

Monday, 11 March 2024

1
2 (10.00 am)
3 **LADY HALLETT:** Good morning.
4 **MR POOLE:** May I call Vaughan Gething, please.
5 **MR VAUGHAN GETHING (affirmed)**
6 **Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2B**
7 **LADY HALLETT:** Thank you for coming back to help
8 the Inquiry, Mr Gething, I appreciate maybe not the best
9 week for you, but anyway, grateful for your help.
10 **THE WITNESS:** Thank you.
11 **MR POOLE:** Could I ask you to start by giving us your full
12 name, please.
13 **A.** My full name is Humphrey Vaughan Ap David Gething. I'm
14 commonly known as Vaughan Gething, it makes it easier.
15 **Q.** Mr Gething, thank you for attending and assisting
16 the Tribunal, the Inquiry today.
17 Your witness statement at is INQ000391327, we see
18 that up on the screen there. You signed that statement
19 on 3 January. Can you confirm that the contents of that
20 statement are true to the best of your knowledge and
21 belief?
22 **A.** I believe they are.
23 **Q.** You also provided a witness statement for Module 1,
24 which is at INQ000187304. You signed that in the usual
25 way with a declaration of truth. You also gave evidence

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1 Microsoft Teams, but those methods of communication were
2 not used to make decisions. Is that right?
3 **A.** That's correct.
4 **Q.** Now, Dame Shan Morgan was taken to a number of Welsh
5 Government policies concerning the use of informal
6 methods of communication and also the importance of
7 keeping records. Do you accept that using WhatsApp and
8 text to discuss Welsh Government business was
9 prohibited?
10 **A.** (unclear) prohibited to make decisions or decisions
11 through text or WhatsApp, but the discussion, it was
12 never my understanding that it was prohibited to have
13 a discussion around that, in the sense of "You need to
14 look at something", "I'm telling you I'm just publishing
15 something, I want you to see this", "What time are we
16 going to be in the meeting?" So I think the challenge
17 is not defining something in a way that is trying to be
18 entirely definitive, you can't even mention the
19 government in those informal messages, because I don't
20 think that's a particularly real world view.
21 **Q.** Not -- isn't the issue, though, not just whether
22 decisions were made using text or WhatsApp, but whether
23 informal methods of communication were used to discuss
24 those decisions that were made or, perhaps even more
25 importantly, discussions about decisions that perhaps

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1 in Module 1 and the transcript of that evidence is
2 available on the Inquiry website.
3 Now, Mr Gething, dealing first then with your
4 background and career to date, you have been a member of
5 the Senedd for Cardiff South and Penarth since May 2011,
6 before which you practised as a solicitor in Cardiff; is
7 that right?
8 **A.** Correct.
9 **Q.** You first entered the Welsh Government in June 2013,
10 when you were appointed Deputy Minister for Tackling
11 Poverty, and in September 2014 you were appointed as
12 Deputy Minister for Health, a position you held until
13 May 2016 when you were appointed Cabinet Secretary for
14 Health, Wellbeing and Sport, and I think I'm right in
15 2018 the name of that portfolio was changed to the
16 Minister for Health and Social Services, and you held
17 that post until May 2021, when you were appointed
18 Minister for Economy. Is all of that right?
19 **A.** Correct.
20 **Q.** I would like to start by asking you some questions about
21 the way in which you and others within the Welsh
22 Government used informal methods of communication in
23 order to discuss matters connected to the pandemic.
24 In your witness statement, you say that you would
25 sometimes discuss matters by phone, texts, WhatsApps or

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1 were not made; you would accept that that is
2 an important record to have?
3 **A.** Yeah, all the records about how we made choices, and how
4 they're available, I think are important, of course.
5 WhatsApp essentially became a substitute for
6 conversations you have in a corridor because you
7 couldn't have corridor conversations because of the
8 extraordinary measures we had to take.
9 **Q.** Jane Runeckles, when she gave evidence last week, she
10 accepted that using WhatsApp even for admin purposes was
11 wrong. Do you accept that?
12 **A.** Having looked at the rules now in much more detail,
13 I think that's what the rules suggest. I think we need
14 to have a view going forward about what we do need to
15 capture in record-keeping and what is incidental.
16 I think when you look at the records that are available,
17 they do reflect the way in which we made choice and the
18 reasons for them, and I think you'll find that informal
19 messaging as it was used in the pandemic won't take
20 place in the future.
21 **Q.** And you would accept, would you, that it's not just
22 important to retain records for an Inquiry of this
23 nature but it is important for public accountability?
24 **A.** Indeed, it's important the public can see not just the
25 choices we made but why we have made those choices.

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1 Q. Now, during the period that we are concerned with, so
 2 that's January 2020 to May 2022, you were issued with
 3 two Welsh Government mobile phones and two Senedd mobile
 4 phones. Now, as I understand it, as regards the Welsh
 5 Government mobile phones, those did not have WhatsApp
 6 enabled, and the Inquiry understands that you did not
 7 use those to send any texts or iMessages about Welsh
 8 Government's response to the pandemic; is that right?
 9 A. That's my understanding, yes.
 10 Q. As regards your Senedd mobile phones, your first Senedd
 11 phone was issued to you before January 2020 and was
 12 handed back in March 2022, so as regards that phone,
 13 although it remained in your possession until
 14 March 2022, I think you say in your witness statement
 15 you don't recall using it after July 2021; is that
 16 right?
 17 A. That's right, because I was issued with a new Senedd
 18 phone.
 19 Q. And the first Senedd phone, if we can call it that, that
 20 was the Senedd phone that you had for the entire period
 21 that you were minister for health and social care;
 22 correct?
 23 A. Correct.
 24 Q. And it is right that you used that phone to send texts
 25 and WhatsApp messages to other ministers, officials and

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1 right?
 2 A. That's correct. I've set that out in my witness
 3 statement, about how that's happened, as well.
 4 Q. I think you say when you returned your Senedd mobile in
 5 March 2022 was your expectation that the WhatsApps
 6 effectively would be transferred to your new Senedd
 7 mobile?
 8 A. Yes. So when I moved from my first Senedd mobile to my
 9 second one, I did actually have access to all the
 10 messages on my new Senedd phone. What then happened
 11 was, as I set out in the statement in paragraph 28 and
 12 29, that, following a security rebuild, all of the
 13 WhatsApp messages were wiped. That includes all my
 14 personal ones as well, things that had nothing to do
 15 with the government. So messages with my family,
 16 for example. So everything went.
 17 And I have made efforts, following advice from the
 18 Senedd IT team and indeed the guidance they'd received
 19 from WhatsApp themselves about how to recover messages,
 20 and not been able to. I would much prefer it if I'd
 21 been able to so you could have seen what was in them and
 22 what was not in them.
 23 Q. So, Mr Gething, I just want to be clear about this. As
 24 regards your second Senedd mobile phone, that you say
 25 all of your messages from your first Senedd phone were

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1 special advisers to discuss matters connected to the
 2 pandemic; is that right?
 3 A. There were some WhatsApps. I don't think I ever used
 4 a text on that phone, because there was a Welsh
 5 Government phone, but actually, as you will see from the
 6 records, I sent a significant number of emails from my
 7 Welsh Government phone, so there wasn't any need to use
 8 a text service. But you'll have seen there was
 9 a ministerial WhatsApp group and within that there were
 10 incidental messages around "Have a look at what we're
 11 doing", "This is what I think we're going to need to
 12 do", "Check your government device", essentially.
 13 Q. So you were a member of a ministerial WhatsApp group
 14 that included the First Minister; correct?
 15 A. Correct.
 16 Q. You were a member of a WhatsApp group that included
 17 Kirsty Williams, Julie James, I think that was called
 18 "Schools and Covid"; is that right?
 19 A. I think so, yes.
 20 Q. And then you were a member of a separate WhatsApp group
 21 just with Kirsty Williams?
 22 A. Yes, a separate thread, yes.
 23 Q. I'm right in saying you do not have access to any of the
 24 texts or WhatsApp messages that you sent during your
 25 time as Minister for Health and Social Services; is that

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1 transferred to, I understand you used that from
 2 July 2021 onwards but that was returned for maintenance
 3 in June 2022 --
 4 A. Yes.
 5 Q. -- and it was at that stage, am I right, that those
 6 messages from your first Senedd phone and those that you
 7 had subsequently sent on your second Senedd phone you
 8 were unable to recover from June 2022 when it went in
 9 for maintenance; is that right?
 10 A. Yes, so in my statement, I think I pointed out in
 11 paragraph 27 that I had to return my first Senedd phone,
 12 so that's back with the Senedd, and they, as a matter of
 13 course, wipe the phones once they're returned to them.
 14 I still had my second Senedd phone at that point and had
 15 all my messages. It's then when I returned that phone
 16 for maintenance, in June 2022, that all the messages
 17 that exist for the entire period are still on it, and
 18 then after the rebuild they're not. And that's what
 19 I set out in my statement.
 20 Q. Can we, please, have a look at INQ000396461.
 21 Now, this is an email sent to all private
 22 secretaries of Welsh Government ministers, it's dated
 23 19 April 2021, and it says there on the first page,
 24 first paragraph:
 25 "As I mentioned at our Heads of Branch meetings last

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1 week, it is important that we are prepared to respond to
2 any future public inquiry in relation to the coronavirus
3 pandemic, and good record-keeping is an essential
4 component of this endeavour."

5 Then if I can skip through to paragraph 3:

6 "Any and all official business that may have been
7 conducted via text or conducted on non-corporate
8 communication channels ... [Document read] ... as part
9 of the record of Welsh Government's business."

10 First question: was this, as it says it was going to
11 be, raised with you by your private secretary? So this
12 is April 2021.

- 13 **A.** So what I recall was that we did have a discussion about
14 making sure that our records were up to date, choices
15 we'd made and decisions around them, so that's what
16 I understood it to have been and that's what was done,
17 and if you look at -- there are lots of examples of
18 decisions that had been taken and conversations that had
19 taken place that are there and are summarised, so
20 I understood that we'd kept and maintained all the
21 information that we should do, and it would be made
22 available to this Inquiry.
23 **Q.** As regards -- as it says here, we've still got the
24 paragraph pulled up -- as regards any business conducted
25 by text or non-corporate communication channels, that

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- 1 **A.** Yeah, I remember there had been a discussion about
2 needing to maintain our records, and to make sure that
3 the way that we had made choices was recorded. I don't
4 recall there being a specific discussion about to make
5 sure you've kept all your WhatsApp messages. And I know
6 most people are obsessed about their WhatsApp and all
7 this, but I don't recall there being a discussion saying
8 "You need to summarise all of these". And in fact
9 the Inquiry has before it the ministerial groups, and
10 I think Matt Hancock has shared all of his messages, so
11 anything between the health ministers would be there as
12 well. So I don't -- I don't recall the discussion you
13 refer to taking place in exactly those terms, but
14 certainly a discussion about making sure that we kept
15 records of decisions we'd made and why we'd made them.
16 **Q.** So knowing in May 2021 that there would be a public
17 inquiry, you return your first Senedd mobile phone in
18 March 2022. Looking back, do you regret now not taking
19 any steps to ensure that your texts and WhatsApps on
20 that phone, so this is the phone you're using throughout
21 the time you are Minister for Health and Social
22 Services, were recorded?
23 **A.** No, not at that time because of course I had a second
24 phone that had all those messages on it. I certainly do
25 regret the fact that all those messages aren't available

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1 should be summarised and saved to iShare, so your
2 WhatsApps, any text messages on either of your Senedd
3 phones, were they summarised and saved to iShare as this
4 directs them to be?

5 **A.** Well, I don't think that there was any official business
6 being conducted, and this is where I go back to what you
7 define as official business, because if official
8 business is have you WhatsApped someone in the
9 government to ask them what they're doing on one
10 particular day or to tell them to read a document, well,
11 actually the fact that that document has been read and
12 there were follow-up messages in the Welsh Government
13 email train is showing that I'd asked people to read
14 documents and it's also covered in the statements, so
15 all that was done. I didn't understand that this meant
16 that I had to physically download all of my WhatsApps
17 and to make sure that they were then summarised and put
18 into a different form, because the records about what we
19 had done and why, were there and are there in pretty
20 exhaustive detail.

21 **Q.** Now, Mr Johnson, the then Prime Minister, announced the
22 institution of this Inquiry in May 2021. At that point
23 do you recall there being a discussion within the Welsh
24 Government about the need to retain records and retain
25 texts and WhatsApp messages?

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- 1 to you, because you could see them and satisfy yourself
2 that all of the information there is consistent with all
3 the information in the records you do have in front of
4 you. It's -- it's a point of embarrassment, and if
5 I had been able to provide all of those records, then
6 I don't think that this would really be the issue that
7 I understand it is for a number of people. But WhatsApp
8 wasn't used to make decisions and it wasn't used to
9 circumvent processes within the government.
10 **Q.** It has been reported in the press over the last couple
11 of weeks that you turned on disappearing messages whilst
12 minister for health, so in other words during the
13 pandemic. Now, the Inquiry has a record of you turning
14 on disappearing messages in a chat with Kirsty Williams
15 in 2023, so namely outside of the period with which
16 we're concerned. Now, did you on any other chats that
17 you were involved in turn on disappearing messages
18 during the period we're concerned with, namely
19 January 2020 to May 2022?
20 **A.** No. I wasn't actually aware there was a disappearing
21 messages function until much later, so I couldn't have
22 done it because I didn't know it existed.
23 **Q.** Mr Gething, now changing topic --
24 **LADY HALLETT:** Just before you do, could I -- just a couple
25 of questions.

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1 When you discovered that your second phone basically
2 had the WhatsApp messages and the like wiped, did you do
3 anything about it?

4 **A.** Yeah, so I did ask whether it was possible to recover
5 it, and I had some advice then and I've gone through
6 subsequently, on three or four occasions, to try to
7 restart WhatsApp. It says you can recover messages
8 through it. But I wasn't able to. But it is a matter
9 of real embarrassment, because if I'd been able to
10 recover those messages then we wouldn't be having this
11 conversation.

12 **LADY HALLETT:** So who did you contact, was there somebody --
13 do you have an IT team in the Welsh Government you can
14 contact --

15 **A.** Yes.

16 **LADY HALLETT:** -- when you realised they'd all been wiped,
17 including your family messages?

18 **A.** It's the Senedd, so the Senedd IT team, yes, we did have
19 a conversation. We had another conversation before
20 coming to this Inquiry to see if there was another way
21 to do that, and I've had at least three meetings with
22 the Senedd IT team to see if it can be recovered.

23 So WhatsApp is available on your Senedd device but
24 it's not supported by the Senedd IT, so they undertake
25 no maintenance on it, they don't give any sort of

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1 available in the documentary that was provided and,
2 you know --

3 **LADY HALLETT:** Sorry, how did the discussions from the
4 WhatsApp get recorded? I'm not following.

5 **A.** No, so actually the discussions in the WhatsApp are
6 largely blowing off steam and being supportive.
7 Actually when you look at the rest of what's in the
8 WhatsApp groups there is -- there are times where people
9 say "I have made this decision and here are the points",
10 but all of that is recorded in any events through the
11 system. And if you then look at conversations that had
12 taken place around the possibility of a choice being
13 made, it's often "I circulated this but you need to read
14 it". So it's directing people to go and look at things,
15 as opposed to "Here is where we have made a decision".

16 **LADY HALLETT:** Thank you.

17 **MR POOLE:** As at January 2020, the Health and Social
18 Services Group was one of four groups within the Welsh
19 Government, and until October 2021 the director general
20 of that group was Dr Andrew Goodall and, as we know, he
21 was then succeeded by Judith Paget, and we heard from
22 Dr Goodall last week that director general of the HSSG
23 has a dual role, because that person is also Chief
24 Executive of NHS Wales.

25 **A.** Yeah.

15

1 warranty for its use. But they gave me the advice and
2 said "This is the advice we have from WhatsApp" and they
3 said "Look, if it's gone, you may not be able to recover
4 it". Because I had an iCloud back-up, I assumed I'd be
5 able to get it and to re-download it, but it hasn't been
6 possible to do that.

7 **LADY HALLETT:** Just one other question from me before
8 Mr Poole moves on. You, like a number of other
9 witnesses, have said that you thought that -- at the
10 time it was only necessary to record decision-making,
11 but I think the email that Mr Poole took you to, and you
12 agreed you had had a discussion about keeping proper
13 records as a result of it, talked about "all official
14 business". "All official business" is much broader than
15 decision-making, isn't it?

16 **A.** No, indeed, and so we had records of not just the
17 decision but the discussions we'd had around those
18 decisions as well that led to it, so whether that's the
19 advice we had or whether it's the conversations we had
20 through Cabinet or the conversations I would regularly
21 with the First Minister before Cabinet as well. All of
22 those discussions that lead into the decision, they're
23 all recorded. And, you know, when we were having some
24 of those discussions, the First Minister made the point
25 that there's a significant chunk of this that's

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1 **Q.** Would it be right to say that the director general of
2 the HSSG would be the most significant senior civil
3 servant with whom you had regular contact during the
4 pandemic?

5 **A.** Yes.

6 **Q.** The Chief Medical Officer, Dr Atherton, he sits within
7 the HSSG and so he too also ultimately reported to you
8 as Minister for Health and Social Services; is that
9 right?

10 **A.** Correct.

11 **Q.** If we could, please, have a look at INQ000180757.

12 Now, as it says at the top, this is the Welsh
13 Government Health and Social Services Group Health
14 Emergency Planning Unit and the NHS Wales emergency
15 planning groups, and it's the current reporting
16 structures at that point in time, in September 2018.

17 I just want to understand, what was your role and
18 responsibilities in relation to the NHS Wales emergency
19 planning group, EPAG, at the top of that organogram?

20 **A.** Well, I'm responsible for everything, essentially, as
21 the minister, so the emergency planning advisory group
22 is the group of officers and officials, and that then
23 comes up, as you can see, through to the NHS Wales chief
24 executive, and I then receive reports through them. So
25 the emergency planning advisory group doesn't ordinarily

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1 report directly to me as a minister, it would normally
 2 be that I'd get a report from the director general, who
 3 was also the NHS Wales chief executive.

4 **Q.** And not on this organogram, the Inquiry heard some
 5 evidence last week about HEPU, so that's the health
 6 emergencies planning unit, which was the body that
 7 worked on pandemic preparedness and civil contingency
 8 planning within the HSSG.

9 How did HEPU report to you, as minister?

10 **A.** So I would have reports from officials would come up
 11 around emergency planning, so -- and you'll have seen
 12 some of those. I know there are emails from one
 13 official who has been named, I think it's
 14 David Goulding, and I'd receive updates on what was
 15 taking place with pandemic preparation and advice, and
 16 of course I -- we can go through those briefings, and
 17 also there would be conversations with either the
 18 director general or the Chief Medical Officer, where
 19 that was relevant, as well. And as we go through
 20 January then there certainly were conversations with
 21 both of them about the developing picture.

22 **Q.** Turning then to your role within Cabinet, you say at
 23 paragraph 13 of your witness statement that you were
 24 central to discussions around the use of lockdowns and
 25 other NPIs such as social distancing and the use of face

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1 **A.** Yes, and I think we go into probably the only example
 2 where that really happened to any real degree in the
 3 run-up to Christmas 2020, and I know I refer to that in
 4 my statement.

5 **Q.** Yes, I think you say that was about the decision whether
 6 two households forming a bubble over Christmas would
 7 remain guidance or would form part of the regulations.
 8 Save for that one instance, am I right then to take from
 9 your evidence that all other Cabinet decisions were
 10 consensus decisions?

11 **A.** Yes, and that included times where Cabinet had to pause
 12 and come back to the discussion, either because
 13 agreement couldn't be reached or because more evidence
 14 was sought, but we ultimately reached decisions where,
 15 either by an entire consensus or a clear majority, there
 16 was a clear Cabinet view, and that was then taken
 17 forwards.

18 **Q.** Now, although Cabinet obviously led on collective
 19 decisions relating to the Welsh Government's pandemic
 20 response, individual ministers presumably would be
 21 required to make decisions within their own portfolio
 22 responsibilities. Is it therefore right that some
 23 decisions taken in response to the pandemic were taken
 24 by individual Welsh ministers alone?

25 **A.** Correct.

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1 coverings, but that these decisions were, your words,
 2 principally made by the First Minister following
 3 discussion and agreement at Cabinet.

4 By that, do you mean that Cabinet would agree on
 5 what decisions should be made and then the
 6 First Minister would endorse that collective
 7 decision-making?

8 **A.** So the decisions of Cabinet had to be made real by
 9 regulations and the Welsh minister had to sign off the
 10 regulations, so it was the First Minister that would do
 11 that. If there were any remaining items, sometimes we
 12 would agree that this could be amended or dealt with by
 13 the evidence that might have happened afterwards, but
 14 actually what typically happens is you have a set of
 15 papers with proposals, they're discussed, sometimes you
 16 need to come back to them, Cabinet concludes, and then
 17 you then have to ask someone who signs off not just the
 18 MA but the regulations at the end of it so that your
 19 decisions are then legal and enforceable.

20 **Q.** The First Minister, in various witness statements before
 21 the Inquiry, has been described as acting as first among
 22 equals. In practical terms, am I right that this meant
 23 that if Cabinet could not reach a consensus view, then
 24 it would be down to the First Minister to make the
 25 ultimate decision; is that right?

18

1 **Q.** Your portfolio as Minister for Health and Social
 2 Services, you set out the responsibilities, perhaps it
 3 would be helpful to see, it's INQ000391237, which is
 4 your witness statement, and you set them out at
 5 paragraph 12, which we can see there.

6 So we see:

7 "a. Preparedness for the NHS and Health sector ..."

8 Which obviously you've given some evidence about in
 9 Module 1.

10 "b. ... management of the pandemic in all health
 11 care settings ..."

12 "c. Shielding and the protection of the clinically
 13 vulnerable;

14 "d. International travel restrictions."

15 And if we can go over the page, please, the list
 16 continues, we've got: PPE, national testing programme,
 17 national vaccination programme, and so on and so forth.

18 So whilst a number of those areas will be the focus
 19 for later modules of this Inquiry, there obviously
 20 remain a number of areas for us to cover today.

21 I'd like to start with the initial awareness and the
 22 sharing of scientific and technical information in that
 23 early period of January to March 2020, and start with
 24 some questions about SAGE, please.

25 You say, it's paragraph 144 of your witness

20

1 statement, that throughout January to March the main
2 sources of information about Covid-19 were from SAGE and
3 COBR.

4 **A.** Yes.

5 **Q.** Now, the Inquiry has heard a lot about TAG and TAC and
6 their establishment in late February 2020. Would I be
7 right in saying that prior to TAG and TAC being
8 established, the Welsh Government had very little, if
9 any, access to Welsh-specific scientific and technical
10 information, and it was really all coming from SAGE and
11 COBR? Would that be right?

12 **A.** Broadly, yes. So we'd have the advice that would come
13 through SAGE, and I think Dr Orford and Dr Atherton had
14 gone through how that came about. Some of it came
15 through chief medical officers, and then eventually
16 Dr Orford was able to attend SAGE, and so it wasn't just
17 a question of reading the papers and the minutes. But
18 that was the primary source of scientific advice in the
19 early stages, and indeed it was from SAGE and the
20 UK Government Chief Scientific Officer,
21 Patrick Vallance, who would give the updates at those
22 initial COBR meetings as well.

23 **Q.** If we could, please, we have a look at INQ000066060.

24 Now, this is a chronology of meetings that took
25 place in January to March 2020 that's been provided to

21

1 to have representatives from not just the Welsh
2 Government but the other devolved administrations on
3 SAGE from the outset?

4 **A.** Yes. I think it would definitely improve the way that
5 not just advice is shared but the insight into that as
6 well, because there are times where the different
7 devolved governments will have a slightly different
8 insight into what that means for the way that the health
9 and care system or the economy is run as well, and it's
10 better to have all four nations having a discussion
11 about that, to provide advice to ministers. I think
12 it's also Dr Orford's and Dr Atherton's view, and
13 certainly my view, that it would be much better if SAGE
14 is not simply a UK Government construct that is owned
15 and directed by them, without the ability to have the
16 four nations around the same table. I think it would
17 strengthen not weaken the response.

18 **Q.** If we return to the chronology that we've still got on
19 the screen in front of us, we can see the first three
20 meetings of COBR were 24 January, 29 January and then
21 5 February, and I'm right in saying that you represented
22 the Welsh Government at those meetings. I think you
23 were accompanied by Dr Atherton on 29 January and
24 5 February. Why was it that the Welsh Government was
25 being invited to COBR but not to SAGE over this period?

23

1 the Inquiry by the Welsh Government.

2 If we just see the first -- we can see the first
3 five meetings of SAGE, they start on 22 January. Now,
4 the Welsh Government were not represented at those first
5 five meetings. At the time, were you aware that there
6 were SAGE meetings going on with no representative of
7 the Welsh Government present?

8 **A.** Yes, it was part of our discussion that it would have
9 been helpful if Welsh Government were directly in the
10 room. And I know from Dr Orford's evidence he's already
11 made clear that he made representations that he should
12 be able to attend and take part. That happened later.

13 I don't think that would necessarily have changed
14 the advice or the conclusions of SAGE, but it certainly
15 would have meant that we'd have had a more direct
16 insight into all the discussions as -- as you know,
17 records that are written down can be very helpful but
18 being in the same room is more helpful, in terms of
19 understanding the -- the balance of knowledge and the
20 different trade-offs that might be made, and advice.
21 Because you get advice that is the overall advice, the
22 consensus, but there are always differing views in the
23 room.

24 **Q.** In the event of a future pandemic, do I take it from
25 your answer then that you consider it would be necessary

22

1 Can you help us with that?

2 **A.** I can't tell you all the reasons why that choice was
3 made but they're choices of the UK Government.

4 It was a strange experience going to the initial
5 COBR meetings, because physically you had to go to one
6 specific room within the Welsh Government, you had to
7 move from -- into the building this is on, but in the
8 building in Cathays Park, there's -- well, there was one
9 specific room where you could go to, initially. So you
10 had to move away from the Senedd. So it was a physical
11 dislocation of where you'd normally be. And then the
12 papers were provided a few minutes beforehand and then
13 the papers were then returned physically. It was
14 a very, very strange way to do business.

15 And also there are restrictions on the numbers of
16 officials who could be there as well. I think it would
17 have been -- again, I think this is a point for the
18 future, not just about SAGE having representation from
19 all the governments in the UK but actually, when COBR is
20 meeting, to be clear about the fact that if you want
21 four nations to make choices together, limiting devolved
22 governments to two or three people in the room is
23 unlikely to be helpful, because you then need to go and
24 report to lots of other people afterwards, and actually,
25 again, it would be better if, without having

24

1 a conference of -- in the one room in Wales, but
 2 actually I think it would have been more sensible to
 3 have had a wider cast list. But you're dealing with
 4 requirements that are at that point set by the
 5 UK Government --

6 **LADY HALLETT:** And presumably those requirements are set for
 7 basis of security, because COBR very often deals with
 8 matters of very major security. And also -- I don't
 9 know if you have had this experience, Mr Gething,
 10 chairing committees, I've chaired quite a few -- the
 11 more people you have in a committee, the less chance you
 12 have of getting work done.

13 **A.** I think it depends on, again, the numbers, that's why,
 14 so you don't want a conference, you don't want 30 people
 15 in the room, but actually having myself and the Chief
 16 Medical Officer and one other official -- not being able
 17 to have the chief exec of the NHS in the room,
 18 for example, not being able to have my deputy minister
 19 there -- you know, so I think that actually I don't
 20 think you need to expand the cast list out to have
 21 dozens, and I do think that would be unhelpful.

22 **LADY HALLETT:** But when you've got four devolved nations --
 23 well, then you've got, effectively, three devolved
 24 nations and England, then if they've all got four, five
 25 or six people, times at least three, I mean, you've

25

1 **LADY HALLETT:** I was thinking about papers, when you'd said
 2 they had to go back, presumably that's a security
 3 measure?

4 **A.** At the time it was and yet actually, it was, again,
 5 unusual that the papers then returned, but you've still
 6 got to then talk to people to prepare them, so it made
 7 some of the preparation not as helpful as it could have
 8 been. And actually, within those papers, I'm sure
 9 they're papers that, you know, this Inquiry would want
 10 to see as well, but to be able to say "Look, we've had
 11 this conversation, I don't have all the papers, so I'm
 12 telling you what we remember from that and the notes we
 13 made in the meeting". And again, when you're talking
 14 about the security of that paperwork, you've still got
 15 to go and brief other officials on it, so I don't think
 16 it's an effective device from that point of view either.

17 And again, within this, and again it's one of the
 18 points I make, and when it comes to recommendations to
 19 think about, how do you generate enough trust between
 20 governments that won't always be of the same political
 21 shade but you know that in a time of an emergency that
 22 is potentially developing like this you've got to be
 23 able to trust each other to share information and for
 24 that to be done professionally through your officials
 25 and for ministers to be able to step back from the

27

1 immediately -- you've said you don't want to have 30,
 2 well, you're immediately getting close to 20, aren't
 3 you?

4 **A.** Well, you have pretty much close to 20 in the
 5 UK Government room, and I'm saying that -- because
 6 you're dialling in, you're not physically in the same
 7 place, you're dialling in and then having a view from
 8 that country. So what happened in the running of the
 9 meeting is there'd be a discussion within the room in
 10 London and they'd then ask for a view from the different
 11 governments. And I think actually being able to observe
 12 and take part in that discussion within each devolved
 13 government, I don't think you need different
 14 spokespeople responding, but I do think, for example, if
 15 the chief exec of NHS Wales and the director general can
 16 be in the room at the same time, that's helpful. And
 17 again, it short-circuits some of the -- not just
 18 reporting back but actually the consideration in the
 19 room of the different things you need to think about.
 20 If you're the minister who's going to respond I do think
 21 that would be helpful.

22 And from a security point of view I think, you know,
 23 Ministers of the Crown should be able to trust each
 24 other on this, and senior officials should be able to do
 25 that as well. And of course --

26

1 political engagement that of course we all have and will
 2 carry on having, that's part of democracy, but actually,
 3 within this, it should have been possible to have more
 4 people in the room, and I think that would have aided
 5 how we made decisions and I think would have aided
 6 building the trust and engagement that needed to take
 7 place.

8 **LADY HALLETT:** I'm sorry to press you, but surely, you were
 9 there with the Chief Medical Officer, anybody else?

10 **A.** Not at the time. I think at some of the later meetings
 11 Reg Kilpatrick attended, but the director general,
 12 chief exec of NHS Wales didn't, he was --

13 **LADY HALLETT:** Pausing there. So, okay, you were there with
 14 at least the Chief Medical Officer, scientist and an
 15 expert adviser. Surely the system depends on you and he
 16 paying close attention to everything that happens and
 17 then taking back whatever information you've gleaned and
 18 seeking advice on it. Why do you have to have the
 19 people in the room?

20 **A.** So some of this directly affects the operational choices
 21 that you're making in and around the health service and
 22 others, and I certainly think that, as a minimum, the
 23 person who's the chief exec of the NHS in Wales is
 24 someone whose perspective on that is important, and if
 25 they're in the room I think that would improve what

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1 you're able to do. And the live reality of if you're
2 having to make these choices, there are three other
3 things that immediately follow on from that.

4 Now, as the minister, having been the health
5 minister for some time by then, I understand some of
6 that, but I think actually understanding the operational
7 perspective and how that goes into the wider
8 organisation, I don't think it would get in the way of
9 administering efficiency or, indeed, the level of
10 security you need to have around it to have some more
11 representation in that room during the calls.

12 So I'm not making a call to say there should be
13 20 people from the Welsh Government in the room at the
14 time, but I do think there are at least one or two other
15 people who could have benefitted from being part of the
16 discussion as well, and that's the point I'm making.

17 **LADY HALLETT:** Thank you.

