

Wednesday, 13 March 2024

1
2 (9.58 am)
3 **MR POOLE:** If I could call Mr Mark Drakeford, please.
4 **MR MARK DRAKEFORD (affirmed)**
5 **Questions from LEAD COUNSEL TO THE INQUIRY for MODULE 2B**
6 **MR POOLE:** If you could start with giving us your full name,
7 please.
8 **A.** It's Mark Drakeford.
9 **Q.** Mr Drakeford, you have provided a witness statement for
10 the purposes of this module, and we've got that
11 displayed, it's INQ000371209. You signed that statement
12 on 13 December last year. Are the contents of that
13 statement true to the best of your knowledge and belief?
14 **A.** They are.
15 **Q.** You also provided a witness statement for Module 1, and
16 we can see that at INQ000177804. That's been signed in
17 the usual way with a declaration of truth as well. You
18 also gave evidence in Module 1 and the transcript of
19 that evidence is available on the Inquiry website. You
20 have also provided two further witness statements for
21 Module 2, if we can just identify those. The first we
22 see there, it's INQ000273747, and then the second, it's
23 INQ000280190, and those two have been signed with
24 statements of truth.
25 Mr Drakeford, we're very grateful for the provision

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1 **Q.** Although you announced on 13 December last year that you
2 would stand down as First Minister, you remain
3 First Minister until your successor is selected; is that
4 right?
5 **A.** Correct.
6 **Q.** Mr Drakeford, your experience is important for a number
7 of areas in this module, because in practice you worked
8 inside the Welsh Government, including a decade in the
9 First Minister's office, since the outset of devolution
10 in 2000. You have therefore got a vast knowledge of
11 government, how the Welsh Government machine works in
12 practice. You have also been health minister and
13 minister for local government, so are very familiar with
14 the work of the NHS and local government in Wales.
15 You've also, as I've spoken about, been finance
16 minister, you therefore negotiated the current funding
17 regime in Wales, you therefore understand the complex
18 issues of government and the intergovernment finance.
19 And obviously last, and by no means least, you were
20 head of the Welsh Government and so had overall
21 responsibility for Wales' pandemic response and also its
22 engagement with the UK Government and the other devolved
23 administrations.
24 Unsurprisingly, therefore, there is much to cover
25 this morning and this afternoon.

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1 of those statements and also your assistance to date.
2 If I can deal first with your background and career,
3 it is very well known that you are the First Minister of
4 Wales, you have been so since December 2018. Before
5 entering politics you have worked as a probation
6 officer, a youth justice worker and a Barnardo's project
7 leader.
8 Between 1991 and 1995 you lectured in applied social
9 studies at the University College of Swansea, now
10 Swansea University. You then moved to what is now
11 Cardiff University first as a lecturer and later as
12 a professor of social policy and applied social
13 sciences.
14 Alongside your university lecturing in 2000 you
15 became a special adviser on health and social policy and
16 later served as the head of the First Minister's
17 political office. You then succeeded Rhodri Morgan as
18 the Assembly member for Cardiff West when Mr Morgan
19 retired in 2011. In 2013 you were appointed Minister
20 for Health and Social Services, a post you held until
21 May 2016, when you became Cabinet Secretary for Finance
22 and Local Government. You became First Minister and
23 leader of Welsh Labour in 2018.
24 Is that all correct?
25 **A.** That's all correct.

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1 If I can start, please, with some questions about
2 your role as First Minister and the decision-making
3 structures within the Welsh Government.
4 You say at paragraph 14 of your witness statement
5 that you are primarily responsible for the formulation,
6 development and presentation of Welsh Government policy,
7 and you say that this did not change during the
8 pandemic. Is that right?
9 **A.** That will be right.
10 **Q.** As First Minister you chair the Welsh Government
11 Cabinet. You describe in your witness statement the
12 Cabinet as the core decision-makers, and you say that
13 although the practicalities of ministerial engagement
14 changed with remote working, the essence of collective
15 decision-making remained intact throughout the pandemic.
16 Is that right?
17 **A.** My approach as First Minister was always to make sure
18 that the decisions we arrived at prior to and during the
19 pandemic were the collective decisions of the whole of
20 the Cabinet.
21 **Q.** We will look obviously at those particular decisions in
22 greater detail later this morning and this afternoon,
23 but broadly speaking, so that we know the lie of the
24 land and we know how you approached these issues, were
25 all the momentous decisions, so the decisions,

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1 for example, to impose lockdowns, social distancing
2 measures and so on, were those decisions that were made
3 in practice by the Welsh Cabinet or were they decisions
4 made by you and enquired or endorsed later by Cabinet?

5 **A.** The decisions were always the decisions of the Cabinet,
6 either made directly in the Cabinet and almost always in
7 that way. Occasionally, and particularly in the very
8 early days, they were made drawing on the clear
9 knowledge of what the Cabinet would have decided,
10 because of prior discussion, but made sometimes in
11 a COBR meeting where I am the only representative of the
12 Welsh Government present.

13 **Q.** I understand.

14 Although, as you've explained, the full Cabinet led
15 on collective decisions during the pandemic, individual
16 ministers were required to make decisions within their
17 own portfolio responsibilities, and you make the
18 point -- it's paragraph 39 of your witness statement --
19 that:

20 "[You] expect Ministers to exercise portfolio
21 responsibilities themselves save where: (i) a decision
22 requires a cross-government set of resolutions ... and
23 (ii) [the] issues ... are so significant that it needs
24 to be elevated."

25 Perhaps just to illustrate the point, the closing

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1 **A.** Well, no, I accept responsibility myself for all the
2 decisions that we made. In the end, I am the
3 First Minister of the government, and while I am a very
4 firm believer in what is called distributed leadership
5 rather than hierarchical leadership, in the end the
6 decisions that were made in the Cabinet are signed off
7 by me and in that sense I am responsible.

8 **Q.** I would like to next explore with you some of the legal,
9 technical, structural problems or issues that presented
10 themselves when liaising and dealing with the
11 UK Government and the other devolved administrations
12 during the pandemic.

13 The Inquiry understands that there was
14 an intergovernmental relations review established in
15 March 2018 which ended in January 2022 and reported
16 then. The idea behind that review was to improve
17 intergovernmental structures and ways of working, and we
18 understand that that review has led to a new
19 architecture for intergovernmental working, which I will
20 come to in due course. I would like to just start
21 though with the arrangements for intergovernmental
22 relations as they stood at the start of the pandemic.

23 Now, the starting point is the memorandum of
24 understanding, and we have got that at INQ000256804.

25 As we can see there, I think the memorandum was

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1 and re-opening of education settings during the
2 pandemic, is that a decision for the minister for
3 education or would that have been a decision for
4 Cabinet?

5 **A.** Well, I think the decision itself rests with the
6 minister, but given the significance of that decision,
7 it would only ever be made in the full knowledge of what
8 Cabinet colleagues would have contributed to that
9 decision. So it's made by the minister, but it's made
10 in the context of discussion across the whole of the
11 ministerial team.

12 **Q.** Although the Inquiry understands that there were certain
13 structural changes within the Welsh Government during
14 the pandemic, so for example the creation of
15 a director general for Covid-19, and certain people
16 obviously moved positions, in terms of who made the key
17 decisions, am I right that that remained always the
18 Welsh Cabinet, as you explained, with you acting as
19 first among equals and then individual ministers when
20 the decision fell within their portfolio?

21 **A.** Yes.

22 **Q.** To what extent, Mr Drakeford, do you accept personal
23 responsibility for the core decisions taken during the
24 pandemic, as opposed to accepting it on behalf of your
25 administration?

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1 first agreed in 2001 but it was reviewed periodically,
2 and this is dated August 2013.

3 If we can please have a look at page 9,
4 paragraph 23, thank you very much, so over the page as
5 well.

6 So this recognises that although most contact
7 between the four nations should be carried out at
8 a bilateral or multilateral basis between departments,
9 there nevertheless needs to be some central
10 co-ordination of the overall relationship, and therefore
11 the four nations agreed to participate in what was known
12 as the Joint Ministerial Committee, the JMC.

13 If we can, please, have a look at page 12,
14 paragraph A1.3, we can see there it was agreed that
15 plenary meetings of the JMC would be held at least once
16 a year. They would consist of the Prime Minister (or
17 his representative) who would chair the meeting. And
18 then you have Scottish, Welsh first ministers, together
19 with ministerial colleagues, Northern Irish
20 First Minister and deputy First Minister, and then
21 secretaries of state and territorial
22 secretaries of state.

23 Now, the Inquiry has heard evidence that prior
24 to 2019 JMC meetings would generally take place, as was
25 envisaged in this memorandum of understanding, once

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1 a year. Is that your understanding?
 2 **A.** Well, my Lady, because I've been involved, as you heard,
 3 for so long, I have taken part in different capacities
 4 in meetings of this sort with every Prime Minister since
 5 devolution, other than David Cameron. So I started
 6 attending these meetings when Tony Blair was
 7 Prime Minister, continued under Gordon Brown, and then
 8 with Mrs May and her successors.

9 So, yes, and actually they would sometimes happen
 10 more frequently than that. And beneath the
 11 First Minister and Prime Minister JMCs, they were very
 12 active JMCs, which brought ministers together around
 13 a particular topic. William Hague, when he was
 14 Foreign Secretary, for example, put a great deal of
 15 energy into the JMC Europe, which brought ministers
 16 together in advance of key meetings of the European
 17 council.

18 So underneath the headline, there are other JMCs,
 19 and as I became a minister I participated in those
 20 particularly around Brexit.

21 **Q.** I think there was a JMC meeting on 19 December 2018,
 22 that was the first meeting you attended as
 23 First Minister. It was a meeting attended by the then
 24 Prime Minister, Theresa May, the First Minister of
 25 Scotland and the then head of the Northern Ireland Civil

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1 that did seem to me to be an extraordinary decision.

2 **Q.** Do you consider that Mr Johnson's seemingly deliberate
 3 choice not to meet with the devolved administrations had
 4 an impact on the Welsh Government's response to the
 5 pandemic?

6 **A.** I believe it did. I believe there are a series of
 7 reasons why it would have been preferable to have held,
 8 not -- I was never, my Lady, asking for meetings
 9 happening, you know, every week. To my mind, at the
 10 height of the pandemic, had we met once in a three-week
 11 cycle, that would have been sufficient. But I think
 12 there are a number of purposes that would have been
 13 properly discharged in such a meeting. I think it
 14 would, to use the Prime Minister's term, have been
 15 optically important for people in Wales and in other
 16 parts of the United Kingdom to see the heads of their
 17 nations coming together at a moment of such national
 18 peril.

19 I think if we had not reached uniform decisions by
 20 coming together, we would have reached joint decisions.
 21 So the fact that you would be in the same room as
 22 others, you might not come to the identical conclusion,
 23 but you would all know what everybody else was deciding,
 24 and I think that would have strengthened arrangements.

25 And even if you hadn't managed to do that, I always

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1 Service in the absence of a Northern Irish Executive.

2 That was the last JMC plenary session before
 3 Theresa May resigned in May 2019. Am I right that there
 4 were no JMC plenary meetings throughout the pandemic?

5 **A.** None.

6 **Q.** Mr Johnson, former Prime Minister, has said in his
 7 witness statement to the Inquiry in Module 2 that he
 8 chose not to meet with the first ministers of the
 9 devolved administrations because, in his view, that
 10 would have been optically wrong for fear that this would
 11 give a false impression that the UK was a federal state.

12 What is your reaction to that statement?

13 **A.** Well, I think I shared the reaction of
 14 Professor Henderson, who said in her written statement
 15 and in her oral evidence that that was one of the most
 16 extraordinary statements she had come across in her very
 17 long career of academic study in these matters.

18 As you know, I wrote very regularly to the
 19 Prime Minister asking for a predictable series of
 20 meetings between the heads of the four nations. It had
 21 never occurred to me until I read that, that the
 22 Prime Minister had turned those requests down, not on
 23 practical grounds, which I could understand, you know,
 24 these are very busy times and he's a very busy man, but
 25 as a matter of policy he had decided not to meet, and

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1 thought that the primary reason for coming together was
 2 that you would simply understand better what other
 3 leaders of the nations were facing in their own areas of
 4 responsibility, how they were proposing to address those
 5 challenges, the repertoire of different policy levers
 6 they may have wished to use, and as a result --
 7 for example, had I known more about what the
 8 First Minister of Northern Ireland was facing and what
 9 she was thinking and doing, that would have informed my
 10 decisions, and those would have been better decisions as
 11 a result of having an insight into what other people in
 12 a similar position were facing.

13 Finally, I think regularity of meetings improves
 14 trust, and in a pandemic, when things are moving so
 15 quickly, and sometimes with such difficult moments,
 16 trust is a very special commodity. And I think if you
 17 look at the meetings with Michael Gove, by the time
 18 we've met weekly for about six weeks, you can just see
 19 how the conversation is different, how it flows more
 20 freely, how people are franker with one another, because
 21 they have become used to being in each other's company
 22 and having those sorts of discussions, and I felt that
 23 had we been able to do that at the prime ministerial and
 24 first ministerial level, we would have had greater trust
 25 in that relationship and that would have been a good

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1 thing.

2 **Q.** In the absence of JMC plenary meetings, COBR was the
3 highest form for interaction between the four UK
4 governments, and we'll obviously come on to specific
5 COBR meetings in due course but I just want to ask you
6 some general questions about the Welsh Government's
7 involvement in COBR.

8 Now, COBR meetings are obviously controlled by the
9 UK Government; this means that the UK Government decides
10 when they are called and whether or not the devolved
11 administrations are to be involved.

12 You make a point in paragraph 19 of your Module 2
13 witness statement, you say that the production of papers
14 to be used at COBR meetings rests exclusively with
15 the UK Government. In practice, this meant that you did
16 not see COBR meetings(sic) until shortly before the
17 meetings in fact took place.

18 Did you feel that and you other Welsh
19 representatives at COBR meetings were placed at
20 a disadvantage as a result?

21 **A.** Well, I want to acknowledge first of all that at this
22 point everybody is working under the most enormous
23 pressure, and there is very little luxury of time for
24 the production of papers or any other preparation for
25 a meeting. But it would undoubtedly be the case in

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1 as things would be leaked to the press.

2 Were you aware at the time that there were these
3 concerns being expressed within the UK Government?

4 **A.** Well, I would have been aware of anxieties in the
5 UK Government, but I would also have known that they
6 could not have pointed to a single example. I sat in
7 JMC after JMC with representatives of the Scottish
8 Government, sometimes talking about very sensitive
9 matters indeed in relation to Brexit, and there was not
10 a single example that the United Kingdom Government
11 could have pointed to where either the Welsh Government
12 or the Scottish Government put into the public domain
13 information that had been shared with us on
14 a confidential basis. So while I was aware of and to
15 an extent could understand anxieties, I don't think
16 there was an evidential basis for them.

17 **Q.** On 13 March, Mark Sedwill, then Cabinet Secretary, wrote
18 to the then Prime Minister.

19 We can see that letter at INQ000182338.

20 If we could have a look at page 2, fourth paragraph,
21 what is being proposed to the Prime Minister here is
22 setting up a "new rhythm of meetings", including a daily
23 9 am Prime Minister meeting with a small group of
24 ministers and key advisers.

25 Then if we can go over to paragraph 7, straddling

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1 practice that when you arrived at a meeting, and I would
2 be the only Welsh voice often at that table, other
3 UK ministers would already have had a discussion and
4 would already have had access to the information that
5 I might have seen often less than 20 minutes before the
6 meeting began.

7 In that sense you are at a disadvantage because you
8 are trying to grapple very quickly with information that
9 others have had longer to absorb and to think about.

10 **Q.** The Inquiry heard evidence in Module 2 and also
11 Module 2A that concerns were expressed by some within
12 the UK Government, perhaps most vocally by Mr Cummings,
13 about including the devolved administrations in COBR.

14 We see Mr Cummings' witness statement, INQ000273872,
15 paragraph 82 we're looking at:

16 "The COBR meetings with the Devolved Authorities
17 were particularly bad as Sturgeon immediately briefed
18 everything discussed to the media. They therefore
19 became even more scripted, formulaic and pointless than
20 the normal Cabinet. They were 'handling' meetings
21 rather than a place where issues were really hashed
22 out."

23 So the suggestion obviously being made there by
24 Mr Cummings is that there couldn't be an open discussion
25 at COBR when the devolved administrations were present

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1 pages 2 and 3, thank you.

2 "You will also need to decide how you want to
3 involve the Devolved Administrations. Instead of
4 inviting them to your 9 am meetings, I propose
5 continuing to including them in COBR as public service
6 delivery is where their main challenges will be.
7 I would also recommend a regular meeting with First
8 Ministers, either chaired by you or CDL [Chancellor of
9 the Duchy of Lancaster], to update them on the
10 response."

11 Were you aware of this proposal at the time? So
12 this is 13 March.

13 **A.** No.

14 **Q.** Now, we obviously know during the pandemic, and you've
15 already spoken about the calls that you had with
16 Michael Gove, and the fact that you were an advocate for
17 a reliable, regular pattern of contact between the
18 four nations, those calls started in June 2020. You
19 describe in your evidence, and you alluded to it in your
20 oral evidence this morning, that those meetings worked
21 well, you say in your written evidence, because all four
22 participants came to the meeting looking to share
23 information, solve problems and work together on agendas
24 of common concern, and you go on to say:

25 "... we were not turning up to be told what had

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1 already been decided whether we liked it or not."
 2 Now, is that alluding to how you considered
 3 effectively COBR to have operated?
 4 **A.** Well, wouldn't be a fair characteristic of the whole of
 5 COBR, because I took part in COBR debates which were
 6 genuine debates and where a variety of views were
 7 canvassed, but I also definitely took part in COBR
 8 meetings where the decision had already been made in
 9 advance of the meeting, and we were essentially involved
 10 in order to be told what the outcome would be.

11 But that wouldn't be the whole story.

12 **Q.** You say, it's paragraph 164 of your Module 2 witness
 13 statement, you describe Mr Gove as a skilful lead
 14 minister, but you say he was a centre forward without
 15 a team lined up behind him and where the manager was
 16 largely absent. Perhaps for those less familiar with
 17 football, can you explain what you mean by that.
 18 **A.** Well, the absent manager was the Prime Minister, because
 19 he was never at these meetings or at the table, and
 20 while Mr Gove was a senior minister with responsibility
 21 for these matters, whose voice would count in
 22 discussions with his colleagues, he has influence rather
 23 than the determinative impact which a message from the
 24 Prime Minister would have. A message from the
 25 Prime Minister to a Cabinet minister, says "I would like

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1 statement as being peripheral to your interaction with
 2 the UK Government, and go on to say that:
 3 "... the Secretary of State for Wales perceived his
 4 role as scrutinising the Welsh Government, constantly
 5 seeking explanations for policy differences and making
 6 inappropriate requests to be inserted into devolved
 7 decision-making structures and other groups."
 8 Now, when those criticisms were put to the Secretary
 9 of State for Wales, the then Secretary of State for
 10 Wales, last week, he said that scrutinising and
 11 interrogating decisions of the Welsh Government was very
 12 much part of his role and that effectively the Welsh
 13 Government should have been prepared for such scrutiny.

14 Now, do you agree and do you have comments on that
 15 evidence?

16 **A.** Well, of course the Welsh Government must be open to
 17 scrutiny, but the Welsh Government is scrutinised by the
 18 Parliament of Wales, by the Senedd that is directly
 19 elected by people in Wales to discharge that
 20 responsibility. Where the Secretary of State for Wales
 21 is concerned, again to try to be as even-handed as
 22 I can, where he discharged responsibilities that were
 23 his to discharge, he did so effectively. So, my Lady,
 24 during the progress of the pandemic, as you know, there
 25 were points when the Welsh Government sought the

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1 this to happen", is, in effect, an instruction. Mr Gove
 2 picking up the phone would have to say, "What do you
 3 think? Would this be a good idea?"

4 He's a persuader, and he's a skilful persuader, but
 5 that's what he is. And that's what I meant. There was
 6 a limit to the extent to which he was able to discharge
 7 the remit of leading a four nation approach across
 8 the UK Government.

9 **Q.** So would it be right to say that the calls with Mr Gove,
 10 whilst useful, in your view were not an adequate
 11 replacement for meetings with the first ministers and
 12 the Prime Minister during the pandemic?

13 **A.** They needed to be supplemented by some additional
 14 regularity of contact between first ministers.
 15 I wouldn't expect to meet the Prime Minister every week,
 16 and meeting Mr Gove every week was certainly useful, but
 17 at certain points in that weekly cycle a meeting with
 18 the Prime Minister would have allowed that head of
 19 government impact to have been brought to bear.

20 **Q.** Turning then briefly to the Secretary of State for
 21 Wales, who throughout the pandemic was Simon Hart, who
 22 the Inquiry heard from last week, I think it would be
 23 fair to say that you've made some quite pointed
 24 criticisms of the role played by Mr Hart during the
 25 pandemic. You describe him in your Module 2 witness

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1 assistance of military authorities, and there's
 2 a process, the MACA process, military assistance to
 3 civil authorities, the Secretary of State for Wales has
 4 a formal part to play in that process, and he always did
 5 it perfectly satisfactorily. He was always, you know,
 6 there when he was needed, he always moved the process
 7 along by discharging his responsibility. So where he
 8 had a role to play, I've got no complaints about what he
 9 did.

10 My difficulty was, particularly in the early days,
 11 with frankly, I think, very little else to do, the
 12 Secretary of State filled his days by writing letters to
 13 me asking me about the Welsh Government's
 14 responsibilities. And the risk was that he was
 15 beginning to get in the way of our ability to do the
 16 things that we needed to do. At one point I had to
 17 write to him and explain that I couldn't go on giving
 18 a priority to my scarce officials' time with so many
 19 other things to do to replying to correspondence from
 20 him about things for which he had no responsibility and
 21 for which I am accountable not to the Secretary of State
 22 for Wales at all but to the Parliament of the Welsh
 23 people.

24 **Q.** One of the roles of the Secretary of State for Wales is
 25 to act as a voice for Wales within the UK Cabinet. Did

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1 you consider that Mr Hart acted as a voice for the Welsh
 2 Government at UK Cabinet during the pandemic?
 3 **A.** UK Cabinets have some hierarchical implications within
 4 them, and the Secretary of State for Wales is not to be
 5 found near the top half of that hierarchy. I'm afraid
 6 I would say that the Secretary of State for Wales was
 7 far more the voice of the UK Government in Wales rather
 8 than the voice of Wales in the UK Cabinet.
 9 **Q.** Now, you've mentioned several times in your written
 10 evidence and also this morning the effectiveness of the
 11 approach that Michael Gove took in the meetings that you
 12 had with him, effectively acting as a key link person
 13 between the UK Government and the devolved
 14 administrations.
 15 In your view, in the event of a future pandemic,
 16 where does that leave the territorial offices, the
 17 Scottish Office, the Wales Office, the Northern Irish
 18 Office? Are those offices being made redundant? Do you
 19 see them having a different role or should they have
 20 a different role in the event of a future pandemic?
 21 **A.** Well, my Lady, this is a much broader question, and well
 22 above my own responsibility.
 23 **LADY HALLETT:** It may be way beyond my terms of reference by
 24 the sounds of it.
 25 **A.** Shall I just say in general terms that, you know, cases
 21

1 implemented and in any event, you say, they "need to be
 2 animated by the necessary cooperative spirit for them to
 3 take the strain of responding to a prolonged and
 4 profound emergency".
 5 My question is simply this: in the event of a future
 6 pandemic, do you believe that these new arrangements for
 7 intergovernmental working will be effective?
 8 **A.** Well, I think they will be more effective than the ones
 9 we had to rely on during the pandemic. They are still
 10 very new, they're still not fully tested. The
 11 ministerial committee, the top tier of this, didn't meet
 12 at all in 2023, hasn't met now for 18 months.
 13 So partly that, my Lady, is because there has not
 14 been an Executive in Northern Ireland, so there are
 15 sensible reasons why it's been difficult to do so, but
 16 that's partly what I meant by saying that structures are
 17 important and it's important to get them right, but
 18 structures by themselves will not be sufficient. There
 19 has to be an approach to the structures, there has to be
 20 a commitment to them, there has to be a willingness to
 21 make the structures work. You can have all the
 22 structures you like on a piece of paper but if the
 23 people involved in them don't approach them in that
 24 spirit they won't deliver what is needed.
 25 So I think --
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1 have been made for a territorial office in the
 2 UK Government, a single Secretary of State, with second
 3 tier ministers for Scotland, Wales and Northern Ireland,
 4 but that's a matter for the Prime Minister of the day,
 5 quite definitely not for me.
 6 **MR POOLE:** I think, Mr Drakeford, the reason I asked the
 7 question is because we're coming to the
 8 intergovernmental reforms that we started off speaking
 9 about that were then reported on in January 2022.
 10 Perhaps if we can just have a look at that report
 11 briefly.
 12 It's INQ000083215.
 13 A couple of other witnesses earlier in the Inquiry
 14 have been taken to this, and this establishes a new
 15 framework, a new set of structures for managing
 16 intergovernmental relations.
 17 And perhaps briefly if we can have a look at
 18 paragraph 11 on page 3.
 19 So the new framework that supersedes the JMC system
 20 provides this three-tier committee structure, and all
 21 four nations, as I understand it, have agreed to work
 22 under these new arrangements.
 23 You say at paragraph 201 of your Module 2 witness
 24 statement, you make the point that the new
 25 intergovernmental arrangements have never been fully
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1 **LADY HALLETT:** Sorry to interrupt. Do you want to finish
 2 the sentence?
 3 **A.** No, no.
 4 **LADY HALLETT:** Do you understand the structure? Because
 5 I confess I find it really rather difficult. There's
 6 inter-ministerial groups, inter-ministerial standing
 7 committees and time-limited inter-ministerial
 8 committees. Not exactly straightforward to understand.
 9 **A.** No, it's overcomplex, I think. And I think that's one
 10 of the things we've learnt since the structure came into
 11 being. It needs to be streamlined and pared back.
 12 Essentially, though, it has three levels. It has
 13 ministers meeting in their own portfolio areas. There
 14 are two committees then which stand over that, the
 15 inter-ministerial standing committees, one dealing with
 16 finance, one dealing with other things. And then, at
 17 the top of this pyramid, a council of ministers which
 18 involves the Prime Minister and the first ministers.
 19 But I would agree with you, my experience of this so
 20 far is it's overelaborate.
 21 **MR POOLE:** I want to next ask you, Mr Drakeford, some
 22 questions about information sharing between the
 23 four nations, particularly the sharing of scientific
 24 information, and start with some questions about SAGE.
 25 In January and February the Welsh Government's
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1 primary source of scientific and medical information
 2 about the virus came from SAGE, and you say at
 3 paragraph 30 of your witness statement for Module 2 this
 4 was a comfort to you at that early stage of the pandemic
 5 to know that SAGE would meet regularly. However, as
 6 we've seen, the first five SAGE meetings went ahead
 7 without any representatives of the Welsh Government.
 8 Did that concern you, that those early SAGE meetings
 9 going into early February didn't have a Welsh voice
 10 round the table?

11 **A.** Well, there are a number of answers to that.

12 First of all, we were fortunate, and I don't think
 13 it's anything more than that, fortunate that our Chief
 14 Scientific Adviser for Health, Rob Orford, was
 15 well known and well connected to people who were on
 16 SAGE, so I always felt we had a direct line into the
 17 SAGE discussions. As that month moved on, I did come to
 18 be more anxious that we had somebody in the room while
 19 those discussions were taking place, rather than having
 20 a good read-out of the discussions, and particularly --
 21 this is slightly later on -- anxious about our ability
 22 to put questions directly to SAGE that were pertinent to
 23 Wales.

24 But in those very early days, it did not occur to me
 25 that there was a particularly Welsh angle on what was

25

1 deliberations.

2 **Q.** You identify another issue with SAGE at paragraph 30 of
 3 your Module 2 witness statement. You say there was no
 4 reliable protocol which made it clear that SAGE in fact
 5 worked for all four nations and not just for England,
 6 and you give two reasons for that: first, you say you
 7 had to ask COBR to make SAGE advice available to the
 8 Welsh Government; and secondly, you could not ask SAGE
 9 to carry out any bespoke research without prior
 10 agreement from COBR. Is that right?

11 **A.** That is right.

12 **Q.** Now, the Technical Advisory Cell that was set up on
 13 27 February, and the Inquiry's heard evidence that that
 14 was set up because SAGE outputs needed to be interpreted
 15 into a Welsh context. But given the lack of Welsh
 16 representation at SAGE, the fact that SAGE papers were
 17 not being shared with the Welsh Government until,
 18 I think it's early April, the limitations on
 19 commissioning that you refer to in your witness
 20 statement and the lack of Welsh-specific interpretation
 21 until you get TAC and TAG set up, was it the case in
 22 January and February that the Welsh Government was not
 23 really in a position to question any of the advice that
 24 was coming out of SAGE?

25 **A.** I don't think we were not in any position, because, as

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1 a global phenomenon. So SAGE in those early days is
 2 less concerned with domestic impacts than in collecting
 3 the information on what was happening elsewhere in the
 4 globe, and at that point I did not myself see that there
 5 was a particularly Welsh angle or contribution to that.

6 So in the beginning I didn't have concerns; they did
 7 grow a little as the weeks went by.

8 **Q.** The Inquiry heard evidence in Module 2 from
 9 Professor Henderson that SAGE data and advice had
 10 an English frame of reference. From what you've just
 11 said, do you agree with that?

12 **A.** Well, I do agree with it to an extent. The
 13 United Kingdom is a voluntary association of
 14 four nations, but they're very different in size and
 15 scale. So if you have a population of 55 million to
 16 draw evidence from, that's always going to provide you
 17 with a richer source of evidence than a population with
 18 3 million. So, you know -- so in some ways I don't
 19 think we should be surprised that a lot of the
 20 information that SAGE has is from the largest nation.
 21 However, there were times when there would have been
 22 specific dimensions that were pertinent to Wales where
 23 you struggle a bit to see where SAGE was finding the
 24 evidence it might have needed to make sure that Welsh
 25 circumstances were being taken into account in its

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1 I said, our Chief Scientific Adviser in health was well
 2 connected to SAGE, able to let us know what was
 3 happening, and able to ask questions on behalf of Wales.
 4 But what I think happens is that the limitations that
 5 you enumerated get resolved over the weeks that those
 6 issues come to the fore. So today you would hope that
 7 those things would have been in place from the
 8 beginning. They weren't, but they were identified and
 9 they were resolved.

