Witness Name: Vaughan Gething
Statement No.: M2B 1
Exhibits: 84
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UK COVID-19 INQUIRY

WITNESS STATEMENT OF VAUGHAN GETHING

I, VAUGHAN GETHING M.S., will say as follows: -

1 Introduction

1. The purpose of this statement is to assist the Inquiry to investigate key government decision making within the Welsh Government, the information relevant to such decisions and the role of senior officials and advisers.

2. I cannot overstate how sorry I am that so many people lost their lives in the pandemic. I know that however genuine or heartfelt my sympathy is that it will not bring people back or take away the emotional or physical harm. I recognise that the harm done continues for many people.

3. I lived through the pandemic with my family and I saw the impact it had around me. That does not mean that I know what that felt like for other families with a different experience. I remain incredibly grateful to all those people who made sacrifices in their work, their friendships and the way they cared for each other right across Wales.

4. I remain especially affected by the experiences and commitment of staff across health and social care. I recognise that not everyone made it through the pandemic and for some people it has shortened the careers they were dedicated too. I made choices as Health Minister but I did not and could not do the job of our frontline staff and I am deeply grateful to them.

5. There were no easy choices to make. The Welsh Ministers have never had to take such extraordinary choices and I hope never need to again in the future. I would not wish that on any future government of any make up. I would not wish that future on the people of Wales and the wider world. Crucially I hope that we learn what we might do differently and better in Wales and across the UK with the work of this inquiry. I will continue to be of help in any way I can.

2 Structure of the statement

6. My response to the Inquiry's request for evidence made under rule 9 of the Inquiry Rules 2006, referenced **M2B/WG/VG/01**, will cover the period between 1 March 2020 and May 2022. I have drawn on support from my office in preparing this statement.

7. The information provided in this statement is structured as follows:

14. Inequalities
15. Public health legislation
16. Public health communications
17. Border controls
18. Test, Trace, Protect
19. Face coverings
20. Infection prevention and control
21. Shielding of the clinically extremely vulnerable
22. Vaccines
23. PPE
24. Long Covid
25. Key challenges and lessons learned

3 Background and qualifications

8. I have been the Member of the Senedd for Cardiff South and Penarth since 6 May 2011 before which I practiced as a solicitor in Cardiff where I was a partner in the firm of Thompsons LLP. I am a member of the GMB, UNISON and Unite unions, and I was the President of the Wales TUC Cymru in 2008. I have previously served as a county councillor, a school governor, and a community service volunteer.

9. I first entered the Welsh Government on 26 June 2013 when I was appointed the Deputy Minister for Tackling Poverty. On 11 September 2014, I was appointed Deputy Minister for Health, a position which I held until 19 May 2016 when I became the Cabinet Secretary for Health, Well-being and Sport. In 2018, the name of that portfolio was changed to the Minister for Health and Social Services, but for the purposes of this Inquiry, there was no relevant change in my responsibilities. For ease of reference, I shall use the latter term to describe the post in which I served between 2016 and 2021. I held that office until 13 May 2021 when I was appointed Minister for the Economy.

10. The Minister for Health and Social Services ("MHSS") holds a broad range of responsibilities. Although this is not an exhaustive list, my responsibilities included public health; NHS delivery and performance; escalation procedures; receipt of,

response to, and direction of reports from Healthcare Inspectorate Wales; oversight of the Welsh Government's relationship with Audit Wales regarding activities relating to the NHS; subject to certain exceptions, medical workforce training and development; research and development in health and social care; mental health services; patient experience and involvement; policy and oversight of the provision of all social service activities of Welsh local authorities; oversight of Social Care Wales; inspection of, and reporting on, the provision of social services by local authorities (by Care Inspectorate Wales), including joint reviews of social services and responding to reports. A full list of the Minister for Health and Social Services' ministerial responsibilities is exhibited in **M2BVG01/01-INQ000321251**.

11. In order to undertake this role, the Minister for Health and Social Services works closely with the Chief Executive of NHS Wales, the Chief Medical Officer (Wales) and the Chief Nursing Officer (Wales). The Minister has responsibility for, and is accountable to the Senedd for, the exercise of all the powers in their portfolio. Supported by officials, they set the policy and strategic framework within which the NHS in Wales should operate, determine the strategic distribution of overall NHS resources, set the standards and performance framework for the NHS in Wales and hold NHS leaders to account.

