Witness Name: Rt Hon Mark Drakeford MS
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UK COVID-19 PUBLIC INQUIRY

WITNESS STATEMENT OF THE RT HON MARK DRAKEFORD MS

I, Mark Drakeford, provide this first statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 14 June 2023 issued under reference M2B/WG/MD/02.

Preamble

1. I want to acknowledge at the outset of my statement, the unprecedented impact the pandemic has had on people across Wales.

2. The pandemic touched the lives of everyone in Wales: my own, my colleagues, our communities, but none more so than the many families who lost loved ones. I'd like to take this opportunity to express my personal sympathies, to those affected, and to all who sadly lost loved ones.

3. I was and remain extremely grateful for, and very proud of the efforts and commitment of the people of Wales in keeping Wales safe by following guidance and complying with the unprecedented restrictions on our daily lives. I am also grateful for and proud of our Welsh public services; their efforts and commitment were unquestionable. I would also like to thank my civil service colleagues for their contribution and support in delivering the Welsh Government's functions and responsibilities.

4. I recognise that the difficult decisions I and my fellow Ministers took during the pandemic have undoubtedly disrupted and changed people's lives and livelihoods. Our communities and local services suffered, and we are still learning of the

impacts not only on our health but also upon young people, communities and businesses. Those decisions were made to protect Welsh citizens, at a time where we were dealing with a virus about which we knew very little, but where we needed to act quickly.

5. I believe that the individual and unique approaches we took in Wales were designed to serve our nation as reasonably and safely as we could.

6. Sadly, too many families have lost loved ones. This cruel virus has stolen lives and it has left their loved ones with questions, which they rightly want answered. I, and the Welsh Government, are committed to this inquiry.

7. The Inquiry has sent rule 9 requests to all Ministers and a large number of officials. It is neither possible nor desirable for me to address every one of the decisions taken by individual Ministers exercising their responsibilities in their own portfolios. The request sent to me contains detailed questions relating to the policy areas of different Ministers. They will address those questions, as they relate to their own decision-making.

Introduction

8. I was born and brought up in Carmarthenshire and attended Queen Elizabeth Grammar School, I studied Latin at the University of Kent and graduated from the University of Exeter as a social worker. I moved to Cardiff in 1979 and worked as a probation officer and a youth justice worker, and as a Barnardo's project leader.

9. From 1991 to 1995, I was a lecturer in applied social studies at the University College of Swansea (now Swansea University). I then moved to the University of Wales, Cardiff, renamed as Cardiff University in 1999, as a lecturer in its School of Social and Administrative Studies. I was promoted to Senior Lecturer in 1999 and appointed as Professor of Social Policy and Applied Social Sciences in 2003. I continued in post, alongside my political work, until my appointment as a Minister in 2013.

10. From 1985 to 1993 I was a councillor for South Glamorgan County Council and served as Vice-Chair of the Education Committee during that time. Following Mr Rhodri Morgan's appointment as First Minister in 2000, I became a special adviser on health and social policy and later served as the head of the First Minister's political office. I succeeded Mr Morgan as the Assembly Member for Cardiff West when he retired in 2011. Immediately after, I became the Chair of the Welsh Assembly's Health and Social Care Committee and of the All-Wales Programme Monitoring Committee for European Funds.

11. In 2013, I was appointed as Minister for Health and Social Services in the Welsh Government and served in that role until 2016. Following the May election of that year, I became Cabinet Secretary for Finance and Local Government. Later in 2016, I assumed responsibility for the Welsh Government's Brexit preparations. I became First Minister and Leader of Welsh Labour in 2018. I was appointed as a Privy Counsellor on 10 January 2019.

12. There are three points that I would like to make regarding the relevance of my background to decision-making during the Covid-19 pandemic:
    a. First, I have worked inside the Welsh Government, including a decade in the First Minister's office, since the outset of devolution in 2000. I consider that my accumulated knowledge from this lengthy period of time at the centre of Welsh Government greatly assisted my understanding of how devolved government and the machinery of government worked. That experience was particularly useful when decisions needed to be made very quickly and on limited amounts of hard data because I was able to draw on my experience in government in a large number of other areas of decision-making.
    b. Secondly, I was fortunate in that I have worked as both Health Minister and Minister for Local Government and was thus familiar with the work of the NHS and local government in Wales and how those bodies interacted with the Welsh Government. Personal relationships with many members across both of these sectors have been developed over many years.
    c. Thirdly, I also had the experience of working as Finance Minister, which helped me to be able to understand the complex issues of government and

inter-government finance and thus respond during the pandemic to extraordinary funding issues that suddenly came our way. I was a regular visitor to HM Treasury as Finance Minister dealing with the Chief Secretary and I negotiated the current funding regime for Wales.

13. I have had some experience of planning for epidemics. Firstly, during my time as special adviser to the then First Minister, there was a SARS outbreak. I was present at meetings between the Health Ministers of Wales and Scotland and the then Secretary of State for Health, to discuss UK pandemic planning. I was involved in both the preparation and the planning of our anticipated response to this potential epidemic. Then, during my time as Health Minister, there was an outbreak of Ebola in certain African countries, which threatened to be imported into the UK. Our planning discussions on that occasion were not limited to health, but included other areas of government including the management of our borders and how to contain potential infections in people who entered the country from areas with the Ebola outbreak. I was more extensively involved in putting in place all the necessary arrangements on this occasion because, had there been a more widespread incidence, facilities for dealing with Ebola were not distributed in every UK nation. Neither SARS not the Ebola outbreak resulted in a serious pandemic within the UK, but I was involved in the preparation and planning and that experience was helpful when it came to Covid-19.

Portfolio responsibilities

14. My responsibilities are set out in exhibit **MD/01 - INQ000216614**. I am primarily responsible for the formulation, development and presentation of Welsh Government policy; this did not change during the pandemic.

15. I am accountable to the Senedd, which exercises scrutiny of Ministerial decisions, policy, government bills and subordinate legislation via its plenary proceedings and through the work of its committees and sub-committees.

16. Alongside other Welsh Government Ministers, I am subject to the Ministerial Code ("the Code"), which is produced here as exhibit **MD/02 - INQ000066055**. The Ministerial Code governs Ministerial conduct and requires Ministers to uphold the highest standards of propriety. The Code is to be read alongside the duties of Ministers to comply with the law and protect the integrity of public life.

17. Throughout the pandemic I was supported by Jane Runeckles, my principal special adviser, with assistance from Clare Jenkins during periods that Jane was absent. I understand both have provided a statement to the Inquiry.

Decision-making principles of Welsh Government during the pandemic

18. I consider that there are a set of distinctive values and an approach to the exercise of government decision-making which shaped successive Labour governments in Wales, long before the pandemic. We sought to carry through those values and that approach to government decision-making during the pandemic. These values were shared across the Welsh Government Cabinet and, to a significant extent, across the wider public sector in Wales. The principles can be summarised as follows:
    a. First, we believe that good government is good for the people of Wales. Wales has enduring levels of income and health inequality and we have always believed that effective action by government can help craft collective solutions to the common problems faced by our society. This perhaps represents one key difference between the Welsh Government and the current UK Government, as the latter is committed to the proposition that government works best when government does least.
    b. That first principle leads to the second, namely that the relationship between individual and public services should be one of citizenship and not consumerism. In Wales, we strive for a partnership between citizens and government and thus seek to develop high trust relationships where individuals and their public services are regarded as jointly involved in a shared endeavour.
    c. Seeking to maintain a high level of trust means that we have developed a preference for public services to be owned by the public, run by public

servants, and animated by a commitment to public service. By way of example, we were offered an opportunity by the Secretary of State for Health to become part of the UK Government's private commissioning for the test, trace and protect service but we declined. I was concerned to ensure that when people in Wales were contacted by the service to ask about highly personal matters, they would have confidence that the person on the other end of the phone had some understanding of their local context, could discuss matters in their preferred language and had a good knowledge of local geography and service organisation.

d. The test, trace and protect service also demonstrates the next core value we were striving to achieve, namely that the relationship between the state and the citizen should be one of co-production. A high trust and effective public service works best when the person using a service is seen as an asset, not as a problem to be solved. The expertise never lies solely on the side of the provider – the job of a teacher is not to pour knowledge into an empty vessel. It should be a reciprocal relationship between the contributions of the public service and the service users. This shaped our approach to practical issues in a crisis.

e. In Wales, the Wellbeing of Future Generations (Wales) Act 2015 promotes equality as an objective for society, not just equality of opportunity. From the beginning of the pandemic, we saw the differential impact of the pandemic on different parts of society and quickly realised that many vulnerable people would be more severely impacted by all aspects of the pandemic. Wales started the pandemic already characterised by deeply entrenched health, economic and social inequalities. We sought, as far as we were able, to ensure that government action did not aggravate those inequalities and supported those approaches to reduce or reverse their impact.

Characteristics of Wales which affected decision-making

19. The size of Wales as a nation and the stability of relationships between individuals and public bodies were hugely important to our decision-making during Covid-19. There are a number of aspects of this which may be relevant for the Inquiry.

20. First, managing a government response for a population of three million is significantly different from decision-making for over fifty million. We were conscious of the distinctions between rural and urban areas, between more and less affluent areas and between north and south Wales. However, in the context of the pandemic, the evidence showed us that the key geographic differences were often between east and west Wales. We saw the effect of the virus spreading at different rates across Wales in a series of waves and patterns generally moving from east to west. Our response had to reflect this evidence. The smaller population was not, of itself, a sufficient condition for enabling things to work well, but it did allow us a greater ability to understand how the pandemic was making an impact (or was about to make an impact) in different communities and to work with local leaders across Wales to make decisions that were sensitive to the needs of different areas. That task is inevitably more challenging if the population is over ten times larger.

21. Secondly, the smaller scale (combined with technology) meant that we were able to set up calls with all necessary partnerships, for example, all local authority leaders or all NHS leaders at the same time in a way that would not be possible elsewhere.

22. Thirdly, the relative stability of the political structures in Wales meant that we came into the pandemic benefitting from many longstanding personal and institutional relationships which had been built up over many years, where people had worked together on many common agendas and could use that human capital to sustain key relationships. It meant that, when Welsh Ministers started having difficult conversations about challenging decisions, we were often in the position where there was rarely a single person in those conversations whom we did not already know and with whom we had not worked co-operatively on other matters. This commonality of approach applied across political parties. Cross-party co-operation is commonplace in the Senedd and working together across local authorities with differing political leadership is the norm in Wales, not the exception. There are also a number of partnership councils such as the statutory Partnership Council for Wales and the Third Sector Partnership Council, which meant that, from the

beginning of devolution, people of different political persuasions representing different interests were around the table together.

23. The overarching Shadow Social Partnership Council became a very important vehicle during the pandemic. We expanded its remit and membership and radically altered its operations; rather than a formal quarterly meeting, it met much more frequently, sometimes weekly, for an hour, and focused on the most difficult decisions in front of us at the time. In addition to public and private sector employers and trade unions, the expanded Shadow Social Partnership Council consisted of third sector partners, and the Future Generations, Welsh Language, Older People's and Children's Commissioners. It was an attempt to bring together a wider set of social partners whose daily lives were affected by the decisions we were making and who would have a view on how very finely balanced decisions should be calibrated. My experience was that while maintaining the frequency and complexity of meetings could be exhausting, overall they were both challenging and constructive. The Council had direct access to the Welsh Government's key advisers, such as the Chief Medical Officer for Wales, the Chief Scientific Adviser for Health and the Chief Executive of NHS Wales. The Council heard, in advance of publication, about how and why the Government was thinking of making decisions. Having listened to their views, decisions were adapted where good reasons for doing so emerged from that deliberation. We told them of announcements to be made and I can only recall one occasion when that confidence was broken. The Shadow Social Partnership Council developed into a group of people who were prepared to contribute from their individual perspectives but also to come together to craft consensus.

The effect in the pandemic of a more unified NHS in Wales

24. There are structural differences between the way that the NHS operates in Wales as compared to the NHS elsewhere in the United Kingdom. We have not adopted the market-based NHS system of the Health and Social Care Act 2012 and we did not follow the UK Labour government model of creating NHS Foundation Trusts from 2003. Rather, the NHS Wales seeks to operate as a unified, managed and planned public service.

25. During the pandemic, our NHS structure – which does not see organisations operating in competition with each other – enabled decisions of the NHS Chief Executive to be implemented by the seven health boards in a consistent way. It was also consistent with the high trust model of government and equality of access as I explained above.

26. By way of example, this unified system facilitated a whole-Wales approach to the rollout of the vaccine when it became available, ensuring that when supplies were limited there was a managed and planned distribution across the seven health boards in Wales and enabling limited stock to be efficiently utilised.

The critical balance between lives and livelihoods

27. The balance between protecting lives and protecting livelihoods was one of the key considerations that we were juggling throughout the outbreak of Covid-19 in Wales. It was a constant preoccupation. Livelihoods were at stake from the very beginning, and we were very conscious of this. If we restricted movement and required businesses to close, we were taking decisions that directly affected people's ability to earn a living. While the UK Government's furlough scheme meant that thousands of people in public services, third sector organisations and private businesses had a level of income protection, they still had to manage with only 80% of normal incomes. Concurrently, very clear advice was given to the Welsh Government that taking certain action would save lives, without which there would have been avoidable loss of life.

28. In striking that balance, consideration of the needs of the vulnerable and disadvantaged was central to our decision-making. Although we were conscious of the impact of restrictions on those who were healthy and economically secure, ensuring that we made decisions that would protect those most 'at risk' played a large part in our approach. This came into sharp focus early in the pandemic because of the emerging evidence of the differential impact of the pandemic on Black, Asian and Minority Ethnic communities. The evidence emerged from a small number of prominent clinicians who observed in their own practice that their Black,

Asian and Minority Ethnic colleagues were more vulnerable both to catching the disease and to the more serious consequences of it. As Wales has a smaller network of clinicians, and a closer set of relationships between frontline workers and decision makers, they were able to alert the Welsh Government to their anxieties. A Black, Asian and Minority Ethnic Covid-19 Advisory Group was set up to examine the disproportionate impact of the virus on minority ethnic people and communities. Although the socio-economic subgroup looked at the broader context for the disproportionality work, another subgroup produced a risk assessment tool which was exported to other healthcare systems and other workplaces. These actions were taken in recognition of the fact that many Black, Asian and Minority Ethnic colleagues were on the frontline and at risk of paying a disproportionately heavy price for their continued public service.

29. From the earliest stages of the pandemic, we were keen to ensure that opportunities for education continued. For the children of key workers and for vulnerable young people, hubs were rapidly organised in each local authority so that face-to-face education could continue. We were able to make online learning resources available at periods when most school students were learning from home. As schools were able to reopen, we mobilised the social partnership approach, working with our public health, local government and trade union colleagues to create Covid-19 secure pathways to reopening. None of this is to detract from the very real impact which interruption to learning produced in the lives of children and young people in Wales. For those many young people who receive education through the medium of the Welsh language, for example, the reduction in face-to-face learning also reduced opportunities for language acquisition. The mental health impact, especially on young people preparing for public examinations, was always at the forefront of our minds. Throughout the pandemic we attempted to balance the right of children and young people to an education with the need to ensure that the physical well-being of students and staff was protected to the best of our ability.

Collective decision-making

30. During the fast-paced developments in the early stages of the pandemic, I was anxious to find a way of ensuring that all major decisions (for example in relation to the 21-day reviews of restrictions) were made collectively, involving as many of my Ministerial colleagues as was practicable. It concerned me that colleagues were bound by responsibility for decisions but were potentially not in the room when decisions were made because of shielding arrangements, for example. If we acted in a way that excluded some from the decision-making process, we would have developed an early and difficult fracture in the collective way that Cabinet operated. After 23 March 2020, we were all working from home. Although this brought challenges, it also created new opportunities. A conscious decision was taken that every meeting from there on should become a virtual meeting of the whole Ministerial team and not just Cabinet members. We continue that today. It mattered a great deal to me that, when we made difficult decisions, not a single Minister felt that they had not had every opportunity to test arguments or voice concerns about the conclusions arrived at. It meant that decisions were subject to the greatest possible scrutiny and that conversations that started with a variety of views coalesced towards a gradual, coherent conclusion that everyone was comfortable in supporting and defending. There were very rare occasions when no consensus emerged and it was necessary for me to act as the first amongst equals. The infrequency of such instances demonstrated, I believe, the strength of our collective decision-making.

31. I was keen for other senior politicians to have independent access to the people advising the Welsh Government. Regularly from 1 April 2020 onwards we had meetings in which the opposition leaders (Welsh Conservatives and Plaid Cymru) participated, which I chaired. The agenda usually included the following headings for discussion: public health update; NHS update; local government update; contingencies/resilience update; and other emerging issues. The meetings included the Chief Medical Officer for Wales providing an update on the state of the virus in Wales, the Chief Scientific Adviser for Health providing an update on modelling and the Chief Executive of the NHS providing an update on the NHS demand. The opposition leaders could test the information so that they understood

the advice upon which our decisions were based. These meetings were not intended to persuade others of the wisdom of the Welsh Government's decision-making. They were, rather, designed to share information and advice in a way which helped those of different political persuasions to come to their own conclusions.

32. It is also important to note that, the Senedd continued to meet (virtually, when required) throughout the pandemic, with Ministers available to provide information and answer questions at every stage.

33. I do not think it would have been possible for us to operate in the way I have described even just a few months earlier. A timely upgrade to the Welsh Government's IT capabilities meant that we were able to change quickly to using IT platforms that even at the beginning of 2020 many of us did not know existed. The equipment adapted astonishingly rapidly and effectively to be able to conduct Cabinet meetings, meetings with opposition parties, local government, and the Shadow Social Partnership Council online. That meant we were able to meet frequently, and with extended memberships, in a way that would not have been possible a year earlier.

34. The Senedd also had a critically important role in scrutinising the decisions we made during the pandemic. I was determined that we should remain open to the democratic scrutiny of the Senedd, which was the only parliament in the UK to sit throughout the pandemic period. Members of the Senedd were able to scrutinise the actions and decisions of the Welsh Government through:
    a. the regular oral statements I and other Ministers made to the Senedd;
    b. the role of the Senedd in scrutinising and approving changes to the coronavirus regulations;
    c. the work of Senedd scrutiny committees, which produced several reports on the Welsh Government's pandemic response during the specified period;
    d. oral questions to Ministers.

35. I appeared before the Senedd Committee for the Scrutiny of the First Minister on 3 July 2020, 22 October 2020, 11 February 2021, 16 December 2021 and 31

March 2022. I also gave evidence to the House of Lords Constitution Committee on 14 July 2021 and the Welsh Affairs Committee on 4 March 2021. The transcripts are exhibited in my Module 2 statement M2-Drakeford-01 at paragraph 203.

Ministerial decision-making structures

Cabinet

36. Cabinet is the central decision-making body of the Welsh Government. It is a collective forum for Ministers to decide significant issues and to keep colleagues informed of important matters, which are discussed, either because they raise significant issues of policy or because they are of critical importance to the public. As First Minister for Wales, I chair the Welsh Government Cabinet.

37. Under normal circumstances, Cabinet meets once per week during the periods when the Senedd is sitting. After 23 March 2020, I decided Cabinet should be a meeting of the whole Ministerial team and not just Cabinet members. In many ways that aided the intensity of contact which was required in navigating the most challenging decisions we faced. The frequency of Cabinet meetings also changed in the early period of the pandemic to enable a responsive response.

38. Although the full Cabinet led on collective decisions relating to the Welsh Government pandemic response, individual Ministers were required to make decisions in their own portfolio responsibilities, thus underpinning good governance and prompt decision-making.