10 **LADY HALLETT:** But if you had growing concerns that the
 11 Welsh-specific features weren't being reflected in SAGE,
 12 couldn't you have set up TAG and TAC earlier to get the
 13 Welsh-specific focus?

14 **A.** I think if all this were to happen again, you would hope
 15 that TAG and TAC would be there from the beginning. But
 16 I think, as I say, these realisations are dawning as
 17 the weeks go by and where you begin to realise some of
 18 the limitations of your starting point. And then we do
 19 set up TAG and TAC, and I was always extremely grateful
 20 for the people who provided their time and their
 21 expertise to us in that way. And even if we in a future
 22 event had better representation at SAGE, better access
 23 to their information, better ability to ask them to do
 24 work for us, I'd still have TAG and TAC, I wouldn't not
 25 have them, because I think the job they did in turning

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1 that more general information into specific advice for
 2 Wales would still be very, very valuable.

3 **MR POOLE:** So as well as TAG and TAC being established
 4 earlier, in the event of a future pandemic you would be
 5 calling for Welsh representatives to be on SAGE from the
 6 outset?

7 **A.** To my mind, that would be an important lesson of the
 8 experience that we lived through.

9 **Q.** As well as SAGE, information about the virus in January
 10 and February was obviously being relayed to you and the
 11 Welsh Government through participation in COBR meetings.
 12 The first three COBR meetings were 24 January,
 13 29 January and 5 February.

14 Now, Welsh Government was represented by
 15 Vaughan Gething in his capacity as minister for health
 16 and social care at those meetings. Those initial COBR
 17 meetings and indeed, I think, the next two -- so 18 and
 18 26 February -- they were chaired by the Secretary of
 19 State for Health, Mr Hancock, and it's not until 2 March
 20 that we see the first meeting being chaired by
 21 Mr Johnson.

22 Now, it is obviously quite permissible for COBR not
 23 to be chaired by the Prime Minister. Indeed, it can be
 24 chaired by any official. You, however, commented in
 25 your evidence that there is a clear enough case for

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1 agree to that proposition. First of all, at that point
 2 the approach to the pandemic is still very health
 3 dominated, it's still being dealt with in the Department
 4 of Health in London and the actions inside the Welsh
 5 Government are very much concentrated around our health
 6 minister as well. So I think a health minister going to
 7 a COBR chaired by the health minister of the
 8 UK Government to talk about health matters is not
 9 unreasonable.

10 The second point is -- of course, is that
 11 Vaughan Gething is a very senior minister in my
 12 ministerial team and I have full confidence that he will
 13 represent the Welsh Government and Welsh interests in
 14 the fullest extent.

15 **Q.** Obviously we understand that there would have been
 16 discussion in those early COBR meetings about public
 17 health matters, and at that stage the virus had not been
 18 declared a pandemic, but by mid-January it had spread to
 19 Thailand and Japan, you had UK scientists reporting
 20 a 12% hospitalisation rate, and there was already
 21 evidence of limited human-to-human transmission, so in
 22 an over-arching sense, as First Minister, do you not
 23 think you should have involved yourself in those early
 24 discussions concerning what would have been, on any
 25 view, a very worrying virus?

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1 concluding that the Prime Minister should have chaired
 2 earlier COBR meetings, but you say not for the purposes
 3 of reaching different outcome in terms of the work done
 4 by COBR but in terms of giving a greater impression that
 5 the crisis was being taken seriously.

6 Is that right?

7 **A.** Yes. So, my Lady, I've attended many COBR meetings not
 8 to do with the pandemic at all, but other crises, and
 9 it's very ordinary for them to be chaired by the
 10 minister with the greatest direct responsibility for
 11 them. So the fact that the Prime Minister was not there
 12 at the beginning, I shouldn't -- I don't think people
 13 should read that as something extraordinary.

14 But as the pace of concern begins to gather, I think
 15 in retrospect you could say that the Prime Minister's
 16 involvement in chairing COBR earlier than he did would
 17 have sent a stronger signal about the seriousness with
 18 which the gathering storm was being taken.

19 **Q.** Now, the first COBR meeting that you attended was
 20 18 February, so you did not attend the first three
 21 meetings. I mean, might it be said that your
 22 non-attendance at those first three meetings indicated
 23 that the unfolding crisis was not being taken seriously
 24 by the Welsh Government.

25 **A.** Well, I think there were two reasons why I wouldn't

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1 **A.** I think as you have said, the discussions were focused
 2 on health evidence and health responses, and at that
 3 point I believed that the person best placed to
 4 represent the Welsh Government in those discussions was
 5 the person with those health responsibilities in the
 6 Welsh Government.

7 **Q.** The COBR meeting that you attended on 18 February, if we
 8 can just see those minutes, please.

9 It's INQ000056227.

10 This was a meeting chaired by the Secretary of State
 11 for Health and Social Care, Mr Hancock.

12 Have a look, please, at page 5, the -- and we see
 13 there you were dialled in as First Minister for Wales.

14 Paragraph 2 on page 5, there's an update there on
 15 the current situation. If we can have a look at
 16 paragraph 3, the next paragraph, please, you're told
 17 there's nine positive cases confirmed in the UK,
 18 discussion about repatriation of UK nations from the
 19 Diamond Princess cruise ship.

20 If we can go to page 6, please, paragraph 11,
 21 there's discussion about what legislation would be used
 22 to respond to Covid-19. It's stated there:

23 "... any Bill would ... be employed on a Reasonable
 24 Worst Case Scenario ... It was not for [COBR] to decide
 25 whether to legislate [or not]."

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1 Then if we can just, finally, go over the page to
2 paragraph 13, there is a legislative policy paper
3 introduced, and the chair, Mr Hancock, emphasised that
4 any Bill would cover the four nations of the UK.

5 If we can just, please, have a look at that
6 legislative policy paper.

7 It's INQ000049396. If we can just zoom in on
8 paragraph 2, please.

9 It makes clear here that the final decision on what
10 provisions the proposed Bill would contain, when to
11 introduce it and of course its parliamentary handling
12 will be taken by Number 10 and the Parliamentary
13 Business and Legislation Committee "in light of the
14 latest scientific evidence from SAGE".

15 So just pausing there, this is 18 February. You
16 understood from the outset, didn't you, that the choice
17 of legislation pursuant to which emergency powers would
18 be exercised would be a decision for the UK Government?

19 **A.** That was my very clear impression at that time. And
20 because legislation was to be discussed at that meeting
21 is one of the reasons why I attended it myself, because
22 you're now going beyond the health brief itself, and the
23 fact that the committee would not be able to make those
24 decisions without the Prime Minister being there I think
25 is another argument for why the Prime Minister might

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1 provisions which existed for the introduction of
2 emergency powers under the Civil Contingencies Act; is
3 that right?

4 **A.** That was my assumption at that time.

5 **Q.** Now, the legislative response was discussed again at
6 a COBR meeting on 26 February. It was a meeting chaired
7 by Mr Hancock, attended I think by Vaughan Gething and
8 Dr Atherton on behalf of the Welsh Government.

9 You comment on this. We don't need the minutes, but
10 perhaps we can just see what you say in your witness
11 statement.

12 It's INQ000273747, and it's paragraph 23. Thank you
13 very much.

14 You say:

15 "My understanding is an emergency Coronavirus Bill
16 was thus considered to be the legislative vehicle. The
17 discussion around the legislative options was from the
18 viewpoint of the UK Government -- it was the
19 UK Government that exercised the relevant powers in the
20 Civil Contingencies Act. However, my own impression, at
21 the time, was that the Coronavirus Bill would mirror the
22 essential scheme of the Civil Contingencies Act and that
23 the primary decision-making power would remain with
24 the UK Government, to be implemented by the devolved
25 governments."

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1 have chaired COBR a little earlier than he did.

2 **Q.** Now, we obviously know that the UK Government had on its
3 statute books the Civil Contingencies Act 2004. It also
4 had on the statute books the Public Health (Control of
5 Disease) Act. Under the former, so under the Civil
6 Contingencies Act, you'd have understood that decisions
7 would be made by the UK Government and the Welsh
8 Government would act as a Category 1 responder, so
9 effectively implementing decisions made by the
10 UK Government, whereas under the Public Health Act it
11 would be the Welsh Government making the actual
12 decisions for themselves.

13 We can agree, can we, that the choice of legislation
14 used to respond to the pandemic, that would have huge
15 implications for the devolved administrations and the
16 type of structural response to the pandemic across
17 the UK?

18 **A.** Absolutely.

19 **Q.** You say in your Module 2 witness statement, it's
20 paragraph 22, your assumption at the 18 February COBR
21 meeting, so the minutes that we've just looked at, was
22 that the response to the Covid-19 would be
23 a UK Government response and the decisions would be
24 taken by the UK Government. So your assumption at that
25 time was the UK's response would be based essentially on

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1 Now, your impression in late February was, as you
2 say there, that the UK Government would be introducing
3 the legislation mirroring the essential scheme of the
4 CCA and primary decision-making would remain with
5 the UK Government.

6 Did you voice or did you have any concerns about
7 that legislative response to the pandemic at that stage,
8 or were you content that that was the appropriate
9 response?

10 **A.** Well, Welsh Government officials are engaged in
11 discussions about the Bill, so I'm not anxious about not
12 having a voice in the process.

13 My own impression at the time was that UK Government
14 ministers' primary objection to using the Civil
15 Contingencies Act was that it required them to go to
16 Parliament every seven days in order to renew the powers
17 that they were exercising, and that they felt that that
18 would be overburdensome in the circumstances of
19 a pandemic. So my belief was that in the emergency Bill
20 they would continue to take the suite of powers that the
21 Civil Contingencies Act provided to them but make them
22 more workable from their point of view.

23 **Q.** If we can just look at the next six lines of this same
24 paragraph, where it says:

25 "I had not anticipated that the UK Government would

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1 use the health protection legislation as the basis for
2 responding to the pandemic. Once that course of action
3 had been determined it placed an onus on the devolved
4 governments to pass corresponding legislation and below,
5 I comment further on the unintended consequences of this
6 decision for divergence."

7 Now, we'll talk about divergence in decision-making
8 and what you describe as unintended consequences of that
9 decision a bit later. I'd just like to focus on when
10 the decision was taken to legislate using public health
11 powers as opposed to the CCA and the impact that that
12 had on Welsh Government decision-making.

13 You say, we don't need it pulled up, but it's in,
14 I think, your supplementary witness statement for
15 Module 2, at paragraph 4, you say:

16 "On or around 2 March ... the UK Government made the
17 decision not to use the [CCA] ..."

18 However, your understanding was that even if the
19 Coronavirus Act would be the legislative vehicle, the UK
20 would be the primary decision-maker. Once the Act had
21 received Royal Assent, implementation would be left to
22 the Welsh Government.

23 So your working assumption hasn't shifted at that
24 stage, by 2 March.

25 We then skip forward to a COBR meeting on 20 March,
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1 understand where these powers lie because public health
2 is not devolved".

3 So here is the Secretary of State for Health in
4 England getting the most basic thing entirely wrong. He
5 has advice from his lawyers, which is correct, that once
6 the decision had been made to use the 1984 powers then
7 the decisions would move to Scotland, Wales and
8 Northern Ireland and to ministers in London for England,
9 and that we would have an obligation to discharge those
10 responsibilities once they were placed in our hands.
11 But as late as 30 May the Secretary of State gets that
12 entirely wrong in his exchange with Mr Gove.

13 So if we were to look to the future and draw any
14 lessons from the experience, then getting clarity early
15 about the legal basis on which these most profoundly
16 consequential decisions were being made, I think
17 that's -- when you work your way through it again, it's
18 pretty alarming that on 20 March we are still resolving
19 this.

20 **Q.** Both nations knew that they had Public Health Act powers
21 on their own statute books. Just playing devil's
22 advocate, could it not be said that you ought to have
23 been -- rather than assuming it would be the CCA or
24 a new Bill but a version of the CCA that would be used
25 as the legislative vehicle to respond to the pandemic,
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1 and you deal with this at paragraph 52 of your Module 2
2 witness statement and you say this:

3 "The meeting recommended that the Public Health
4 Act 1984 be used rather than the [CCA] as the legal
5 basis for government action in responding to the
6 pandemic."

7 I'm right in saying, aren't I, that that 20 March
8 COBR meeting, that was the first time that you were told
9 that public health powers would be used to respond to
10 the pandemic?

11 **A.** My Lady, I do think this is a profoundly important part
12 of the debate, and I know the dangers of looking
13 retrospectively at these things, but the lack of clarity
14 over the legislative basis for the powers that would be
15 needed continued all the way through March. My belief
16 right up until 20 March is that the essential decisions
17 would remain in the hands of the UK Government and that
18 devolved governments would be implementers of those
19 decisions.

20 Even at 20 March there is further confusion over the
21 next couple of days as to where the ability to exercise
22 public health powers lie, and there is an extraordinary
23 exchange of messages between Mr Gove and Mr Hancock on
24 30 May in which Mr Hancock says "I've seen this
25 submission, it's disgraceful that lawyers don't
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1 should you not have been questioning that as far back as
2 18 February when there's the first discussion about
3 legislative response, and asking, "Well, where are we?
4 Where is this going?" Given that it has, as you say,
5 such a profound impact.

6 **A.** Well, I think that would have required quite
7 an imaginative leap on the part of the Welsh Government.
8 COBR is constructed on the basis that the CCA lies
9 behind the decisions that it will take and there was no
10 suggestion at all that this was going to be any
11 different. All the discussions about legislation seemed
12 to me to be clearly on the premise that decision-making
13 in a national emergency would lie in the hands of UK
14 ministers. So I think it would have been quite,
15 you know, a sort of side-step for the Welsh Government
16 to say "But surely there's a different way of doing this
17 using powers we've already got". And, you know, quite
18 clearly that had not occurred to me, because 20 March is
19 the first point at which I begin to realise that this is
20 a looming reality.

21 **Q.** You say in your evidence that once the decision had been
22 taken, this was a decision that you agreed with because
23 health is a devolved matter, and using public health
24 powers would allow the Welsh Government to respond to
25 Wales' specific circumstances.
40

1 And you go on to say, it's paragraph 195 of your
2 Module 2 witness statement, that once the determination
3 was made to rely upon public health powers, the
4 responsibility for decision-making was dispersed to each
5 UK nation and you believe that this allowed the Welsh
6 Government, in your words:

7 "... to calibrate a response which reflected our
8 particular circumstances, and which sustained the broad
9 support of Welsh citizens."

10 Again, I suppose it's a similar theme to my last
11 question. If you agreed -- once the decision had been
12 made and you agreed with the use of public health powers
13 for all of those reasons you explain in your witness
14 statement, why were you not advocating on behalf of
15 Wales for public health powers to be used to respond to
16 a pandemic, rather than the CCA or a version of the CCA?
17 **A.** Because until 20 March there was no suggestion at all
18 that that was the turn of thinking that the
19 UK Government had come to. Once they -- once they do
20 come to it -- maybe I would have changed one word in my
21 own statement when I heard you read it: it isn't simply
22 that the decision to use public health powers "allows"
23 Welsh ministers, it requires Welsh ministers. These now
24 become your responsibilities, you have no option but to
25 exercise them because the responsibility has been placed

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1 you've just given, the Inquiry has heard evidence in
2 Module 2 from some UK Government ministers and former
3 ministers that they regret the decision not to use the
4 Civil Contingencies Act to respond to the pandemic.
5 Mr Johnson in his evidence in Module 2 has said that in
6 the event of a future pandemic, the UK should be treated
7 as a single epidemiological unit and that the best
8 approach is a UK-wide one with no differences between
9 the four nations, and that evidence was echoed by
10 Simon Hart at the end of last week when he gave evidence
11 to the same effect.

12 Do you agree that the best approach in the event of
13 a future pandemic is a UK-wide response, or would you
14 see a response, as with this pandemic, by using the
15 Public Health Act again?

16 **A.** Well, I definitely don't think that the evidence
17 suggests to me that decisions made in London would have
18 been better decisions as far as Wales is concerned. We
19 are just inevitably closer to the ground, more aware of
20 administrative structures, alert to the different
21 patterns of the disease. In the Welsh case, simply
22 better able to communicate in the bilingual way in which
23 Wales operates. So I definitely don't agree that better
24 decisions would have been made from Whitehall than in
25 Wales. I think there is a different way, however, in

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1 in your hands.

2 **Q.** Coming back to the point I said we'd pick up on about
3 unintended consequences that you refer to in your
4 witness statement. Was that something that you thought
5 at the time was appreciated by the UK Government?

6 **A.** I think that's probably what I meant when I used the
7 words "unintended consequences". I don't think it was
8 apparent to UK ministers at the time, but by placing
9 that responsibility at the nation level, that meant that
10 there would now be decisions being made by others over
11 which they had no direct control. So I think that was
12 a dawning realisation for UK ministers.

13 You can begin to see it as early as 23 March,
14 though, the decision of COBR in lockdown, because there
15 are already nuances that are different there. There's
16 a discussion in which the Mayor of London, myself and
17 the First Minister of Scotland are arguing that
18 construction sites ought to be covered by the new
19 arrangements, and the UK Government is taking
20 a different view. So there are already small signs from
21 the very beginning that there would be some differences
22 in implementation, but I think it was a dawning process
23 rather than a clearly plumbed-in recognition from the
24 outset.

25 **Q.** Now, perhaps, Mr Drakeford, for some of the reasons that

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1 which strengthened ability to co-ordinate between the
2 four nations would have been preferable to the pattern
3 that we ended up with, and that that would have allowed
4 a different degree of co-ordination and joint
5 decision-making that we ended up, and that's
6 a preferable way, I think.

7 **Q.** Before we leave the question of divergence, you will
8 have been aware that both Mr Johnson and Mr Hart have
9 given evidence to the Inquiry that there was a risk of
10 the devolved administrations being, in their words,
11 different for the sake of being different, and in fact
12 Mr Hart arguably went further and stated that the Welsh
13 Government actively sought differentiation for no other
14 reason than to be different and to set Wales apart from
15 the other nations in the UK.

16 Was the need to be different for the sake of being
17 different ever part of your thinking or the thinking of
18 the Welsh Government?

19 **A.** Well, I absolutely refute the assertion of the Secretary
20 of State for Wales, for which I notice he provided no
21 evidence at all.

22 My Lady, I am a believer in the United Kingdom.
23 You know, I lead a government that wants the
24 United Kingdom to succeed, and faces considerable
25 political opposition from people who believe that Wales'

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1 future would be better separated from the
 2 United Kingdom. I had no motivation of any sort to make
 3 decisions for the sake of being different, and I think
 4 my effort through the whole pandemic is to try to find
 5 better ways of coming together to make better informed
 6 decisions. And I don't think the Prime Minister or the
 7 Secretary of State could offer you a single specific
 8 instance to justify the charges that they have made.

9 **Q.** Moving away now from legislation, devolution,
 10 divergence, and ask you some questions about the Welsh
 11 Government's initial response in the early months of
 12 January to March 2020.

13 You say in your evidence that although you were
 14 aware of Covid-19 in January and February, it was not
 15 a priority of the Welsh Government, and you go on to say
 16 that, as February 2020 moved on, responding to the
 17 extreme and adverse weather conditions that caused
 18 widespread and significant flooding throughout Wales
 19 was, your words, the most urgent matter facing the
 20 government, and it wasn't until March that Covid moved
 21 up the Welsh Government's priority list until it became
 22 the most significant matter.

23 Is that a fair characterisation of the position?
 24 **A.** Well, the early months of 2020 are dominated, from
 25 a Welsh Government's perspective, by the risks of
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1 there was a significant risk that the virus would arrive
 2 in Wales. That's right, isn't it?

3 **A.** It is.

4 **Q.** Now, despite that warning being given on 24 January,
 5 Covid-19 is not discussed by the Welsh Cabinet until
 6 25 February. Now, given that Cabinet is charged with
 7 making, as we've discussed, any of the key decisions
 8 relating to pandemic response, is it surprising for
 9 there to have been no discussion at Cabinet for more
 10 than a month after you're given that warning by the
 11 Chief Medical Officer about a significant risk of the
 12 virus arriving in Wales?

13 **A.** I think if I could, my Lady, it's just important to
 14 provide a small amount of context here.

15 The Welsh Government is a very small government, we
 16 have nine Cabinet ministers, we all work with our
 17 offices next door to one another. It's very, very
 18 different to Whitehall, where ministers are scattered,
 19 necessarily, across a wide geography, and where the only
 20 time they come together is when they're in the Cabinet
 21 Room.

22 The fact that there was no discussion at Cabinet
 23 until 25 February should not be read at all as there
 24 being no discussion between Cabinet colleagues, because
 25 there was a great deal of discussion between Cabinet
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1 a no-deal Brexit, which was imminent, by winter
 2 pressures in the health service, which are always at
 3 their most pressing in early January, in our anxieties
 4 to pass a budget through the Senedd, we're a government
 5 with a very slim majority and you've got to pass
 6 a budget, and by the first part of February we are
 7 dealing with very significant 40-year adverse weather
 8 events that affect thousands of people. So those are
 9 the front-of-desk preoccupations during those
 10 early weeks.

11 It is not to say, of course, that we are not aware
 12 of what is happening elsewhere in the world or engaged
 13 in keeping ourselves properly informed about it. My
 14 colleague Vaughan Gething starts issuing weekly
 15 statements to the Senedd on 24 January, he starts
 16 issuing daily updates to ministerial colleagues on
 17 28 February -- 28 January, I'm sorry. Both of those are
 18 January dates, 24 and 28 January.

19 So before February begins, we are already alert to
 20 and engaged in making sure we are as well informed as we
 21 can be of what's happening elsewhere. But at that point
 22 it is happening elsewhere. There is not a single case
 23 in Wales, nothing you can point to that is directly
 24 affecting the Welsh population.

25 **Q.** On 24 January, you were advised by Dr Atherton that
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1 colleagues, in the way that we would normally transact
 2 business. So I would have spoken directly to
 3 Vaughan Gething after all the COBR meetings that he had
 4 discussed, and he would have been involved in other
 5 discussions with Cabinet colleagues.

6 At that point there is nothing for the Cabinet to
 7 decide. We're being kept well informed, we are
 8 discussing matters between ourselves. And then there
 9 comes a point when it becomes clear that the Cabinet is
 10 likely to be involved in cross-portfolio
 11 decision-making. At that point it becomes an item on
 12 the Cabinet agenda and very quickly it comes to dominate
 13 the work of the Cabinet.

14 **LADY HALLETT:** Isn't the point that it's not just a case of
 15 being kept informed, it's a case of making sure that
 16 people know what is going to happen on the ground, what
 17 preparations there are, for example for shielding
 18 vulnerable people, to check that there's surge capacity.
 19 It's not just monitoring. It's a point I made
 20 a Vaughan Gething, it's not just knowing what's going on
 21 around the world, it's: what are we going to do when it
 22 comes here? Which there's a significant risk it's going
 23 to.

24 **A.** So I think the question for me there is: at what point
 25 does the Cabinet shift from the being kept informed to
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1 needing to make decisions that would be necessary in
2 Wales? I think that point does not come for us until
3 the second half of February. Up until then, we are
4 essentially making sure that we're as well informed as
5 we can be, plugged into the knowledge that is available
6 at a UK level.

7 There comes a moment, and, you know, it's gathering
8 after that 18 February COBR meeting -- as I say,
9 I attended because I could see that we were moving into
10 a situation where legislation was going to affect not
11 just the health minister but the education minister, the
12 transport minister and the housing minister, and this
13 was going to become a cross-government preoccupation,
14 and that's when the Cabinet begins to discuss things.

15 **MR POOLE:** Mr Drakeford, you had some experience of planning
16 for epidemics as you had to deal with the Ebola outbreak
17 whilst you were health minister. During your time as
18 a special adviser to the First Minister there was a SARS
19 outbreak. I mean, given that experience, did you not
20 think or did you not realise in January 2020 the
21 importance of early action, the rapid scaling up of
22 resources, thinking about infection control measures,
23 and aren't they issues that ought to have been discussed
24 at Cabinet at that stage?

25 **A.** Well, the signal to me that we needed to move into that
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1 **Q.** Eluned Morgan gave evidence yesterday and she said that
2 if the Welsh Government were given their time again "we
3 would recognise that we probably should have been making
4 earlier preparations", throughout January and February.
5 Do you agree with that?

6 **A.** I think I've just said that that -- there's a very
7 plausible case for saying that, but that is with the
8 lens of hindsight applied to it. If we knew then what
9 we knew now, there are many things we might have done
10 differently with better knowledge. In the knowledge of
11 the time we moved when the signal to us suggested to us
12 that that was necessary.

13 **Q.** The Inquiry has heard evidence from various sources, I'm
14 thinking particularly of Professor Sir Chris Whitty, he
15 told Module 2 that he was under no illusions that the UK
16 was well set up to meet a challenge of a major pandemic
17 because he said he knew investment in healthcare had
18 been suboptimal, he knew that the planned flu plans,
19 such as they were, wouldn't necessarily stand up to the
20 challenges of the coronavirus, and also he was aware
21 that there was no sophisticated or scaled up test and
22 trace system, in contradistinction to some other
23 countries.

24 In general terms, in late January/early February,
25 were you aware of those concerns? Was that a viewpoint
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1 territory was the moment when chief medical officers
2 advised that the risk level to the United Kingdom and to
3 Wales has moved from low to moderate. Right until the
4 point at which the Cabinet begins to discuss things, the
5 advice from our chief medical officers is the risk to
6 Wales is low, and when that is your primary signal it
7 doesn't read to me like a signal that we need to start
8 mobilising in that purposeful way all the things that
9 you listed.

10 When the signal changes, and the signal is now it's
11 gone from being low to being moderate, that's the point
12 at which the Cabinet does become engaged in exactly that
13 list of considerations.

14 There's a very plausible case, my Lady, I'm not
15 denying it at all, that that signal should have been
16 read earlier, and that we should have been -- we should
17 have moved what we were doing some weeks earlier into
18 the year. But the signal wasn't there at the time. At
19 the time the signal is: this is a low risk. You know,
20 it's not -- it's not as pressing or right in front of
21 you as some of the other risks that we are dealing with,
22 but at the point that the risk level rises from low to
23 moderate you see the Welsh Government gearing itself up
24 and the Cabinet gearing itself up to grapple with some
25 of those matters.
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1 you shared in Wales?

2 **A.** Well, we would certainly have shared the view that
3 a prolonged period in which the funding of public
4 services was not what it needed to be would have left
5 the system more vulnerable to a sudden and major impact.
6 We would absolutely have understood and shared that.

7 I would certainly have been aware that we did not
8 have a test and trace capacity of the sort that we were
9 eventually able to mobilise. I received advice in the
10 middle of February that Wales had the capacity to carry
11 out 100 tests a day, and that in normal circumstances
12 that was, you know, sufficient to meet our needs, but it
13 clearly was not going to be sufficient to meet a mass
14 testing regime. So some of the points that the CMO for
15 England makes there I think would have been known to us.

16 **LADY HALLETT:** Just before we move -- can I go back -- I'm
17 sorry about this, Mr Poole -- can I go back to the
18 advice you were getting, Mr Drakeford. You said that
19 your CMO advised you in January of significant risk.
20 I always call "significant" a weaselly word on the basis
21 it can mean a lot of things to different people, but it
22 usually means something to mark, significant. And then
23 you say you're getting advised it was low risk that the
24 virus was coming to Wales.

25 Did you interrogate that advice and say, "Well, wait
52

1 a minute, back in January you said it was significant,
2 and therefore something that should be marked, and now
3 you're saying low"? Did you interrogate it? Did you
4 ask questions of why you were getting that advice?

5 **A.** We'd certainly have had opportunities to discuss it
6 directly with our Chief Medical Officer, but my
7 understanding at the time would have been the risk to
8 the United Kingdom is low, the chances of it coming here
9 are not significant, if it does come here then the risk
10 will be significant. That's the distinction I think
11 that was in my mind. You know, the risk of it happening
12 is not -- it's at the low end of the spectrum. If it
13 were to materialise, then the risk will be significant.
14 So I think you can understand that the Chief Medical
15 Officer was making two separate but linked points.

16 Shall I say that again? Is that --

17 **LADY HALLETT:** No, it's the distinction between there's
18 a risk of serious rain and a serious risk of rain.

19 **A.** Yes.

20 **LADY HALLETT:** I would have thought that "significant risk"
21 means that there is a likelihood or very real
22 possibility it's coming, so it's not a risk of serious
23 rain, it's a serious risk of rain.

24 **A.** Well, I agree, you can definitely read it that way. Had
25 that been the intention, I would have expected, though,

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1 would you agree it was always likely that Wales would
2 experience disproportionate levels of impact from
3 Covid-19?

4 **A.** Well, as we say, you know, "Wales, older, poorer,
5 sicker", so yes, of course that would always have been
6 in the mind of Welsh ministers. Health inequalities has
7 been a preoccupation of Welsh ministers throughout the
8 whole of the devolution period. So we would have been
9 aware of course of that.

10 **Q.** So even if the risk is low, the harm levels, given what
11 you say, older, poorer, they are higher, doesn't that
12 speak to taking earlier action?

13 **A.** I don't think that's an unfair point to make. Whether
14 by itself it would have been enough to make Wales what
15 would have been an outlier in the preparations that were
16 being made across the United Kingdom, I'm not sure that
17 it bears that much weight.

18 **Q.** I think in fairness to you, you do say in paragraph 17
19 of your Module 2 witness statement, you say:

20 "... looking back on matters and given what we now
21 know, there is strong evidence to suggest that more
22 stringent action could have and should have been taken
23 sooner."

24 I just want to explore with you briefly before we
25 take a break what stringent action you think ought to

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1 that the Chief Medical Officer would say "And therefore
2 these are the things you need to be doing now", and
3 there wasn't advice of that sort, either through
4 Sir Chris Whitty or through other chief medical officers
5 or in Wales at that point. So I think had the Chief
6 Medical Officer meant ministers to understand: "this is
7 coming and it's coming your way and you need ..." there
8 would have been "and you need to do this". But there
9 wasn't. And so I think that what he meant was the risk
10 is low. That's what we were being told. If it happens,
11 it will be significant.

12 **LADY HALLETT:** And that was accepted without interrogation.