12. During the pandemic, as the Minister for Health and Social Services I was responsible for:

    a. Preparedness for the NHS and Health sector, NHS initial capacity and ability to increase capacity and resilience;

    b. The management of the pandemic in all health care settings, including infection prevention and control, triage, critical care capacity, the discharge of patients, the use of 'Do not attempt cardiopulmonary resuscitation' ("DNACPR") decisions, the approach to palliative care, workforce testing, changes to inspections, and the impact on staff and staffing levels;

    c. Shielding and the protection of the clinically vulnerable;

    d. International travel restrictions;

e. The procurement and distribution of key equipment and supplies, including personal protective equipment ("PPE") and ventilators;

f. The National Testing Programme;

g. The National Vaccination Programme;

h. The consequences of the pandemic on provision for non-Covid-19-related conditions and needs;

i. Oversight of the health data and evidence;

j. Policy and oversight of the provision of all social service activities of local authorities in Wales, including the issue of statutory guidance;

k. Oversight of Social Care Wales;

l. Regulation of residential, domiciliary, adult placements, foster care, under 8's care provision and private healthcare; and

m. Early years, childcare and play, including the Childcare offer and workforce.

13. As the Minister for Health and Social Services, I was also central to discussions around use of lockdowns and other non-pharmaceutical interventions such as social distancing and the use of face coverings, but these decisions were principally made by the First Minister following discussion and agreement at Cabinet.

14. I had a brief period of assistance in February or March 2020 from the Counsel General who reviewed correspondence and a handful of decisions for my agreement. Other than these few weeks I retained all responsibilities from before the pandemic and the work required during the pandemic until responsibility for mental health leadership was reorganised.

15. In October 2020, the ministerial responsibilities were amended to add Covid-19 response, screening and vaccination and health innovation and digital. A Healthier Wales, the Welsh Government's plan for health and care, had identified the development of digital services as key to delivering services fit for the future and committed to significantly increase investment in digital and work had started on this

prior to the pandemic. In the first part of the pandemic, making very significant investment in our digital infrastructure and at pace, while responding to the pandemic and other pressures, was a challenge. However, remote working and video consultation technology enabled NHS services to continue while reducing the need for face-to-face contact. The addition of health innovation and digital to the Health and Social Services portfolio reflected the importance of continuing this work. In October 2021, responsibility for mental health services was allocated to and given additional prominence by the new role of Minister for Mental Health, Wellbeing and the Welsh Language which was first held by Eluned Morgan MS.

16. I was appointed Minister for the Economy in May 2021. The full list of ministerial responsibilities for the Minister for the Economy is exhibited in **M2BVG01/02-INQ000321252**. Although this is not an exhaustive list, my responsibilities include support and advice to assist the establishment, growth or development of business, international trade policy, major events, the hospitality sector, workforce skills development, remote working, science and life sciences. In September 2022, responsibility for digital connectivity infrastructure, including public sector broadband aggregation, fast broadband and mobile and cross government digital and data policy and strategy were added to this list.

4 Structures and bodies involved in the Welsh Government's emergency response to the pandemic

4.1 Groups and bodies within the Welsh Government

17. The Welsh Government is headed by the First Minister, who selects and appoints Ministers and Deputy Ministers with the approval of the Senedd.

18. The Counsel General is the chief legal adviser to the Welsh Government. Jeremy Miles MS was Counsel General from November 2017 until May 2021, when he was succeeded by Mick Antoniw MS.

19. The Welsh Government seeks to be transparent about its conduct and decision making, a commitment which continued throughout the pandemic. Key Welsh Government decisions were made within Cabinet or, depending upon their nature and

urgency, through Ministerial Advice. All such decisions are recorded. I spoke to and met my colleagues frequently on an individual or an informal basis. In particular, I regularly met the First Minister before Cabinet. However, these were not decision-making meetings. Key decisions were made within Cabinet itself.