18 **MR POOLE:** The First Minister in his evidence to this module
19 has said that reflecting now and looking back on matters
20 through the lens of what was learned subsequently, he
21 considers that Mr Johnson, as the then Prime Minister,
22 should have chaired those early COBR meetings. He says
23 not for the purposes of reaching a different outcome in
24 terms of work done by COBR but in terms of giving
25 a greater impression that the crisis was being taken

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1 **Q.** Now, you would have known when attending those first
2 COBR meetings that they were to discuss a new and
3 emerging respiratory virus, and we know that the virus
4 had not been declared a pandemic by mid-January but it
5 had spread to Thailand and Japan, UK scientists had
6 reported on the 12% hospitalisation rate and there was
7 already evidence of limited human-to-human transmission.
8 Do you recall questioning whether, given the potential
9 seriousness of what was being discussed at those early
10 COBR meetings, the First Minister of Wales ought to be
11 attending COBR?

12 **A.** So I'm attending the meetings as the health minister,
13 and I have a discussion with the First Minister after
14 each one. If the Prime Minister was going to attend
15 then the First Minister would attend, and of course
16 that's what did happen, and that, again, is part of the
17 reason why if the Prime Minister attends then you raise
18 the level of seriousness and visibility amongst all
19 governments in the UK, not just the UK Government.

20 I think that what we were dealing with, because it
21 was a possible risk, and the risk level had gone from
22 low to moderate, at the same time you're dealing with
23 definite risks and definite challenges -- so in early
24 February you had Storm Ciara and Storm Dennis,
25 for example, with significant harm and damage that was

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1 seriously.

2 Do you have a view or are you agnostic on that?

3 **A.** Well, I think it would -- the truth is whoever is either
4 the First Minister or the Prime Minister, they carry
5 weight that other ministers in those governments just
6 don't carry, so if this is something where you want to
7 be clear, this is something of UK significance that
8 isn't just something in the background, but it's
9 something that everyone really has to get their shoulder
10 to the wheel to not just put effort in but to put
11 practical resources into, I think the Prime Minister
12 coming to at least some of those earlier meetings does
13 help to give that impetus within the wider system.

14 You know, when it came to it, he wasn't there. The
15 UK Health Secretary was there, health ministers were
16 there, and it was seen as a ... a health-led issue, and
17 yet of course we know that when Covid really did arrive
18 it was a whole-society issue.

19 So, look, I think if it was something that the
20 UK Government thought this has not just a real potential
21 but a serious likelihood of arriving and having the
22 impact we now understood it did do, the Prime Minister's
23 attendance earlier on would have helped us to get to
24 a point where those decisions were made earlier, and I'd
25 put -- I wouldn't put it any stronger than that.

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1 there, and physical, and had to be dealt with at that
2 point in time, the First Minister was engaged in
3 responding to both of those.

4 And at that time COBR is still something that might
5 happen but might not, and of course we had the
6 experience of SARS and MERS where they hadn't arrived
7 and they hadn't had an impact, so it was still during
8 the COBR discussions -- it was -- still part of the
9 discussion was this might happen it might not, and
10 actually the risk of that happening in terms of
11 probability, as you know, increased over time, but
12 of course there was real concern that if you have a new
13 respiratory condition, what would you need to do if it's
14 coming, what do you need to do now. And that's why the
15 work was stood up around some of the pandemic planning.

16 **Q.** You say in your witness statement that it was
17 a significant source of frustration that when the
18 devolved administrations were invited to or attended
19 COBR, they were not truly consulted about the decisions
20 to be made and, as far as you were concerned, would it
21 be right in saying you did not consider COBR to be
22 a forum for four nation decision-making?

23 **A.** No, I don't think that's correct. I think it certainly
24 was a real frustration that you'd get papers literally,
25 like, 15 minutes before going into the room. And,

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1 you know, if you're making a relatively small decision
 2 having 15 minutes to look at papers is often not ideal.
 3 You know, you wouldn't expect a represent a client with
 4 15 minutes' preparation. As you were going into much
 5 more significant choices to be made, and as in
 6 particular once you get through the second half of
 7 February, when COBR meetings are much more important,
 8 because by then not just the risk and the understanding
 9 of the new condition itself, but the likelihood of it
 10 arriving is increasing all the time, by then when
 11 they're still having 15 minutes of preparation time for
 12 papers, that's a much more significant problem.

13 The discussion in the room in the first few COBR
 14 meetings was one where it was serious and constructive
 15 in the room. I wouldn't think that anyone -- I don't
 16 recall anyone going in and being disruptive or
 17 unprofessional in the room, but actually my frustration
 18 was we could do this so much better if there was more
 19 notice of what was going to be discussed, of the
 20 information that was going to be provided. And that
 21 frustration got more significant as we got closer to
 22 having to make big choices.

23 If you want to be generous, Mr Poole, then this was
 24 new for the UK Government too. They hadn't had to deal
 25 with a situation quite like this. I think that generous

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1 "When Matt Hancock chaired meetings of COBR there
 2 was administrative efficiency, meaning that the meetings
 3 were run to an agenda with a decision made. It was
 4 a matter of regret that the same could not be said for
 5 the meetings chaired by the then Prime Minister Boris
 6 Johnson. These meetings would be plagued by the Chair
 7 being scatty, incoherent and rambling."

8 Putting aside the pejorative terms, do you consider
 9 the identity of the person chairing COBR has any impact
 10 on the decisions actually made by COBR?

11 **A.** Yes. So, the meetings for meetings' sake are much
 12 better run when either Matt Hancock or Dominic Raab are
 13 chairing them, and that -- I think that's undeniable.
 14 But having the Prime Minister chair the meeting, and
 15 knowing that this is a choice that can and will bind the
 16 UK Government, really does matter. So it doesn't matter
 17 who else, you know, the chair is, whether it's
 18 Matt Hancock, Dominic Raab or indeed Michael Gove, as he
 19 later came to chair some of the meetings, they can't
 20 bind the UK Government in the way that when the
 21 Prime Minister is there, with other secretaries of state
 22 around the table, that's then a choice the UK Government
 23 is making, as opposed to saying, well, then it needs to
 24 go back to someone else. Because as we saw, it did
 25 matter that the conversations you have in COBR when the

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1 generosity is less real by the time we get later into
 2 the process and it's a choice that is being made as
 3 opposed to the UK Government is still running around
 4 itself and not certain what's to be discussed until
 5 15 to 20 minutes. And as we come later on, it was clear
 6 that they'd made choices about what they wanted to do.

7 In the first few meetings I don't think it was quite
 8 as clear as that because there was a discussion about
 9 what to do and what it might mean, and live advice,
 10 I think, was being given by the UK Government's Chief
 11 Medical Officer, as well as the UK Government's
 12 scientific adviser, and so you were going and having
 13 discussions about what to do with the information you're
 14 getting at that point in time as well. I think that's
 15 a fair summary of how COBR changed and I would say that
 16 actually COBR should have been a way for the
 17 four nations to make choices together, and in the first
 18 few months it was essentially that, particularly when
 19 the Prime Minister and the first ministers are all in
 20 the room together. So I think it was the forum where
 21 those choices should have been made. It's just that
 22 later on, as we go deeper into the pandemic, it becomes
 23 less and less that.

24 **Q.** You say -- again, it's paragraph 72 of your witness
 25 statement, you say:

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1 Prime Minister isn't there don't necessarily end up
 2 being the same choices that are made for the
 3 UK Government.

4 So yes, the identity of the chair really does
 5 matter.

6 **Q.** I'd like to ask you some questions next about the early
 7 months of January and February 2020. You explain again
 8 in your witness statement, it's paragraph 140, you say:

9 "... the period immediately after Christmas and
 10 January is extremely busy as winter pressures increase
 11 the demand on NHS services across [Wales]."

12 Obviously in January 2020 you were also involved in
 13 scrutiny of the draft budget and, as you referred to in
 14 answer to a question a moment ago, you also had the
 15 terrible flooding in Wales throughout February that
 16 I think ran into early March to contend with as well.

17 Would it be right to say that Covid did not become
 18 a priority of the Welsh Government until March 2020?

19 **A.** No. Going through January at the start -- you're right,
 20 you have budget scrutiny, and January and February are
 21 the two busiest months of the year to be the health
 22 minister. And actually in my engagement at the time,
 23 I think through January and February I don't think there
 24 was a -- in the first six weeks, I don't think there was
 25 a single day I didn't have business in the chamber in

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1 the Senedd, and most weeks I also had business in
2 committee as well. So I had stage 2 that I refer to for
3 the health and care engagement bill. And that's the
4 committee stage of a bill. You're taking through
5 hundreds of amendments in committee and then later in
6 March are also having to do that in the chamber as well.
7 So those aren't things you can do on the fly, you've got
8 to put lots of time, energy and effort into them. Where
9 I think things really changed from "This is something
10 we're worried about that might happen" to being more
11 worried about it, to then "Actually, we're going to need
12 to do more on it", was actually the second half of
13 February, and it was really driven by what was happening
14 not just in the Far East but actually about the fact
15 that you were starting to see transmission in Europe,
16 and the position in northern Italy in particular had
17 a material impact on -- on understanding and on action
18 around this isn't just a maybe, it is likely to happen
19 that we will have Covid in the UK, and therefore in
20 Wales, I don't think we'd have been able to insulate
21 ourselves. And that then means that it isn't just
22 "Well, let's not worry too much about it might not
23 happen", it's very much "We need to be doing more". And
24 I think that's also the answer Public Health Wales have
25 given, and certainly for me the middle of February was

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1 plan, it would have been then, when actually this is
2 something that might happen here, and certainly with the
3 first test and the notification around it.
4 **Q.** Now, you had been obviously a cabinet minister for
5 health since 2016, and as part of the role, when we
6 looked at the list in your witness statement, part of
7 that role is preparedness for the NHS and health sector,
8 NHS initial capacity, and the ability to increase
9 capacity and resilience. Do you think you should have
10 at least familiarised yourself with the Pan-Wales
11 Response Plan before January 2020?
12 **A.** So I was familiar with the overarching points around
13 pandemic preparedness, I'd gone through
14 Operation Cygnus, and that in itself was instructive
15 around difficult trade-offs you might have to make in
16 a pandemic and the fact that you'd have to move around
17 lots of different pieces within health but otherwise as
18 well. So I'd read every single briefing that was
19 provided to me on pandemic preparation. I'd looked at
20 it and had the assurance that pandemic preparation work
21 was being undertaken. Of course the pandemic flu bill
22 preparation became the Coronavirus Bill, then Act as
23 well, and I think it's the understanding of who and what
24 the documents are written for, so a pandemic plan was
25 essentially an operational plan that is largely for

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1 a real point at which it wasn't just that this could be
2 bad if it happens, it was "I think this is going to
3 come", and it's how much we can do and how quickly. And
4 even then the pace of what happened was quite
5 extraordinary --

6 **Q.** Let's just work through events, then, leading up to that
7 point in the second half of February.

8 In terms of your initial awareness of the virus, on
9 16 January your office was sent an informal briefing by
10 the health protection policy and legislation branch that
11 informed you that there had been a suspected case of
12 novel coronavirus with links to Wuhan in a North Wales
13 resident, and then the following day you were informed
14 that the resident had, in fact, tested negative.

15 Now, you told the Inquiry in Module 1 that the first
16 time you read the Pan-Wales Response Plan was in
17 January 2020, after you'd received first indications
18 about Covid-19 in China. Putting those two pieces of
19 information together then, would it be correct to infer
20 that once you had been notified on 16 January about this
21 suspected case of novel coronavirus, that is the first
22 time that you picked up the Pan-Wales Response Plan and
23 had a read of it?

24 **A.** Yeah, so I'd had briefings from officials around
25 pandemic planning but to go through the detail of the

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1 officials, and then actually, as we're getting close, as
2 I need to know more about what this could look like,
3 because those things will then end up coming on your
4 desk as a minister with choices about operation as well
5 as policy and strategic choices you're going to need to
6 make as well.

7 You have that as a risk that might happen, and you
8 also have the things that definitely happen every single
9 year that take up the reality of what you have to do as
10 the health minister and, as I say, January and February
11 is one of those times where it is difficult and trying
12 to deliver that transformation for the overall
13 healthcare system to get to the point where it's
14 generally sustainable is important for everything, it's
15 important for the pandemic, it's important for the
16 day-to-day care that's provided as well, and
17 interestingly I was doing some of that in January,
18 delivering a statement to the Senedd on just that.

19 **Q.** Now, the Inquiry heard evidence from the former
20 Secretary of State for Health and Social Care,
21 Mr Hancock, that there was a serious and significant
22 inadequacy of preparation within Department of Health
23 and Social Care for a pandemic health emergency. His
24 evidence to Module 2, he accepted that the plans
25 the UK Government had in place were, in his words, not

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1 adequate.

2 Now, in Module 1 although you were reluctant to use

3 the word "inadequate", you accepted in the course of

4 your evidence under oath that the planning for

5 a pandemic health emergency in Wales were, in your

6 words, not complete, and Wales would have had

7 vulnerabilities if it had faced an influenza pandemic.

8 That's right, isn't it?

9 **A.** That's the evidence I gave, that's correct.

10 **Q.** Now, you accepted in the course of your Module 1

11 evidence that you were aware in January 2020 that Welsh

12 and UK-wide planning assumptions were to plan for

13 successive flu waves, each to last 15 weeks in duration.

14 If we could have a look at INQ000214235.

15 This is an Audit Wales report entitled "Procuring

16 and Supplying PPE for the COVID-19 Pandemic". It's

17 dated April 2021.

18 If we could please skip through to page 21 and have

19 a look at paragraph 1.26, we have a look at that table

20 in the middle of the page, that shows the quantity of

21 items in the stockpile developed for a flu pandemic in

22 March 2020 and how long it lasted. Now, in Module 1 you

23 accepted in the course of your evidence that the PPE

24 stockpile in Wales was woefully inadequate to deal with

25 a flu pandemic lasting approximately 15 weeks, but you

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1 was we had a different virus and actually the

2 preparation that we thought we had didn't stand up as

3 well as we thought it would do in those early weeks.

4 So, you know, the hindsight is of course we weren't

5 as prepared as we could have been, but also we weren't

6 as prepared as we thought we were as well. And I think

7 that's not just in Wales, that's across the UK. What

8 I don't want to do is to get into the reasonable and

9 correct judgements of hindsight with what we thought at

10 the time. So at the time we thought we were better

11 prepared than we were.

12 **Q.** Now, in early January 2020 the UK is facing an unknown

13 but extremely serious pathogenic outbreak. Nobody knows

14 at this stage how long it is going to last, how far it

15 is going to spread. As well as reading the Pan-Wales

16 Response Plan, did you in mid to late January make

17 enquiries with your staff, with health officials,

18 advisers, and ask questions such as: how, as a country,

19 how is Wales going to stop the virus from spreading?

20 Are we going to shut schools? Do we quarantine people?

21 If so for how long? Those sort of questions, were those

22 being asked by you in mid to late January 2020?

23 **A.** So in mid to late January we are having conversations

24 with the Chief Medical Officer, myself and others, and

25 what it might mean. And of course at the start of

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1 also accepted that the plan that was in place was not

2 just a plan for the wrong pandemic but it was

3 an inadequate plan in any event, even for the pandemic

4 it was being created for. Again, that's right, isn't

5 it?

6 **A.** Yes, I think I've said that I accept that actually

7 because the planning hadn't been completed, if we had

8 had an influenza pandemic we would have found it

9 difficult. Having a different pandemic meant that, as

10 I said before, we went through the PPE that we had at

11 a much faster rate and we found that with some of the

12 items, I think it was goggles in particular, that some

13 of them weren't fit for purpose. So having all those

14 preparations and the assurance that you're ready, and

15 then when you confront the reality of it, there's a gap

16 that needed to be bridged.

17 **Q.** Did this lack of preparation or, you might say, lack of

18 completeness give you cause for concern when you first

19 learned about a novel coronavirus on 16 January and how

20 Wales might be placed to respond to such a virus?

21 **A.** Well, of course, the knowledge -- the state of knowledge

22 at the time in the middle of January was that the UK and

23 Wales were relatively well prepared for an influenza

24 pandemic, and that we had stockpiles in place for PPE

25 and other matters, and so actually what then happened

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1 January the risk is still low, and so -- you're asking

2 us about what might happen, this might happen. And if

3 it does, will it be like the previous pandemic --

4 I think it was 2009 -- where there was an impact here

5 but actually, in healthcare terms, relatively modest?

6 And actually this could be that or it could be something

7 worse.

8 It's as we go deeper into January and then February

9 that I am more concerned, and growing concern, over what

10 could this mean. And we do have those discussions,

11 around where are we with PPE. And I remember we did

12 have discussions exactly around that, about "We've got

13 a pandemic stockpile, it should last us six months".

14 Well, it didn't. We had discussions around would

15 schools be affected because a pandemic influenza plan

16 does contemplate that you could close schools, in

17 particular because your understanding of influenza in

18 particular is that younger children are susceptible in

19 a way that they weren't susceptible in the same way with

20 Covid.

21 So those are discussions that are there, they're

22 part of your planning assumptions, part of the real

23 conversations we are having within the government. But

24 they're things that might happen, and at that point,

25 when the risk is low, things that are less likely to

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1 happen than likely by some degree. And yet actually
 2 we've got all these very real challenges you are dealing
 3 with every single day. And so that's the challenge
 4 about dealing with risk, so it's the risk of what is
 5 happening right there in front of you and something that
 6 might happen and might not. What we now know is, of
 7 course, that Covid did happen. And, you know, again
 8 it's one of the points about getting to the end of the
 9 Inquiry, about what do you do to forecast for and to
 10 plan for things that might never happen, and how do you
 11 balance that against things that you know are certain to
 12 happen as well. And I think actually some of the things
 13 that are certain to happen help you to deal with things
 14 that might happen as well, the resilience system, public
 15 health, and others.

16 So the questions you ask round were these
 17 conversations happening, yes. Were they the top
 18 priority? No. Are they things that grow each week?
 19 Yes. And they become more and more important, and we
 20 then find out how well those preparations actually rub
 21 up against reality.

22 **LADY HALLETT:** When your concern grew, you, like Mr Hancock,
 23 received assurances that we were one of the best
 24 prepared countries. Did you test those assurances? Did
 25 you say "Well, wait a minute, are we really as well

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1 **A.** No, that's not true, I was -- I took part in
 2 Operation Cygnus. There was a report that was delivered
 3 after it that was never shared with me. Public Health
 4 England did a report. I think it was asked whether I'd
 5 read that, when it had not, in fact, been shared with
 6 me.

7 **LADY HALLETT:** What about things that came out of
 8 Operation Cygnus? Was test and trace one of the things
 9 that -- there are so many exercises, I'm losing track of
 10 which recommendation came out -- was test and trace one
 11 of the things that came out of Cygnus?

12 **A.** No, I don't think it was. In fact what we learnt about
 13 test and trace was, we had a highly efficient contact
 14 tracing system and service for small to modest
 15 outbreaks. So I think I've given the example of the TB
 16 outbreak in Llwynhendy that took place, and actually our
 17 contact tracing system there was really good and really
 18 efficient but actually the scale of what was required --
 19 and that wasn't really contemplated as a learning point
 20 that was ever brought to me after Cygnus, and I'm not
 21 sure that even in the follow-up that there was anyone
 22 that said you've got to do this and have a significant
 23 process and capability in place. And of course we found
 24 out that our contact tracing system as we had it was
 25 overwhelmed before we got to lockdown. So we had real

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1 prepared as you've told me we are?"

2 **A.** Yes, so in terms of the testing of those, so I asked
 3 about and we had conversations around PPE specifically.
 4 And that's why I come back to the six-month stockpile,
 5 and that's a decent assurance, six months of PPE to be
 6 used and it's deliberately been created to deal with
 7 an influenza pandemic, and then the challenge over the
 8 plans that are in place for the society-wide challenges
 9 you might need to introduce if you had an influenza
 10 pandemic. And because I'd been through Operation Cygnus
 11 and I could understand what some of those might look
 12 like, it's as you get each week deeper into, well, it's
 13 gone from low to moderate, what does that mean, and
 14 then -- I've said the turning point really is the middle
 15 of February, because by then it's clear that the risk of
 16 this arriving is greater and the impact that it can
 17 have, the understanding, even that month, is greater
 18 because, you know, each month there's a fairly
 19 significant leap forward in what you understand as you
 20 go through the pandemic -- we still learn things now
 21 about Covid.

22 **LADY HALLETT:** You say you have been through
 23 Operation Cygnus. I think you told me at the last
 24 module that -- you gave evidence that you hadn't
 25 actually read it. Is that right?

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1 challenges around what we needed to do in practice with
 2 what we were prepared for.

3 **LADY HALLETT:** Thank you.

4 **MR POOLE:** The Inquiry heard evidence from Mr Hancock in
 5 Module 2 that on 23 January he was told by the UK Chief
 6 Medical Officer that there was a 50/50 chance that the
 7 Wuhan quarantine would not work, which he understood to
 8 mean there was a 50/50 chance that there would be no
 9 practical means by which the further escape of the virus
 10 could be prevented, so in other words a 50/50 chance of
 11 a global outbreak.

12 Was that information shared with you at that time?

13 **A.** No. I was surprised to read it in Mr Hancock's
 14 statement.

15 **Q.** The day after Mr Hancock says he was told that by
 16 Chris Whitty, 24 January, Dr Atherton advised the
 17 First Minister that there was a significant risk the
 18 virus would arrive in Wales. Was that information
 19 shared with you at that stage?

20 **A.** Yes. So I had a conversation with the Chief Medical
 21 Officer and I actually issued, I think, a statement on
 22 that day around what was still being called Wuhan novel
 23 coronavirus, and the challenge of what is a significant
 24 risk and what is probable, the two things are different.
 25 It was never put to me in terms of: this is likely to

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1 arrive, we don't know what it would look like. But as
2 we got deeper into the weeks, it was: it's entirely
3 possible we will have. And it went from being possible
4 to probable, and then understanding the significance of
5 what that would look like as well.

6 **Q.** I mean, aren't effectively Sir Chris Whitty and
7 Dr Atherton -- they're saying the same thing, aren't
8 they? They're saying the chances are there will be
9 a global outbreak. Arguably, Dr Atherton is putting it
10 higher, he is saying there is a significant risk that
11 the virus would arrive in Wales; was your thinking at
12 the time, "Well, irrespective of that risk, it doesn't
13 really matter because there are practical
14 countermeasures which can be put in place to stop the
15 virus spreading if it gets here"?

16 **A.** No and yes. So no in that I don't think I can honestly
17 tell you that the risk was put to me that it's 50/50.
18 And, you know, I have been a lawyer in terms of
19 probability and advice you give and what is reasonably
20 likely to happen and the reasonable prospects of
21 something happening, and then -- you know, a risk of
22 significance isn't always better than half, and that's
23 the challenge of what does that actually mean. So it
24 certainly wasn't made clear to me that there was an even
25 chance that Covid would arrive or a better than even

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1 told from the UK Government through SAGE and COBR what
2 was happening?

3 **A.** No, it's both working with partners across the UK, as
4 you should do -- as you'd expect -- I think citizens
5 across the UK would expect the four governments to be
6 working and sharing information on risks like -- as the
7 NHS and public health agencies do on a regular basis.
8 But it's also about the fact that officials within the
9 government are having the conversation with Public
10 Health Wales. And I know you've had evidence from
11 Public Health Wales around what they were doing and the
12 conversations that were regularly taking place with the
13 Chief Medical Officer and officials in the government.
14 So it is both working with UK partners as well as
15 looking at the information we're getting from Public
16 Health Wales as our own public health institute.

17 **Q.** The first time that Covid-19 was discussed by the Welsh
18 Cabinet was at a Cabinet meeting on 25 February, so
19 that's a month after you'd attended your first COBR
20 meeting, it's a month after Dr Atherton had advised the
21 First Minister of the significant risk that the virus
22 would come to Wales.

23 Given, as we've discussed, all key decisions taken
24 in response to the pandemic are taken through Cabinet,
25 should the Inquiry infer from that lack of Cabinet

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1 chance.

2 But knowing that something might still happen is
3 something you prepare for. That's why the risk going
4 from low to moderate matters as well, but it is also the
5 case -- and this is why I do agree with you, Mr Poole --
6 that actually we thought we had countermeasures that
7 would be largely effective at that time. And, you know,
8 we'd had the experience -- I mean, this is one of the
9 things about having -- having had near misses in the
10 past with SARS and MERS, that actually we hadn't gone
11 through an experience of having to take the
12 whole-society challenge that countries that had been
13 affected had as well. But yeah, we had the assurance
14 that there were countermeasures that should have been in
15 place to help us manage and cope with that.

16 **Q.** You attended your first COBR meeting on 24 January. The
17 day after that, you issued a written statement on -- in
18 fact the same day, so later that day, after attending
19 COBR you issued a written statement, and the first line
20 of that statement stated that the Welsh Government is
21 "closely monitoring the emergence of a novel
22 coronavirus".

23 Now, I just want to understand, what steps were the
24 Welsh Government taking at this point to closely monitor
25 the situation, or was this essentially waiting to be

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1 discussion until 25 February, that Covid was not
2 considered important enough to discuss at Cabinet until
3 25 February?

4 **A.** No. If you look at what was happening, I was issuing
5 a weekly written statement to the Senedd and the public
6 from 24 January. We were reporting on cases across
7 the UK. So when the first UK case was delivered, that
8 was not just reported in England, it was widely
9 circulated and reported. And in terms of the business,
10 cabinet discusses Senedd business about forthcoming
11 items, and there's always a discussion about what's
12 likely to come up and what might come up, not just what
13 we have in the agenda, and I think I answered a question
14 on coronavirus on 29 January, and that would have been
15 discussed in Cabinet about the fact that this might come
16 up, because I think we'd had the first UK case by then.

17 So actually Cabinet was aware that Covid was
18 something that was happening. And actually, before you
19 get to 20 February, Cabinet is definitely aware because
20 of the fairly widespread reporting and the fact that it
21 comes up in Senedd business, so things we're talking
22 about, and people obviously know that I am going to COBR
23 meetings. That isn't a secret, other ministers know
24 that. We have the first full discussion around Covid on
25 25 February, formally, because it's very clear by that

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1 point that there are going to be consequences that are
 2 pretty significant. We still don't know even then
 3 exactly how significant they'll be, but it's not going
 4 to be something that is -- that I think is -- it's
 5 contained and it's something that people won't notice.
 6 I think that's very clear.

7 **Q.** Now, you say Cabinet was aware of Covid prior to
 8 25 February. I'm right, though, aren't I, that if one
 9 was to look at Cabinet minutes prior to 25 February, one
 10 would not see any mention of Covid in those minutes,
 11 would they?

12 **A.** No, I don't think they would. There would have been
 13 discussion about the fact that this is something we're
 14 monitoring, that we're dealing with, and that I'm
 15 leading on. 25 February, the first time there was
 16 a full discussion in Cabinet with every Cabinet Minister
 17 engaged and involved.

18 **Q.** Now, we heard evidence -- yes, I think it was at the
 19 beginning of last week, from Dr Quentin Sandifer, who
 20 was the lead strategic director in Public Health Wales
 21 for Covid-19, he told the Inquiry that on 22 January he
 22 invoked the Public Health Wales Emergency Response Plan
 23 at enhanced level, and that two days later, so
 24 24 January, coincidentally the same day as the CMO
 25 advises the First Minister about the significant risk,

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1 **A.** So there's a number of points in the questions there,
 2 Mr Poole. So I don't think it is surprising that civil
 3 contingency arrangements aren't stood up in early -- you
 4 know, in the -- 24th, 22 January, at that point where
 5 there isn't a case in the UK, there isn't a case in
 6 Wales at that point, and in dealing with something that
 7 might happen and the risks are there but the risks
 8 are -- I don't know if they're low or moderate at that
 9 time. As we move on and as it becomes more apparent
 10 about the level of risk, then actually of course the
 11 level of engagement from the government increases
 12 steadily, as you would expect.

13 I don't think it's unreasonable for Public Health
 14 Wales to say that they're acting in a manner which looks
 15 at the prospect of what might happen and they stand up
 16 their arrangements in that way. If the government does
 17 that you've got to move resources around to deal with it
 18 at that point in time, for something that still might
 19 not happen, and at that point the risk was still low.

20 As you go forward, in through the rest of that time,
 21 by the time you get to March -- I can't remember the
 22 exact date, but I did declare that Covid was
 23 a notifiable disease. Because you'll remember we had
 24 the challenges on legislation about whether to have
 25 enforced quarantine for people returning to the UK. So

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1 Public Health Wales called on the Welsh Government to
 2 stand up the Emergency Coordination Centre, and his
 3 evidence is that he was told by David Goulding that he
 4 didn't see this event as requiring a civil contingency
 5 multi-agency emergency response.

6 Now, there was then on 11 March -- which is the date
 7 the WHO declared Covid-19 a pandemic -- Public Health
 8 Wales prepared a paper called "Covid-19 as a major
 9 health incident point to consider". I don't think we do
 10 need that displayed but, just in summary, that set out
 11 the current situation in Wales and provided
 12 an evidential summary of considerations to guide the
 13 Welsh Government in any decision whether to declare this
 14 a major incident for health.

15 Again, Dr Sandifer told the Inquiry that he felt
 16 that Public Health Wales had to lay their cards on the
 17 table and say to the Welsh Government: this is how we
 18 see it, are you going to use emergency legislation?

19 And the Welsh Government's response to that paper
 20 was that a declaration of a major health incident would
 21 not be helpful, which Dr Sandifer told the Inquiry he
 22 was astonished by, and he was astonished that by early
 23 March the Welsh Government were not treating the
 24 pandemic as a civil emergency situation.

25 Why was this?

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1 the government in England took powers but almost all the
 2 returnees were going to Arrowe Park in any event. So
 3 the risk of absconders was something that the
 4 UK Government were worried about. That's why they'd
 5 taken those powers. We'd considered it but actually we
 6 didn't have people who we'd need to use those powers
 7 with at that point in time. So each -- at each point
 8 though it's ratcheting up, and so I make the declaration
 9 that Covid is a notifiable disease, a notifiable
 10 condition. And then as we're getting through March and
 11 as we're having more cases I think the reality is we're
 12 ratcheting up to more and more challenges we need to
 13 do -- to deliver against. So I -- I'm not sure that the
 14 formal declaration really would have changed much.
 15 Because actually, you look at what then happened on
 16 13 March, we made an extraordinary intervention. And it
 17 looks less extraordinary now because of everything that
 18 happened, but on 13 March confirming that large parts of
 19 the normal health service will be switched off is
 20 a really significant intervention. And, you know, we --
 21 I can see that this is getting bigger, and my view then
 22 compared to two weeks ago compared to a month ago is
 23 different on the scale of the response we're going to
 24 need to have, because events are moving very, very
 25 rapidly.

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1 **Q.** Now, obviously I can understand events moving very
2 rapidly, and by the time we get to mid-March the
3 position had changed dramatically to what it was in
4 mid-February, but do you accept what I think is
5 Dr Sandifer's criticism, which is that the Welsh
6 Government was slow in the period January to February to
7 recognise the multi-agency emergency that Covid
8 presented?

9 **A.** I think the full recognition of the multi-agency nature
10 of the response that would be required and the fact that
11 we'd arrive, as I've said comes in around the middle of
12 February. But not understanding, still, the scale of
13 that. That still comes later. And, look, some of this
14 is your perspective, in the sense of Dr Sandifer with
15 his background and view that this could really happen
16 and his view that it's likely to happen that hardens
17 over time and those are the conversations he's directly
18 having with the Chief Medical Officer. And I think
19 actually, when it comes to the middle of February
20 onwards, I don't think there's any doubt that the Welsh
21 Government is both taking this seriously and having to
22 move resources around rapidly while still dealing with
23 what is happening right in front of us in everyday
24 business.

25 **Q.** Just briefly before we take our break in a couple of

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1 conditions that make them more vulnerable, we have more
2 of those as a share of our population than England does
3 as a whole, so our population, in the proportional
4 sense, is more vulnerable.

5 So it was certainly one of my concerns. And if I'm
6 taken to my witness statement, in paragraph 158 I go
7 through the fact that there was a meeting and then what
8 I asked the Chief Medical Officer for, for afterwards,
9 in terms of going through some of those arrangements.
10 And then also part of that is an offer to want to brief
11 members of the Senedd, because even at that point
12 I think, well, this is something that we should directly
13 brief Senedd members on, not just issue the statement.
14 So I asked for that to happen.