13 **A.** Not with -- I wouldn't say without interrogation,
14 because we would have had an opportunity to discuss it.
15 But the fact that it was unanimously the view -- had
16 that been the idiosyncratic view of the Welsh CMO, then
17 you would have expected quite a lot of interrogation.
18 Given that he is mirroring the advice that all his
19 fellow chief CMOs are giving in every part of the
20 United Kingdom, I don't think you would have thought
21 that there were major alarm bells being sounded.

22 **MR POOLE:** Mr Drakeford, as well as assessing risk, one also
23 has to assess likely harms and, given the demographic
24 characteristics of the Welsh population, so specifically
25 the age profile of those aged over 65 and aged over 75,

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1 have been taken by the Welsh Government in January and
2 February and if I can just start with the Emergency
3 Coordination Centre of Wales.

4 The Inquiry has heard evidence from
5 Mr Quentin Sandifer. He was, between January and
6 November 2020, the lead strategic director in Public
7 Health Wales for Covid-19. He's told the Inquiry that
8 on 22 January he invoked the Public Health Wales
9 Emergency Response Plan at enhanced level and then
10 two days later, on 24 January, so coincidentally the
11 same day that you have a conversation with the CMO and
12 are advised of the significant risk of the virus
13 arriving in Wales, the Public Health Wales called on the
14 Welsh Government to stand up the Emergency Coordination
15 Centre.

16 He received a response from David Goulding, who
17 said:

18 "I don't see this event as it is currently moving
19 from being in the public health outbreak management
20 space and into civil contingency/multi-agency emergency
21 response."

22 And then that position was re-stated by the Welsh
23 Government on 3 March in an email to Public Health
24 Wales.

25 Dr Sandifer then spoke to, on 11 March, the date

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1 that the WHO declare Covid-19 a pandemic, the fact that
 2 Public Health Wales drafted a paper summarising the
 3 current situation in Wales and providing effectively
 4 an evidential summary of considerations that the Welsh
 5 Government should take into account in deciding whether
 6 to declare a major incident for health in Wales, and
 7 Dr Sandifer told the Inquiry feedback to that paper was
 8 that such a declaration would not be helpful and he said
 9 he was astonished that by early March the Welsh
 10 Government were not treating the pandemic as a civil
 11 emergency situation.

12 Looking back, is that something that you would do
 13 differently?
 14 **A.** Well, I think the first thing I have to say that I would
 15 not have been aware of any of those conversations.
 16 Those are going on between officials who are themselves
 17 experts in the Welsh response to an emergency. I cannot
 18 rule out the possibility that, had the Public Health
 19 Wales view been more directly communicated to ministers,
 20 that that would have made a difference to the actions
 21 that we took, but the system that we had, as you know,
 22 is that the Public Health Wales does not speak directly
 23 to ministers by routine, they speak to Welsh ministers
 24 via the Chief Medical Officer, who is the person charged
 25 with the oversight of the Public Health Wales functions.

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1 (11.16 am)

(A short break)

3 (11.30 am)

4 **LADY HALLETT:** Mr Poole.5 **MR POOLE:** Mr Drakeford, if we could start, please, with the
 6 25 February Cabinet meeting.

7 We can see the minutes at INQ000129852.

8 As we discussed earlier, this is the first Cabinet
 9 meeting to formally discuss Covid.10 If we can go to the last page, it's page 6, under
 11 "Any other business", we were told by Mr Gething we
 12 shouldn't read much, if anything, into that.13 5.3, please, Mr Gething is leading and addressing
 14 Cabinet at this stage. This paragraph was discussed at
 15 quite some length with Mr Gething when he gave his
 16 evidence. Do you have an independent recollection of
 17 what was said about there being imported cases into the
 18 UK or imported cases into Wales? I appreciate we are
 19 going back four years.20 **A.** Well, the minute is inaccurate. It doesn't reflect what
 21 was said at the Cabinet. As you know, some time later,
 22 before the minutes are published, I get sent them.
 23 I'm afraid, nailing my reputation for pedantry to the
 24 wall, I read them and go back in and say, "I'm sure that
 25 minute is inaccurate, that's not what was said", and the

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1 So I can't rule out, of course, that had those views
 2 come to us in the way that Dr Sandifer describes it
 3 might have made a difference, but that isn't the way
 4 that they were conveyed.

5 **Q.** Dr Sandifer says that what he thinks was missing was
 6 national strategic leadership and co-ordination from the
 7 Welsh Government. Is that a fair criticism? And he is
 8 talking specifically the period January to mid-February.

9 **A.** No, I don't think it is. Dr Sandifer, who I've worked
 10 with over many years and have a great deal of respect
 11 for, does not work in the Welsh Government. The fact
 12 that he's unable to see something happening does not
 13 mean that it is not happening. It just means that from
 14 the vantage point he has in Public Health Wales,
 15 an arm's length body that operates outside the Welsh
 16 Government, there were things going on that he didn't
 17 know about.

18 **MR POOLE:** My Lady, if that's an appropriate point to break.19 **LADY HALLETT:** Yes, of course, certainly.

20 As you know, Mr Drakeford, we take regular breaks.

21 I know -- I'm very conscious of all your other duties,
 22 and I promise you we will complete your evidence today.
 23 I'm sorry about the demands on your time.24 **THE WITNESS:** Not at all.25 **LADY HALLETT:** 11.30, please.

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1 minute is corrected.

2 **Q.** You, just to clear this up as well, do deal with this in
 3 your witness statement for this module.

4 It's INQ000371209, at page 25, paragraph 77.

5 You say there:

6 "It was noted that the Minister for Health and
 7 Social Services had been updating Senedd members ... The
 8 risk to the UK was described as moderate. Information
 9 was ... shared across all four ... Travel advice ...
 10 Public ..."

11 So four lines up from the bottom:

12 "There had been no imported cases into the UK."

13 So that error from the minutes has crept into your
 14 witness statement. That is also an error; is that
 15 right?16 **A.** Yes, it is.17 **Q.** What is perhaps striking about these minutes is that
 18 the -- and perhaps if we just go back to them, it's
 19 INQ000129852, please -- is there's no consideration by
 20 Cabinet of what steps should be taken to stop the virus
 21 spreading, so what infection control measures needed to
 22 be thought about and put in place. There doesn't seem
 23 to be any discussion about that. Why is that?24 **A.** I'm not sure that I can recollect for you precisely
 25 enough why some things were discussed and why some

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1 things were not at that moment. For me, the key thing
2 is that this is the moment at which the Welsh
3 Government's attention turns to this issue with the
4 significance that it was to command, and at that point
5 all those issues are being discussed.

6 My Lady, if I could say, just in terms of the Welsh
7 Cabinet's response, at this point I decide that all
8 Cabinet meetings should now be attended by all
9 ministers, not just Cabinet ministers. There are
10 12 ministers in the Welsh Government, four of whom are
11 junior ministers, but I want everybody round the table
12 from now on. By 4 March, we are setting up a second
13 meeting every week for all Cabinet colleagues,
14 specifically and only to deal with the Covid-19
15 emergency.

16 So very rapidly from this moment on, the Welsh
17 Government is gearing itself to deal with the issues
18 that Mr Poole has identified.

19 **Q.** Mr Drakeford, what was the plan at this stage? This is
20 25 February, Covid is being discussed for the first time
21 at Cabinet. What was the plan for practically stopping
22 the spread of the virus into Wales, the nuts and bolts
23 of the plan as you understood it to be? You've spoken
24 about testing and tracing, we know that that only dealt
25 with index cases. What was the Welsh Government going

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1 **Q.** We'll work our way through March and look at some
2 minutes as well to help your recollection in a moment.

3 Just a step to one side, you say in your witness
4 statement -- it's your witness statement for this
5 module, paragraph 82 -- you say that:

6 "During the period ... January [to] March 2020
7 understanding of the essential features of the virus ...
8 was, in many ways, rudimentary."

9 You go on to say that:

10 "The Welsh Government's understanding was no better,
11 but no worse, than any other."

12 And then you go on to say at paragraph 83 that:

13 "During January and February there was some limited
14 and preliminary evidence which suggested the possibility
15 of asymptomatic spread. [But that] The Welsh Government
16 ... concluded that there was insufficient evidence upon
17 which to base operational decisions ..."

18 And this has been a topic that's been explored with
19 various witnesses over the course of the last couple
20 of weeks. The Inquiry heard evidence from Mr Hancock in
21 Module 2 that his single greatest regret was not pushing
22 harder for asymptomatic transmission to be the baseline
23 assumption. Is that a regret that you share?

24 **A.** Well, I have a slightly different regret, I think, to
25 Mr Hancock, which is that I wish we had known more at

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1 to do about infection control measures? That's why
2 I say I'm surprised that's not seen in these Cabinet
3 minutes and I just want to know what was the plan at
4 this stage?

5 **A.** Well, first of all, to be clear, there is no plan to
6 prevent the virus from spreading into Wales. That would
7 have been an ambition well beyond what we would've
8 imagined we could have accomplished. But from now on
9 there are very practical things being discussed about
10 how we would respond to coronavirus when it arrives, and
11 it's now becoming a when rather than an if.

12 So you will see measures being taken, we have
13 an early discussion about schools and what we will do
14 through that. We are beginning now to think about how
15 we will gear the health service up for what it may face,
16 and within another few days, and only a few days, as the
17 only part of the United Kingdom at that point, we
18 formally agreed that we will postpone all non-urgent
19 outpatient, inpatient treatments in order for the health
20 service to gear itself up for what is coming its way.

21 So I'm afraid I just don't have a detailed enough
22 recollection to be able to pinpoint for you, you know,
23 at exactly what point we discuss an exact theme in
24 preparation, but I'm very confident that from that date
25 onwards all of that is happening.

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1 that point about the scale at which asymptomatic spread
2 would happen. But we didn't have it. Nobody had it.
3 The World Health Organisation is still saying in July
4 that it is unclear the role that asymptomatic spread is
5 playing in the coronavirus epidemic. And in February
6 and into March, there are very tentative and very --
7 with very limited evidence, suggestions that
8 asymptomatic spread may be playing some unspecified part
9 in transmission.

10 Now, I wish we'd had better information than that,
11 but I'm not sure that I share Mr Hancock's regret that
12 we didn't act more decisively on evidence that was as
13 thin and as unreliable as it was at the time.

14 **Q.** Given the risks presented to some of the most vulnerable
15 in Welsh society, do you think the risk of asymptomatic
16 transmission was sufficiently factored into Welsh
17 Government decision-making in this period, January to
18 March, and I suppose the question is: I hear what you
19 say about there being some evidence but not no
20 definitive evidence, ought a more precautionary approach
21 have been taken in any event?

22 **A.** Knowing what we know now, the answer to that would be
23 definitely. Did the evidence at the time amount to
24 sufficient to take even that more precautionary
25 approach? Well, that question was very directly

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1 addressed by our clinical advisers, and as late as
 2 28 April they are telling us it doesn't.

3 **Q.** I'll ask some questions next before we move into
 4 March 2020, just about data and modelling.

5 We've heard evidence that it wasn't until summer
 6 of 2020 that Wales had its own scientific models and
 7 prior to then modelling output was produced by
 8 Professor Ferguson at Imperial university and also SPI-M
 9 via SAGE.

10 When those early models reached Wales, the
 11 conclusions about NPI effectiveness were not adjusted
 12 for, for example, Wales' particular demographic make-up,
 13 its geography, the movement patterns of people who lived
 14 there and also the different relationship that Welsh
 15 people might have with their government, so likely
 16 compliance with any measures put in place.

17 I certainly mean no criticism by raising this, but
 18 were you aware that the conclusions being made, about
 19 NPIs would be most effective and whether they were the
 20 most effective, weren't being robustly challenged or
 21 amended by Dr Atherton or Dr Orford, because they simply
 22 didn't have the data or the modelling to make those
 23 challenges?

24 **A.** Well, they didn't have the data or the modelling. That
 25 is certainly the case. I think the inhibition on them

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1 Public Health Wales and their international links.

2 So I felt we were in possession of good advice from
 3 our clinicians on what was happening elsewhere, and
 4 where you might be able to draw some lessons from it.

5 They are truthfully not easy lessons to draw. The
 6 cultural context of South Korea is very different to the
 7 cultural context of the valleys of South Wales,
 8 for example, so the idea that you could pick up
 9 something that was done there and just drop it into the
 10 Welsh context, I don't think it was ever going to be as
 11 simple as that. But we were, I thought, well served by
 12 our ability to know what was happening elsewhere in the
 13 world and what other governments were trying to
 14 implement.

15 **Q.** We move back to the chronology. We'd moved our way
 16 through February and moving into March now, which you've
 17 said in your evidence that's when Covid moved up the
 18 Welsh Government's priority list and became the most
 19 significant matter. Are you able to help us understand
 20 when would you say that day came? Because the Inquiry
 21 has heard evidence from various witnesses that it
 22 wasn't, in their view, until mid-March that the Welsh
 23 Government actually could be seen to be taking Covid
 24 seriously?

25 **A.** Well, I would probably put it a little earlier than

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1 fine-tuning what the NPIs might have been in Wales,
 2 though, is more practical than that. It's: what could
 3 the fine-tuning have been? What, in practice, could you
 4 have done? Because the NPIs that are available to you
 5 are inevitably blunt instruments and you are introducing
 6 them at a population wide level. So I think -- I think
 7 what I'm struggling to think of immediately is, even if
 8 you had calibrated in the way that you are suggesting,
 9 even if you had the data to allow you to do it, what
 10 would the practical change have been? And I don't think
 11 I can immediately think of one.

12 **Q.** I suppose what you could have done as First Minister,
 13 and you may say you did do this, is look at what was
 14 happening all over the world. So did you look at
 15 South Korea, Japan, what we know happened later in
 16 Lombardy, and think that there might be lessons to be
 17 learnt there about quick, decisive imposition of NPIs?

18 **A.** Well, one of the things I think we were again fortunate
 19 with, there were some things we don't have, specific
 20 data and modelling, but one of the things that Public
 21 Health Wales was always good at was international
 22 experience. I remember the Chief Medical Officer
 23 reporting to me very early on in the pandemic on direct
 24 discussion that he had had with colleagues in
 25 South Korea, and that that had had been mediated through

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1 that, because I'm in the very centre of these things, so
 2 I am seeing all the things that are happening, and not
 3 everybody will have that same perspective. If I had to
 4 choose a date -- and there's an arbitrary nature to
 5 this, isn't there -- probably 4 March, I would say,
 6 because by 4 March, as I say, we are now meeting every
 7 week as a Cabinet specifically on this matter, so our
 8 core group is established. There's a note you'll have
 9 seen where the health minister says to his office "Clear
 10 my diary for the whole of March so that I can focus
 11 exclusively on coronavirus". So I think it's a bit
 12 earlier than the middle of March, I put it at about
 13 a week or so before that.

14 **Q.** You attended a COBR meeting on 2 March. That was the
 15 first COBR that was chaired by Mr Johnson. And we can
 16 see the minutes there.

17 They're INQ000056217.

18 If we can have a look, please, at page 5, second
 19 paragraph:

20 "The CHAIR invited the Government [CMO] ... and the
 21 Government [CSA] ... to provide a situation update ...
 22 there was no [sic] sustained community transmission."
 23 **LADY HALLETT:** "Now sustained".
 24 **MR POOLE:** Sorry, you're quite right, and an important
 25 correction.

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1 **LADY HALLETT:** I have missing "notes" -- and now we've got
2 a ...

3 **MR POOLE:** "... there was now sustained community
4 transmission."

5 So this is now 2 March. It's nearly a week since
6 Covid has first been discussed by the Welsh Cabinet, we
7 know it's ten days after lockdown's been imposed in
8 northern Italy, cases in the UK since late January, you
9 have had the first confirmed case in Wales on
10 28 February, and COBR is now being told that that there
11 is sustained community transmission.

12 Mr Drakeford, did you understand at this point,
13 2 March, that containment of the virus had effectively
14 been lost, the virus was here, the virus was spreading?

15 **A.** I see Sir Chris Whitty says to the Inquiry that he
16 didn't believe that we had reached that point in the
17 second half of February, but I think this is the point
18 at which that move down the steps of contain, delay and
19 so on, this is the point at which delay become --
20 contain becomes delay.

21 **Q.** If we can have a look, please, at the fifth page,
22 paragraph 3. So the same page, thank you.

23 So:

24 "Continuing the CMO said that interventions to delay
25 the spread of the virus must not be implemented too

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1 any debate about the merit or efficacy of specific
2 measures to control infection.

3 Why, at this stage, given what you've said about
4 your understanding that containment probably had been
5 lost at this point, why is no one saying to the CMO:
6 look, it's obvious containment's been lost or is about
7 to be lost, this fatal virus, to which we have no
8 vaccine or antiviral. It's here, it's spreading. What
9 is it in practical terms that needs to be done or what
10 we should be doing now to prevent the spread of the
11 virus or slow the spread of the virus?

12 That all seems to be missing or not debated by COBR,
13 certainly at this point in time. Is that your
14 understanding?

15 **A.** Well, of course, I don't have the minutes in front of
16 me, and there were a series of meetings at this point,
17 but this is the point, isn't it, when COBR is informed
18 that SAGE is debating the different NPIs. It doesn't
19 yet have a sense of which of the potential repertoire
20 are likely to be the most effective and it doesn't have
21 a sense of the different combinations. You know, the
22 different ingredients on this menu can be put together
23 in different ways and SAGE doesn't yet know which
24 ingredients we should use and what combination we should
25 use. So that work is going on in SAGE, that's what COBR

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1 early in order to ensure maximum effectiveness."

2 What was your position in relation to this
3 suggestion? Was there a debate about the good sense or
4 otherwise of delaying?

5 **A.** Well, my Lady, I'm a social scientist, that's how
6 I earned my living, so I am -- while I'm not in any way
7 an expert in clinical matters, when it comes to
8 behavioural science, you know, it's the stuff that I am
9 familiar with. So I completely could see why there was
10 the debate going on as to: at what point do you
11 introduce restrictions, at what point will these become
12 things that the public will understand, that people will
13 be willing to comply with? And the advice that we were
14 getting, and it was pretty consistent advice at this
15 point from the CMO, from behavioural scientists, is: if
16 you go too soon, you may lose the impact that you're
17 looking for, because people won't be convinced, they
18 won't see it in their own lives why it is they're being
19 asked to do these extraordinary things, and the
20 compliance may not follow up a level that you need.
21 So I'm -- this is part of the debate which I felt I was
22 on stronger ground, myself, in being able to understand.

23 **Q.** Again, what we see or what we don't see in these
24 minutes, similarly to what we didn't see in the minutes
25 from the 25 February Welsh Cabinet meeting, we don't see

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1 is told, and we'll get advice as soon as, you know, the
2 people who are focusing on this with the best ability to
3 offer that advice are in a position to do that.

4 **Q.** If we look at page 6, the end of these minutes, "Next
5 steps" it says:

6 "Summing up the CHAIR said" -- so I think page 6 of
7 these minutes. Thank you very much.

8 Paragraph 14:

9 "Next steps

10 "Summing up the CHAIR said that the Government's
11 response must be guided by science and protecting the
12 vulnerable."

13 So this is effectively waiting on SAGE to inform
14 them of what could be done.

15 **A.** That's that final -- I think it's either this meeting or
16 the one on the 4th where the chair has just summed up
17 a bit earlier in saying it's business as usual.

18 So, you know, I think I do need to make that point
19 if I could that, you know, the Prime Minister's view,
20 and he expresses it routinely in March, is that we must
21 carry on. You know, "We must tell people this is a mild
22 illness, they're not to get anxious about it". And that
23 does create a certain inhibition on some of the advice
24 being taken as seriously as I think it was being
25 proposed to us.

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1 **LADY HALLETT:** First ministers of Wales and Scotland being
 2 inhibited by the Prime Minister's view, Mr Drakeford?
 3 **A.** When a Prime Minister expresses a view, most people
 4 take -- you know, they will -- it will be taken
 5 seriously. I mean, I wouldn't have agreed with him at
 6 that point, but he did -- he repeatedly, every time we
 7 discussed it, so, you know, said things that were
 8 designed to minimise the seriousness of the position we
 9 were -- we were facing, and to -- I mean, you know, he
 10 would -- he might say that he was responding to that
 11 advice about not going too early, not doing things in
 12 advance of where public opinion lay, but I think he has
 13 said himself, hasn't he, in some of his evidence that,
 14 looking back, he wasn't taking it as seriously as it
 15 needed to be.
 16 **LADY HALLETT:** Accepting the point about, some say, not
 17 going too early, although I think there may be debates
 18 about that, so you're waiting on SAGE to come up with
 19 the modelling of the various interventions, shielding,
 20 face masks, all the different -- the closure of schools,
 21 that kind of thing, were you aware what work was going
 22 on so that, should the modellers say "You need this
 23 range of interventions, you need to shield the
 24 vulnerable, you need to test and trace", what work was
 25 going on to make sure that once you had got the

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1 were you preparing before you do; you're having to do
 2 everything, you know, in one very, very compressed
 3 sequence of events. And actually, in a very, very short
 4 period of time, many of the things that we were thinking
 5 about on 2 March have actually happened. And that's
 6 only possible because people are thinking and preparing
 7 and planning and talking, particularly, while at the
 8 same time getting on and doing things as well.
 9 **MR POOLE:** At your regular Monday press briefing on 2 March,
 10 that's the first mention of Covid.
 11 We can have a look at INQ000227479.
 12 Second bullet point, you confirm the first case in
 13 Wales, a person being treated at Royal Free Hospital in
 14 London.
 15 Then if we can zoom out and look at -- under
 16 "Preparations", you say that:
 17 "Wales and the whole of the UK is well prepared for
 18 these types of incidents."
 19 And that you have "robust infection control measures
 20 in place".
 21 Isn't the reality that Wales was not at all well
 22 prepared? I mean, that much was accepted by Mr Gething
 23 in his evidence that he gave in Module 1 and, to some
 24 extent, in his evidence that we heard on Monday.
 25 **A.** For what we actually faced, we were not as well prepared

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1 recommended combination of NPIs from SAGE that basically
 2 you could then say, "Right, we're on it, we'll get it
 3 all ready so that the Welsh people can be as best
 4 protected as possible"?
 5 What work was -- I mean, to be honest, I've heard
 6 a lot throughout the Inquiry, not just this module,
 7 about plans and discussions. I want to know what was
 8 actually happening to make things ready. Were you aware
 9 at that stage or had you left it to your health
 10 minister?
 11 **A.** No, no, we'd have been discussing all of this in our
 12 Cabinet discussions. I think the point that I will
 13 probably make is that it wouldn't be a reflection of the
 14 realities of the time to regard these things as
 15 happening in sequence. It wasn't an orderly: we will
 16 think, we will plan, we will prepare, we will do. We're
 17 thinking, planning and doing all at the same time. So
 18 it's very few weeks, by the time we get -- less than
 19 three weeks from this point, in Wales, all schools are
 20 closed. All FE colleges are closed. Most major events
 21 have been cancelled. Pubs, clubs and restaurants are
 22 closed. Gyms, cinemas, theatres, leisure centres are
 23 closed. Footpaths, beauty spots, tourist attractions
 24 and caravan parks are closed.
 25 The reality at the time is not a: were you planning,

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1 as we needed to be. For what we thought we would face,
 2 what we had planned, our planned response, then it did
 3 have a lot of robust elements in it. It is simply that,
 4 when we came to implement the plan, the -- I'm very
 5 allergic to some of the military metaphors that others
 6 used in all of this, but if I can use one briefly now,
 7 the enemy we faced was not the enemy we were expecting.
 8 **Q.** If we can have a look at the next COBR meeting, it's
 9 9 March.
 10 We've got those minutes at INQ000056219.
 11 This was chaired by the Prime Minister. You dialled
 12 in with Mr Gething and Dr Atherton. I think it would be
 13 right to say the main purpose of this meeting was to
 14 discuss delaying the peak of the virus.
 15 If we can have a look at paragraph 7 on page 5,
 16 please.
 17 So the meeting highlights for the first time that
 18 the spread of Covid-19 in the devolved administrations
 19 was not at the same stage at England, therefore
 20 necessary to consider whether implementation of the
 21 response should be staged or uniformly implemented, and
 22 although it's obviously right to say that Wales was
 23 behind the curve at this point in time, your view was
 24 that a single message was preferable; is that right?
 25 **A.** It is.

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1 Q. You make a point in your witness statement that the
2 Cabinet Office minutes, which are these minutes that
3 we're looking at, don't accurately record a concern that
4 was raised at this meeting by yourself and also the
5 First Minister of Scotland; the concern was that the
6 Prime Minister and the UK Government appeared to be
7 moving away from reliance on the medical and scientific
8 advice.

9 If I can just summarise, hopefully accurately, the
10 point and then you can confirm if I've got it right.

11 SAGE advice for this COBR meeting defined
12 symptomatic as those exhibiting mild respiratory
13 symptoms, and that advice accorded with the advice that
14 also had been given by Sir Chris Whitty, and the advice
15 from SAGE was that those with mild symptoms should
16 self-isolate and stay at home.

17 However, if we look at paragraph 6 on page 5 of
18 these minutes, the Prime Minister's summary there states
19 that "those with heavy respiratory tract infections were
20 to remain at home" and it would only be the "next stage"
21 where those with mild symptoms would be told to
22 self-isolate.

23 We don't need to have them up, but there is a Welsh
24 Government note of this meeting, and that records the
25 First Minister of Scotland stating that the

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1 mild symptoms. At the meeting, the Prime Minister would
2 not use the word "mild", he wanted to use a different
3 threshold for self-isolation, and we have a challenging
4 conversation about it. But that's what we were there to
5 do.

6 Q. Was the impression you got, though, at this SAGE
7 meeting, that this was an instance perhaps of the
8 UK Government and the Prime Minister not following the
9 science?

10 A. Well, it's a gradation. The science is either -- people
11 should self-isolate, we agreed with that, it's the
12 threshold at which they are to self-isolate that he
13 wished to take a different view. I myself, I'm sure
14 I was guilty of it many times, but I tried to avoid
15 using the phrase "following the science". What we were
16 is informed by the science, and then we made the
17 decision. And, you know, the Prime Minister was
18 probably entitled to have that debate, but he wasn't --
19 you know, he was not advocating an outcome from that
20 meeting which was the outcome that I believed at the
21 start. When I went in through the door, I didn't think
22 that's what we were being asked to agree. And it turned
23 out that we were and that's why we both said, in that
24 case, we need a further advice from all CMOs, you know,
25 to tell us whether or not they think we are doing the

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1 Prime Minister's summary did not correlate with the SAGE
2 papers, it was important for there to be a joint agreed
3 CMO advice if there was to be a change of options.

4 Have I accurately summarised the position?

5 A. You have.

6 Q. SAGE and CMO advice was also to consider household
7 isolation that week, but I think I'm right in saying the
8 UK Government thought that that was the least practical
9 option and had the most disproportionate impacts, and
10 you challenged the Prime Minister on this and expressed
11 the view that if the scientific and medical advice was
12 not going to be followed, there had to be a clear -- you
13 had to be clear, effectively, with the public that that
14 was the case. Is that right?

15 A. That is absolutely right. I just want to express one
16 nuanced difference. I have been asked a number of times
17 this morning, you know: did you interrogate the advice?
18 Did you ask about it? I don't -- I myself would not
19 use -- maybe you didn't intend it -- pejorative language
20 about having a robust discussion in SAGE -- in COBR.
21 That's what they're there for. And yes, you know, both
22 the First Minister of Scotland and I felt that we have
23 gone into the meeting with a very clear understanding
24 that the advice we were get, the advice we would follow
25 would be that people would be asked to self-isolate on

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1 right thing here.

2 Q. Following the chronology but dealing with a discrete
3 topic that fits in now, which is mass gatherings.
4 Two days after that COBR meeting, so now 11 March, you
5 attended a Covid-19 core group meeting. There was
6 an update from Dr Atherton: there was now 15 cases in
7 Wales, with some community transmission, and, given the
8 events in Italy, there was a need to prepare, he told
9 you, for the reasonable worst-case scenario.

10 Now, Dr Orford provided a technical briefing on mass
11 gatherings and behavioural and social interventions.

12 It's INQ000271613. If we can just have a look at
13 the first paragraph, please.

14 So:

15 "In the event of a severe epidemic, the NHS will be
16 unable to meet all demands placed on it. In the
17 reasonable worst-case scenario, demand on beds is likely
18 to overtake supply well before the peak is reached.
19 Currently the [reasonable worst case] is also considered
20 within the bounds of a likely scenario."

21 If we can have a look, please, at the second page,
22 paragraph 7, being told here that:

23 "As of the 10th March ... 17 patients in [intensive
24 care], likely to increase to 100 within the next
25 ten days, then 300 shortly after."