20. Every week, on Tuesday mornings before I delivered my Covid-19 update statement to the Senedd, I would meet with shadow health ministers to provide them with a briefing from me, the Chief Medical Officer (Wales) and a Technical Advisory Group ("TAG") co-chair. Shadow ministers from Welsh Conservatives and Plaid Cymru were also able to approach me individually and they did so on occasion. I wanted to ensure a cross-party approach to matters and to keep them up to date on the response to the pandemic. I considered this a courtesy, and I wanted them to understand the information that underpinned the difficult decisions to be made.

21. I have set out below the key groups and bodies that I attended or worked with in the Welsh Government response to the pandemic.

22. The volume of emails that I sent increased significantly during the pandemic because I would often be asked to give an opinion or make a decision. Where that was done, both the document and my decision or comment would be retained by civil servants for the Welsh Government record.

23. Sometimes circumstances required urgent decisions to be made by me alone where I was empowered to do so. For example, in the face of a resurgence of cases in Spain in July 2020, I was notified of a proposal by the UK Government to amend the International Travel Regulations. I attended an urgent meeting and signed off the draft regulations the same day.

24. Although I would sometimes discuss matters by phone, text, WhatsApp or Microsoft Teams these informal means of communication were not used to make decisions.

25. Between 1 January 2020 and 31 May 2022, I had the following mobile phones:

    a. Welsh Government issued phone issued prior to 1 January 2020 and returned in May 2021 ("first Welsh Government phone"); and
    b. Welsh Government phone issued on 13 May 2021 ("second Welsh Government phone")

c. Senedd phone issued prior to 1 January 2020 ("first Senedd phone"). I do not recall using this phone after July 2021 but it remained in my possession. This was handed back in March 2022; and
d. Senedd phone issued in July 2021 – ("second Senedd phone").

26. In relation to my Welsh Government phones, I would sometimes discuss matters by phone, text, or Microsoft Teams, these informal means of communication were not used as a substitute for the formal decision-making processes set out elsewhere but were used to share information and keep in touch, particularly out of hours or where colleagues were working from home or dispersed widely across the building. I understand that WhatsApp is not permitted to be downloaded onto Welsh Government phones.

27. For the period from July 2021 to March 2022, I'm informed by the Senedd's Customer Services office that I had both my first and second Senedd phones. To the best of my recollection I only used my second Senedd phone from July 2021, at which point any data was transferred to my second Senedd phone. In March 2022, I returned my first Senedd phone. There was no data transferred from this phone at this point. From March 2022, I only had my second Senedd phone and my Welsh Government phone. I did use my second Senedd phone to text and WhatsApp colleagues.

28. I have reviewed my WhatsApp messages on my second Senedd phone but I do not have any WhatsApp messages that pre-date June 2022. I have twice used WhatsApp.com and followed their instructions to recover messages in an effort to access WhatsApp messages prior to June 2022 but there are no messages stored online.

29. In June 2022 I returned my second Senedd phone for maintenance. Before the maintenance work was undertaken, the content of this phone was backed up to the iCloud linked to my personal Apple ID before it was wiped and rebuilt with Office 365. My iCloud has been checked and it does not have WhatsApp or text messages stored prior to June 2022. I am now aware that my iCloud settings did not have back up for text messages turned on. I did not realise that at the time. Enquiries have been made

on my behalf with the Senedd IT team who do not have any backup stored on their system prior to June 2022.

30. I have been through my second Senedd phone to identify text messages between 1 January 2020 and 31 May 2022 between myself and civil servants, SpAds, Ministers and Four Nations Counterparts that remain on the device. Where there are any texts still on my second Senedd phone I have provided these to the Welsh Government legal team to be reviewed.

31. I am aware that others have provided copies of messages from WhatsApp groups of which I was a member, including groups with the other Four Nations Health Ministers, a Ministerial WhatsApp group, a group of Ministerial colleagues established to discuss issues relating to schools and Covid-19 and a chat with other elected representatives for the Vale of Glamorgan.

32. The Ministerial WhatsApp group was used to exchange information and views and provide each other with moral support. This group was not used for decision-making nor was any other group or chat to which I was party.

33. I was also a member of a number of other WhatsApp group chats, including a WhatsApp group chat with my counterparts in the UK Government and the other Devolved Governments that was established to enable collaborative engagement. I also exchanged WhatsApp messages with my Ministerial colleagues, special advisers and my counterparts in the UK Government, Matt Hancock and the Northern Ireland Executive, Robin Swann.