39. I would regard the Cabinet as the 'core decision-makers'. The essential structure of Cabinet and ministerial decision-making did not change. It was supplemented by new ways of working – e.g. the Star Chamber (see below) – but the essence of collective decision-making remained intact. The practicalities of Ministerial engagement changed with remote working. In many ways that aided the intensity of contact which was required in navigating the most challenging decisions we faced. I expect Ministers to exercise portfolio responsibilities themselves save where: (i) a decision requires a cross-government set of resolutions to the Cabinet

for deliberation and agreement, and (ii) issues which are so significant that it needs to be elevated. During the relevant period, if a pandemic-related decision to be taken by a Minister required financing, a ministerial advice would be submitted to the Star Chamber for approval and once approved, it would return to the original Minister for a decision.

40. Guidance is regularly and routinely provided by the Welsh Government across the whole range of our responsibilities. When this is essentially technical or professional in nature, responsibility for its development and issuance can be delegated to officials. When guidance signals a more significant development of policy or practice then agreement usually rests with the portfolio Minister. Where guidance of that sort cuts across portfolio responsibilities or deals with a matter which engages the wider programme of Government, then it can be reported for Cabinet discussion and endorsement. In normal circumstances such instances are rare, because changes of this magnitude normally involve actions which go beyond the issuance of guidance. In January and February 2020, such guidance would have remained the responsibility of the portfolio Ministers.

Star Chamber

41. I asked for Star Chamber to be established in March 2020 to oversee and co-ordinate the overall fiscal response to the pandemic. It was recognised that the response to the pandemic would place unprecedented pressure on the Welsh Government budget for 2020-21 due to the sheer volume of significant finance related decisions that would need to be taken by Ministers, and the challenge of assessing and prioritising these to maximise the impact of available resources. Information about the structure of the Star Chamber is set out in the terms of reference which I exhibit as **MD/03 – INQ000066177**.

Covid-19 Core group

42. I set up a 'Core Ministerial Group' which consisted of the Ministers most involved in developing the pandemic response and key officials. The meeting evolved to include Councillor Andrew Morgan as a representative of the Welsh Local

Government Association and the two Leaders of the Opposition. It was for information sharing, rather than decision-making. It met weekly between 2 March and 14 September 2020.

Daily ministerial calls

43. From early April, I held regular daily morning calls at 9 a.m. with all Ministers. The purpose of the call was to ensure that the whole Ministerial team continued to operate together, sharing information and contributing to the process of decision-making. The fast-moving nature of the crisis, and the many ways in which problems required a response across different portfolios, meant that a daily call, at the start of each day, involving all Ministers proved invaluable in assisting responsive and collaborative decision-making. An email would usually be issued from my office, following the meeting, capturing the issues that had been discussed at the 9am call. Examples of this can be found in paragraphs 173,189 and 218 below. The regularity of these calls did vary as the pandemic progressed.

Shadow Social Partnership Council

44. Shadow Social Partnership Council was established prior to the pandemic, but during the pandemic provided a basis for Welsh Ministers to connect to social partners and wider stakeholders, creating a voluntary partnership which provided a voice and participation of social partners in response to Covid-19. I expanded its remit and membership and radically altered its operations; rather than a formal quarterly meeting, it met much more frequently, sometimes weekly, for an hour, and focused on the most difficult decisions in front of us at the time.

The effectiveness of the decision-making structures

45. The structures we have in the Welsh Government, and the collective arrangements we have in place, allowed us to make decisions quickly, effectively and with the right people. It is relatively easy for us to gather Ministers together or gather key Welsh Government officials. In comparison to other governments, we are small in nature, we have close working relationships, many of us were known to one and other for many years. Many of the civil contingency planning arrangements had

been in place prior to Covid-19 and we were able to set these up quickly – a key example of this is the Emergency Co-ordination Centre Wales.

46. The structures, bodies and processes were all rapidly adapted to meet the particular circumstances of the pandemic. The adaptability and agility of the system meant that the discharge of core decisions was effectively carried out. The circumstances of the pandemic were extraordinary and the rapidity of decision-making was unprecedented. I would argue that the scale and speed of adaptation that took place meant that we had as good a decision-making process that we could devise. In the early days, we were reliant on the Chief Medical Officer for Wales and the Chief Scientific Adviser for Health for scientific and medical advice. Over the early period of the pandemic, the necessary support structures were mobilised to assist them in performing their roles; Technical Advisory Group and its sub-committees, Technical Advisory Cell and Secure Anonymised Information Linkage Databank. That is not to say that the Chief Medical Officer for Wales and the Chief Scientific Adviser for Health did not have access to the relevant people from the beginning, just that such access was not via the formal structures that had to be established.

47. I believe that we received the best available advice and information at each decision-making point throughout pandemic. Advice and information when dealing with a virus about which so much is uncertain is inevitably tentative in nature. All involved often wished for greater certainty than expert advisers were able to provide. Expert advisers were able to consult with their counterparts both in the UK and globally for up-to-date information. Nevertheless, I felt that we were always able to make decisions in the light of the best advice and information available at the point when a decision was necessary.

48. My expectation of those providing advice to Ministers is that they should focus primarily on the conclusion to which they have come in weighing up evidence. It is not always necessary for those advisers to share with Ministers the process through which that conclusion has been reached. It would be quite normal for advisers to point to the different, and sometimes differing, sources of information on which they had drawn in coming to that conclusion. This seems to me, in any

case, to be unavoidable. Ministers are not immune to the public debate which, throughout, surrounded the most controversial decisions taken during the pandemic. Even SAGE had 'independent SAGE' as its counterpart. Ministers were well able to recognise that advice provided was likely to be contestable and this often formed the basis for Cabinet interrogation of the advice received.

49. I was, and am, in favour of strong debate when difficult decisions have to be made. When physical meetings are not possible, some of that interaction defaulted to informal means by which I mean telephone calls, one-to-one conversations or text / WhatsApp messages. None of this, however, was a substitute for proper decision-making. There were sufficient, regular, formal structures in place which enabled decision-making to take place without the need to resort to informal means.

50. I had no concerns relating to the performance of Welsh Ministers during the pandemic. I am grateful for their ethos, determination, and passion throughout what was a difficult period.

51. Throughout the period of the pandemic, I received no direct concerns, or complaints, relating to Welsh Ministers. I deal below with a question relating to the Minister for Health and Social Services and press reporting.

52. I have outlined in substantial detail my engagement and interactions with the UK Government and other devolved governments in my first and second statements in Module 2, which I exhibit here as **MD/04 - INQ000273747** and **MD/05 - INQ000280190**. There were engagements at Ministerial level and official level across all Welsh Government portfolio areas. It would be unrealistic to expect that I or other Ministers would be privy to the full details relating to levels of engagement between officials.

53. In addition to public and private sector employers and trade unions, the expanded Shadow Social Partnership Council consisted of third sector partners and the Future Generations, Welsh Language, Older People's and Children's Commissioners.

54. Each minister was expected to meet with stakeholders from local government to discuss their own policy areas. Normally, the results of such discussion would culminate in a discussion at the weekly meeting with the Minister for Housing and Local Government.

55. I have been asked to what extent I used informal or private communications with Ministers, senior civil servants or advisors in respect of the Welsh Governments response to Covid-19. I was part of a ministerial WhatsApp group which included Cabinet members and special advisers. This group was mainly used to inform others about meetings called at short notice, upcoming announcements and would often be used as a checking platform and a 'check in' opportunity. I was also in other WhatsApp chats for example, with my special adviser Jane Runeckles and with Michael Gove. The WhatsApp chats to which I was a party and which I have located on my phone, have been provided to the public inquiry but I understand others have also been able to provide WhatsApp material to which I am a party, and these chats have also been provided to the inquiry. I also received text messages or iMessages from a range of stakeholders to include other Ministers, members of the Senedd, members of the civil service, council leaders, the leader of the Welsh Local Government Association, members of the Devolved Governments and members of the Labour party. The purpose of these messages was to share news and information. I have made arrangements for these messages to be provided to the public inquiry. I have not been able to recover messages between the period of July 2018 and March 2021 from my Senedd issued mobile phone, which was returned to the Senedd in advance of the 2021 Senedd Election and following my re-election, a new Senedd mobile phone was issued to me. The difficulty with the recovery of messages may have been due to issues with iCloud storage during this period. Messages are ordinarily backed up automatically to the iCloud however during this period I recall that my iPhone provided me with error messages stating that my iCloud storage was full. Due to the pressures of the time, I did not regard it as a priority to get this rectified. I should emphasise that informal and private communications played only a minor and residual role in the Welsh Government. Such means were used to impart information or to seek views but not to make decisions. In my own case, these

forms of communication formed a peripheral and fractional part of interacting with colleagues.

56. The Welsh Government engaged closely and continuously with local authorities throughout the pandemic. Often, we relied upon local authorities to put into the practice the decisions which were made at Welsh Government – for example in delivering financial help to businesses. In some instances, the Welsh Government was making decisions about local lockdown measures in specific local authority areas. My aim was to bring this process as close to 'co-decision-making' as possible, while recognising that legal and final responsibility would rest with the Welsh Ministers. In practice, these were close relationships, discharged through regular engagement and with a strong sense of shared public service and the shared objective of safeguarding local populations. We did not seek to exercise the core decision-making responsibilities which lay with the democratically accountable local authorities in Wales, nor did we ever subcontract our responsibilities to them.

Sources of advice: medical and scientific expertise, data and modelling.

57. Other Ministers and officials are better placed to provide detail on the arrangements in place to obtain and understand scientific advice, data and modelling in relation to transmission, infection, mutation, re-infection and death rates in Wales.

58. However, in general terms, the core decision-making of the Welsh Government was informed throughout by medical and scientific advice. Throughout the 21-day review cycle Ministers would meet directly with the Chief Medical Officer for Wales, the Chief Scientific Adviser for Health and other members of the medical and scientific advisory machinery. This would culminate in written advice to the Cabinet when core decisions were taken. Medical and scientific advisers attended Cabinet themselves. It was my practice to invite senior advisers to speak first in discussion of core decisions, so that Ministers always had access to the latest information.

59. As noted elsewhere in the statement core decision-making was always based on the best evidence available at the time. It is important to note not every piece of evidence points in the same direction and different sources of evidence cast a different light on the same subject. Every piece of evidence is capable of being contested. That is why Ministerial decisions were evidence *based* and evidence *informed* but could not be predetermined by any single evidence strand.

60. I believe that the regard paid to such expertise by the Welsh Government went beyond 'adequate'. Every core decision involved the direct contribution of the best expertise available to us, and that advice was always considered with the highest degree of seriousness.

61. The issue with scientific advice is not whether you have enough of it – it would be wrong to assume that with more scientific advice decisions would have been different. In the end, scientific advice is just as full of ambiguities and uncertainties as any other advice. The idea that the right advice would have told us the right thing to do turns out not to be true at all. Scientific advice becomes rapidly available but you have to make the decision on the advice available at the time the decision needs to be made. You could always delay a decision until further scientific advice is made available but that would have a chilling effect on government decision-making. Government decision-makers cannot conduct the business without exercising judgement.

62. The advice from the Chief Medical Officer for Wales and the Chief Scientific Adviser for Health was clear and well-informed. They were well supported by advice from the Technical Advisory Group / Technical Advisory Cell, which produced briefings for the Chief Medical Officer for Wales who in turn advised me. In order to be able to interpret SAGE advice for the context in Wales, the Technical Advisory Cell commissioned data gathering and modelling specific to Wales. We had access to the Secure Anonymised Information Linkage Databank (which had been established in 2007 by the Population Data Science group at Swansea University, with core funding from the Welsh Government), to which we made available Welsh Government datasets to ensure they could be used by academic researchers who produced very sophisticated modelling. The Technical Advisory

Group established a number of specialist sub-committees to ensure that it had the required range of expert opinion. The Technical Advisory Cell also produced consensus statements to enable a common understanding on important scientific matters.

63. As the Inquiry has heard already, Ministers are not scientific experts, but they did challenge advisers. The word 'challenge' is better understood as a willingness and an ability to probe, to ask questions, to seek further views and so on, in order that a rounded conclusion can be reached. This was certainly possible. A good example of Ministerial challenge is in relation to the advice on face coverings. The Chief Medical Officer for Wales was at the sceptical end of expert opinion in this regard, reflecting anxieties that wearing a face covering might give someone a false sense of security, and leading to a neglect of more effective behaviours. However, there were clearly alternative views available and these were regularly rehearsed with him. I received written briefs from the Chief Medical Officer for Wales and received advice orally – I met with the Chief Medical Officer for Wales and the Chief Scientific Adviser for Health and anyone they brought with them, often the Chief Executive of the NHS, every week. That meant we were able to discuss the most up-to-date advice. The meetings always resulted in written advice if the advice required formal consideration. Such advice was usually captured by the 21-day cycle.

64. There was never any sense, once the initial lockdown period was over, that scientific and expert opinion was of one mind. We were always aware that even the same piece of information could be differently interpreted. These debates were known to Ministers, even when a consensus opinion was provided. Even consensus opinions were always presented as having high, medium or low levels of confidence behind them.

65. I think that, as the pandemic proceeded, we became more actively aware of the contribution which some perspectives – e.g. behavioural sciences – might make. In Wales, other interests such as economic and vulnerable groups, were always part of decision-making because of the way in which the Shadow Social Partnership Council was mobilised. However, it is important to remain aware that

government is not a debating society. Ministers are, unavoidably, in the business of making decisions, using the best information available to them at the time, even when gaps in that information might exist.

66. Because of my own background as a social scientist, it was never my expectation that, in dealing with a wholly new set of circumstances, either data or advice (however expert) would simply provide the answer for Ministers. This would rarely be the case but was especially so because of the evolving nature of the pandemic and emerging variants. I fully appreciated that there was frustration for the public in the messaging as advisers seem to convey that 'next week' fresh data or insights would be available which might resolve decision-making dilemmas. In reality, when that new information became available, it rarely acted in that way. More often, it simply gave rise to new questions for further exploration.

67. I am satisfied that the Cabinet understood the purpose for which data and modelling was being provided and the significance of it, but the degree of understanding was inevitably context-specific.

68. Data and modelling in Wales did take into account the relatively higher proportion of older people in Wales, not least because of our access to the Secure Anonymised Information Linkage Databank which was well-equipped to provide it. The Older People's Commissioner was a member of the Shadow Social Partnership Council and fed into discussions.

69. There was not always adequate co-ordination in relation to data and modelling. At times, the relationship between the Health and Social Services Group in Welsh Government and Public Health Wales was difficult. I thought the problem to be that Public Health Wales was not essentially a delivery organisation. It does have delivery aspects - vaccination programmes in schools for example - but it is only a part of the organisation. During the pandemic we needed it to be more in the delivery space (such as ramping up testing capacity) but it struggled to be so effective. But as Ministers you only hear about what goes wrong and officials are better placed to give a more accurate account of how those relationships worked.

70. We initiated a significant amount of data collection and modelling in relation to at-risk and vulnerable groups and those with protected characteristics. For example, we received monthly reported vaccination take up amongst disadvantaged groups. The data ensured that services were positively aligned with the needs of at-risk and vulnerable groups. We had information on what type of groups we needed to consider, where they lived, take up of vaccinations, and what action was required. There are strong examples of where we created new ways of dealing with modelling, including Secure Anonymised Information Linkage Databank. Economic and third sector funds were looked at to ensure we were supporting those different groups. It fed into our approach to food deliveries required by vulnerable households – the percentage of households who required that support in Monmouthshire was nothing like the same as neighbouring Blaenau Gwent, for example.

71. The economic impacts of the decisions we were making always fed into the overall decision-making. A significant amount of granular information was available about the Welsh economy. We understood the tourism economy in Wales and we knew what mitigation was required and likewise, we understood the resiliency of the sector - hotels could pivot but the Royal Welsh Show could not. There was a certain level of sophistication in understanding how the economy would operate as a consequence of the decisions we were being asked to make.

Initial understanding and responses to Covid-19 in Wales in the period January 2020- March 2020

Initial understanding

72. My recollection is that at the beginning of this initial period we became aware of Covid-19 in the UK. By 24 January 2020 I had been advised by the Chief Medical Officer for Wales that there was a significant risk the virus would arrive in Wales. At this point, limited information about the virus was available. On 30 January 2020 the World Health Organisation declared a public health emergency. In February 2020 there was a Covid-19 outbreak on a cruise ship, the Diamond Princess.

73. I recall that by February 2020 discussions were being held about international travel and expected travel in the February 2020 half-term. However, in Wales, we went through January and February 2020 without seeing any direct impact from the virus. As we entered March 2020, Covid-19 and its seriousness became more apparent.

74. The first three COBR meetings in relation to Covid-19 of which I am aware were held on 24 January, 29 January and 5 February 2020. The then Welsh Minister for Health and Social Services attended on behalf of the Welsh Government because these COBR meetings focused on health-related issues and that was his portfolio. Following his attendance at COBR, the outcome of those meetings was reported to me. I have set out at paragraph 20 - 22 inclusive of my first statement in Module 2 why the Minister for Health and Social Services attended the initial COBR meetings. The outcomes of those earlier meetings were communicated to me and I had full confidence in the Minster for Health and Social Services, within whose portfolio the health-related issues sat. As the situation escalated, I felt it necessary also to attend COBR. It is likely that the following factors influenced my decision to attend my first COBR on 18 February 2020:
    a. the emerging scenarios of the position prompted me to do so;
    b. the timing of the meeting (just before or during half-term) meant that the diary allow me to do so;
    c. we may have expected the PM to be there although in the event, he did not attend.

75. On 11 February 2020, I received a briefing on lines to take on Coronavirus, which I exhibit as **MD/06 – INQ000336241**. At that point, there were a small number of cases in the UK and none in Wales. The Minister for Health and Social Services was providing weekly updates to the (then) Welsh Assembly. The virus had been classified as an airborne disease with a far less mortality rate than MERS and SARS.

76. The first COBR meeting I attended was on 18 February 2020, exhibit **MD/07 - INQ000056227** refers. The Chief Medical Officer for Wales also attended this meeting. I attended the meeting to share information, discuss actions that might be taken and to receive information about Covid-19 and the UK Government's

response to it. We were told that there were 9 confirmed cases in the UK, and we received an update on the Diamond Princess.

77. Cabinet met on 25 February 2020, exhibit **MD/08 - INQ000129852** refers, and formally discussed Covid-19 for the first time. It was noted that the Minister for Health and Social Services had been updating Senedd members weekly and the Chief Medical Officer for Wales had issued guidance to the public. The risk to the UK was described as moderate. Information was being shared across all four UK nations. Travel advice had been updated to reflect an increase in cases in countries such as Italy. The Public Health Wales website was being updated on a daily basis. There had been no imported cases into the UK. It was noted that civil contingency measures were being tested and the Emergency Co-ordination Centre (Wales) was ready to 'stand up' if required. It was noted that the relevant Ministers would meet on a regular basis to consider the implications of the spread of the virus.

78. The Chief Medical Officer for Wales provided a briefing to me, the Minister for Health and Social Services, the Minister for Education and the Minister for Housing and Local Government on 26 February 2020. He discussed the likely impact of the school half term holiday, taking place at that time. We were aware of Welsh families holidaying abroad, including in Italy, where the virus was in strong circulation. The meeting reflected, inter alia, on the likely importation of the virus into Wales. The Health Minister and CMO also attended COBR, exhibit **MD/09 - INQ000056216** refers, where they were informed that there was clear person-to-person transmission in South Korea, Iran and Italy, which were well-connected with the UK.

79. The first Covid-19 positive case was reported in Wales on 28 February 2020.

80. At Cabinet on 2 March 2020, exhibit **MD/10 - INQ000048787** refers, I established a sub-group consisting of myself, the Minister for Health and Social Services, the Minister for Housing and Local Government and the Minister for Education. This was the Covid-19 Core Group. We were advised that the mortality rate of the virus was lower than first thought. The Four Nations Action Plan was to be published the

following day – it represented a sensible approach and was led by UK health services. The UK Government was also preparing an emergency Bill.