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1 Exponential growth.
 2 Paragraph 8, please. Reproduction rate currently
 3 2.4, needed to be brought below 1.
 4 Then if we can go to the bottom of page 2, please,
 5 there's a discussion about behavioural control measures.
 6 So restrictions of mass gatherings would likely reduce
 7 infection-related deaths by 2% whereas self-isolation of
 8 those with symptoms would have a greater impact, likely
 9 reduce deaths by 11%.
 10 Then if we go over the page to paragraph 12, you are
 11 told that:
 12 "Any of the measures listed below could, on their
 13 own, potentially flatten and extend the peak of the
 14 epidemic by some degree."
 15 But a combination was expected to have a greater
 16 impact.
 17 So following this briefing, this is 11 March, you
 18 knew there was exponential growth in infection numbers,
 19 urgent action was required to control the spread of the
 20 virus, stop the NHS in Wales being overwhelmed, also,
 21 obviously, reduce the number of deaths.
 22 There is then a COBR meeting on 12 March. If we can
 23 have a look at the minutes, please.
 24 It's INQ000056221.
 25 If we have a look, please, at page 5, first

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1 because of the need for consistency of public messaging
 2 and felt strongly that to say on one hand stay at home
 3 but on another to say it was fine to attend the
 4 Cheltenham festival or a concert was confusing. That's
 5 also right?
 6 **A.** I argued at this COBR meeting for us to agree that mass
 7 gatherings should not go ahead. I argued that as
 8 strongly as I could in this meeting.
 9 I think I said in an earlier answer to Mr Poole that
 10 some COBR decisions you felt had more or less been made
 11 before you got there, others there was a more
 12 free-flowing discussion, and I remember this discussion
 13 particularly well for a reason I'll say in just
 14 a moment, and in this discussion the Prime Minister in
 15 my view did go round the room, he took views from
 16 anybody who wanted to contribute, he took views from
 17 people who were attending remotely, it was a proper
 18 discussion, and in the discussion I was arguing for
 19 a four nation agreement that mass gatherings would not
 20 go ahead. Not on clinical grounds, I can't do that
 21 because all the clinical advice I have is that that's
 22 not a supported course of action, but I am arguing for
 23 it on the grounds of messaging.
 24 It seemed to me we're trying to convey to people how
 25 serious the position is and we're asking them to do

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1 paragraph:
 2 "... the Government Chief Scientific Adviser to
 3 provide an update ... number of cases in the UK were
 4 increasing ... numbers would increase quickly."
 5 And then SAGE advice was:
 6 "... UK was approximately four weeks behind Italy
 7 and expected the UK ... to follow a similar trajectory
 8 in terms of the number of cases."
 9 Then if we can please skip to paragraph 5, the third
 10 bullet point notes that:
 11 "The hardest intervention to call was whether to
 12 cancel mass gatherings as the evidence was not there,
 13 especially for outdoor events."
 14 Just pausing there, although the scientific advice
 15 was not there, as it says here, to cancel mass
 16 gatherings, you'd been advised the previous day that
 17 restricting mass gatherings could reduce infection
 18 related deaths by 2%. That's right, isn't it?
 19 **A.** Yes.
 20 **Q.** And I think you say in your witness statement that mass
 21 gatherings were, in your view, you say "an unwelcomed
 22 distraction" for the emergency services in Wales.
 23 That's also right, is it?
 24 **A.** That is right.
 25 **Q.** And you also say that you were significantly concerned

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1 already some extraordinary things. To say that it's
 2 all right to go to a mass gathering seemed to me to
 3 contradict that, and my argument was we should all agree
 4 that they won't go ahead.
 5 The reason I have such a vivid memory of it is that,
 6 having gone round the table, the Prime Minister summed
 7 up against that course of action, and he summed it up by
 8 saying "Dom says no". That was his final contribution.
 9 I did not know who Dom was at this point, but that was
 10 the final thing that the Prime Minister said, and that
 11 was the decision that we were not going to go ahead in
 12 that way. But my argument, and I made it as strongly as
 13 I could, was that on public messaging grounds that was
 14 the right thing to do.
 15 **Q.** You weren't alone, though, Mr Drakeford, were you,
 16 because the Scottish Government were in favour of
 17 advising against gatherings of more than 500 people? If
 18 we can have a look at page 6 of these minutes, I think
 19 it's the ninth bullet point, it says here:
 20 "... Scottish Government ... minded to advise
 21 against gatherings of more than 500 people ... [so as]
 22 to ensure frontline emergency workers were able to
 23 prioritise the response to [the pandemic]."
 24 Then we have a look at the conclusions, it's page 8,
 25 paragraph 15. And as you've just told us, the

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1 UK Government took the decision not to prohibit mass
2 gatherings, but it is noted that the PM respects the
3 Scottish Government's decision to cancel mass gatherings
4 to manage pressure on emergency responders.

5 So why didn't you follow the Scottish Government and
6 take a decision on behalf of the Welsh Government to
7 either ban or, if, as we've heard some evidence, the
8 thinking was there wasn't a legal power to ban, to at
9 least advise against mass gatherings going ahead?

10 **A.** Well, two reasons, because I would not have been able to
11 adduce any clinical evidence in support of that, but
12 secondly because of the final sentence in the extract
13 that's in front of us here:

14 "... it was crucial for the government to stick to
15 the SAGE advice ..."

16 And the SAGE advice did not support banning mass
17 gatherings, and:

18 "... the Four Nations should try to stick together
19 as one United Kingdom."

20 **Q.** Now, as we know, this was -- there was a Six Nations
21 rugby match to be played between Wales and Scotland, due
22 to be played in Cardiff the following weekend. On
23 11 March, the Inquiry has seen evidence from
24 Gareth Davies, the then chairman of the Welsh Rugby
25 Union, he says that he contacted your office to express

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1 that match to proceed?

2 **A.** Well, I had already been arguing at COBR for the match
3 not to go ahead so, you know, my position was that it
4 would have been preferable for the match not to happen.
5 But I had no medical evidence to -- that I could make to
6 support that conclusion, I had no agreement from the
7 UK Government to that position. And I have no legal
8 power, actually, to enforce that decision, because the
9 power lies exclusively with the Welsh Rugby Union.
10 I had a conversation, as you might be about to say,
11 Mr Poole, sorry if I'm anticipating you, directly with
12 Mr Davies. This was a -- I think one thing we've missed
13 in this discussion so far is just what a hotly contested
14 decision this was. You know, a rugby match in Wales is
15 never far from the headlines and it was in the headlines
16 all that week, with very, very strongly differing views
17 as to whether or not it should be allowed to go ahead.
18 And what I said to Mr Davies in my conversation with him
19 is that whatever decision the Welsh Rugby Union made,
20 the Welsh Government would back it. There would be no
21 criticism from us of whatever decision he made. If he
22 decided to go ahead, we would not criticise him for
23 doing that, because he would be relying on the medical
24 advice that was available to us. If he decided that it
25 wouldn't go ahead, we would support them in that as

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1 his concerns about that match going ahead. Were you
2 aware of those concerns being expressed by the WRU at
3 that time?

4 **A.** I was aware that there were conversations going on with
5 the WRU.

6 **Q.** Were you aware of a conversation between
7 Vaughan Gething, Dr Robin Howe and Dr Tracey Cooper of
8 Public Health Wales on 13 March about the match and
9 Public Health Wales expressing to Mr Gething significant
10 concerns about that match going ahead?

11 **A.** Not to my present recollection.

12 **Q.** The concerns were not simply that 70,000 people would
13 gather at the Principality Stadium, but also that
14 significant numbers of fans would be travelling from
15 Scotland, there would be crowding in pubs and bars in
16 Cardiff before and after the match, and the Inquiry
17 understands that ultimately it was left to the Welsh
18 Rugby Union to take the decision whether or not to
19 postpone that match, and that decision was taken at
20 lunchtime on the 13th, so that was the day before the
21 match. By that time 20,000 Scottish rugby fans had
22 already arrived in Cardiff, and Mr Davies' evidence to
23 the Inquiry is that it would have been reckless to allow
24 the match to proceed.

25 Do you agree it would have been reckless to allow

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1 well.

2 **Q.** You say in your witness statement that you do not
3 believe that the Welsh Government was in a position to
4 absolve the WRU of its own responsibilities, but might
5 it not be said that it was in fact an abdication of
6 responsibility on the part of the Welsh Government, who,
7 after all, had -- you had had the debate in COBR, you
8 knew all sides of the argument, you had not only the
9 scientific and medical advice but you also knew the
10 position that Scottish Government were taking; surely it
11 was a decision ultimately that ought to have been taken
12 by the Welsh Government?

13 **A.** Well, I want to be clear, I don't think the Welsh
14 Government had the vires to make such a decision. What
15 we could have been is clearer with the Welsh Rugby Union
16 how we thought they ought to exercise their
17 responsibility, but what basis would I have -- would
18 I have had for doing that when in front of me I have
19 evidence from the Chief Medical Officer that there's no
20 case for doing so? So, you know, I -- while my own
21 view, as I've already expressed it, is that the game
22 should not have gone ahead, if I'm going to convey that
23 to somebody else as the decision-maker, I need to know
24 that I've got the ground firm under my feet and I can
25 point to the advice I'm relying on. And I would not

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1 have been able to do that.

2 **Q.** Just so I understand what you say about not having the
3 legal power or not having the vires, you accept, though,
4 that there is a -- there would have been a power under
5 the public health legislation but you're saying because
6 the medical and scientific advice was not there, that
7 you couldn't trigger the power under that legislation;
8 is that right?

9 **A.** The trigger you have to use is well set out in the
10 84 Act. It has to be a public health emergency and your
11 response has to be proportionate. That's the test,
12 isn't it? It had to be proportionate. If I have
13 evidence from my medical advisers that this is not the
14 thing to do, I do not know how I pass that test of
15 proportionality.

16 **Q.** Changing topic slightly, but still in the same
17 chronological run, we're still mid-March: hospital
18 discharge and care homes.

19 The Inquiry heard evidence on Monday from
20 Vaughan Gething that on 13 March he gave a joint press
21 conference with you regarding the framework of actions,
22 which included a direction to expedite the discharge of
23 vulnerable patients from acute and community hospitals,
24 it also suspended the protocol which gives the right to
25 a choice of care home.

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1 captured of all in Sir Chris Whitty's account of the
2 decision to discharge patients in England, because,
3 you know, he makes the point that the risks to very
4 vulnerable people staying in hospital when they are
5 medically fit to be discharged, at a point when
6 hospitals are about to become the epicentre of -- the
7 most dangerous place you can be, then that was not
8 a course of action that had merit. You are discharging
9 people back to their homes. Some people live in
10 care homes, but it is their home, and they are fit to be
11 discharged there, and there are protections that can be
12 put in place to try to manage the impact of the disease
13 when they get there.

14 That was the line of reasoning that we were
15 following at the time, that the safest thing we could do
16 was to remove people who didn't need to be in hospital
17 out of hospital, given the impact that the disease was
18 about to have on those hospital services. And that when
19 people went home there were precautions that could be
20 taken to try to manage the risks that they would face
21 there.

22 **Q.** Now, we know it wasn't until 29 April that the Welsh
23 Government changed its policy and from that point
24 onwards tested all patients being discharged from
25 hospitals to care settings, irrespective of whether they

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1 How much of this was led by the UK Government, or
2 was this a decision taken by the Welsh Government in
3 a devolved space, namely health?

4 **A.** This is a devolved government decision, it's made in
5 advance of a decision by the UK Government for England.

6 **Q.** Now, as we discussed with Mr Gething on Monday,
7 discharging vulnerable patients to care homes presented
8 an obvious risk that had to be managed.

9 Do you think that the risk of spreading the
10 infection from hospitals into care homes, which
11 obviously contained some of the most vulnerable people
12 in Welsh society, was properly managed by the Welsh
13 Government?

14 **A.** My Lady, I'm trying to be clear in my own mind before
15 I answer the question, because I'm here to explain, not
16 to justify. I'm not here to defend actions, the Inquiry
17 will draw its conclusions, I'm here to try to provide
18 the best information I can about how we acted and why we
19 acted. So I don't want to sound in answering that
20 question as though I'm saying to you we did everything
21 right and there wasn't a mistake that was made. That's
22 not my starting point. I can explain to you why we made
23 the decision that we made.

24 In fact, in reading a vast number of documents
25 before coming here, in some ways I think this is best

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1 displayed symptoms. Should that decision have been
2 taken earlier than 29 April?

3 **A.** If it had been taken earlier, then the corollary of that
4 decision would have been that the tests that would have
5 been used for that purpose could not have been used for
6 another purpose.

7 At this point there are a limited number of tests
8 available for all the different things that the Welsh
9 Government might have applied those tests to achieve.
10 Our decision was to use them, in the first instance, for
11 frontline staff in hospitals, and the choice was not to
12 add another purpose to the list. Had you added that
13 purpose you would have had to have displaced another
14 purpose. There weren't enough tests to do all the
15 things we would have liked to have done with them, and
16 we were creating a priority order, and that's the debate
17 that lies behind that decision.

18 **Q.** Obviously the issue didn't begin and end with testing on
19 discharge. We know that the reason Wales' care homes
20 had such poor outcomes during the first wave of the
21 pandemic was due to infections actually being seeded in
22 the homes through staff, and we know that the
23 UK Government announced on 28 April mass testing of
24 asymptomatic residents and staff across all care homes
25 in England. Two days after that, a group of UK MPs

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1 wrote to you expressing their concerns about Wales'
 2 failure to do so.
 3 Now, what steps did you take in response to that
 4 letter?
 5 **A.** Well, my Lady, I think this is terribly difficult
 6 territory because I know just how powerfully people feel
 7 about what happened in care homes here in Wales and,
 8 you know, I absolutely regret everything that led to
 9 loss of life. My own mother lived in a care home in
 10 Wales throughout this pandemic. You know, these are
 11 matters that, in a Welsh context, decision-makers are
 12 not immune from the decisions that we take. But the
 13 evidence, I think, is the evidence Mr Poole has just
 14 cited, that of course there are instances where
 15 coronavirus is seeded into care homes by people being
 16 discharged from hospital, but the primary reasons why
 17 coronavirus ends up in a care home is because of
 18 a necessary ingress into care homes of people who are
 19 there to care for people in them. And as coronavirus
 20 rises in the community, the risk that it will be carried
 21 into a care home in that way increases. And, you know,
 22 I know for lots of people that's an uncomfortable
 23 conclusion, but I think it is where the evidence that
 24 I have seen takes us.
 25 Once we had received -- you know, we are receiving

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1 **A.** Well, if I could, I'd like to make, you know, from what
 2 seems to -- from my point of view, as the
 3 First Minister, an important point. It's a contested
 4 point, but -- my view all the way through, and I had to
 5 convey it sometimes to my colleagues, is that the Welsh
 6 Government cannot pick and choose the scientific advice
 7 that it gets. There are a plethora of scientific voices
 8 out there, and, you know, they don't agree either. The
 9 Welsh Government has a route to the advice that we
 10 receive. We receive it through TAC, through our Chief
 11 Medical Officer, through the Chief Scientific Adviser.
 12 And what we mustn't do as politicians is to say "I like
 13 your advice on this topic, and I don't like your advice
 14 on that topic, so I'll pick and choose, I'll decide when
 15 I like your advice and when I don't like it". So yes,
 16 of course there are other people who take a different
 17 view and say they've got evidence that would lead you in
 18 a different direction, but as a politician and
 19 a decision-maker I think that is a very, very slippery
 20 slope and I was very determined not to go down that way
 21 of decision-making, and, as I say, advised my colleagues
 22 of that from time to time. Sometimes we didn't agree.
 23 I could have told you, round the table we did not always
 24 agree with some of the things that we were being
 25 advised, but I wasn't prepared to go down a path in

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1 letters and advice and suggestions from all sorts of
 2 people all the time, what we had was, I hope, and
 3 I believe at the time, an orderly and predictable way of
 4 making decisions. Advice comes to ministers very
 5 regularly from people who are focused entirely on this
 6 matter, of how to try to keep care homes safe, what we
 7 can do to enhance that, and I can't be buffeted by
 8 letters that want me to do something different over here
 9 or something else over there, I have to rely upon the
 10 orderly decision-making approach that we have laid down.
 11 And as ministers get advice, you can see, over March and
 12 certainly through April, how our approach to care home
 13 testing and the protection of people who lived in that
 14 vulnerable setting, how that develops.
 15 **Q.** On 2 May, Mr Gething made an announcement that the
 16 evidence does not support blanket testing of staff and
 17 residents in the UK. Exactly two weeks later, on
 18 16 May, he then made a further announcement that
 19 everyone in care homes in Wales would be able to get
 20 a coronavirus test.
 21 Now, the Inquiry's heard evidence from some
 22 scientists that they had the science to support blanket
 23 testing since at least 27 March. How, in light of that,
 24 can you account for the delay until 16 May when blanket
 25 testing was introduced?

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1 which we substituted our lay judgement for the judgement
 2 of the professional people who were charged with giving
 3 us that advice. We followed the advice that we had
 4 through the established routes of providing us advice,
 5 while being aware -- you know, I thought very hard at
 6 one point about an invitation that I received to go to
 7 a meeting with Independent SAGE, and in the end
 8 I decided not to go there, not because I'm not naturally
 9 curious, you know, from my own background in hearing
 10 different points of view, but I decided that I couldn't
 11 do that, that that would undermine the relationship we
 12 had with the SAGE on which we had to rely.
 13 So that's -- I wanted to make that slightly general
 14 point, because it was a fundamental part of the way that
 15 we approached this dilemma of somebody says this,
 16 somebody else says that, why didn't you follow ... We
 17 followed the advice of the people who were charged with
 18 giving that advice and didn't pick and choose between
 19 it.
 20 **LADY HALLETT:** But supposing they gave you advice to say --
 21 let's take lockdown as the example, it's the most
 22 controversial NPI. So supposing you have advisers who
 23 say "Right, you've got to lock down", and you are
 24 conscious of all the impacts of lockdown on people, we
 25 all know that they spread far and wide, mental health,

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1 children's development, education, everything, by just
2 following your expert, who happens to be in the
3 pro-lockdown camp, you're never listening to an expert
4 who may say "Well, wait a minute, lockdown is not
5 necessary". So, for example, those who signed the Great
6 Barrington Declaration. So did you deny yourself the
7 alternative argument?

8 **A.** Well, not in the sense of not being aware of it, because
9 these things are widely reported and widely debated, but
10 imagine if we had, imagine if we had said "Well, the
11 advice to the Welsh Government from our Chief Medical
12 Officer" -- not just him by the way but all four chief
13 medical officers -- "is that we should do that, but we'd
14 rather take the advice of somebody else, who -- we fancy
15 their advice a bit more". What an unravelling of
16 decision-making follows from that.

17 As I say, it's a -- from my point of view, it's
18 a terrifically slippery slope to allow yourself to do
19 that.

20 **LADY HALLETT:** But can't you justify that approach by
21 saying, "Right, well, I've heard this advice
22 pro-lockdown, I've heard this advice anti-lockdown, I'm
23 now going to balance all the factors", which, as the
24 decision-maker you have to do, so you balance the
25 socioeconomic factors as well as the scientific advice,

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1 bodies. But in the end that has to crystallise in
2 a choice between the two -- if it is a binary choice,
3 between the two courses of action you could take.

4 **Q.** Change topic slightly but staying hopefully
5 chronologically, we now move to 18 March.

6 The decision was taken in Wales on 18 March to close
7 schools in Wales early for Easter. Was that a --
8 I think you might have answered this at the outset, when
9 I gave you the example of ministerial decisions within
10 their own portfolio, but was this a consensus decision
11 taken by Cabinet or was this a decision taken by the
12 then Minister for Education, Kirsty Williams?

13 **A.** Important to say of course it's not a decision. Welsh
14 Government does not have decision-making capabilities.
15 It is advice that is given to those that have
16 decision-making.

17 This is the decision that is made under enormous
18 pressure of unravelling events. I answered questions on
19 the floor of the Senedd on 17 March and I firmly
20 repeated the position of the Welsh Government, which is
21 that we did not want schools to close before Easter. By
22 the end of that afternoon, we are already getting
23 reports of schools closing in many parts of Wales,
24 either as staff fall ill and cannot be in the classroom
25 or as parents withdraw their children of their own

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1 and say, on that, "Balancing all the factors, I'm going
2 to go for the advice from an outside source"?

3 **A.** I would not have been prepared to do that.

4 **LADY HALLETT:** Right.

5 **A.** I think that would have unravelled proper
6 decision-making inside the Welsh Government very, very
7 quickly indeed. It's a -- once you take that first
8 step, you've undermined your ability, I think, to
9 conduct government in the way that government should be
10 conducted.

11 **LADY HALLETT:** Thank you.

12 **MR POOLE:** I suppose it follows, does it, Mr Drakeford, from
13 what you've just said, that it is therefore crucial to
14 ensure that you have a range of opinions at your
15 disposal within your structures that you're taking
16 advice from, so for example SAGE or SPI-M or TAG and
17 TAC; is that right?

18 **A.** Of course. The fact that we in the end have a single
19 piece of advice -- because you've got to make a decision.
20 You know, there's a fork in the road, you've got to
21 decide which way you go. That does not mean that behind
22 that final piece of advice there is not a wide variety
23 of views and a lot of sharp debate as well. And of
24 course you want to have that, that's very important,
25 I think you see that played out in the minutes of those

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1 volition.

2 I think something we haven't touched on at all,
3 you know, but comes home very powerfully to me in
4 re-reading the papers, is just the degree of fear there
5 is amongst people at this point. People are really
6 afraid, and they are afraid that sending their child to
7 school is putting their child at risk.

8 Between the evening of 17 March and the end of the
9 morning of the 18th I think I met the education minister
10 on at least six different occasions as the evidence
11 accumulated through the day that more and more schools
12 were just closing around us and at least one education
13 authority is now saying to us it will close all the
14 schools in its area.

15 We are also getting powerful pleas from the Welsh
16 Local Government Association, teacher unions, for the
17 Welsh Government to try to put some order around what we
18 see happening in front of us, so that parents and
19 teachers and others have a sense of schools coming to
20 an orderly end. And by the end of the morning that is
21 what the education minister and I have concluded. There
22 is no opportunity at this point for the whole Cabinet to
23 be gathered around that decision. But, as I say, we are
24 not deciding to close schools. In many ways what we are
25 doing is trying to put some sense of order around

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1 a series of events that are happening beyond our direct
2 control in any event.

3 **Q.** Is it therefore your evidence that closing schools on
4 18 March is really something that could not have been
5 avoided at that point in time?

6 **A.** It was happening already, it was happening in front of
7 our eyes, what we wanted to do was that try to make that
8 system predictable, communicable to parents and staff,
9 and then to take action immediately to put in place
10 alternative arrangements for those vulnerable children
11 and children of key workers who we knew would still need
12 to be able to attend school.

13 **Q.** On the evening of 20 March you announced that the Welsh
14 Government would use public health powers to close
15 restaurants, pubs, bars, other facilities where people
16 gather. The Inquiry's heard evidence that on 22 March
17 there was then a meeting between yourself, the Secretary
18 of State for Health, health ministers from the devolved
19 administrations, obviously including also Mr Gething,
20 and you say that one of the actions that arose from that
21 meeting on the 22nd was to prepare a lockdown plan.

22 Would I be right to infer from that that at that
23 stage, 22 March, there was no plan as such for a Welsh
24 lockdown?

25 **A.** Well, I think you see there that for the first time I am
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1 that the actual decision to lock down was taken by the
2 UK Government shortly before the COBR meeting that you
3 attend on 23 March; is that right?

4 **A.** Well, that is an impression, so I mustn't put any more
5 weight on it than that, but we were not getting
6 indications earlier in the day, as you sometimes would,
7 that, you know, these meetings are happening, decisions
8 are being made, this is the direction of travel, this is
9 what you should expect when you come to the meeting at
10 5 o'clock.

11 My impression was that the -- sorry, I'm going to
12 use another football analogy now -- the ball was still
13 in the air until quite late in the day.

14 **Q.** And obviously you attend that COBR meeting on 23 March,
15 at that stage you all knew that there was exponential
16 growth, once control had been lost the virus would be
17 rapidly spreading.

18 Now, notwithstanding that understanding, the four
19 governments had introduced measures previously, on
20 16 March, to try to control the spread and slow the
21 spread of the virus. Why weren't those measures given
22 longer to work prior to imposing lockdown on 23 March?

23 **A.** Because I think the evidence was too vivid that
24 insufficient numbers of people were complying with the
25 decisions that had already been taken. That was the
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1 agreeing that we need to think of a Wales-only lockdown
2 plan. This is -- the 21 and 22 March are weekend days,
3 we're meeting right through the weekend, we're meeting
4 on the 22nd -- as you say, the Cabinet meeting followed
5 at the end of the 22nd and I have been told that there
6 will be a COBR that day. I'm expecting to attend a COBR
7 and I'm expecting the Prime Minister to propose that
8 there will be a UK-wide lockdown.

9 When the COBR doesn't happen, I'm now beginning to
10 wonder why it hasn't taken place, and I'm bound to have
11 some anxiety that it may be because the Prime Minister
12 isn't going to agree to that course of action.

13 So at this point I ask for legal advice, policy
14 advice as to what we would do if we were in the position
15 of having to do that alone. I think it's highly
16 improbable that we would have been able to do it, and
17 I think there were very large barriers in our path, but
18 given that we might have to face it, then over that
19 weekend I asked for that advice.

20 On the 23rd, of course, we have a COBR meeting and
21 it transpires that the proposal is for a UK-wide
22 lockdown, so I don't need to act on any of that advice,
23 but on a precautionary, it may be necessary, basis, that
24 advice is commissioned.

25 **Q.** You have said in your evidence that your perception is
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1 anxiety.

2 I received, my Lady, reports over that weekend of
3 21/22 March -- it was a beautiful weekend:
4 "Barry Island" -- I saw a note -- "is rammed. Beaches
5 in Llanelli are overflowing, Pen y Fan" -- which is
6 a tourist hotspot in Wales -- "has got hundreds and
7 hundreds of people gathering and walking up and down the
8 mountain."

9 You know, the evidence was there already that the
10 measures we had agreed only a few days before were not
11 being observed with sufficient consistency to have the
12 impact that we know we needed to extract from them.

13 **Q.** Do you consider then, by 23 March, a national lockdown
14 was absolutely necessary?

15 **A.** That was my view, but I was confident that it was the
16 view of my Cabinet colleagues as well. We'd met on the
17 Sunday, we'd met on the Monday, we'd been rehearsing all
18 of these arguments. Although the decision on the spot
19 was a decision I had to take on behalf of Wales, I was
20 entirely confident that this was what my Cabinet
21 colleagues would have wished to have supported.

22 **Q.** Had different decisions been made leading up to this
23 point on 23 March, do you think there is a chance that
24 lockdown could have been avoided?

25 **A.** Well, we're entirely in the realms of speculation here.
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1 My own speculation is that lockdown would have happened
2 and should have happened earlier, not that it would have
3 been avoided but the timing of it will have been
4 altered.

5 **Q.** When should the UK have locked down, in your view?

6 **A.** Well, I'm an amateur witness on this matter. I've seen
7 what other people have said. I don't have any reason to
8 dissent much from what seems to me a fairly, you know,
9 broad consensus that it could have happened a week
10 earlier than it did.

11 **Q.** I want to next look at the period following the
12 implementation of national lockdown up to the autumn of
13 2020.

14 Now, as we know, imposing the lockdown in Wales
15 using public health powers meant that there was a legal
16 duty to review the need for restrictions and
17 requirements every 21 days. Early April, you were
18 pressing the UK Government to convene a COBR meeting in
19 good time before 16 April, which was that first 21-day
20 review date, so that the four nations could discuss
21 a further set of co-ordinated announcements.

22 If we could please have a look at INQ000256826.

23 This is a letter written by all of the devolved
24 administrations to the Prime Minister on 4 April. If we
25 could have a look at the first paragraph, it refers to

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1 in the pandemic were understandable, given the rapid
2 evolution of the scientific advice, there is not reason
3 not to ensure an orderly process is established ahead of
4 this predictable milestone."

5 Did you find it surprising that you and the other
6 first ministers were having to write to the
7 Prime Minister in this way on 4 April?

8 **A.** Well, I think it does illustrate some of our anxieties
9 that a regular reliable rhythm of engagement at that
10 level had been put in place.

11 **Q.** A few days after this letter was sent, you describe in
12 your evidence a call with Mr Gove on 8 April but you say
13 there was no commitment being given on behalf of the
14 UK Government to hold a COBR meeting.

15 You must have been somewhat surprised then to
16 receive a call-in notice at 6.50 that evening to attend
17 a COBR the following day. That was chaired by Mr Raab.
18 It's the COBR meeting of 9 April.

19 If we can have a look at INQ000083830, please.

20 Of these minutes you've said in your evidence that
21 they accord with your recollection that, your words:

22 "A consistent message was required across the
23 Four Nations to ensure the message landed in the most
24 clear way."

25 And in fact we see that noted if we have

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1 Mr Johnson's recent Covid-19 diagnosis.

2 Now, we know that on 27 March it was made public
3 that Mr Johnson had tested positive for Covid. He was
4 later admitted to hospital on 6 April, where he remained
5 for six days. You have said in your evidence that
6 Mr Johnson's illness and hospitalisation did have
7 an impact on decision-making. You describe it as having
8 had a chilling effect.

9 Just describe to us in what way you say that
10 Mr Johnson's illness and hospitalisation had an impact
11 on decision-making in the way you describe.

12 **A.** Could I say to begin with that I have no complaints at
13 all about the way in which meetings, in the absence of
14 Mr Johnson, were conducted by Mr Raab, who chaired those
15 meetings. He was a good chair of a meeting. The
16 chilling effect is in the hesitation which the whole
17 system feels about making major decisions when the
18 Prime Minister himself is not at the table and not able
19 to participate in them. So, to my mind, you could
20 detect very easily the hesitation that was there amongst
21 people who were left to make those decisions in the
22 absence of the Prime Minister.

23 **Q.** We can have a look at the third paragraph, please, of
24 this letter. You say, picking it up:

25 "Whereas hurriedly convened COBR(M) meetings earlier

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1 a paragraph 5, page 3, there.

2 Now, in the Welsh Government -- this is
3 Cabinet Office minutes, but in the Welsh Government
4 notes of this meeting you are recorded as saying:

5 "... our clear message is that people stay home and
6 restrictions [remain] in place ... we are not throwing
7 away everything we have gained."

8 Were you concerned at this stage that the
9 UK Government might not be on the same page as the Welsh
10 Government and the other devolved administrations and
11 also the Mayor of London?

12 **A.** Well, if I was concerned, then events proved me wrong,
13 because the UK Government does agree that a further
14 three weeks of the same level of restrictions is
15 necessary.

16 I probably do have some anxiety as to whether or not
17 they share that view, but more importantly in practice
18 when we had to COBR meeting there was a continued
19 four nation agreement that the level of intervention
20 that we've seen in the first three weeks must continue
21 for another three weeks.

22 **Q.** You refer in your witness statement to a four nations
23 phone call with the Prime Minister on 7 May. You say
24 that the UK Government's roadmap adopted a different
25 approach to the approach that the Welsh Government was

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1 taking. I just want to explore what you mean by this by
2 reference to some minutes of an ExCovid meeting on
3 7 May.

4 It's INQ000216499, please.

5 If we look in the middle of the page, the
6 permanent secretary is noted as reporting that he had
7 been told by his counterparts in the UK that the view in
8 Westminster was that the population was over-complying
9 with the work from home message and were overlooking the
10 part of the message which said if you cannot work at
11 home, then you should go to work and practice social
12 distancing.

13 Reportedly the Prime Minister wanted to correct the
14 overcompliance and was concerned about the economic
15 outlook. And then there was discussion at this meeting
16 on 7 May about as whether to retain the Stay Home, Save
17 Lives messaging.

18 If we just have a look at the bottom of page 2,
19 please, of these minutes, we see Toby Mason's comments:

20 "This absolutely not just messaging but a policy
21 difference."

22 And notes that if Wales retains Stay at Home, it
23 will be different to England, who were looking to ease
24 some restrictions to allow activity outdoors.