Cabinet

34. Cabinet is the central decision-making body of the Welsh Government. It is the collective forum for Welsh Ministers to decide significant issues and to inform colleagues about important matters. The Cabinet reconciles ministers' individual responsibilities with their collective responsibility.

35. Under normal circumstances, Cabinet meets once weekly while the Senedd is sitting. Its business consists, in the main, of matters which significantly engage the collective responsibility of the Welsh Government, either because they raise significant issues

of policy or because they are of critical importance to the public. The final decision as to whether an item should be discussed at Cabinet is made by the First Minister.

36. Though Cabinet decisions are normally announced and explained as the decision of the minister concerned, they are binding on all ministers. Collective responsibility requires ministers to be able to express their views freely and frankly in private, while presenting a united front once decisions have been made. Discussions in Cabinet throughout the pandemic were rightly challenging, in that appropriate questions were asked to make sure that decisions were properly reasoned and supported. There were occasions on which consensus was not immediately reached and so the First Minister paused the discussion to allow colleagues time to consider the proposal or to suggest alternative ways forward. We would, in those circumstances, return to the issue later in the same week. I do not recall this happening on more than one or two occasions. Often, the pause was required because of the volume of discussions and the volume of material to be considered. Everyone needed their opportunity to contribute to the discussions and, rather than rush, we would pause and return to a subject to make sure we had the time we needed. As will be seen below, this occurred in relation to discussions about restrictions around Christmas 2020.

37. On 6 April 2020, the First Minister outlined the arrangements for conducting Cabinet during the pandemic. Formal Cabinet meetings on a Monday continued to be the forum for substantive government decisions while the Covid-19 Core Group (see below) would meet on Wednesday mornings to act as the main information sharing meeting for Ministers.

38. In March 2020, some Cabinet members would attend Cabinet meetings in person and some would attend via a video link. By 20 April 2020, only the First Minister and I were present in person, with everyone else via video link. The First Minister and I were in near-constant contact during this period. We would often meet at the weekend to discuss and prepare for the forthcoming Cabinet meetings.

Cabinet sub-committees

39. Cabinet is supported by sub-committees and working groups which discuss and develop long-term policy in the areas with which they are concerned; they do not normally take short-term decisions or concern themselves with short-term issues.

40. During the last Senedd (known as the Fifth Senedd which ran from May 2016 to May 2021) we had three Sub-Committees:

    a. EU Transition (which added 'Trade' to its title in 2020);

    b. North Wales; and

    c. Justice

41. With the first two, the First Minister encouraged all Ministers to attend these meetings if they were available. Justice was limited to the First Minister, Counsel General & Brexit Minister and Deputy Minister & Chief Whip, with others attending if necessary.

42. In the current Senedd (known as the sixth Senedd) we have the North Wales and Justice Committees – membership arrangements are similar to the previous Committees. There is also a Programme of Government Committee which is internal and deals with delivering the Programme for Government.

Ministerial Advice

43. Not all decisions are made in Cabinet. The Ministerial Advice process provides the means for ministers to make decisions relevant to their portfolio which do not require a Cabinet collective discussion or decision.

44. A Ministerial Advice is submitted to ministers when providing formal advice relating to a new decision, policy, operational matter, legislation or anything else upon which a Minister is invited to make a decision. The Ministerial Advice should provide the relevant minister with the information, advice and options they require in order to make a ministerial decision.

45. A Decision Report is published on the Welsh Government's website for all Ministerial Advice where a minister has taken a substantive decision. A Decision Report is a short summary of the issue and the minister's response to a recommendation.

46. I have exhibited at **M2BVG01/03-INQ000321255** a table listing the relevant Ministerial Advice submitted to me either for a decision or to note during the relevant period, together with the decision taken.

Ministerial team meetings

47. From 6 April 2020 until 27 January 2022, daily ministerial calls were held on Monday to Friday by the First Minister's office to discuss the most pressing issues at that time. All ministers were invited and the agenda was set by the First Minister's office. On occasion the leader of the Welsh Local Government Association was invited to attend the calls. Decisions were not usually taken during ministerial calls unless the urgency of the situation required it.

