don't think so, no.

20 Q. Was this a one-off, then, or was this reflective of how

21 you conducted relations, as Secretary of State for

22 Wales, with the Welsh Government?

23 A. No, we -- as I say, most of the time we had

24 a relationship which varied from very good to tolerable,

depending on the subject of the day, we've had some very 163

1 But just focusing on the way you did it, just so I'm

2 clear, you're not accepting that it was inappropriate

3 and indeed damaging to the relations for it to be put

4 on X in the way you did; you're not accepting that, are

5 you?

A. No, because we -- and I could point you to numerous
 moments when Mark Drakeford made some very derogatory

8 comments about Boris Johnson. I think to some extent --

9 it may be regrettable but it's an impossible situation

10 to --

11 Q. You're the Secretary of State for Wales.

12 A. Yes, and he's the First Minister of Wales dealing with

13 the Prime Minister, and -- and saying that he had

14 abandoned science and was interested only in protecting

15 England rather than Wales. Quite inflammatory comments,

but we accept that. But in the heat of these situations

17 I think these things get said. What's important is what

happens as a result of these lively and occasionally

19 quite combative -- what happens is the outcomes that

20 matter. I'm not offended by the numerous occasions that

21 I've been critiqued by Welsh Government, and by Mark in

22 particular, and I don't think he should be too sensitive

23 to a bit of challenge from now and again in public.

24 **Q.** Were you asked by those in Downing Street to publish

25 this tweet or did you do it of your own volition? 162

1 good -- we've had, as I say, some very good

2 relationships over a number of things. From time to

3 time, there's a sort of red line that they think I've

4 crossed and I think they've crossed and it's, I don't

think, entirely unhealthy that we shouldn't be able to

6 have those arguments in public.

7 Q. All right.

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Can we move on to the substance, then, because it is

9 important.

10 **A.** Yeah.

11 Q. Can you explain, then, what had caused this tweet?

12 Because obviously something's caused it. I mean, what

had the Welsh Government and/or Mark Drakeford been

14 saying, can you remember? I know we've got the letter

15 here.

16 **A.** Yeah.

17 Q. But had something been said in public, then, that you

18 thought was misleading? And what did you mean by "Work

19 with us Mark?"

20 A. It was the suggestion that UK Government had made

21 a political choice by not providing the funding that

22 Mark Drakeford had asked for in the manner that he had

23 asked for it in October of 2020.

24 **Q**. Well --

25 A. Nothing could be further from the truth. The problem --

- 1 and this was a source of much frustration at the time --
- 2 the problem was the process. I keep going back to that.
- 3 The Treasury were more than -- would have been more than
- 4 happy to have done their level best to comply with the
- 5 request, they had already told Welsh Government they
- 6 couldn't operate to the timescale that they were asking
- 7 for, and yet still the announcement was made; and then,
- 8 on the back of that, on the back of the letter from the
- 9 Chancellor saying "Look, I'm sorry I can't meet that",
- 10 as it says here ...
- Q. The response --11
- 12 -- "... secretary and I reference in our briefing with Α.
- 13 the devolved administrations ... advance of the
- 14 announcement, we are unable to bring the claims date for
- 15 the expansion of the job support scheme forward from
- 16 1 November to 23 October due to the limitation of HMRC
- 17 delivery timetables."
- 18 However, it was portrayed as a political decision of us, if you like, just short-changing Wales. Nothing
- 20 could be further from the truth, and that was -- when
- 21
- I used the word "disingenuous", it was not entirely in 22 a fit of pique, it was because Welsh Government knew
- 23 that we had already said, "We can't manage these
- 24 timetables", and --
- 25 Q. So --

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- 1 **A.** -- was on the 19th.
- Q. -- there had been a COBR on 12 October where 2
- 3 Mr Drakeford had attended and firebreak had been
- 4 discussed, but there was no request for funding.
- 5 A. But not as far as I'm aware.
- 6 Q. So if it had been requested on the 12th, would that have
- 7 been enough time or is that something you can't answer?
- 8 **A.** It would have been much more likely to have succeeded.
- 9 It was -- the only matter is I remember the Chancellor
- 10 being quite sort of frustrated because he wanted to
- 11 help, and would have done. There was no political or
- 12 ideological reason why we wouldn't have wanted to help.
- 13 We wanted to be able to do that, it was simply the
- 14 timescale. And so it was then frustrating to --
- 15 Q. Okay.
- 16 A. -- watch all of this unfold on the media and,
- 17 I'm afraid, people in or close to Welsh Government
- 18 portraying this as UK Government making a conscious
- 19 decision to deprive Wales of the funding -- and it's not
- 20
- 21 Can I just very quickly ask you for clarity on one more
- 22 thing, because you're the only person we can ask, and
- 23 it's in the opening statement of the Welsh Government
- 24 that this Inquiry's received, just to see if you can
- 25 assist with what they reference, because it's the first

- A. -- that was the problem. 1
- 2 Q. Sorry to interrupt you. So presumably the concern was
- that the request came just too late to the date when the 3
 - firebreak was going to be potentially implemented; if it
- 5 had come earlier, there would have been more scope to
- 6 help?