25 Now, in terms of the stay home message, you say in
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1 happened and we certainly had no access to the results
2 of them. And I simply was not prepared to agree to such
3 a major change of policy on the basis of the information
4 that I had in front of me at that meeting.

5 I was very unconvinced by Stay Alert. I've no idea
6 what Stay Alert is asking me to do. You know, if my
7 advice to a Welsh citizen is to Stay at Home, then they
8 know what I'm -- what's being asked of them. If I'm
9 asking them to Stay Alert, I've no idea what it is that
10 they are expected to do in response to that injunction.

11 So for all those reasons, no prior notice, no
12 sharing of the basis on which the change had been made,
13 no ability to explain to me what the new message was
14 meant to convey to anybody, I wasn't prepared to agree
15 to it. I had no Cabinet cover for doing that, because
16 we'd never -- we didn't know that we were going to be
17 asked to agree.

18 So at that meeting on 10 May I make it very clear
19 that if the Prime Minister decides to go ahead in that
20 way, then he must be very clear that this is a decision
21 he is making for England, and that in Wales we will
22 continue with the mantra that we have very successfully
23 persuaded people to stay with in those first six weeks.

24 Q. I think it would be fair to say that the announcement
25 that's made, we've seen the text of it with other

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1 your evidence, Mr Drakeford, that changing policy from
2 Stay at Home to Stay Alert was not something that you
3 could and would support. Can you just explain why,
4 given that the UK Government and the Welsh Government
5 were drawing on the same scientific evidence, you didn't
6 feel able to support the UK Government's change of
7 policy?

8 A. Well, having said at the start of my evidence that,
9 you know, there was always more that we agreed on than
10 we disagreed on, this was one of the bleaker moments
11 during the conduct of intergovernmental affairs. I'm
12 not part of the meeting that you've just quoted here,
13 but I do go to a COBR meeting on 10 May, and I hear for
14 the first time that the UK Government intend to abandon
15 the message that we've all agreed on and to move away
16 from Stay Home to Stay Alert. And I'm hearing it in the
17 meeting. And this is one of those examples when I feel
18 that the decision has already been made, we're not
19 really being asked to participate in whether to move,
20 we're being told the UK Government has decided to move.
21 I hear from the head of communications in the
22 UK Government, someone whose advice I'd heard many times
23 and respected a lot, that there had been focus groups
24 carried out around this change of messaging, none of
25 which we either knew about, we didn't know they'd

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1 witnesses, there's very little in that announcement made
2 by Mr Johnson to suggest that these measures applied to
3 England only. Did that cause confusion in Wales?

4 A. I think it's the opposite, of there not being much to
5 convey, that there is a difference. And -- I'm doing my
6 best not, you know, only -- not to sound as cross as
7 I felt at the time, perhaps, but in that COBR meeting we
8 have a very direct rehearsal with the Prime Minister of
9 the need for him to be clear in a press conference --
10 which he's told us he's about to have, so we know the
11 decision's made, because he's got a press conference
12 lined up to announce it -- in that press conference he
13 must make it clear that what he is about to say does not
14 apply in Scotland or Wales or Northern Ireland. And he
15 gives assurances in the COBR meeting that he will do his
16 very best to make sure that he does that.

17 He then heads to the cameras and he provides
18 a script in front of the cameras in which the only time
19 he refers to Scotland, Wales and Northern Ireland is
20 when he says early in the press conference "As
21 Prime Minister of Scotland, England, Wales and
22 Northern Ireland". It is a very clear indication to
23 people that what he's about to say applies to the whole
24 of the United Kingdom, and he never once says that that
25 is not the case.

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1 That's why I describe it as a bleak moment, because
 2 this is not a moment when, and, you know, I understand
 3 that people can use Britain, United Kingdom, England
 4 interchangeably, if that's the way they've been brought
 5 up, but in this case this is not a slip of the tongue,
 6 this is not somebody forgetting to mention, this is
 7 a deliberate attempt to imply to people that what the
 8 Prime Minister's about to say means them when he full
 9 well knew that it didn't.

10 **MR POOLE:** I think the following day, 11 May, you give
 11 a press conference making some of the points you've just
 12 made, and we'll come that after the break.

13 **LADY HALLETT:** Certainly. 1.45, please.

14 (12.46 pm)

(The short adjournment)

16 (1.45 pm)

17 **LADY HALLETT:** Mr Poole.

18 **MR POOLE:** Mr Drakeford, before the break we were talking
 19 about 10 May, and on 11 May you held a press conference
 20 to explain the changes to the regulations that would
 21 come into effect in Wales that day.

22 We can see the text of that at INQ000090562.

23 The fourth bullet point there outlines the changes:
 24 people are allowed to exercise more than once a day,
 25 garden centres are allowed to open, people must comply

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1 could to communicate to people the rules that would
 2 apply to them while they were in Wales.

3 **Q.** In a question and answer session I think following on
 4 from this press conference that we're looking at here,
 5 you were asked about comments that had been made I think
 6 that morning on breakfast television by the then Deputy
 7 Prime Minister, Mr Raab. Mr Raab had said that people
 8 in England should use common sense when meeting up
 9 outdoors and, provided they observed 2-metre social
 10 distancing, that is okay.

11 Now, in Wales, the regulations were clear: leaving
 12 home for a pre-arranged meeting with someone from
 13 another household was not permitted, even if this was
 14 outdoors, observing social distancing.

15 When asked to comment on what Mr Raab had said, you
 16 are reported as saying that it didn't amount to any real
 17 change:

18 "The rules [you said] in Wales are that two people
 19 can meet providing they observe social distancing, so if
 20 one person from a household is going out and meeting
 21 another member of their family ... then under our rules
 22 that would be permitted."

23 I think it would be right to say that your comments
 24 were interpreted by some in Wales as meaning effectively
 25 it was okay to arrange to meet someone from another

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1 with social distancing.

2 If we have a look a bit further down the page,
 3 there's an acknowledgement that confusion may be caused
 4 as a result of differences in the messaging between
 5 Wales and England.

6 If we go over the page to the second bullet point on
 7 page 2, you say:

8 "I want to be clear -- in Wales, Welsh rules will
 9 apply."

10 Going back to where we left off before the break,
 11 could more have been done to make it clear that the
 12 UK Government's Stay Alert message only applied in
 13 England?

14 **A.** Well, as I said before the break, I certainly think the
 15 Prime Minister could have done more to have explained
 16 that when he announced it. We did make really
 17 consistent efforts to communicate with people, and
 18 particularly people along the border, where those
 19 differences are most acute, although of course that is
 20 where people are most used to differences, because there
 21 are differences all the time, after 25 years of
 22 devolution. But I myself would give interviews, not
 23 simply to Welsh media outlets, but I would be giving
 24 interviews to the Shropshire Star and to other local
 25 newspapers along the border in order to do whatever we

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1 household outside provided social distancing was
 2 observed, but that was not permitted, and I think the
 3 Welsh Government issued a statement after your press
 4 conference to correct any wrong interpretation of what
 5 you had said.

6 Do you accept that your comments were potentially
 7 misleading?

8 **A.** Well, I was certainly in trouble over what I had said,
 9 and -- you are on your feet, you are answering
 10 unscripted questions, you sometimes don't say things in
 11 exactly the way that you'd intended. What I was trying
 12 to -- the distinction I was trying to make is the one,
 13 Mr Poole, you've made, but -- and I made the point at
 14 the time -- I used to -- in those very early days,
 15 Cardiff Council kept allotments open for the one-hour
 16 that you were allowed out, so I would cycle to my
 17 allotment for 45 minutes and cycle home again. And as
 18 I would do so, I would see people absolutely
 19 scrupulously obeying the rules, and by chance, not by
 20 design, they would see somebody they knew on the other
 21 side of the road and they would say "Hello" to them or
 22 "Hope you're okay". And I was being asked whether that
 23 was somehow against the rules, that you couldn't even
 24 acknowledge somebody. The point I was trying to make
 25 was that there was nothing wrong with that.

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1 Going out purposely to meet other people was clearly
 2 against the rules, and that's the distinction we tried
 3 to clarify.

4 **Q.** You say at paragraph 49 of your witness statement for
 5 this module that you are in favour of strong debate when
 6 difficult decisions had to be made, and you say when
 7 physical meetings were not possible, some of the entera
 8 defaulted to informal means, and obviously during much
 9 of the pandemic, particularly lockdown periods, virtual
 10 meetings became the default, and you say these obviously
 11 would be supplemented by telephone calls and emails.
 12 And one of the informal means of communication that you
 13 specifically reference in this context where physical
 14 meetings were not possible is the use of text and
 15 WhatsApp messages. So I want to ask you some questions
 16 about your use of text and WhatsApp during the pandemic.

17 Now, it's been widely reported in the press that you
 18 had to correct the record in the Senedd when you said
 19 that you did not use WhatsApp. Just to be clear, it's
 20 right, isn't it, Mr Drakeford, that you did use WhatsApp
 21 to communicate with Welsh ministers and others, such as
 22 the First Minister of Scotland, during the pandemic?

23 **A.** I used WhatsApp on 11 occasions in the whole of the very
 24 many months of the pandemic. I don't believe I used
 25 WhatsApp to communicate with the First Minister of

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1 WhatsApp and text messages and other informal methods of
 2 communication, I assume you wouldn't be advocating for
 3 a change to the policy of the importance of retaining
 4 such messages, because, as you know, it's not simply
 5 a question of whether informal methods such as text and
 6 WhatsApp were used to make decisions, it's necessary to
 7 see discussions that led to decisions or led to
 8 decisions not being made, and that's important to retain
 9 those records; do you agree?

10 **A.** I understand the point that's being made. My own
 11 experience is, looking at text messages, they're not
 12 used, even for background, to policymaking very often
 13 and there are many other far more informative sources
 14 available that show the workings out before a policy is
 15 concluded. But -- I don't disagree with the point but
 16 I don't myself believe that they would be very helpful
 17 to anybody looking to understand the arguments that lay
 18 behind decisions, certainly much less useful than many
 19 other sources that are available.

20 **Q.** Did you ever give a direction to Welsh ministers and
 21 Welsh Government officials for messages not to be
 22 deleted and for records to be retained?

23 **A.** No.

24 **Q.** When you were made aware of this Inquiry being formed,
 25 did you discuss with Cabinet colleagues or officials for

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1 Scotland. I would have had text messages with her,
 2 certainly, but in terms of WhatsApp I've had the record
 3 checked, there are 11 occasions. One of those I say
 4 "Thanks". That's one of them. And another one
 5 I complained that I can't hear the sound of the Senedd
 6 when I'm meant to be answering questions.

7 So I did, it's certainly true I did use, but I'm
 8 a very, very infrequent user of WhatsApp. I'm a much
 9 more frequent user of text messages.

10 **Q.** Dame Shan Morgan was taken to a number of Welsh
 11 Government policies concerning the use of informal
 12 methods of communication and also the importance of
 13 keeping records. Do you accept that using WhatsApp to
 14 discuss Welsh Government business was prohibited by
 15 those policies?

16 **A.** I do accept that. It's the policy that's wrong, not the
 17 practice.

18 **Q.** Do you accept, as Jane Runeckles, your most senior
 19 adviser, did when giving her evidence, that using
 20 WhatsApp even for administrative purposes was wrong?

21 **A.** It was against the policy of 2009. In the circumstances
 22 of 2009 the policy no doubt was a sound one. In the
 23 circumstances of dealing with a pandemic, the policy did
 24 not make sense.

25 **Q.** Even if the policy were to change to allow the use of

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1 the need for such messages to be retained for the
 2 purposes of this Inquiry?

3 **A.** No.

4 **Q.** Why not?

5 **A.** It would not have occurred to me that I would need to do
 6 so.

7 **Q.** You're aware that the disappearing messages function was
 8 turned on by a number of officials, including
 9 Jane Runeckles, also Mr Miles yesterday said that he
 10 enabled this when it became available on his phone. Is
 11 that something that surprises you?

12 **A.** Insofar as I am, you know, well informed about these
 13 things, I think it's what people do all the time. And
 14 I don't think people would have been doing it with
 15 an eye to a future inquiry when, you know, they did so.

16 Now that the spotlight has been shone on these
 17 matters in the way that it has, then it would have been
 18 better had things not been deleted, but I don't believe
 19 that it was in order to escape the gaze of anybody else
 20 that people would have taken that very ordinary
 21 decision.

22 **Q.** And it's right to say that although you have shared
 23 messages with the Inquiry, you have not been able to
 24 recover messages for the period July 2018 to March 2021
 25 from your Senedd-issued mobile phone, have you?

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1 A. Apparently not.

2 Q. Can you tell us what efforts have been made to recover
3 those messages?

4 A. Well, I use only one telephone. There are a number of
5 telephones you could use but I use only the one and
6 that's the one supplied to me as a member of the Senedd,
7 not as a Welsh Government minister. I have no knowledge
8 of or expertise in the way in which messages are stored
9 or not stored, and as soon as the Inquiry asked for
10 messages then my phone was handed over and all the
11 messages available have been made available to
12 the Inquiry. I would have no way of knowing where they
13 were stored or how they were stored or which were still
14 available, but efforts would have been made by Senedd
15 technical staff with that competence to make sure that
16 the Inquiry had everything that was available.

17 Q. Mr Drakeford, changing topic, and we've looked at
18 10 May, which appears to be something of a turning point
19 in terms of co-ordination between the four nations, and
20 the Inquiry has heard evidence that would tend to
21 indicate that some differences between the four nations
22 were obviously simply a matter of timing, others were
23 more substantive. The general pattern, though, perhaps
24 with the exception of schools, where England re-opened
25 schools first, in early June, and then that was followed

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1 approach. So we were acting consistently with the
2 centre of gravity of Welsh public opinion.

3 Q. There was a Cabinet meeting on 27 May, if we can go to
4 those minutes.

5 They're INQ000048926. And if we can have a look at
6 page 2, please, paragraph 1.1.

7 The focus of this meeting was on the next 21-day
8 review which had to be carried out by 29 May.

9 If we can have a look at paragraph 1.5, please.

10 Transmission at this point, 27 May, was under 1, it
11 was 0.87:

12 "... substantially changed since the last review ...
13 there had been decreases in admissions ... [suggesting]
14 that the rate was falling."

15 Then if we have a look at page 3, please,
16 paragraph 1.9, there is a -- thank you -- proposal the
17 regulations be amended to change the 'stay at home'
18 provisions to 'stay local'.

19 Then further down that same page, 1.14, there was
20 a proposal to allow two different households to meet
21 outside subject to social distancing being maintained,
22 and I'm right in saying Cabinet agreed both of those
23 changes ought to be made to the regulations; that is
24 right, isn't it?

25 A. That is right.

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1 by Wales, with that exception the general pattern seems
2 to be England and Northern Ireland easing restrictions
3 and then re-opening the economy first, followed next by
4 Scotland and then Wales.

5 Dr Dai Lloyd, who is the chair of the Health, Social
6 Care and Sport Committee in the Senedd, he told the
7 Institute for Government that the Welsh Government had
8 taken a "general cautious approach which is reflective
9 of Welsh society".

10 Does this explain the pattern that we've just been
11 looking at and, if not, what is the explanation?

12 A. Well, I think it is true to say that we did take a more
13 cautious approach to the lifting of protections. Mostly
14 that is done because of the advice that we have, which
15 is that in opening up Wales again you ought to do it one
16 step at a time and with sufficient time between measures
17 to be able to assess the impact of those measures on the
18 circulation of the virus. That is the essential reason.

19 Dr Lloyd is right, however, that Welsh opinion was
20 always -- I'll put it slightly differently, if I could.
21 For every one person who replied to various opinion
22 surveys in Wales who thought we were too slow in lifting
23 protections, there were two people who thought we were
24 going too quickly. So the temper of public opinion in
25 Wales was in favour of that more gradual and cautious

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1 Q. What did Cabinet decide at this point in time, so this
2 is 27 May, in respect of re-opening schools and
3 childcare settings?

4 A. At this point the Cabinet decides that we want schools
5 to be able to resume education. We have a plan that the
6 education minister leads, which would be to bring the
7 school term to an end early, and for schools to re-open
8 early in August, because that would have given us the
9 maximum amount of time for schools to be in operation at
10 the best time of the year, when the risks were lowest.

11 So we are planning for the resumption of
12 face-to-face education and the education minister has
13 proposed that as the plan that would give children the
14 maximum amount of time in the classroom and in the
15 safest conditions.

16 We were unable to bring that plan to fruition,
17 because it is opposed by the teacher unions, whose
18 argument is that they have a contract that means that
19 they can't be asked to rearrange their holiday time.

20 The education minister moves to her next plan, which
21 is to ask schools to continue the summer term for
22 one week extra and to bring children back to school for
23 four weeks before the end of the term and to give
24 schools that one week back in holiday term -- time in
25 October.

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1 Again, unfortunately in my view, the teacher unions
2 opposed that as well. Three education authorities out
3 of 22 in Wales go ahead with the education minister's
4 plans but the other 19 feel they can't overcome the
5 objections of teachers to it.

6 So we end up with schools going back in Wales before
7 the end of the summer term, but for three weeks in most
8 cases rather than the four we would have preferred.

9 **Q.** I think Ms Williams, Kirsty Williams, then minister of
10 education, she says in her witness statement:

11 "On 29 June 2020, schools across Wales opened to
12 pupils from all year groups for limited periods during
13 the week, with only a third of pupils in school at any
14 one time."

15 She states that she was proud that "Wales was the
16 only UK nation where all pupils has the opportunity to
17 attend school before the summer break".

18 Now, there had been advice given by TAC in a report
19 to the Cabinet on 27 May that there was insufficient
20 headroom for schools to re-open. Do you think in light
21 of that that the correct decision was made, for schools
22 to resume some form of face-to-face teaching prior to
23 the summer holidays?

24 **A.** I do, because that is a month later from the TAC advice,
25 and the basic patterns across the United Kingdom are the
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1 deployed, we're simply informed that a decision has been
2 taken. It means I think that we are even further away
3 from that regular reliable engagement between us that
4 I would like to have seen. We're not involved at all in
5 the strategic thinking of the UK Government and we're
6 only involved in the operational side of it when they
7 decide that it would be useful for us to be in the room.

8 I do not believe that that was a satisfactory basis
9 on which to navigate a four nation approach to the
10 challenges that we all faced.

11 **Q.** And you voiced some of those concerns in a letter you
12 write to Mr Gove on 11 June.

13 We can see that letter, INQ000216519.

14 Second paragraph on that first page, you point out
15 that COBR last met on 10 May, you last heard from the
16 Prime Minister on 28 May, this is obviously now 11 June.
17 Through official channels you had also learnt that COBR
18 had been stood down and that there were plans to scale
19 back the SAGE arrangements.

20 You then note three announcements that had been made
21 by the UK Government: 4 June, mandatory face coverings
22 on public transport; 5 June, face masks in NHS
23 facilities; and 10 June, bubbling for single person
24 households. And you make the point that those
25 announcements were made with minimal or no prior
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1 same, and at this period we are all heading into better
2 times, better territory, and we are all looking to use
3 the headroom, as we called it, that that provides to be
4 able to restore some of the activities that otherwise
5 would have -- would have been there.

6 On 27 May we didn't open schools that day but we are
7 giving what the Bank of England would call forward
8 guidance and we are anticipating the fact that things
9 will continue to improve, as SAGE has told us they will,
10 and we will come to a point when it will be safe for
11 that to happen, and we're planning purposefully for
12 that.

13 **Q.** In June 2020 that's when MIGs, ministerial
14 intergovernmental(sic) groups, were replaced with
15 Covid-S, Prime Minister's strategy group, Covid-O, the
16 operations committee that we know was chaired by
17 Mr Gove. I'm right in saying that the devolved
18 administrations were not invited to attend Covid-S
19 meetings and were not invited to attend Covid-O meetings
20 on a standing basis until October 2020. What impact did
21 the decision to replace MIGs with Covid-O and Covid-S
22 have on Welsh Government decision-making?

23 **A.** Well, the first thing to say is that we're not involved
24 in that decision, no attempt is made to ask devolved
25 governments how those arrangements might best be
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1 communication.

2 You then say that those have "big practical
3 implications for Wales, directly or indirectly". Just
4 explain to us what you mean by that last sentence?

5 **A.** Well, I'm afraid that those announcements will again
6 have been made with very little reference to the fact
7 that they were announcements for England and not for
8 Wales. So many people in Wales get their news from
9 London sources. There is no strong Welsh press, there's
10 a good Welsh broadcasting system, but even then the
11 closer you are to the border the more likely you are to
12 get your news from Bristol or from Manchester. So there
13 would be a direct effect of people hearing these
14 announcements made by the UK Government and thinking
15 that it meant them in Wales. So there is that very
16 direct decision.

17 And then there is the fact that had we known about
18 it and had we had the chance to, you know, be part of
19 the decision-making, then, had we chosen to do it at the
20 same time, which we might have done in that context,
21 then there would be practical things that we would need
22 to have done. Putting face masks in NHS facilities in
23 that way in place, you've got to make sure that there is
24 a supply, you've got to make sure that they arrive in
25 the right place, and so on. So there are intensely
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1 practical implications that we might have been able to
2 navigate together, had the opportunity come our way.
3 **Q.** You say in this letter, I think it's the same page we're
4 looking at but the last paragraph and slightly over the
5 page, you say that without a predictable rhythm of
6 engagement it is not credible for you to continue to
7 defend the four nations approach as you had done
8 consistently until now.

9 At the time of writing this letter, did you consider
10 that the UK Government had effectively given up on
11 a four nations approach to the Covid-19 response?

12 **A.** I don't want to say that, because that implies that
13 there's a sort of monolithic view of the world by
14 the UK Government. There were parts of the
15 UK Government that I think were very keen to maintain
16 a four nation approach, worked quite hard to do it.
17 What we now lacked was an impetus from the centre of
18 government to sustain that four nation approach. The
19 machinery had been eroded and withdrawn and too many
20 decisions were being announced which applied only to
21 England without any prior notice or opportunity to
22 engage in that decision.

23 And, you know, I would be very regularly asked in
24 press conferences about consistency in the four nations
25 approach and I always wanted to argue for it, because

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1 have affected the attitude of the UK Government to these
2 meetings?

3 **A.** I should say, my Lady, that I had the highest regard for
4 the First Minister of Scotland and the First Minister
5 and deputy First Minister of Northern Ireland. They
6 were never anything but collegiate people, they took
7 phone calls, they were involved in discussions. I had
8 a very high regard for them all.

9 The UK Government was always anxious about their
10 interactions with the First Minister of Scotland,
11 because, you know, she did have a different underlying
12 ambition for the future of Scotland and that coloured
13 their attitude towards her. She's also a formidable
14 politician and UK ministers were afraid of her, and
15 would rather not have been engaged in a confrontational
16 dialogue with her. That wasn't true of the
17 Prime Minister, he was happy to talk to anybody, and
18 I don't think he avoided discussions for that reason, he
19 avoided them because he did not want to give the
20 impression that the Prime Minister of the United Kingdom
21 was somehow on a par with first ministers of other
22 nations. It was the optics that he objected to,
23 I think, rather than the personality.

24 **MR POOLE:** Between writing your letter that we've looked at
25 on 11 June and receiving the response from Mr Gove on

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1 that was always my preference. But I was explaining to
2 Mr Gove that that was getting harder and harder when
3 I would be confronted all the time with practical
4 examples where the UK Government was not acting in that
5 way.

6 **Q.** You received a letter from Mr Gove on 22 July, so some
7 six weeks after you had written that letter we've just
8 looked at. We don't need to see a copy of that
9 response. Mr Gove agreed with you that regular
10 engagement between the UK Government and the devolved
11 administrations is crucial. Did you see any marked
12 improvement in engagement after this point, so this is
13 22 July 2020?

14 **A.** Well, it's a characteristically emollient reply from
15 Mr Gove and, you know, contact through him, and in the
16 way that we've described during the morning, is a much
17 better part of the landscape. There is no -- there is
18 no resumption of contact at Prime Ministerial level. So
19 again, you know, I want to give proper credit to the
20 things that did work while just arguing that they were
21 necessary but they weren't sufficient.

22 **LADY HALLETT:** You were present at some of the discussions
23 that took place when they took place, Prime Ministerial,
24 First Minister level. To what extent do you think
25 certain personality clashes about which I've heard might

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1 22 July you had a call with Mr Gove on 23 June. Again,
2 we don't need to display the note of that call. Mr Gove
3 reported on decisions that were made before the
4 UK Government Cabinet that afternoon and one of those
5 decisions was whether to relax the 2-metre social
6 distancing rule, and you've commented, Mr Drakeford, in
7 your witness statement in Module 2, paragraph 109, you
8 say that:

9 "The underlying advice had not been shared with the
10 devolved administrations (prior to that morning) and
11 there had been no consultation with us."

12 Surely whether or not to relax the social distancing
13 rule was a matter for the Welsh Government. Did you
14 really need to have been consulted first by the
15 UK Government before you can take that decision for
16 yourselves?

17 **A.** I don't think that's the point I was making in what you
18 read out, Mr Poole. I was being asked to agree in that
19 meeting to do the same in Wales as the UK Government had
20 decided to do in England. But I'd got no evidence to
21 help me to make that decision.

22 I'm told what the UK Government is going to decide
23 for England, and the implication, the invitation is
24 clearly there to do the same. But without being able to
25 understand what lies behind the decision that's been

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1 taken in England, I'm simply not in a position to go
2 along with it.

3 When we did investigate it we found that we didn't
4 find the evidence compelling and our contract,
5 particularly through our Social Partnership Council --
6 which I don't think I have mentioned, but was such
7 a powerful part of our landscape in Wales -- the Social
8 Partnership Council were very clear that they wished to
9 see the 2-metre social distancing rules in Wales
10 continue. And that's what we decided to do.

11 **Q.** We move on to some questions now about face masks.

12 The UK Government made it mandatory from 15 June to
13 wear face masks on public transport with the exception
14 of people with certain conditions, disabled people and
15 children under the age of 11. The UK Government made
16 the wearing of face masks mandatory in shops and
17 supermarkets then a bit later, on 24 July. And you've
18 said in your evidence that face coverings were the
19 subject of, you say, regular and probing consideration,
20 the scientific and medical advice was always contested.

21 Then you say, and it's paragraph 209 of your witness
22 statement for this module, that you:

23 "... set the bar high against a 'pick and mix'
24 approach to scientific and medical advice."

25 And you say:

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1 after the pandemic -- so we'd made the decision -- we
2 need food at home. My wife and my mother-in-law are
3 shielding. I am the only person in our house who can go
4 shopping. So I leave the government building in Cathays
5 and I go a few hundred yards away to a Lidl and I join
6 the queue outside. And it's beautiful -- the weather is
7 beautiful, and people are standing outside at a 2-metre
8 distance. I found myself standing behind somebody
9 I already know, and lo and behold the person who comes
10 after me is somebody else that I know, and I am
11 observing the extent to which people are already wearing
12 face coverings of their own volition in those more risky
13 situations.

14 So when Welsh ministers debated, as I said we did,
15 very much with the Chief Medical Officer whether this
16 was the right advice to give, we're drawing on our lived
17 experience of seeing the way our fellow citizens are
18 behaving in these extraordinary circumstances and
19 worrying about the gap between the advice that we are
20 given and we are giving and people's own conclusions
21 that they're drawing in their own lives.

22 In the end, and it does as you say take me back to
23 the point we debated a little before the break, the
24 Chief Medical Officer's view is very clear: advising
25 face coverings is not only of marginal utility, but

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1 "While Cabinet remained the final decision-maker, it
2 could not be on the basis of selective adherence to the
3 most authoritative advice available."

4 I think this goes back to an answer you gave this
5 morning. When there were finely balanced scientific and
6 medical arguments for and against a certain NPI, in this
7 example face masks, how would Cabinet decide?

8 **A.** Well, our Cabinet would be influenced by a range of
9 different considerations. Fundamentally, here, the
10 Chief Medical Officer of Wales advised us very regularly
11 not to put the weight of the Welsh Government behind the
12 wearing of face masks. He says in his witness statement
13 to you that there were only two examples in the whole of
14 the pandemic where the views of ministers and the views
15 of the Chief Medical Officer differed and this is the
16 most important one of them.

17 Maybe if I could make one slightly wider point, but
18 it's relevant to this. One of the big differences
19 between being a minister in Wales and being a minister
20 in England, but in Scotland as well, is that we don't
21 live separate lives. The First Minister of Scotland
22 spent the pandemic in Bute House, you know, in her
23 official residence. We have no such thing. You know,
24 we are directly engaged with the mood of the people.

25 I remember very vividly, if I could say, the week

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1 could positively harm the efforts that people are
2 making, because it would lead them to do more risky
3 things in the belief that they were protected from those
4 risky things by wearing a face covering. And in the
5 end, as I say, we don't pick and choose, we follow the
6 advice that we're given.

7 **Q.** It would be right to say, we know that Dr Atherton
8 remained at the sceptical end of the spectrum of opinion
9 in respect of face coverings. His advice was always
10 explicitly against making them mandatory. You say in
11 your witness statement you felt it important to support
12 that position. Why?