15 The reason I asked about social care arrangements is
16 because of this issue about risk groups and people's
17 underlying conditions. And also the fact that there
18 would be this tabletop exercise for ministers across the
19 UK, I think it's rather pompously called
20 Operation Nimbus. That takes place on 12 February,
21 which is a day when I have questions in the Senedd. So
22 I have to do my ministerial questions, I have to respond
23 to a Conservative debate on A&E, and I do the tabletop
24 exercise on the 12th as well. So the gathering of
25 what's happening is taking place there. And it's still

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1 minutes, if I can ask you to have a look at
2 INQ000056215, please, which is a COBR meeting of
3 5 February.

4 We can have a look at page 5, the first paragraph,
5 please. The CMO provides an update:

6 "... coronavirus ... numbers in South East Asia were
7 rising quickly and that this trend was likely to
8 continue."

9 We can have a look, please, at the next paragraph,
10 second bullet point:

11 "... two most high risk groups appeared to be the
12 elderly and those with pre-existing illnesses."

13 Given the demographic characteristics of the Welsh
14 population, specifically I'm thinking the age profile
15 and the population over 65 and also over 75, as well as
16 health and economic status and dependency
17 responsibilities, did it strike you that in the event
18 that the virus came to the UK and came to Wales, Wales
19 would likely experience disproportionate levels of
20 impact from Covid-19?

21 **A.** Yes. That was a clear concern, because from the first
22 briefings and understanding that older people are more
23 likely to be affected and people with underlying
24 conditions, I think sometimes you see that in the papers
25 as comorbidities, so people have other healthcare

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1 possible, and it's when -- like I said, it changes from
2 what's possible and becoming more likely to "Actually,
3 I think this is going to happen", but still not clear
4 about the extent.

5 So from that meeting that's the action that I put in
6 train and that is in fact what happens.

7 **MR POOLE:** We'll have a look at Operation Nimbus after our
8 break, Mr Gething.

9 **LADY HALLETT:** 11.30, please.

10 (11.16 am)

(A short break)

12 (11.30 am)

13 **LADY HALLETT:** Mr Poole.

14 **MR POOLE:** Mr Gething, you mentioned Operation Nimbus. Just
15 a couple of questions, if I may, about that then. This
16 took place on 12 February. You took part, as did
17 Dr Atherton, on behalf of the Welsh Government. Now,
18 the evidence the Inquiry's heard to date is that the
19 effect of Nimbus really focused on the impact on the
20 NHS, and obviously whilst there was an obvious need to
21 discuss the likely impact on the NHS, the Inquiry
22 understands there was no discussion or debate about
23 infection control countermeasures, so, for example, home
24 isolation, household isolation, shutting schools,
25 lockdowns, all the measures we know that were of course

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1 imposed.

2 Can you help us why that wasn't debated in
3 Operation Nimbus?

4 **A.** So the exercise was constructed by the UK Government.
5 It was essentially a condensed version of Cygnus. We
6 had a scenario to work through and what would you do if
7 this is where you are. So it was almost all focused on
8 health.

9 The other part that I think it's worth pointing out
10 that was part of it was what to do if you have
11 significant excess deaths and you overwhelm your
12 mortuary capacity as well. Not just in public health
13 terms but to think about that. But it didn't think
14 about the economic consequences or others. So the
15 exercise wasn't designed in that way.

16 We participated but ministers in the Welsh
17 Government didn't design, it was really to look at: if
18 you're going to the worst end of the reasonable
19 worst-case scenario, what do you do? And there are
20 really difficult choices that would have had to have
21 been made.

22 I still think with -- the value of tabletop
23 exercises is that -- and getting ministers to engage in
24 them, is to think about "what would you do if". This
25 wasn't so much "what would you do if", it was "there is

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1 relaying to you that SAGE has advised China has failed
2 to contain the virus, what plans did the Welsh
3 Government have for infection control in place at that
4 point in time? What were the nuts and bolts of that
5 plan?

6 **A.** When you mean infection control, you're talking about in
7 closed settings or on a wider basis? What part of
8 infection control are you referring to?

9 **Q.** So at this point in time you had been told China's
10 failed to contain the virus, so the virus is going to
11 spread outside China, you have been told there's
12 a significant risk that it's going to come to Wales.
13 That risk is really eventuating itself here with this
14 advice from SAGE. So infection controls in all of their
15 forms, what did the Welsh Government think it was going
16 to do at this point in time if the virus came to Wales?

17 **A.** Well, again the challenge is you're still dealing with
18 real uncertainty, so SARS and MERS had a much wider
19 regional impact but didn't really get to Europe in
20 significant numbers, and it still wasn't entirely
21 certain, even on the 14th, it would definitely arrive,
22 but the prospect compared to -- from 14 February
23 compared to 16 January has definitely increased. So by
24 then, that's why -- take it back in the statement, going
25 back about -- following the 5 February COBR meeting and

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1 something coming, it could look like this".

2 I think the air of unreality about it is that you
3 don't take into account the whole situation because
4 you'd need more ministers around the table to think
5 about that. But the scenario that's presented is one
6 where you'd have done everything possible to avoid
7 getting to that point even as well. We never got to the
8 point that Operation Nimbus envisaged. So the choices
9 that ministers were being asked to envisage there,
10 I think it was a real as it could have been, to have
11 been helpful. So I don't think it's just the health
12 focus, I'd say that actually it would have been more
13 useful to have thought of something at an earlier stage,
14 because actually that's what we were really looking at
15 in practical terms.

16 **Q.** There was a SAGE meeting on 13 February that Dr Orford
17 attended on behalf of the Welsh Government. At that
18 meeting, SAGE advised that China had failed to contain
19 the virus, and that was relayed to you the following day
20 by Dr Orford, and there was a discussion, I think you
21 say in your witness statement, about school closures.

22 **A.** Yes.

23 **Q.** But there was a lack of information about infection
24 rates on children. At this point in time, so when
25 you're having that discussion with Dr Orford, who's

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1 the work that had been done there and actually wanting
2 to understand more about the work that is being done,
3 that is both about the enforced isolation of returners,
4 it is also then about thinking more clearly about what
5 do you need to do. If the information hardened, there's
6 more you need to do with community transmission, as we
7 came to know it -- and sorry, the point before this,
8 I should correct myself, is if there are more travellers
9 who are returning, what to do about them. That's why
10 the enforced isolation matters.

11 There is a point about contact tracing. But then
12 what happens if there's wider spread? And so actually
13 that's why we're going back to the panic -- pandemic flu
14 assumptions and the planning there about getting ready
15 for: if we've got to do this, then here are the things
16 that naturally flow from that as well. So the level of
17 engagement across the Welsh Government is significantly
18 different by 14 February compared to 16 January.

19 **Q.** Now, as we have already touched upon, there was a Welsh
20 Cabinet meeting on 25 February.

21 Before we look at those minutes, can we, please,
22 just have a look at the statement of Christopher Morgan.
23 He is the head of the Cabinet secretariat, and just for
24 the record, the witness statement, that's already being
25 displayed, it's INQ000319413, and we're looking at

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1 paragraph 11 of that statement.

2 So he is explaining here how minutes would be taken
3 and he says during the meeting he would take handwritten
4 notes, he would outline issues for discussion and then
5 produce a brief summary of what had been discussed.

6 Now, we can take that down, thank you very much.

7 Ms Runeckles gave evidence last week, she explained
8 that Cabinet minutes are published and this typically
9 happens six or seven weeks after the meeting. And as
10 Mr Morgan explains in another passage of his witness
11 statement, once the minutes have been ratified prior to
12 publication, any handwritten notes of those minutes are
13 then destroyed.

14 So with that background of how minutes comes to be
15 produced, if we can have a look at the unpublished
16 minutes of the 25 February meeting.

17 They are INQ000129852, please.

18 If we just look at the top of this page, we can see
19 here:

20 "Cabinet will wish to note that these minutes,
21 except those items in italics, will be published in week
22 commencing 6th April 2020."

23 Ms Runeckles explained to us last week that the
24 items in italics would be discussions about matters that
25 it would be thought not appropriate to put in the public

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1 that because it's item 5 it is the least important item.
2 Far from it.

3 **Q.** As we can see, paragraph 5.1, it was you that provided
4 an update to Cabinet on the coronavirus. If we have
5 a look, please, at 5.3, it is recorded here that you
6 informed Cabinet that:

7 "The worldwide response was still in the containment
8 stage and [that] there had been no imported cases into
9 the UK."

10 Now, we accept, you accept, don't you, that that
11 is -- if that was what was said to Cabinet, that's
12 wrong?

13 **A.** There is no prospect that I told Cabinet that there were
14 no imported cases into the UK. There had been multiple
15 imported cases into the UK, and in fact I'd referred to
16 them in my written statements.

17 **Q.** Now, you say -- sorry to interrupt you -- you referred
18 then to your witness statement.

19 If we have a look, please, at the relevant passage
20 of your witness statement, I think it's INQ000320744,
21 no, sorry, that's a wrong reference, it's INQ000391237.
22 Thank you. It's paragraph 164. You say there:

23 "... I updated Cabinet. The worldwide response was
24 still in the containment stage and there had been no
25 imported cases into the UK."

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1 domain. Is that right, broadly?

2 **A.** That's my understanding, yes.

3 **Q.** If we can just scroll through the pages, we can see that
4 there are about seven pages of minutes, and it looks
5 like there were five items on the agenda.

6 If we go to the penultimate page, there we have it,
7 page 6, under "Any other business" there is the first
8 mention of Covid-19.

9 Would it be fair to say that even then when Covid is
10 discussed, on 25 February, it was still not seen as
11 a priority, it being addressed as the last item on the
12 agenda?

13 **A.** No. No, and this is one of those occasions where "Any
14 other business" is actually one of the more meatier
15 items there. You definitely get items that come onto
16 the agenda -- it's wrong to think of "Any other
17 business" as the fag end of a meeting, where people are
18 looking at their watches, needing to leave, and it's all
19 done in 30 seconds. Actually, this was a much more
20 substantive discussion with an update of the very
21 pressing challenge about what we knew but also because
22 you couldn't give people assurance that we knew
23 everything, because we didn't. And, you know, we still
24 don't know now, actually, everything about Covid and its
25 impacts and -- but so, no, it would be wrong to conclude

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1 So when you signed your witness statement, do
2 I assume you didn't think there was a mistake then?

3 **A.** No, I plainly made an error there, counsel. In fact
4 there had been plenty of imported cases into the UK by
5 then, I can't remember if it was 12 or 15. They'd been
6 reported widely. We hadn't had any imported cases into
7 Wales at that point. In fact a few days later we had
8 our first identified case into Wales. But that's
9 plainly an error in the statement that's taken from the
10 minute.

11 **Q.** So should we be reading that second sentence of your
12 witness statement as "there had been no imported cases
13 into Wales", rather than the UK?

14 **A.** Yes. Because at that point we hadn't identified any.
15 We still hadn't identified a single case. I think it
16 was 27 February, announced on the 28th, when we
17 identified our first case in Wales. But by this point
18 we were ... I was more concerned -- it's why there was
19 a substantive discussion in Cabinet. It's why -- if you
20 go to the rest of the statements and others, about the
21 activity that was taking place right across the
22 government at that point, in getting ready for what was
23 much more likely to happen by this point than even
24 a few weeks ago.

25 **LADY HALLETT:** Are Cabinet minutes circulated to all those

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1 who attended afterwards?
 2 **A.** Typically they are and -- no, they are. They are
 3 circulated and then the First Minister goes before then
 4 before they're published as well.

5 **LADY HALLETT:** So on the one hand you say you told Cabinet
 6 there were cases and on the other hand the minutes
 7 record that there were no cases. So if you had told
 8 Cabinet there were cases, one would have thought a major
 9 reaction from Cabinet.

10 **A.** I'd made clear to the public that there were cases. It
 11 wasn't just that the BBC, ITV and others were reporting
 12 the identity of cases, in the written statements that
 13 I'd delivered, and these are all circulated to Cabinet
 14 members before they're published, I was going through
 15 the changing picture and, indeed, the fact that we'd had
 16 the first identified case of Covid in -- I think it
 17 might have been my second statement -- in the January,
 18 my second witness statement. And so this was a getting
 19 ready for the fact that by this point we could be clear
 20 that we would get cases in Wales. We then got our first
 21 case two days later.

22 **LADY HALLETT:** Sorry, my point wasn't that. My point was:
 23 so you had alerted members of Cabinet, you say, to the
 24 fact there were cases in the UK, multiple cases, but
 25 none of your colleagues or you seem to have said "But

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1 UK, around the preparations that we were taking, and the
 2 Cabinet discussion was getting ready for: what do we do
 3 as Covid arrives in Wales not just the UK?

4 **Q.** Even, therefore, more striking that when the minutes
 5 were circulated no one seems to have picked this up.
 6 Because there was a discussion about this line, and
 7 perhaps we can have a look at some correspondence.

8 If we have a look at INQ000420999, please.

9 If we go to page 3, this is an email to the
 10 First Minister's office on 9 April asking effectively
 11 whether there are any concerns publishing the minutes
 12 that we've just been looking at.

13 If we have a look at the bottom of page 2, please,
 14 the First Minister queries the accuracy of what was
 15 para 5.3 in what we've just looked at but had become
 16 para 4.3 at this point in time.

17 Then we see a response from Mr Morgan, who has taken
 18 the minutes in the first place, and that's the top email
 19 on page 2, and Mr Morgan responds -- he first of all
 20 confirms that the original set of minutes, so those that
 21 we've just been looking at, was agreed in early March.
 22 So just pausing there, that suggests to me that the
 23 minutes were circulated afterwards and no one has at
 24 that point in time taken any issue with it and those
 25 minutes we've just looked at were agreed. Would I be

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1 wait a minute, these minutes are completely the opposite
 2 of what I said".

3 **A.** No, but I think that will be why the minutes that are
 4 published don't reflect this line.

5 **MR POOLE:** Well, isn't the reason that they didn't reflect
 6 this line that these words were always in italics and so
 7 were always going to be omitted from the published
 8 minutes?

9 **A.** Yes.

10 **Q.** So that's not a reason why those words don't appear in
 11 the published minutes, they were never intended to
 12 appear in the published minutes, were they?

13 **A.** With words in italics, sometimes they're published
 14 later, after the event. It's depends what's sensitive
 15 at the time. And there is then a choice around -- the
 16 First Minister goes through the minutes that are then
 17 published, and they're then published. And this is
 18 plainly an error because at this point -- if you cast
 19 your mind back to what was happening at this point in
 20 February, there had been multiple reports of Covid cases
 21 in the UK, and it was, if you like, a standing item on
 22 the evening news, there would be something about
 23 coronavirus somewhere.

24 I'd delivered multiple written statements, including
 25 notifications around the first identified cases in the

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1 right in inferring that?

2 **A.** Yeah, the minutes are normally circulated and then
 3 agreed, and moved on. And of course by the time we get
 4 to early March there's lots more to be done.

5 **Q.** But no one has picked up on this error?

6 **A.** No, no, that's correct.

7 **Q.** And pausing there, just going back to the email, so
 8 Mr Morgan's suggestion is: well, either we could change
 9 the minutes to say "there had been no imported cases
 10 into the UK", we could change that to "no imported cases
 11 into Wales", or we could just remove the line
 12 completely.

13 Then if we go to page 1 we see the First Minister's
 14 response, he confirms that he prefers the first option,
 15 so in other words the line is just removed from the
 16 published minutes. And as we know, that's what
 17 happened.

18 If we go back to the minutes themselves,
 19 INQ000129852 -- sorry, and it's -- I think it's the last
 20 page, so page 6, and paragraph 5.3 is what we were
 21 looking at.

22 Also if one looks at the rest of this discussion, so
 23 perhaps zoom out and just have a look at all of that,
 24 5.4, 5.5 and 5.6, there's no consideration at this
 25 meeting, which is the first meeting of Cabinet to

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1 discuss Covid, of what steps should be taken to stop the
2 virus spreading. So there's no discussion here about
3 what infection control measures needed to be thought
4 about, put in place.

5 When was Cabinet going to discuss matters like that,
6 if not at this meeting of 25 February?

7 **A.** So we had considered -- we had a plan, an influenza plan
8 that was our working assumption for what we would be
9 doing, and part of the challenge that we'd gone
10 through -- and you recall the SAGE advice and the COBR
11 meetings, where we'd had direct advice around travel,
12 for example, and how connected the UK was and whether
13 actually if this arrived what we could or couldn't do
14 about it. And so therefore you have both the first
15 stage of: can you prevent Covid getting into the UK,
16 full stop? Then, if it arrives, what do you do? So
17 that's where you have your pandemic influenza plan and
18 the assumptions around what you do to try to prevent or
19 to delay the spread of Covid. And actually when you
20 then get to the fairly short-lived plan that's published
21 in early March, it goes through those different stages
22 of delay and contain and mitigate, and so actually in
23 Cabinet the discussion is around the fact that this is
24 a new condition, it's one that looks like it's easily
25 spread, and whilst we don't have cases in Wales, the

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1 **Q.** As we move into March, I think it's 2 March you attend
2 a COBR meeting, and that's the first COBR meeting that's
3 chaired by Mr Johnson.

4 If we can have a look at those minutes, they're
5 INQ000056217, thank you.

6 If we can go to page 5, at paragraph 2, we can see
7 there that:

8 "The CHAIR invited the Government ... (CMO) and the
9 ... (GCSA) to ... [Document read] ... now sustained
10 community transmission."

11 So this is now 2 March. We're nearly a week since
12 Covid was first discussed by the Welsh Cabinet, ten days
13 after lockdown's been imposed in northern Italy. There
14 have been cases within the UK since late January, first
15 confirmed case in Wales 28 February, and COBR is being
16 told now that contact tracing for the source of
17 infection for these last two cases has not been
18 successful and there's sustained community infection in
19 France and Germany.

20 Did you understand that, in effect, containment by
21 this point in time had been lost, the virus was here,
22 the virus was spreading?

23 **A.** So we understood that at this point containment would be
24 a real challenge, because once you start to have a few
25 cases of community transmission the understanding is

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1 risk assessment has changed, and that would change if
2 there was sustained transmission in Europe or any kind
3 of -- and as we say in minute 5.3.

4 So actually that is a discussion, and what do you
5 do, both about what's happening, but then if it comes
6 into Wales as well.

7 And it's still at this point I think for ministers
8 around the table not only to understand this could
9 happen but if this happens there are consequences and
10 what do you then do, and I don't think there is then,
11 certainly even by the next week, a full understanding of
12 the depth of consequences that come from having
13 a transmissible disease of this type, because, as I say,
14 in the 2009 pandemic it was something that had an impact
15 and some people did die, but not of the extraordinary
16 scale that we went through as well.

17 So, you know, you've got to bring ministerial
18 colleagues along with you about the understanding of the
19 scale of what was happening and why is it that someone
20 is doing all this work on preparation for excess deaths,
21 on the preparations around what could happen, why we're
22 standing up our pandemic flu preparations and what all
23 of those things mean, as I say. And then the speed of
24 what happened really did go much faster than not just
25 ministers expected but scientific advisers as well.

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1 that actually if the virus is ahead of you, then you're
2 unlikely to catch up and there's going to be
3 transmission of some sort. And in fact in my statement
4 I refer to this as well, in paragraph 167. And it was
5 Chris Whitty's advice that there would be a delay
6 between a rapid rise. So we were expecting we would get
7 more cases.

8 Again, we still weren't entirely sure of quite how
9 many and, even then, compared to the next week, the
10 number of cases we thought we would have. But we'd seen
11 what had happened in Italy by then, and so actually this
12 was much more sombre and serious even than previous
13 meetings. And we still hadn't -- we'd had our first
14 case, we weren't clear about whether community
15 transmission was here in Wales or not, so we're still
16 looking to deal with the delay phase. And that's why
17 I say the short-lived plan, because the plan that we
18 published, I think the next day, still talks about
19 delay, contain and mitigate. And actually as we go
20 through, going from the -- to the delay phase, didn't
21 take much longer to formally announce, and it's trying
22 to get people there and to understand what we need to do
23 around that as well. So by this point it's very clear
24 this is going to have a significant impact, again even
25 if you still don't understand the whole society-wide

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1 impact that it did go on to have.

2 **LADY HALLETT:** Mr Gething, the question was: did you all by

3 2 March appreciate the containment policy was lost?

4 I think really the answer must be yes, mustn't it?

5 **A.** No, I don't think it was entirely clear that by then

6 contain had been lost. And actually for each day

7 there's something more, because the first couple of

8 cases of community transmission are then a real

9 challenge, and that then means you could lose sight of

10 it, as I say, but actually we're still not entirely

11 clear whether we'll get to where Italy is.

12 The worry is that actually contain could have been

13 lost by then, but I wouldn't put it quite as

14 definitively as: yes, contain had been lost. The

15 challenge is we then publish a plan the next day and

16 then with each day of new figures I think it is clearer

17 and clearer that you're into the delay phase as well.

18 And the challenge there is bringing people with you.

19 That's the public, it's politicians across parties, and

20 it's your whole system as well.

21 **MR POOLE:** The action plan that you've referred to also

22 stated that the UK was well prepared to respond in a way

23 that offers substantial protection to the public but,

24 I mean, you knew, did you not, that that was not the

25 case as far as Wales was concerned? Wales weren't well

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1 a dawning realisation but it's not at the point where

2 everyone understands the pictures that you are seeing on

3 your television from Italy are what could happen here as

4 well.

5 So you've got this really difficult balance of

6 taking people with you to understand we're going to need

7 to do more. And of course you saw in my own statement

8 the -- people go about businesses and live lives in

9 a normal matter, there's the usual "just wash your

10 hands", and I think the Prime Minister at this point was

11 making a point of saying that he was shaking hands with

12 everyone.

13 The challenge is you've got to try to engender,

14 you know, "Just be normal, don't rush around, don't

15 panic", and at the same time we're preparing for what

16 we're sure is coming in larger number if we can't hold

17 on to the end of the contain phase as well. It's all

18 incredibly uncomfortable.

19 **Q.** Just looking back at these minutes, if we have a look at

20 paragraph 3, if we can zoom in on that, please, it says:

21 "Continuing the CMO said that interventions to delay

22 ... [Document read] ... ensure maximum effectiveness."

23 Can you recall, was there a debate about the good

24 sense or otherwise of that proposal?

25 **A.** Yeah, so this was a key part of the discussions we had

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1 prepared to respond to a pandemic of this nature, were

2 they?

3 **A.** At that time that was still where we thought we were,

4 with the countermeasures we thought we had in place,

5 with the pandemic influenza plan. So even then we

6 thought we'd be able to respond in a way that would not

7 lead us to where we eventually got to.

8 Now, again, the reality of what happened compared to

9 the measures we thought we had in place is -- is very

10 obvious in terms of what has happened, and in all of

11 this the difficulty is you're trying to balance the

12 situation as you see it with the knowledge that you have

13 and the knowledge you don't have, and you're also trying

14 to not engender a sense of panic as well, whilst you're

15 still trying to make sure you understand what you need

16 to do and how quickly you need to do it.

17 So there's rarely a black and white decision, and at

18 this point, having published that plan -- publishing

19 a four nation plan around coronavirus itself was

20 a significant step, and that's a significant step for

21 the four governments but also in terms of the public

22 debate and understanding that's taken place as well.

23 Because I still think when you go back to 2 and 3 March,

24 I do not think I was confident the wider public

25 understood the scale of what might happen. There's

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1 not at this meeting but afterwards as well, that if you

2 get to delay, which looks entirely likely, then at that

3 point what you then need to do is not straightforward

4 because, having thought about the things you want to do,

5 having gone through different exercises, when it's

6 Nimbus or Cygnus, if you're then having to take people

7 with you and say "We now need to seriously contemplate

8 asking people to live their lives in an entirely

9 different manner", our public haven't had to do that

10 before. And so that's why I think this point, looking

11 at social distancing and exploring measures that others

12 have used is both important but the clear advice we were

13 getting then and for several COBR meetings afterwards

14 was: you may only get one shot at this and so if you go

15 too early then the effectiveness of your intervention

16 could be undermined and you could actually end up not

17 saving the harm you're trying to prevent.

18 So this is a very real discussion and, as I say,

19 it's a very uncomfortable discussion because this is

20 a significant intervention in the way that we live our

21 lives and the rights that we expect to have in normal

22 times. So there's nothing ... this is entirely novel

23 for governments in the UK, and there's nothing trivial

24 about it, so -- and you'd expect us to discuss and take

25 account properly of what it would mean. And then you've

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1 got to be able to go out and do it as well.
 2 So the plan that got published the next day set out
 3 the three phases. And then, to work up the advice on
 4 how effective you think that would be, you're still --
 5 you're not dealing with, if you like, mathematical
 6 certainty. You can't be clear that this intervention
 7 will definitely prevent this harm. And also, because we
 8 hadn't done this before, we're not entirely clear about
 9 what the downsides of all of the potential interventions
 10 would be, and at this point we hadn't seen the exact
 11 detail of what potential social distancing measures
 12 would look like. And as the note sets out, the advice
 13 would be ready in the following few days.

14 **Q.** Now, Mr Gething, I think my question was: was there
 15 a debate about the good sense or otherwise of that
 16 proposal?

17 **A.** And the answer is yes.

18 **Q.** In that very long answer, I think the answer is yes?

19 **A.** Yes.

20 **Q.** I appreciate you have got a lot that you want to say,
 21 but we have got a very detailed witness statement from
 22 you, we will obviously have regard to that witness
 23 statement, and I'm just aware that we've got an awful
 24 lot of material to cover with you --

25 **A.** Of course.

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1 are devolved, but it was our understanding that would be
 2 the case. It's also worth pointing out that that was
 3 what I thought the settled view was at the time. There
 4 was then an attempt before we went into lockdown to try
 5 to see if the Civil Contingencies Act could be used.
 6 I think Jacob Rees-Mogg was a Cabinet member who
 7 attempted to say that we should go back to that and have
 8 everything centralised, but this was the position we
 9 were in.

10 **Q.** We know that by the time we get to the COBR meeting on
 11 20 March, it was in fact decided then that the use of
 12 the Public Health (Control of Disease) Act would be the
 13 legislative vehicle used to respond to the pandemic in
 14 England and Wales, and you say, again it's in
 15 paragraph 425 of your witness statement, you say that
 16 whilst you agreed that the use of public health powers
 17 was the right decision, it was not a comfortable
 18 decision for a UK Secretary of State to take powers in
 19 a devolved space.

20 So just to be clear, though, that was
 21 a UK Government decision which the Welsh Government and
 22 yourself agreed with, the use of public health powers to
 23 respond to the pandemic; yes?

24 **A.** Yes.

25 **Q.** And once that decision had been made, the responsibility

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1 **Q.** -- today, so perhaps I could just ask you to keep your
 2 answers slightly shorter than they have been, if that's
 3 all right?

4 **A.** I shall try to.

5 **Q.** Now, the day after this meeting there was a Welsh
 6 Cabinet meeting of 4 March.

7 INQ000048789, please.

8 We could have a look, page 2, paragraph 1.4, please,
 9 it starts there:

10 "The UK Government ... leading on a single ...
 11 [Document read] ... cover the four nations."

12 Now, you've explained in your witness statement that
 13 by this point in time, 4 March, the decision had been
 14 made by the UK Government not to use the Civil
 15 Contingencies Act 2004 because it was considered that
 16 there was still time to legislate.

17 And although not the CCA, you explain that your
 18 understanding remained that it would be a new UK Act
 19 would be the legislative vehicle used to respond to the
 20 pandemic and, whilst the Welsh Government would have
 21 input into that Bill, the UK Government would be the
 22 primary decision-maker once that Act received
 23 Royal Assent. Is that right?

24 **A.** That was my understanding. There would always be
 25 devolved choices to make, health, education and others

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1 for primary decision-making became that of the Welsh
 2 Government, with the consequence that Wales obviously
 3 had to pass its own corresponding legislation.

4 Did that impact on the Welsh Government's response
 5 to the pandemic? What I mean by that question is, up
 6 until 20 March, which, as we know now, is quite late in
 7 the day, three days before the national lockdown, there
 8 had been this assumption that it would be UK Government
 9 being the primary decision-maker, with a new piece of
 10 legislation. You then find out on 20 March that in fact
 11 public health powers are going to be used. What impact
 12 did that have on the Welsh Government's response to the
 13 pandemic? What decisions would have been taken
 14 differently, or perhaps they wouldn't have been taken
 15 differently had you known that before 20 March?

16 **A.** If we'd known that before 20 March we'd probably have
 17 started work earlier on how to make use of those powers.
 18 I'm sure your professional colleagues who were drafting
 19 the regulations in Wales would have wanted more time to
 20 consider how to do that, the approach to take, also
 21 about the policy work around that as well.

22 So as in everything through the March, even an extra
 23 day or two I think would have made a difference to your
 24 preparation, ability then to deliver as well. So once
 25 the choice is made, we then have to, frankly, just get

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1 on with it, because by this point we know there's no
2 time to delay, and I think by the 20th we'd had our --
3 it was the 20th or the 21st, there was a meeting where
4 we looked at the possibility of a Welsh lockdown if we
5 couldn't move as all four nations, which I cover in my
6 statement.

7 **Q.** We go back to these Cabinet minutes I think it's over
8 the page, 2.4, please, there is an -- effectively
9 a read-out of a SAGE report that summarised the current
10 understanding of Covid-19.

11 So 80% of the population are infected, 80% mild
12 symptoms, remaining 20% likely required hospitalisation.

13 "That would equate to around 160,000 people in Wales
14 requiring some form of hospitalisation, of [those]
15 133,000 would require oxygen and 14,000 would require
16 ventilator support."

17 The Inquiry has heard evidence from various people,
18 including the former Prime Minister and the former
19 Secretary of State for Health, in Module 2 that with
20 an R value above 1 and exponential growth, there was
21 a very real concern that the number of people requiring
22 some form of hospitalisation would eventually result in
23 the NHS in England being overwhelmed.

24 To what extent did you or the Welsh Government
25 collectively at this Cabinet meeting have a view as to

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1 distancing, closing schools, discouraging mass
2 gatherings. Go-Science had not looked at combinations
3 of interventions for modelling and the work was under
4 way.

5 Had the Welsh Government been looking or had begun
6 looking at NPIs at this stage or was this work being
7 left to the UK Government?

8 **A.** Wasn't entirely being left to the UK Government, because
9 of course Dr Orford is on SAGE at this point, so the
10 conversations they are having are feeding into our
11 conversations as well. And of course we positively
12 wanted to have a four nations approach. So it made
13 sense to be coherent and co-ordinated with the
14 discussions that were taking place, rather than having
15 an entirely separate discussion within Wales.

16 And actually the -- if you like, the heft behind
17 this in terms of the access to the expertise, we didn't
18 have modelling advice. Understanding the likely impact
19 of social distancing and how it would be modelled, we
20 didn't have that capacity available to us at this point
21 in the pandemic, that came much later.

22 So actually it's entirely right that we're directly
23 engaged in this conversation. I think characterising it
24 as simply leaving it to others is ... is not, I think,
25 an accurate reflection of what happened. But certainly

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1 the impact of the virus on the NHS in Wales in terms of
2 would it be overwhelmed and if so when?

3 **A.** If you look at the minutes of Cabinet, in the one in
4 paragraph 2.5, we do talk about considering the
5 implications beyond the NHS but there were significant
6 NHS implications. So, yes, we were concerned and
7 Cabinet was aware that the impact could overwhelm the
8 NHS.

9 I think it's minute 2.8 that talks about the
10 potential admissions equating to a quarter of annual
11 hospital admission. So this is an extraordinary amount
12 of harm that potentially comes in if the reasonable
13 worst-case scenario or something approaching it arrives.
14 So, you know, these are pretty terrifying figures to
15 have to look at. And you've then got to make choices to
16 try to make sure you don't get to the reasonable
17 worst-case scenario.

18 **Q.** We can move away from these minutes and look at some
19 COBR minutes from 4 March.

20 They're INQ000056218, and I think we need to go to
21 page 8, paragraph 17, please.

22 There is a discussion -- yes, there's a discussion
23 there about NPIs. The Director for Go-Science said that
24 there were a number of NPIs that could be taken to delay
25 and flatten the peak of the outbreak, such as social

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1 led by the UK Government, undoubtedly.

2 **Q.** There was a discussion at this COBR meeting about public
3 compliance as well and the minutes record there was
4 a lot of uncertainty and one of the biggest variables
5 was that behavioural scientists had noted compliance
6 with interventions.