81. Cabinet met on 4 March 2020, exhibit **MD/11 - INQ000048789** refers, specifically for the purpose of considering Covid-19. It was noted that the situation was fast moving. The Chief Medical Officer for Wales gave an update on international infection rates and stated that 51 cases had been identified in the UK, most of which were the result of international travel but two had contracted it within the UK with more expected. There was one reported case in Wales. SAGE advised that its modelling suggested a Reasonable Worst-Case Scenario of 80% infected with 20% hospitalised, equating to 160,000 people in Wales requiring hospitalisation and 25,000 deaths. A significant escalation was expected in April, May and June. Planning for moving from containment to delay was already in motion to allow the NHS to prepare for escalation. Governments would need to respond to economic interventions, business support, management of excess deaths and transport. First considerations were being given to the need to prepare for school closures and the cancellation of exams. There was also a COBR on this day, exhibit **MD/12 - INQ000056218** refers, at which the UK Government Chief Scientific Adviser provided a synopsis of the available non-pharmaceutical interventions and identified the biggest variable as compliance and stressed that the public needed to understand why such measures were being implemented. He also advised that different regions would be at different points of the curve at different times.

82. During the period between January and March 2020 understanding of the essential features of the virus was only starting to emerge and was, in many ways, rudimentary. The Welsh Government's understanding was no better, but no worse, than any other. At this stage, as I recall, the extent to which the virus was spread through aerosol transmission was preliminary and contested. In preparation for this statement, I have looked again at advice published by the World Health Organisation on 27 March 2020. It says: "*To date, some scientific publications provide initial evidence on whether the Covid 19 virus can be detected in the air and thus, some news outlets have suggested that there has been airborne transmission. The initial findings need to be interpreted carefully.*"

83. During January and February there was some limited and preliminary evidence which suggested the possibility of asymptomatic spread. The Welsh Government considered asymptomatic transmission but concluded that there was insufficient evidence upon which to base operational decisions (see a meeting of the Health and Social Services Group Covid-19 Planning and Response Group on 20 February 2020, exhibit **MD/13 - INQ000210802** refers and 'Guidance for social or community care and residential settings on Coronavirus' published on 9 March 2020, exhibit **MD/14 – INQ000336270** refers). However, during March and April the knowledge in relation to the risk of asymptomatic spread started to develop, at which point the Welsh Government introduced more stringent testing requirements in relation to discharge from hospital into care homes (although the guidance was also dependent on availability of sufficient testing capacity). By late April 2020, asymptomatic transmission was well-understood by the Technical Advisory Cell. The key point I wish to make on asymptomatic transmission is that there needed to be a sufficiency of evidence before operational decisions could be based on it – that was a matter for the professional judgement of those who provided advice to us. As the risk became more well understood, operational decisions were adapted accordingly.

84. Because of the devolution-long focus of successive Welsh Governments upon inequality, our early understanding of Covid-19 was informed by an understanding that every widespread disease outbreak is more likely to produce disproportionately adverse impacts upon those already socio-economically disadvantaged or suffering from some other pre-existing health condition. That general understanding was translated, from the start, into the actions taken by the Welsh Government. Uniquely in Wales, since 2010 the Welsh Ministers must have due regard to the United Nations Convention on the Rights of the Child, and we were used to doing so by the time of the pandemic. Of course, our specific appreciation of the impacts of this disease developed over time as the evidence of those impacts was gathered and presented to Ministers.

Initial response

85. I have addressed Welsh Government preparedness in my Module 1 statement which is exhibited as **MD/15 – INQ000177804**.

86. Other than the emerging evidence surrounding Covid-19 itself, the Welsh Government's priorities at this point would have included:
    a. Completing the passage of a budget for 2020/21, shaped by the impact of austerity, through its final Senedd stages;
    b. Dealing with the continued potential consequences of leaving the European Union without any deal;
    c. Establishing working relations with the new Prime Minister and the first Conservative Government with the clearest working majority since devolution;
    d. Completing the Welsh Programme for Government, as the Senedd moved into the final year of the 2016 term;
    e. Responding to the extreme and adverse weather conditions of February 2020. As the month moved on the most urgent matter facing the Government was to respond to widespread and significant flooding in all parts of Wales.

87. I have set out in my Module 2 statement in detail who attended COBR meetings, how that was decided and how the four governments interacted at those meetings, which were eventually stood down and replaced with Covid-19 Operations Committee meetings. I shall not repeat those matters here.

88. Cabinet met on 10 March 2020, exhibit **MD/16 - INQ000129909** refers. I gave an update on the COBR meeting the previous day – the key message was around the spread of the virus in the UK and when more restrictive measures on movement should be introduced. There were only 6 reported cases in Wales at that time and it was felt that it was not appropriate to introduce measures on the basis that if they were used prematurely, they would likely lead to the population being less receptive when the virus was more virulent. It was also important for ministers to

discuss resilience planning with stakeholders in the public and private sectors to ensure they were prepared for workforce incapacitation.

89. During the middle weeks of March, the actual number of confirmed Covid-19 cases in Wales remained very low: when I updated Cabinet on 10 March, there were only six cases, and even by 18 March, the Technical Advisory Cell had identified that there were just nine cases in Wales (five of which had been confirmed and the other four were suspected). However, the scientific advice we were receiving strengthened in its predictions that despite the low numbers, a far more significant surge in patients suffering from the virus would become apparent in the weeks ahead. Levels of infection in the south east of England were already elevated, and advice suggested that the same pattern would become apparent in Wales, with a time lag of at least seven days between Wales and England. The communication challenge that this presented was to alert Welsh public services, private business and Welsh citizens to a danger which remained prospective in many parts of Wales, rather than an already-present danger. By 23 March 2020, Technical Advisory Cell was briefing the Chief Medical Officer for Wales that the NHS in Wales was potentially 14 days away from being overwhelmed. Even then, when the national lockdown was introduced, the west of Wales had experienced very low numbers of people falling ill with the disease.

90. On 11 March 2020, I attended a Covid-19 Core Group meeting, exhibit **MD/17 - INQ000215171** refers. The Chief Medical Officer for Wales provided an update that there were 15 known cases in Wales, with some community transmission and it would be for COBR to decide whether to move to the delay phase. Given the events in Italy, there was a need to prepare for the Reasonable Worst-Case Scenario. Three delay options were being considered: self-isolation of individuals infected for seven days after symptoms developed; household quarantine for up to 14 days after the last person becomes symptomatic; and the cocooning of the elderly and vulnerable. The Chief Scientific Adviser for Health stated that the peak was 10-14 weeks away. Further thought would need to be given as to whether 'cocooning' the elderly should be advised, as this could lead to further isolation and increased loneliness.

91. Between January and March 2020, there was no scientific advice in relation 'super-spreader' events. I have set out in my first statement for Module 2 at paragraph 36, the consideration that the Welsh Government and COBR gave to the issue of mass gatherings and the science on 11 – 12 March 2020. At that time, the science did not justify a ban on mass gatherings.

92. I wish to re-state here that I argued that a UK-wide ban on such gatherings should be instituted, not on the basis of secure advice that such gatherings posed a threat to those attending, but rather on the basis of consistency and effectiveness of messaging. Non-essential treatment in the NHS was ending; avoidance of non-essential contact outside the home was being advised; schools were closing early. Yet mass gatherings were being allowed to go ahead. The cognitive dissonance between these different approaches appeared to me to undermine our central message and was best avoided by bringing our approach to mass gatherings into line with the rest of our advice.

93. The first of these was the rugby international between Wales and Scotland, scheduled for 14 March. As identified above, the medical and scientific advice available to the Welsh Government at that time did not suggest that the event should be prevented from going ahead. I received a call from the Chair of the Welsh Rugby Union, Gareth Davies on 13 March suggesting that the Welsh Rugby Union would postpone the match. The decision was one for the Welsh Rugby Union. The Welsh Government does not organise international sporting fixtures. I was not asked to agree or disagree with the decision, nor would my view have been relevant. I did provide an assurance to the Chair of the Welsh Rugby Union that the Welsh Government would support them in their decision. By this point, the Welsh Rugby Union had been the subject of considerable lobbying, and considerable criticism from those holding strongly opposing views as to whether or not the game should proceed. I was not in a position to say that the advice available to the Welsh Government advised cancellation: it did not. I was in a position, however, to say that the Welsh Government would not criticise the Welsh Rugby Union, whatever decision it made, and that we would stand by the Welsh Rugby Union in its actions.

94. As noted earlier, I had already argued in COBR in favour of a UK-wide approach which would have resolved the issue of the 14 March game in favour of postponement. Without a unified approach I do not believe that the Welsh Government was in a position to absolve the Welsh Rugby Union of its own responsibilities. I am glad the game did not go ahead.

95. On 13 March 2020, I held a joint conference with the Minister for Health and Social Services to announce the suspension of non-urgent outpatient and surgical care in the Welsh NHS. I exhibit the written statement issued at **MD/18 - INQ000226942.** By this point, it was clear, from the advice received, that the Welsh NHS would face a very significant and rapid upturn in the number of patients requiring hospital treatment for Covid-19. We took the earliest decision in the United Kingdom to provide the necessary direction to the health service that Covid-19 preparation should now become its central purpose. In order to provide for such patients, the physical layout of hospitals would need attention. It would be highly unwise to encourage anyone requiring routine care to visit sites where concentrated numbers of very ill people, suffering from the disease, would be found. Staff would need to be redeployed to attend to the emergency. Training and preparation would be required to enable that to happen effectively. All of this provided the basis and rationale for the actions announced on 13 March, with the timing designed to give the NHS as much time as was possible to make preparation for what was about to take place.

96. Cabinet met on 16 March 2020, exhibit **MD/19 - INQ000048797** refers. I gave an update on the 12 March COBR meeting where agreement was reached on measures to manage the outbreak, including household isolation. The UK Government had agreed to advise against mass gatherings, but not ban them. Following advice from medical professionals, routine out-patient proposals and non-urgent surgery had been suspended by the Welsh Government. Cabinet agreed the need for specific, clear Welsh communications, as many people in Wales followed UK lead media outlets. It was suggested that TV news channels should be encouraged to use sign language. In relation to 'cocooning' to which I refer above, Ministers suggested there was a need to consider increased loneliness and the impact on multi-generational households. It was noted that

Wales would move to routine testing of key workers only. Advice from health professionals was required to inform the decision on schools – the impact on exams, vulnerable students and those in receipt of free school meals needed to be considered. There was a need to consider the impact on Senedd business, particularly in relation to legislation.

97. Later the same day I attended COBR, exhibit **MD/20 - INQ000056210** refers, a paper had been circulated on proposed interventions including: full household isolation where one member was symptomatic, social distancing, shielding advice to vulnerable groups. It was now also advised that large gatherings should not go ahead. There was widespread support for the package of measures being recommended.

98. As a direct consequence of the agreement reached at COBR, on 17 March 2020 the Welsh Government advised the public to limit non-essential contact, work from home where possible and avoid social venues. The emerging evidence of the spread of the disease, the way in which it was passed from person-to-person, the adverse impact on the health of those affected all contributed to this decision. The announcement is attached as exhibit **MD/21 – INQ000271921**.

99. I also met the Minister for Education to discuss the position in relation to schools on 17 March 2020. She had been in discussions with the Secretary of State for Education. The meeting discussed school closures. At this point we still hoped to keep schools open to the intended end of term, but that was becoming less and less tenable. From recollection, I believe that the meeting would also have discussed safety measures in school, the needs of vulnerable students and the emerging work on remote learning, amongst other topics.

100. On 18 March 2020, I attended a Covid-19 Core Group meeting, exhibit **MD/22 – INQ000336350** refers. The Chief Medical Officer for Wales informed us that the virus was probably circulating in the community – there were 136 reported cases in Wales and tragically 2 recorded fatalities. He expressed concern that not everyone was following social distancing guidance. The Chief Scientific Adviser for Health advised that modelling suggested the UK was four weeks into the 'curve' and it was expected to be another eleven weeks before the spread of the virus

peaked, whereas the NHS was four to five weeks away from maximum capacity. The Chief Executive of the NHS advised that critical care capacity was being doubled but it was likely that the NHS would be overwhelmed at the peak of the virus. School closures were discussed and we were aware that SAGE was about to provide updated advice to COBR. Some schools were already closing or partially closing because of staff and pupils needing to self-isolate. If schools closed, provision for key workers (NHS and care staff) would need to be maintained. We were concerned that if schools closed, it was likely that they would not re-open until the Autumn.

101. Amongst the public there was already a sense that the world had become a dangerous place and people were making their own personal risk assessments and acting on them. People were deciding to work from home, not to go to social events and not to send their children to school. The decision to close the schools early in Wales was a pragmatic response to what was already happening on the ground.

102. We had thought of keeping schools open until easter and bringing term to a close in the normal way but by 18 March local government leaders were telling us that they couldn't hold the line on that – at least one was telling us it was going to announce itself that schools were closed. Cabinet had previously considered the issue and decided that it would be preferrable to sustain school opening until the end of a planned term. However, by 18 March it was becoming clear that the position was unravelling at school level and at least one local authority had unilaterally decided to close schools, outside the Welsh Local Government Association process. I held discussions on the morning of 18 March with the Minister for Education, Minister for Finance and the Minister for Housing and Local Government Minister, and we were concerned about the consequences of the decision that had been made for other local authorities. We concluded it was incumbent on us to ensure the closure of schools happened in an orderly way and it was better to achieve certainty at a national level, notwithstanding the powers lay at local level. The announcement we agreed to make was in effect permission and guidance to the local authorities to close schools.

103. At lunchtime on 18 March 2020 the Minister for Education announced that schools in Wales would close early for the Easter holidays. They were to be re-purposed to make provision for the children of keyworkers and vulnerable children by 20 March 2020 at the latest.

104. By the time of the COBR meeting later that day, we had already made our decision. At COBR, exhibit **MD/23 – INQ000056211** refers, in light of the position taken by the Welsh and Scottish Governments, Mr Johnson approved the same action (the Secretary of State for Education noted that schools were already taking unilateral decisions to close, which is what we had been experiencing in Wales). It was also agreed that a minimal school service should be made available for the children of key workers and for vulnerable children, and schools should be asked to stay open over the holidays to provide childcare for the children of keyworkers. The meeting acknowledged that each of the Four Nations had a different examination regime, but all agreed they would look to other arrangements to ensure pupils were awarded the qualifications they would have achieved in other circumstances.

105. The Minister for Education and I also decided to cancel the summer GCSE, AS and A level exams, and to use grade estimates instead. The Ministerial Advice is exhibited as **MD/24 - INQ000145227** and outlined what was being proposed in Scotland and England. The only fair thing to do for learners was to cancel the exams.

106. On 19 March 2020, I was copied into a Ministerial Advice, exhibit **MD/25 - INQ000104024** refers, that was sent to the Ministers for Health and Social Services and Education on the issue of provision for vulnerable children. It advised that numbers in the vulnerable and key worker provision should be kept as low as reasonably practicable. The Welsh Ministers did not currently have powers to close schools and childcare settings but could make policy announcements based on the latest scientific and medical advice to guide the decisions by other public bodies. It noted the concern of local authorities in relation to admitting all children eligible for free school meals to the ongoing provision as given the numbers involved it would defeat the point of keeping numbers to a minimum to avoid

transmission – there was therefore need for a dual policy approach to cater for children eligible for free school meals.

107. I held ministerial discussions to prepare for a lockdown on 19 March 2020 when I was presented with a paper on international lockdowns, exhibits **MD/26 INQ000361403** and **MD/27 - INQ000361404** refer.

108. On that day, I asked for a briefing on the relevant legal powers to enforce a lockdown. I received that briefing from the Director of Legal Services on 20 March, exhibit **MD/28 - INQ000361418** refers. I received further advice on the Welsh Ministers' public health powers that evening following COBR which suggested the Secretary of State would make the regulations for England, exhibit **MD/29 - INQ000361425** refers. A practical and proportionate way forward was identified. Once the English regulations were received, they would be modified for Wales and I would sign them exhibit **MD/30 - INQ000366533** and exhibit **MD/31 - INQ000361426** refers.

109. I also asked for a briefing on the options for the Welsh Government should the UK Government announce a lockdown, exhibit **MD/32 - INQ000361424** refers and which I received on 20 March exhibit **MD/33 - INQ000361423** refers. This document identifies the benefit of a lockdown as "*delaying the peak to later in the year when there are fewer seasonal pressures on the NHS*". It identifies the disproportionate effect on vulnerable people, including domestic abuse victims, those living in inadequate housing or Housing for Multiple Occupation.

110. On 20 March I received a minute of the Prime Minister's Strategy Meeting which made it clear that he was giving consideration to taking further measures beyond those considered on 16 / 17 March. These measures related to the closure of hospitality businesses, and mandating closures and extending it to other businesses, exhibit **MD/34 - INQ000361415** refers. I responded by way of exhibit **MD/35 - INQ000361417** indicating that it was essential that we were at any COBR convened to discuss the issue and asking for clarification on the legislative process under the Coronavirus Act – it is therefore clear that before COBR it was not anticipated that the public health legislation would be used for these purposes.

111. Prior to the COBR meeting, I received a paper on social distancing prepared by the UKG, attached as exhibit **MD/36 - INQ000361419** and **MD/37- INQ000361421**. It said that evidence from Google and anecdotal evidence suggested that the measures set out on 16 March were not being effective. It recommended legal measures to force leisure and cultural business to close.

112. At COBR on 20 March 2020, exhibit **MD/38 - INQ000056212** refers, it was agreed that powers should be used under the public health legislation to stop people gathering, as there had not been full compliance with the earlier guidance. I announced that evening that the Welsh Government would exercise public health powers in order to close restaurants, pubs, bars and other facilities where people gather. This also included leisure centres, gyms, cinemas, theatres, and betting shops. The announcement is attached as **MD/39 - INQ000350705**.

113. On the evening of 20 March, I emailed the other First Ministers to arrange a conference call on Sunday 22 March to share intelligence in advance of the SAGE and COBR meetings on Monday 23 March 2020, exhibit **MD/40 - INQ000361428** refers. In the event, this could not be organised for 22 March and was organised for 11.30 on Monday.

114. On Saturday 21 March 2020 I was informed by officials that following a bilateral call with officials from the Department of Health and Social Care, the Prime Minister was going to call an urgent COBR on Sunday 22 March 2020 and make a public announcement on shielding at 6pm, exhibit **MD/41 - INQ000361429** refers. This was later cancelled, exhibit **MD/42 - INQ000366557** refers.

115. On Sunday 22 March 2020 the Chief Medical Officer for Wales confirmed another seven Covid-19 related deaths in Wales, taking the total to 12, exhibit **MD/43 - INQ000366558** refers.

116. Also on Sunday 22 March 2020 I and the Minister for Health and Social Services had a meeting with officials, exhibit **MD/44 - INQ000336319** refers. By this point,

we were aware of the emerging SAGE evidence. One of the actions that arose from this meeting was to prepare a draft lockdown plan.

117. On 21 and 23 March 2020 I used public health powers to make two sets of regulations in Wales to impose restrictions.

118. Cabinet met on 23 March 2020, exhibit **MD/45 - INQ000048923** refers and discussed issues following advice from SAGE on the rate of transmission. The infection was spreading in London a lot faster than in Wales and there was a very real risk there of the NHS becoming overwhelmed. A small number of pubs and bars had not followed advice to close so it would now need to be enforced by local authorities. Local authorities and national parks would close footpaths and non-residential caravan parks and tourist attractions would close. HM Treasury had agreed consequential funding for Covid-19 related items in devolved areas. Officials were working on plans to lockdown Wales whether by mirroring plans made by the UK Government or if necessary, to make separate arrangements. There were also concerns that only a small number of pupils had attended schools following their closure. Cabinet discussed a letter to be sent to 150,000 vulnerable people in Wales in relation to self-isolation providing medical advice and advice about social support arrangements. I made an announcement that day informing the public that caravan parks, campsites, tourist hotspots and popular beauty spots would close. Local authorities would enforce the closure of pubs, exhibit **MD/46 – INQ000349207** refers. The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 were laid to give effect to those decisions.

119. I was also sent a paper by officials on what a lockdown may look like, at 1.50pm before the COBR meeting **MD/47 – INQ000349204** refers.