13 **A.** Because of the arguments I made this morning. Imagine
14 if I -- if we had decided to go against the advice of
15 the Chief Medical Officer, advice that would be publicly
16 available, everybody would see the Chief Medical Officer
17 has advised this and you have done something different.
18 The following day I would go to the Social Partnership
19 Council and I would be in a difficult conversation with
20 tourism interests in Wales and I would be saying --
21 explaining to them "I'm afraid we have to do this
22 because the advice we have is that that is important".
23 What would their first answer to me be? "Well, you
24 ignored the Chief Medical Officer in his advice on face
25 coverings, so why do you feel you've got to follow his

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1 advice on this?" And that was not a line of argument
 2 that I felt it was in anybody's interests to open up.
 3 **LADY HALLETT:** But you could have justified it. If you felt
 4 that it was sensible to take the advice in one example
 5 but not in another, couldn't you just have said to your
 6 partnership council, "Well, in this respect, I have
 7 a huge amount of time for Dr Atherton but I happen to
 8 disagree with him and I've looked at all the evidence
 9 and I've seen what other countries are doing and,
 10 because we're trying to be cautious in Wales, I'm going
 11 to go this way"? Couldn't you have done that?
 12 **A.** I could have done, absolutely I could have done, it
 13 would have undermined the Chief Medical Officer.
 14 I think in the eyes of people who would know that the
 15 Welsh Government had seen his advice and decided they
 16 didn't want to follow it, that would have given his
 17 advice in other contexts less weight and he would have
 18 been more vulnerable. And we were constantly being
 19 asked by different groups to make an exception for them.
 20 They could see why it was necessary for us to do this,
 21 but couldn't we see that they -- whatever it would be,
 22 and there's a very long list of them -- need to be
 23 treated differently. And my strongest defence always
 24 was that the advice that we had was to act in the way
 25 that we did. And I wasn't -- I absolutely agree that

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1 questioning why it wasn't mandatory to wear face
 2 coverings on public transport.
 3 Face coverings were made compulsory on public
 4 transport in Wales from 27 July; was that decision
 5 influenced by public opinion?
 6 **A.** Yes.
 7 **Q.** Six weeks after that decision had been made by the
 8 UK Government. Is that six weeks' delay justifiable in
 9 your view?
 10 **A.** I think it's explainable. I don't think it's for me to
 11 justify it, but I think I can explain it, and in the way
 12 that I have, is that we are -- and we come back to this
 13 topic, you know, far more often than maybe the
 14 significance of the wearing of a face mask justified.
 15 We come back to it very regularly because of the public
 16 interest in it, because we can see that people in Wales
 17 are acting in a way that's not consistent with the
 18 advice that we are giving and we want to test that
 19 advice regularly and probe it and challenge it and all
 20 of those things. Over time the advice changes and part
 21 of the reason why it changes is that it's -- it erodes
 22 confidence in some of the other things you're asking
 23 people to do if too big a gap opens up between what
 24 people are concluding in their own lives and what it is
 25 that the Welsh Government is advising them to do.

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1 the choice was there, but the choice I made and my
 2 colleagues made was not to create a chink in the wall of
 3 the argument that we were making.
 4 **LADY HALLETT:** But aren't you then slavishly following the
 5 science? Which this morning said you weren't doing, you
 6 were being guided by it. But if you always follow it,
 7 aren't you slavishly following it?
 8 **A.** Well, I don't think we were slavishly following it,
 9 because, as the extract said, we were in vigorous
 10 discussion with the Chief Medical Officer on this point,
 11 and testing him and asking him things like that.
 12 In the end, his professional assessment was always
 13 clear: you can do it, but you'll be doing more harm than
 14 good. And I don't think that was a position my
 15 ministers would have willingly put themselves in.
 16 **MR POOLE:** What about consistency of messaging? Was there
 17 not an argument, and quite a powerful argument, for
 18 charting the same course as England and Scotland just to
 19 ensure a consistency of messaging on face masks?
 20 **A.** Yes, there was, and I'm absolutely certain those points
 21 were made in the discussion we would have had.
 22 **Q.** There's a Covid-19 core group meeting of 14 July, don't
 23 need to display the minutes, but it was noted that there
 24 had been a great deal of coverage in the media about the
 25 use of face coverings, and in short the public were

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1 **LADY HALLETT:** When you changed it, what was Dr Atherton's
 2 advice at that stage?
 3 **A.** Well, I think Dr Atherton was always at the more
 4 sceptical --
 5 **LADY HALLETT:** So you didn't follow him when you changed it?
 6 **A.** No, I think he had moved away from the argument that it
 7 would do more harm than good. He was sceptical always
 8 that it did any good, you know, and always anxious that
 9 people would think they were protected by a face
 10 covering and therefore, you know, not observe social
 11 distancing, for example, because "I've got a face mask
 12 on, it's okay". So he was always anxious about that.
 13 I think by the time we changed the advice his
 14 feeling was, given the way that people were behaving,
 15 that while you didn't do much good, the argument that it
 16 would be positively harmful was no longer as strong as
 17 he would have articulated it at the beginning.
 18 **MR POOLE:** One of the reasons that Dr Atherton explained in
 19 his evidence to the Inquiry of his view why he was at
 20 the sceptical end, as you've just alluded to, is that it
 21 would make people complacent if they were to wear a face
 22 mask. From what you've just said about your trip to
 23 Lidl and seeing people in the queue wearing face masks,
 24 even though it wasn't mandatory in Wales at that point,
 25 did you see evidence from England or anywhere else in

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1 the world that actually wearing face masks made people
 2 complacent such that it might support Dr Atherton's
 3 views?
 4 **A.** I don't think I could say that I saw direct empirical
 5 evidence. I certainly saw Dr Atherton's view expressed
 6 by a whole range of other scientists who also argued
 7 that there was a risk in encouraging people to wear face
 8 coverings that it would undermine their willingness to
 9 adhere to far more effective NPIs.
 10 **Q.** The Inquiry heard evidence in Module 2 from
 11 Sir Patrick Vallance and his evidence was that there was
 12 clear advice on the benefits of face masks in June 2020
 13 and he said anything else was politics. Did you
 14 consider that playing politics is perhaps how the
 15 different policy decisions being taken by the Welsh
 16 Government would perhaps appear to members of the
 17 public?
 18 **A.** I don't think there's any evidence of that.
 19 Satisfaction levels with the Welsh Government and
 20 people's confidence in the advice they were given was at
 21 a very high level during all of these months.
 22 **Q.** Change topic, briefly, Eat Out to Help Out. August 2020
 23 saw the introduction of that scheme. We know obviously
 24 it was a scheme implemented by the UK Government. We've
 25 heard, the Inquiry's heard, evidence that SAGE wasn't

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1 We know now that, you know, it very likely helped
 2 the spread of the virus. At the time, I don't want to
 3 go further than saying, had we had the opportunity, we
 4 would have asked some probing questions about it and
 5 would have wanted to see the evidence on those points
 6 for ourselves.
 7 **Q.** Change topic now and deal with the period September
 8 through to October and the Welsh firebreak.
 9 You say at paragraph 215 of your witness statement
 10 for this module, when describing the use of local
 11 lockdowns to deal with local outbreaks of Covid-19 in
 12 September 2020, you describe that as a failed
 13 experiment.
 14 Now, explain why you have said that.
 15 **A.** Well, the pattern in Wales, my Lady, is the one we've
 16 described, that things get better during the summer, and
 17 the first Sunday of July we have the first day since
 18 March where there were no deaths from Covid, we have
 19 11 days in a row in August when there are no deaths,
 20 things are getting better, and the last time we have
 21 a three-week review in August, the advice is that we can
 22 expect things to continue to be relatively benign, with
 23 some warning signs about the autumn.
 24 In fact, things got worse much more quickly in
 25 September than we had anticipated, and very soon we find

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1 consulted about the scheme, only knew about it when it
 2 was announced. And I'm right in saying that there
 3 wasn't any consultation with the Welsh Government about
 4 it; is that right?
 5 **A.** That's right.
 6 **Q.** Were you given any opportunity to ask questions as to
 7 its scientific rationale?
 8 **A.** We weren't offered any opportunities. And just to be
 9 clear, this was an entirely non-devolved scheme, carried
 10 out by the UK Government, using their own reserved
 11 powers, and there would have been no -- there would have
 12 been no receptivity at all to the Welsh Government
 13 saying "We'd like to talk to you about this, are you
 14 sure it's the right thing to do?" We would, I'm
 15 absolutely certain, have been told that it was nothing
 16 to do with us, it was a UK scheme, and it was happening
 17 everywhere.
 18 **Q.** I think it's quite clear from your witness statement
 19 that had you been consulted you would not have supported
 20 the scheme; is that right?
 21 **A.** I don't want to overstate it. Had we been offered the
 22 opportunity, we would have asked some fairly sceptical
 23 questions about it. But I -- you know, we would have
 24 weighed up the answers and the evidence that we were
 25 given.

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1 that there are some local areas where there is
 2 a significant upswing in the virus. So the county of
 3 Caerphilly, for example, had a third of all the cases in
 4 Wales in that early period of September. And what we
 5 follow is a classic public health response to it, one
 6 I was very familiar with from my time as health
 7 minister, when I dealt with outbreaks of measles in
 8 Swansea and tuberculosis in Llanelli: you find the
 9 source of it, you track, you trace, you contain and you
 10 try to put a ring around the problem, and restrain
 11 people's lives there but don't affect people's lives
 12 where there is no virus in circulation. That's what we
 13 set off to do in September and, as I say, it's textbook
 14 public health response to an outbreak.

15 By the time we get halfway through October, though,
 16 we have got local lockdowns over almost half or more of
 17 Wales, and every week we're having to add more local
 18 areas to -- in other words, it just hasn't worked.
 19 That's what I meant by a failed experiment.

20 I'm not saying it didn't have an impact, I should
 21 make that clear. I think there are figures that show,
 22 for example, the county borough of Torfaen in South East
 23 Wales, on the day that it went into lockdown it had --
 24 local lockdown -- it had the same level of coronavirus
 25 as the town of Bolton in England. Weeks later, the

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1 rates in Torfaen are between 50 and 60 per 100,000, and
2 in Bolton, where there has been no restrictions, it's
3 over 300.

4 So I'm not saying it didn't have any impact, but
5 what it didn't do was to contain the outbreak in that
6 local area in the way that we had hoped.

7 **Q.** Let's just look at the information that was coming
8 through to the Welsh Government throughout September and
9 into October. If we start on 15 September, there's
10 a daily ministerial call, you received an update from
11 Mr Gething. We don't need to go to the minutes of it.

12 There's a TAC report that Wales was in an equivalent
13 approximation to early February, the R rate was above 1,
14 urgent decisions needed to be made as to whether to
15 persist with the local lockdowns or take national
16 measures.

17 Then on 18 September, three days later, TAC advised
18 that more needed to be done to bring the R rate back
19 below 1. So in summary, again, the TAC advice was
20 a package of NPIs may be needed to bring R below 1, and
21 that action would be most effective if implemented
22 early.

23 We know that a circuit-breaker or firebreak lockdown
24 was recommended by SAGE on 21 September. Perhaps if we
25 just have a look at the minutes, Fliss Bennee attended

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1 go to the advice. It was that if current measures do
2 not bring R below 1, further restrictions will be needed
3 to control the epidemic in Wales.

4 And then a week later, on 2 October, rather more
5 stark warning from TAC: unless measures bring R below 1
6 it is possible that infection incidence and hospital
7 admissions may exceed scenario planning levels.

8 So the advice seems to be pretty clear, certainly
9 from SAGE on 21 September, and then reinforced by TAC
10 and TAG, that immediate steps such as a circuit-breaker
11 are needed and that they would be most effective if
12 introduced early.

13 So at this point, we're now at the beginning of
14 October, what is the Welsh Government's thinking as
15 regards a circuit-breaker?

16 **A.** Well, the Welsh Government took the advice very
17 seriously. You'll know that I raised it at COBR
18 meetings. The Prime Minister told me he wasn't prepared
19 to introduce a national lockdown. I asked for a special
20 meeting of COBR to consider the circuit-breaker advice.
21 I was supported in that by the First Minister of
22 Scotland, but that meeting never took place.

23 There are a series of headwinds to the Welsh
24 Government being able to act on that advice. There are
25 financial headwinds to it, there are political headwinds

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1 on behalf of TAC.

2 They're INQ00061566, and I'm looking at page 2,
3 paragraph 2, please. Thank you.

4 SAGE advice:

5 "A package of interventions will need to be adopted
6 to reverse this exponential rise in cases. Single
7 interventions by themselves are unlikely to be able to
8 bring R below 1 ..."

9 Top of the list of interventions we see there:

10 "• a circuit-breaker (short period of lockdown) to
11 return incidence to low levels."

12 So this is 21 September 2020.

13 Then if we can look at paragraph 6 on that same
14 page, please:

15 "The more rapidly interventions are put in place,
16 and the more stringent they are, the faster the
17 reduction in incidence and prevalence, and the greater
18 the reduction in COVID-related deaths (high confidence).
19 Both local and national measures are needed; measures
20 should not be applied in too specific a geographical
21 area."

22 Just continuing, so we know what the information was
23 that you had. Four days later, 25 September -- we can
24 take these minutes down, thank you -- the need for early
25 intervention is reiterated by TAC. Again, don't need to

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1 to it -- given the Prime Minister is not just not
2 prepared to do it, he is actively opposed to doing it,
3 and says so publicly, and criticises the Welsh
4 Government when we say that we are intending to do so.

5 I think Professor Dan Wincott says in his advice to
6 the Inquiry that decisions in Wales are often made in
7 the shadow of decisions that are made by our
8 next-door -- much bigger next-door neighbour, and I want
9 just to underline the headwind that that does create
10 when you are trying to do something in the face of
11 active opposition from others.

12 There is acceptability to the public. You know,
13 we're four weeks on from the summer holidays. Only
14 four weeks ago people are on the beach and things look
15 like they are much better. Four weeks later to say to
16 people that they're heading into a national lockdown,
17 there are real concerns in my mind about being able to
18 persuade people of that.

19 And then there is the balance of harms, which we are
20 more aware of, you know, in the lead-up to the lockdown
21 period, the circuit-breaker period, than we were back in
22 March. We're now more aware of the other things that we
23 have to balance.

24 So we spend October trying to grapple with those
25 things and to come to a decision that balances the

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1 advice we are very clearly getting from SAGE and
2 increasingly getting from Welsh sources with all the
3 other things we have to take into account.
4 **Q.** So let's just look at the -- you mentioned two
5 headwinds, a political headwind and the economic
6 headwind. And you mentioned the COBR meeting. I think
7 the COBR meeting was on 12 October. We don't need to
8 bring up -- though we've got the minutes, so why don't
9 we look at them, as they're there -- thank you very
10 much.

11 INQ000083851, page 7, paragraph 11.

12 You asked the Prime Minister whether
13 a circuit-breaker or a firebreak lockdown would be
14 considered, as had been advised by SAGE.

15 And I think, talking about a political headwind, you
16 had formed the view, had you not, even at this
17 relatively early stage in October, that the
18 UK Government was not with you on the need for
19 a firebreak lockdown; is that right?

20 **A.** Well, I had formed that, I don't -- it's there in the
21 minutes. I don't want to over-rely on
22 Mr Dominic Cummings' evidence, but this is what he says
23 about the Prime Minister's attitude at this point:
24 enraged, the Prime Minister made his comment "No more
25 [expletive] lockdowns, let the bodies pile high in their

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1 So at this point in time, we've seen SAGE advice,
2 going back to 21 September, talking about
3 a circuit-breaker. Would I be right in understanding
4 that as of 13 October no plans had been put in place by
5 the Welsh Government for the introduction of
6 a circuit-breaker?

7 **A.** Well, that is a decision in principle, so it's not
8 a decision about the detailed planning. First of all,
9 I need to know whether this is a course of action that
10 the Cabinet are prepared to embark upon, so we do have
11 a very detailed debate, and at the end of it there is
12 a unanimous agreement that, despite those headwinds that
13 I've outlined, this is the right thing to do and we make
14 that in principle decision that that will be our policy.

15 **Q.** I think it's right to say also on 13 October you wrote
16 to the Prime Minister, you raised an issue about the
17 English/Welsh border that we might come back to about
18 those moving from high prevalence areas to low
19 prevalence areas, but at the end of this letter -- we
20 don't need this brought up -- you invite the
21 Prime Minister to convene a COBR meeting to discuss
22 a UK-wide circuit-breaker.

23 So although you say on 12 October at COBR you had
24 formed the view that this was not something that
25 the UK Government or the Prime Minister was ever going

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1 thousands".

2 Now, I don't want to over-rely on that, but it does
3 give you a sense of it's not just the UK Government is
4 not convinced or is neutral about it, they are
5 positively determined not to do what they're advised to
6 do and positively going to oppose Welsh efforts to do
7 what we thought we needed to do.

8 **LADY HALLETT:** It was, of course, the evidence of
9 Mr Cummings.

10 **A.** I hope I've caveated my reliance on it.

11 **MR POOLE:** Following this COBR meeting of 12 October you
12 updated Welsh ministers as to what had been discussed at
13 this meeting. That was on the daily ministerial call of
14 13 October. Again, we don't need the note of that
15 meeting, but it records your recollection of the COBR
16 meeting: the UK CSA and CMO repeatedly telling the
17 Prime Minister that Tier 3 measures would not be
18 sufficient to reduce the R rate below 1 but that
19 a circuit-breaker would.

20 And it's at this point, 13 October, that you invited
21 Welsh ministers to consider a circuit-breaker, and it's
22 recorded in the minutes. Dr Atherton informed the
23 meeting that the four CMOs of the UK supported
24 a circuit-breaker. Public Health Wales, TAC and SAGE
25 all agreed that that was the right approach.

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1 to countenance, you seem to still -- be writing on the
2 following day on 13 October inviting a meeting to
3 discuss it. Why?

4 **A.** Because I thought the Prime Minister's approach on
5 12 October was extraordinary.

6 It is very unusual for very senior civil servants to
7 be as blunt with the Prime Minister as both
8 Sir Chris Whitty and Sir Patrick Vallance were in that
9 meeting. They both repeatedly said to him "Your plan
10 for Tier 3 lockdowns will not bring the R rate below 1".
11 And it's rare for advice to be given as bluntly as that
12 and to be repeated during a meeting in that way.

13 So I wanted the Prime Minister to have another
14 opportunity to reflect on that advice and that evidence,
15 and in a meeting where we weren't talking about lots of
16 other things but where we had as the sole purpose of the
17 meeting the advice we had from SAGE, the advice we were
18 hearing from senior advisers. And I would not have
19 given up hope at all that, if we'd done it, we might get
20 have come to a greater consensus about the need to act
21 in line with the advice we were receiving.

22 **Q.** We've addressed the political headwind that you say
23 you -- the Welsh Government faced. Dealing next then
24 with the economic headwind. Now, I think you say that
25 had you the confidence that the UK Government would

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1 provide the money needed to support people during
 2 firebreak, you would have probably implemented the
 3 lockdown sooner. That's right, is it?
 4 **A.** It is.
 5 **Q.** Just exploring that with you, if I may, the job support
 6 scheme was announced on 9 October and Mr Sunak has said
 7 that he confirmed that the date of 1 November could not
 8 be brought forward prior to that announcement on
 9 9 October. I suppose, first, is that right? Do you
 10 agree that you knew that the date of 1 November was not
 11 a movable feast?
 12 **A.** I would have known that that is what the Chancellor of
 13 the Exchequer had said. Didn't mean that I necessarily
 14 agreed with him.
 15 **Q.** You wrote to him on 16 October.
 16 If we can have a look at that letter, please. It's
 17 INQ000216554.
 18 The first paragraph you tell Mr Sunak that the Welsh
 19 Government is actively considering introducing a Welsh
 20 circuit-breaker and that the plan is that it would run
 21 from 23 October to 9 October. I think that is captured
 22 in the next paragraph.
 23 But if we can turn over, please, to page 2 and look
 24 at the third bullet point, you say that:
 25 "... HMRC [could] administer a scheme of this sort,
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1 earlier. The first time I raise it is on 22 September
 2 in a COBR meeting where I make a point -- my Lady,
 3 there's a huge amount of very knotty detail in this
 4 issue, but there's a very simple principle behind it,
 5 which is that if the public health circumstances in any
 6 part of the United Kingdom were such that action needed
 7 to be taken, there needed to be a process in which the
 8 Treasury could be asked to support that action. Clear?
 9 It was never my proposition, nor indeed the
 10 proposition of the first ministers of Northern Ireland
 11 and Scotland, that it would be simply be a matter of us
 12 saying, "Please send us" -- however many pounds, and it
 13 would follow. We wanted a process that we would all
 14 agree on, where the First Minister of Northern Ireland
 15 would say "Things are so bad in Northern Ireland at the
 16 moment, I need to take this action, will I have the
 17 financial support needed to allow me to go ahead?"
 18 And that's what I was looking for from as early as
 19 22 September: a recognition that any part of the
 20 United Kingdom could have a call on Treasury support
 21 where it could be demonstrated that that support was
 22 needed.
 23 After that, that is what I am pursuing all the time
 24 here. Here is a letter from the Chancellor that tells
 25 me it can't be done practically. Of course he was able
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1 given the systems ... put in place."
 2 And you then say that:
 3 "The Welsh Government would be willing to reimburse
 4 HMRC for the additional costs of paying 67% of the wage
 5 costs of eligible employees instead of 60%."
 6 So that's your letter of 16 October.
 7 The then Chancellor's response, if we can see that,
 8 please.
 9 It's INQ000216555.
 10 It's the first main paragraph, effectively saying:
 11 unable to bring forward the claims date to 23 October
 12 "due to limitations in HMRC delivery timelines".
 13 Now, it's fair to say that you were deeply
 14 disappointed with this response, and you said as much in
 15 your letter back to the then Chancellor of 20 October.
 16 Returning though to the point you make about the
 17 timing being tied up with or influenced by UK Government
 18 financial support, your first letter is 16 October,
 19 that's a week before the firebreak was to come into
 20 effect. You knew prior to the JSS announcement on
 21 9 October that 1 November had been effectively a date
 22 set in stone by the then Chancellor. Why were you not
 23 making these enquiries much earlier, especially given
 24 the SAGE advice in mid-September?
 25 **A.** Well, I think the facts are that I was raising it much
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1 to do it practically as soon as England asked him to do
 2 it. So there's -- you know, there's a little bit of
 3 a gap between what he is saying to me -- he had no more
 4 to change his plans for England when they asked him than
 5 I was asking him in Wales.
 6 As you know, there is a document that I would like
 7 to draw attention to, if I could, because I think the
 8 Chancellor's reply offers half of the reason that he had
 9 rather than the whole of the reason.
 10 **Q.** Yes, just for the record so we can see it there
 11 displayed, it's INQ000397193.
 12 **A.** So I asked if I could draw attention to this, my Lady,
 13 because I hadn't seen this document until Friday of last
 14 week. It's a debate between officials in the Treasury
 15 as to how they should respond to the request that I have
 16 made. And you will see that there are two reasons why
 17 the request was turned down: there is the practical
 18 reason, they continue to identify that in here, but they
 19 say that there is a policy, a policy of
 20 the UK Government, not to support the devolved
 21 administrations going further than the UK Government on
 22 NPIs.
 23 So it is the policy position of the UK Government
 24 that devolved administrations are never to be offered
 25 more help than has already been offered to England.
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1 **LADY HALLETT:** Sorry, where do I find that, Mr Drakeford?

2 **A.** You will find that, it's under "Handling advice" and
3 it's in the second line:

4 "... the point we previously discussed about DAs
5 going further than HMG on NPIs."

6 My request, they say, is "not possible and ... goes
7 to the point we previously discussed", and they say in
8 the first paragraph that that is a matter of policy.

9 Policy --

10 **LADY HALLETT:** I'm not sure I'm reading it exactly that way.

11 **A.** Well --

12 **LADY HALLETT:** So basically in the first paragraph we have
13 two reasons: a matter of delivery, which we know about,
14 as well as policy. Well, "policy" there could mean
15 policy to do with whether or not this should all apply
16 to the United Kingdom and when -- or the fact that it's
17 going to apply to the whole of the United Kingdom and
18 when. "Policy" doesn't necessarily mean -- it could be
19 all sorts of things, couldn't it? So it's not
20 necessarily relations with devolved nations.

21 So then we come to -- and "furlough anyway [carries
22 on] to end [October]", which I suspect a point Mr Poole
23 was about to come to.

24 Then "Handling advice":

25 "We've had the attached letter ..."

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1 practical only a few days later, whereas in fact it was
2 more than just practical objections, there was a policy
3 position in the Treasury not to support the devolved
4 governments even when we needed it.

5 **LADY HALLETT:** I see that's your reading. I'm not quite
6 sure I read it the same way. But maybe it's open for
7 discussion -- for which we do not have enough time, so
8 I apologise for entering into the debate.

9 **MR POOLE:** My Lady, not at all. And I think it's only fair
10 to say that the then Chancellor, I think his -- when the
11 relevant passage of your witness statement, which you've
12 just elaborated on orally, was put to him in Module 2,
13 I think his answer was twofold: I think he first pointed
14 to the fact that furlough ran until the end of October,
15 but he also pointed -- as well as to the Barnett
16 consequentials, he said the upfront funding guarantee
17 that the UK Government introduced in July 2020, which he
18 said provided an extra £5 billion for Wales, and
19 provided Welsh Government with extra financial
20 flexibility and security -- so in other words, he said
21 a significant sum of money was made available to Wales
22 in advance of need. Is that an answer to the point you
23 make about timing --

24 **A.** No --

25 **Q.** -- of the firebreak?

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1 Can't bring it forward.

2 "As you know, this is not possible [bringing it
3 forward] and anyway goes to the point we previously
4 discussed about DAs going further ..."

5 **A.** So I believe that that is a statement of their policy,
6 the policy they refer to in the first paragraph, which
7 is that they have made a decision that we will not get
8 any more help than has already been provided to England.

9 None of that appears in the Chancellor's letter.
10 The only point he relies upon is the practical point.

11 But you will see in point 2 of the handling that
12 this is a relatively cynical decision to put pressure
13 back on the First Minister: "Will he go ahead with the
14 actions" -- that I am explaining are necessary to
15 protect public health and prevent people dying in
16 Wales -- "knowing that we, the Treasury, won't bail it
17 out?"

18 That is the recommended option. This is put to the
19 Chancellor of the Exchequer. This is not just junior
20 officials debating amongst themselves, this advice is
21 put in front of the Chancellor of the Exchequer and he
22 agrees it.

23 I think my only point is that in public the
24 Chancellor relied on "It's just not practical for me to
25 do it", although, as I say, it turned out to be

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1 **A.** -- absolutely not, and in fact in the additional
2 statement that Mr Sunak has provided to you, he doesn't
3 mention that because he realises that that was not
4 actually available. The money that comes in the Barnett
5 guarantee, for which we were very grateful -- and
6 I should, again, just say, time and time again I tried
7 to say how much I appreciated the enormous efforts that
8 the Treasury did make in many of the schemes that they
9 put forward, and the Barnett guarantee was a very
10 helpful thing for us, but the Barnett guarantee money
11 was to be spent on devolved responsibilities only, we
12 could not have used it to spend on schemes for which
13 only the Treasury had the responsibility. So although
14 the Chancellor said that in his oral evidence, in his
15 follow-up written evidence he retreats from that
16 completely.

17 **LADY HALLETT:** Mr Drakeford, I'm sorry, I'm going to enter
18 the debate again, having told myself not to. What
19 I don't understand is this, I have heard a number of
20 representatives of the Welsh Government basically blame
21 the UK Government for a delay in bringing into existence
22 the firebreak, on the basis that the delay was really
23 caused by their refusing to give you the financial
24 backing you needed. Then yesterday we were discussing
25 this matter with Ms Mason(sic), and she explained, when

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1 pressed, that actually the furlough scheme was going to
2 keep going until the day before the new scheme came into
3 force, and therefore you had the financial backing, it's
4 just that the new scheme would have provided greater
5 financial backing.

6 So I'm sorry, I don't understand the argument, and
7 I'm happy for you to explain it if you can, as to how
8 the Welsh Government can blame the UK Government when
9 there was financial backing in existence, it just wasn't
10 as much.

11 **A.** I'll do my best to explain. So I think there are two
12 reasons why that argument doesn't -- would not have been
13 sufficient for us at the time.

14 First of all, it would have required every business
15 in Wales who was now going to have to furlough somebody,
16 because they would no longer be able to operate, to
17 apply for one scheme for week 1 and then a wholly new
18 scheme for week 2. We thought that was not a reasonable
19 burden to put on businesses and employees when it could
20 be avoided.

21 But the second and the more important reason is that
22 the qualifying criteria for the two schemes was very
23 different, and the qualifying criteria for the first
24 week was much more restrictive than it would have been
25 for the enhanced job support scheme.

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1 health of your nation and the possibility of many more
2 infections and many more deaths and the fact you've come
3 to the conclusion you have no alternative but to lock
4 down, and on the other hand some difficulties, which
5 I accept would not be easy for employers and certainly
6 wouldn't be easy for people in hospitality, but I don't
7 see how those two end up with your being able to blame
8 the UK Government for a delay in the firebreak.

9 **A.** Well, what I'm arguing for is a level playing field.

10 When UK ministers go to the Treasury and say "Things are
11 so bad, we need you to change the scheme", the scheme is
12 changed immediately. When Welsh Government goes --

13 **LADY HALLETT:** So what was the example of that -- I'm sorry,
14 I meant to ask you, what was the example?

15 **A.** Well, because within a couple of weeks of our firebreak
16 England is in a four-week lockdown --

17 **LADY HALLETT:** But did they bring forward any scheme then?
18 I'm not following why you said they were able to bring
19 forward the schemes.

20 **A.** I'm sorry, it is fiendishly complex in the detail.

21 The Chancellor of the Exchequer changes his plans at
22 that point. He doesn't move from one scheme to another,
23 he rolls forward the first scheme for another month, to
24 accommodate the changing circumstances in England,
25 when -- it's as simple -- it really is as simple as

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1 So not only would people have had to have applied
2 twice but far fewer people would have been successful in
3 those applications in the first week than would have
4 been true in the second week. And the reason the
5 Chancellor had put in a new scheme and a more generous
6 scheme was to recognise the gathering difficulties of
7 Covid's new sweep up through the autumn.

8 So not only would it have been difficult to do it
9 practically, but actually it wouldn't have delivered for
10 very many people -- anybody working in hospitality would
11 not have qualified for the first week of help at all.
12 So we would be saying to people in Wales: you've got --
13 you're not allowed to go to work and there's no help for
14 you at all.

15 All of that could have been put right by
16 the UK Government by simply adjusting one week in the
17 introduction of the scheme, and we were prepared to
18 recognise that there would be additional costs for them
19 in doing that and we would have paid for them out of our
20 own resources. The UK Government wasn't prepared to do
21 that.

22 **LADY HALLETT:** So I understand that you would have much
23 preferred it to come in and you made your contribution
24 offer. What I don't follow is if on one side of the
25 argument -- or one side of the equation you have the

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1 this: when English ministers ask him for help he says
2 yes, when Welsh ministers ask him for help he says
3 no. And that's not fair that is the Treasury not
4 operating as a UK Treasury, it's operating as the
5 Treasury for England.

6 And that's why this was such -- you know, I think
7 I say in my evidence, this was one of the -- for
8 somebody who believes in the United Kingdom, this was
9 one of the hardest moments in the whole of the
10 firebreak, because we were not being treated fairly. We
11 were not being treated as we would have been had we been
12 English ministers asking for that help.