7 Was this something that the Welsh Government was
8 looking at at this point in time? Had you formed a view
9 as to whether the Welsh public were likely to comply
10 with NPIs such as social distancing or discouraging mass
11 gatherings?

12 **A.** Yes, so it was part of the discussions we had both in
13 COBR and outside, and there was real concern that the
14 public would not go along with these sorts of
15 extraordinary interventions into how they were entitled,
16 lawfully, to go about their business. Because these are
17 really significant civil liberties intrusions. So it
18 was both about not wanting to intrude into those
19 individual and collective rights, but it's also then and
20 how many people will comply and do what they're being
21 asked to do, and actually that matters because that
22 matters about the impact of whether social distancing
23 reduces the level of harm.

24 So the initial behavioural science advice was
25 I think more pessimistic about public response. I think

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1 I cover that in my statement, I think in the end people
2 were much more responsive when the time came.

3 **Q.** Just the last question on these minutes, if we could
4 have a look at page 8, where we are -- paragraph 18,
5 please.

6 We can see here there is a discussion here about the
7 economic and social impacts of interventions and you
8 deal with it in your witness statement. It's paragraph
9 178, and you say the Cabinet Office was tasked with
10 co-ordinating the economic impacts of NPIs and the
11 isolation of the elderly and vulnerable.

12 Was this something that the Welsh Government was
13 looking at for itself? And I have in mind, particularly
14 given the demographic characteristics of Wales, the
15 impact on the elderly and vulnerable being profoundly
16 important to consider when making decisions about NPIs.

17 **A.** Yes, and my recollection was that the -- within the
18 government we were working on: what would this mean?
19 I guess it's the pre-shielding discussion: what do you
20 do to try to make sure there's support available to
21 people who'd be affected by this? And when it comes to
22 the economic modelling, it's one of the things we're
23 repeatedly going through that the economic firepower to
24 support businesses, to prevent harm to the economy,
25 you've got to have the UK Government acting. And that

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1 need to be policed, and the behavioural science advice
2 we had was of a percentage of compliance and whether
3 that would be enough to slow down what was happening.
4 So it was a real factor.

5 If -- and it's again one of those benefit of
6 hindsight points. With the benefit of hindsight, if
7 we'd known how supportive the people would have been, we
8 could and probably would have taken some steps earlier.
9 But everything else would have been needed to have been
10 aligned around it as well. And actually I think, as you
11 go through -- I think I made this point earlier -- every
12 few days the mood changes and shifts as there are more
13 cases and it's clear about the harm that is around you
14 not just somewhere else. So from where we were on
15 the 6th to the 16th to the 26th, I think the public are
16 in really quite different spaces about what they're
17 prepared to do and why.

18 **Q.** If we can have a look at some minutes of -- I think it's
19 the first meeting, in fact, of the Covid-19 core group,
20 which was 11 March.

21 It's INQ000215171, please.

22 Paragraph 2 on that first page, being told:

23 "There were now 15 cases in Wales ... [Document
24 read] ... move towards the delay phase."

25 If we can turn over the page to page 2 and have

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1 isn't just the economy, it goes into everything else,
2 because, you know, economic inequalities and health
3 inequalities neatly overlay on top of each other, so
4 your most vulnerable citizens, if the economy slows
5 down, there's likely to be a bigger impact on them
6 compared to your most financially advantaged citizens.
7 So, you know, there's no argument about that, that's the
8 reality of it. So all of these things are real
9 considerations for us. So we're not simply turning up
10 to COBR and saying "Whatever you say". And then we're
11 not going away and getting on with other stuff, we're
12 actively going through all of these considerations and
13 what will this mean for us.

14 **Q.** You say at paragraph 184 of your witness statement that
15 the message coming from COBR in these early March
16 meetings was explicitly: don't overreact, measures taken
17 too early are wasted.

18 I want to get your views as to what extent did the
19 debate about not going too early as there was a limit or
20 thought to be a limit as to what the population might be
21 able to countenance, how did that slow down, or whether
22 it did, slow down ultimate decision-making in your view?

23 **A.** So it was a genuine concern, and there was advice that
24 actually if you introduced these interventions there is
25 likely to be significant civil disobedience that would

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1 a look at paragraph 9, please:

2 "Ministers agreed that there would be a need for
3 further ... [Document read] ... Government was advising
4 households to go into quarantine."

5 Now, that 2% reduction in mortality rate figure,
6 that's taken from a TAC briefing. I just want to
7 briefly look at that briefing with you.

8 It's INQ000271613.

9 If we have a look at the first paragraph together:

10 "In the event of a severe epidemic, the NHS will be
11 unable ... [Document read] ... within the bounds of
12 a likely scenario."

13 Now, so you're being told there: likely scenario is
14 that the NHS in Wales will be overwhelmed, demand on
15 beds likely to overtake supply before the peak is
16 reached.

17 If we can have a look at paragraph 3, please:

18 "Applying behavioural interventions could be helpful
19 in containing ... [Document read] ... of the NHS and
20 other sectors more sustainable."

21 Then if we can have a look at the next paragraph,
22 paragraph 4 sets out objectives of interventions. So
23 first objective, contain, there's a note "unlikely to be
24 achievable".

25 Then if we can please turn over the page and have

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1 a look at paragraph 7, on page 2. I think -- yes,
 2 thank you.
 3 So:
 4 "As of 10th March there were 17 patients in ICU,
 5 likely ... [Document read] ... then 300 shortly after.
 6 Next paragraph, paragraph 8, reproduction number,
 7 R rate, currently 2.4, needed to be brought down
 8 below 1.

9 Then at the very bottom of this page, a discussion
 10 about behavioural control measures, so restrictions of
 11 mass gatherings likely to reduce infection-related
 12 deaths by 2% whereas self-isolation have a greater
 13 impact, likely to reduce deaths by 11%.

14 Then, please, if we can turn over the page.
 15 Page 3, paragraph 12, you are told:
 16 "Any of the measures listed ... [Document read] ...
 17 by some degree."

18 Then later on, we don't need to go to it, page 7, it
 19 lists all of the behavioural and social interventions
 20 that were examined by Neil Ferguson.

21 So following that briefing, you knew that there was
 22 exponential growth in infection numbers, and urgent
 23 action was required to bring the -- control the spread
 24 of the virus, delay the peak, reduce the number of
 25 deaths.

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1 to try to make those choices together with
 2 the UK Government, the Scottish Government and the
 3 Northern Ireland Executive as well, which is what we did
 4 and, you know, the meeting the next day was about going
 5 to do that.

6 And there was a genuine -- I think a fairly lively
 7 discussion about the advice that SAGE and
 8 Patrick Vallance and Chris Whitty were giving to the UK
 9 at that time, which was about how far and how quickly
 10 can we go. In the end, the advice was significant and
 11 there was a response, but it didn't prevent the rapid
 12 growth of Covid at this point in March.

13 **LADY HALLETT:** So the answer to Mr Poole's question was the
 14 plan was to await a mutually agreed decision between
 15 the UK Government and the devolved nations?

16 **A.** But -- yeah, the plan was: we know these interventions
 17 are being advised, we're certain that this is the advice
 18 the UK Government is getting as well, because it's come
 19 from SAGE, and we want to meet to agree on what those
 20 things are going to be done. Apart from anything, of
 21 course, given Mr Poole's previous questions, we thought
 22 that these interventions would require UK Government
 23 action for a number of them to happen, and in the end we
 24 actually then took -- we did this through public health
 25 powers.

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1 In your capacity as minister for health and social
 2 care, what was your plan at this stage, 11 March, to
 3 respond to the virus?

4 **A.** So our plan was to try to make choices with other
 5 nations in the UK to address the challenging advice
 6 we're having, not just in the TAC report but of course
 7 SAGE advice. The TAC reports at the time were Welsh
 8 advice taking on board the advice that SAGE had already
 9 given and the papers that were published, so I think
 10 when we're in COBR meetings essentially the same points
 11 are being made.

12 So we then have a challenge about what we're going
 13 to do and that's, we go back to your previous questions
 14 around non-pharmaceutical interventions, and those are
 15 things that we were actively considering, and we did
 16 eventually then go on to have another discussion on
 17 12 March at COBR that went through those again.

18 So I'm clear that Covid is here, and it's going to
 19 grow, without interventions, and it's going to grow to
 20 a size and shape quite quickly where the NHS can be
 21 overwhelmed with significant harm, so actually you have
 22 to do something, it's about the what and the when. And
 23 so this is a discussion saying "here's a range of
 24 interventions you could do", and this is getting us
 25 ready for the choices we need to make. And our plan is

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1 So we're still trying to make sure that we don't
 2 have different voices advising different things in
 3 different parts of the UK, and we want to be able to do
 4 this together to have the maximum effect. And that was
 5 the plan, but we knew we were discussing taking some of
 6 these measures in the very near future, not just
 7 discussing but then having to make those choices.

8 **MR POOLE:** Mr Gething, perhaps to illustrate the point that
 9 I think you were making then, and these questions of
 10 what and when, in the context of mass gatherings, you
 11 say in your witness statement -- it's paragraph 195 --
 12 you say there was no power to force -- the Welsh
 13 Government had no power to forcibly close.

14 Now, I take it from your statement that your
 15 understanding then at this time, this is 12/13 March, is
 16 that the Welsh Government didn't have a legal power to
 17 ban mass gatherings; is that right?

18 **A.** That was our understanding. And of course we found
 19 through public health powers that we did, depending on
 20 the nature of the public health emergency we're facing.

21 **Q.** Can we have a look at the COBR meeting that you referred
 22 to a moment ago, so this is the 12 March meeting.

23 It's INQ000056221.

24 If we can have a look at page 5, first paragraph,
 25 please, so we see there the Government Chief Scientific

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1 Adviser gave a situation update, said the number of
2 cases in the UK is increasing, estimated 5,000-10,000
3 cases in the UK. You're told numbers would increase
4 quickly and SAGE advice was that UK was approximately
5 our weeks behind Italy and expected the UK to follow
6 a similar trajectory.

7 If we could have a look, please, at paragraph 3.
8 The Chief Scientific Adviser outlined SAGE recommended
9 best approach would be to implement option 1, so namely
10 individuals staying at home for seven days from the
11 point of displaying mild symptoms, potentially option 2,
12 so that's household isolation for 14 days, and might
13 want to recommend reduction of social contact by the
14 over 70s.

15 Now, there's a SAGE presentation paper -- yes, let's
16 look at that together, actually.

17 So it's INQ000056209.

18 If we could have a look at page 6, please, this page
19 is entitled "What would be the effect on the NHS of
20 interventions?" And we see on the right-hand side
21 "Graph A: no measures", and below it "Graph B: measures
22 1&2", so that's 7-day isolation and household isolation.
23 So in both graphs the red line, that's "Freeable beds",
24 and the black line, "Total NHS beds", they make it
25 plain, don't they, that whatever was done, so either

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1 all four of them, but actually one of those was large
2 gatherings and that's where we did have lots of debate
3 at the time focused on that, without thinking about the
4 three more significant interventions, which I think
5 would have been more helpful.

6 But we had the discussion in the meeting and
7 afterwards, we tried to agree what we were going to do,
8 and there was an agreed position across the four nations
9 on mass gatherings, and that then fell apart within
10 a day or two after the meeting. And I think that's
11 because of the incoherence, as the public saw it, of
12 talking about significant intervention in other parts of
13 your life but you can still go out to a large gathering.
14 That's what scientific advice was at the time. But
15 it -- as with a number other things, you have to deal
16 with the reality of how people react.

17 **Q.** Let's just explore that, because I think you said there
18 was an agreed position across the four nations on the
19 mass gatherings, so let's just go back to those COBR
20 minutes we were looking at.

21 It's INQ000056221, please.

22 We're on the fifth page, and the fifth paragraph,
23 and third bullet point. So it's noted here that:

24 "The hardest intervention to call was ... [Document
25 read] ... for outdoor events."

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1 unmitigated or mitigated through those two measures, the
2 NHS would be massively overwhelmed?

3 **A.** That's correct.

4 **Q.** Do you think at this point, so this is the -- going back
5 to the COBR meeting, when you're presented with this,
6 did you think, well, hang on, what can be done to bring
7 the peak below the black or the red lines? Why are we
8 only discussing these relatively modest measures which
9 might be imposed this week, they might be imposed
10 next week? Wasn't more sense of urgency required?

11 **A.** Well, I think, with respect, that's a question from the
12 perspective of hindsight, not where we were at that
13 time. So at the time we have these graphs, at the time
14 we have the growth of Covid through the UK, but the two
15 suggested interventions are not modest at that point in
16 time, because this hasn't happened before, there hasn't
17 been a nationwide directive telling people with symptoms
18 that look and feel a lot like a common cold to stay at
19 home. So actually this is really quite significant.

20 The challenge is the understanding that you're going
21 to need to do at least this and you're probably going to
22 have to do more. And that was certainly my
23 understanding coming through the meeting. So when we
24 looked at the four options that were provided to us, and
25 it was very hard to think you're not going to have to do

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1 Although the scientific evidence might not have been
2 there to cancel gatherings, we go back to those minutes
3 we looked at from the Covid core group of the previous
4 day. You had been told that restricting mass gatherings
5 could reduce infection-related deaths by 2%. You knew
6 that, yes?

7 **A.** Yeah.

8 **Q.** If we go over the page in these minutes, page 6, and
9 I think it's the ninth bullet point, it starts:

10 "... Scottish Government was minded to advise
11 against gatherings ... [Document read] ... response to
12 [the pandemic]."

13 Then further down the bullet point list:

14 "... public had not grasped ... [Document read] ...
15 self-isolation and mass gatherings ..."

16 Thank you.

17 "Cancelling mass gatherings may positively impact on
18 people's behaviours."

19 I think that's three bullet points up from the
20 bottom, we see that.

21 Then if we go to page 8, we can see the sort of
22 summary of the conclusion reached at this meeting,
23 page 8, paragraph 15, please.

24 So I think I'm right in saying so the UK Government
25 took the decision not to prohibit mass gatherings at

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1 this stage, but it is noted here that the Prime Minister
2 respects the Scottish Government's decision to cancel
3 mass gatherings to manage pressure on emergency
4 responders.

5 Now, I mean, I suppose the first question, do you
6 agree that advising against or banning mass gatherings
7 so that public emergency services are not displaced,
8 that seems to be a pragmatic approach?

9 **A.** Yes. I think there are two perspectives here, aren't
10 there? There's the pragmatic approach of: do you want
11 emergency services dealing with mass gatherings or not?
12 And then there's whether there's a scientific rationale
13 that underpins you should ban gatherings now.

14 And it goes back to your earlier questions of the
15 timing of interventions as well, at what points you do
16 things, and whether all those things stick. And that is
17 part of the framing of all of the conversations we had.

18 And it was hard, having the advice that there is no
19 scientific or clinical medical reason to ban gatherings,
20 and understanding that will look incoherent, and,
21 you know, that's exactly what we found ourselves.

22 **Q.** You say there are two perspectives here, perhaps I can
23 suggest a third perspective? Would not advising against
24 or banning public gatherings, mass gatherings of more
25 than 500 people send a message to the people of Wales

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1 Dr Robin Howe, who was the incident director and
2 professional lead consultant in microbiology, and
3 Dr Tracey Cooper, who is chief executive of Public
4 Health Wales, a conversation with you on 13 March about
5 the Wales and Scotland rugby match that was due to take
6 place the following day on the 14th?

7 The Inquiry has heard evidence that Public Health
8 Wales expressed significant concerns about the match
9 going ahead and recommended that the match be postponed
10 or cancelled. Is that your recollection of that
11 conversation?

12 **A.** Not entirely. I think that formalises it in the way
13 that that's not the conversation that I recall taking
14 place. I do recall them saying that they thought it
15 would be sensible for the match not to go ahead and
16 I told them about the advice that we'd had and that we
17 were going through with SAGE and about where we were and
18 that it was difficult.

19 In the end, of course, the WRU cancelled the
20 event -- and again, this is one of those learning points
21 about at what point in time you take different measures,
22 not just for the scientific advice but the behavioural
23 signal that it sends. So I think the characterisation
24 you read out is not one that I share, but there was
25 a conversation, I do recall Public Health Wales saying

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1 that: there were terribly difficult times ahead,
2 impossible choices to be made, you need to start taking
3 this seriously?

4 **A.** Yes. It would have helped to send that message.

5 What we actually did on the 13th, because it was the
6 13th when we turned off lots of regular NHS activity,
7 I think that was an even bigger message, but that
8 highlighted the challenge of so the NHS is going to stop
9 doing normal activity but we can still go to the rugby.
10 And actually I think that is one of the things that
11 would have been difficult.

12 So at the time, with the advice -- and if you're
13 saying we're going to follow the science, be led by it,
14 that's the advice we had. Actually, and I think in
15 hindsight, it is a reflection that, from that meeting,
16 if we had all agreed that mass gatherings weren't going
17 to go ahead, it would have been a really clear signal.
18 And of course people were reacting around us. I think
19 football had gone ahead of others.

20 So yes, I recognise, as I think others do as well,
21 that if you had your time again in hindsight the message
22 on mass gatherings is really important as a behavioural
23 signal for the scale of the choices that lie ahead of
24 us.

25 **Q.** Do you recall a conversation between yourself,

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1 that they thought actually they'd prefer it if the match
2 didn't go ahead.

3 **Q.** The Welsh Rugby Union had in fact, we know, approached
4 the Welsh Government and asked for a conversation about
5 whether or not the match should go ahead. As you've
6 just said, they were left to cancel the match
7 themselves. They did that at lunch time on 13 March, by
8 which time 20,000 Scottish rugby fans had travelled from
9 Scotland to Cardiff. And Mr Davies of the Welsh Rugby
10 Union, his evidence to the Inquiry is that it would have
11 been reckless to allow the match to proceed. And yet,
12 as I understand it, that was a match that you and your
13 family would have gone to had it not been cancelled.

14 Do you agree with him that it would have been
15 reckless for that match to have proceeded?

16 **A.** I think at the time this gets back into the advice is
17 that there is no scientific reason to cancel the game.
18 And that's clear, it's in the advice that's there at the
19 time in more than one source.

20 I'd been asked previously whether I was going to the
21 game and I'd said yes, and if I'm saying there's no
22 reason for this game not to go ahead and for people not
23 to go, I can't then say, "But actually my family isn't
24 going, I've made that decision". You know, you're in
25 a position that would be utterly impossible. You can't

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1 be a minister who stands up and says "This is the advice
2 I've had, this is why I'm saying this to the country,
3 but personally I'm going to do something entirely
4 different". It's like, you know, trying to advertise
5 a vaccination campaign but then refusing to have the
6 vaccine yourself. You couldn't do it. And yet what
7 happened was everything changed around us in a really
8 rapid manner.

9 So that was the advice, a decision's made, and you
10 then have to explain to the public what you're doing
11 next and why. And you can see it changed by 16 March.
12 There was an agreement this shouldn't go ahead and mass
13 gatherings, I think, wouldn't take place.

14 **Q.** You say "everything changed around us", but on
15 12 March -- so this is a day before you have the
16 conversation with Public Health Wales -- two Six Nations
17 rugby matches are cancelled, Wales' football match
18 against the USA later in the month was cancelled,
19 Premier League was put on hold until April, and the
20 annual Welsh Labour conference, due to take place in
21 Llandudno at the end of March, that was postponed. So
22 those decisions had been taken.

23 You'd been at a COBR meeting where you'd been told
24 that the Scottish Government had taken a decision to ban
25 mass gatherings of more than 500 people for the reasons
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1 can and can't do? I don't think that would have been
2 tenable.

3 **Q.** But that is one example, isn't it, and I take your point
4 an indoor conference is different, but we have two other
5 rugby matches and Six Nations cancelled,
6 an international football match cancelled and the
7 Premier League, all outdoor events, put on hold?

8 **A.** And different sporting bodies had made different
9 choices, and that was part of the reason why it was such
10 a lively discussion in COBR, because large sporting
11 events have an unusually significant cultural impact and
12 about what people see and do, and that's also why
13 I recognise that, in hindsight, saying those things
14 can't go ahead is a hugely important behavioural signal.
15 But the advice we had, about actually there isn't
16 a clinical reason to do this and it's not
17 an intervention that we recommend you take now, was the
18 advice that we had.

19 And again, you look back and it's one of the choices
20 that I do think I would have made differently, and that
21 is the value and the benefit of hindsight, looking at
22 where we are now.

23 **LADY HALLETT:** Mr Gething, as I'm sure you know, I've had
24 a fair bit of evidence about following the science and
25 the impact of that particular mantra. What concerns me
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1 we've discussed. Was it really fair to leave the
2 decision in the hands of the Welsh Rugby Union? Could
3 it be said that that was an abdication of responsibility
4 on the Welsh Government's part? Should you not have
5 passed on all of that information to the Welsh Rugby
6 Union if you were going to leave the decision-making to
7 them?

8 **A.** So, as I say, we'd had the scientific advice that
9 says -- concluded there wasn't a rationale to advise
10 governments to cancel those events. We'd also then
11 had -- not just a call from the Welsh Rugby Union, I'd
12 spoken to the chair and I'd arranged for the chair to
13 have a direct conversation with the Chief Medical
14 Officer as well. So I don't think it's correct to
15 characterise it as the WRU were left on their own,
16 because there had been a direct conversation with the
17 CMO about the advice that was there wasn't a rationale
18 to do it.

19 And I think, with respect, counsel, the event in the
20 rugby stadium is different to an indoor conference, and
21 an indoor conference to be taking place both in terms of
22 transmission but also, frankly, can you imagine if we
23 had trooped every Welsh Labour minister to a party
24 political event over a weekend when we're just about to
25 make more announcements, for example, about what the NHS
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1 is that when a politician or a decision-maker like you
2 says "We were following the science", you are
3 essentially saying the scientist is taking the decision.

4 Now, as a politician, a decision-maker, you have to
5 balance a number of factor, don't you? It's not just
6 the scientific advice. And in fact you did have some
7 advice that said a reduction of 2% in mortality, so
8 that's quite a few deaths you might save. So do you not
9 accept that it's not a question -- do you accept that
10 it's not just a question of following the science, but
11 of balancing a number of factors?

12 **A.** Indeed. And I've never tried to avoid my responsibility
13 for making choices, because the choices were choices of
14 ministers. The challenge here is when you have advice
15 that says "We don't think you should do this now and we
16 don't think there's a scientific justification for doing
17 it, you've then got to have another rationale saying,
18 "Well, actually, I think there are more considerations
19 to do it". And so that is the choice, and that was
20 a choice we made at the time. In hindsight, I think
21 we'd do that differently.

22 Now, I'm clear, I think that's the view of not just
23 Dr Atherton but Dr Whitty as well, and others, so that's
24 their advice, but whatever happens -- and even if their
25 advice was to ban mass gatherings, it would still be my
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1 choice, the First Minister's choice, about whether to do
2 that or not. So those are the things that you do have
3 to balance all the way through this.

4 The mass gatherings issue I understand why it's
5 significant, particularly because the highlight of the
6 rugby game and what happened on that weekend, and then
7 what happened literally at the end of that weekend as
8 well and the pace of events. So it's uncomfortable and
9 in all of the awkward choices we made that is definitely
10 one that jars and I recognise that.

11 **LADY HALLETT:** Thank you.

12 **MR POOLE:** Just before we leave 13 March, we heard evidence
13 from Dr Tracey Cooper last week, and she said it was
14 only when you visited Public Health Wales' offices and
15 the National Contact Centre on 13 March and saw, her
16 words, half of a very large office filled with people
17 wearing high-vis jackets and whiteboards with tens of
18 people's contact initials and numbers on that she
19 thought that the pandemic suddenly became more tangible
20 for you. And she told the Inquiry that was the
21 challenge, that ministers were effectively distanced
22 from it to an extent because it wasn't palpable to them
23 until 13 March.

24 Do you have any comments on Dr Cooper's evidence?

25 **A.** Well, that's Dr Cooper's, it's certainly not mine.

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1 and said "Large parts of your normal NHS are not going
2 to be available within the next few days because
3 something else is going to happen".

4 **Q.** Now I want to change topic and perhaps introduce a topic
5 that we won't quite finish before the break, this
6 hospital discharge and care homes.

7 On 13 March you made a public statement, you've
8 alluded to it already, announcing a framework of
9 actions. Now, that framework included measures such as
10 the suspension of non-urgent outpatient and surgical
11 care in Wales, as I think you've said, but it also
12 directed that the discharge of vulnerable patients from
13 acute and community hospitals should be expedited.

14 Now, the Inquiry obviously understands the purpose
15 of those measures, they were to maximise the number of
16 hospital beds available to support a potential surge in
17 demand, and expediting the discharge of vulnerable
18 patients from hospitals into care homes you would
19 accept, though, presented a clear risk that had to be
20 managed; yes?

21 **A.** Undoubtedly.

22 **Q.** I just want to explore then your understanding of that
23 risk, how it was managed and whether, ultimately, you
24 think it could have been managed better.

25 Social care is obviously part of your -- or was,

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1 From -- images in Italy were the ones that really
2 visibly drove home the extent of what could happen, and
3 the reason for that is northern Italy, as part of a
4 wealthy nation -- it's the wealthiest part of Italy,
5 it's got a highly developed First World health and care
6 system, Italy was being overwhelmed, when you go through
7 the end of February and into March. And so actually for
8 me, seeing that, that was both what could happen here,
9 and that's harm to people, you know, seeing images of
10 people in corridors, but also, you know that there is
11 more harm than in a community that isn't in that
12 hospital and you know there's direct harm for your staff
13 who are seeing that and trying to treat people in that.

14 Staff who go through experiences like that, many of
15 them don't end up staying in the service, and it's
16 because of the harm that is done to them that is,
17 you know, health and wellbeing harm that is not just
18 physical harm that might come. So actually for me, by
19 the time I saw Dr Cooper, I was well aware that we were
20 facing something real and significant. And of course by
21 then I'd already asked for advice on what we're going to
22 do around the whole system, and I knew that if I was
23 going to make the announcement that I did make later on
24 that day, that is a significant intervention no other
25 health minister has ever stood up in front of a camera

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1 when you were health minister, part of your departmental
2 responsibility; yes?

3 **A.** Correct.

4 **Q.** In Module 1 you were asked some questions about the
5 social care sector, I think in the context of pandemic
6 preparedness, and you agreed that one of the major
7 problems facing the Welsh Government, and you say
8 identified as far back Operation Taliesin and Operation
9 Cygnus, was that it wasn't possible to collate an
10 accurate picture of social care capacity because much of
11 the capacity lay with private providers.

12 Would it be fair to say that that was the position
13 when the pandemic hit in January 2020?

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

15 **Q.** Now, in terms of the risk posed to those in care homes,
16 there are three ways, aren't there, in which the virus
17 can enter a care home: visitors, staff, residents.

18 We know that visitors were stopped from entering
19 care homes early in the pandemic, so that leaves staff
20 coming into work or new residents, usually from hospital
21 discharges.

22 Given the growing number of infections in Welsh
23 hospitals throughout March and April, would you agree
24 that new or returning residents discharged from
25 hospitals presented a significant risk to vulnerable

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1 care home residents?
 2 **A.** So of course there was a risk with anyone moving around
 3 in the community, and the risk is there in care homes,
 4 which is why there had been advice around infection
 5 prevention and control. And infection prevention and
 6 control is a real issue for the care sector in any event
 7 because of the vulnerable population. So it's why the
 8 flu season is such a challenge. And it's why there are
 9 supposed to be measures in place in every commissioned
 10 care home around infection prevention and control.

11 And that risk is there to be managed, as is the risk
 12 in a hospital, and as is the risk in the community. So
 13 I think the difficulty is, if you see it only as
 14 a self-contained issue, that can tell you something
 15 about what you can do within that setting. It can't
 16 tell you the full picture about all the risks you need
 17 to be able to see and to manage. So yes, we understood
 18 there are risks and then it's practically what you then
 19 do about them.

20 **Q.** The Inquiry has heard evidence that the best way to
 21 mitigate the risk of infection, to use the words of the
 22 WHO, is test, test, test. Now, up until 29 April, Welsh
 23 Government policy was to only test those being
 24 discharged if they displayed symptoms, and we know that
 25 on 29 April that policy changed to test regardless of

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1 **MR POOLE:** Mr Gething, some questions then about
 2 asymptomatic transmission. What I would like to do is
 3 start with some questions just to establish what you
 4 were told or what you were not told, and we start on
 5 28 January 2020. It's a meeting between the former
 6 Secretary of State for Health, Mr Hancock, and the CMO.

7 We've got it there, it's INQ000233747. If we could
 8 have a look at page 2, in the second bullet point,
 9 please:

10 "The CMO commented that today's date would appear
 11 slightly less reassuring than yesterday's but the
 12 positive is there's been no sustained transmission
 13 outside of China."

14 Then if we can go to the ninth bullet point, please,
 15 on that page:

16 "CMO commented that there is now credible evidence
 17 of asymptomatic transmissions within Germany."

18 Was that information, information that was brought
 19 to your attention at that point in time?

20 **A.** So what's the date of this?

21 **Q.** This is 28 January.

22 **A.** No. No, 28 January asymptomatic transmission in
 23 Germany?

24 **Q.** Yes.

25 **A.** No.

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1 symptoms being displayed.

2 Now, that was some two weeks after that policy
 3 change had been introduced in England. You say in your
 4 witness statement, it's paragraph 493, that at the time
 5 of your announcement of the framework of actions, so
 6 13 March, the testing of asymptomatic patients being
 7 discharged from hospital was not discussed with you.
 8 You say that this was something that was brought to your
 9 attention later and advice changed over time as the
 10 understanding about asymptomatic transmission changed.
 11 Is that right?

12 **A.** Yes.

13 **MR POOLE:** Now I want to explore your understanding at the
 14 time about asymptomatic transmission and how that
 15 influenced decision-making. But as that's a slight
 16 change in topic, that might be an appropriate point.

17 **LADY HALLETT:** Yes, of course. 1.45, please.

18 Mr Gething, I think you know that we have to take --
 19 well, we have a lunch break anyway, but we will,
 20 I promise, complete your evidence today.

21 **THE WITNESS:** Thank you.

22 (12.42 pm)

(The short adjournment)

24 (1.45 pm)

25 **LADY HALLETT:** Mr Poole.

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1 **Q.** If we could have a look, please, at the fourth --
 2 actually we don't need to look at it -- it's 4 February,
 3 so a few days after this. It's a SAGE meeting. There
 4 were no representatives from Wales. The minutes of that
 5 meeting note asymptomatic transmission cannot be ruled
 6 out and transmission from mildly symptomatic individuals
 7 is likely.

8 So do you recall in early February, that was a SAGE
 9 meeting on 4 February, do you recall being advised that
 10 asymptomatic transmission could not be ruled out at that
 11 stage?

12 **A.** My recollection is that that was a discussion,
 13 asymptomatic couldn't be ruled out, it wasn't usual in
 14 a coronavirus but actually the people who were
 15 symptomatic were likely to be infectious, yes.

16 **Q.** If we move through to 21 February, there was a NERVTAG
 17 meeting of that date. Again, I don't need the minutes
 18 pulled up. The minutes record John Edmunds reporting
 19 that 40% of virologically confirmed cases are
 20 asymptomatic.

21 Again, were you made aware at that stage -- this is
 22 21 February NERVTAG meeting -- that there was evidence
 23 of 40% of confirmed Covid cases being asymptomatic?