120. I am aware that the Technical Advisory Cell produced a briefing for the Chief Medical Officer for Wales on 23 March 2020, as exhibited at **MD/48 – INQ000312930**, in which it recommended an immediate lockdown and release approach. The Chief Medical Officer for Wales received this in writing from the Chief Scientific Adviser for Health at around 4pm in the afternoon, **exhibit MD/49 – INQ000350511** refers. It is likely that the Chief Medical Officer for Wales

conveyed the view of the Technical Advisory Cell to me in advance of the COBR meeting, as he was with me at that point.

121. The COBR meeting on 23 March 2020, exhibits **MD/50 - INQ000056213** and **MD/51 - INQ000216526** refer, resulted in a Four Nations agreement to enter full lockdown across the UK. The Prime Minister informed us that he was going to announce a lockdown in England and asked the First Ministers of the Devolved Governments to use their powers to do the same. I felt able to give that commitment on behalf of the Welsh Government, knowing that that decision had the support of my Welsh Cabinet colleagues. The meetings held in run up to this COBR meeting left me with a clear understanding that my Welsh Cabinet colleagues would prefer a precautionary approach to deal with the disease. During the COBR meeting, I received a SitRep by email informing me that there had been 71 new cases since the last update, bringing the total to 418, although the true number of cases was likely to be higher, and that the virus was now circulating in every part of Wales, exhibit **MD/52 - INQ000366626** refers.

122. Immediately after COBR I had an opportunity to discuss the decision to lockdown with the Minister for Health and Social Services and the Chief Medical Officer for Wales who both attended COBR. That discussion mostly focused on how the announcement was to be made.

123. Later that evening I formally announced that all remaining non-essential businesses would close, all social gatherings of more than two people were prohibited and everyone had to stay at home except for once a day to shop for food or exercise close to home. I exhibit the statement that I made on 23 March as exhibit **MD/53 – INQ000350706**.

124. At the COBR meeting I recall that I raised the issue of vulnerable people because I was aware that the population of Wales is older, poorer and sicker than the population of the UK as a whole. I was reflecting the nature of the Welsh population and was concerned about how people would access food, medication and would withstand the inevitable loneliness of societal lockdown. I also raised the position of vulnerable children as there were communities in Wales where as many as 80% of the children were in receipt of free school meals. The minutes record that there

needed to be joint guidance on how the guidance would affect vulnerable groups, along with highlighting the position of vulnerable school children who would need to be receiving free school meals. The actions from the meeting record that a discussion of free school meals and vulnerable children in relation to social distancing would be taking place at the Public Sector Ministerial Implementation Group on 24 March 2020 and that the Ministry for Housing, Communities and Local Government would share guidance on social distancing in supermarkets with the devolved governments.

125. For the reasons outlined earlier, I did not believe that it was ever feasible to impose a Wales-only lockdown, in advance of, and separate to, any decision made by the UK Government. While the impact of the disease was increasingly, and alarmingly apparent in the South-East of England, and in London in particular, from the first half of March onwards, the same position was not apparent in Wales. To have imposed the most draconian restrictions on individual liberty in peace time in part of the country *least* affected by the disease, when such actions had not been taken in parts which were *most* affected was, and in my view remains, entirely unfeasible.

126. I recall, vividly, my own anxieties, at that meeting, about the acceptability of such intrusive actions in the lives of Welsh citizens for whom the disease remained absent from their own experience or that of the communities in which they lived. I was entirely certain, however, that Welsh participation in the lockdown was right and inescapable: right because of everything I had learned about the spread of the disease, its impact on the health service in London and because the advice that lockdown would save lives, and inescapable because without concerted action across internal borders the efficacy of the lockdown would have been substantially undermined.

127. Cabinet met on 24 March 2020, exhibit **MD/54** - **INQ000048924** refers, and I provided an update on the COBR meeting the previous day when it was decided to restrict the movement of people. I had argued for restrictions on the construction sector which the UK Government decided against. The Welsh Government would have the powers to extend the restrictions on Thursday, but the complexities of doing so would need to be considered. Cabinet identified the need for guidance

to local authorities on supporting vulnerable adults who were shielding and the cost of providing food and other essential items to those individuals. Support would need to be in place for young adults leaving care and those fleeing domestic violence. The conduct of Senedd business was also discussed. At this Cabinet meeting, none of my colleagues doubted that it was the right decision to make, and all agreed that we should use our public health powers to make the necessary regulations.

128. At this stage in the pandemic response, the Chief Medical Officer for Wales remained sceptical about the efficacy of the use of face coverings. The arguments, as I recall them, suggested that coverings were unlikely to be especially effective in protecting individuals, that they were often worn in ways which undermined even that limited usefulness, and that they risked doing more harm than good if individuals using face coverings then neglected other more effective actions – social distancing most obviously – because they had been 'protected' by mask wearing. SAGE only advised that on balance there was enough evidence to support a recommendation that there be community use of cloth face masks for short periods in enclosed spaces where social distancing was not possible on 21 April 2020.

129. It is also important to remember that, for almost the whole of February, not a single case of Covid-19 had been detected in Wales – the first case being confirmed on the 28 February. In all non-pharmaceutical interventions, a debate took place about the likelihood of members of the public being prepared to follow advice. I think it unlikely that people in Wales would have regarded face coverings as a useful or proportionate course of action at a time when, as far as anyone knew, the risk was very small. By the time a shift in public opinion might have been detected, a full lockdown had rendered face coverings immaterial.

130. I do not believe that the notion of herd immunity played any practical part in the Welsh response to Covid-19. My understanding of the approach is that it would have required a very significant spread of the disease, to the point where sufficient natural immunity might have been acquired to stem its flow across the population. Two arguments, at least, meant that this was never a practical proposition as the

Welsh Government's response to the pandemic escalated in late February / early March 2020. First, there was no scientific consensus that acquiring the disease conferred immunity. Without such certainty, a strategy based on herd immunity was inherently flawed. Second, and more persuasively, the emerging evidence of mortality rates amongst Covid-19 sufferers meant that herd immunity could not be contemplated on that ground alone. Discussion of herd immunity could be found in newspapers and in scientific community consideration. It was never a practical proposition in Wales, and never proposed as such to the Welsh Cabinet.

131. I am asked by the Inquiry about the Welsh Government's approach to test, trace and protect. We had to make decisions about the use of the available testing capacity and how to use it to the best effect. The disease was so widespread in the community that testing was not telling us a great deal more than we already knew about sustained transmission in the community. Community testing was introduced to try to deal with flare ups. However, testing in hospital settings still had a value – those in hospital had other vulnerabilities. The decisions about how to use our available testing capacity were determined by considering availability and what purpose would be served by using it in a particular way.

132. There were undoubtedly problems with the Lighthouse Laboratories. Those problems arose because of the difficulties inherent in trying to establish industrial-scale testing capabilities from scratch. There were teething problems and demand was exceeding capacity. The problem was not any more acute in Wales than the rest of the UK. The Welsh Government was inevitably reliant on the UK Government and private industry – we simply did not have the required capabilities prior to the pandemic. We did our best to expand Welsh testing capacity as fast as we were able to do so, but there was a limit which would not have matched the need.

133. I am also asked a series of questions in relation to infection control in hospital and care home settings. I was involved in decision-making relating to these matters insofar as it was discussed in Cabinet or the Covid-19 Core Group. Sometimes I am copied in on Ministerial Advice sent to the Minister and Deputy Minister for Health and Social Services, whose responsibility it was to make the decision. On

such occasions, I exercise my judgement to decide whether I need to consider the advice or not. It is unlikely that I would have read the hospital discharge guidance in April 2020 because it was based on professional guidance, and I did not wish to interpose myself in decisions of others. Occasionally I may have sent a message to the relevant Minister with my thoughts on the issue. However, I was aware, to an extent, about the discussions over prioritisation of testing in the social care sector. Social care was one policy area where a case could be made - schools were also calling for prioritisation. I was also aware of the discussion about use of limited supplies including the care sector. However, as set out at the beginning of this witness statement, detailed questions on the rationale for the decisions taken on these matters are better directed to the Minister and Deputy Minister for Health and Social Services, and the Social Care Officer for Wales.

134. I have dealt with the interactions with the UK Government in relation to international travel in my first statement in Module 2.

Approach to NPIs from April 2020

Core decisions

135. The weeks following 23 March were preoccupied by the detailed implementation of lockdown arrangements, with a particular focus on meeting the basic needs of vulnerable and shielding households.

136. The financial consequences of the pandemic were discussed at successive Cabinets on 23 March and 30 March, exhibited as above (**MD/45 - INQ000048923)** and **MD/55 – INQ000048931.** On 23 March, Cabinet had been presented with a series of papers on the budget implications of Covid-19, but it was clear to me that given the size and complexity of these papers, it would not be possible to discuss them that day; they would instead be assessed by a small group, which became known as the Star Chamber.

137. On 24 March 2020, I became aware that the UK Government had made a unilateral decision to provide food to those who were shielding. Prior to this announcement, the Four Nations were seeking to agree a UK-wide approach to this issue, but the UK Government made this decision for England without

consulting the devolved governments. We therefore had to react and develop our own system with very little notice, exhibit **MD/56 - INQ000216599** refers.

138. I held a Covid-19 Core Group meeting on 25 March 2020, exhibit **MD/57 - INQ000215173** refers. It was noted that although PPE was not a panacea, it was important to ensure that social care workers were provided with adequate levels and guidance was needed.

139. The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 came into force in Wales on 26 March and required us to review restrictions every 21 days.

140. On 27 March 2020, I was copied into Ministerial Advice to the Minister for Health and Social Services on the Welsh national testing plan, exhibit **MD/58 – INQ000349274** refers and which related the scaling up of testing, introduction of lateral flow tests and Secure Anonymised Information Linkage Databank analysis of test results.

141. Cabinet met on 30 March 2020, as exhibited above (**MD/55 – INQ000048931**). Letters to the 'shielded' group of people had been issued and discussions on supply arrangements for shielded and vulnerable people were ongoing. Testing capacity was increasing. An announcement was anticipated that week on the establishment of field hospitals. A number of public sector bodies required additional funding to respond to Covid-19 and that was to be marshalled by the Star Chamber which had been established to deal with the repurposing of government funds.

142. At the Covid-19 Core Group meeting on 1 April 2020 exhibit **MD/59 - INQ000311845** refers, I was told that concerns about the supply of PPE were being addressed, supplies had been delivered to the social care sector, there was a specific Welsh supply chain and Wales would be able to take advantage of the UK PPE procurement process. Shielding letters were being issued and discussions with the Welsh Local Government Association in relation to food parcels were ongoing.

143. On 2 April 2020 I held a meeting with the Minister for Health and Social Services and officials to discuss PPE, exhibit **MD/60 – INQ000349242** refers. It was agreed that the only viable approach would be to pursue a UK-wide procurement process for PPE. I followed this up the next day by meeting with the Minister for Health and Social Services, the Minister for Housing and Local Government, and the Minister and Deputy Minister for Economy and Transport, exhibit **MD/61 – INQ000349257** refers. A twin-track approach was needed to secure sufficient supply of PPE – mobilising Welsh industry and adopting a Four Nations approach to procurement. I identified this issue as one of the most important priorities moving forward.

144. On the same day Ministerial Advice was submitted to the Minister and Deputy Minister for Health and Social Services and the Minister for Education, copied to me, exhibit **MD/62 - INQ000116756** refers, which recommended the establishment of the Vulnerable Children Young People and Safeguarding workstream. The advice contained an in-depth analysis of the considerations relating to vulnerable children and their rights. The annexed proposal identified that a number of services were being withdrawn that would normally form part of the safeguarding network, schools had closed and a lockdown had been announced. It was therefore necessary to adopt new safeguarding measures. It provided advice on the applicability of the United Nations Convention on the Rights of the Child.

145. Cabinet met on 6 April 2020, exhibit **MD/63 - INQ000048791** refers. I introduced a daily Ministerial call. It was noted that the virtual Senedd the previous week had been successful and other parliaments wanted to adopt the approach. The Finance Minister introduced a paper on the Star Chamber which clarified that it was an advisory group, not a decision-making group. Cabinet discussed and approved a paper on the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020 and guidance, introducing compulsory social-distancing in the workplace, exhibit **MD/64 - INQ000048963** refers.

146. Ventilation capacity was also a prominent issue during this period, and significant work was undertaken to clarify the number of invasive and non-invasive ventilators available within NHS Wales, and to procure additional ventilators. The Minister for Health and Social Services issued a Written Statement on 6 April which

summarises the action taken by the Welsh Government and by NHS Wales in these early weeks; I exhibit the statement as **MD/65 – INQ000182395**.

147. On 7 April 2020 at a meeting with the Minister for Health and Social Services, I outlined 7 principles which should be used in the development of options for easing restrictions, one of which was that measures should have a positive equality impact, exhibit **MD/66 – INQ000349283** refers. These principles formed the basis of the recovery framework that was published on 24 April (see below).

148. On 8 April 2020, I attended the Covid-19 Core Group, exhibit **MD/67 – INQ000311826** refers. Cases were rising and the spread was east to west and south to north. Progress continued on increasing testing capacity for health and social care workers. The peak was expected in 2 – 3 weeks' time. A vaccine would not be available until the end of the year at the earliest. All shielding letters had been issued. Childcare cover and school meal vouchers were now available in all local authorities. Discussions on the delivery of food parcels were ongoing with the Minister for Environment, Energy and Rural Affairs. There was concern about the number of cases in care homes which was understandably causing anxiety amongst care staff. Public Health Wales was providing support and it was agreed that officials would consider how to strengthen messaging. Local authorities had received additional supplies of PPE.

149. On 14 April 2020 I held a meeting with the Minister for Health and Social Services, the Deputy Minister for Economy and Transport and officials to discuss the supply of PPE, as exhibited above (**MD/61 – INQ000349257**). These meetings had been taking place regularly and continued to take place every two weeks into the summer. It had previously been confirmed that the bulk of Wales' requirements would be met through the UK-wide procurement exercise. However, it was reported to me that the supplies being received by Wales through the UK supply route were nowhere near what was needed, despite assurances from UK Government that Wales would receive an equitable share. This was due to the fragmented nature of the English system which had no central control. Welsh Government officials were working with UK Government officials to agree a set of rules and a shared governance structure. I have addressed in my statement for

Module 2 at paragraph 71 the arrangements that were eventually put in place to secure PPE supply, led by Lord Deighton.

150. On 15 April 2020, I attended the Covid-19 Core Group meeting, exhibit **MD/68 – INQ000336472** refers. We were told that 81 care homes had reported Covid-19 infections. PPE supplies had been delivered to councils the previous day. There would be further discussions on the delivery of food parcels to vulnerable people. At that time, SAGE were monitoring World Health Organisation guidance on the wearing of face masks.

151. A ministerial meeting on social care also took place, exhibit **MD/69 – INQ000336415** refers. The meeting discussed the issues in relation to PPE and testing capacity. There had been a drop in the number of safeguarding referrals to children's services. It was noted that very few vulnerable children were attending school and the definition was being reviewed. Care Forum Wales and Care Inspectorate Wales raised concerns about the discharge from hospital to care homes policy and testing. A consolidated list of actions was agreed to address the issues in social care, including: £40m in emergency funding; access to food supplies for vulnerable individuals; consideration by the Chief Medical Officer for Wales of testing on discharge from hospital; and consideration of regulations on care home visitors.

152. The 21-day review was due on 16 April 2020, and I agreed in response to ministerial advice, exhibit **MD/70 - INQ000145553** refers, that in the light of SAGE advice that the evidence could not yet fully capture the impacts of the lockdown, the full package of restrictions should remain in place. The other governments of the UK came to the same conclusion, but although each UK nation had decided to leave lockdown arrangements in place for a further 21-day period, I was already concerned at the absence of meetings to coordinate that response and repeatedly asked for meetings, as set out in my Module 2 statement.

153. On 22 April 2020, I attended a Covid-19 Core Group meeting, exhibit **MD/71 – INQ000311833** refers. The rate of transmission had stabilised which demonstrated measures were working. However, there were high transmission rates in closed settings, such as care homes. There were still concerns about the

supply of PPE, testing and the control of the disease in care homes. Social care staff were the second priority for testing. Supply of PPE to local authorities had improved – but as they were now also supplying private care homes, there was increasing pressure on local authority stocks and a need for continued regular supply. There had been engagement with Public Health Wales over infection control in care homes.

154. On 24 April 2020, I published *Leading Wales out of the Coronavirus pandemic: A Framework for Recovery,* exhibited as **MD/72 - INQ000182406**. This document set out the evidence, principles and public health approach that the Welsh Government would apply when considering whether/how to lift restrictions. First, it set out the measures and evidence by which we judged the current infection level and transmission rates in Wales. Second, it set out seven principles that we would use to examine proposed measures to ease the current restrictions, taking into account scientific evidence, wider social and economic impacts, and whether a measure had a positive equality impact. Third, it set out how we would enhance our public health surveillance and response system to enable us to closely track the virus as restrictions are eased. It would be based on consideration of four harms: direct harm to individuals from Covid-19; harm flowing from the NHS becoming overwhelmed; harms from non-Covid-19 illness through lack of diagnosis and treatment of other conditions; and socioeconomic and other societal harms. We confirmed in the Framework that our preference as a government was that all Four Nations retained a common approach to lifting the restrictions. But our overarching commitment had to be to take the right decisions in the interests of the people of Wales. This framework formed the basis for the 21-day reviews that were carried out by Cabinet from 7 May onwards (see below).

155. On 27 April 2020 Cabinet met, exhibit **MD/73** - **INQ000129868** refers. We discussed actions taken by the Chief Medical Officer for Wales to plan for the easement of restrictions in the future, including a request to Public Health Wales to prepare a framework for the lifting of restrictions when the timing was appropriate. In discussion, Cabinet considered the use of face coverings and noted the Chief Medical Officer for Wales's initial advice that use by the public was of marginal value – the downside would be that people with mild symptoms would avoid self-isolation and the diversion of supplies from the health and social care

sectors. SAGE was considering the science behind the use of face coverings; in the meantime, officials were instructed to provide a one-page factual note on the advantages and disadvantages of facemask use by the public.

156. On 29 April 2020, I attended the Covid-19 Core Group meeting, exhibit **MD/74 - INQ000311831** refers. The Chief Medical Officer for Wales reported that the transmission rate had reduced significantly which demonstrated that the lockdown measures were effective. The main focus was on testing of health and social care staff. There was evidence that people were becoming dissatisfied with restraints and there was developing evidence of hidden harms – people were not accessing usual health services.

157. On 1 May 2020, I decided to approve the testing of patients on discharge from hospital to care homes. This decision was based on advice set out in exhibit **MD/75 – INQ000336477** that although community transmission was reducing, in care homes there was a large number of cases and outbreaks. By this point, it was generally accepted that individuals may be infectious for up to two days prior to the onset of symptoms and Public Health Wales agreed that testing of asymptomatic care workers would help to prevent infections in care homes. However, expanding testing to asymptomatic residents still lacked an evidence base to support the best use of testing capacity.

158. Cabinet met on 4 May 2020, exhibit **MD/76 - INQ000048790** refers, and noted that there was uncertainty regarding future budget consequentials as HM Treasury had launched a project in Whitehall to identify existing funding to meet spending already committed by UK Ministers. There was concern that the UK Government was already making high profile policy announcements on funding without providing consequentials to the devolved governments. Thus, the testing of funding bids by the Star Chamber would need to be tighter.

159. On 6 May 2020, I attended the Covid-19 Core Group meeting, exhibit **MD/77 - INQ000336509** refers. The Chief Medical Officer for Wales explained that although community transmission had slowed, transmission rates in care homes remained high. Officials were working with Public Health Wales on the development of an effective test, trace and protect system when the restrictions

were lifted. The Welsh Government had decided to test all residents in care homes where an outbreak had been identified. The science had become clearer on closed settings. Testing was also available in larger care homes because they were at greater risk given the footfall. Issues around the supply of PPE to the care sector were being addressed.