13 **MR POOLE:** Mr Drakeford, just before we take a break, try to
14 finish this topic of the firebreak, and circling back
15 round to timing, it was 14 October that the firebreak
16 implementation group was established. There was then
17 an emergency Cabinet meeting of 15 October. We don't
18 need to look at those minutes. The scientific advice
19 was that a minimum two-week lockdown was required but it
20 was said that three weeks was preferable.

21 I suppose, just pausing there, if you're being told
22 that a three-week firebreak was preferable why was it
23 ultimately decided to go with a two-week firebreak?

24 **A.** Well, it wasn't a two-week firebreak --

25 **Q.** Three -- three weekends and two weeks.

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- 1 **A.** Yeah, indeed, so it was a 17-day firebreak.
 2 And there's a trade-off here between length and
 3 depth. The advice we're getting is: you can either go
 4 longer and have more shallow restrictions. The shorter
 5 the firebreak, the deeper it has to be, and the Welsh
 6 Government decides to have a 17-day firebreak and to
 7 have it as sharp as we can make it. So every time you
 8 will see in the papers there are a series of choices
 9 ministers are asked to make between more intense
 10 restrictions or less intense restrictions, and every
 11 time we decide on more intense restrictions because we
 12 have got fewer days of those restrictions in place. So
 13 it's the balance between length and depth and we resolve
 14 it in that way.
- 15 **Q.** The emergency Cabinet on 15 October makes
 16 an in-principle decision. That's to have a firebreak.
 17 That's not formally approved until Cabinet then meets
 18 again on 19 October. Why does it take a further
 19 four days to formally make a decision that's already
 20 been made in principle?
- 21 **A.** Well, it's because of the way in which we make decisions
 22 in Wales, which, I think, if I could sum them up,
 23 you know, the process was exhaustive and exhausting,
 24 because my aim was to make sure that we involved as many
 25 voices as we could in these difficult decisions.

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- 1 15 and 19 October, that intensive work of engagement
 2 with people about the major decision we were about to
 3 take.
- 4 **Q.** We now know that the second wave had a greater impact in
 5 Wales than the first, more lives were lost. Do you
 6 consider that different decisions should have been taken
 7 throughout September and October, and ultimately should
 8 a firebreak have been brought in sooner and for longer?
- 9 **A.** Well, I said to you that the firebreak decision was
 10 about balancing the four harms, and the harm that is
 11 most in the minds, other than the harm from the virus
 12 itself, in our minds at this point is the harm to
 13 children. We had agreed as a Cabinet that keeping
 14 schools open would be our top priority. The schools
 15 would be the last to close. And we were very committed
 16 to making sure that a week of the firebreak coincided
 17 with half term in order to minimise the impact on
 18 children's lives.
- 19 So there's obviously a very plausible argument that
 20 you could have brought it forward a week and still had
 21 a week of half term in it, but it's the process of
 22 weighing up all those different harms that leads us to
 23 the timetable we eventually adopt. It's not the only
 24 timetable, I'm not defending it, I'm explaining it as
 25 best I can, and that's one of the driving considerations

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1 My Lady, I can say to you, you know, from my
 2 experience that the easy way for a government to ask is
 3 to ask as few people as you can get away with. Our
 4 objective was to do the opposite. We aimed to talk to
 5 as many people as we could about the impact our
 6 decisions would have on them. So in this period the
 7 Cabinet is meeting daily, sometimes twice daily. We are
 8 also meeting the Social Partnership Council, we are
 9 consulting with the Children's Commissioner, my
 10 colleagues are talking with all their sector
 11 organisations. From a ministers' point of view, as
 12 I say, that's an exhausting way to make decisions, and
 13 it makes the burden of decision-making more difficult in
 14 some ways because now you have to take into account all
 15 the difficulties that everybody will have explained to
 16 you that this is going to mean for them, and that does
 17 take a couple of days to do it.

18 But my aim throughout the whole of the pandemic was
 19 to never come to a final decision unless I felt that
 20 we'd had every opportunity to listen to people in Wales
 21 and their representative organisations, and for every
 22 question that any one of my ministerial colleagues, that
 23 they wanted to raise, that they'd had the opportunity to
 24 raise it. And, you know, that does take a couple of
 25 days and that's what was going on in the days between

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1 for us at this point, is trying to minimise the impact
 2 of what we're about to do in the lives of children who
 3 have already had their education significantly disrupted
 4 in Wales.

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

6 **LADY HALLETT:** Yes, of course. 3.15, please.

7 (3.01 pm)

(A short break)

9 (3.15 pm)

10 **LADY HALLETT:** Mr Poole.

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

12 As you came to the end of November 2020,
 13 Mr Drakeford, attention turned to the approach to adopt
 14 over the Christmas period, and it was recognised that if
 15 possible there should be a four nation position on what
 16 was and not going to be allowed over Christmas.

17 If we can have a look at the COBR meeting minutes of
 18 24 November, please, INQ00083850.

19 Have a look at page 6, paragraph 4, please.

20 Dr Atherton is noted as saying "relaxing the rules for
 21 winter festivities would bring a cost to it".

22 Paragraph 6, on the same page:

23 "... Christmas proposal [was put] together as there
 24 was a significant risk of non-compliance [otherwise] and
 25 it allowed the public to come together when needed in

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1 a more managed way."

2 Paragraph 7, please.

3 The proposal was for up a three households to come
4 together in an "exclusive bubble", with the four nations
5 being able to define households slightly differently.

6 Then if we go to page 7, please, paragraph 10, you
7 are noted as agreeing to the top messages of the
8 proposal and would need to ensure clarity of public
9 messaging.

10 Now, one of the concerns that was voiced at COBR was
11 that Wales was the only nation at this stage without
12 a tier system and so needed to give thought to what to
13 revert to after 27 December.

14 Do you consider a tier system ought to have been
15 introduced earlier than 4 December, as it had been in
16 the other three nations?

17 **A.** I don't think so. At this point we have our own method
18 of responding in Wales, and I don't think I felt under
19 any pressure just to come into line with what others
20 were doing.

21 **Q.** Now, we know that a new variant of the virus had been
22 identified that spread very quickly, and on 16 December
23 you announced that Wales would move into alert level 4,
24 so the highest level, effectively lockdown, from
25 Christmas Day, and that a smaller Christmas is a safer

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1 businesses make their -- you know, the difference
2 between them surviving and going under is the week
3 before Christmas, that's when they make money, and we
4 had promised them that they will have that week to
5 trade.

6 There are many people in Wales, my Lady, weekly paid
7 people, who only buy Christmas presents in the week
8 before Christmas because they're not able to manage
9 money in a different way, they rely on a final pay
10 packet and then they go and make Christmas. And we're
11 about to take that away from them.

12 And even more so, I am very heavily -- well,
13 weighing very heavily with me is the impact on children.
14 In my own constituency, I have a school which has one of
15 the largest proportions of children on the at-risk
16 register of any school in Wales. It's a fantastic
17 school. Their teacher sets off at 8 o'clock in the
18 morning to go and collect children whose parents
19 otherwise wouldn't manage to get them ready to get to
20 school. If those children have a Christmas, they have
21 it in school. If they have a Christmas present, it's
22 because the school gives it to them. If they have
23 a Christmas party, it's because it happens in school.
24 If they have a Christmas dinner, it's because the school
25 provides it in that final week. They're not going to

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1 Christmas.

2 Mr Gething told the Inquiry in his evidence on
3 Monday that by 15 December it was his view that there
4 was a clear rationale to move ahead of the agreement
5 that you had reached with the other nations of the UK.
6 He told us that the Cabinet was split. You set out
7 a case for a different course of action, namely delaying
8 further restrictions.

9 My question is simply this: given that you and
10 Mr Gething were drawing on the same scientific evidence,
11 including Dr Atherton's advice, why were you and
12 Mr Gething on different pages, it seems, regarding the
13 timing of a Christmas lockdown at this point?

14 **A.** Well, this was the most difficult period of
15 decision-making in the whole of the pandemic for the
16 Welsh Government. The health minister was in receipt of
17 direct advice from the director general of the NHS about
18 the risk to the health service and from the Chief
19 Medical Officer about the continuing rise in infections
20 in Wales. I am concerned about the other harms that
21 would occur if we were to bring forward a lockdown to
22 the pre-Christmas period instead of the immediately post
23 Christmas period that we have identified.

24 I'm anxious about that for a string of different
25 reasons. I'm anxious for businesses, because many

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1 get it at home. And we are about to say to them that
2 their Christmas is completely cancelled.

3 And, you know, I think I am lucky that I don't have
4 many sleepless nights even in these difficult days, but
5 at that moment I am -- I am really worrying about what
6 we are faced with deciding.

7 We have a Cabinet meeting, the Cabinet is evenly
8 divided between whether to bring forward the
9 restrictions or to stick with our original plan.

10 Although I had approached it from a different
11 starting point than the health minister, of course I sum
12 up at the end of the meeting in favour of his position,
13 not mine. And the reason for that is a point, my Lady,
14 I think you made earlier, and it's why in the end some
15 of what looked like really difficult decisions I felt
16 were resolvable, because the advice we are having from
17 our medical colleagues is that if we don't act now
18 people who otherwise would be alive would lose their
19 lives. And although a child in school, if we close them
20 early, they will be losing their education and in some
21 children's cases they will be losing an awful lot more
22 than that, in the end they will get Christmas back
23 another year and we can do things to restore their
24 education. I cannot give them back their nan.

25 And so in the end for me the decision was never that

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1 difficult: if you have advice that says you need to do
2 this or lives will be lost, despite the other harms,
3 that's the way in which the Welsh Government resolved
4 the decision.

5 And in that meeting, where that is the very dilemma
6 we were faced with, although I had started in
7 a different place to the health minister, I resolved the
8 discussion in favour of the arguments he was making for
9 exactly that reason.

10 **Q.** We don't need to go to the minutes but just for the
11 record, that was a Cabinet meeting on Saturday 19
12 December. It's INQ000048803. And the decision, as you
13 said, Mr Drakeford, was to bring forward alert level 4
14 restrictions for the whole of Wales from midnight that
15 night.

16 I want to just go back to schools and education in
17 this pre-Christmas period briefly, because on 2 December
18 there was a draft TAG paper titled "Statement on NPIs in
19 the pre-Christmas period", INQ000350039.

20 If we can turn to page 7 please second paragraph:
21 "The available evidence indicates that schools being
22 open is associated ... [Document read] ... of
23 a causative relationship ..."

24 If we can have a look at page 12, please, under the
25 "Schools policy option", this provides modelled
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1 **A.** Correct.

2 **Q.** That updated paper is INQ000350057.

3 If we look at the modelling charts, they're pages 12
4 and 13, please. Just having in mind what we saw
5 earlier, the section setting out the differentials in
6 impact when schools are closed has been removed from
7 this published paper, as has the suggestion that schools
8 move to blended learning from 14 to 18 December.

9 Why did you consider that the TAG paper should be
10 amended in this way?

11 **A.** Because I agreed with the education minister that there
12 had been insufficient discussion with her and her
13 advisers about the content of the paper. She wished to
14 interrogate that data further. She wanted more
15 discussions with the authors of the paper, to understand
16 the basis on which this advice -- which was contrary to,
17 as she said, the position that we had aimed to sustain
18 up until that point -- before that information went into
19 the public domain I wanted to be sure that my education
20 minister was confident in it, and she clearly wasn't
21 confident, she hadn't had the opportunities that she
22 needed. I didn't want to hold the paper up longer than
23 was necessary, so the paper was published, but it
24 allowed discussions with the education minister and her
25 advisers to go ahead.
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1 estimates of the impacts of schools moving to blended
2 learning, from 14 to 18 -- and if we turn over the page
3 to 13 and look at the table, this sets out the
4 difference in outcomes using different reproduction
5 rates between schools being open and closed, and we can
6 see that the difference is reasonably sizeable.

7 Ms Williams, Kirsty Williams, set out her thoughts
8 on this TAC paper in an email to the Minister for Health
9 and Social Services and your special advisers and your
10 private office.

11 If we could have a look at the email, it's
12 6 December, INQ000350044, third paragraph.

13 She explains that:

14 "The paper ..."

15 So namely the draft TAG paper we've just looked at:
16 "... is deeply difficult for education ..."

17 And then in the next paragraph, the fourth
18 paragraph, that it is "contrary to the agreed position
19 of the government that education is a priority".

20 And it is right, isn't it, that, as a result of
21 Ms Williams' concerns, you asked for the paper to be
22 held back from publication and an updated paper was
23 published on 7 December.

24 Before we just look at that updated paper, I've got
25 everything right so far?
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1 **Q.** I understand.

2 As we entered 2021, cases remained very high in most
3 parts of Wales, there were rapid increases in North East
4 Wales in particular, so despite the Christmas
5 restrictions the new strain of the virus appeared to be
6 driving an increase in cases.

7 4 January, all four CMOs for the four nations
8 recommended that the UK alert level moved from level 4
9 to level 5, and we don't need to go to the minutes but
10 that was discussed in a four nation call with Mr Gove,
11 and in summary the decision was made that measures would
12 remain in place until 15 February with no review before
13 then; that's right, isn't it?

14 **A.** Yes.

15 **Q.** I want to, again, just look briefly at decisions that
16 were made in respect of schools in this period in early
17 2021.

18 If we can see a TAG paper, published paper,
19 7 January.

20 It's INQ000066357.

21 If we can have a look at page 6, please, under the
22 heading "Education and schools", I think it's about
23 six lines down, it starts slightly indented:

24 "It is difficult to quantify the size of this
25 effect, and it remains difficult to quantify the level
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1 of transmission taking place specifically within schools
2 compared to other settings, open schools being
3 associated with adults attending work, more travel and
4 commuting, and schools day wrap around, community and
5 sport activities in the end-to-end day."

6 If we can turn to page 8, please, second paragraph:

7 "Pattern of confirmed cases and clusters of cases
8 ... [Document read] ... associated with schools."

9 Then over the page, page 9, please:

10 "ONS CIS data from 2 September to ... [Document
11 read] ... (medium confidence)."

12 Then finally page 11, please, second paragraph:

13 "Schools should not be disproportionately used as
14 a control ... [Document read] ... relaxation of
15 precautions ..."

16 Ms Williams, in her witness statement to this
17 module, when discussing this paper, she says it was
18 discussed in a ministerial call on 7 January 2021, and
19 it was decided that schools could not fully re-open on
20 18 January and that it was unlikely that schools would
21 return to face-to-face teaching before the half term in
22 mid-February. Why was this decision taken, given the
23 advice and the evidence set out in this TAG report?

24 **A.** Well, first of all, Mr Poole, I think in the extracts
25 you've highlighted you see the complexity of the advice

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1 who feel very strongly that schools must not re-open, to
2 the extent that they're prepared to take legal action
3 against the Welsh Government to prevent that from
4 happening.

5 **Q.** Mr Drakeford, changing topic now but staying anchored in
6 2021, I wanted to ask you a few questions about
7 international travel.

8 You have said in your witness statement that
9 engagement between the UK Government and the Welsh
10 Government regarding international travel was a low
11 point in intergovernmental communication throughout the
12 pandemic.

13 On 23 June 2021 you wrote to Mr Gove regarding
14 the UK Government's proposals for relaxing the
15 self-isolation requirement for those returning from
16 amber list countries. We don't need your letter
17 displayed, but in that letter you say:

18 "It is important for decisions regarding
19 international travel to be taken on a UK-wide basis",
20 and you hoped that changes would not be made without
21 agreement between the four nations.

22 Now, we've seen calls for four nation
23 decision-making before. When it came to international
24 travel, did unilateral decision-making present an even
25 bigger problem?

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1 in this area and its inconsistency. It was never that
2 we had a definitive set of information about the impact
3 that schools had on transmission, the difference between
4 different age groups, the effect of parents congregating
5 at the school gate. You know, at different points the
6 advice pushed you in different directions, and although
7 this advice would be very consistent with the Welsh
8 Government's ambition, which is to have children in
9 school, there is lots of other advice extant that gives
10 people of a different view, you know, evidence that they
11 can point to to say this is not the right thing to do.

12 You know, during this period, the education minister
13 and I are both separately served with a legal document
14 from the National Association of Head Teachers saying
15 that they will prosecute us if we open schools in Wales.

16 Now, I obviously would not agree with that, but the
17 National Association of Head Teachers is not a frivolous
18 organisation and it would not have come to that
19 conclusion if it didn't believe seriously that
20 re-opening schools in these circumstances, the Alpha
21 wave and so on, that that was putting their members at
22 serious risk.

23 So while there is the evidence you have quite
24 rightly pointed to here, it's not unambiguous and it's
25 not the only advice in town, and there are other people

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1 **A.** Well, in this area the Welsh Government had only
2 theoretical powers of agency, because most people who
3 travel abroad from Wales don't do so from Wales and back
4 to Wales, they go through ports in England and airports
5 in England. So while theoretically we could make rules
6 of our own, in practice they would have had no impact.
7 So, in effect, we simply had to do whatever the
8 UK Government decided in this area.

9 I don't think the UK Government were slow in coming
10 to that realisation themselves, so the amount of
11 discussion with us was pretty rudimentary, often very
12 late in the day.

13 Personally, I disagreed with the UK Government's
14 approach to international travel from almost beginning
15 to end, but in practice that made no difference at all
16 to citizens in Wales, because the practicalities of
17 international travel were not in the hands of the Welsh
18 Government.

19 **Q.** On 23 July you describe in your witness statement
20 receiving an email informing you that the UK Government
21 was proposing to relax international travel restrictions
22 for fully vaccinated arrivals from EU countries and the
23 USA.

24 It's INQ000256899 and we've got it on screen there.

25 At the bottom of page 1 there's a proposal to be

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1 discussed at Covid-O with it coming into force as soon
2 as 2 August. You are asked for your views, and I think
3 it is page 1, right at the top, you say:

4 "I think my reaction is as it has been throughout:
5 that the risks from international travel remain real,
6 and that the UK [Government's] approach is not
7 proportionate to that risk."

8 Can you just explain what you meant and why you say
9 that in that email.

10 **A.** Well, I believed from the beginning, as I say, to the
11 end that more could have been done to mitigate the risk
12 of coronavirus and particularly new variants of
13 coronavirus arriving in the United Kingdom through
14 international travel. The instinct of the UK Government
15 was always to liberalise travel as much as possible and
16 that meant, in my view, that they were prepared to take
17 risks on importation that would better have been
18 avoided.

19 So it's just a fundamental difference of a view,
20 when it plays out week after week in all the
21 practicalities. We would have had a stronger grip on
22 international arrivals in the United Kingdom and when
23 they did arrive we would have had stronger precautions
24 to ensure that they were safe to be here and we would
25 have lifted those restrictions more gradually and for

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1 as a variant of concern. Do you consider that the Welsh
2 Government was overly cautious or overly pessimistic in
3 the way that it responded to Omicron in winter 2021?

4 **A.** I don't. The advice that we had was that Omicron was
5 significantly more transmissible, and there were two
6 things that we didn't know about it: we didn't know
7 whether the available vaccines would have been as
8 effective in dealing with this new variant as they had
9 been with the pre-existing ones, and we didn't know
10 whether Omicron would not simply be more transmissible
11 but that it could be a more serious disease.

12 Now, you could try your luck and, you know, gamble
13 on the fact that it wouldn't be more serious and that
14 the vaccines would work. Trying your luck wasn't
15 a basis of the decisions we would make. We acted on
16 a precautionary principle that it could -- either of
17 those things could have been true. Until we were
18 confident that it wasn't true we would protect the Welsh
19 public from the potential impact.

20 **Q.** Changing topic, Mr Drakeford, and just touching on
21 public health messaging, which I appreciate we've
22 already touched on already. You've said in your
23 evidence that you were determined throughout the
24 pandemic that the Welsh Government communications should
25 speak to the people of Wales in a way that was clear,

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1 fewer countries at a time.

2 Our view, in a practical sense, counted for nothing,
3 because we couldn't make it effective. But that's what
4 I mean there, that throughout the time their approach
5 underestimated the risks.

6 **Q.** In a letter you wrote to Mr Johnson on 5 August you
7 described the UK Government's approach to international
8 travel and UK borders as chaotic and the engagement with
9 the devolved administrations as shambolic.

10 Looking ahead to a future pandemic, how is this to
11 be improved in the future, in your view?

12 **A.** Well, it is chaotic and shambolic because of the pace at
13 which changes are made. You really would need to be
14 running a travel agency to have kept up with whether
15 France is on the list today and Tobago is on the list
16 tomorrow, because the lists were constantly changing and
17 the criteria against which it was decided whether or not
18 a country would be on a list were changing as well.

19 So I suppose my answer -- I haven't given it a great
20 deal of thought, truthfully, but my answer would be
21 rooted in some of the answers I've tried to give
22 earlier, which is that consistency and predictability of
23 action would be as welcome in this area as it was in
24 others, and it was very absent in this area.

25 **Q.** Heading into winter 2021, Omicron, as we know, emerged

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1 direct and honest.

2 I appreciate this is probably asking you to mark
3 your own homework to a certain extent, but do you
4 consider that that was achieved during the pandemic?

5 **A.** Well, I'll make one point, and maybe, if you don't mind,
6 I'll tell one story just to illustrate the -- I'll do it
7 as quickly as I can.

8 So the general point is that my aim when I went to
9 give press conferences was to share with the people
10 listening the information that I had, and then to
11 explain why the Welsh Government had come to the
12 conclusions we had come to, based on that information.

13 But that information would allow people it make
14 a different conclusion if they wanted to. I wanted them
15 to know what I knew. So I would set it out week after
16 week, I would say, you know: this is the state of the
17 virus, this is what we're being told, and this is what
18 we now think we need to do. But I wanted to make sure
19 that they always felt that if they thought there was
20 a different conclusion to be drawn, people would be able
21 to do so.

22 Were we effective? Here's my very brief story.
23 I woke up one morning at home, probably in July, one of
24 the days when things are getting better, cafés have just
25 been allowed to open outdoors and a BBC reporter is

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1 interviewing a group of ladies who have gathered at
 2 Verdi's, which is a coffee shop in the Mumbles in
 3 Cardiff, which they've not been able to do for many
 4 weeks, and he says to them, "How have you been able to
 5 follow, you know, the rules? It's all been very
 6 difficult", and this person says to him, "Well, at
 7 quarter past 12 on a Friday we draw the curtains, we sit
 8 down, we listen to the press conference, and we do
 9 everything Mr Drakeford tells us to do". At that point
 10 I felt a rather sinking feeling, really. But in a way
 11 I don't think that was untypical. The number of people
 12 who followed the press conferences was enormous and the
 13 number of people who relied upon them to know what our
 14 advice to them was, was huge. And the willingness of
 15 people in Wales to comply with the extraordinary things
 16 we were asking of them was, I think, well beyond what
 17 you might have reasonably expected.

18 **Q.** There were some high profile instances of ministers and
 19 officials within the UK Government appearing to
 20 contravene Covid regulations. We've heard about
 21 Mr Cummings' drive to Barnard Castle. Do you consider,
 22 from a Welsh Government perspective, that those
 23 incidents had any exact on the public's confidence in
 24 your government's handling of the pandemic?

25 **A.** I think there's some empirical evidence on this. Every

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1 **A.** You know there are one or two incidents that are
 2 reported and much is made of them, but they're very
 3 infrequent. Well, my Lady, you will know that
 4 a television company had complete access to the Welsh
 5 Government for months and months and, you know, filmed
 6 us at work exhaustively. I don't think you will see
 7 anything there at all other than people absolutely
 8 scrupulously observing the rules that we had set for
 9 others and determined that we would always live up to
 10 what we were asking others to live up to.

11 **Q.** I want to deal next with the Welsh Government's
 12 consideration of vulnerable and at-risk groups.

13 You say in your witness statement to this module,
 14 it's paragraph 70, that you initiated a significant
 15 amount of data collection and modelling in relation to
 16 at-risk and vulnerable groups and those with protected
 17 characteristics.

18 First of all, how did the Welsh Government assess
 19 who would be considered vulnerable and at risk during
 20 the pandemic?

21 **A.** Well, we would have essentially relied on the protected
 22 characteristics list.

23 **Q.** Dealing then, if I can, with older people first, you
 24 make the point in your witness statement, it's
 25 paragraph 68, that data and modelling in Wales took into

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1 month the UK Government paid for research, I think it
 2 was by MORI. We paid for a Welsh booster sample to get
 3 the views of people in Wales. At the start of the
 4 pandemic, trust in the Welsh Government and the
 5 UK Government are more or less at a par, maybe the
 6 UK Government is slightly ahead of the Welsh Government
 7 in terms of trust. There comes a point, and it's around
 8 that time, when there's a big divergence in trust. So
 9 from there on the Welsh Government's trust rating is
 10 around the 70%, sometimes a couple of points below,
 11 sometimes quite a few points above and the
 12 UK Government's trust ratings are 40% or lower. So
 13 a 30% gap opens up between people feeling that they can
 14 rely on what the UK Government is telling them and what
 15 they think -- and how they think they can rely on the
 16 Welsh Government telling them. And I think it's very,
 17 very much connected to a feeling that in some parts of
 18 the United Kingdom there were people issuing
 19 instructions to others that they did not feel they had
 20 to follow themselves. And I don't think people thought
 21 that was true in Wales and I can give you an absolute
 22 guarantee that it wasn't true.

23 **Q.** Did you ever consider that your own ministers' or Welsh
 24 officials' behaviour during the pandemic dented public
 25 confidence in Wales?

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1 account the relatively higher proportion of older people
 2 in Wales, and you point to the fact that the Older
 3 People's Commissioner was a member of the Shadow Social
 4 Partnership Council.

5 Professor Nazroo, in an expert report for all of the
 6 Module 2s, has highlighted in evidence to the Inquiry
 7 that there has been no comprehensive study of ageing in
 8 Wales to capture the experiences of people as they grow
 9 older.

10 If that is so, what sources of information were used
 11 to inform the Welsh Government's approach to
 12 vulnerabilities of older people during the pandemic?

13 **A.** I was puzzled when I read that, because I know from my
 14 own work at the university that there are very
 15 distinguished Welsh researchers who have reported on
 16 those matters in Wales. So I'm not absolutely certain
 17 that I agree with the point that was made. The work of
 18 Professor Judith Phillips, just to cite one example, you
 19 know, is very significant and very highly regarded, and
 20 Judith is a professor who focuses on older people and
 21 has worked in Wales extensively.

22 So I'm not sure that I sign up to the idea that,
 23 you know, there wasn't information available. But it is
 24 true, as I said in one of my first answers, that the
 25 scale of research available on a population of

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1 55 million people is always going to be greater than is
 2 available on a population of 3 million. So I'm not
 3 saying that there are not gaps, you know, there are, but
 4 I'm not sure that some of those gaps were quite as
 5 extensive as the advice the Inquiry has had suggests.

6 **Q.** Pandemic planning appears, though, to have treated older
 7 people as a homogeneous group and not paid attention to
 8 which categories of older people might have been at
 9 particular risk.

10 I mean, do you agree with that proposition?

11 **A.** I think to an extent. I don't think it would be true,
 12 for example, in our approach to black and minority
 13 ethnic communities where we had some very specific
 14 policies aimed at older people in those communities. So
 15 I'm not going to say that across every protected
 16 characteristic we were able to disaggregate our efforts
 17 according to age, but I think where it was most
 18 available to us to make that difference, we did.

19 **Q.** Briefly, what steps did the Welsh Government take to
 20 mitigate risks to older people in respect of,
 21 particularly I'm thinking, the NPIs that were introduced
 22 in response to the pandemic?

23 **A.** Well, I suppose the most obvious one is many, many older
 24 people were asked to shield from the very beginning.
 25 I don't think I've made -- and apologies if I have --

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1 including Debbie Foster, shortly before the Senedd
 2 elections in May 2021.

3 It's difficult for me to put myself in her position.
 4 My Lady, I just want to say, you know, I was very keen
 5 indeed that the Welsh Government took full account of
 6 the needs of Black and minority ethnic citizens and
 7 disabled citizens before the pandemic started at all.

8 By the end of 2019 we had working in the Cabinet --
 9 and I was very insistent that these individuals would
 10 sit on the floor where Cabinet colleagues would see them
 11 every day. So we appointed Professor Iwobi, from the
 12 race equality council of Wales, to be a specialist
 13 adviser to the Welsh Government, and we appointed
 14 Jon Luxton, who was, you know, a leading campaigner in
 15 the field of disability, to be our advisers, and that
 16 was before the pandemic, and they sat on the Cabinet
 17 floor where colleagues would see them and meet them and
 18 hear from them over time.

19 While I'm quite certain there are things we didn't
 20 do and could have done, the fact that by the middle of
 21 April, within three weeks, we were engaged with people
 22 from the Race Equality Forum and the disability forum.
 23 My colleague Jane Hutt met absolutely regularly
 24 throughout the pandemic with them, and we've taken
 25 action on the reports that they provided.

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1 but four members of my own ministerial team were
 2 shielding, from the very beginning. So we were very
 3 alert, as a group of Cabinet colleagues, that there were
 4 older people who were -- we were asking to take even
 5 greater measures to protect themselves against the
 6 virus.

7 So that's the most obvious example, and then through
 8 our local authority colleagues we also instigated
 9 a series of measures to try to make sure that isolated
 10 older people would have the contact that they need,
 11 particularly for delivering food to them, making sure
 12 that medicines were collected and delivered to them, and
 13 so on.

14 **Q.** Debbie Foster gave evidence in respect of disabled
 15 people, now -- which was looking at the impact on
 16 disabled groups in Wales, and she said she was largely
 17 left to her own devices and she compared that with, to
 18 give an example, the Black, Asian and minority ethnic
 19 group, and this was interpreted, she said, by some
 20 members of the Welsh Government that they saw their work
 21 as less important. Is that the case?

22 **A.** Well, I'm very grateful to Professor Foster and to
 23 members of the disability forum who did advise us
 24 throughout the pandemic and who produced the Locked Out
 25 report which I attended a meeting with the authors,

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1 You know, I don't want to overplay it, I don't want
 2 to make claims beyond what we can, but I can say
 3 confidently that those matters always were in the minds
 4 of Welsh ministers.

5 **Q.** We know that the British Medical Association raised
 6 concerns about the impact of the pandemic on ethnic
 7 minority groups, and we heard evidence in the first week
 8 of hearings from Professor Ogbonna that the Race Council
 9 Cymru, wrote to you in early April. The first time you
 10 were briefed by the black, Asian and Minority Ethnic
 11 Advisory Group was 20 May.