24 **A.** I can't remember the exact time, but I do recall that
 25 through February there was evidence that people could

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1 have Covid and not have symptoms, as opposed to be
 2 asymptomatic and be infectious as well. I think
 3 Dr Orford went through the distinction with you as well.
 4 **Q.** You would have recalled at the time there was the cruise
 5 ship, the Diamond Princess, which showed very
 6 significant asymptomatic transmission. You were aware
 7 of that at around this time, 21 February; is that right?
 8 **A.** No, I think the Diamond Princess, again, it's the
 9 distinction between transmission and people who have
 10 Covid but don't have symptoms. So yes, I think this was
 11 discussed in a COBR meeting that the Diamond Princess,
 12 there were a number of people who had Covid but didn't
 13 have symptoms. And again that's distinct from whether
 14 you can be infectious and give Covid to other people
 15 without symptoms and that was a distinction where there
 16 still wasn't certainty about that at that point in time.
 17 **Q.** If we have a look, please, on 15 March, there is a paper
 18 published online, it's INQ000312305. If we can have
 19 a look at the abstract on page 2, we observed, yes, so
 20 reading from the third line:
 21 "We observed the highest viral load ... [Document
 22 read] ... probable substantial pre-symptomatic
 23 transmission."
 24 Mr Collins has provided, so that's evidence to the
 25 Inquiry, stating that he -- so this is Brendan

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1 pre-symptomatic on the day of testing."
 2 Then if we can have a look, if we can zoom out but
 3 zoom into the right-hand column on this page, it's just
 4 under where we see "discussion". It's about five lines
 5 down starting "Approximately":
 6 "Approximately half of all residents ... [Document
 7 read] ... diagnosis and contributing to transmission at
 8 6 to 8."
 9 If we can look nine lines up from the bottom of that
 10 last paragraph there:
 11 "Although these findings do not ... [Document read]
 12 ... symptom status groups."
 13 Now, this is the report that Mr Hancock described in
 14 his evidence to the Inquiry in Module 2 as changing the
 15 scientific evidence that underpinned the policy advice
 16 in the UK.
 17 First question: were you aware of this report? So
 18 this is 27 March 2020.
 19 **A.** Not on 27 March 2020, no. I think the document I have
 20 in front of me is dated 3 April. But I recognise that
 21 the evidence was changing and firming up and moving
 22 around. That's the challenge in all of this as
 23 a decision-maker. You've got evidence that something
 24 might happen without being clear about the extent to
 25 which it could happen.

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1 Collins -- he is not in fact aware of a time when he
 2 thought that there was not any asymptomatic
 3 transmission. Were you aware of this paper and this 44%
 4 of transmission could occur before the first symptoms of
 5 the disease?
 6 **A.** No, I wasn't aware of this paper at the time. We were
 7 aware, as I say, of the possibility of asymptomatic
 8 transmission, without having confirmed evidence, or
 9 indeed about how likely transmission was in people who
 10 were asymptomatic as opposed to pre-symptomatic, so all
 11 of those distinctions and uncertainties were there.
 12 **Q.** If we have a look at a further paper, it's a paper,
 13 Centers for Disease Control and Prevention report, it's
 14 27 March. It's INQ000224063. So this CDC paper, it's
 15 a study that looked at asymptomatic and pre-symptomatic
 16 Covid-19 infections in residents of a long-term nursing
 17 facility.
 18 If we can have a look, please, at page 2, it's the
 19 box in the left-hand corner:
 20 "What is already known ...
 21 "Once Covid is introduced into a long-term nursing
 22 facility, rapid transmission can occur."
 23 And what is added by this report, we see there:
 24 "76 of 82 residents were tested. Approximately half
 25 of those with a positive test were asymptomatic or

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1 I think the World Health Organisation issued a note
 2 on 2 April saying that there was no evidence of
 3 asymptomatic transmission. Then the CDC, I think
 4 relying on this -- it might be this report actually --
 5 then said that they think asymptomatic transmission is
 6 real and should be assumed. So, you know, you're left
 7 with entirely different conclusions on the same subject,
 8 which is not helpful.
 9 **Q.** Now, the Inquiry heard evidence from Mr Hancock in
 10 Module 2 that he said his single greatest regret was not
 11 pushing harder for asymptomatic transmission to be the
 12 baseline assumption. Is that a regret that you share?
 13 **A.** Again, my view is that that -- a significant piece of
 14 hindsight that you then need to work through to
 15 understand what does that do in terms of changing how
 16 you deal with a novel virus, because no -- if you know
 17 from the outset asymptomatic transmission is
 18 a significant factor, you're still going to have to
 19 decide how to test and identify people with Covid, and
 20 how to then take effective infection prevention and
 21 control methods, or how big a group of the population do
 22 you assume have Covid. And the control measures
 23 themselves carry harm, of course. You know, isolation
 24 for people in care homes is not a benign intervention.
 25 So, you know, that's part of the challenge in all of

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1 this. I don't think it's quite as simple as "that's
2 your single biggest regret". I think actually if you
3 have greater testing capacity you can do a great deal
4 more, and the place we ended up at the end of April into
5 May could have been a real option if we'd had capacity
6 and tests and the knowledge on asymptomatic transmission
7 at the same time.

8 So I don't think the puzzle is as simple as
9 asymptomatic transmission and knowledge of that is the
10 only thing you need to be aware of.

11 **Q.** On 16 April England introduced mandatory testing of all
12 patients prior to discharge to a care home. We know
13 that a day later, so 17 April, Public Health Wales wrote
14 to you to express their support for a policy change in
15 line with the UK Government. And then a few days later,
16 20 April, Public Health Wales produced plans to support
17 mass testing and bring Wales in line with England.

18 It's not until we get to 29 April that the Welsh
19 Government changes its policy such that all patients
20 being discharged from hospital to a care setting would
21 be tested regardless of showing symptoms.

22 How do you account for the delay, the 13-day delay,
23 between the policy change in England and the policy
24 change in Wales?

25 **A.** I cover some of this in my statement from paragraph 496
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1 all care home residents and staff earlier.

2 Now, given that there was clear evidence at the
3 beginning of April that only testing those with symptoms
4 missed up to half of care home infections, adopting
5 a precautionary approach, should routine testing of all
6 care home residents and all staff have been adopted in
7 early April?

8 **A.** I don't think we had the testing capacity to do it, and
9 I think Chris Whitty has given the same evidence, and
10 I think Dr Orford commented on this in his evidence too.

11 But if you want to say this is the policy, you then
12 need to be able to do it as well. Actually, at that
13 time, I don't think we did have the testing capacity,
14 and, again, I think Chris Whitty's given this evidence,
15 that actually the testing capacity at that point in time
16 was needed for people with symptoms. And, again, you're
17 thinking about all the risk that exists across the
18 population, for care home residents, for people in
19 hospital, for people who need to get into hospital
20 either from Covid or non-Covid or potential Covid harm.
21 And so you've got to deploy your testing in a way that
22 deals with the resource you've got in volume terms and
23 to then prioritise it, and that's the testing strategy
24 or policy we had at the time, that of course Dr Orford
25 authored initially, and that then moved to a new group

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1 onwards. So at that point in time, I set out that I ask
2 about testing of care home residents and release from
3 hospital. That's an email that I send to Dr Orford and
4 Dr Goodall, latterly picked up by Public Health Wales
5 officials, and we do then get more advice. And it's
6 then, getting from that to then having the practical
7 action of changing the policy as well.

8 And, again, it's one of the areas where there wasn't
9 the sharing of information you'd have expected between
10 Department of Health and others, so -- you know, and
11 again these things, you know, because lots of things are
12 happening at the time, but if the same information had
13 been shared with us instead of being announced, then
14 I think we could have been in a different position.

15 What you then have to do is you've got to try and
16 catch up with events, and I certainly do wish that we'd
17 been able to move more speedily on not just changing our
18 position but then in making sure that we had the testing
19 ability to implement a new policy effectively, because
20 that's the point. If you say "we should be doing
21 something different, we don't have the tools to do it",
22 well, not having the means is a really significant
23 problem and we eventually did get there.

24 **Q.** You have said in various public interviews that the
25 Welsh Government could have made the decision to test
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1 officially but underwent rapid change and this was
2 really difficult.

3 **Q.** You say -- it's paragraph 501 of your witness
4 statement -- there that the decision not to test all
5 care home residents and staff was not a question of
6 resource management but, as I understand your answer
7 that you've just given, capacity and resource was in
8 fact the reason that testing was not introduced earlier.
9 Is that right?

10 **A.** No, I think even -- it was our relative understanding
11 about the value and that's what's set out in the TAC
12 paper. But even if our understanding had been further
13 advanced and hardened, at that point, we still didn't
14 have the tests available. So if you recall --
15 I certainly recall having gone through all of the
16 decision-making discomfort and making changes in policy
17 on a regular basis, but actually the growth in our
18 testing capacity was a real issue through this time as
19 well.

20 If we'd had both the knowledge, then actually it
21 wouldn't have been the testing capacity or the -- it
22 would have been the testing capacity itself, not the
23 knowledge. The point I'm making in 501 is the evidence
24 that was available to me and the advice I was getting
25 wasn't "you should do this if you have the capacity",

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1 the evidence wasn't there to say "you should definitely
2 do this." That wasn't the advice that I was getting.
3 But even if the knowledge did exist, at that point in
4 time I don't think we had the capacity for the tests.
5 So we'd have had a policy for this that we couldn't
6 implement.

7 **LADY HALLETT:** Forgive me for interrupting.

8 What did you mean in 501, "it wasn't a question of
9 resource management"? I'm sorry, I'd read that as it
10 was a question of testing capacity. But what did you
11 mean?

12 **A.** So what I'm trying to get over is that if the knowledge
13 had existed at the point in time of setting it in 501,
14 the knowledge and the advice there on testing all staff
15 in the way we eventually did do, to have essentially
16 blanket testing and then serial testing eventually too,
17 that wasn't where our understanding was, certainly not
18 across my desk and the advice that I was getting.

19 However, if we'd had that advice, for example in the
20 middle of April, that "actually you really should do
21 this and our advice is definitely do it", at that point
22 in time we wouldn't have been able to test all of our
23 staff. So some people suggested this was just about not
24 having access to tests and that's why you didn't do it.
25 And actually the point I'm making is, well, actually, we
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1 came to me, for the sake of argument, if it came to me
2 on 16 April and the policy position had shifted then,
3 I think when you look at the testing capacity we had on
4 6 April we couldn't have delivered that policy. So
5 actually each week of increasing testing capacity was
6 really important to be able to deliver against the
7 position that we reached, because in England as well
8 they had this challenge of announcing a policy that they
9 couldn't then implement as well, that the capacity for
10 testing still needed to grow to deliver against the
11 policy position itself.

12 **MR POOLE:** We return to the chronology. So we're now around
13 mid-March, and the Inquiry has received evidence in
14 Module 2 that over the weekend, 14 and 15 March, the
15 UK Government took what may be considered to be
16 a significant change of direction. So evidence being
17 received that a body of scientific material by that
18 stage had built up from a variety of sources, officials
19 at SAGE had been asked by Professor Ferguson what
20 an epidemic with 4,000 deaths a day looks like, and
21 there was much more data by that weekend on the likely
22 impact on the NHS.

23 That change in direction was communicated to you at
24 a COBR meeting on 16 March. If we can have -- it's
25 INQ000056210, thank you. I suppose, just clearing this
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1 weren't being advised to do that anyway and we didn't
2 have the tests. But the first point was, if the advice
3 isn't there to do this, it doesn't really about the
4 resources.

5 But, you know, if we'd had the advice and the tests,
6 then we'd have done it. If we'd had the advice in
7 a clear -- stating "this is what you should do", in
8 early and mid-April we didn't have the tests to do that.

9 Is that clear? I'm not after making confusion.
10 There's two distinct --

11 **LADY HALLETT:** Should the statement read, instead of
12 reading, "At the time it wasn't a question of resource
13 management", should it read, "At the time it was
14 a question of resource management but more it was
15 a question of our understanding of the position"? Is
16 that what you're saying?

17 **A.** No, I'm saying it was our understanding of the position
18 of the relative value(?) of testing all those people as
19 set out in the Technical Cell paper. That's the reason
20 why the policy position didn't move. But if the policy
21 position had been at that point "You should do this",
22 I don't think we'd have had the resources to deal with
23 it.

24 So, for example, if, as Mr Poole is suggesting, that
25 we all should have known and that was the advice that
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1 one thing up, I think from those attendance records it
2 doesn't confirm your attendance but I think in your
3 witness statement you do confirm that you attended; is
4 that right?

5 **A.** Yes, correct.

6 **Q.** If we have a look at page 4, please, first paragraph.
7 We have there Sir Patrick Vallance and Chris Whitty:

8 "... told the meeting that the UK was on the cusp of
9 the fast upward swing of infections. There had been 35
10 confirmed deaths in the UK, including the first Covid
11 19-related death in Wales that day."

12 Then if we have a look at paragraph 2, the proposed
13 intervention measures outlined there were agreed upon at
14 this COBR meeting.

15 Now, those intervention measures would obviously
16 have a significant economic and also social impact when
17 they're introduced in Wales. Were you satisfied that
18 there had been proper consideration by the Welsh
19 Government of implementing these proposed intervention
20 measures?

21 I suppose what I have in mind specifically is, as
22 I spoke about earlier, the demographic characteristics
23 of the Welsh population, so the impact on the elderly,
24 the impact on the vulnerable.

25 **A.** So, yes, there was -- there had been about a proper
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1 consideration of the fact that if the virus is growing
2 significantly as it is, and if we know that our
3 population is vulnerable, then needing to act and, as we
4 went through before the break, understanding the
5 evidence picture on the 12th and 13th going into COBR on
6 the 16th, even in that few days the evidence picture has
7 hardened on the need to do more.

8 So yes, I was clear that we'd need to do that to
9 prevent really direct harm but then understanding the
10 full suite of what that means for all the indirect
11 harms, lives and livelihoods and everything around
12 those, then I think it would be dishonest to try to
13 claim that everything around that had been fully worked
14 through, because the picture's moving really fast and,
15 by then, the Treasury hadn't got through to doing,
16 for example, understanding what furlough's going to look
17 and how that's going to look.

18 I don't want to give you a misleading answer,
19 Mr Poole. So, yes, I understood very clearly, as did
20 the First Minister, Covid was growing, it's an even
21 bigger problem than it was the other side of the
22 weekend, and we need to do this, and we're signed up to
23 taking measure together to do it and that gives us the
24 best prospect of protecting people here and indeed
25 across the rest of the UK.

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1 they'd re-open until the autumn term, so impact on exams
2 would need to be considered.

3 Now, we know that the decision was taken to close
4 schools in Wales early for Easter this day, so on
5 18 March, and that was announced by Kirsty Williams, the
6 then education minister. Ms Williams says in her
7 witness statement that on 16 March, there was another
8 COBR meeting in which COBR maintained its previous
9 position that schools should not be closed immediately
10 and were crucial for maintaining frontline workforce.
11 And she then goes on in her witness statement to say:

12 "Even at 4 pm on 17 March [so the day before this
13 meeting we're looking at] the Welsh Government was still
14 working on the assumption that the best thing to do
15 would be to keep schools open."

16 Are you able to help us understand how the position
17 changed so rapidly since COBR on 16 March are still
18 looking at the position, keeping schools open; Welsh
19 Government, working assumption the day before this
20 meeting, best thing to do would be to keep schools open;
21 and then we have the announcement made on 18 March that
22 in fact schools are going to close early?

23 **A.** So what happened was the pace of events taking place.
24 So we had the understanding that schools are part of
25 transmission because, you know, people are moving around

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1 **Q.** If we can look at another set of minutes now, these are
2 Covid-19 core group minutes from a meeting on 18 March,
3 so a few days later. It's INQ000215172. Looking at
4 paragraph 1, Dr Atherton advised that the virus was
5 probably circulating in the community, 136 cases
6 reported in Wales, two recorded fatalities.

7 If we have a look at paragraph 3, Dr Orford
8 advising:

9 "... modelling suggested that the UK was four weeks
10 into the curve ... expected to be another 11 weeks
11 before the spread of the peaked, whereas the NHS in
12 Wales was four to five weeks away from maximum
13 capacity."

14 So just pausing there, you were aware obviously at
15 this stage of the need to act urgently to stop the NHS
16 in Wales being overwhelmed; correct?

17 **A.** Absolutely.

18 **Q.** If we turn over the page, page 2, and have a look at
19 some paragraphs there, starting at paragraph 11 dealing
20 with schools, there's a discussion about the policy on
21 school closures and it's noted here that SAGE was in the
22 process of updating its advice for COBR. So this is
23 18 March.

24 Have a look at paragraph 13, please. There's
25 recognition here that once schools were closed, unlikely

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1 and mixing, whether it's a primary school and a school
2 gate conversation, or whether it's actually the fact
3 that adults who are out and going doing other things
4 will often go and see other people after that as well.

5 There's the unknown role of older adults, and older
6 children in particular, and their possible role in
7 transmission. So all these things are unknown.

8 What we do know is, and it's noted in the minutes,
9 that if schools close it will be difficult to re-open
10 them. You've got to rebuild confidence, you've got to
11 possibly think about new ways of teaching and learning,
12 and we wanted to keep schools open. The things that are
13 highlighted later on, both the impact on children's
14 learning and outcomes but also, as I pointed out
15 regularly in my statement, that home isn't a safe place
16 for every adult and home isn't a safe place for every
17 child. Having your children in school means there's
18 greater visibility of what's happening. So there's a
19 real safeguarding issue about having schools open.

20 What happened was you had some schools closing
21 because they had staff who were isolating, in accordance
22 with our advice, having symptoms and isolating. So some
23 schools couldn't stay open because they didn't have the
24 staff to staff them. In other schools there was a
25 growing group of parents who were anxious and were

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1 fearful for their children, which was, you know, quite a
 2 rational thing for a parent to consider: is my child
 3 better off at home or better in school?
 4 So all of those things were happening and we found
 5 that local authorities, from the conversations we were
 6 having with them -- I say "we" in the government
 7 sense -- to then reaching an agreed position at WLJ
 8 leadership level -- I think every now and again the
 9 leader of the WLJ is described as the Chair, it's the
 10 leader, Andrew Morgan -- and those conversations with
 11 the education (inaudible) agreeing that we should try to
 12 keep schools open. And then you find individual
 13 schools, and then some local authorities, break from the
 14 pack and what we were finding was a disorderly closing
 15 of schools and some authorities were acting.
 16 So, again, this is the pace of events. From the
 17 16th to the 18th, it wasn't tenable to try to keep
 18 schools open. So to bring about an orderly conclusion,
 19 the decision was made which I think was the right
 20 decision at the time and I still, looking back, think
 21 taking that decision then was the right thing to do in
 22 those circumstances. But it is one of my regrets that
 23 we couldn't keep schools open for longer. Some of that
 24 is what we know at the time; an awful lot is what we
 25 subsequently learned about harm for children and young
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1 else needed to be done, there was then a discussion
 2 about the timing of it, which is what I set out in 221,
 3 and I was very clear that we needed to act as soon as
 4 possible, and that's what the overall conclusion was.
 5 **Q.** Now, we know that that evening, 20 March, the
 6 First Minister announced that the Welsh Government would
 7 use public health powers to close restaurants, pubs,
 8 bars and other facilities.
 9 The day after, Saturday 21 March, I think Welsh
 10 Government were told that there was going to be a COBR
 11 meeting but that didn't in fact go ahead.
 12 22 March, Dr Atherton confirmed another seven
 13 Covid-related deaths in Wales. That took the total
 14 number to 12. I think I'm right in saying, this is
 15 Sunday 22 March, that afternoon you had a meeting with
 16 the First Minister, and we can see an email setting out
 17 a number of action points following that discussion.
 18 It's INQ000336319. So we can see at the bottom of that
 19 page, yes:
 20 "As discussed with the First Minister And Minister
 21 for Health and Social Services this afternoon ..."
 22 Can we have a look, please, page 2, and I think it's
 23 the final, final action point, yes:
 24 "Lockdown plan -- Reg [that's Reg Kilpatrick] and
 25 team to prepare first cut so we are ready either to
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1 people's prospects for the future.
 2 **Q.** You attended a COBR meeting on 20 March. We don't need
 3 the minutes to be brought up. There was discussion at
 4 that meeting about additional social distancing
 5 measures, so such as closing restaurants, bars,
 6 theatres, cinema, non-essential retail.
 7 You say in your witness statement -- this is
 8 paragraph 221 -- that you agreed with these measures and
 9 wanted to see them introduced that night.
 10 I suppose my question is this: given that there had
 11 been substantial reductions by voluntary means at this
 12 stage and measures had already been introduced, did you
 13 consider waiting and allowing more time to see if those
 14 measures that had been introduced on 16 March would take
 15 effect and those measures alone would bring the R rate
 16 below 1?
 17 **A.** No, I think the evidence was clear, in the modelling
 18 that came from SAGE, in the evidence of our chief -- no,
 19 in the advice that our Chief Medical Officer had given.
 20 And indeed Chris Whitty in opening the COBR meeting,
 21 when he was asked to speak, was pretty clear that all
 22 the things that we had done were not going to stop the
 23 growth of Covid at that point and more significant
 24 measures were needed. There was a discussion about
 25 that. Then when there was a group(?) That something
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1 respond to UK Government or move separately."
 2 Would I be right to assume that at this stage,
 3 22 March, there was no lockdown plan and what was being
 4 suggested here is that Reg Kilpatrick and his team would
 5 go away and do a first cut of that plan?
 6 **A.** Yeah, I think a first cut to come back to us, because we
 7 had thought that we'd be going to a COBR the day before,
 8 and a lockdown choice would be likely made there, and
 9 then it didn't happen, and so, you know, part of our
 10 concern was whether with all of the evidence around
 11 increasing harm and the extraordinary things that were
 12 happening in that week, that we might get another week
 13 of not making a decision.
 14 And this is more about the Prime Minister's
 15 willingness to take the steps required, and so when you
 16 think back, well, if we were going to do this ourselves,
 17 bearing in mind the conversations we had before the
 18 break around the balance of who would take measures and
 19 action, what would that look like? So we did have
 20 a meeting with a number of ministers and I think one of
 21 the chief constables -- I think it was the then Chief
 22 Constable of South Wales Police -- around if we were to
 23 do this, what would it look like?
 24 It's again a really uncomfortable conversation
 25 because you want to go together with all four nations
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1 because that then brings everyone with you. And,
2 you know, so that was definitely what we wanted to do,
3 we had to prepare, well, actually if that didn't happen,
4 what could do we? What powers do we have? How fast
5 could we move and what would it look like?

6 So that was it. We had a meeting and then we had
7 COBR and, of course, we reached the agreement that we
8 did on 23 March with COBR.

9 **Q.** Just returning to this -- and I hear what you say about
10 the reasons why a plan had not been put in place by the
11 Welsh Government at this stage, and that's because you
12 thought that the UK Government was going to be leading
13 on this and you thought there was going to be a COBR
14 meeting on the day before -- but just to be clear, prior
15 to this meeting, there was not a plan put together by
16 the Welsh Government of what a national lockdown in
17 Wales would look like; is that right?

18 **A.** Not as a separate entity from what happened across the
19 UK. So from the 20th, if you recall, there are
20 significant measures outlined on the 20th on the back of
21 significant measures on the 16th. So all of the
22 practical points about getting ready -- I forget whether
23 it was the 16th or a previous meeting we talked about
24 shielding -- getting ready all the data and info,
25 there's lots of practical things to do and, you know, we

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1 about imposing a mandatory stay-at-home order in Wales,
2 was there?

3 **A.** No, I don't recall that we did have that discussion.
4 What I do think happened, though, is we had discussed
5 about the measures that we'd taken and whether we need
6 to go further, and actually we had already had
7 discussions around whether something like lockdown would
8 be needed, because that was a familiar phrase by then.
9 Something that no one had really discussed a few weeks
10 before was now being talked about quite commonly, not
11 just within the Government, but of course you'll recall
12 because you lived it through, Mr Poole, in the wider
13 public the phrase "lockdown" had entered, you know, the
14 public lexicon and that was because of what was
15 happening in Europe. It was actually seeing that and
16 seeing our own cases rise and the fact that there didn't
17 appear to be another answer. So it had moved from might
18 this happen to, I think, when would this happen and how
19 would it be done, but we didn't have a specific
20 discussion, if you like around, deliberately making
21 a choice at COBR that would then be implemented. But
22 ministers understood plainly what was happening around
23 it.

24 **Q.** There was a TAC briefing that's dated 23 March. Let's
25 identify it and then see if this was discussed at

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1 would have to do those even if it was going to be a
2 UK Government-led approach in terms of legislative
3 powers.

4 So we know there's lots we need to do and as we then
5 get to the 20th and, you know, it's going to be public
6 health-based powers, not something else, we then need to
7 think about how do we exercise those powers and then
8 thinking, that we're going to make a joint decision on
9 the 22nd and that not happening, it's then we've got to
10 have a more formulated plan about what we do if we have
11 to make all of those decisions rather than make those
12 choices together, as well as the very practical things
13 we need to do around supporting of vulnerable people.

14 **Q.** Now, as we all know, the decision to lock down was made
15 on 23 March, announced that evening by Mr Johnson and
16 then the First Ministers in the devolved
17 administrations. I just want to examine the
18 decision-making of that day, who actually made the
19 decision and rationale for that decision.

20 If I can start, there's a Welsh Cabinet meeting on
21 the 23rd which you attended. We don't need the minutes
22 displayed. The First Minister advised Cabinet that you
23 discussed a number of issues following emerging advice
24 from SAGE on the rate of transmission. I'm right,
25 though, there was no discussion at that Cabinet meeting

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1 Cabinet. It's INQ000312930. Do you recall whether this
2 TAC briefing was discussed at that Cabinet meeting or
3 indeed before the COBR meeting that took place later
4 this day on 23 March?

5 **A.** I can't recall exactly, but I do think this was
6 available to us before COBR, because of what it sets out
7 and where we were. So my view was that we were going to
8 need to do something and the exercise we'd been through
9 earlier in that day, I think, I think it was on the same
10 day, was about what we would do if we didn't get
11 four nation agreement. So this is advice telling us all
12 these things are happening around you and to the public,
13 you need to make some choices. And the recommendations
14 I think are pretty clear, and there's the SAGE
15 assessments in here as well.

16 **Q.** The COBR meeting then later this day on 23 March, that
17 is where the decision to lock down is recorded. We
18 don't need the minutes up, but it's recorded in those
19 minutes. The Inquiry's heard evidence that the decision
20 to lock down was one taken by the UK Government in
21 advance of that COBR meeting. You were obviously at the
22 COBR. Does that accord with your understanding, your
23 recollection of decision-making on that day?

24 **A.** So that isn't my recollection of how it was presented.
25 There were proposals and considerations and then it was

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1 "The recommendation is". It wasn't, "We have decided
2 to, are you coming with us?" from the UK Government.
3 But we were prepared for that and expected it. We'd
4 sort of expected it the day before of course, so it
5 wasn't a surprise that that was the recommendation. And
6 I can't speak for other people about whether they
7 already made a decision in the UK Government to do that
8 in England or not. But that isn't how it was presented
9 to us. They didn't say, "I've already" -- Boris Johnson
10 didn't say, "I have already decided we are doing this in
11 England. I will now allow other people to explain why
12 we have decided that".

13 **Q.** When it was proposed at COBR you say in your witness
14 statement that you agreed with the decision to lock
15 down. The witness statement of the First Minister
16 states he also agreed with the decision to lock down.

17 Had the UK Government not decided to lock down,
18 would the Welsh Government have followed TAC advice and
19 Dr Atherton's advice? Would it have imposed its own
20 national lockdown in Wales?

21 **A.** I think it's hard to say, and I'm not trying to avoid
22 the question, I'm trying to be honest with you about all
23 of the uncertainty we're managing, we've been dealing
24 with. So we had this meeting to try to understand what
25 would it look like, and particularly if you're

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1 implemented that were effectively the lockdown that we
2 lived with.
3 **Q.** Now just obviously, as you appreciate, it's necessary to
4 examine both the rationale for but also the rationale
5 against the imposition of the lockdown on 23 March. Now
6 we've discussed the measures that were introduced on
7 16 March, additional measures introduced on 20 March.
8 Now obviously on the premise that those measures were
9 introduced and they were designed to work, and given
10 that in COBR on 23 March there is recognition within the
11 minutes that there had been a significant degree of
12 compliance, I think the drop in footfall was 28% in the
13 High Street, travel had dropped by 60%, there was a 52%
14 drop in socialising, so the broad direct of travel one
15 might say was good.

16 The question is why not wait a few more days to see
17 whether or not those steps that had been taken on 16 and
18 20 March were enough on their own without introducing
19 a national lockdown that day?

20 **A.** Because we'd lived through the experience the previous
21 ten days. You know, from the previous ten days of,
22 you know, the challenge of the rugby game not going
23 ahead, understanding what that had done in terms of
24 public communication and uncertainty, and even then,
25 you know, there were still people going out to large

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1 an outlier, ahead of other action being taken. But you
2 can also see the action being taken in neighbouring
3 European states and of course the Republic of Ireland
4 had gone ahead and effectively gone into lockdown before
5 this as well.

6 So we may well have done but I can't tell you
7 absolutely certainly that we had decided that if we
8 couldn't get agreement at COBR we would definitely be
9 doing this ourselves. If there wasn't agreement at
10 COBR, we'd have had to say something about where we were
11 though. So it's possible that we would have got
12 agreement around the Cabinet table to implement
13 something like a Welsh lockdown plan. It's also
14 possible that we would have said, "We think we need to
15 do it this but we need to do it together" because there
16 are lots of things that need to come alongside it to
17 make it tenable for the public, the businesses that
18 won't be able to operate. So it's not quite as simple
19 as "we're doing it anyway, do your worst".

20 So that's what I can't honestly tell you what we
21 would have done if we hadn't agreed at that meeting, but
22 I would have been pretty shocked if we'd got to a COBR
23 at that point in time, understanding what the advice
24 from SAGE was because Dr Orford was at the meetings and
25 then not having agreed further measures to be

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1 events together. Then the NHS decision about saying
2 there's a framework to stop lots of NHS choices, still
3 seeing -- and that's a really big behavioural signal --
4 still seeing that Covid cases are rising and even though
5 some people are being more cautious, actually cases are
6 still rising and rising. Then on the 16th more measures
7 agreed, then on the 20th more measures are agreed and,
8 within that, each couple of days you can see more things
9 moving inevitably in one direction.

10 So if we had said on the 16th, "Look, we're not
11 going to wait, we're going to go into a lockdown now",
12 on our state of knowledge at the time, I think that's
13 something that could have been justified but it would
14 have been much more difficult. By the time we get to
15 the 20th and then the 23rd, I think the real difficulty
16 is not acting because you can see harm that's taking
17 place right in front of you, and by then we knew that
18 actually not because of the evidence about where you
19 were compared Italy on the curve, but that actually you
20 need to take action and then it takes time for that to
21 feed through. So on the one hand, you can say, "Well,
22 actually you should have waited two to three weeks". In
23 that two/three weeks, more harm would be created.

24 And, you know, the point that the Chair made
25 earlier, you're not just following the science, you're

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1 a decision-maker. If the science had said, "Look, let's
2 act". You choose not to, that's your decision. The
3 science says "Don't act" and you act anyway, that's
4 still your decision and I don't think we could have
5 justified not acting at that point in time.

6 So the evidence had hardened significantly, in my
7 view, between 13 and 23 March. Ten days isn't normally
8 a rapid time for government to take on board new
9 information, but a great deal had changed in that time.

10 **Q.** So do I take it from that answer that, as far as you're
11 concerned, by the time you get to 23 March the mandatory
12 stay-at-home order was absolutely necessary?

13 **A.** In my view, yes.

14 **Q.** Had different decisions been taken leading up to this
15 point, do you think a lockdown could have been avoided?

16 **A.** I think lots of things are possible, and then you think
17 are they likely and realistic? So you go back to
18 January/February and think about how Covid was largely
19 introduced. You know, my understanding of the
20 evidence -- we saw this during the pandemic -- was that
21 most of the introductions that were made into the UK,
22 including Wales, came from essentially the February
23 half term, from people going into Europe, largely skiing
24 holidays where you're indoors for a long time and then
25 multiple introductions are made.

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1 I honestly can't see that there would have been a way to
2 have avoided that lockdown, I've not seen any persuasive
3 and realistic argument that says "Here's how you could
4 have done it at the time".

5 **Q.** Do I take it from what you've just said that you think
6 that lockdown was imposed a few days too late, so should
7 have been imposed, say, on 20 March?

8 **A.** If that had been the decision, if that had been the
9 proposal, then I think we would have said yes, we agree.
10 And again that would be -- that would have been my view
11 at the time.