160. Cabinet met on 7 May 2020, exhibit **MD/78 – INQ000048792** refers. This was the first 21-day review by Cabinet of the proportionality of the restrictions in the Health Protection (Coronavirus Restrictions) Regulations 2020. Proposals were set out in a paper exhibited as **MD/79 - INQ000048978** which was informed by the Technical Advisory Cell, the Chief Scientific Adviser for Health and the Chief Medical Officer for Wales, and formulated into a ministerial advice, exhibit **MD/80 - INQ000048979** refers. The priority areas for consideration of lifting measures were opening public spaces; increasing economic activity; and increasing essential health care services. Earlier that week, SAGE had considered a series of staged steps to ease the restrictions. Key indicators were either stable or stabilising. Too early or too extensive easement of restrictions could lead to a return of exponential growth. There were concerns about the indirect harms that arose from lockdown measures, and the potential for disproportionate harms to both socio-economically disadvantaged and younger people. Behavioural psychologists had identified a reduction in compliance and advised that offering easements may lead to an improvement in compliance. The Chief Medical Officer for Wales did not recommend the use of face coverings. To improve health and well-being, greater use of the outdoors should be allowed. On the basis that there was sufficient headroom in the rate of transmission to allow a modest package of easements, Cabinet decided:

    a. schools would not re-open on 1 June 2020;
    b. the restriction on exercise to once per day would be removed;
    c. local authorities could resume some public services.

161. From this point forward, the mechanism for making decisions about non-pharmaceutical interventions in the Welsh Government was through Cabinet and the 21-day review process, which I understand is set out in some detail in Andrew

Goodall's statement M2B/WG/01 (and I shall not repeat the detail in this witness statement). This includes decisions relating to:

a) National lockdowns;
b) Local restrictions;
c) The firebreak in October 2021;
d) Working from home;
e) Social distancing;
f) Self-isolation and shielding;
g) Opening and closing of schools;
h) Face coverings;
i) Border controls/quarantine.

162. I believe committing to a 21-day review provided an orderly and predictable process for decision-making, and one which was as aligned as much as possible to provision and consideration of advice. It also meant that other organisations – local government, third sector bodies, employer organisations for example, were able to engage with the Welsh Government and contribute their views according to that known timetable for decision-making. It also gave clarity to the public on when restrictions would be reviewed.

163. On 12 May 2020 the Chief Medical Officer for Wales issued a statement on face coverings, exhibit **MD/81 - INQ000349411** refers. He did not recommend the use of face coverings. He observed that there was a difference between PPE worn in health and care settings, manufactured to certain standards, and non-clinical face coverings which provided marginal benefit on reducing the risk of infection to others, on the basis that some droplets will be stopped by the mask. He noted that on public transport, where social distancing was not possible, face coverings may be useful. But their use gave rise to three harms: the demand it would place on stocks needed for frontline workers; an increase in risky behaviours; and discrimination.

164. On 13 May 2020, I attended a Covid-19 Core Group meeting, exhibit **MD/82 - INQ000221186** refers. Infection rates remained stable. Death rates in care homes were reducing and the testing of patients on discharge to care homes may have

helped with this. The Minister for Health and Social Services was to announce that afternoon the Test, Trace and Protect strategy.

165. On 15 May 2020, I published *Unlocking our society and economy: continuing the conversation,* exhibit **MD/83 – INQ000349373** refers. The document included a traffic light guide for moving out of lockdown.

166. I attended the Covid-19 Core group meeting on 19 May 2020 **MD/84 – INQ000221152**. Infection rates had stabilised in care homes. Members of the Black, Asian and Minority Ethnic Covid-19 Advisory Group attended the meeting to provide an update on their work. They had created two sub-groups: socio-economic and scientific. A Self-Assessed Risk Assessment Tool had been developed to help health and social care workers to assess whether they were at higher risk before engaging with management and trade unions in relation to necessary actions.

167. On 27 May 2020, Cabinet met, exhibit **MD/85 - INQ000048926** refers. The focus of the meeting was the next 21-day review. A draft advice and associated documents had been circulated. The scientific advice was that there was room for modest relaxations, especially outdoors. It was agreed:
    a. that the 'stay at home' message would change to 'stay local' to allow more outdoor activity;
    b. that meetings between two households at home in outdoor spaces should be allowed;
    c. It was also agreed that the regulations should be changed to allow weddings to take place where the bride or groom was terminally ill.

168. The changes were to be announced on the Friday to come into force on the Monday. The importance of guidance was recognised and it was agreed that stay local should mean 5 miles. An important reason for the relaxation was emotional well-being and the need to maintain goodwill with the public. The Chief Medical Officer for Wales provided his advice and supported the easements which had been agreed. It was important to introduce relaxations over the Summer before the anticipated increase in transmission in the Winter. Although an equality impact

assessment had not been carried out in the time available, because decisions needed to be taken at pace, Cabinet considered, as always, the impacts and consciously made decisions in context. The paper at exhibit **MD/86 - INQ000176849** set out the known impacts on age, disability, gender reassignment, maternity, race (and the susceptibility of Black, Asian and Minority Ethnic individuals to Covid-19), religion, sex (and the fact that women were more likely to be carers) and sexual orientation. It also considered the consistency of the proposed measures with decisions being made by the other governments.

169. A critical factor leading to easements in education and childcare was the need for an effective test, trace and protect system, which was possible by the next review period. The Technical Advisory Cell advice was that there was insufficient headroom in the transmission rate to open childcare settings. The role of children in transmission was unclear. The Minister for Education informed Cabinet that she was in discussions with teaching unions around varying term dates. The impact on the well-being of children was identified. The paper for the meeting, exhibit **MD/87 - INQ000048833** refers, identified the importance of early years provision, the adverse effect of exposure to adverse events at home, the economic impact of the closure of schools and childcare. Unfortunately, the Minister for Education was not able to secure the agreement of the trade unions to bring forward the start of term to August 2020, exhibit **MD/88 – INQ000349510** refers.

170. The paper for this meeting also provided an update on the progress which had been made for establishing the criteria for a circuit breaker, involving co-operation with the Four Nations.

171. On 1 June 2020, Cabinet considered shielding and the delivery of food boxes, exhibit **MD/89 - INQ000128872** refers. It had been hoped that the Four Nations could have agreed a common approach to this issue, but the UK Government had instead made a unilateral announcement that weekend, and there was need to respond. The Chief Medical Officer for Wales's advice was that those who were shielding should begin outdoor exercise and meeting others outside. Cabinet agreed to approach local authorities to administer the delivery of food boxes as they were able to target the most vulnerable.

172. At the Covid-19 Core Group meeting on 10 June, exhibit **MD/90 – INQ000350652** refers, the Chief Medical Officer for Wales provided an update on community transmission and deaths. He referred to revised guidance from the World Health Organisation on the use of face coverings. His own advice on the use of face coverings had been updated. He advised that face coverings should be of three layers, and it was recommended that they should be worn in situations where social distancing was not possible, such as public transport. However, the use of face coverings would not be mandated, and the use of coverings by the public was a matter of choice. We accepted this advice, and the use of face coverings was not mandated at this time. The Chief Medical Officer for Wales's updated advice was prompted by updated Technical Advisory Group advice on the subject, in light of decisions that had been made by the UK Government at this time, exhibit **MD/91 – INQ000349554** refers.

173. On 11 June 2020 during the daily Ministerial call, exhibit **MD/92 - INQ000349584** refers, we discussed the fact that SAGE had reiterated the previous week that if social distancing was reduced from 2m to 1m, the risk doubles. Therefore, it was decided only to review that rule if the science changed, notwithstanding the anticipated decision of the UK Government to move to 1m.

174. On 16 June 2020, I held a Ministerial call, exhibit **MD/93 – INQ000349601** refers, to discuss the draft report by the Black, Asian and Minority Ethnic Covid-19 Advisory Group.

175. The next 21-day review took place on 17 June 2020, exhibit **MD/94 - INQ000048799** refers. The paper for the review at exhibit **MD/95 - INQ000227453** identified that there was further headroom to introduce new easements. The monitoring of the situation in Wales had been strengthened by the implementation of test, trace and protect, the Joint Biosecurity Centre, the ZOE app and the monitoring of waste water by Bangor University. We were provided with an evaluation of the 'four harms', exhibit **MD/96 - INQ000048840** refers, which we had adopted as part of our decision-making. It was decided that from 22 June:

    a. non-essential retail would be allowed to open;

b. childcare would open on a phased basis under new guidelines. This decision was based on a paper on childcare, exhibited as **MD/97 – INQ000048842**, which had been drafted following consultation with, amongst others, Play Wales, Social Care Wales, Care Inspectorate Wales, Estyn, Children in Wales, local authorities, the Children's Commissioner, the Welsh Language Commissioner and the Future Generations Commissioner;
c. the first phase of the housing market would be allowed to re-open;
d. restrictions on outdoor sports courts would be removed – but only where social distancing could be maintained;
e. private prayer where social distancing could be maintained would be allowed, following work carried out by the Faith Forum;
f. an exception would be allowed to the 5-mile guidance on compassionate grounds and in order to vote in international elections, following consultation with the police;
g. non-essential healthcare would begin to be re-introduced.

176. The reopening of schools, from 29 June 2020, was also confirmed and I would signal the lifting of the 'stay local' requirement at the next review on 6 July, provided conditions allowed. A Black, Asian and Minority Ethnic focus group would be consulted on the proposal for 6 July. A further update was presented on the work being done on circuit breakers.

177. On 18 June 2020 I received the final report of the Black, Asian and Minority Ethnic Covid-19 Advisory Group and was asked to approve the immediate implementation of a list of actions, exhibit **MD/98 - INQ000144915** refers.

178. At the Covid-19 Core Group meeting on 24 June 2020, exhibit **MD/99 – INQ000311872** refers, the Black, Asian and Minority Ethnic Covid-19 Advisory Group produced a further update. They had found that the data on ethnicity in healthcare was poor. Black, Asian and Minority Ethnic people were more likely to be employed in shutdown sectors, highlighting the need for security of income. Black, Asian and Minority Ethnic pupils were also disproportionately impacted by overcrowding and IT issues when undertaking schoolwork. The particular risks

faced by Black, Asian and Minority Ethnic people facing domestic abuse needed to be addressed.

179. The next 21-day review took place on 7 July 2020, exhibit **MD/100 - INQ000048852** refers. An assessment of the four harms was prepared, exhibit **MD/101 - INQ000048855** refers. The Chief Medical Officer for Wales advised that the situation was stable and improving. Test, trace and protect had been used to control two outbreaks in North Wales and Merthyr Tydfil. It was decided that:
    a. From 11 July self-contained accommodation would be allowed to re-open;
    b. From 13 July restrictions on hairdressers and outdoor hospitality would be lifted;
    c. Playgrounds and outdoor gyms could re-open;
    d. Places of worship would be permitted to restart outdoor services and indoor congregations when social distancing could be complied with;
    e. Outdoor cinemas could re-open;
    f. From 20 July the phased return of public services in community centres would be allowed;
    g. The NHS would begin to provide further medical services, to be determined.

180. At the Covid-19 Core Group meeting on 8 July 2020, exhibit **MD/102 – INQ000311825** refers, we were informed that the World Health Organisation had reported emerging evidence that the virus could be transmitted via airborne particles. The current view of virologists was that transmission was still more likely via droplets rather than fine particles. I suggested that Public Health Wales be invited to a future meeting to report on international evidence.

181. At the Covid-19 Core Group meeting on 14 July 2020, exhibit **MD/103 – INQ000312134** refers, we discussed the media coverage in relation to face coverings but the advice of the Chief Medical Officer for Wales remained that behavioural management and environmental measures remained the most effective mitigations with PPE was a final barrier. It was suggested that the Chief Medical Officer for Wales should meet with the Disability Equality Forum to discuss

the upcoming end to shielding and the procurement of transparent face coverings to assist the deaf community.

182. The next 21-day review took place on 28 July 2020, exhibit **MD/104 - INQ000048857** refers and an assessment of the four harms was carried out which I exhibit as **MD/105 - INQ000048860**. The Chief Medical Officer for Wales advised that the Joint Biosecurity Centre had received data from Wales and confirmed that the situation was favourable and restrictions could continue to be eased. A Technical Advisory Cell report had identified a need for action on testing turnaround times. There had been an increase in cases in Spain, Germany and Belgium which we agreed to monitor. The key message for the new announcement would be the reopening of the economy. Although there was likely to be a resurgence in the Autumn / Winter, businesses would need to follow the rules on social distancing and other mitigations. Thus, the communications needed to be clear that the rules would be enforced to secure compliance. It was decided that from 3 August:
    a. Indoor hospitality, bowling alleys, auction houses, bingo halls, indoor play areas and outdoor theatres could re-open;
    b. Children under the age of 12 would no longer need to maintain social distancing when mixing with mixing with other households;
    c. Up to 30 people would be allowed to meet outdoors with social distancing;
    d. Up to four households could extend to form one unit, and two units could meet indoors provided they maintained social distancing.

183. The next 21-day review took place on 18 August 2020, exhibit **MD/106 - INQ000048862** refers. The Government's Coronavirus Control Plan for Wales had been launched that day which I exhibit at **MD/107 – INQ000349837.** Work was continuing on the development of a vaccine which was due in the Autumn, but it was anticipated that there would be limited supply. The increase in cases in England was a cause for concern. It was decided:
    a. From 22 August up to four households or two extended households could merge into a larger extended household;
    b. Indoor meals following a wedding, civil partnership or funeral for up to 30 people would be allowed;

c. Casinos could re-open from 31 August;

d. Small outdoor events of up to 100 people would be piloted.

184. At that point, the Chief Medical Officer for Wales and the Chief Scientific Adviser for Health advised against any two households meeting indoors. There were also no plans to recommence major sporting events in Wales – but the outcome of the pilots in England would be evaluated.

185. I attended a Covid-19 Core Group meeting on 25 August 2020, exhibit **MD/108 - INQ000311836** refers. The Chief Medical Officer for Wales advised that the data was continuing to improve. The four Chief Medical Officers for the UK had issued a consensus statement on schools providing reassurance. The use of face coverings in schools and on school transport was under consideration. Hospitals were approaching normal levels of activity.

186. The situation in Wales had taken a turn for the worse by the time of the next 21-day review took place on 8 September 2020, exhibit **MD/109 - INQ000048867** refers. The Chief Medical Officer for Wales expressed concern about the alarming increase in cases in Wales and across the UK. The resurgence that we expected in the Autumn had arrived, perhaps a little earlier than we anticipated. There was a particular local authority which accounted for a third of infections and it was placed into a local lockdown in accordance with the principles set out in the Welsh Government's Coronavirus Control Plan, published in August 2020. It was driven by parties and indoor gatherings, travellers returning from abroad and workplaces such as food processing plants and call centres. The spread was amongst younger adults, but there was a concern as to how quickly it would spread to older and more vulnerable groups. Thus, by the time of this review, Cabinet needed to be more precautionary about lifting restrictions. Cabinet agreed to regulations giving local authorities more power to close premises on public health grounds. It was decided not to make any further easements that week. The three pilot events agreed on the previous review had reportedly been a success, so it was decided to pilot outdoor events of 500 people. Cabinet would receive an update on the use of test, trace and protect for returning university students. I and Cabinet wanted

to be clear about the fact that keeping schools open was our priority, and that restrictions may need to be reimposed to ensure that happened.

187. The local lockdowns were achieved by amendments to the health protection regulations, exhibit **MD/110 - INQ000176858** refers. Restrictions were imposed on Caerphilly on 8 September, Rhondda Cynon Taf on 17 September, and Merthyr, Blaenau Gwent, Bridgend and Newport on 22 September. The restrictions had to be reviewed by 24 September and every 7 days thereafter. On 25 September, I was also asked to approve the creation of local health protection areas for Cardiff, Swansea and Llanelli, exhibits **MD/111 – INQ000176867** and **MD/112 - INQ000176866** refer. On 30 September I was asked to approve local health protection areas in North Wales, exhibit **MD/113 - INQ000116774** refers. On 9 October I was asked to extend the North Wales health protection area to Bangor, exhibit **MD/114 - INQ000145507** refers. On 17 October I was asked to include Anglesey, Powys and Gwynedd, exhibit **MD/115 - INQ000116806** refers. I carried out the weekly reviews in relation to local health protection areas – see for example exhibit **MD/116 - INQ000349934**. Although, this did not last long before being overtaken by the firebreak.

188. At Cabinet on 14 September 2020 the decision was taken to cease the Covid-19 Core Group weekly meetings, exhibit **MD/117 - INQ000057744** refers.

189. On 15 September 2020 the daily ministerial call received an update from the Minister for Health and Social Services, exhibit **MD/118 – INQ000349865** refers. He stated that Lighthouse Labs were experiencing capacity issues with testing, because the UK Government had made a decision to cut back testing based on England-only data. The problem was likely to last three weeks. The meeting discussed the impact of this problem on care home testing. Additionally, the TAC report had been circulated to Ministers which showed that the R rate was above 1 across the UK and that Wales was in a similar position to early February. Decisions needed to be made soon on whether local measures were working or whether national measures were needed. The Minister for Health and Social Services and I discussed options such as pub closures, restricting alcohol to food purchases and restricting opening hours.

190. The situation in Wales continued to deteriorate and Cabinet were told on 21 September 2020, exhibit **MD/119 - INQ000129855** refers, that four local authority areas had now been placed into local lockdowns. I met with local authority leaders, health boards and the police from South-East Wales the following day to discuss the situation. Local authorities were likely to redeploy additional staff onto test, trace and protect. I had spoken with the Prime Minister the previous day to discuss the worsening situation across the UK and attended COBR the following day, exhibit **MD/120 - INQ000083849** refers, by which time the four Chief Medical Officers of the UK had agreed that the whole of the UK should move to alert level 4. The Prime Minister and the First Ministers all agreed upon seven measures to be introduced: strengthened communications, strengthened enforcement, tightened 'rule of six', hospitality curfew, continued focus on vulnerable people, wider approach to local interventions, plans for the remaining closed sectors, and 'work at home' advice. I made an announcement confirming these measures on 22 September 2020, exhibit **MD/121 – INQ000349882** refers.

191. On 1 October 2020 there was a 21-day review, exhibit **MD/122 - INQ000048785** refers. The data showed that people were mixing more than three weeks ago – university towns were hotspots and travellers returning from abroad continued to drive transmission. There was community transmission across Wales and older people were contracting the virus. The local lockdowns appeared to be working well as the data for two of those areas was stabilising. Cabinet agreed that it could not relax any of the remaining restrictions – save for the lifting of restrictions on permanent ice rinks (one in Cardiff) which had been agreed in principle on the previous occasion because, in reality, it would not reopen because of local restrictions.

Decision-making in general

192. Many detailed factors were considered when making such decisions, from the opening and closing of footpaths, to the opening and closing of whole industries. The fundamental factors, however, clustered around the effort to save lives and to save livelihoods. One of the ways in which the approach in Wales differed from that adopted by elements within the UK Government was that, for us, protecting

lives and livelihoods were *complementary* objectives: their achievement depended on one another. For some elements in the UK Government, including within Downing Street, the objectives were regarded as *in competition* with one another: actions to save lives were regarded as damaging to the economy and hence to sustaining livelihoods. In repeated conversations with UK Ministers, that I have referred to throughout this statement and my statements in Module 2, we challenged this false antithesis – the Welsh Government's difference in approach pervaded our interactions with the UK Government. For us, actions taken to suppress the spread of Covid-19 meant that, for example, workplaces would go on being able to operate for longer because (a) when the public were aware of gathering risks from the disease (because, for example, the spread of new variants) they simply stopped taking part in economic activity and (b) the workers on whom the economy depended would increasingly become unavailable if actions were not taken to address the spread of the disease.