12 Does that suggest an unjustifiable delay in focusing
 13 on a significant vulnerable and at-risk group?

14 **A.** No, that really would be to misunderstand the sequence
 15 of events, because it's not that we get contacted on
 16 14 April and there was a letter from Judge Ray Singh and
 17 then don't do anything about it until 20 May.

18 By 20 May, the work of the forum was well under way,
 19 including the production of the risk assessment tool
 20 that members of black and minority ethnic clinicians
 21 themselves devised in order to make sure that people
 22 from those communities were not unfairly placed in the
 23 frontline, given the susceptibility to the virus, and
 24 that risk assessment tool was used not just in Wales but
 25 very widely, including in the Houses of Parliament as

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1 well, and all that work was going on between the receipt
2 of the letter and the time that Professor Ogbonna and
3 Professor Kesh Singhal, an orthopaedic surgeon who'd led
4 the work on the risk assessment tool, by the time they
5 came to speak directly to the Cabinet about it.

6 **Q.** The Inquiry's heard evidence that at the start of the
7 pandemic Wales had the highest level of child poverty in
8 the UK at 31%. What measures were put in place to
9 ensure a minimum level of welfare provision for children
10 living in poverty during the pandemic?

11 **A.** Well, the levers available to the Welsh Government to
12 directly affect poverty are very limited, the major
13 levers are the social security system, the benefits
14 system and, you know, macroeconomic policy. But we were
15 the first government in the United Kingdom to guarantee
16 the free school meal payments would continue throughout
17 the school holiday, and we continued them for longer
18 than any other part of the United Kingdom as well.

19 So there is one intensely practical action that was
20 in the hands of the Welsh Government, and which aimed to
21 support those families with the least resources to
22 assist children and young people during the pandemic.

23 We also, as I said earlier, having closed schools or
24 advised that schools should be closed on 18 March, by
25 23 March schools were open for vulnerable children and
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1 ministers in my ministerial team who belong to that
2 community and who were assiduous in making sure that
3 where there were issues drawn to their attention that
4 were relevant to that community, that they would be
5 shared with the Cabinet where we were able to take
6 collective action to address them.

7 But I can't say it was necessarily more systematic
8 than that, but we did have representatives around the
9 table every day who had particular capacity to make sure
10 we were aware of those issues.

11 **Q.** Digital exclusion has been highlighted by a number of
12 inequalities experts as a bar to receiving timely
13 updates about the rules, guidance, access to help and
14 also healthcare during the pandemic.

15 How was the risk of this form of isolation taken
16 into account in Welsh Government decision-making?

17 **A.** Well, the fact that we relayed our decisions through
18 televised news conferences and, from the very beginning,
19 we had a British Sign Language interpreter there with us
20 to communicate to people who wouldn't be able to hear
21 what we were saying, and there were 250, I think, press
22 conferences held during the whole of the pandemic.
23 I think that was our major effort to make sure that we
24 weren't simply relying on a website or forms of access
25 that people wouldn't otherwise have. But, you know, it
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1 children of key workers. One of the reasons why we,
2 differently to other parts of the United Kingdom, asked
3 every child in Wales to come back to school in the end
4 of June and beginning of July of 2020 was because of our
5 anxiety about safeguarded children, children who
6 wouldn't have been seen by a social worker in those
7 months who normally would be visited regularly. We
8 wanted to make sure that those children presented
9 themselves somewhere where adults could make
10 an assessment of their wellbeing.

11 So, you know, within the limited levers that we had,
12 I think we did our best to use them to the benefit of
13 those children who needed help the most.

14 **Q.** It has been set out in the inequalities evidence of
15 Professor Bécares, who reported on the impact of the
16 pandemic on LGBTQI+ communities, that there is
17 an increased prevalence of pre-existing physical and
18 mental health conditions among LGBTQI+ communities.

19 First question, I suppose, is: was the Welsh
20 Government aware of this going into the pandemic, and
21 then, secondly, did it factor into decision-making?

22 **A.** I could not claim that I was aware of some of that
23 evidence going into the pandemic. For the purposes of
24 ensuring that the needs of that community in Wales were
25 known about and discussed, I relied primarily on two
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1 is a rare person in Wales who doesn't have access to
2 a television, and given that we were using that as our
3 primary means of making sure the most widespread
4 communication was available, I think that was
5 a reasonable course of action.

6 **Q.** Mr Drakeford, final topic, lessons learned.

7 You contributed to "The Welsh Government[']s ...
8 lessons learnt for good practices and areas for further
9 development", that was published in 2022.

10 We can see it on the screen, and for the record it's
11 INQ000182549.

12 If we can have a look at the second page of that,
13 the third paragraph -- thank you -- set out there,
14 that's a summary of the key lessons emerging from that
15 exercise.

16 Would I be right to assume that you would commend
17 those key lessons to the Inquiry?

18 **A.** Well, I do commend them, but I just want to be clear
19 that they are recommendations about the internal
20 workings of the Welsh Government rather than wider
21 recommendations. The exercise was to look at how the
22 Welsh Government itself had discharged our
23 responsibilities. It's a -- it drew on the experience
24 of many, many people who worked in the Welsh Government
25 during that period and the key lessons are well
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1 summarised on that page, but they don't necessarily
2 translate into wider lessons beyond the internal
3 workings of the government itself.

4 **Q.** And if there was a single lesson that you learnt during
5 the pandemic, what would that be?

6 **A.** Dear. That's a difficult question, isn't it, to think
7 of late in the day.

8 Well, I'll probably just return to a theme which
9 I've raised a number of times, that predictability,
10 orderly conduct of government, the willingness to be
11 round the same table together even when decision-making
12 is dispersed, availability of authoritative evidence
13 which has signs of internal challenge in it, and then
14 a commitment to follow that advice as part of the
15 decision-making process.

16 To varying degrees, those qualities were not
17 sufficiently present in the way that the pandemic
18 received a response across the United Kingdom, and if
19 those lessons could be learnt and those strands
20 strengthened for the future, I think it would be to the
21 advantage of us all.

22 **MR POOLE:** Mr Drakeford, thank you. They're all the
23 questions I've got for you, but there are some questions
24 from core participants.

25 **LADY HALLETT:** Ms Heaven.
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1 the signals of risk earlier and acted sooner, instead
2 relying on hindsight; on asymptomatic transmission,
3 you've refused to accept that a precautionary approach
4 should have been taken; you have refused to accept that
5 you should have cancelled mass gatherings; you've
6 refused to give an unconditional acceptance that you
7 failed to plan for the pandemic; you've defended the two
8 delays by the Welsh Government on introducing testing in
9 care homes; and you've tried to explain away the Welsh
10 Government's obviously illogical divergence on face
11 coverings.

12 Now, Nicola Sturgeon, Matt Hancock and even
13 Boris Johnson were able to identify some things that
14 they got wrong when they gave evidence to this Inquiry.

15 So, First Minister, can you please explain to the
16 Welsh public why you are so reluctant to accept that the
17 Welsh Government, indeed yourself, may have made some
18 mistakes in the handling of this pandemic?

19 **A.** Well, first of all, my Lady, I'd like to thank members
20 of the bereaved families Cymru for the opportunities
21 I've had to meet with them, and to pay tribute to them
22 for their being here at the Inquiry.

23 I tried to say at the beginning that I wasn't here
24 to justify, I was here to explain. I don't think the
25 test for me is whether I got everything right, because
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Questions from MS HEAVEN

1 **MS HEAVEN:** Good afternoon, First Minister, I represent the
2 Covid-19 Bereaved Families for Justice Cymru.

3 In your witness statement, you state as follows:
4 "Sadly, too many families have lost loved ones.

5 This cruel virus has stolen lives and it has left their
6 loved ones with questions, which they rightly want
7 answered."

8 First Minister, you're entirely correct, the Welsh
9 bereaved do want answers, but they want to see that
10 you've openly reflected on your handling of the pandemic
11 and learnt some lessons.

12 Now, the Welsh bereaved have pored over every word
13 in the statements that you've given to the Inquiry, and
14 indeed they've sat here today and listened carefully to
15 everything that you have said. They are therefore
16 deeply disappointed that in all of your evidence to this
17 module, including your oral evidence today, you will not
18 accept that there was anything that the Welsh Government
19 and, in particular you, did wrong.

20 Now, you told CTI at the start of your evidence that
21 you were not here to justify and you were not here to
22 defend, but unfortunately that's exactly what you have
23 done.

24 You have refused to accept that you should have read
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1 I don't think anybody could possibly pass such a test.

2 What I tried to do is to explain why the actions we
3 took at the time were reasonable in the context of the
4 information that we had at the time, and that is not to
5 say at all that another reasonable person could not have
6 come to a different conclusion.

7 So, Ms Heaven, I suppose I don't sign up to your
8 propositions. I hope that in the decisions that I made
9 and my colleagues made we were reasonable in our
10 assessment of that evidence. I don't make a higher
11 claim than that. Though, as I say again, other
12 reasonable people could have come to a different
13 conclusion. That's not the same as saying that we got
14 everything right. I don't claim that at all.

15 **Q.** All right.

16 Let me move on, then, to my topic of the firebreak.
17 Now, you have been asked a lot about this, so I'm going
18 to just --

19 **LADY HALLETT:** Sorry if I stole any of your thunder,
20 Ms Heaven.

21 **MS HEAVEN:** No, no, no, not you, I'm going to go on to new
22 topics.

23 Now, we know that money was eventually made
24 available in Wales, and indeed we know obviously that
25 the firebreak did happen, and I'll look in a moment at
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1 the money.
 2 You've seen the SAGE advice obviously on
 3 21 September, you've been taken by CTI to that TAG
 4 advice and series of advices which was tracking the
 5 deteriorating picture.
 6 So my question is this: knowing what you did then,
 7 in September, did you commission anyone in the Welsh
 8 Government to consider the financial implications of
 9 introducing a firebreak and the funding options that
 10 might be available to the Welsh Government in September,
 11 or is the very first time you put pen to paper and think
 12 about this issue 16 October when you write that letter
 13 to the Chancellor, Rishi Sunak?
 14 **A.** No, of course we'd been thinking about that topic well
 15 before then. As I said in my earlier evidence, I had
 16 raised it as early as 22 September with the
 17 UK Government. The Welsh Government is mobilising
 18 enormous sums of money to assist Welsh businesses, over
 19 and above the money that comes from the United Kingdom,
 20 and there is evidence throughout the month of October of
 21 how we are looking to see what more we can do from our
 22 resources to be able to go on assisting businesses,
 23 given that we know that a firebreak has to be
 24 considered.
 25 What we're not able to do is we're not able to
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1 that -- I wouldn't have commissioned it, I think, in the
 2 way you suggest --
 3 **Q.** Let me move on, because as you know I've got limited
 4 time.
 5 I want to ask you about a document, then, please,
 6 INQ000395839, please.
 7 **LADY HALLETT:** While that comes up, I must apologise,
 8 I think I called Ms Evans "Ms Mason" earlier.
 9 **MS HEAVEN:** Yes, Rebecca Evans.
 10 **LADY HALLETT:** Sorry.
 11 **MS HEAVEN:** Yes. Not Toby Mason, it was Rebecca Evans
 12 yesterday.
 13 So this is an email here from Fliss Bennee,
 14 5 October -- and of course she needs no introduction --
 15 that was sent to your office and to your special
 16 advisers:
 17 "Given the likely increases in Covid across the
 18 board, the fact that we do not yet have enough evidence
 19 to show that people are complying and the need to have a
 20 definitive effect on the R number, I would suggest that
 21 the First Minister may wish ... [Document read] ...
 22 circuit breaker around half term."
 23 So that, as we can see, goes to your office, to two
 24 emails, and it goes to Jane Runeckles.
 25 Now, I can tell you -- I'm not going to put it up,
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1 mobilise resources at the scale that only the
 2 UK Government can, and we're not able to use the
 3 mechanisms that are only available to the UK Government
 4 to get that money into the pockets of people who need
 5 it.
 6 **Q.** First Minister, can I press you there, because you
 7 provided a very detailed witness statement and we have
 8 gone through it, we can't find any evidence that you
 9 personally commissioned somebody to look at the Welsh
 10 Government finances in September, on receiving that
 11 really quite devastating advice that we've looked at
 12 with CTI, as a matter of urgency to understand whether
 13 you had the resources to introduce a firebreak.
 14 So can you give us a bit more specificity: when did
 15 you commission that advice?
 16 **A.** Well, I think probably you're looking for the wrong
 17 piece of evidence, because that is not how it would have
 18 happened. So my colleague Ken Skates, as the economy
 19 minister, and Rebecca Evans, who you heard from
 20 yesterday, worked together to find money that we could
 21 use to support businesses through these very difficult
 22 times. They were working on that throughout those early
 23 weeks of October and there is plenty of evidence that is
 24 already available, not in my statement necessarily, but
 25 in the workings of the Welsh Government to show how
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1 but you can take it from me -- that you had a call with
 2 CDL indeed on that day at 15.45, and there is absolutely
 3 no reference to a firebreak and there is no reference to
 4 economic support. The topic just didn't even come up.
 5 Can you assist us with that, please.
 6 **A.** Well, I don't have the notes of that meeting in front of
 7 me, so I imagine that it was dealing with other matters,
 8 but the record shows as clearly as can be that well
 9 before 5 October I am asking the UK Government for the
 10 financial help that will be needed, and I continue to do
 11 that at the opportunities that I have directly with the
 12 Prime Minister, undoubtedly with Mr Gove, and it
 13 culminates in the exchange of letters that we rehearsed
 14 earlier this afternoon.
 15 Of course it was fundamental to us to have the
 16 support of the UK Government for the actions that we
 17 were taking, and I can absolutely assure you that
 18 I raised that wherever I thought I was likely to get
 19 a positive response, even though in the end we didn't.
 20 **Q.** Moving on to the COBR meeting that we know took place on
 21 12 October -- we don't need to bring it up, CTI has
 22 shown you the note of that -- we can obviously see there
 23 that on that day the Chancellor explains the package,
 24 amongst other things, and you make a contribution on
 25 that day, don't you? You're talking about, I think, the
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1 border issues; you're also asking: is there going to be
2 another COBR on the firebreak?

3 So can I ask this: why on this day, on 12 October,
4 at this late stage, are you still asking whether COBR
5 would be held to discuss circuit-breakers? Surely by
6 this stage the Welsh Government should have met with its
7 own Cabinet, it should have conducted all its planning,
8 and it should have taken its plans and demands to COBR.
9 And is the fact that you didn't do this an example of
10 your poor leadership?

11 **A.** Sorry, I missed that --

12 **Q.** Is it an example of your poor leadership, the fact that
13 by 12 October, here's your opportunity, you've got
14 a COBR, that you didn't go there prepared with your
15 modelling, with your data, with your plans agreed in
16 Cabinet, you've spoken to the unions, you've got it all
17 lined up, and there you are, you're going to present it
18 to the Chancellor on the 12th; that was your opportunity
19 and you missed it, didn't you?

20 **A.** Well, I think that would be quite badly to misunderstand
21 the context of the COBR. That would be so far in
22 advance of the facts, and particularly where the
23 UK Government was, that it would have been an effort not
24 only wasted but very likely to be counterproductive.

25 The reason I asked for a special meeting on the
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1 Rebecca Evans] had announced on 23 October an extra
2 £10 million to help protect workers at risk of falling
3 through the gaps."

4 So pausing there, First Minister, it's right, isn't
5 it, it's totally disingenuous of you and the government
6 to blame the UK Government for the timing of the
7 firebreak? Because in reality Wales had the money to
8 support a firebreak. The only person responsible for
9 the timing of the firebreak in Wales and the fact that
10 it probably came too late is you, so will you now not
11 accept responsibility for this and for the inevitable
12 spread of the virus and the deaths that occurred because
13 of your lack of decisive action? Will you accept that?

14 **A.** Well, I absolutely accept that it was my responsibility,
15 in the end, to decide on the implementation of the
16 firebreak.

17 I'm afraid the question very badly misunderstands
18 the level of financial assistance that would be needed
19 in Wales to support not just those groups who were not
20 covered by the UK Government's schemes -- that's what
21 that £10 million is for, it's for the freelancers' fund,
22 for example, freelancers weren't covered by the furlough
23 scheme that the Chancellor funded. £10 million is
24 a small amount of money to pick up people who weren't
25 covered in the main scheme.

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1 circuit-breaker advice is the reason I provided earlier,
2 which is that the Prime Minister was so emphatic in that
3 meeting that he wasn't prepared to agree to a firebreak
4 and that he wouldn't be willing to support the Welsh
5 Government in our actions that I needed to have another
6 run at that argument with him separately from the wider
7 set of issues that were discussed.

8 Had I turned up there not only to ask for the
9 UK Government's general support for that proposition but
10 with a detailed plan of doing so, I really don't think
11 we would have had a hearing at all.

12 **Q.** Final document, then, please, can we look at
13 INQ000227915. Now, just so you understand, you're not
14 at this meeting. This is minutes from the finance
15 subcommittee group, Partnership Council for Wales,
16 2 November.

17 Now, it turns out Wales had its own fundraising
18 capacity and reserves to support a firebreak and to
19 support workers.

20 So if we just have a little look down on to the next
21 page, please, if we see point 5:

22 "As a result of the firebreak, additional funding
23 has been made available to businesses and employers in
24 Wales, and this will be reviewed in light of recent
25 developments in England. The MFT [so that's obviously
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1 I'm afraid I think you've answered your first
2 question, you have suggested to me that we weren't doing
3 anything to model the money that would be needed. Here
4 is the practical example of exactly what we were doing.
5 We were using our resources to supplement what only the
6 UK Government could do, and my responsibility was to do
7 everything I could to get them to support the public
8 health action that we knew we needed to take in Wales.

9 **Q.** Just finally, though, what I put to you is that you were
10 being disingenuous in your witness statement to
11 the Inquiry, where you were blaming the UK Government
12 for the timing of the firebreak. That's right, isn't
13 it? You can't blame the UK Government.

14 **A.** No, no, it's absolutely wrong, and it completely
15 misunderstands the division of responsibilities between
16 the Welsh Government and the UK Government.

17 We were able to mobilise our resources to fill the
18 gaps in what only they could do. Without their
19 willingness to provide the help that only they were able
20 to do, we were inhibited from taking the action we
21 needed to take in Wales. That's what those letters are
22 about. I failed to persuade them, and I cannot help but
23 notice that as soon as it was necessary for them to take
24 that action, they did find the resources. But my
25 efforts at this point are all directed to asking the

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1 UK Government: we've got to take this action, please
2 will you help us? And there's no chance at all that the
3 Welsh Government can simply step into that space, we
4 have neither the resources nor the mechanics. We cannot
5 instruct HMRC to make payments to anybody.

6 So it's not disingenuous in any sense at all, it is
7 simply a factual explanation of where the
8 responsibilities and the capabilities for action lay,
9 and the fact that I wasn't able to persuade the
10 UK Government to take action that only they could take
11 had an inhibiting effect on our ability to do what we
12 wanted to do in Wales.

13 **MS HEAVEN:** Thank you, First Minister.

14 Thank you, my Lady.

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

16 Mr Straw.

17 Questions from MR STRAW KC

18 **MR STRAW:** Good afternoon, I represent John's Campaign and
19 Care Rights UK.

20 You mentioned at the end of your evidence with
21 Mr Poole that, among other areas, the availability of
22 authoritative evidence wasn't sufficiently present
23 during the pandemic.

24 Now, some stakeholders, including those involved in
25 the care sector, considered that concerns they had

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1 lots of owners of care homes who have one or two care
2 homes and the sector has a job, which it works hard to
3 do, to be able to represent the views of a very
4 disparate audience.

5 Evidence is gathering all the time around us at this
6 point as well, so it's not as though there is a fixed
7 body of knowledge that everybody can agree on and point
8 to.

9 So I think there are many contributory reasons to
10 the point that you made in the introduction.

11 **Q.** So perhaps getting together these disparate sources of
12 evidence may have been an issue; would that be fair?

13 **A.** I think that is possible, but it's not just evidence,
14 it's sheer practicality of things like: how do we get
15 PPE to care homes in Wales? There is no single register
16 of where every care home in Wales is located. We were
17 very unfortunate, my Lady, to have some expert
18 logistical support from the armed forces early on in the
19 pandemic, and one of the things that they focused on was
20 something as basic as being able to help us to make sure
21 that we had, you know, all the information we needed and
22 the most effective way of being able to mobilise the
23 help that we wanted to provide to the place where it was
24 needed.

25 **Q.** Looking at another part of the process, so from bringing

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1 raised weren't taken into account or weren't acted upon.

2 Is this one of the areas in which not enough was
3 done to obtain and make available evidence?

4 **A.** I don't think that the point that the sector was making
5 was about lack of evidence. I think they felt and many
6 other sectors felt that getting their case heard and
7 recognised on the terms that they would have put it to
8 the Welsh Government was as straightforward as they
9 would like it to have been. But I'm not sure that it
10 was absence of evidence that they were pointing to
11 rather than access.

12 **Q.** So trying to understand, then, whether there was a point
13 in the sort of chain of decision-making where there was
14 a problem: so they've said that they've made their
15 concerns and the concerns weren't acted upon, they
16 weren't implemented; is there some point in that chain
17 where there was a problem?

18 **A.** I think there are a whole series of difficult factors at
19 this time, it's the sheer scale of everything that the
20 Welsh Government is trying to respond to.

21 The sector itself, as you know, is a -- quite
22 a disparate sector in Wales. The characteristic
23 ownership pattern of care homes in Wales is not the
24 pattern in England where there are a small number of
25 very large corporate providers; we've still got lots and

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1 forward the evidence from stakeholders to then
2 implementing the concerns that they raised, the Older
3 People's Commissioner and also Professor Debbie Foster
4 have talked about an implementation gap; so even where
5 the concerns of stakeholders were recognised in central
6 government, it got stuck somewhere, so the concerns
7 weren't then implemented.

8 Would you agree that that was a problem?

9 **A.** Well, I certainly agree with this, that if you believe
10 there is a model of government in which, you know, in
11 Cathays Park here in Cardiff a minister pulls a lever
12 and something happens out there on the Llyn Peninsula,
13 then it really isn't like that at all. There is
14 a complex pattern of intermediaries and there are many
15 ways in which, particularly in the beginning, making
16 sure that decisions were translated into practical
17 impact on the ground was challenging.

18 **Q.** In terms of learning lessons, is there something that
19 can be done to improve the position in future?

20 **A.** Well, I do think there are, and I think some of those
21 things are the lessons that we learnt during the process
22 itself. So just something as simple as there not being
23 a central register of every care home in Wales, each
24 local authority would have its own register, but there
25 isn't one consolidated place where that information is

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1 kept. So I think there are some very practical lessons
2 that can be drawn from the experience, just in making
3 sure we have those basic components in place so that
4 then we can act more swiftly and more effectively than
5 we were able particularly in those early weeks.

6 **Q.** Just one more question about this topic, and to try and
7 illustrate the sort of broader systemic problems just
8 with a specific example: a number of stakeholders raised
9 concerns about the adverse impacts of bans on visits to
10 those in care, and you yourself, on 11 November 2020 in
11 a call with the other first ministers and Michael Gove,
12 appeared to recognise the problems in that you drew
13 attention to the really heartbreaking set of
14 restrictions, as you put it, on care homes on those in
15 care, and suggested liberalising them by use of testing.

16 Now, despite what you'd acknowledged at that point,
17 there remained essentially a ban in place until
18 May 2021. Does this illustrate any sort of broader
19 issues in the systems in place? Could something have
20 been done better to ensure that changes which had been
21 recommended were put in place?

22 **A.** Well, I hope so. I said right in the very beginning,
23 you know, I visited my mother on 22 February at her
24 90th birthday and I didn't see her again for many, many
25 months. So, you know, the heartbreak that people feel
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1 group, but those needing care were also really at the
2 sharp end of the pandemic and the response. Just to
3 take an example, in the first three months of the
4 pandemic, statistics indicate that around 39% of deaths
5 in the UK involving Covid-19 were deaths of care home
6 residents.

7 Would you agree that an equivalent advisory group
8 similar to the BAME group should have been formed at
9 an early stage?

10 **A.** Well, we have the Older Persons' Commissioner for Wales
11 who is specifically charged with representing the views
12 of older people, and she has done an enormous amount
13 with people who lived in care homes and worked in
14 care homes and was a very powerful voice for them
15 throughout the pandemic.

16 Personally you see I'm a believer in, just as we
17 have a schools council in every school in Wales, I'd
18 have a care council in every care home in Wales, myself,
19 because I do think that the voice of people who live in
20 those settings does need to be amplified. The idea
21 that's put to me is one of them, but during the pandemic
22 itself we relied, you know, very much on the good
23 offices of the Older People's Commissioner, and she was
24 a very powerful and I think effective voice on behalf of
25 people in the care sector and beyond.
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1 about being separated from people who mean such a lot to
2 them is very real.

3 I think there are two areas where I wished it was
4 much -- you know, we could have done much better.
5 I wish it was easier for people to visit in the
6 care homes, but I knew because of the evidence I saw
7 that the importation of coronavirus into care homes full
8 of vulnerable people was generally brought in by people
9 who were coming in from the community to do so. So
10 much, as I would have wished myself not to have been
11 standing outside a window trying to talk to somebody,
12 I also knew that I would be a risk to them if I did go
13 in. So that's what you're balancing.

14 So I wish we had a better formula for it. We tried
15 some practical things, we tried to find outdoor spaces
16 where people could meet and things like that. They
17 were -- you know, they're all things we should learn
18 from and look at, and I very much wish that we could
19 have found a different formula for people to be able to
20 meet with loved ones in their final days or hours.

21 **Q.** Because of the time available, I'm going to have to move
22 on. I've just got two more topics.

23 The first concerns expert groups, so you explain how
24 the Black and Minority Ethnic Covid-19 Advisory Group
25 was formed, and that of course was a very important
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1 **Q.** The suggestion of a care council is very interesting.

2 The last topic, discharge from hospital into
3 care homes. Firstly, you've discussed this already with
4 Mr Poole, so I've got just a couple of specific
5 questions about it.

6 You noted earlier that there was limited testing
7 available at the time, but in fact there were only
8 a pretty limited number of people being discharged per
9 day from hospital without prior testing. So some of
10 them already had testing, the asymptomatic ones didn't,
11 and I think the figures are somewhere between 11 and 15
12 people being discharged a day, whereas in mid-March
13 there were about 1,800 tests available and the number
14 increased.

15 Would you agree that allocating this pretty tiny
16 proportion of the tests to discharged patients was
17 justified by the huge risks involved?

18 **A.** I could maybe one point I haven't made earlier, and
19 I think sometimes in the sort of, you know, public
20 prints on these matters, it appears as though what
21 happened was, in March, that there was a wholesale
22 discharge of people from hospitals into care homes. In
23 fact, fewer people left care homes -- fewer people left
24 hospital for care homes in March and April 2020 than had
25 left in the previous year.
216

1 So actually it wasn't -- and this is a fair point
2 that's being made; the numbers were not -- you know,
3 were not enormous, and maybe the amount of testing that
4 would have been needed could have been accommodated.
5 That's not the advice that ministers had at the time,
6 but I think it's a fair point that's being made.

7 **Q.** You fairly made the point earlier that these patients
8 were unsafe in hospital because of what was happening,
9 but there's a slightly different question which is about
10 whether they should be tested, whether asymptomatic
11 patients should be tested prior to discharge. Do you
12 accept that, taking the government and its scientific
13 advisers collectively -- so not you specifically, but
14 the whole lot -- that this was a mistake?

15 **A.** Well, I'm afraid I think this is classically an example
16 where, knowing what we know now about asymptomatic
17 transmission, if we'd had that state of knowledge at the
18 time we would undoubtedly have been testing people.

19 At the time that knowledge didn't exist, you know,
20 the advice that we were still getting at the end of
21 April -- and was still being advocated by some
22 scientists for a couple of months after that -- was that
23 asymptomatic transmission was not a primary cause for
24 concern.

25 So it's a matter of what you know at the time, isn't it?
217

1 would do that, but I think the point that was being put
2 to me was: even though you have a limited amount of
3 tests, the number of tests you would have to divert for
4 this population could have been small enough to
5 accommodate, even within the limited number of tests
6 that you had. And, you know, I think that is a fair
7 point. I would need to go away and look at the numbers
8 and look at the availability of tests to see whether
9 that was a practical proposition, but as a basic
10 proposition: you haven't got many tests but you don't
11 need many of them for this group, you know, it's
12 a reasonable point to make.

13 **LADY HALLETT:** And we know how vulnerable people in
14 care homes are.

15 **A.** We do.

16 **MR STRAW:** Thank you.

17 **LADY HALLETT:** Thank you, Mr Straw.

18 Does that complete the questioning?

19 **MR POOLE:** It does, my Lady, yes.

20 **LADY HALLETT:** Mr Drakeford, thank you very much indeed for
21 your help, both in this module and the previous module.
22 I don't know what life has in store for you when you
23 step down as First Minister, but obviously we wish you
24 well. Thank you.

25 **THE WITNESS:** Thank you.

219

1 it? Had we known at the time, I think we would have
2 acted differently, but we didn't know at the time, and
3 what we were told at the time would not have supported
4 diverting tests from other purposes to testing
5 asymptomatic people.

6 **MR STRAW:** Okay, I'm going to have to finish there, but
7 thank you very much.

8 **LADY HALLETT:** Just before you sit down, Mr Straw, in case
9 I raise anything ...

10 Just -- sorry, Mr Drakeford, I haven't quite
11 followed that. I thought you agreed with Mr Straw that
12 it was a fair point to make that, given the limited
13 number of those being discharged, they could have been
14 tested because those with symptoms were tested.

15 This was the point you were making, Mr Straw.

16 **MR STRAW:** Yes.

17 **LADY HALLETT:** And I thought you agreed that it was a fair
18 point, that those without symptoms were sufficiently low
19 in numbers that that -- and I thought you agreed that
20 could be accommodated, and then you seem to have said
21 "but we weren't getting that advice at the time
22 therefore ..."

23 So is it a fair point or isn't it?

24 **A.** Well, than it's a fair point in this way -- it's not
25 a fair point in that the evidence we had didn't say you
218

1 (The witness withdrew)

2 **LADY HALLETT:** So does that complete the evidence for today?

3 **MR POOLE:** It does, my Lady.

4 **LADY HALLETT:** Therefore tomorrow we turn to closing
5 submissions at 10 o'clock, please.

6 (4.30 pm)

7 (The hearing adjourned until 10 am
8 on Thursday, 14 March 2024)

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