The Covid-19 Core Group

48. The Covid-19 Core Group was established in March 2020 by the First Minister and continued until September 2020. I understand that the First Minister's Module 2B statement M2B/WG/MD/02 covers the establishment of the Covid-19 Core Group in paragraph 42. The timing of the establishment of the Covid-19 Core Group reflected the spread of the virus in Wales; the first case of Covid-19 in Wales was confirmed on 28 February 2020, with 15 cases in Wales by the meeting on 11 March including community transmission taking place. The wider context was that of continuing to prepare for the reasonable worst case scenario, given the spread of the virus and number of fatalities in Italy. It was the group which enabled frequent contact between those ministers with the most direct involvement in the Welsh Government's response to Covid-19. Initially this comprised the First Minister, me, the Minister for Housing and Local Government, Julie James MS and the Minister for Education, Kirsty Williams MS. This was the core membership, but there was an open invitation to other ministers to attend. From the outset there was an understanding that membership would be reviewed regularly. Notes of the meetings were prepared by the First Minister's office and approved by the First Minister.

49. The Covid-19 Core Group's first meeting was held in person in the Cabinet Room in the Senedd's Ty Hywel building on 11 March 2020. A copy of the minutes for this first meeting is exhibited in **M2BVG01/04-INQ000320766**. The Chief Medical Officer (Wales) provided an update on the public health situation followed by a technical briefing from Dr Rob Orford, the Chief Science Advisor (Health) ("CSAH"), that under the reasonable worst case scenario the number of people with the virus was expected to peak in around 10 to 14 weeks from then and there were likely to be 1.6 million

symptomatic people. Without behavioural interventions most cases were expected to occur in a nine-week period. Reg Kilpatrick, Director, Local Government provided a policy update. The data on Reasonable Worst-Case Scenario had been shared with the NHS Chief Executives and there was a planned meeting of local authority leaders for the following day. These meetings were attended by officials who were key to the Covid-19 response and Special Advisers. These meetings were held every Wednesday morning and public health was a standing agenda item.

50. On 25 March 2020, the Covid-19 Core Group membership was widened to include the Leader of the Welsh Local Government Association and from 1 April 2020 the opposition party leaders of Plaid Cymru and the Welsh Conservatives. The Chief Executive of the Wales Council for Voluntary Action was invited from 8 April 2020 and various external groups (such as the Police, Army and the Black Asian Minority Ethnic Covid-19 Advisory Group) were invited to provide updates from their respective areas as well. It became an information sharing forum and the format was for regular updates from the Chief Medical Officer (Wales)' office, the Director General of Health and Social Services Group/Chief Executive of the NHS and the Welsh Local Government Association.

The Shadow Social Partnership Council

51. The Shadow Social Partnership Council was set up on the 1 May 2020 by the First Minister. I understand that the First Minister's statement (M2B/WG/MD/02 paragraph 23) sets out the development of thinking around the establishment of the council before the pandemic and his views of the role of the Shadow Social Partnership Council during the pandemic. The Shadow Council was set up in advance of the Social Partnership and Public Procurement (Wales) Act 2023, which makes statutory provision for a permanent Social Partnership Council to discuss a range of strategic issues relating to fair work and social partnership. Proposals for the legislation were set out in a white paper 'A more Equal Wales: Strengthening Social Partnership' with the intention of legislation being introduced in the Senedd in Summer 2020 and being made law in 2021. In 2019 and early 2020 officials were working on the creation of a Shadow Social Partnership Council. The Shadow Social Partnership Council was chaired by the First Minister with other ministers attending where necessary. I attended

frequently throughout the relevant period. The Council were provided with the latest scientific advice and with an update from the Chief Medical Officer (Wales).

52. In addition to the Welsh Ministers, membership of the Shadow Social Partnership Council now consisted of approximately 25 senior representatives from across the devolved public services, the private sector, the trade unions and the voluntary sector as well as the various Welsh Commissioners (such as, for example, the Children's Commissioner for Wales).