193. Consideration of the wider health, social and economic impacts of non-pharmaceutical interventions was built into the Welsh Government's approach. Each 21-day cycle contained a focus on these impacts. While that consideration culminated in the regular impact assessment provided to the Cabinet, those documents were informed by the wide range of perspectives canvassed over that 21-day period. The Shadow Social Partnership Council represented the regular and formal mechanism for communication of these perspectives directly to Ministers, but the Shadow Social Partnership Council itself was the culmination of a wide network of interactions between and within its component members.

194. Cabinet was often advised on the hidden harms of restrictions, in particular negative impacts on the well-being of children, older people and disabled people, and was alive to the difficulties that were created for the safeguarding system when lockdowns were imposed – safeguarding referrals for children dropped during the lockdown. This caused the Welsh Government to issue guidance on how safeguarding functions should be performed as well as to ensure close liaison with directors of social services and safeguarding boards. I also ensured that I or other Ministers met with representatives of disproportionately affected groups. For example, I met with Young Wales on 19 November 2020, exhibit **MD/123 –**

INQ000350555 refers, to enable young people to share their views and experiences of Covid-19 and the firebreak. They discussed with me how they found the regulations confusing, that online learning should be considered a last resort as it was not efficient and there was digital poverty, and I was able to discuss the rationale behind cancelling exams with them.

195. The issue of public willingness to observe non-pharmaceutical interventions was of continuous concern to Ministers. In this we were guided by a number of regular tests of public attitudes. Public Health Wales commissioned weekly public engagement telephone surveys to ask members of the public in Wales how Covid-19 and related control measures were affecting their health and wellbeing. I exhibit one of these surveys as **MD/124 – INQ000252519**. The Welsh Government also funded a booster sample to the fortnightly Ipsos MORI survey of public attitudes initiated by the UK Government, in order to improve its accuracy for Wales. This latter document, especially, provided a synthesis of a wide range of attitudinal and hard data which, together, cast light upon the level of observation of non-pharmaceutical interventions, and support for them, to be found amongst the Welsh public.

196. It is hard, today, to recapture the sheer level of fear which was generated by the virus in its early stages. The level of compliance with the first lockdown, and the non-pharmaceutical interventions which accompanied it, was very high, and higher than predicted by behavioural scientists. The challenge of public acceptability, and compliance, grew in two sets of circumstances: as conditions improved, and when the disease position worsened, requiring more intrusive interventions.

197. Public debate concerning non-pharmaceutical interventions usually focused upon the minority of voices (at least in Wales) which opposed their use, or which argued for their swift reduction. In fact, the monitoring of public attitudes in Wales regularly reported that, for every person who believed that restrictions ought to be lifted, more than two others believed that the speed of reducing restrictions was too fast. The data also demonstrated a widening division in the level of public support for actions taken by the Welsh Government and those of the UK Government. The Ipsos MORI periodical surveys, exhibit **MD/125 - INQ000281775** and exhibit **MD/126 - INQ000281936** refer, produced results which demonstrated that from

May 2020 onwards, when governments were easing restrictions, trust in the Welsh Government increased to around 80% whereas trust in the UK Government was around 40% – a marked difference. We were always concerned at public acceptability of the actions we asked people to take. But we had evidence of support for them, which told us that we continued to secure public consent for the approach in Wales.

198. My views on the timeliness of the imposition of restrictions in Wales at the time remain, essentially, my views today. Until and beyond the availability of vaccination, non-pharmaceutical interventions provided the best available protection against a deadly disease. The Welsh Government's approach to timeliness differed to that taken in some other parts of the UK, in that we were more persuaded by the evidence that early initiation and gradual withdrawal of such measures provided the best level of protection. Even as the need for protection eased, we continued to advocate for the adoption of those relatively simple measures which added to individual and collective safety – regular, thorough hand washing, minimising contact with vulnerable individuals and so on. I consider that our decisions were reasonable in light of the information available at the time.

Easing of restrictions

199. I have been asked by the Inquiry why the Welsh Government did not "*follow*" the UK Government in its decision on 11 May 2020 to move from the public health message of "stay at home" to "stay alert". I have addressed in my second statement in Module 2 at paragraphs 3 - 5 why it is not appropriate to consider the actions of the devolved governments using the decisions of the UK Government as a yardstick. Decision-making was devolved and independent. I have also explained, at paragraphs 10 – 15 and 34 of that statement, why the Welsh Government did not change its public health messaging on that date. Although consistency of messaging was desirable: (i) it could not be the primary objective as that was making the decisions that were right for the circumstances in Wales; and (ii) the UK Government did not give us enough notice of their plans to achieve consistency of messaging on this issue.

200. I am asked by the Inquiry about comments I made in a press conference on 11 May 2020 about interaction with other people when exercising outdoors. I did not say that people were permitted to meet outdoors. I was simply reflecting the reality that under the rules people were permitted to be outdoors with a reasonable excuse and that in the course of doing so, they would come across others doing the same thing. I was struck then, as I remain, by the level of care and caution taken by people in those circumstances. It was a permitted activity for me to cycle from my home to my allotment, a journey of five minutes, once a day. That journey takes place through a major park in Cardiff. In doing so, I would observe people who *by chance rather than design* would see others known to them, also taking exercise. It was never the policy of the Welsh Government that, in such circumstances, people would be prevented from acknowledging that encounter, provided obligatory non-pharmaceutical interventions were observed.

201. Throughout the pandemic there were instances where an exegetical focus could confuse a simple message. There were attempts to interpret what I had said as meaning that leaving home *with the explicit purpose* of meeting others was a reasonable excuse to do so. That is not what had been said. The Welsh Government statement corrected an erroneous interpretation of what had been said, by making it clear that leaving home for pre-arranged meetings was not permitted.

202. The traffic light system was intended to be a simple-to-understand indication of how Wales could emerge from the most severe phase of the pandemic. Depending upon the state of the virus, and its impact upon daily life, restrictions could be eased as circumstances improved. On the 15 May 2020, Wales remained at the acute end of that spectrum, hence a reference to being in the 'red zone'.

203. An important distinction became increasingly apparent between the approach taken in Wales and the approach in England. I was always and instinctively opposed to the 'boosterism' approach adopted by the then Prime Minister. As early as 19 March 2020, the Prime Minister told those watching his press conference that the measures then in place (that is to say, prior to the March 23 lockdown) would 'send the virus packing' within 12 weeks. As that patently empty hope

evaporated, it was to be replaced with an assertion that it would be 'all over' by the autumn, or by Christmas, or whichever conveniently distant date the Prime Minister preferred. To my mind, this triumph of hope over evidence was only likely to erode the confidence of the public in those who indulged in it. It was not an approach we adopted in Wales.

204. Boosterism was joined, in the English context, by a preference for 'big bang' approaches to lifting protections, an approach which intensified over the period of the pandemic. The Welsh Government was explicitly advised against such a course of action. It would make it far more difficult to establish links between specific strands in the package of protection measures and any impact of their removal. It would also contribute to a mood which the Prime Minister himself described as being 'demob happy', as far as the virus was concerned. While the Welsh Cabinet always wanted to remove protections which were no longer proportionate to the risks faced (as we were obliged to in our own regulations), that never amounted, in my experience, to a willingness to put the Welsh population at risk in order to achieve a public relations impact or to appease Covid-19 sceptics in the UK media.

205. Advice on face coverings was always contested. It was always possible to cite voices arguing for greater use, just as there were voices which argued that face coverings could do more harm than good.

206. The Welsh Government continued to follow the advice of the Chief Medical Officer for Wales. He remained at the sceptical end of the spectrum of opinion in this regard, because of the risk that it would encourage people not to self-isolate when experiencing mild symptoms.

207. Personally, I felt that the strongest arguments in favour of making face coverings compulsory were not those emphasised by Dr Bailey, The British Medical Association Cymru Wales Council Chair. The clinical value of mask wearing was at the more marginal end of non-pharmaceutical interventions. However, the very visible behavioural signal could, I believed, be useful in reinforcing the continued seriousness of the Covid-19 position.

208. There were countervailing arguments: variability in the effectiveness of face coverings; misapplication (worn below the nose); false assurance that wearing a mask provided a level of protection which might undermine an individual's willingness to comply with more effective actions. In Wales, it was also the case that compliance with non-pharmaceutical interventions, generally, remained very high. It was not necessarily easy to argue the need for stronger signalling.

209. More fundamentally, I took the view, which I expressed to my Cabinet colleagues, that we should set the bar high against a 'pick and mix' approach to scientific and medical advice. While Cabinet remained the final decision-maker, it could not be on the basis of selective adherence to the most authoritative advice available. Face coverings was the subject of regular and probing consideration. While the Chief Medical Officer for Wales's advice remained explicitly against making them mandatory, I felt it important to support that position. Not to have done so would have eroded trust between decision-makers and advisers and, more importantly, would have eroded trust amongst the public that the Welsh Government was committed to following best advice, even when that advice was controversial.

210. The voice of trade unions will always, and rightly, be influential in a Labour government. Decisions, however, were never made on the basis of attractiveness to unions or any other group. Regular meetings were held with teacher unions, and unions representing support staff throughout the pandemic. Such voices were also represented at the Shadow Social Partnership Council. The Welsh Government did check the feasibility of extending the 29 of June opening into August but the practical deliverability of substituting August for July was never realistic.

211. So, union views are influential, but never determinative. Decisions about school openings were influenced by a wide range of other voices, including local education authorities, parents (in so far as any dominant view could be discerned), employers (schools opening in August would have implications for availability of staff), and the Children's Commissioner for Wales, who argued systematically and powerfully for a return to classroom teaching as soon as feasible.

212. The Chief Medical Officer for Wales was clear that, from a disease management perspective, August was to be preferred, but he was also clear that, as part of a wider precautionary approach, the end of June was also a viable option.

213. This decision not to change the social distancing rule from 2m to 1m at the same time as the UK Government did for England is best understood as part of a wider picture, rather than in isolation. By the turn of June / July 2020, the implementation gap between Wales and England had widened and amounted to more than simply a difference of emphasis. It is important to repeat that we had a shared direction of travel. All four UK nations were easing protections at this point. The approach of the UK Government for England, however, was to do so more swiftly and aggressively, and at the edge, rather than at the central thrust of scientific and medical opinion. 2m social distancing, as with so much in the pandemic, may not have been based on gold standard, scientific research or consensus. But it had been a cornerstone of the Welsh Government's successful effort to persuade the public of the need to adhere to a small number of tangible actions. I was not keen to stand back from that approach in a way which confused our messaging. While 1m social distancing had its advocates, no one at all, of whom I was aware, argued that 2m distances did not provide greater protection. Was that protection worth it? I believe so. It sustained the confidence of workers and consumers and its reversal, I believe, contained a real risk of producing adverse impacts for both health and the economy.

214. My recollection of the Eat Out to Help Out scheme implemented by the UK Government was that we had little or no warning of it (even though it was a UK-wide scheme operating in a devolved area) and, quite certainly, no opportunity to ask questions as to its scientific rationale. It is important to understand that Whitehall, in my experience, is disinclined to share information with the devolved governments and that was particularly true of the Treasury. Had I been asked, I would not have supported it as it was, in my assessment, designed by the Treasury to play well with elements in the Conservative party and the right-wing press, who were instinctively opposed to public health measures. Subsequent research suggests that its very modest contribution to economic activity was far outweighed by the boost it provided to the growth of the virus as we entered the difficult autumn

period of 2020, exhibits **MD/127 – INQ000350707** and **MD/128 – INQ000350708** refer.

215. The early weeks of September 2020 were taken up with what I now regarded as a failed experiment to respond to local outbreaks of Covid-19 by local measures. There were many reasons for adopting this approach. It drew on standard public health methods of dealing with outbreaks. It had been used successfully during the early months of the pandemic in, for example, responding to major outbreaks in workplaces. It moved the decision-making closer to the source of the difficulty, and it was proportionate in the eyes of those parts of Wales, where Covid-19 numbers remained effectively suppressed.

216. Yet, in practice, it proved highly resource and time intensive, and manifestly failed to produce the hoped-for results. In retrospect, it seems to me, that a whole range of factors was at play during this period, which undermined the basis on which local action had been predicated. Two UK Government decisions - the Eat Out to Help Out scheme and allowing travel to holiday destinations abroad - led to increased circulation of the virus, and importation of it from other countries where it was more prevalent. The return of schools was expected, in the modelling available to the Welsh Government, to add modestly to transmission. The gradual drawing in of the autumn evenings led to increased risk of household mixing. Of course, the cumulative impact of gradual easing of restrictions over the summer of 2020 also produced its own impact.

The firebreak in Wales

217. On 12 October 2020 I attended COBR, exhibit **MD/129 - IN000083851** refers, and asked for a discussion on circuit breakers, which had been regularly advised upon by SAGE. The UK Government Chief Scientific Adviser said that a circuit breaker of 3 weeks had been considered by SAGE and could reduce the R rate below 1. They could be planned for but depended on the strategic aims (the Chancellor of the Exchequer had already announced the enhanced job support scheme would take effect from 1 November). The Prime Minister decided to stick with the tiered approach in England. By this point, I had come to the conclusion that local

lockdowns were not enough, and work started within the Welsh Government to plan the firebreak in Wales.

218. I gave an update on the COBR meeting at the daily ministerial call on 13 October 2020, exhibit **MD/130 - INQ000349943** refers. The note of the meeting records my recollection of the COBR meeting that the UK Government Chief Scientific Adviser and Chief Medical Officer repeatedly told the Prime Minister that tier three measures would not be enough to reduce the R rate below 1, but that a circuit breaker would. I invited the Welsh Ministers to consider a circuit breaker. The Chief Medical Officer for Wales informed us that the four Chief Medical Officers of the UK supported a circuit breaker. Public Health Wales, TAC and SAGE all agreed that this was the right approach.

219. On 14 October 2020, there was a meeting of officials from across the Welsh Government (Firebreak Implementation Group) including from the Treasury, Economy and Education Directorates, Legal Services, and the Office of Legislative Counsel, along with scientific advisers to consider advice regarding a potential firebreak in Wales, exhibit **MD/131 – INQ000320989** refers. It was thought that the firebreak might last two weeks. This meeting discussed what may be covered by restrictions.

220. The Welsh Firebreak Implementation Group met again on 15 October 2020, **exhibit MD/132 – INQ000216548** refers. Immediately thereafter the Minister for Health and Social Services and I met with the group. Following this meeting, I then attended a meeting with the Leaders and Chief Executives of all the Welsh local authorities. Meetings with Welsh Local Government leaders took place regularly, especially during the autumn when 'local' restrictions were tried. The meetings were not narrowly confined to the restrictions issue. They would also cover the wider responsibilities exercised by local government. I am confident the meeting of 15 October would have shared the latest advice on rising numbers, NHS impact, and the options being considered by Welsh Ministers.

221. On 15 October 2020, I called an emergency meeting of Cabinet to discuss a circuit breaker to reduce the significant increase in transmission, exhibit **MD/133 -**

INQ000048796 refers. An options paper was prepared, exhibit **MD/134 - INQ000048876** refers. The situation was very fast moving. Advice from the Chief Medical Officer for Wales, the Chief Scientific Adviser for Health and the Technical Advisory Cell all reflected that of the UK Government's Chief Scientific Adviser to COBR, that a circuit breaker was the preferred option. Scientific advice was that a minimum of a two-week lockdown was required. New modelling from Swansea University suggested that a two-week lockdown had the potential to reduce the 'R' rate from around 1.4 to 0.8. Our main priority would be to keep schools and childcare settings open. A firebreak was agreed to in principle to commence on 23 October so that the first week of the firebreak would coincide with the school half-term in Wales. Primary schools would remain open during the second week. The Cabinet had before it an equalities impact assessment, exhibited as **MD/135 - INQ000048873**, which considered impacts on protected characteristics and was informed by the Black, Asian and Minority Ethnic Covid-19 socio-economic sub-group. The analysis paper exhibited above **(MD/134 - INQ000048876)**, highlighted the importance of primary schools and childcare remaining open during the firebreak, because of the lower risk.

222. I also held an extraordinary meeting of the Shadow Social Partnership Council to discuss the firebreak, exhibit **MD/136 – INQ000310483** refers. This gave the opportunity for partners to discuss any issues arising, which led to me agreeing to raise the issue of financial support again with the UK Government (an issue addressed in my statement for Module 2).

223. The Firebreak Implementation Group met again on 16 October 2020. The Minister for Health and Social Services and I met with the group on 17 October 2020 ahead of Cabinet discussions on 18 and 19 October 2020.

224. The Cabinet discussed the firebreak further on 18 October 2020, exhibit **MD/137 – INQ000048801** refers. Wales was now in material breach of several of the indicators that, once breached, would require national restrictions and action. There was high confidence that the others would be breached within the next two to three weeks, resulting in significant harm unless action was taken. Further scientific advice was requested to be considered by Cabinet the following day. There was a children's rights impact assessment in the papers for the

meeting, exhibited as **MD/138 - INQ000048882** and a further equalities impact assessment, exhibited as **MD/139 - INQ000048883**.

225. At Cabinet the following day, exhibit **MD/140 - INQ000048802** refers, Cabinet agreed to a two-week firebreak – the shortest period possible, but sharp and deep to be effective. It was also decided that the balance of harms came down in favour of keeping childcare, primary and special schools open, but secondary schools should be open only to years 7 and 8 after the half-term, plus those taking exams during that week. The balance was struck in this way because other secondary children in year 9 upwards are more mature and were more able to engage with self-directed learning for one week. The remainder of the firebreak measures were agreed, including the 'Stay at Home' message: working from home wherever possible, the closure of non-essential retail, and the closure of hospitality (as per the first national lockdown).

226. The Firebreak was announced on 19 October with effect from 23 October for two weeks, exhibit **MD/141 – INQ000349956** refers. I received a Ministerial Advice which annexed the integrated impact assessment, exhibit **MD/142 - INQ000087132** refers.

227. Had we had the confidence that the UK Government would provide the money needed to support people during the firebreak we probably would have implemented the lockdown sooner. However, it was hard for Wales to take the initiative because that meant we had to take the decision without financial support provided by the UK Government. Nevertheless, I felt strongly that we needed to implement the firebreak to delay the spread of the virus, because that is what the science was telling us.

228. The Welsh Government was aware of SAGE advice which was in favour of circuit-breakers. This is part of the reason why I asked the Prime Minister to hold a COBR meeting to discuss circuit breakers, which he did not do – see paragraph 131 of my first statement in Module 2.

229. The speed at which the virus returned in September 2020 took us by surprise. Numbers had remained suppressed over the summer period. A second wave was

always anticipated in the Autumn. The modelling predicted a rise as autumn progressed, but not the rapidity with which numbers rose from early September.

230. The Technical Advisory Cell advice in September proposed that action was taken to respond to the growing transmission but did not propose an immediate lockdown. It proposed action to prevent that from being necessary. Even by the 25 September 2020 the Technical Advisory Cell suggested that action would be necessary if then current measures did not succeed. On 2 October 2020 the Technical Advisory Cell advice continued to say that major difficulties lay ahead 'unless measures' taken are effective.

231. It must be borne in mind that by now, every 21 days the Welsh Cabinet received formal advice from the Chief Medical Officer for Wales which was based on the latest scientific advice available to him via the Technical Advisory Group, and that was accompanied by impact assessments which assessed the impact of what was being proposed for decision by Cabinet. So, by the time Cabinet decided on 19 October to bring in a firebreak, the advisers had prepared thorough advice which was tested and debated by Cabinet over several days, and further advice commissioned in order to ensure all the considerations in our minds were properly addressed. In taking this decision, Cabinet were better aware of the impact of loneliness and isolation on the mental health and well-being of vulnerable households.

232. Crucially, the Welsh Government also had to take into account the actions of other UK Governments. I have dealt with the interactions with the four governments of the UK in my first statement for Module 2 at paragraphs 130 - 139. As explained there, the timing of the firebreak in Wales was influenced by the refusal of HM Treasury to bring forward the beginning of the extended Job Support Scheme. It was also influenced by the refusal of the UK Government to act immediately upon SAGE advice that a circuit breaker was needed.