12 In hindsight, I think, you know, if we'd gone a week
13 earlier, we would have made a great deal of difference
14 because again when you look at the pandemic curve a few
15 days matter but a whole week would have made
16 a difference too. But it took everyone some time to get
17 used to the enormity of what was actually happening and
18 the scale of harm and the scale of action that would be
19 required as well. So at the time I think it is fair to
20 say that, you know, I was expecting there to be
21 a lockdown decision on the 22nd. If it had been on the
22 20th as opposed to extra measures to have a full
23 lockdown then with everything else, I think we would
24 definitely have been signed up to it. I think that
25 would have been our view at the time.

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1 So actually by that point, and this is the thing
2 about going again back to the questions yourself and the
3 Chair asked about contain and delay, by that point Covid
4 is introduced. And then when you see evidence of
5 community transmission, the danger is that actually
6 within a day or two you've lost track of it and it's
7 running well ahead of you. If we knew all of that, we
8 could have acted earlier, but we'd have needed to take
9 the public with us, we'd have needed to have the
10 co-ordination across all governments, the financial
11 support as well.

12 So actually I think the real challenge was that we'd
13 have needed to make decisions much, much earlier, to
14 have had a greater state of knowledge, we'd have needed
15 to intervene before harm was visible to the public, and
16 that's actually really difficult because of the scale
17 and the extent of the measures we needed to take.

18 So I'm -- I have thought about this a lot, not just
19 in preparing for the Inquiry but, frankly, because of
20 having to live with all the choices you've made and
21 seeing the consequence of them. I've thought a great
22 deal about this and I don't think there was a way to
23 avoid the first lockdown, I really don't. The timing of
24 it could have been different, potentially, and,
25 you know, a few days could have saved more lives, but

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1 By the 16th or the 13th, given our state of
2 knowledge at the time, I'm not so sure and that's where
3 I think a few days was reasonable and realistic.
4 Another week or two weeks earlier, then you're
5 definitely into hindsight, I think.

6 **Q.** I want to next look at the period following the national
7 lockdown up to autumn 2020. Now, imposing, as we know,
8 a lockdown in Wales using public health powers meant
9 legal requirement to review the regulations every
10 21 days. You describe in your witness statement that
11 process for the 21-day review. You say that it involved
12 a careful consideration of the latest advice from SAGE,
13 advice from the CMO, and then the question to Cabinet
14 would be: should the regulations be approved, should
15 they be amended?

16 14 April, that's the first 21-day review. If we can
17 just have a look at a ministerial advice that was
18 prepared for that. It's INQ000145553. As we can see
19 from that ministerial advice, it's copied to all
20 ministers and deputy ministers. We see the
21 recommendation there. The First Minister is asked to
22 agree to retain a full package of restrictions.

23 Although the MA expressly states it's a decision for
24 the First Minister, and the recommendation obviously
25 asks the First Minister to take this decision, I'm

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1 assuming this was a collective decision that was taken
2 by the whole of Cabinet; is that right?

3 **A.** Yes. Yes, Cabinet -- as I explained before the break,
4 Cabinet meets and agrees but the First Minister has to
5 agree the decision and then the regulations are then
6 enacted.

7 **Q.** The reason I ask that question is simply this: there is
8 no record of a Cabinet meeting on 14 April, so that's
9 the day after Easter Monday, and the next Cabinet
10 meeting on 20 April doesn't discuss the 21-day review.
11 So I just wondered how the decision, how this
12 ministerial advice was actioned, and how the decision
13 was taken, but it's your evidence that it would have
14 been a Cabinet decision?

15 **A.** That's my recollection. We'd agreed to do this, we'd
16 agreed to go ahead. I can't remember where it is in my
17 statement but, having gone into lockdown, and then you
18 will see that there's a need in the regulations to
19 undertake a review and that's where we got into the
20 cycle of 21 days.

21 **Q.** We have received evidence, the Inquiry's received
22 evidence, that on 10 May Mr Johnson made a public
23 announcement indicating a change in policy for the
24 UK Government, that was the change in public health
25 emergency from Stay Home to Stay Alert, and

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1 proper consideration was given to changing the message
2 in Wales to align with the position in England,
3 particularly I suppose I have in mind the issues that it
4 may cause having different public messages across the
5 land border between Wales and England?

6 **A.** We were acutely aware of the highly porous border. It's
7 a more porous border than Scotland and England. There's
8 a lot more social and economic transfer across the
9 border. I've given examples in my statement, I think,
10 of settlements that straddled the border.

11 It was part of the reason why we were so annoyed --
12 I'm being polite -- when that significant change in
13 messaging is made without an attempt to even have
14 a conversation. It was a surprise to officials as well
15 as ministers, and it's a really significant departure.
16 So we did think about it, but our clear advice to us was
17 this was the wrong time to remove the stay at home
18 messaging.

19 So it wasn't the sense of wanting to be different
20 for different's sake, it was far from that, and it
21 wasn't our choice to be different. You know, if we'd
22 had a discussion about it, we might have reached some
23 agreement on some common messaging or agreement on at
24 what point would we move from stay at home. I think
25 that would have been --

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1 the Inquiry's received evidence that one of the main
2 drivers for changing that public message to Stay Alert
3 was that there were some within the UK Government,
4 including the then Chancellor, who were concerned that
5 the population was over-complying with the work from
6 home message. So they were -- I think the view was they
7 were overlooking the part of the message which said you
8 cannot work from home, then you should go to work and
9 practice social distancing.

10 Was that a concern that was shared by anyone within
11 the Welsh Government or yourself; can you recall?

12 **A.** No, in fact, it was the public willingness to follow the
13 basics that had managed to squash the curve and reduce
14 infections.

15 And I think actually rather than it being a public
16 announcement, it was a briefing to the press. I learned
17 about the change in messaging from the Sunday papers,
18 I think it was the Sunday Telegraph that had
19 an exclusive on it, and I think another paper -- I think
20 there were a couple of papers that were briefed. So the
21 briefing had taken place on the Saturday and we found
22 out about it on the Sunday before going into a COBR
23 meeting later on Sunday, I think, 11 May.

24 **Q.** In light of the UK Government's decision and the
25 importance of consistent public messaging, do you think

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1 **LADY HALLETT:** Can I just interrupt. I'm so sorry,
2 Mr Gething. Apparently the cameras have gone down.
3 We're still broadcasting sound, so I think we should
4 continue, but the investigation's going on. Technology
5 is wonderful when it works.

6 **A.** Quite so. We found that out in the pandemic.

7 **LADY HALLETT:** So let's carry on, Mr Poole. I'm so sorry to
8 interrupt. Do you want to go back to:

9 "... it wasn't our choice to be different ... if
10 we'd had a discussion about it, we might have reached
11 some agreement on some common messaging ... at what
12 point would we move from stay at home ..."

13 That's where you got to.

14 **A.** And I think that would have been the right thing to do,
15 and it's from this point onwards that I think you can
16 see more differences in the way that the four
17 governments addressed this. And it was -- I think it
18 was a mistake and it need not have happened, but it's
19 a choice that the UK Government made, consciously, to
20 make the decision to brief it to papers in advance of
21 the COBR meeting.

22 **MR POOLE:** Given that the UK Government and the Welsh
23 Government were both drawing from a very similar
24 scientific base, how -- can you explain the very
25 different messaging, then, that was coming from the two

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1 governments?
 2 **A.** Broadly, the health advice that chief medical officers
 3 gave to their respective governments was similar. The
 4 four chief medical officers met on a regular basis and
 5 there was lots of commonality and agreement. And even
 6 after we stood up our greater capacity through TAC and
 7 TAG in Wales, there wasn't huge dispute between what
 8 SAGE were saying and what TAC were advising us. The TAC
 9 and TAG advice was, if you like, localised for Wales,
 10 context specific rather than giving entirely different
 11 advice.

12 **MR POOLE:** Mr Gething, I'm told unfortunately that we do
 13 need to stop.

14 **LADY HALLETT:** Oh my goodness, the video is back but the
 15 sound has gone. Shall we take a break now and hope that
 16 by the time we come back -- I mean, we have to have the
 17 sound, even if we don't have to see each other.

18 "I'll come back -- well, shall we take the 15-minute
 19 break now? We'll take the 15-minute break now, and
 20 let's hope it's all resolved by the time we come back.

21 **THE WITNESS:** Okay.

22 (2.36 pm)

(A short break)

24 (2.52 pm)

25 **LADY HALLETT:** I gather we're now up and running for both.
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1 group of teaching unions. So that then came back to
 2 Cabinet and we had discussions around how we'd use our
 3 headroom to try to get out of the restrictions we'd had,
 4 and signalling when we wanted all children to be able to
 5 go back to school at some point before the summer break
 6 and the conversations that weren't successful on whether
 7 we could extend the school year either at the end of
 8 summer -- the summer 2020 term or at the beginning of
 9 the autumn 2020 term to bring it forward.

10 **Q.** Just ask you to have a look at some WhatsApp messages,
 11 please.

12 It's INQ000388430.

13 So these are WhatsApp messages between yourself and
 14 Kirsty Williams, who was then the minister for
 15 education, so we're looking at some exchanges on 19 May.

16 Yes, if we can start right at the top, you say:

17 "I spoke with MD ..."

18 Presumably that's the First Minister,

19 Mark Drakeford:

20 "... after the 9 am call ... [Document read] ...

21 useful advice from TAC."

22 Then Ms Williams says:

23 "Thank you. Yesterday was not helpful."

24 You say:

25 "What happened? Was it all ... [Document read] ...
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1 **MR POOLE:** My Lady, I think that's right, I think both audio
 2 and visual problems have been remedied.

3 **LADY HALLETT:** And I am going to say, I appreciate it will
 4 be a great disappointment to those following online,
 5 especially any bereaved members of families who couldn't
 6 make it to the hearing centre, but because we have to
 7 finish Mr Gething today, I can't ask him to come back
 8 the rest of the week, then we are going to have to go on
 9 without sound or visual if we have to. But, as I say,
 10 I'll do my utmost to ensure we don't have to, but we
 11 have to finish Mr Gething.

12 **MR POOLE:** My Lady, thank you.

13 Mr Gething, we'd spoken about the 10 May. I want to
 14 briefly look at the decision to re-open schools in
 15 June 2020. How involved were you in that decision?

16 **A.** So we discussed as a Cabinet but all, if you like, the
 17 legwork was done by, led by the education minister.
 18 There were some meetings with the First Minister, some
 19 meetings that I attended, that -- the Deputy Chief
 20 Medical Officer also I think from the lead person from
 21 the Chief Medical Officer's department around the
 22 conversations with both local authorities and education
 23 trade unions. And there's, if you like, two blocks,
 24 there's the staff unions representing support assistants
 25 and other non-teaching staff at schools, as well as the
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1 about where we are?"

2 Was it your understanding at this point in time
 3 that, on this issue of school re-opening, you weren't
 4 receiving the necessary scientific advice, scientific
 5 information to help you make informed decisions?

6 **A.** I think it was really about getting scientific advice
 7 and information in a form that help you to make the
 8 choices. It goes back to the point around "following
 9 the science", you still need to make a decision, you
 10 also need to understand what the science is telling you
 11 and, because there was still so much uncertainty, the
 12 difficulty is, you know, as a decision-maker you really
 13 want more certainty to found your decision on, and at
 14 this point that was important not just for the minister,
 15 the education minister, it was important to get staff
 16 unions and especially teaching unions to agree to go
 17 back to work, and of course the leaders of local
 18 authorities as well who have their own responsibilities
 19 as employers with governing bodies.

20 So it's really about trying to understand how the
 21 scientific evidence can be framed and phrased in the way
 22 that helps to make that decision for the minister and
 23 indeed those other stakeholders, but it still has to be
 24 advice that they're prepared to sign off and sign up to.
 25 That includes, if you like, the evidence and the advice
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1 in its broadest sense, including public health advice as
 2 well.

3 **Q.** With the exception of schools, I think I'd be right in
 4 saying that the general pattern was that England and
 5 Northern Ireland eased restrictions and re-opened the
 6 economy first, followed next by Scotland and then Wales.
 7 As I'm sure you're aware, some have criticised the Welsh
 8 Government for taking an overly cautious approach to
 9 easing restrictions and re-opening the economy. Do you
 10 consider that the Welsh Government was overly cautious?

11 **A.** No, I don't, we were always trying to balance the
 12 competing responsibilities and the competing harms we
 13 had, and it goes back to your earlier questions around
 14 the population of Wales being more vulnerable, about
 15 understanding how we do that effectively, how I take
 16 people with us, the point that I make in my statement
 17 regularly about trust. And, you know, then it goes into
 18 the advice you're getting, at what pace you do things,
 19 and then how you use the headroom you've got. Because
 20 each intervention and easing is likely to potentially
 21 bump up the rate of transmission. So do you keep all of
 22 your headroom to do a larger intervention, or do you do
 23 something you can do at that time without risking going
 24 back into exponential growth?

25 Those are all the things we were grappling with at
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1 disagree on that, though I think it is pretty obvious --
 2 there is just the point around the fact you're in
 3 an unfinished emergency and it would make more sense to
 4 be able to have a conversation and to try to agree how
 5 to do something together. And, you know, I've seen the
 6 evidence, it wasn't just a surprise to devolved
 7 governments, it was a surprise to fellow ministers in
 8 the UK Government and indeed public health experts
 9 advising the UK Government on these matters as well.

10 **Q.** Had you been consulted, would you have endorsed this
 11 scheme in Wales?

12 **A.** Well, if we'd been consulted, I'd have wanted to have
 13 a conversation with the economy minister and I'd have
 14 wanted to have a conversation with our public health
 15 experts as well, and their advice is not particularly
 16 different to the advice that -- and evidence I've seen
 17 Jonathan Van-Tam give about the fact that they would
 18 have said "This is not a very good idea, it's likely to
 19 lead to a greater circulation and regrowth of the
 20 virus".

21 So, you know, I've covered this in my statement
 22 about what my view was at the time. It had already
 23 happened, it was a matter of fact. I think we'd have
 24 been unlikely to have said "We're very happy for this to
 25 go ahead", we'd have had to factor it in properly and
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1 the time, and of course, you know, other people will
 2 judge in the wider public and this Inquiry will take
 3 a view on not just how we made our individual choices
 4 but whether we could have done more and done better
 5 together.

6 **Q.** I want to next ask you some questions about the Eat Out
 7 to Help Out scheme.

8 Now, the former Chancellor has given evidence to
 9 the Inquiry confirming that there was no consultation
 10 with the Welsh Government before the UK Government
 11 announced that scheme on 8 July, and he, Mr Sunak, told
 12 the Inquiry that such consultation would not have been
 13 ordinary policy and that the Eat Out to Help Out was
 14 within the competency of the UK Government.

15 Now, I suppose my question is this: do you agree
 16 with Mr Sunak that this is not something that you should
 17 have expected as the Welsh Government to have been
 18 consulted on?

19 **A.** No, I don't agree with him. You're essentially talking
 20 about the support you provide to businesses, and
 21 business support and economic development are plainly
 22 devolved in their broadest sense, so business rates are
 23 devolved, there are other things that aren't devolved,
 24 and apart from whether you think it's devolved or not
 25 devolved -- and Mr Sunak and I may just have to agree to
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1 choices we were making within our own 21-day review
 2 process, as opposed to it being an intervention that
 3 just cut across that.

4 **Q.** Now, you say in your witness statement, and it's
 5 paragraph 295, that you did not think it was helpful or
 6 productive to publicly criticise the UK Government or
 7 the scheme at the time.

8 Now, given that the protection of life is the
 9 pre-eminent duty which each government owes its people,
 10 if you or anyone within the Welsh Government thought
 11 that this scheme, as you've just said, might increase
 12 transmission and therefore lead to more deaths, was it
 13 not your duty to raise concerns with the UK Government?

14 **A.** Well, politics is supposed to be a practical business,
 15 and that means that when this has happened, and it's
 16 already out there, and you've got lots of businesses
 17 who, frankly, are genuinely worried about not just their
 18 livelihoods but their broader health and wellbeing,
 19 you've then got to make a choice about: do you pick
 20 a fight in public on this when there's zero prospect of
 21 changing the answer? And this is of course in
 22 an environment, going from 10/11 May that we started at,
 23 where actually the disputes and disagreements between
 24 different governments are increasing, and do you choose
 25 another fight to have?
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1 So being clear that we're not certain about what has
2 happened, and then you get the advice from your own
3 public health experts saying "We don't think this is
4 a great idea", but lots of the people you represent and
5 have a responsibility for are out and using it.

6 Now, that's actually very difficult and, you know,
7 the choice is: is it better to say "We think this is
8 wrong and we're not prepared to endorse it", knowing
9 full well the public response is already there, or do
10 you, as we did, have to factor this into account when we
11 make choices through our own 21-day review process?
12 Which is what we did.

13 **Q.** Now, Mr Gething, I do understand the practical
14 consequences of: if the scheme had already been
15 implemented and there were people using the scheme, then
16 at that stage it may be too late. But the former
17 Chancellor's evidence to the Inquiry was that the scheme
18 was announced on 8 July, it was not due to commence for
19 a month or so later, and he said there was ample
20 opportunity for anyone to raise concerns about the
21 scheme between that announcement and its implementation.

22 Why did you not raise any concerns in that period of
23 time?

24 **A.** Once the UK Government have made a decision and they've
25 announced it on this scale, the real world truth is

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1 in the period August to November, including the
2 firebreak.

3 Now, the Inquiry's heard evidence about further
4 local lockdowns that were put in place, so Llanelli,
5 Rhondda Cynon Taf, Merthyr Tydfil, Newport, Bridgend,
6 Blaenau Gwent, Swansea, Cardiff, Llanelli, Neath Port
7 Talbot, Bangor, Vale of Glamorgan; all of those
8 effective local lockdowns that were imposed, the
9 First Minister in his evidence to the Inquiry has
10 described as a failed experiment.

11 Do you share his view?

12 **A.** Yeah, so the starting point was Caerphilly, which
13 I announced in early September because of the rise in
14 rates. What we saw initially was some fallback and then
15 a plateau, and then rates started to rise again
16 eventually. And all of those county-wide and then some
17 of the more local lockdowns -- so, you know, Rhondda
18 Cynon Taf and Merthyr were then next, and I think
19 Blaenau Gwent came soon after that, then in Llanelli
20 there was a group of wards, so not the whole of
21 Carmarthenshire, the nature of Carmarthenshire is it's
22 not quite as compact as some of those other authorities.

23 So we ended up following through on what we'd said
24 in coronavirus control plan about how we'd tried to
25 react and deal with rises in the rate of Covid, so we're

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1 they're not going to row back, and the idea that in the
2 month, having made an announcement with his name all
3 over it, Rishi Sunak was going to row back I think is,
4 you know, fighting with reality and there is no point in
5 pretending that.

6 **Q.** It may have gone ahead in England; would you not have
7 been able to say to the then Chancellor "That's all well
8 and good, but it's not happening here in Wales"?

9 **A.** The problem is: how could we have done that? You know,
10 in practical terms, if you're saying we're using --
11 they'd taken powers to be able to spend in devolved
12 areas anyway, then actually there isn't a legal
13 mechanism to over -- override that. I think there
14 should be, I think it's the wrong thing to do, but
15 that's a different point outside the Inquiry. But
16 actually once that happens, then, no, there isn't. And
17 Mr Sunak has been determined on a number of fronts to do
18 things, and this was one of them, and it didn't matter
19 whether it was devolved or not. I mean, like I said,
20 I think the idea where he said "We won't do it in Wales,
21 you can have the money to do something else with",
22 I mean, that's for the birds. You know, let's not waste
23 time pretending that that would have happened in
24 reality.

25 **Q.** Deal next with some of the key decisions that were taken

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1 doing what we'd set out we do to try to avoid having to
2 take wholesale national measures, and we found that
3 there was an immediate impact but it didn't mark
4 a decisive turning back.

5 So we ended up with, as you pointed out, a quilt
6 across the country of most of the country being in some
7 form of local intervention, so I think more of Wales
8 geographically was in a state of local intervention than
9 not, and before the firebreak -- I think I cover this in
10 my evidence -- there were three authorities in northwest
11 Wales who were talking about the possibility of
12 a county-wide intervention to cover the rest of Gwynedd
13 and, I think, Ynys Mon and it may well have been Conwy,
14 and we chose not to do that because we were literally
15 rubbing up against having to make a choice about
16 firebreak or not, and so it wouldn't have made sense to
17 have had an intervention for three days on a local basis
18 to then have a national intervention.

19 So we recognised that, in the sense of whether those
20 interventions prevented us in aiming to do national
21 things, then yes, they did fail, they did not succeed,
22 but I think it was the right thing to try to do them and
23 we'd set out that would be our approach.

24 **Q.** You say at paragraph 298 of your witness statement: on
25 18 September TAC noted that the situation was serious.

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1 Now, we don't need to pull up that TAC advice, but in
 2 short that TAC advice was that a package of NPIs was
 3 needed to bring R back below 1 and that action would be
 4 most effective if implemented early.

5 Are you aware that a circuit-breaker or firebreak,
 6 so a short period of lockdown, was recommended by SAGE
 7 on 21 September? Is that something that you were aware
 8 of?

9 **A.** Not immediately on the 21st but fairly soon afterwards.
 10 So I obviously read the TAC advice ... because I read
 11 the full advice and I read the summary and I had to
 12 approve the publication of the summary which was,
 13 I think, the right thing to do from early on so people
 14 could see why we were making choices, and here again
 15 saying "You need to do something", that was what we were
 16 trying to do with the local interventions and the
 17 challenge was, as we saw, despite those local
 18 interventions we weren't seeing the growth of the virus
 19 capped or reduced. So that's why the advice hardened
 20 about: it isn't just something you might want to do, we
 21 really think you should, and that advice got stronger
 22 and it's how we ended up eventually having the
 23 firebreak.

24 **Q.** I just want to follow through the evolution of this
 25 advice so we can see the picture as we move into
 165

1 compliance back in dealing with the first wave in March
 2 and April and May 2020?

3 **A.** I think this goes back to the point the Chair made
 4 again, that you have advice and then you still need to
 5 decide, and having had advice you need to do something,
 6 we've got a range of measures we set out in our control
 7 plan just from the summer, so not a long time ago, and
 8 we say we'll try to undertake a series of local
 9 interventions to avoid going back into national
 10 interventions because whilst the public had been
 11 fantastic, frankly, in dealing with a lot of significant
 12 intervention in their lives, to ask them to do that
 13 again in September I think would have been challenging.
 14 We'd just got our children back to school, and if you're
 15 then going into a national set of interventions, you've
 16 got a real challenge on keeping schools being open and
 17 we'd recognised, you know, not just the theoretical harm
 18 but, with children going back to school, some of the
 19 harm that is being crystallised there as well.

20 So we've got all of these difficult challenges, and
 21 the politics are getting more and more difficult, both
 22 within Wales as well as between the Welsh Government and
 23 the UK Government. So, you know, you pointed out about
 24 the fraying that really started really visibly on
 25 10/11 May and that carries on regularly.
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1 October. And you're right, the SAGE advice of
 2 21 September, that is then translated into TAC advice on
 3 25 September, which you say you authorised the
 4 publication of the summary.

5 Now, at paragraph 304 of your witness statement, you
 6 say:

7 "It was clear at this time [so this is 25 September]
 8 that infection rates were rising and that action was
 9 needed."

10 But you go on to say:

11 "We knew from events between January and February of
 12 the significant harm that could be caused by the virus
 13 spreading too quickly."
 14 But then you say:

15 "We were mindful that if we jumped to a national
 16 lockdown too quickly, this may affect support for and
 17 compliance with that lockdown."

18 So on the one hand you're being told by TAC action
 19 would be most effective if implemented early, and on the
 20 other it seems from your witness statement you're
 21 concerned not to impose lockdown too quickly.

22 Just I'm interested in what informed your thinking
 23 at this point in September that jumping to a national
 24 lockdown too quickly might affect support and compliance
 25 with that lockdown, knowing what you did about public
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1 The Secretary of State for Wales from the time, who
 2 gave evidence here, I think it really highlights it. So
 3 Simon Hart came here and gave evidence on oath that he
 4 thought that there were differences just driven by the
 5 politics, about us being different for the sake of it,
 6 and that's even after all the evidence that's been given
 7 in all the other modules of this Inquiry, from public
 8 health experts in England and indeed the evidence you'll
 9 have heard from Public Health Wales, Dr Orford and
 10 Dr Atherton here, and it's still Simon Hart's evidence
 11 on oath that we were just being difficult for the sake
 12 of it.

13 And that is a real factor, because in the Senedd we
 14 have a majority of two at this point in time, so it's
 15 not like the governing party in Westminster with
 16 a majority of 80 and if they can deal with 20 various
 17 backbenchers they're home and hosed. So actually making
 18 choices within the politics is much more contested and
 19 gets worse through the rest of the autumn and the
 20 winter, and it matters about how we think we can take
 21 people with us in making really difficult choices when
 22 the release from the summer has only just happened.

23 So this is actually very, very difficult and it's
 24 one of the things about the behavioural side, you know,
 25 as politicians and decision-makers you've got to think
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1 about all of those things and how you do take people
2 with you. So it really wasn't as black and white as
3 I would want it to be.
4 **Q.** A week later, so we were talking about 25 September,
5 when you get to 2 October there's a rather more stark
6 warning from TAC. Their advice was unless measures
7 bring R back below 1, it is possible infection incidence
8 and hospital admissions may exceed scenario planning
9 levels. That advice doesn't get any better; gets, if
10 anything, worse. So a week later, 9 October, TAC advice
11 is still exponential growth, hospital admissions
12 continuing to rise.

13 Then there's a ministerial call on 13 October. Now,
14 again, we don't need the note of that meeting but it
15 records the First Minister updating Welsh ministers on
16 a COBR meeting the previous day, during which
17 Sir Chris Whitty and Patrick Vallance repeatedly told
18 the Prime Minister that Tier 3 measures would not be
19 enough to reduce the R below 1 but that
20 a circuit-breaker would, and it's at that ministerial
21 call on 13 October that the First Minister invited Welsh
22 ministers to consider a circuit-breaker.

23 **A.** Yeah.

24 **Q.** So is it right to say that until 13 October, Welsh
25 Government had not started drawing up plans for

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1 wanted to do was to have a conversation, because we knew
2 the same evidence and advice had been given in public
3 health and the scientific basis as the UK Government.

4 But, as I said with the politics, it gets worse at
5 this point, because all through September and October
6 a point is being made by the then Prime Minister that
7 he's not going to do what he claims Kier Starmer, as the
8 relatively recent leader of the opposition, wants to do
9 and there are shots being fired at us politically as
10 well.

11 So at a point in time where we think we're going to
12 need to do something, and we want to be able to have
13 a sensible conversation, there isn't a direct
14 conversation between the First Minister and the
15 Prime Minister, and in fact the political rhetoric is
16 getting more divided, and that's the context in which we
17 have to make our choice.

18 So that is then reflected in the Senedd as well, so
19 the Senedd is much, much more contested through the
20 whole of the autumn and it gets worse in December
21 actually, than at any point through January, February,
22 March all the way through to June/July. This is
23 actually a very, very difficult time to be making
24 choices. That --

25 **Q.** Sorry to interrupt you, Mr Gething, but even more so,

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1 a firebreak lockdown, despite the advice that we've seen
2 from SAGE and then through TAC starting in
3 mid-September?

4 **A.** So I think I was at that COBR meeting as well. So we
5 had been seriously considering the deteriorating
6 picture, it's why we'd not made any significant further
7 easements. I think in my statement I set out that the
8 only one was allowing ice rinks, skating rinks to open
9 with certain restrictions around them. So we'd not
10 moved to have further easements again, and in the
11 messaging from myself and the First Minister in the
12 regular press conferences we ran, it was about the fact
13 that the situation was deteriorating, and we were asking
14 people to come us and to think again about who they're
15 having contact with and why; and despite all that -- and
16 our public-facing communications are very clear about
17 this as well -- the situation continues to deteriorate,
18 even whilst you've got most of Wales in these local
19 restrictions as well and, again, that's a really visible
20 signal.

21 So what we then have to think about doing is, well,
22 now that we are clear that we have the powers -- because
23 in March, through March, that wasn't entirely clear --
24 do we choose to do this and, if we do, what does this
25 look like in terms of a firebreak? And actually what we

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1 given that these are -- I mean, there's no easy choices
2 to be made throughout the whole pandemic, but isn't it
3 even more important that you have the scientific
4 information and data to inform these decisions?

5 So, given that advice had been given from as early
6 as 21 September about a circuit-breaker being what is
7 needed by SAGE, by the time we get to this ministerial
8 call on 13 October and the First Minister is then
9 inviting Welsh ministers to consider a circuit-breaker,
10 the Inquiry understands that no modelling had been
11 carried out for what a circuit-breaker might -- the
12 effects of a circuit-breaker might look like at that
13 stage.

14 Why wasn't that work being commissioned at the end
15 of September?

16 **A.** I can't recall, I don't have all the documents in front
17 of me, about when formal modelling started, because that
18 modelling is on the range of interventions to make, and
19 so understanding that you're going to need to have more
20 NPIs introduced, whether it's the same as the March
21 lockdown or less, you do need to be able to model that.
22 And actually by this point we've managed to get --
23 I think there's the conversation with Swansea University
24 where Professor Graveston(sic) and his team are leading
25 and working on the modelling advice for Wales. So

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1 actually we've got more of our own source of more
 2 bespoke advice to call on then.
 3 So actually that -- and we actually did -- I recall
 4 this in the papers we had about different versions of
 5 sets of measures that could be undertaken to try to deal
 6 with the growth in cases that we're seeing, but it would
 7 be preferable if we could persuade the UK -- who we know
 8 are seeing the SAGE advice -- if they will take measures
 9 alongside us as well, and that didn't happen obviously.
 10 So we did publish the summaries of our TAC advice,
 11 so the worsening picture wasn't a secret or a surprise,
 12 because we were not just publishing the advice but
 13 myself and the First Minister in particular were
 14 actively pointing to it in the public press conferences
 15 we were running up to the middle of October, and we get
 16 to the point of saying "We can't not do this", so we go
 17 and get the specific plan that ends up being the
 18 firebreak. But even there, that isn't simple because --
 19 as I know you'll see in lots of the evidence, and
 20 I think you've been through it before -- you need
 21 financial support to make it work, and that was ... that
 22 was hard because the Treasury made a choice not to make
 23 it available in the way that it was subsequently made
 24 available a few weeks later in England.
 25 **Q.** Now, Mr Gething, I think my question was just really, in
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1 "Scientific advice was that a minimum of a two-week
 2 lockdown was required ..."
 3 Pausing there, was the Welsh Government looking at
 4 longer lockdowns? So did you look at a three-week or
 5 a four-week or even longer lockdown, or was it always
 6 looking at the half term and it was always going to be
 7 two weeks?
 8 **A.** So the model advice we got on the 15th had been
 9 commissioned previously, and the advice that we got as
 10 ministers was looking seriously at the two or three-week
 11 options, and that's the advice that we considered, and
 12 we wanted to positively take half term into
 13 consideration for that, because you would get in some
 14 ways a natural break with the week in half term. Again,
 15 if we'd managed to move the school term round, we might
 16 have been looking at a two-week half term in any event,
 17 but that didn't happen.
 18 **Q.** We have a look at 1.6, please, in these minutes. That's
 19 the modelling advice from Swansea University, so a
 20 two-week lockdown, potential to reduce R from 1.4 to
 21 0.8.
 22 Then if we can, please, just have a look at --
 23 I think it's page 4, which might be the last page of
 24 these minutes, paragraph 1.21, we can see there
 25 recorded:

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1 a nutshell: do you think modelling should have happened
 2 earlier than it did? Because we know modelling did take
 3 place, we know that by the time you get to the
 4 15 October Cabinet meeting that we're just going to come
 5 on to have a look at, there was modelling from
 6 Swansea University, as you said -- we heard evidence
 7 from Professor Gravenor at the end of the first week --
 8 but that wasn't being done until the middle of October.
 9 Should modelling have taken place for firebreak earlier,
 10 at the end of September?
 11 **A.** In hindsight, if we'd undertaken modelling then, we'd
 12 have had a further basis to undertake action, but we
 13 were still trying to have a conversation through
 14 official means and others around whether the UK were
 15 prepared to act as well, which was a fruitless course.
 16 **Q.** If we can have a look, please, at those minutes, so this
 17 is Welsh Cabinet minutes, 15 October, it's INQ000048796.
 18 Have a look at page 2, please, paragraph 1.4. So the
 19 minutes note here that the advice from the CMO, CSO and
 20 TAC:
 21 "... all reflect the advice that Sir Patrick
 22 Vallance had given ... [Document read] ... was the
 23 preferred option."
 24 If we have a look at the next paragraph, 1.5,
 25 please:

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1 "Cabinet agreed in principle ... [Document read] ...
 2 cover three weekends."
 3 Now, that in principle decision was not formally
 4 approved until Cabinet met again on Monday 19 October,
 5 and then obviously the First Minister announced that
 6 evening that a firebreak would start on 23 October for
 7 two weeks.
 8 Why did it take four days to formally make
 9 a decision that had been taken in principle, as we can
 10 see from these minutes, on this date?
 11 **A.** My recollection was that it was both the work that was
 12 being done with partners and what this would look like,
 13 so making sure you're ready for the interruptions to
 14 schools, for the sake of -- but also in particular about
 15 wanting to understand what it was possible to do in
 16 terms of business support as well.
 17 So I think again it was in this period that the
 18 First Minister made another effort to try to get access
 19 to the new -- the new version of furlough that was going
 20 to be introduced, and we offered to pay for access to it
 21 but we were rebuffed, and so we had to have more than
 22 one option: what we could do if we did get that and what
 23 we could do if we didn't. So there were some
 24 significant financial choices to need to work through
 25 that as well, and it was all about making sure that we

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1 would have in place not just the rationale for what we
2 were doing, the expected result, but also part of what
3 we'd said we'd taken on board, this point about the
4 advice from TAC that if you're going to have more --
5 more interventions and they're significant, you need to
6 explain what they're for, what they're expected to
7 achieve and when you expect them to end. So we were
8 thinking about giving, you know, the commitment on when
9 this would finish and what would be in place afterwards,
10 and work had to be done on what all of those different
11 things looked like.