53. The Shadow Social Partnership Council was a good forum for sharing information and good practice and for influencing, including the consideration, challenge and enhancement of policy developed in response to the pandemic. It gathered all the main stakeholders across Wales outside of the Senedd and helped to provide similar timing and consistency of message in explaining what evidence we had considered and why we were proposing the actions that we were. The Social Partnership and Public Procurement (Wales) Act 2023 received Royal Assent on 24 May 2023 and the statutory Social Partnership Council will be established and commence meetings in 2024.

The Wales Resilience Forum

54. The First Minister chairs the Wales Resilience Forum. Its aim is to promote good communication and the enhancement of emergency planning across agencies and services in Wales by providing a forum for Chief Officers to discuss with the Welsh Ministers strategic issues of emergency preparedness.

55. The Cabinet Office is a permanent member of the WRF and reports on initiatives being taken forward at the UK level at each meeting. This allows the Cabinet Office's Civil Contingencies Secretariat ("CCS") to engage directly with senior representatives of responder agencies in Wales as well as the Welsh Ministers.

56. The Wales Resilience Forum was created in 2003 and by 2017 it was firmly established as the national forum which set strategic direction and promoted the enhancement of emergency planning across agencies and services in Wales. The planned frequency in the forum's terms of reference was every six months to raise and discuss issues of emergency preparedness, and update Welsh Ministers on the range

of initiatives being taken to strengthen Wales' collective resilience and to provide assurance that the necessary planning work had been identified and was underway. The WRF met once during the pandemic on 15 December 2021. I did not attend that meeting which discussed routine business. It met once because the WRF is a planning body with no response function under the Pan Wales Response Plan. Since May 2022 it has continued to meet every six months, and has met three times since; on 30 November 2022, 3 May 2023, and 6 December 2023.

Senior Civil Servants

57. Civil servants are under a duty to give honest and impartial advice to ministers without fear or favour. They are subject to the Civil Service Code. The Permanent Secretary is the most senior civil servant in Wales. The Permanent Secretary is Principal Policy Advisor to the First Minister, Principal Accounting Officer and Head of the Welsh Government Civil Service.

58. The Permanent Secretary is supported by six Directors General and other members of the senior civil service who lead:

    a. Health and Social Services Group;

    b. Chief Operating Officer's Group;

    c. Climate Change and Rural Affairs Group;

    d. Economy, Treasury and Constitution Group; and

    e. Education, Social Justice and Welsh Language Group.

    f. Covid Recovery and Local Government.

59. The Director General of the Health and Social Services Group ("HSSG") is the most significant senior civil servant with whom I had regular contact throughout the pandemic. Between June 2014 and October 2021, the Director General was Dr Andrew Goodall. He was succeeded by Judith Paget in November 2021. The Director General of the Health and Social Services Group supports and reports to the Minister for Health and Social Services on progress on achieving ministerial priorities.

60. The Director General of the Health and Social Services Group holds a combined role as Director General and a role referred to as the "Chief Executive NHS Wales". While the role of Chief Executive NHS Wales is not a statutory role it is a significant and distinctive post located in the Welsh Government, bringing together the responsibilities of a Director General in the Welsh Government with the leadership and oversight of NHS Wales. They are responsible for exercising the strategic leadership and management of the NHS in Wales and responsible for the robust stewardship of NHS funds. NHS Wales consists of seven Local Health Boards, three NHS Trusts and two Special Health Authorities which are directly accountable to the Minister for Health and Social Services through the Chief Executive of NHS Wales/Director General. The Health and Social Services Group is also the link between the local authorities' social services directors and both the Minister and Deputy Minister for Health and Social Services.

61. The length of the pandemic required officials in the Health and Social Services Group to undertake new roles and for officials from other Groups to come into the Health and Social Services Group or work closely with it. The Health and Social Services Group structures, role and functions were continually evolving throughout the specified period to accommodate the new Covid-19 specific areas of work. New sub-teams were created within divisions and personnel was re-deployed both within the Health and Social Services Group and from other Welsh Government directorates.

62. Andrew Goodall and Judith Paget have both provided the Inquiry with statements describing their roles and contributions in greater detail, which will not be repeated here.

Special Advisers

63. Special advisers are appointed by the First Minister to help ministers on matters where the work of the Government and the work of the Government Party overlap and where it would be inappropriate for permanent civil servants to become involved. Special advisers are employed as civil servants, but they are subject to a separate Code of Conduct.