233. Notwithstanding that, in all the circumstances, the Technical Advisory Cell advice was taken seriously by the Welsh Government and the key demonstration of that is the fact that Wales was the first part of the UK to follow the advice to introduce a circuit breaker, and to bring the firebreak into being.

234. The approach taken in Wales to the lifting of protections during the period June to August 2020 was gradual and cautious. I don't believe that slowing them down through that period would have materially impacted on the circumstances we faced from September onwards. I have already said that the deterioration of the position in the early autumn was exacerbated by the reopening of international travel and the impact of the Eat Out to Help Out scheme. None of those factors, however, would have prevented the impact of the Kent variant, which was, I believe, certainly in circulation by the time firebreaks were instituted.

235. By October 2020, the systems we had put in place to provide advice had been established for around 6 months, and by now the modelling work from Swansea University was available to assist the Technical Advisory Cell in its work.

236. As we were still dealing with a population without a vaccine, we had to rely on non-pharmaceutical interventions and our approach was a suppression approach - not an elimination approach. The decisions and actions taken in New Zealand, for example, were unrealistic for Wales, although we aimed for maximum suppression. All the modelling work showed us that as restrictions were eased, the virus would return to wider circulation, at whatever point the easements happened. It was never a realistic or sustainable option for the Welsh Government to continue severe restrictions without easement until a vaccine became available, because such an approach would have collided with the ability to persuade people to comply with restrictions. In the event, the vaccine came quicker than we expected, but we couldn't plan on that basis.

237. On 22 October 2020 I received advice on what other European countries were doing in relation to non-pharmaceutical interventions during the autumn, exhibit **MD/143 – INQ000349960** refers.

238. Cabinet met on 29 October 2020, exhibit **MD/144 - INQ000048929** refers, to consider what restrictions should be put in place at the end of the firebreak. A series of papers were produced for the meeting, including a recommendations paper, exhibit **MD/145 - INQ000048889** refers, and a children's rights impact assessment, exhibit **MD/146 - INQ000048893** refers, and an equality impact

assessment, exhibit **MD/147 - INQ000048891** refers, which, amongst other matters, identified mitigation for Black, Asian and Minority Ethnic people, drawing upon the work of the Black, Asian and Minority Ethnic Covid-19 Advisory Group. We carefully considered all of the science and policy advice and agreed to adopt a principle of lifting the firebreak restrictions in a graduated way. We adopted measures to ensure that people had less contact with others, that encouraged social distancing, and, when that was not possible, that stringent risk management approaches were in place to prevent further spread. The fundamental objective was to secure behavioural change. We agreed:

a. there would be blended-learning in further and higher education;
b. non-essential retail, including cafes, pubs and restaurants should revert to the pre-firebreak regime and there would be no change to the 10pm curfew;
c. there should be a greater emphasis on remote working and mitigation measures put in place to counter any adverse impact on women, disabled people and Black, Asian and Minority Ethnic communities;
d. organised indoor activities would be allowed, apart from celebrations and singing, for up to 15 people;
e. places of worship would re-open for services and ceremonies with a capacity to be determined in accordance with risk assessments;
f. as household mixing was the source of most transmissions, households would only be able to form a bubble with one other household;
g. people could gather with up to 5 other people in public places;
h. self-isolation was to become a legal requirement, supported by a £500 payment;
i. travel to hotspots in the UK would be allowed for certain categories, such as work, childcare and medical appointments;
j. all schools post-firebreak should return to full operations from 9 November, with blended learning provided for those required to self-isolate.

239. We confirmed the detailed post-fire break restrictions on 1 November 2020, and new regulations were made. Further advice would be needed in relation to culture, sport and tourism industries. These decisions were added to by Cabinet on 1 November, exhibit **MD/148 - INQ000048786** refers, when it was also decided that

community centres, libraries and other communal facilities could re-open, and cinemas would be able to re-open.

240. On 2 November 2020 I was sent a test, trace and protect action plan, exhibits **MD/149 – INQ000349966** and **MD/150 - INQ000349967** refer, to identify how test, trace and protect could be used when the firebreak came to an end.

241. In the Cabinet meeting on 16 November 2020, exhibit **MD/151 - INQ000048798** refers, we were informed that the firebreak had been successful in reducing the transmission rate to 0.8. It had produced the gains which had been expected through early action. A Lancet article published in April 2021 rehearses the effective reduction in the reproduction number following the Wales lockdown model, exhibit **MD/152 - INQ000282016** refers. However, it was expected that there would be another rise in December and that there may be a need for the Government to intervene again before Christmas. Swansea University were to be commissioned to provide modelling around Christmas gatherings and the timing of school holidays. The gains were more short-lived than the modelling available to the Welsh Government had anticipated, with a rapid return to rising Covid-19 numbers. The effects of the firebreak were seen a couple of weeks after the end of the firebreak, such is the lag between action and the reduction in transmission. We were very unfortunate that this coincided in time with the emergence of the 'Kent variant' in November, which was far more transmissible than the variant upon which our modelling was based.

242. On 19 November 2020, it was agreed in Cabinet, exhibit **MD/153 - INQ000129889** refers, that the Minister for Health and Social Services, the Minister for Housing and Local Government, the Minister for Education and I would need to meet urgently to discuss lateral flow testing in secondary schools.

243. On 24 November 2020, I held a daily ministerial call. A note of this call is exhibited as **MD/154 - INQ000281964**. It was hoped that the Four Nations would agree at COBR that day on an approach to allow mixing over the festive period. There was to be an announcement on outdoor visits at care homes, but beyond that it was not proposed to allow additional visiting because of the risks involved. The Chief Medical Officer for Wales confirmed that for the clinically extremely vulnerable the

consensus was that they should be given flexibility to see family and friends, with guidance on the precautions they should take. A joint statement was agreed by the Four Nations at COBR on 24 November 2020, exhibited as **MD/155 - INQ000083850**.

244. Cabinet met on 26, 27 and 29 of November 2020 to discuss Winter planning, exhibits **MD/156 - INQ000048925, MD/157 - INQ000048927** and **MD/158 - INQ000048930** refer. A series of papers were produced including a recommendations paper, exhibit **MD/159 - INQ000048997** refers, a benefit and harms analysis, exhibit **MD/160 - INQ000048897** refers, an equality impact assessment, exhibit **MD/161 - INQ000048900** refers, and a children's rights impact assessment, exhibit **MD/162 - INQ000048994** refers. We were informed that the firebreak had the intended impact of a short, sharp early intervention to push back the epidemic by three weeks, however, the benefits of this period of negative growth had now largely been lost. Test, trace and protect results indicated that the virus was predominantly being transmitted in households, hospitality and workplaces. SAGE advised that the highest level of tiered restrictions in England and Scotland had proved effective. Cabinet agreed to impose restrictions and to adopt a tier system on an all-Wales basis, to commence on 4 December. All entertainment venues would close and all indoor visitor attractions would close. Non-essential retail, gyms, pools, leisure centres and spas would remain open given their link to mental health benefits. Cabinet agreed that childcare, schools, further and higher education would remain open. Pubs, bars, restaurants and cafes would close by 6pm and would not be allowed to sell alcohol.

245. On 2 December 2020 Cabinet met to discuss travel restrictions between Wales and the rest of the UK, exhibit **MD/163 - INQ000048788** refers. Now that Wales was to adopt a similar tier system to England and Scotland, the requirements needed to change and would prevent travel from a tier 3 area. International travel restrictions would continue.

246. On 4 December 2020, I was sent the Technical Advisory Group statement regarding non-pharmaceutical interventions in the pre-Christmas period, exhibit **MD/164 – INQ000350040** refers. Concerns were raised about the recommendations in the paper about schools – which were inconsistent with the

position that had been reached by the Welsh Government in relation to protecting schools opening. We were concerned about the damage it would cause to children and their rights.

247. Cabinet discussed the new alert levels and the 'traffic light system' on 9 and 10 of December 2020, exhibits **MD/165 - INQ000048793** and **MD/166 - INQ000048794** refer, and agreed to adopt the new alert levels. Wales would enter level 4 restrictions on 28 December. The decision was based on a number of papers before Cabinet, including the recommendations paper, exhibit **MD/167 - INQ000048913** refers, setting out the detail of the proposed four levels, a paper on the post-Christmas restrictions, exhibit **MD/168 - INQ000048915** refers, a child rights impact assessment, exhibit **MD/169 - INQ000048910** refers, and an equality impact assessment, exhibit **MD/170 - INQ000048909** refers. Plans had been made to mass test children attending school settings in January 2021. Cabinet was informed that at least two local authorities had decided to close schools as of 16 December and it was anticipated that more would follow. A decision was made to move secondary schools and colleges to online learning from 14 December, with the exception for vulnerable children and examinations, due to the infection rates. Cabinet was concerned that local authorities would take unilateral decisions to close primary schools and was concerned about when schools would return after Christmas if the country was still in level 4 restrictions. It was agreed ministers required a further discussion on schools. Cabinet decided in principle that Wales would be placed into tier 4 restrictions on 28 December.

248. In the days preceding the decision to close secondary schools, I would have had many discussions with the Minister for Education about it. When advice goes to a Minister(s), it clearly identifies who is to be the decision-maker. It is far from unusual for a Minister, faced with a challenging and high-impact decision, to seek to discuss that decision with the First Minister. That was certainly the case here. While the decision remained with the Minister, I was happy to put on record my support for the Minister's intended course of action. That is not to substitute myself for the Minister or to become the decision-maker myself. It is because in difficult decisions, it can be important for the wider Ministerial team, and the wider Welsh Government, to know that the decision-making Minister has the full support of the

First Minister in the decision they have made. I would be asked to approve the regulations, as I did with all the health-protection regulations. The decision to keep some secondary school pupils away from school for a week was not an easy decision to take, and the strength of feeling against making that decision is encapsulated in an email the Minister for Education sent in the days leading up to this Cabinet meeting, exhibit **MD/171 – INQ000350054** refers.

249. An updated Coronavirus Control Plan was published on 14 December 2020, exhibited as **MD/172 - INQ000227576**. On 16 December 2020, I announced that Wales would move to alert level 4 (the highest level) from Christmas day. Exhibit **MD/173 – INQ000350118** refers.

250. There was a significant Cabinet meeting on 19 December 2020, exhibit **MD/174 - INQ000048803** refers, at which the deputy Chief Medical Officer for Wales gave oral advice to Cabinet. The 'Kent' strain of Covid-19 had been discovered which was significantly more transmissible and infections rates in parts of Wales were the highest in the UK. The NHS in Wales was now moving ahead of reasonable worst-case modelling. Cabinet agreed to bring forward tier 4 restrictions from 28 December to midnight on 20 December. I made the announcement that day, exhibit **MD/175 – INQ000350125** refers.

251. This was one of the hardest decisions we faced during the whole pandemic. I was less worried about the headlines in the newspapers relating to the sanctity of Christmas, and more worried about the livelihoods that depended on Christmas, such as retail and hospitality sectors that made their money at this time of year. I was also especially worried about the prospect of closing schools early - too many children in my constituency only had their Christmas in school; they only celebrated it there, they only received presents there. For them, once school was over, Christmas was over. The harms and gains were closely balanced. In the end, the decisive factor was the medical advice about the number of lives lost. There would be another Christmas and it was more important that we did everything we could to save lives that would otherwise be lost.

Decisions relating to NPIs in 2021 until May 2022

252. Although the focus of Module 2B is on non-pharmaceutical interventions, the key context for decisions of the Welsh Government altered with the arrival of an effective vaccine. From there onwards, so much of our policy effort, practical action and communication with the Welsh public revolved around making the best possible use of the opportunity provided by vaccination.

253. As we emerged into the New Year of 2021, the position in Wales remained perilous. Vaccination was already taking place, but numbers remained at the foothills of the long journey of rolling out its advantages to as many people as possible. At this stage non-pharmaceutical interventions remained central to our purpose of protecting people in Wales from the impact of a deadly virus.

254. The Welsh Government approached the lifting of protections in the early part of 2021 by drawing on what we regarded as the strengths of our approach so far. We used the reliability and predictability of the 21-day cycle as the bedrock of our decision-making. We reaffirmed our approach of graduated and proportionate change restrictions, calibrated against the changing prevalence of the disease over time. We continued to draw on the advice of the Shadow Social Partnership Council and all the discussions which lay behind it, as a key way of involving partners in the decision-making process. And we continued to communicate the practical changes to people in Wales by sharing with them the information available to us as a government, and the rationale for the decisions we made.

255. The early months of 2021 saw a gradual easing of protections. Schools once again resumed face-to-face education at the February half-term. Self-contained holiday accommodation reopened at the start of April. Despite the fact that Senedd elections were taking place, face-to-face canvassing of voters was not allowed until closer to polling day.

256. Nor were we out of the woods, as far as Covid-19 was concerned, for many months to come. The impact of the Delta and, especially, the Omicron variant drove up numbers of people falling ill and admission to hospital. While vaccination had largely broken the link between Covid-19 and its most serious clinical

consequences, thousands and thousands of people continued to fall ill from a disease which, a relatively short period earlier played no part in our lives.

257. On 4 January 2021, after receiving advice from the Joint Biosecurity Centre, the four Chief Medical Officers of the UK recommended that the UK Alert level should move from level 4 to level 5. This meant that there is a material risk of healthcare services being overwhelmed.

258. Cabinet met on 6 and 7 January 2021, exhibits **MD/176 – INQ000022521** and **MD/177 - INQ000057757** refer. There was a body of evidence that demonstrated higher transmission amongst children when the virus was circulating more within communities. Schools remained safe, but the fact that the variant was more easily spread made contacts in unregulated settings outside the school environment the main risk. It was decided that following discussions with local authorities it was clear that it would not be possible to fully re-open schools on 18 January. Schools would remain open for the children of key workers and vulnerable children.

259. On 25 January 2021 Cabinet met, exhibit **MD/178 - INQ000129912** refers. Cabinet took into account the recommendations paper, exhibit **MD/179 - INQ000057759** refers, a child rights impact assessment, exhibited as **MD/180 - INQ000129918**, an equality impact assessment, exhibited as **MD/181 - INQ000129917** (which took into account the Equality and Human Rights Commission report on how coronavirus had impacted equality and human rights), and a paper containing a summary of research carried out by Welsh universities on the impact on schools, exhibit **MD/182 - INQ000129921** refers. Universities had participated in a lateral flow testing pilot when students returned home for Christmas, the results of which showed a low positive test rate in students. Cabinet decided that:

    a. Level 4 restrictions should remain in place until the next review;
    b. Two individuals from two different households should be able to exercise outside;
    c. Lone adults would be able to reform 'bubble' arrangements;
    d. Phased return of schools should take place from 22 February with priority given to foundation phase, remaining primary schools and years 11 and 13.

260. Cabinet met on 16 and 17 February 2021, exhibit **MD/183 - INQ000057770** refers, and considered the paper for the 21-day review, exhibited as **MD/184 - INQ000057771**. The Chief Medical Officer for Wales advised that the situation in Wales was improving. However, caution over variants was required and Cabinet decided that the level 4 restrictions should remain in place. It was also decided that the regulations should be amended to provide for schools and college premises to reopen for foundation phase and vocational learners, and that if the conditions continued to improve over the following three weeks, the intention was to allow phased return of primary school children from 15 March, along with those that would ordinarily be facing examinations this year to allow for face-to-face learning to help in the assessment of grades. There was some discussion about whether it would be possible for these children to return one week earlier, and ministers were reminded of the recommendation from the Technical Advisory Cell to allow three weeks to fully assess the impact on transmission rates of the Foundation Phase returning. As the winter restrictions had adversely affected well-being, Cabinet decided to expand bubble arrangements and allowed four people from two households to meet outdoors. Guidance on care home visits would be relaxed.

261. On 19 February 2021, the Welsh Government published an update to the Coronavirus Control plan: alert levels in Wales (coming out of lockdown), which I exhibit as **MD/185 - INQ000350284**. This set out our understanding of the impact of the new variants, as well as the systems we had put in place to respond to the current challenges, and our approach to coming out of lockdown. The public health position was slowly improving across Wales, as vaccine roll out increased. There was a note of caution, however, as the new variants had created uncertainty about how swiftly cases may rise if restrictions were lifted too quickly, and as such, the Scientific Pandemic Influenza Group on Modelling was recommending a slower relaxation of the lockdown measures. Restrictions were gradually removed over time as part of the 21-day review process.

262. On 8 and 9 March 2021, Cabinet confirmed that from 15 March all primary school children and years 11 and 13 should return to school premises. There would also be flexibility offered to provide for some years 10 and 12 to return and for learners

in years 7, 8 and 9 to have the opportunity of a check-in focused on support for wellbeing and readiness for a return after the Easter holidays. Exhibit **MD/186 - INQ000022529** refers. A full return to school was envisaged for 12 April 2021. The reasons for these decisions are contained in the paper for the 21-day review, exhibited as **MD/187 - INQ000057783**. This also explained that universities were considering options for catch-up and check-in opportunities for students over the Easter holiday (22 March – 12 April). Cabinet also decided that 'stay at home' was to be replaced with 'stay local' as of 13 March. The re-opening of schools was confirmed by Cabinet on 29 March 2021, exhibit **MD/188 -INQ000022532** refers. On 12 March 2021 I was asked to agree the return of face-to-face teaching in higher education campuses from the beginning of the summer term. Exhibit **MD/189 - INQ000145407** refers.

263. On 18 March 2021, the Chief Whip, the Minister and Deputy Minister for Health and Social Services and I attended a meeting with Disability Equality Forum's report authors. A note of that meeting is exhibited as **MD/190 – INQ000350562**. The meeting discussed the report 'Locked Out: liberating disabled people's lives and rights in Wales' which I attach as exhibit **MD/191 - INQ000350302**. It recommended: an inquiry into factors affecting deaths; incorporation of the United Nations Convention on the Rights of Disabled People; examination of post-pandemic mental health issues; the creation of a Disabled Persons' Commissioner for Wales; involvement of disabled people in the decision-making process. Those present also identified their lived experiences during the pandemic: difficulties accessing supermarket food; disconnect between national policy and local delivery; problems with public information broadcasting; public bodies not using social model of delivery. A taskforce was established to deliver the report's recommendations.

264. As the Spring developed, the vaccination programme made good progress and the number of infections continued to fall to a point which was described by the Chief Medical Officer for Wales as "relatively benign". The evidence of a break in the link between infection and serious illness had not yet been established. As a result of the favourable conditions, over the course of 21-day reviews on 29 / 31 March 2021, as exhibited above (**MD/188 - INQ000022532)** and exhibit **MD/192 - INQ000057798**, 19 April 2021, exhibit **MD/193 - INQ000129892** and **MD/194 -**

INQ000129893 refers, and 10 / 12 May, exhibit **MD/195 - INQ000057741** and **MD/196 - INQ000057811** refers, and 3 June, exhibit **MD/197 - INQ000022537** refers, restrictions were relaxed progressively, beginning with the return of face-to-face learning for higher education, a move to alert level 3 from 3 May, a move to alert level 2 from 17 May, and a move to alert level 1 in part from 7 June 2021 – meaning theatres and concert halls could open for the first time since 23 March 2020. The move to alert level 1 was not fully implemented, because as discussed by Cabinet on 16 June 2021, exhibit **MD/198 - INQ000057745** and **MD/199 - INQ000057836** refers, the Delta variant was causing exponential growth in infections and there was a need to monitor the effect of the variant. It was also noted that the requirement on children to wear facemasks on school premises would remain in force until the end of the Summer term.

265. On 5 July 2021, exhibit **MD/200 - INQ000129963** refers, Cabinet decided to create an alert level 0 in the Coronavirus Control Plan, to maintain some public health measures to keep the virus at manageable levels, until the vaccination rollout was complete, as recommended in the paper, exhibit **MD/201 - INQ000129964** refers. That involved maintaining test, trace and protect, maintaining the 'work from home' message, requiring risk assessments, and requiring facemasks when social distancing was not possible. Cabinet requested a full equality impact assessment around the work from home requirement.