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- A. Absolutely, I think if -- literally by a matter of --7
- 8 almost by a matter of days --
- 9 Q. Okay.
- 10 A. -- if there'd been earlier warning, if we could've
- 11 turned the Treasury machine round, the Treasury was
- pushing vast sums of money out of the door, wouldn't 12
- 13 have been remotely concerned about it, just couldn't do
- 14 it in the timescale.
- 15 Q. 12 October was the SAGE meeting where firebreak was
- 16 raised by Mr Drakeford with the Prime Minister and the
- 17 Chancellor. We know on that date there was no request
- for extra funding. Would that have been -- if it had 18
- 19 been requested on that date, would that have been --
- 20 A. The request --
- 21 Q. Sorry, COBR on --
- 22 The request for funding was on 16 October --
- 23 Q. That's right.
- 24 **A**. -- I think and the reply from the Chancellor --
- 25 Q. Just to be clear --

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- 1 time we've seen it. I'll just read it out:
- 2 "Mr Sunak in his evidence on 11 December 2023
- 3 suggested that the Welsh Government could have used the
- 4 upfront guarantee of additional funding ... [Document
- 5 read] ... never a practical possibility."
 - Then they say this:
- 7 "The problem was not solely about the amount of
- 8 money provided by the UK Government ... [Document read]
- ... and the availability of operational support from 9
- 10 HMRC."

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- 11 Now, are you able to assist on what the Welsh
- 12 Government mean there by "the availability of
- operational support from HMRC"? What's the relevance of 13
- 14 that to --
- 15 A. I'm neither Welsh Government nor HMRC, so I think you'll
- 16 have to --
- 17 Q. Fair enough.
- 18 A. -- ask them that. All I do know is one of the few
- 19 institutions not to be criticised during Covid is HMRC
- 20 and the Treasury, because they achieved remarkable
- 21 things in getting a large amount of money out, including
- 22 to Welsh Government, and unlike Barnett, which is
- 23 normally done in sort of a retrospective manner, all of
- the Barnett consequential money for Wales was upfronted 25 exactly to deal with some of the problems that Welsh

1	Government encountered, but the particular thing I just	1	INDEX
2	want to emphasise particularly, the suggestion that	2	PAGE
3	a political decision was made to deprive Wales of money,	3	MS JANE RUNECKLES (affirmed) 1
4	that is what triggered my my my slightly barbed	4	Questions from COUNSEL TO THE INQUIRY 1
5	comments on Twitter.	5	Questions from MS HEAVEN
6	MS HEAVEN: Well, thank you very much, those are my	6	Questions from THE CHAIR 51
7	questions.	7	
8	Thank you, my Lady.	8	MR TOBY MASON (affirmed) 52
9	LADY HALLETT: Thank you very much, Ms Heaven.	9	Questions from COUNSEL TO THE INQUIRY 52
10	I think that completes the questions, Mr Poole?	10	Questions from MS HEAVEN96
11	MR POOLE: My Lady, it does.	11	Questions from MS FOUBISTER 105
12	LADY HALLETT: Thank you very much, Mr Hart. I know it's	12	
13	a very busy time for all politicians, so I'm grateful	13	MR SIMON HART (sworn) 109
14	for your help.	14	Questions from LEAD COUNSEL TO THE INQUIRY 109
15	THE WITNESS: Thank you very much.	15	for MODULE 2B
16	(The witness withdrew)	16	Questions from THE CHAIR 158
17	LADY HALLETT: Very well, I think that's as far as we can go	17	Questions from MS HEAVEN
18	today.	18	
19	MR POOLE: It is.	19	
20	LADY HALLETT: 10 o'clock on Monday, please. Thank you.	20	
21	(3.08 pm)	21	
22	(The hearing adjourned until 10 am	22	
23	on Monday, 11 March 2024)	23	
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