64. Special advisers are not decision makers. Special advisers add a political dimension to the advice and assistance available to ministers while reinforcing the political

impartiality of the permanent Civil Service by distinguishing the source of political advice and support.

65. My special adviser, Clare Jenkins, assisted me in responding to the Covid-19 pandemic by providing information gained in meetings held with internal and external stakeholders across health and social care. She would meet with representatives from the public sector, scientific, professional advisers, policy leads and lawyers in order to highlight any cross-cutting issues or to provide updates on key areas.

4.2 Coordination and communication between the four nations

66. The decisions made by the Welsh Government were to protect the people of Wales, we could not go beyond the powers and responsibilities devolved to the Welsh Government.

67. In relation to key decisions made in the early months of the pandemic, the Welsh Government's decisions were largely but not wholly consistent with the decisions made by the UK Government and by the other devolved governments. At that time, we were working predominantly from shared information which came from within the UK Government through the Scientific Advisory Group for Emergencies ("SAGE") and COBR as set out below. I believe that there were real benefits to the public in this unity of approach certainly at the outset.

68. However, as the situation developed, I began to believe that the UK Government did not sufficiently trust the devolved governments. This view was formed from April 2020 onwards and was based on the UK Government's treatment of the devolved governments. For example, we were excluded from particular COBR-O and Ministerial Implementation Group meetings and on occasion we did not receive information in a timely manner to allow us to contribute to the decision making, as opposed to being informed of decisions taken by the UK Government soon before or after they were announced. I have provided further details and examples of this below.

69. I believe that I had an effective working relationship with my counterparts in the other devolved governments. I would send notes to the other health ministers when we were due to make announcements to ensure they were sighted on our plans.

COBR

70. COBR (Cabinet Office Briefing Rooms) was the highest forum for interaction between the four governments of the UK. COBR meetings are controlled and led by the UK Government. UK ministers decide when COBR meetings are called and who is invited to attend.

71. These meetings were split into COBR(M) which was attended by ministers and COBR(O) meetings which were attended by officials. I am not aware of the reason for the division.

72. It was a significant source of frustration that when devolved governments were invited to or attending COBR meetings we were not truly consulted about the decisions to be made, decisions which would affect Wales. When Matt Hancock chaired meetings of COBR there was administrative efficiency, meaning that the meetings were run to an agenda with a decision made. It was a matter of regret that the same could not be said for the meetings chaired by the then Prime Minister Boris Johnson. These meetings would be plagued by the Chair being scatty, incoherent and rambling. Often, we were being informed of what the UK Government planned to do rather than being consulted on our views and, on occasion, we were notified only shortly before the UK Government announcement was made, for example the decision to establish the Joint Biosecurity Centre ("JBC"), detailed further below. On 22 March 2020, there was a scheduled COBR meeting at 5pm. As of the evening before we had not received the papers for that meeting but the Prime Minister had already scheduled a press conference for 6pm on 22 March 2020 to announce his Shielding plan, as outlined in exhibit **M2BVG01/05-INQ000320763.**

73. Unfortunately, there was no regular or reliable rhythm for the COBR meetings. In the early days of the pandemic COBR meetings were held frequently albeit on an ad hoc basis. However, there were long periods without any such meeting at all. There were no meetings between 16 April 2020 and 10 May 2020, after which there were no further meetings until 22 September 2020.

74. The communication between the UK Government and the devolved governments was particularly poor when the Prime Minister was in hospital and Dominic Raab MP led the UK Government. For example, there was an increase in the amount of press

briefing outside of COBR of the decision to be made. However, Mr Rabb was a more effective chair within the meetings. Upon the Prime Minister's return, he chaired COBR on 10 May 2020. In that meeting he said that he understood that the four nations had not maintained the same regularity of communication, but he would ensure there would be much more regular communication following his return. As stated above, there were no further COBR meetings until 26 September 2020 and there was a significant delay before he met with the First Minister.

75. I believe that we would have been assisted by a better process for the arrangement and conduct of COBR meetings, within which there should have been genuine engagement with other nations.