266. The next 21-day review was on 12 and 14 July 2021, exhibit **MD/202 - INQ000129973** refers. Infections continued to rise, but the NHS was experiencing the lowest levels of Covid-19 cases. The Chief Medical Officer for Wales advised that the epidemiological picture changed the balance between direct and indirect harms and made it increasingly difficult to justify the stringent use of public health powers to continue restricting economic, social and cultural activities. Cabinet decided, in accordance with recommendations, exhibit **MD/203 - INQ000129983** refers, that from 17 July the rule of six would be applied to private dwellings and ice rinks would re-open. 1,000 people could attend indoor seated events or 200 at standing events. Children could attend supervised residential activity centres. Night clubs and adult entertainment would not re-open until the move to alert level 0. There would be no limit on the number of people allowed to meet outside.

Wales would move to alert level 0 from 7 August 2021. The move to level 0 was confirmed by Cabinet on 2 August 2021, exhibit **MD/204 - INQ000057896** refers, based on the recommendations paper, exhibit **MD/205 - INQ000057849** refers.

267. On 15 September 2021 and 28 October Cabinet decided to mandate the Covid-pass for use in night clubs, high-risk venues and the major events listed in the paper, exhibits **MD/206 – INQ000057743, MD/207 - INQ000129987 MD/208 - INQ000022553** and **MD/209 - INQ000057939** refer.

268. Heading into the Winter, the Omicron virus emerged as a variant of concern. The Chief Medical Officer for Wales had advised me that it was more transmissible than any previous variant and could escape vaccines. By the end of November, it was likely that there was already community transmission in England, but not in Wales. Such was my concern about the Omicron variant, I, together with the First Minister of Scotland, wrote to the Prime Minister asking for a COBR meeting to be convened. It resulted in Cabinet deciding on 29 November 2021, exhibit **MD/210 - INQ000130006** refers, that the use of facemasks should be strengthened in secondary schools, colleges and universities for the rest of the Winter term. All staff and learners would be required to wear masks when physical distancing could not be maintained. In a series of Cabinet meetings in early December, it was decided that facemasks would also be required in cinemas and theatres, exhibit **MD/211 - INQ000022559** refers. Additional precautions for staff visiting multiple sites and visitors to care homes and hospitals would be introduced.

269. The COBR meetings materialised on 10, 15 and 19 December. By 16 December concern was rising about the potential of the new variant, and Cabinet decided to re-introduce into regulations a requirement to work from home and guidance across government would be strengthened, exhibit **MD/212 - INQ000057970** refers, based on the recommendations made to Cabinet, **MD/213 - INQ000057971** refers. In the run-up to Christmas there was a COBR meeting on 19 December, exhibit **MD/214 - INQ000083852** and a review by Cabinet on 20 and 21 December, exhibit **MD/215 - INQ000057982** refers. Three options were presented to Cabinet, exhibit **MD/216 - INQ000057991** refers; (i) move to alert level 2; (ii) move to alert

level 2 but allow events to take place subject to risk assessments; and (iii) do nothing.

270. Cabinet decided to move to alert level 2 from Boxing Day in order to slow transmission. It would also be a requirement when attending licensed premises to wear a mask when moving around and order table service. Cabinet received updates from across government on 10 January 2022, exhibit **MD/217 - INQ000057923** refers, and it was clear that staff absences was causing huge pressure in the system.

271. Fortunately, by the time of the 21-day review on 13 January 2022, exhibit **MD/218 - INQ000057924** refers, there had been a rapid change in the trajectory of the data and infection rates were falling and it was decided that alert level 0 would be adopted from 28 January 2022, based on the recommendations in the paper, exhibit **MD/219 - INQ000058003** refers. The requirement to wear facemasks indoors was removed from 28 February, save for retail, public transport and health settings, and the mandatory Covid pass was removed from 18 February, exhibit **MD/220 - INQ000130031** refers. On 24 March 2022 the requirement to self-isolate would be moved from the regulations to guidance. The requirement to wear facemasks was removed altogether, save for social care and health settings, in order to protect the vulnerable, exhibit **MD/221 - INQ000058010** refers. The options paper for the meeting, exhibit **MD/222 - INQ000058006** refers, identified a particular ongoing issue of nosocomial transmission in those settings, which continued to be characterised by additional vulnerabilities, especially the nature of their resident populations and the risks posed by visitors to closed settings. The advice was that additional safeguards were still needed to address these vulnerabilities and to keep people safe. On 12 April 2022, the Chief Medical Officer for Wales still advised that there was a need to maintain efforts to reduce transmission within hospital settings. Face coverings for visitors may have a small additional effect on reducing viral transmission but also signal the need for continued protective behaviours – such coverings should continue to be used by staff and visitors until viral transmission in communities was significantly reduced, exhibit **MD/223 - INQ000130049** refers. Cabinet accepted that advice and maintained the legal requirement to wear face coverings in health and social care

settings to protect the most vulnerable and staff. The legal requirement to wear face coverings in these settings was allowed to expire on 30 May 2022, exhibit **MD/224 - INQ000130065** refers, to be replaced by guidance.

Covid-19 public health communications in Wales

272. From the outset of the pandemic, I knew it would be essential that the people of Wales had access to clear, timely and consistent information on how to keep themselves and their loved ones safe. As the situation became more acute in March 2020, with rising cases and hospitalisations, the four governments agreed on a simple set of headline messages 'Stay Home, Protect the NHS, Save Lives'. For me, this summed up the key contribution that each individual could make to preventing the spread of the virus, particularly to the elderly and vulnerable who were at greatest risk of severe illness. It also provided for consistent messaging throughout the United Kingdom, based on a similar policy position.

273. In May 2020, I attended a COBR meeting where the UK Government unveiled their revised 'Stay Alert' messaging, which reflected the shift in policy in England away from staying at home. I did not believe this was appropriate for Wales. We chose to retain a 'stay home' policy. I made the point forcibly that all messaging in Wales needed to reflect our policy and legal position. From this point on, our communications and public health messages focused on the objectives and policy decided by the Cabinet in Wales. This was not without its challenges, and we made use of every possible channel at our disposal, including along the Welsh border where there was the greatest potential for confusion about the rules in place.

274. I was determined throughout the pandemic that our communications response should speak to the people of Wales in a way that was clear, direct and honest. One of the key elements of this was daily televised press conferences where I, my Ministerial colleagues and clinical experts spoke directly to people in Wales to provide the latest information about the spread of the virus, reinforce our public health messaging, and demonstrate that we were open to scrutiny and challenge.

275. I always sought to communicate in a way that was simple and straightforward and open about the many occasions on which decisions on restricting people's freedoms were finely balanced. Where the data was complex or contradictory, it was better to explain the dilemmas facing decision makers, rather than oversimplifying, or offer false certainty.

276. It was of significant importance to us that throughout the pandemic, when we made public announcements, they would be fully worked up and deliverable. I did not consider it a sensible approach to make commitments without proper consideration or confidence that they could be delivered: in Wales, we considered the evidence, planned, and then made any necessary announcement. At times it may have led to different implementation timescales in Wales, but it meant we could deliver on our promises.

277. Welsh and English are both official languages in Wales and therefore our communications and messaging were bilingual throughout the pandemic. This was not simply a question of translating English into Welsh, but also providing tailored messages that resonated with communities right across Wales. This meant people were able to receive public health messages in the language of their choice and with a tone that reflected public sentiment as closely as possible across different stages of the pandemic.

278. Communicating public health messages during the pandemic brought high numbers of constituents into contact with their Senedd members and Members of Parliament. Every week, we invested considerable periods of time in making sure that the Welsh Government's political colleagues had access to the best available information so that they could play their part effectively in our efforts to provide the Welsh public with reliable and trustworthy information.

Breaches of rules and standards by Ministers, officials and advisers

279. It is important to bear in mind that the period of the pandemic was one where social media conspiracies were prominently used by those opposed to the actions of public authorities, often in an attempt to discredit those authorities. 'Alleged'

breaches were not uncommon and I was aware of such allegations against a number of Cabinet colleagues. I, myself, was reported as being in various parts of Wales, and outside Wales, in breach of regulations. None of these allegations were true, nor were any of those matters alleged against my Ministerial colleagues.

280. The powerful nature of the allegations, however, is illustrated in the question I am asked about Health Minister, Vaughan Gething. It is very important that the Inquiry does not put itself in the position of conflating a contested allegation against Mr Gething with confirmed breaches by other political figures.

281. A national newspaper reported that Mr Gething had taken exercise locally with members of his family and, while doing so, had eaten takeaway food. Welsh Conservatives alleged that this breached rules which prevented people leaving home for the express purpose of holding a picnic. Mr Gething and his family were taking exercise. The food was an incidental purchase to help a hungry child. Nothing in that contravened Welsh Government regulations. As I said at the time, a "*brief stop to allow a child to eat is not a picnic in anybody's language*". No action was ever taken by South Wales Police.

282. The whole genesis of the story, in my view, was political point scoring. A Conservative supporting newspaper believed that it could manufacture a political difficulty for a Labour Minister, aided and abetted by local opponents. I understand, of course, that even the appearance of rule breaking can be damaging to public confidence. I regret that this became a story, as I know does Mr Gething – a highly effective and dedicated Minister, dealing with the traumatic events of the pandemic. In the event, while the story created an unwelcome distraction for a short period, it was soon overtaken by accounts of actual breaches of the rules elsewhere.

283. The events which surrounded the flagrant disregard of Covid-19 regulations within the UK Government are well documented, and whole political careers, by the most senior office holders, have been ended as a result. The impact on Welsh public confidence was mostly, I believe, to open a distinction between confidence in the UK Government (which fell sharply during the Dominic Cummings revelations, and which never recovered) and confidence in the Welsh Government, which remained

high during all the Westminster events. Indeed, it is a plausible view of the tests of public opinion available in Wales that this contrast cemented a wider preference, on the part of the Welsh public, for the general approach taken in dealing with the pandemic in Wales.

Public health and coronavirus legislation and regulations

284. I have dealt with the decision of the UK Government to use public health legislation, rather than civil contingency legislation, and the consequences that flowed from that decision, in detail, in my statements in Module 2.

285. A key partnership was that between the Welsh Government and the Police across Wales. I, and other Ministers, were strongly supportive of the 'Four Es' approach adopted by the Police, in which education and persuasion were always to be attempted, and exhausted, before enforcement action was taken. To make that approach effective, however, we accepted that the enforcement tools had to be real and available. Hence the decision to provide, as a last resort, the possibility of criminal sanction. At one point, during the pandemic, Chief Constables made the case for an enhanced level of sanction for those who repeatedly breached the regulations. The Welsh Government amended the regulations accordingly. I regard the close association between Chief Constables, Police and Crime Commissioners and the Welsh Government as one of the major success stories of the pandemic.

286. It is important to recall that this approach was also strongly supported by Welsh communities, especially those in West Wales where the fear of importation of the disease was always present. Criminal sanctions were regarded by Welsh residents as proportionate to the risks caused by those who refused to abide by requirements to protect others from the impact of a deadly disease.

287. As far as the alignment of legislation and guidance is concerned, the Welsh Government preferred, especially during the most difficult days of the pandemic to rely on regulations, rather than guidance. We did so for reasons of clarity – regulations were less likely to be ambiguous than guidance – and because, at those points, regulations are enforceable in a way that guidance is not, and

because we believed that the seriousness of the public health emergency was such that this needed to be reflected in the seriousness signalled by the use of the law to reinforce necessary behaviours. It is worth recalling that one of our most persistent disagreements with the UK Government was over its refusal to underpin its advice on internal travel with regulation.

Key challenges, lessons learnt, and reflections

288. I contributed to the Covid-19 Lessons Learnt Exercise on the Welsh Government Civil Service approach to developing and implementing a cross-government response to the pandemic. I exhibit the report as **MD/225 - INQ000182549.**

289. The primary challenge was dealing with a virus which was new and novel. Understanding developed over time, but never in a linear way. Different strands in evidence strengthened or diminished over time. Different voices, often distinguished and experienced, were capable of drawing different conclusions and advocating different courses of action. At various times, particular challenges came powerfully to the fore, only not to materialise in the way expected. To provide just one example: in April 2020 an enormous effort was directed to dealing with what was expected to be an insufficient supply of ventilators to support those patients with Covid-19-induced breathing difficulties. Over one of the bleakest weekends of the pandemic, I spent time reviewing the help to be offered to clinicians faced with choosing between patients for ventilation, when demand outstripped supply. In Wales, the very recently commissioned, multi-million-pound Advanced Manufacturing Centre in Broughton, was entirely given over to new ventilator production. In the event, and partly as a result of these efforts, the shortages did not materialise, as other clinical approaches to the disease came on stream. It is easy to forget, with the elapse of time, the intensity of anxiety and effort which were attached to issues which did not become as problematic as anticipated, but that anxiety and that effort were very real, and added materially to the challenge of responding to the pandemic.

290. The consistent purpose of the Welsh Government was to save lives and livelihoods. As well as all the challenges listed above, this was one of the areas

where a difference in approach of some in the UK Government caused additional tensions. For the Welsh Government there was never a tension between these two objectives: if lives could not be saved, then livelihoods would be badly undermined because staff would become unavailable, and customers would cease to be customers. For some in the UK Government, I believe the debate was between *either* saving lives *or* saving livelihoods, as if these were mutually exclusive objectives. In my experience, not all voices in the UK Government held this view, but it was sufficiently prevalent to influence decision making and to create a fundamental tension between the approaches of the two governments.

291. There was a challenge, throughout, in maintaining the confidence and the compliance of the Welsh population. I have long been of the view that, had understanding at the start of the pandemic matched later understanding, then action would have been taken earlier and more decisively. The important caveat I attach to this belief is that if the understanding referenced above could not have been an understanding confined to policy elites or senior politicians. As I approached the television cameras and microphones on the evening of the 23 March to set out for Welsh citizens the actions which were now to be required of them, my main anxiety (on the state of understanding at that time) was not 'has all this been left too late?', but 'will we be able to persuade people to do what is being asked of them?'. As set out earlier in my evidence, in March 2020, whole parts of Wales were almost entirely untouched directly by the pandemic. Restrictions were to be placed upon them which were unheard of in peacetime. While I believe that retaining the confidence and support of the Welsh public through the course of the pandemic was one of the most significant achievements of the Covid-19 era, that confidence was never to be taken for granted. Particularly as new episodes of restriction became necessary, or as protections came to be eased, there were always challenges from those who believed that general requirements ought not to be applied to their circumstances.

292. There were practical challenges, from the outset, in the conduct of government business. Normal ways of working were impossible because of shielding, social distancing and illness. As noted elsewhere in this statement, the Welsh Government benefited from very recently updated IT equipment. The rapidity with

which we were able to adopt new ways of working, and the additional benefits which we were able to derive from these fresh approaches was, I believe, one of the more positive aspects of the difficult Covid-19 years. In the latter stages of the pandemic, this became another source of difference between the Welsh and UK Governments. We continue to embrace the new possibilities provided by remote working. No Welsh Minister has ever advocated a return to the office on the grounds that civil servants could not be trusted to work unsupervised.

293. It is important to cite again the advantages of scale which are enjoyed in the Welsh context, when attempting to galvanise a collective response to a common set of challenges. Our long history of social partnership working underpinned a consistent effort to apply the public service ethos across the full range of responsibilities exercised during the pandemic. I remain of the view that the sense of common purpose and determination to mobilise every effort in pursuit of shared goals was one of the most striking characteristics of the Welsh response to the pandemic. I would want to emphasise again that this endeavour embraced all those who played a part, including non-devolved, as well as devolved services (the contribution of the armed forces, for example, was outstanding) as well as our partners in the private and third sectors, and the trades unions.

294. As to differences between the Welsh Government and the UK Government, in particular, I should restate my belief that consistency of approach was always more significant than the differences between us. When the Welsh Government faced the need to reinstate restrictions, in order to respond to upswings in infection, the same necessity faced all other governments in the UK. When the Welsh Government moved to remove some of the protections previously in place, all other governments across the UK were moving in the same direction.

295. Differences were, however, apparent and important. The Welsh Government argued, from the outset, for a pattern of reliable contact between all four UK governments. I have since learned, to my astonishment, that these requests were not simply overlooked by the Prime Minister and his senior colleagues but considered and rejected. The Welsh approach, as noted above, did not share the ambiguity of purpose which characterised the UK Government. For us, saving lives

and livelihoods were part of a common purpose, not objectives in competition with one another. Welsh Ministers announced policy after its implementation had been planned, rather than announcing first and planning second, disagreed consistently with the often-chaotic approach to international travel and UK borders adopted by the UK Government and, generally, preferred a more precautionary approach to the disease: taking earlier and more decisive action when restrictions were necessary, phasing the return to fewer protections, in order to go on containing the disease. All of these were points of contrast with the approach of the UK Government.

296. In this regard, I should point to the approach taken in Wales to communicating government actions to the wider public. An early decision to stick with three-week cycle of decision-making served us very well. It meant that there was regular and consistent scrutiny of decisions by the Senedd, which met throughout the pandemic. It meant that Welsh citizens could be confident that the decision-making process would be communicated to them in a predictable way, through Friday morning press conferences, delivered bilingually in a nation in which two languages are in daily use. At those events, my aim was always to share whatever information was available to decision-makers with the wider public. I would attempt to explain why Ministers had arrived at the conclusions which the press conference set out, but I wanted even those who would disagree with those conclusions to have access to the information on which they were based. The approach to communication taken in Wales culminated in Friday press conferences but went far further than them. In all that effort, which included Senedd statements and debates, Facebook live sessions, frequently asked questions, web pages, and letters from the Chief Medical Officer for Wales - the underlying approach was to be reliable in the pattern of communication and as open as possible with those affected by the decisions being taken in their name.

297. Finally, to the issue of recommendations. I really hesitate to offer very much by way of a future pandemic because it seems to me that its nature is inherently unknowable. Despite Covid-19, the public health defences around the world are well geared to responding to known threats. Only viruses able to evade all that global effort have the potential to reach pandemic impact. The only thing we can

know of them with certainty is that they will take us by surprise. In that context, I make only two suggestions for future improvement. First, I reject the suggestions I have seen by some UK Ministers that a newly centralised approach, over-riding devolved responsibilities, would improve the response to any future pandemic. It is not simply that the suggestion comes so improbably from those whose actions so comprehensively undermined the confidence of citizens in the UK's response to Covid-19, but it entirely overlooks the fundamental issue of trust in persuading individuals to take actions necessary to protect their own lives and those of others. The empirical data collected during the pandemic demonstrates, beyond doubt I believe, that trust is best engendered and preserved when decisions are made as close to the lived circumstances of those affected by them as possible.

298. My own recommendation would lie much more in a reform of the practice of intergovernmental relations, so that in any future pandemic there is, already in existence, a predictable, well understood, well-used pattern of interaction between the four nations, in which participants are ready to share information and to explore together the responsibilities which each, separately, will discharge.

299. My second recommendation lies in the field of finance. As explored in more detail in this statement, I believe that the single most damaging decision during the whole Covid-19 experience, was the explicit refusal of the Treasury to make funds available to Wales when public health conditions here required action to be taken. It might be argued that, in doing so, the Treasury was simply enforcing a rigid interpretation of the Barnett formula approach to devolved funding. In that case, my recommendation would be that a future pandemic must adopt a different approach. If any component nation of the United Kingdom concludes that action is needed to address a public health emergency, and that such action can only be taken if centrally funded, that nation should be able to make its case to the Treasury *against a set of common criteria*. I do not argue, at all, that all this should not be rooted in proper process, including robust scrutiny by the Treasury. My point is that all nations must be treated equally, each able to make a case for funding on the same basis as any other. Only in that way can the Treasury genuinely act as a Treasury for the whole of the United Kingdom rather than, as was transparently the case during the Covid pandemic, a Treasury for England,

with all other nations funded as a consequence of those made-for-England determinations.

Statement of Truth

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed: Personal Data

Mark Drakeford

Dated: 13th December 2023