12 **Q.** You say at paragraph 318 of your witness statement that
13 the impact of the firebreak was effective, you say it
14 reduced new infections and gave Wales an opportunity to
15 reset ahead of Christmas.

16 Now, the Inquiry has heard evidence suggesting that
17 in fact the firebreak wasn't as effective as hoped, so
18 although infection rates fell for two weeks, by
19 29 November Wales was in fact back above the level of
20 cases it had when it went into the firebreak, and in
21 fact by 10 December Wales' weekly infection rate had
22 risen to 480 cases per 100,000 people, which was double
23 what it was before the firebreak.

24 Do you accept that the gains anticipated by the
25 firebreak were much more short lived than had been

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1 there's been evidence given about 35 or 37 days gained
2 from the firebreak, but we didn't manage the reset that
3 we wanted to.

4 **Q.** Let's look at this period after the firebreak in the
5 lead-up to Christmas 2020. In order to allow some
6 mixing over the festive period, Cabinet discussed the
7 imposition of NPIs, and we can see Cabinet meeting
8 minutes, 27 November.

9 It's INQ000022511. If we can have a look, please,
10 at page 2, paragraph 1.3, we can see there:

11 "The epidemiological evidence showed ... [Document
12 read] ... stretched NHS."

13 If we could please turn over the page to page 3 and
14 go to paragraph 1.9:

15 "Cabinet considered the measures taken ... [Document
16 read] ... tier system."

17 Then if we have a look, again, over the page,
18 page 4, paragraph 2.5, please, it was agreed by Cabinet
19 that:

20 "... on balance, the most appropriate ... [Document
21 read] ... its specific circumstances."

22 Do you consider that a tier system ought to have
23 been introduced in Wales earlier than 4 December?

24 **A.** Well, in hindsight, it would have been preferable to
25 have done that, and we had -- this again was part of

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1 modelled or hoped for?

2 **A.** Yeah, they were certainly more short lived than had been
3 hoped for. So we understood that when you take action,
4 it takes two to three weeks for it to really feed
5 through, whether that's new interventions on closing
6 down or whether that's releasing interventions as well.
7 So the pace of your easing as well as the pace of going
8 into something. So, you know, the measures that you saw
9 and the impact at the start of the firebreak you didn't
10 really see til two to three weeks later, and then, as we
11 go back to more mixing taking place again, even though
12 the restrictions were more than we had in place as our
13 baseline before the firebreak, actually we didn't get
14 the reset that we'd wanted to in terms of public mixing
15 and engagement and, you know, the run-up to Christmas
16 was really challenging and we didn't know at the time
17 about when the Kent variant, that was then renamed
18 Alpha, was circulating, but that was definitely a factor
19 and a much more aggressive growth we saw of Covid in
20 Wales, and I think it's coincidentally that the timing
21 of England's four-week period of interventions was
22 actually at a period of time when the Kent variant was
23 circulating. So if they had not been in measures,
24 I think they'd have seen more growth too, but we
25 certainly saw those gains eroded quicker. I know

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1 the, if you like, the deal with the public to go into
2 the firebreak was that a shorter intervention rather
3 than a longer one that will be harder and more difficult
4 should give us more long-term gains, but that actually
5 we'd need to have a reset in the way we went about our
6 lives afterwards, and actually what we couldn't do was
7 make that stick in the sense of still managing to keep
8 coronavirus under control. So, you know, we didn't
9 manage to do that. And, again, when you look back,
10 actually having more restrictions in place after the
11 firebreak would have helped us. The ideal of course
12 would have been that we could have agreed on UK-wide
13 action, because then you would have had a much greater
14 prospect of resetting public engagement and
15 understanding of what's at risk as well as what's to
16 gain. But yes, plainly what we wanted to do did not
17 work to the extent we wanted it to and so, looking back,
18 it is again one of the things that if you had your time
19 you would do differently. I certainly would.

20 **Q.** There was some TAC advice that I think you say in your
21 witness statement was shared with you on 5 December,
22 it's INQ000228579, dated -- I think it's produced on
23 2 December, shared with you three days later.

24 We have a look at page 3, please, second paragraph,
25 and I think it's the third line:

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1 "The firebreak had the intended impact ... [Document
2 read] ... three to four weeks."

3 Now, then it says:

4 "The benefits of this period ... [Document read] ...
5 at the beginning of the firebreak."

6 If we can have a look, please, at page 10 of this
7 advice, we see there some policy modelling, or the text
8 of policy modelling at least. It's analysing there
9 different policy options undertaken by Swansea
10 University, and it is saying: in the no intervention
11 scenario, where the background R rate is assumed to be
12 1.3, a cumulative number of Covid-19 patients that
13 required hospital and ICU beds is estimated to be just
14 over 8,500 and 1,500 respectively, with over 2,500
15 deaths.

16 In the third Tier 3 pre -- I'm grateful. It's
17 probably easier to see by reference to this table at the
18 top. Thank you very much.

19 So in the third Tier 3 pre-Christmas intervention,
20 which is estimated to bring R rate below 1 back to 0.9,
21 cumulative number of hospital and ICU beds is estimated
22 to reduce below 5,000 and below 580 respectively, with
23 less than 1,500 deaths.

24 I mean, it follows that, putting it very simply, if
25 more stringent restrictions were imposed -- so

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1 of time, and often nothing to do with religion, it is a
2 time when people see friends and family they haven't
3 done for a long time. So we had all heard and had from
4 constituents and others, "I've done everything you've
5 asked me to but I'm having my Christmas", and, you know,
6 so you've got these really different pulls to try to
7 manage, as well as the fact that it's unusually
8 important period of time for the economy as well, and
9 closing down the economy in the month up to Christmas
10 has longer term consequences for a number of businesses,
11 for lots of businesses, how they -- how they turn the
12 profit that keeps them running into the next year as
13 well.

14 So all of these things are there and you have the
15 public health advice, and it goes back to again
16 questions you've asked me about not just health but can
17 you see the wider range of choices and impacts that you
18 make.

19 **Q.** There's a Cabinet meeting on 9 December, don't need to
20 bring up the minutes of that meeting, but what was
21 agreed in principle at that meeting was that Wales would
22 move to alert level 4, so lockdown restrictions, from
23 28 December if infection rates had not improved
24 significantly by then.

25 That day, 9 December, you received letters from

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1 for example a Tier 4, effectively a lockdown
2 restriction -- the number of hospital and ICU beds and
3 deaths would be lower, and yet it doesn't look from this
4 advice that Tier 4 or lockdown restrictions are in fact
5 being modelled.

6 Do you know why lockdown restrictions weren't being
7 modelled?

8 **A.** Because going into wholesale lockdown at that point is
9 a thing that we're trying to avoid, and we're trying to
10 avoid that because of the hugely contested environment
11 we're still in, and even though England had gone through
12 their own circuit-breaker, our experience of the last
13 six weeks has not been that if we think there's a real
14 case that the UK Government will say: actually have
15 everything you need in terms of public messaging and
16 support, never mind finance as well. And actually I do
17 think, you know, all of us detected a real weariness
18 from the public. There were some people who were
19 desperately worried and most of those people were acting
20 stringently within the rules, but you could see in terms
21 of some of the behaviour reporting about some of the
22 other challenges of what people were doing, with mixing
23 taking place.

24 So you have to recall, of course, Mr Poole, that for
25 many people Christmas is an unusually important period

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1 chairs of two local health boards letting you know that
2 they had concerns that the health system would be
3 overwhelmed and the same day, 9 December, Dr Goodall
4 emailed you stating that there was a visible increase in
5 overall and confirmed cases, and he added that cases
6 were in fact running ahead of the number that he had
7 shared with Cabinet as his personal worst-case scenario.

8 I mean, at this stage is it not dawning on you that
9 perhaps 28 December moving into Tier 4 restrictions is
10 going to be too late, we should be bringing that
11 forward?

12 **A.** Well, I was really concerned. In my statement I cover
13 this in paragraph 331 onwards, including the
14 conversations with the education minister about schools.
15 I sent him a note on 10 December saying that I think we
16 need to move schools to distanced learning, and the
17 phrase I've repeated in my statement is that I was more
18 worried than ever before because I could see the picture
19 of harm building up, and this is the challenge about
20 managing all these different harms across the public.
21 Within these, you obviously have the direct harm from
22 Covid, the indirect harm for people who can't get
23 healthcare treatment, you also have the other societal
24 harms that come from the interventions you need to take
25 to deal with, you know, health harm, whether direct or

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1 indirect. And at this point, you know, I'm getting more
2 and more concerned that the direct harm from Covid is
3 going to overwhelm all those other things, and so that's
4 why, you know, schools are essentially your last big
5 shot before you go to lockdown. So I think we'd
6 introduced restriction to hospitality that again was
7 really difficult, and again in the politics at the
8 Senedd, Plaid Cymru had started voting with the
9 Conservatives at that point opposing some of the
10 measures we had. So all that's happening, and we're
11 then still having to choose. Knowing how desperately we
12 wanted to get schools back open again, what I then say
13 to the education minister, "I think we need schools to go
14 to distanced learning". It's not a benign intervention,
15 it's one that comes with harm, but I thought at that
16 point if we don't do this we're going to see even more
17 harm in a whole range of other areas.

18 You know, this really is difficult. Because you can
19 see harm in every direction you look about your possible
20 choices, and this period is what's covered in the
21 documentary that S4C -- I mention it because the cameras
22 had turned up months before, and by the time we got to
23 the firebreak and by this period of time you'd forgotten
24 they were there, so everyone's very honest in front of
25 the cameras, and when I watched the programme back I was

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1 straightaway?

2 **A.** Well, yes, so in the conversations I think I'm talking
3 to, not just Andrew Goodall, but I think I'm talking to
4 Frank Atherton pretty much every day at this point. So
5 understanding that we're in real -- we've got real
6 challenge, and one of your circuit-breaker indicators is
7 going to be breached, is part of the reason why I say to
8 the education minister on 10 December "I'm really
9 worried and you should be worried too", essentially, and
10 it's why my push at that point in time is to say: look
11 at what I'm being told by the NHS and look at what is
12 happening in front of us, and if we can't act there'll
13 be more of this, and with all the harm that we gave up
14 so much to try to avoid, not just in the firebreak but
15 also in the March lockdown as well, so it's -- it's
16 a very, very -- it's difficult to say not just "We have
17 a plan to do this if we need to" but then to actually
18 have to do it is still something that you need to get
19 through as well, and that's why we had a week of,
20 you know, daily meetings to get to a place where that
21 did happen as well.

22 **Q.** You say you were obviously speaking to Dr Goodall
23 regularly in this period of time; if we can have a look
24 at INQ000321014, it's an email from Dr Goodall,
25 15 December, and he starts:

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1 surprised at some of the things I'd said on camera
2 because I'd literally forgotten they were there. It
3 doesn't mean they weren't my honest reflections, they
4 really were, about why we needed to act and then going
5 from this point to then coming away from the agreed
6 Christmas easements across four nations.

7 **Q.** Just following through the timeline in December, there
8 was some TAC advice of 11 December. If we can have
9 that, please, it's INQ000228507, and we're looking at
10 page 2, the top line summary, and I think the fourth
11 bullet point, so:

12 "The number of people with confirmed ... [Document
13 read] ... indicator threshold."

14 Now, the same in respect of ICU occupancy. So in
15 other words, the indicator that had been set for when
16 a further circuit-breaker would be required had been
17 exceeded, so this is advice of 11 December.

18 Now, you say in your witness statement, this is
19 paragraph 344, that summary advice was not received by
20 you until 15 December, and we saw previously, I think,
21 some TAC advice taking two or three days to come to you.

22 Given the importance of this advice and the
23 importance of the decisions that you are contemplating
24 making leading up to Christmas, would you have expected
25 this TAC advice produced on 11 December to come to you

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1 "Morning minister, some overnight thoughts."

2 So he starts by informing you that medical directors
3 have written outlining their concerns clinically about
4 the NHS's ability to manage into January, based on high
5 community prevalence.

6 Then if we go to the fourth substantive paragraph,
7 so right down the bottom of this page:

8 "If we were looking for the tipping point ...
9 [Document read] ... hospital picture ..."

10 He then goes on to state that, same paragraph:

11 "If the Christmas Day forecast ... [Document read]
12 ... only for Covid."

13 He notes that at the peak in April Wales was only at
14 15% to 20%.

15 That email appears to have prompted you to
16 commission advice on moving to level 4 restrictions
17 before 28 December, and we can see that advice,
18 INQ000321016. Let's have a look at the fourth paragraph
19 there:

20 "Situation has considerably worsened ... [Document
21 read] ... last week."

22 We can have a look at the fifth paragraph:

23 "Need to move ... [Document read] ... further
24 data ..."

25 Then if we can perhaps just move to the conclusion,

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1 so page 7, I think it is, fourth paragraph on page 7,
2 yes:

3 "There is therefore a clear rationale ... [Document
4 read] ... potential behavioural implications."

5 Now, public health implications had obviously been
6 the subject of modelling and forecasting.

7 Did you consider at this point in time, so this is
8 on 15 December, that you had sufficient information
9 about the economic and behavioural implications referred
10 to here in this note to make a decision whether or not
11 to move into level 4 restrictions?

12 **A.** I think we knew there'd be really significant economic
13 harm and there would be some people who would be furious
14 and other people that would be relieved, so it wasn't
15 that everyone would heave a sigh of relief and say
16 "Thank you", there'd be people who'd be, as they were,
17 deeply upset about what had happened, you know, the same
18 way that, you know, when international travel
19 restrictions changed people were furious about what had
20 happened with their holiday. This is much more than
21 that and the harm is much greater.

22 Over this time, I recall -- and I've thought about
23 this since my statement went in -- I had -- you know,
24 there were regular calls with local authority leaders
25 about different things. I had a conversation with
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1 where the First Minister did eventually end up being
2 first among equals, because the Cabinet was split as
3 well.

4 **LADY HALLETT:** Sorry, I couldn't quite hear that.

5 **A.** Because the Cabinet was split as well.

6 **LADY HALLETT:** Thank you.

7 **A.** As we got through this, the Cabinet was divided, so the
8 First Minister then said, well ... and it was odd,
9 because you'd -- what normally happened in Cabinet
10 meetings was the First Minister and myself would broadly
11 be on the same page in terms of measures that we needed
12 to take, and I think that was important for Cabinet
13 colleagues. If the two of us had been openly
14 disagreeing with each other on the course of action,
15 I think that'd have made life very difficult for
16 everyone else, and indeed for our officials. So it was
17 a strength that there was genuine trust and engagement
18 between us, and the way that we spoke with colleagues in
19 Cabinet, without ever taking for granted, if we'd turned
20 up and said "This is what we think we should do", that
21 everyone would say yes.

22 This is one of the few meetings where Mark and
23 myself set out the case for two different courses of
24 action, and I set out the case for coming away from that
25 agreement and taking more intervention, and Mark set out
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1 Huw Thomas, who is the leader of Cardiff Council, and
2 also with Rob Stewart, who's the leader of Swansea, and
3 they both said that they would support the government if
4 we needed to move again, because they were worried about
5 their local healthcare systems, they were worried about
6 their local economies. Cardiff and Swansea have lots of
7 big winter wonderland activities, it's a big deal for
8 both cities about what they do. But they could see the
9 figures that'd been published as well and they were
10 worried, as indeed was I, which was why I'd asked about
11 the case and having that conversation with colleagues
12 across the government, including with other ministers,
13 about not waiting for another week's worth of data, but
14 the balance between those is a very real one, but it was
15 my view that we had a clear rationale to move ahead of
16 the agreement the First Minister had reached with the
17 other nations of the UK.

18 And of course, as I've set out, the politics had got
19 much worse the six months following 10/11 May. We
20 finally get the UK Government to re-engage with us, we
21 reach a decision on Christmas, with some pain and not
22 little effort, and then I start telling the
23 First Minister, you know, within days of that, "I think
24 the agreement you've just reached, we need to tear up".
25 It's not straightforward, it's -- this is the occasion
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1 the case for sticking to the agreement that we had
2 reached, and also the point about whether changes should
3 be made in guidance or regulation.

4 So this is really very unusual for the Welsh
5 Government, in all times, but certainly through the
6 pandemic.

7 **MR POOLE:** We know that on 16 December the First Minister
8 announced that Wales would move into alert level 4 from
9 Christmas Day, and that a smaller Christmas is a safer
10 Christmas. We then, though, have a Cabinet meeting on
11 Saturday 19 December. If we can have a look at those
12 minutes, please, it's INQ000048803, if we have a look at
13 page 2, please, paragraph 1.1:

14 "The First Minister updated Cabinet ... [Document
15 read] ... consider the impact on Wales."

16 If we can zoom out and zoom back in at
17 paragraph 1.55, please.

18 "Deputy CMO ... [Document read] ... transmissible."
19 Paragraph 1.6:

20 "Hospital admissions running ahead of the reasonable
21 worst-case scenario."

22 And I'm right, aren't I, just cutting to the chase,
23 the decision was taken at this Cabinet meeting to bring
24 forward alert level 4 restrictions, so namely a lockdown
25 for the whole of Wales, from midnight that night?
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1 **A.** Yes. This is what was the Kent variant became the
2 Alpha, so this is the Kent Alpha wave that we're seeing,
3 and actually I think the evidence is that it ended up
4 not just more transmissible but more harmful as well.
5 Fortunately every subsequent variation I think was more
6 transmissible but less harmful.

7 **Q.** This is a decision taken at Cabinet on 19 December but,
8 as we know and as you've just explained to us, you were
9 advocating along with Dr Atherton for an immediate move
10 to level 4 restrictions, four days previously, certainly
11 by 15 December, that was your position. Do you think
12 this decision should have been taken earlier than it
13 was?

14 **A.** Well, this is a discussion you have around the table,
15 and, you know, it's important that around the Cabinet
16 table you're able to have a discussion on what you think
17 should happen and then when we get to those meetings, as
18 I say, that meeting where we went through the guidance
19 about what we should or shouldn't do was, I think, the
20 only occasion where the First Minister and I had overtly
21 different positions in a Cabinet meeting. But you don't
22 just have that discussion within the one meeting,
23 there's all the things that go on around it, there's the
24 advice that comes in, there's talking to colleagues
25 about what it's possible to do, there's the

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1 the advance purchasing of the vaccines I think is
2 a definite strength and a definite positive, and it
3 meant that we had real hope going through the winter
4 because we were able to vaccinate lots of our population
5 and to deal with some of the harm, it gave us very
6 different choices, because without a vaccine that
7 lockdown would have been even harder and probably
8 longer.

9 So, you know, the vaccination gave us headroom to
10 make choices but, dealing with the level of uncertainty
11 about the level of population protection it provided,
12 going through February and March in particular, we
13 really did have to take seriously advice we'd had,
14 taking account of where we were before Christmas, and to
15 give you an idea of how serious it was, it wasn't just
16 we agonised over these things, we talked seriously about
17 whether we'd be able to have an election. And,
18 you know, after five years in office, I'm quite keen
19 that you go to the public and, you know, you've got to
20 renew your mandate. But if we hadn't had progress, I'm
21 not sure that we could have run an election campaign,
22 which is really, really serious, but we managed to.

23 I think the pace was the right one. With hindsight,
24 if we knew how effective the vaccination was, we might
25 have been able to have a different pace in doing that,

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1 conversations about the options paper that will go to
2 Cabinet as well. So in all of those, you know, I was
3 becoming more and more worried about the picture that is
4 unrolling and growing in front of us. And the case
5 rates are real harm because, whilst we started
6 a vaccination programme, the first vaccine is really
7 hard to move around and to use, so actually the great
8 majority of the population is still vulnerable whilst
9 these cases are -- are growing rapidly through our
10 population.

11 **Q.** Now, Mr Gething, you deal with the easing of
12 restrictions during 2021 into May 2022 in your witness
13 statement, and obviously the Inquiry will have regard to
14 that. Going back to a question I asked earlier about
15 the first wave, it has been said that those easing of
16 restrictions throughout 2021, again the Welsh Government
17 acted overly cautiously. Do you think restrictions
18 should have been eased more quickly than they were?

19 **A.** No, I think we tried to strike the right balance and
20 even now, having had lots of time to think about it,
21 given what we knew at the time, I think we did the right
22 thing. What we now have is the benefit of hindsight
23 where, because of the extraordinary success of the
24 vaccine programme -- to be fair, I said lots that's
25 critical about the UK Government; their choices around

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1 but that's not the pitch on which we were playing at the
2 time.

3 **Q.** I want to change topic.

4 There were some high profile instances of ministers
5 and officials within the UK Government appearing to
6 contravene Covid regulations. I have in mind
7 particularly Mr Cummings' drive to Barnard Castle and
8 his subsequent press conference in the rose garden in
9 Downing Street.

10 What impact, if any, do you consider that those
11 incidents had on the public's confidence in the Welsh
12 Government's handling of the pandemic?

13 **A.** I actually think the contrast reinforced views the
14 public had about the Welsh Government. So there are
15 always people who are sceptical, not just in party
16 politics but not clear about whether we're doing the
17 right things, and there's a reasonable argument about
18 most of the things that we did, so I wouldn't want to
19 try to say that anyone who disagreed with the Welsh
20 Government was unreasonable; that isn't what I'm saying.

21 But we tried to be serious, we published the
22 evidence, we tried to answer questions in press
23 conferences, and I think there was a contrast, and you
24 could see at the start of the pandemic confidence levels
25 in the UK Government were at record levels and actually

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1 ahead of the Welsh Government, harm was done by the trip
2 to Barnard Castle, you know, partly because I think most
3 people thought that if you're worried about your
4 eyesight, the last thing you'd do would be to pack your
5 family into the car to test your eyes out. But I don't
6 think it harmed the Welsh Government, and I think the
7 contrast reflected positively on us in overall terms.

8 **Q.** Now, you were accused of a transgression when you were
9 photographed eating chips outside sat on a bench when
10 the rules only permitted a single period of household
11 exercise, and you've explained what colloquially became
12 described as "chipgate" in your witness statement.
13 I don't want to go over any of this.

14 My question is simply this: does the fact that you
15 maintain that what you did was within the rules, whilst
16 others considered it was clearly not permitted, does
17 that demonstrate the need for greater clarity in the
18 rules at the time?

19 **A.** Well, I think there are two different points. The first
20 is that in that period of exercise where it was our one
21 period of exercise together, the rules said that you
22 could buy takeaway food and you could eat that and then
23 move on. The challenge is that we also had in the
24 guidance that, you know, going out for a picnic was not
25 permissible, that's not really exercise, so people were

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1 them to do, and then having a more broader approach
2 still comes with all the challenges but actually I think
3 that second approach was better than the one that we'd
4 had at the outset.

5 **Q.** Final topic, Long Covid. You deal with this in your
6 witness statement starting at paragraph 525.

7 **A.** Yes.

8 **Q.** And you make plain that from the spring of 2020 the
9 Welsh Government identified the likely need for
10 rehabilitation of people recovering from Covid-19.

11 Now, in May 2020 we know that the Welsh Government
12 published a national framework for rehabilitation, that
13 was then followed in the summer by a further suite of
14 guidance and resources to support health boards model
15 their population needs and plan and develop local
16 rehabilitation services.

17 To what extent, when you and your colleagues became
18 aware of the long-term after-effects of Covid-19 and the
19 long-term consequences of infection, did that
20 understanding feed into the debate about the mechanics
21 of NPIs and then subsequently the relaxation of
22 restrictions?

23 **A.** I can't remember exactly when, but we knew that with
24 a respiratory disease, but also affected internal
25 organs, it'd be entirely possible that people would have

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1 saying "You were having a picnic" when actually it was
2 exercise and the food was incidental to doing it, which
3 was covered by the guidance.

4 The challenge is, once you start explaining all of
5 that, then you do get into people wanting to throw sand
6 in everyone's face about what the rules and the guidance
7 really provide. And we had, if you like, two broad
8 periods on how we ran rules. The first was essentially
9 things are permitted if there's a rule that says they're
10 permitted, and actually you then end up with what was
11 described as a thicket of rules and actually that's
12 a hard challenge for everyone to understand. We then
13 moved into a broader based definition of: here are all
14 the things that you can't do rather than things you can
15 do.

16 So we wanted to try to change the way, to try to
17 make the rules easier to understand with the guidance
18 alongside in giving examples, and that was because, you
19 know, we were regularly -- you know, we had people ask
20 us very odd questions about very individualised activity
21 and whether there was a rule that covered it. We had
22 requests to write a rule saying that it was or wasn't.

23 So, you know -- and again that was a learning point.
24 You can't have a rule for everything, because that's not
25 a fair fight for the public to understand what you want

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1 long-term consequences, and the phrase "Long Covid",
2 I think I first heard it through the summer 2020. So we
3 knew that there'd be people affected, including any
4 groups that weren't typically vulnerable, but there
5 would always be people who would become ill and indeed
6 there were sadly people that died in (inaudible) age
7 group.

8 So then thinking through not just our framework on
9 rehabilitation and actually how you help people to get
10 fit and well after a serious illness, but those people
11 who with a long-term condition that can vary as well,
12 because there isn't -- there isn't one form of
13 Long Covid, it's the long-term consequence of people who
14 had Covid and a lot of it is individualised, and then
15 how do you then factor in that both in your treatment
16 and care provision framework, but also in the
17 restrictions as well because this is part of the overall
18 population risk.

19 So, as I said earlier, you've got a population in
20 hospital, a population that needs to get out because
21 it's the wrong place for them, somewhere for them to go,
22 and you've got the population in the community and then
23 everyone else in age group, so they should be less
24 vulnerable. And the people who have Long Covid were not
25 necessarily people like me who were in a group where you

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1 get access to (inaudible), a vaccine, you know, I've got
2 a long-term kidney condition from an illness I had when
3 I was much younger. So that's what makes me more
4 vulnerable than my age group. For other people, they
5 have Long Covid and they don't have any of those
6 vulnerabilities that pre-existed.

7 So it's another area of uncertainty and even now,
8 compared to when Long Covid was first used as a term, we
9 still don't understand enough about how to do it and how
10 to help people to both understand who's most likely to
11 be susceptible but then how you help and support people
12 who do have Long Covid, and to do it in a way we're not
13 just saying "What's wrong with you?" but actually to
14 understand: how do we help you to be able to live with
15 and hopefully improve the healthcare conditions you
16 have, but also be able to do all the other things you
17 still can do as well. It's a direct challenge because
18 we have staff like this in the Welsh Government and how
19 we support them and change their work patterns as well.

20 So it was a factor, but it was a factor that was
21 covered by lots of uncertainty and there's still,
22 I'm afraid, lots of uncertainty now.

23 **MR POOLE:** Mr Gething, they are all the questions I've got
24 for you.

25 My Lady, there are core participant questions, but
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1 evidence first.

2 So on 16 November the UK Government introduced
3 testing through lateral flow tests in England for all
4 healthcare workers in hospitals. However, it was only
5 on 4 December that you announced that the Welsh
6 Government would roll out testing of healthcare workers
7 from 14 December 2020, but it was widely reported by
8 the BBC, in part following comments from the British
9 Medical Association, that in Wales this lateral flow
10 testing didn't really roll out properly until around
11 mid-March.

12 So given that evidence, and that's the evidence
13 that's before the Inquiry, just so you understand, will
14 you accept today to the Inquiry and indeed to all those
15 affected by these decisions, that the Welsh Government,
16 and indeed you as the responsible Minister for Health
17 and Social Services, failed healthcare workers in Wales,
18 firstly, in not giving them access to lateral flow tests
19 at a time when we know they were available in England
20 from the UK Government and, secondly, in failing to
21 ensure that healthcare workers actually got those tests
22 in a timely manner; so will you accept that today?

23 **A.** So I need to look at not just the decision-making, what
24 was happening at the time with practical access to
25 devices and how and when information was shared about
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1 I wonder ...

2 **LADY HALLETT:** There are, and given I think it's about
3 35 minutes' worth, I'm afraid, Mr Gething, so for the
4 sake of the stenographer I suggest that I will leave,
5 perhaps it would be helpful if not many other people did
6 leave so it doesn't take quite so long to reassemble.
7 I'll just leave for 5 minutes, just to give the
8 stenographer a chance to --

9 **THE WITNESS:** Okay.

10 **LADY HALLETT:** -- rest her fingers. Sorry.

11 **THE WITNESS:** No problem at all.

12 (3.56 pm)

(A short break)

14 (4.00 pm)

15 **LADY HALLETT:** I'm sorry everybody's been boiling, I think
16 we need an inquiry into heating systems and ventilation
17 systems.

18 Ms Heaven.

Questions from MS HEAVEN

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

21 Good afternoon, Mr Gething, I represent the Covid-19
22 Bereaved Families for Justice Cymru.

23 Can I start with the topic of testing for healthcare
24 workers, and we're looking here at the second wave, so
25 autumn and winter 2020, just to give you a bit of the
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1 the access to them, because during the course of the
2 pandemic Dr Orford regularly updated us on some of the
3 changes that were being made to try to have point of
4 care testing, so flow -- so a reliable test device that
5 you could give you a result in a short window of time,
6 not the overnight testing that otherwise had happened.
7 So I'd need to look at the detail of what's in the
8 evidence before the Inquiry about when that
9 information's available, about both the fact that there
10 is a reliable device, then how it's been procured,
11 because I think these were procured through the national
12 testing programme, run by the Department of Health and
13 Social Care in the UK Government, then how our share is
14 then used and where they're distributed. I've seen the
15 reports around where they reach people at different
16 points in time, but I'd need to understand where and how
17 that problem was in the system, whether it's widespread
18 or individualised.

19 **Q.** I don't want to interrupt because we've got limited
20 time, just to focus you though, would you not accept
21 that Wales was at least a month behind the UK Government
22 in introducing lateral flow tests and that this was
23 an unacceptable delay? Will you not at least accept
24 that? A month behind.

25 **A.** I'd need to have a look at the evidence directly on when
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1 they were available and how they were distributed, and
 2 also, of course, the access to alternative tests,
 3 because testing on the -- PCR overnight tests were
 4 available through that time as well. So I'm not trying
 5 to --
 6 **Q.** Not accepting it?
 7 **A.** I'm not trying to be difficult, counsel, I just don't
 8 want to be manoeuvred into a corner to accept something
 9 when I can't see the advice and the evidence you're
 10 basing the question and the proposition on.
 11 **Q.** Let me move on to the next topic, then, fair enough.
 12 Let me move on to face coverings. Let me situate you.
 13 This is your 9 June press statement, and I'm sure you
 14 recall that. As you will know, this was significant
 15 statement because this was the first time the Welsh
 16 Government were recommending face masks to the public in
 17 Wales where they couldn't socially distance.
 18 I know you're looking at your witness statement. It
 19 doesn't really feature --
 20 **A.** No, no, I was looking at the new documents that were
 21 provided during the course of the hearing.
 22 **Q.** I don't think it will be that. But if you just listen,
 23 it's obviously the first time that the Welsh Government
 24 are recommending face coverings, and indeed yourself are
 25 recommending that. It's also significant because
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1 **A.** I think on face coverings if we'd had a more engaged
 2 four nation conversation we could have reached
 3 a four nation decision.
 4 As this and on other matters, the more engagement
 5 you could have had, you reach compromise and trade-offs,
 6 but the benefit is consistency for the public.
 7 **Q.** Well, the CMOs were engaged, you see, the CMOs were all
 8 talking to each other. So did you probe
 9 Frank Atherton -- who was obviously giving you advice
 10 along with TAG, we know that -- to understand whether he
 11 had sought any behavioural advice for the theories that
 12 he was coming up with on the three harms, or from TAG,
 13 RCBI? So did you question him as to whether he had any
 14 advice that was different from what the other CMOs had
 15 to justify divergence?
 16 **A.** So we had a number of conversations, myself and the
 17 First Minister, the CMO, around the advice around face
 18 coverings and the position that we were in. I know some
 19 of this is in my statement, I think some of this is in
 20 the First Minister's statement as well. And to be fair,
 21 Dr Atherton's recognised that this was a live
 22 conversation and he was not persuaded of the evidence at
 23 the time that masks would be a positive addition to what
 24 we were doing. And again, he's reflected in his
 25 evidence to this Inquiry that in hindsight he would give
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1 four days before, as you'll recall, the UK Government
 2 had mandated face coverings on transport, so this was
 3 the -- I mean, there was a lot of divergence in face
 4 coverings, as you know, with the UK Government, but this
 5 was a significant one because it was going to be
 6 mandated on trains in the UK in England, so what that
 7 meant is you could be taken off a train and given a fine
 8 in England if you didn't have a mask on, but that,
 9 of course, wouldn't happen in Wales.
 10 One more bit of context, this was happening because
 11 the World Health Organisation had changed its guidance
 12 and it was telling governments to recommend face
 13 coverings.
 14 Now, the Inquiry has heard, as you know, from
 15 Frank Atherton, and he's accepted that his advice and
 16 the Welsh Government decision to diverge on face
 17 coverings became confusing for the Welsh public and
 18 weakened public messaging in Wales. And Ann John, the
 19 behavioural scientist from the TAG subgroup RCBI, also
 20 told the Inquiry that the Welsh Government's approach
 21 was confusing and damaging to public trust, and she
 22 stated that a four nations approach would have been
 23 better.
 24 So, first of all, do you agree with the evidence of
 25 Frank Atherton and Ann John?
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1 different advice now, and I think that's honest, and we
 2 were well aware of the challenges on transport, on buses
 3 as well as trains actually on that.
 4 **Q.** Can I ask you, then, about your public statement. I've
 5 listened to it, it's obviously available. You don't
 6 explain to the public, do you, why it is that the Welsh
 7 Government is taking a different position to
 8 the UK Government? Do you not agree that in not
 9 explaining why you're doing something different and
 10 addressing that, that you weakened public messaging,
 11 that you undermined public confidence in the science,
 12 and in all likelihood you probably risked encouraging
 13 non-compliance with the rules because you didn't grapple
 14 with divergence; is that a fair comment?
 15 **A.** No, I don't think it is a fair comment. If you look at
 16 what we were doing, on the 9th where we'd advised people
 17 it would be useful to wear masks in enclosed spaces, and
 18 again reiterating the advice around masks where there
 19 are -- where health and care is being provided, that's
 20 what we did, and the process to then get to having those
 21 as mandatory, we'd moved from saying "Actually these are
 22 useful things to do", so we're guiding the public to
 23 make their own choices -- and I think actually most
 24 people welcomed it -- we then moved to actually having
 25 it mandated, and of course we end up some time later
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1 where we're still mandating face mask usage in enclosed
2 spaces when the UK Government aren't.

3 I think when it comes to public trust and confidence
4 in messaging, this is one issue, look at the overall
5 suite, the reality is of the great majority of the
6 public were coming with us through the summer on the
7 pace of easements --

8 **Q.** I'm going to move on. Sorry to stop you but, as I said,
9 we have got limited time.

10 The next issue I want to ask you about is medical
11 masks for vulnerable groups, because the other
12 significant thing we know is in the WHO advice in June
13 is that those over 60 who are vulnerable with
14 comorbidities, the WHO is saying that they should have
15 access to medical masks where they cannot socially
16 distance.

17 I'm going to ask you first of all to look at some
18 TAG/TAC advice from 8 June, so this is the day before
19 your statement, please, because this information appears
20 in the first draft of the TAC advice. So if we could
21 get up, please, INQ000327606, and it's page 5, and that
22 should appear on screen in front of you. Do you see
23 that there? That's the TAG advice on masks, coverings
24 and medical masks, and you see in the first paragraph
25 there it's in light of changes to policies in England

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1 to medical masks has completely gone from the second TAG
2 advice. Of course you're not saying anything in your
3 public statement, are you, about medical masks on that
4 day? So it's just to understand, if you can assist with
5 how that happened and in particular how the TAG science
6 advice came to be amended.

7 So if I can ask you about a second document, please,
8 and this is INQ000215454. If we just keep that up for
9 the moment, if we can go to the first part of the email
10 chain, this is an email from Toby Mason on 9 June at
11 10 am.

12 Do you see that there?

13 **A.** It's in front of me.

14 **Q.** Yes.

15 So the context here is we know that there was a 9 am
16 meeting at which your press statement was discussed, and
17 we've seen some WhatsApps between Shan Morgan and
18 Toby Mason talking about how that meeting was a bit
19 muddled.

20 Do you recollect, were you at that meeting at 9 am
21 on the day you gave your press statement?

22 **A.** No. I would undoubtedly have been busy, but I wasn't in
23 this meeting.

24 **Q.** Are you sure about that?

25 **A.** I don't --

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1 and the WHO advice. Do you see that there?

2 **A.** I can see that, yes.

3 **Q.** If we turn over, please, to page 7, so this is a couple
4 of pages down, we see at the top there, I'll read it to
5 you, it says:

6 "There would be benefit of recommending ...
7 [Document read] ... correctly et cetera."

8 So essentially there is a TAG advice, we know this
9 is 8 June, which is essentially reflecting the advice
10 of -- from the WHO. If we just go down a few more pages
11 for completeness to page -- internal page 15, we can see
12 the WHO advice there.

13 Can you look at that box, at the very penultimate
14 box line:

15 "Settings where physical distancing ... [Document
16 read] ... negative outcomes."

17 Do you see that there, it says vulnerable
18 population, so over 60, comorbidities, and the
19 protection that you need according to the WHO is
20 a medical mask, isn't it? Okay.

21 Now, what I want your assistance on is this: what we
22 can see in the evidence is, between the date of this TAG
23 advice and your public statement the following day,
24 there appears to be -- and on that day of your public
25 statement, the TAG advice is published. The reference

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1 **Q.** I just want to be very clear with you. Are you sure, or
2 are you saying you can't remember now whether or not you
3 were at that meeting?

4 **A.** I don't think I was, because I was in a number of
5 meetings and, look at these, I don't ever recall being
6 at the meeting with Toby Mason and Lee Waters discussing
7 this in the circulation list.

8 **Q.** Let's --

9 **A.** If I had my ministerial diary, I could be more clear
10 about whether I was or wasn't there, what I was doing at
11 the time.

12 **Q.** Well, let's look at this email then.

13 **A.** Do you have the diary available or not?

14 **Q.** Well, no, I'm not permitted to put that to you, but
15 I think this email probably will give you some
16 assistance. So if we look at it, please, it's the 10 am
17 email from Toby Mason to Jane Runeckles and others:

18 "I'm really concerned ... [Document read] ... TAG
19 paper [which is the one we've just looked at] will bring
20 with it ... [Document read] ... Minister for Health and
21 Social Services ..."

22 That's you, isn't it?

23 **A.** Indeed, at that time.

24 **Q.** "... that any questions... [Document read] ... clearer
25 position on all the issues."

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1 So if we just move up for completeness we then get
2 a response from Lee Waters back saying:

3 "Agreed. I think Vaughan's oral summary ...
4 [Document read] ... hostage to fortune."

5 So would you agree with me that it would appear,
6 certainly from that summary, that you were at a meeting
7 certainly before then? This is 10 o'clock. You must
8 have been, mustn't you, because there's reference here
9 to you giving an oral summary that was defensible?

10 **A.** No, I'm not at all sure what the things are referring
11 to, that's why I asked for my diary, because I could
12 then tell you if I was in a meeting or not.

13 **Q.** Okay. Well, I'm going to suggest --

14 **A.** I'm just trying not to give you a misleading answer.

15 **Q.** Okay. Well, it says here "oral summary", so in whatever
16 context, though, would you accept that you presented
17 some sort of oral summary and you have given very clear
18 advice that the TAG paper on vulnerable people and
19 medical masks that I've just shown to you "needs to be
20 pushed off beyond today", so in other words it wasn't
21 going to be told and presented to the Welsh public on
22 9 June? That seems to be what's being suggested in this
23 email, isn't it?

24 **A.** Well, it's possible, and of course this is one of the
25 occasions where the scientific advice has actually been
213

1 occasions where we had advice up to us to then be
2 published --

3 **Q.** Okay.

4 **A.** -- and the publication of the advice, to help and inform
5 the public about choices we have recently made. When
6 we're still making a choice, then we would say that
7 actually this is still policy in development and we need
8 to understand what we're going to do about it as well.

9 So it sounds as if the accusation is that I'm deciding
10 what the science is, when I'm not. I need to be clear
11 though, as indeed does the whole government, that if
12 we're saying "We're going to make a change and here's
13 the science that underpins it", you're able then to
14 deliver it --

15 **Q.** Okay.

16 **A.** -- what that recommendation is, and I think that's
17 sensible.

18 **Q.** Just finally, then, on this topic before I move on, we
19 can't find any evidence to suggest that the Welsh
20 Government ever told vulnerable people in the community
21 in Wales that where they were over 60, with
22 comorbidities, that the World Health Organisation was
23 recommending that they use medical masks in the
24 community.

25 So is this right? Was this vulnerable cohort of
215

1 the policy in development, because if you say "This is
2 what we're going to do", you do then need to say: and
3 where will the deliverability come from, and at that
4 point in time, not just the volume of masks of the right
5 type, but how you get them to people. So if you're
6 getting yourself to a hospital, for the sake of
7 argument, and you're in a vulnerable group, you can
8 probably get a mask on the way and as you do now on
9 a regular basis. If you're getting the bus or the train
10 and you need to have a mask, how do you get the mask to
11 those people? In the end what we found was that on
12 buses, for example, they ended up putting masks at the
13 front of the bus, so people could have them and take
14 them --

15 **Q.** Can I just pause you there for a moment, because what
16 I'm putting to you is quite serious. It's that TAG
17 scientific advice was amended on your say-so and not
18 presented to the Welsh public when underlying that
19 advice was very clear guidance from the WHO that
20 vulnerable people needed access to medical masks.

21 So that's what I'm suggesting to you, the scientific
22 advice --

23 **A.** Oh, I see.

24 **Q.** -- was amended on your say-so.

25 **A.** Oh, I see. So we've gone through this on a number of
214

1 people in Wales never told by the Welsh Government what
2 the World Health Organisation was saying that they
3 needed; is that right?

4 **A.** I'm really not certain, and I don't want to try to
5 pretend I can piece through the documents to find --

6 **Q.** Okay.

7 **A.** -- an exact statement around that. We did of course
8 issue lots of guidance around use of face masks and of
9 course one of the things we were being advised in the
10 same science was actually to try to draw a distinction
11 between masks and face coverings, and that was
12 a distinction that never stuck.

13 **Q.** Okay.

14 Can I move on. I've got three minutes left, so can
15 I move on to the firebreak, please, next final topic.

16 Dr Orford states in his statement that there were
17 few occasions when Welsh ministers made decisions that
18 appeared inconsistent with the advice offered by
19 TAG/TAC, and he said a notable exception where the
20 science didn't align with the important decisions
21 including the post-firebreak period where TAG advocated
22 for control measures that would keep rates of infection
23 lower, but for different reasons this was not followed,
24 and he tells us that the national population protections
25 that were introduced after the firebreak were
216

1 insufficient to control the growth of the epidemic.
 2 So will you accept today, then, that you were part
 3 of a Cabinet that rejected scientific advice that was
 4 given to you by TAG in autumn 2020 about how you should
 5 ease restrictions post-firebreak, and that this led to
 6 measures being introduced that led to a resurgence of
 7 the virus? Will you accept that, because that's what
 8 Dr Orford is saying?
 9 **A.** I think you're characterising what Dr Orford said in
 10 rather more definitive terms than he did. If you look
 11 at where we were and the advice on the length and the
 12 depth of the measures in a firebreak, the opportunity to
 13 reset, the gains we thought we'd make and what we
 14 thought we'd be able to in resetting public behaviour,
 15 that is bounded in with all those other harms that take
 16 place as well, and we had to balance and weigh all those
 17 up. And, as I said in answering questions from Counsel
 18 to the Inquiry, the politics and the environment in
 19 which we were asking people to make those choices
 20 changed significantly and become much more contested,
 21 frankly much more bitter --
 22 **Q.** Okay.
 23 **A.** -- and, yeah, unpleasantly so.
 24 **Q.** One minute left, final question.
 25 Were you ever made aware that the Swansea modelling
 217

1 A number of people working under your responsibility
 2 have said that indirect harms were less well understood
 3 or evaluated than Covid harms or that insufficient
 4 attention was given to them. So to give a few examples,
 5 Professor Gravenor, the chief information officer,
 6 Andrew Nelson, Professor John Watkins, and moving on in
 7 time the TAG's five harms paper in July 2021.
 8 Now, since an accurate estimate of all harms or
 9 benefits of a particular restriction was necessary in
 10 order to decide whether it was appropriate, would you
 11 agree that more should have been done to ensure that
 12 indirect harms were accurately evaluated and taken into
 13 account?
 14 **A.** This goes to the balance of some of the questions that
 15 started with Counsel to the Inquiry, I think before
 16 lunch, around how you assess the speed at which you need
 17 to act with the direct harm that you know is possible,
 18 then probable, and then much more likely, and how you
 19 assess that direct harm in terms of the risk of the NHS
 20 being overwhelmed with avoidable mortality and long-term
 21 ill health, the impact on the whole population of seeing
 22 the NHS collapse, against what you know are some
 23 indirect harms that you can see and others that you only
 24 see once you take some of those measures.
 25 So, you know, we talked about the position and
 219

1 team had results that showed that a four-week firebreak
 2 would suppress the virus deep into December? So that's
 3 a four-week firebreak, that if that had been employed it
 4 would have suppressed the virus deep into December; was
 5 that ever told to you as a minister? I know you were
 6 told about two to three weeks --
 7 **A.** Yeah, I --
 8 **Q.** -- but were you told about four weeks?
 9 **A.** I don't recall seeing that. That doesn't mean that
 10 I (inaudible) but I genuinely don't recall seeing that.
 11 In all of the, you know, five lever-arch files of
 12 evidence that I've read, I don't recall seeing that.
 13 From what I'd seen at the time, I have seen a reference
 14 to it in the files I've read for this hearing, but
 15 I can't recall seeing that in September or October --
 16 **Q.** Thank you very much.
 17 **A.** -- 2020.
 18 **MS HEAVEN:** Thank you, my Lady.
 19 **LADY HALLETT:** Thank you very much, Ms Heaven.
 20 Mr Straw.
 21 **Questions from MR STRAW KC**
 22 **MR STRAW:** Thank you.
 23 Good afternoon --
 24 **A.** Prynawn da.
 25 **Q.** -- I represent John's Campaign and Care Rights UK.
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1 I think (inaudible) in response to questions to counsel
 2 that putting care home residents into individual
 3 isolation is not necessarily a benign and harm-free
 4 intervention, because that might protect them from
 5 seeing other people in the sense of not getting Covid
 6 from them, but it has an impact on them and their
 7 wellbeing. That isn't just in a mental health sense,
 8 it's in a real and physical sense as well.
 9 So understanding all of those things is part of what
 10 you're trying to balance. If you wait, though, to get
 11 chapter and verse on all of those, then events will have
 12 run ahead and you'll be out of time. So, you know,
 13 that's the difficult challenge.
 14 Science, you have a public health advice, but you
 15 have to make the decision, and sometimes that is
 16 imperfect evidence that you have to deal with, but it's
 17 still your duty to choose.
 18 **Q.** On a systemic or learning lessons basis, do you -- like
 19 the individuals under your responsibility -- feel that
 20 it would have been a benefit to you to have not just
 21 this sort of carefully evaluated Covid harm evidence but
 22 also the other side of the picture, the indirect harms
 23 that would be arising from those restrictions? Do you
 24 agree that it would have been better to have that
 25 sort of evidence?
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1 **A.** So, look, it was never outside the mind of ministers,
2 certainly not me and I don't think it was outside the
3 mind of my colleagues either, because of the discussions
4 we did have, that Covid was only one form of direct
5 harms. You start off with the four harms that we had
6 about -- you know, that included direct and indirect
7 harm in health service terms, but also indirect harm to
8 the wider population as well and the economic harm being
9 done.

10 So it was always a factor in our decision-making.
11 If we could have had more information, more clarity
12 about what that indirect harm would look like, that
13 would always have been useful.

14 But I think my central point, but I'm trying to be
15 direct and honest here, is that even if we'd had more
16 information about those indirect harms, you'd still be
17 faced with pretty terrible choices to have to make, and
18 you can't walk away from your responsibility as a
19 decision-maker and -- you know, certainly the case being
20 the health minister and certainly the case if you're the
21 First Minister at this time -- you've still got to
22 choose, and so sometimes you're choosing between harms,
23 you're not choosing how to avoid all those things.

24 **Q.** Thank you.

25 The next topic is about stakeholder input. So at
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1 stakeholders, not just to understand what the government
2 were proposing, but to actually listen to what those
3 people had to say, and those conversations did have
4 meaning for ministers and indeed our officials who were
5 advising us on the choices that we still ultimately had
6 to make.

7 **Q.** A number of stakeholders have complained that their
8 views or recommendations weren't adequately or promptly
9 acted upon. Just to give one example, the Older
10 People's Commissioner noted that she'd given -- she'd
11 said on 14 April that she considered it was urgent for
12 there to be an action plan prepared for the care sector,
13 but she didn't consider that an appropriate action plan
14 was produced until 30 July, so some time later.

15 Would you accept that a number of the views of
16 stakeholders weren't adequately and promptly acted upon
17 and, if so, can you explain why that might have
18 happened?

19 **A.** So I think it's fair to reflect a couple of things.

20 The first is that sometimes you disagree with
21 stakeholders. It doesn't mean that they haven't been
22 heard or appropriately listened to, but there'll always
23 be a time when someone is urging a course of action on
24 you that you choose not to take and, you know,
25 reasonable people can and do disagree on the same facts.

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1 403 of your witness statement, you note that there were
2 some opportunities for stakeholders to give input and
3 you particularly -- in particular you note the Older
4 People's Commissioner and Care Forum Wales.

5 **A.** Yep.

6 **Q.** First question about that: do you agree at that it was
7 very important to ensure that key stakeholders could
8 provide their views and evidence about important
9 decisions, for two reasons: firstly, the decisions had
10 potentially very serious adverse impacts and, secondly,
11 because specialist knowledge of a particular sector
12 would be helpful? Do you agree that getting that
13 stakeholder input was important?

14 **A.** Yes, and it was a feature of what we tried to do. So
15 not just the Older Persons' Commissioner but the
16 Children's Commissioner and others were engaged, both
17 individually with policy areas they engaged with on
18 a lead basis, but also through the Shadow Social
19 Partnership Council where you did gather together -- so
20 you'd have all the commissioners, you'd have trade union
21 stakeholders, businesses and the third sector, local
22 government, and police in Wales, even though they're not
23 a devolved service, there was a conversation with the
24 police board that was always fed in. So that Shadow
25 Social Partnership Council had a wide range of

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1 There's also, though, the point around whether you
2 agree that the manner in which something has been done
3 and whether you believe you've been listened to as well,
4 so that's different to whether you just disagree. It is
5 how you do it.

6 And there's then the point about your capacity to do
7 something as well, and at various points in the pandemic
8 I think some of our stakeholders overestimated the
9 capacity of the government to do lots of things at the
10 same time, and of course there are competing -- there
11 are competing challenges and objectives that different
12 groups of stakeholders have and they're not always
13 consistent, and that goes into again ultimately you have
14 to decide.

15 **Q.** Okay, my final topic. I've only got ten minutes, so I'm
16 going to move on.

17 You appear to accept at paragraphs 528 to 529 of
18 your statement that in the early stages of the pandemic,
19 the PPE that was needed by the care sector in particular
20 wasn't made available to it.

21 The main reasons why -- I'd like to explore, please,
22 the reasons why sufficient PPE wasn't made available,
23 and you've already discussed with Mr Poole the adequacy
24 of the PPE stockpile, but I'd like to ask you about two
25 particular other factors.

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1 Firstly, supply chain problems and with the care
 2 sector routing PPE from the government to local
 3 authorities which then had to be distributed to the
 4 care homes.

5 Do you consider that that sort of decentralised
 6 nature of the supply chain caused problems in PPE being
 7 made available?

8 **A.** So the two things are important. So there's both how
 9 you get adequate volumes of PPE into the country,
 10 because internationally supply chains were stretched,
 11 were often just-in-time orders, and that collapsed
 12 rapidly around us. So we had this big challenge of
 13 getting adequate PPE for the health service and then the
 14 social care supply chains, because often individual
 15 homes or groups of homes would have their own supply
 16 chains and some local authorities would procure PPE and
 17 they all collapsed, they didn't have the purchasing
 18 power to get into what was a -- you know, an ultra
 19 competitive market and, you know, we're not going to go
 20 into everything about PPE purchasing, but ...

21 So actually the NHS was able in Wales, with some
 22 very difficult times, to get PPE to meet the NHS's
 23 needs. What we also did, though, because we could see
 24 social care supply lines were collapsing around it, was
 25 pressure both from the individual groups, the Care Forum

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1 down to the last email, please, between pages 3 and 4.
 2 Hopefully you will see this on your screen there.
 3 Thank you, that's perfect.

4 So this is an email from you on 3 April 2020, and
 5 over on to page 4, 3 to 4, it refers to PPE, and then at
 6 the bottom of that top paragraph it notes -- on page 4,
 7 it notes:

8 "Council leaders are concerned ... [Document read]
 9 ... compared to the NHS."

10 "I'll read you all the emails out of fairness before
 11 I ask you the question.

12 Could you go up the page, please, to pages 2 to 3.
 13 This is an email from Chris Jones on 3 April, and he
 14 refers in paragraph 2 to some reasons why it may be that
 15 the NHS is being prioritised.

16 Then the final part of the picture is that on page 1
 17 there's an email in response to that by a special
 18 adviser who's just referred to as Andy there, which
 19 I think is passed on to you, where he says:

20 "I simply don't think ... [Document read] ...
 21 clearly contestable."

22 He gives a number of reasons there as to what the
 23 staff do, cleaning, bathing, dressing and so on the
 24 residents, as to why they need to be fully equipped.

25 The question really is this: was the NHS prioritised

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1 Wales, the biggest one representing individual homes, as
 2 well as local authorities, to say "The NHS needs to help
 3 us to get PPE", because the NHS had never supplied
 4 social care with PPE in that way, but we did it because
 5 it was an essential part of what we needed to do in the
 6 pandemic.

7 And it was then -- then that's your second point
 8 about: how do you make sure it gets to people? And the
 9 NHS couldn't deal with a system where individual homes
 10 would come to the NHS and say "I want this much". So
 11 actually that's why we used the joint equipment stores
 12 that local authorities had where the NHS, through our
 13 shared services organisation, would push out the PPE
 14 that we had and then local authorities who, in the
 15 largest part, commissioned care from those homes would
 16 then be able to distribute that direct to homes, and
 17 I think that's still the right way to have run it.

18 So we introduced a wholly new way of supplying
 19 social care with PPE because of the pandemic and, after
 20 a very difficult first month or so, it was actually
 21 I think really quite successful.

22 **Q.** Okay.
 23 The other factor that I'd like to focus on then in
 24 terms of supply of PPE arises from an email. Can we
 25 have up on screen, please, INQ000349300. Could you go

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1 over care homes in the terms of PPE distribution?

2 **A.** So the PPE that was available was PPE that had been
 3 procured by the NHS for the NHS. You then have the
 4 pandemic and, as I said, the supply lines collapse and
 5 so that's a problem for the NHS and it's an even bigger
 6 problem for social care because it isn't just they've
 7 got restricted supplies, they don't appear to have any.

8 So we directly supplied social care through the NHS,
 9 which had never been done before, and it wasn't done in
 10 England til some time later. So actually you're using
 11 your purchasing power through the NHS to actually help
 12 to supply PPE to social care that wouldn't have it
 13 otherwise. And then it's around the guidance, and this
 14 is about the guidance that a number of people looked at
 15 about which group of workers need to have PPE and in
 16 what form, and so this is around not saying everyone in
 17 social care needed the same because, you know, some
 18 people need different PPE. You've got cooks in
 19 social care, as well as people providing, as the note
 20 says, some people are providing personal care tasks.

21 So actually that's in about working through which
 22 people are in an equivalent position and how do you make
 23 sure that both the guidance reflects that and that you
 24 then supply it against those needs. And this is part of
 25 having to do something that we hadn't done before and

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1 needing to work through to make sure that guidance is
 2 reflective of the real world, and you'll then get the
 3 supplies to the homes that need it. And Covid in
 4 care homes was about much more than PPE, you know, Covid
 5 circulating in the community was a -- you know,
 6 I understand from the evidence I've read, including
 7 documents in the Inquiry, that it's community
 8 circulating that was the biggest factor. So even
 9 without PPE, that's still one of your biggest challenges
 10 about how you prevent it, but making sure there's PPE is
 11 important both for residents and staff as well.

12 **MR STRAW:** I have to leave it there.

13 Thank you very much.

14 **LADY HALLETT:** Thank you, Mr Straw.

15 Mr Gardner, I think you have some questions for the
 16 Children's Commissioner.

17 **Questions from MR GARDNER**

18 **MR GARDNER:** Minister, I'll take you back to the beginning
 19 of your evidence today, really.

20 In your statement at paragraph 161, you make
 21 reference to a SAGE meeting of 14 February 2020, and
 22 then you make reference to the Chief Scientific Adviser
 23 for Health advising that school closures were being
 24 expressly discussed at that meeting.

25 Do you recall that?

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1 and school closures as an issue, and actually this is
 2 really a feature of the fact that we're trying to keep
 3 schools open and schools are closing around us, as
 4 I explained earlier, because a combination of staff who
 5 were isolating because they'd got symptoms, and indeed
 6 because parents are withdrawing their children, and that
 7 is a rational response that concerned parents were
 8 making.

9 **Q.** Well, given then that we have our month of knowledge and
 10 we also have your evidence there that you knew that
 11 these measures were likely to be needed to be taken, can
 12 you then answer why no children's rights impact
 13 assessment was undertaken at that time either?

14 **A.** I think we have been through this both in the documents
 15 and, I'm not sure if it's my evidence or the education
 16 minister's statement, and the pace at which events were
 17 moving and the opportunity to undertake a children's
 18 rights impact assessment, and again in normal times you
 19 would undertake that assessment before making the
 20 decision, but these were anything but normal times.

21 **Q.** So in which case, as there was no involvement of the
 22 Children's Commissioner, as there was no children's
 23 rights impact assessment, can you inform the Inquiry how
 24 the Welsh Government would go about considering the
 25 rights of children, how to mitigate the impact of school

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1 **A.** Yes, school closures were a regular feature of
 2 conversations throughout the period of time about --

3 **Q.** So may I ask, then: that conversation post 14 February,
 4 was that the first time you became aware that schools
 5 closing was either under consideration or may be
 6 required?

7 **A.** I cannot -- if it was then or a previous COBR meeting,
 8 but it's part of what's envisaged in the pandemic flu
 9 plan. So I was aware that schools activity is one of
 10 the things you might consider because of course
 11 influenza, children are -- young children in particular
 12 are one the most vulnerable groups, so it's about
 13 protecting them from very direct harm.

14 **Q.** Let's jump forward a month then. So then on
 15 18 March 2020 a decision is taken to close schools as of
 16 20 March 2020. So, given that the Welsh Government
 17 would have been actively aware that there's at least the
 18 possibility of school closures for -- from that time and
 19 at least a month prior to closure, can you say why the
 20 Children's Commissioner for Wales was not involved in
 21 the discussions around closure?

22 **A.** No, I can't tell you that. I have a wide range of
 23 responsibilities as the health minister through the
 24 pandemic, but I can't tell you who was -- how the lead
 25 contact was dealt with for the Children's Commissioner

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1 closures, if they're not thinking through those things
 2 at the time?

3 **A.** So, we're thinking through keeping schools open for
 4 a whole variety of reasons, because the evidence appears
 5 to be that children, particularly young children, are
 6 less affected. So that's why we're trying to keep
 7 schools open, it's the conversation that the
 8 First Minister, the education minister, and indeed local
 9 government have, and yet schools are closing around us.

10 To then understand how you undertake a children's
 11 rights impact assessment, when actually you're forced
 12 from a decision on the 16th/17th, want to keep schools
 13 open, then you either close them or they will close for
 14 you, and so that's why the choice was made, and there
 15 isn't practically the time to undertake the full
 16 children's rights impact assessment, and I -- that's
 17 just the truth of it.

18 You then get into: how do you protect children's
 19 rights? And that's about wanting to have distanced
 20 learning implemented from a standing start, and I should
 21 say, not just staff across every area of public service,
 22 the NHS and others who did so much to keep us well, but
 23 the headteachers in the primary sector in particular,
 24 they went to extraordinary lengths to try to make sure
 25 that our more vulnerable learners could still have

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1 access to some form of learning, and all of this
 2 happened within a matter of days.
 3 **Q.** You may have missed the second part of my question,
 4 which was: how did the Welsh Government think about
 5 mitigating the impact of closing schools if it's not
 6 considering it at the time?
 7 **A.** And that is the point about distance learning: how do
 8 you move to successful distance learning? What does
 9 that look like for teenagers, people in secondary
 10 school? What does it look like for our youngest
 11 children? And actually our youngest children in primary
 12 school, they're very different cohorts, you know, so
 13 young children at the age my son was at the time have
 14 an entirely different view about what learning looks
 15 like to, say, a child who's 10. Now, so actually you've
 16 got to think about: what does distance learning look
 17 like? How can you protect those children? And they're
 18 missing all of that social interaction. It's why it was
 19 such a painful and difficult choice, and why we spent so
 20 much of our capital in trying to get schools re-opened
 21 in the summer 2020, and why we had all those difficult
 22 conversations about whether we really needed to close
 23 schools and why me talking to the education minister in
 24 December 2020 saying "I think you need to move to
 25 distanced learning" is actually the last shot before

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1 lockdown.
 2 **MR GARDNER:** Thank you, minister.
 3 Thank you, my Lady.
 4 **LADY HALLETT:** Thank you, Mr Gardner.
 5 I think that completes the questioning for today.
 6 **MR POOLE:** It does, my Lady.
 7 **LADY HALLETT:** Mr Gething, I do understand the burdens I --
 8 the Inquiry makes on serving ministers in particular
 9 when we ask them to help the Inquiry, and I have now
 10 asked you to give evidence twice, so I hope this may be
 11 the last time but I can't yet give you a guarantee.
 12 Anyway, thank you for the help you have given, and
 13 sorry it's been such a long day.
 14 **THE WITNESS:** That's okay, it's important. Thank you.
 15 **(The witness withdrew)**
 16 **LADY HALLETT:** Very well. 10 o'clock tomorrow, please.
 17 **(4.40 pm)**
 18 **(The hearing adjourned until 10 am**
 19 **on Tuesday, 12 March 2024)**
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