76. In my opinion the decision to ask the Chancellor of the Duchy of Lancaster Michael Gove MP, rather than the Prime Minister, to chair regular meetings with the First Ministers of Wales and Scotland, as well as the First and Deputy First Ministers of Northern Ireland, inhibited coordinated decision because he did not truly speak on behalf of the UK Government at that time and so discussions in those meetings did not necessarily reflect the decisions being made. Heads of Government meetings should include all Heads of Government, and had it done so I believe more could have been achieved.

Ministerial Implementation Groups

77. Ministerial Implementation Groups ("MIGs") were four nation discussion forums established in March 2020 by then Prime Minister, Boris Johnson, in response to Covid-19. Ministerial Implementation Groups were broadly structured along policy areas.

78. The Healthcare Ministerial Implementation Group was chaired by then Health Secretary, Matt Hancock MP. I attended most meetings on behalf of the Welsh Government. The group's key focus was on overseeing the measures that the Prime Minister had implemented to protect public health, measures to increase the capacity of the NHS and deliver cross-government coordination that would be required to deliver social care.

79. The questions posed by the Inquiry are understandably focused upon structures but a vital component of decision-making is trust and an effective working relationship. It was a source of frustration between me and other four nations colleagues that we did not always receive the papers that were the subject of discussion. I do not remember any specific examples but recall that it was a regular feature that the papers were provided literally an hour or less before meetings. Given the consequences of these meetings and decisions we could and should have had earlier sight of the papers.

80. The Ministerial Implementation Groups were short-lived. They were wound up in June 2020 when the focus moved to Covid-19 Operations meetings. Ministerial Implementation Groups did have the benefit of allowing ministers from the four nations to meet to discuss the circumstances we faced and the actions we were taking.

Covid-O / Covid-19 Operations meetings

81. Covid-19 Operations Meetings ("Covid-O") were established in May 2020 to discuss various issues, including social care, funding and international travel. Covid-O replaced Ministerial Implementation Groups and oversaw response and recovery. The meetings were held every week and were chaired by the UK Cabinet Secretary.

82. The meetings were not minuted but, as noted above, we would not usually have much in the way of pre-meeting papers. By way of example, I exhibit in **M2BVG01/05a-INQ000376541** an exchange between my office and officials regarding a Covid-19 Operations meeting relating to proposals for a business, Jobs and Investment exemption for international travel.

83. Officials from the Welsh Government were not routinely invited to Covid-O meetings. I believe this was a deliberate choice and a mistake that should have been corrected and I understand that the UK Government have confirmed this to the Inquiry. When officials from the Welsh Government were not invited to participate in discussions concerning the response to the pandemic, four nation communication, policy and practical responses were less effective Matt Hancock has suggested that this was because the Scottish Government gazumped announcements or made presentational differences. That exclusion strikes me as a petulant response to real or perceived difference.

UK health ministers

84. One evening per week the health ministers would speak by telephone in order to share information and discuss. They were not decision-making telephone calls. This was separate to the formal structures described above and these telephone calls encouraged a level of honesty and openness in our discussions that I considered to be very useful. We did not always agree but we were able to speak freely about the challenges that we were facing and understand one another's decisions in response. For example, when we experienced difficulties with the reallocation of Lighthouse Laboratories' capacity for testing this was discussed during the call and Matt Hancock MP took action as a result and apologised.

Secretary of State for Wales

85. I do not recall how frequently I spoke or met with the Secretary of State for Wales, Simon Hart MP, during the pandemic. On the 30 March 2020, the First Minister offered the Secretary of State for Wales a weekly telephone call or meeting with him as outlined in his letter of this dated exhibited in **M2BVG01/06-INQ000320776**. To alleviate the pressure on the First Minister I attended some of these calls on his behalf. I did not find these telephone calls particularly useful in the decisions we had to make for Wales. Generally, the Secretary of State for Wales would repeat the position of the UK Government and advocate the approach that the UK Government wanted the Welsh Government to take. This became more pronounced as the Welsh Government's decisions began to diverge from the UK Government's decisions.

4.3 Coordination and communication between the Welsh Government and local authorities in Wales

86. The Welsh Government is committed to delivering public services through a partnership approach. Ministers therefore sought to work closely with Welsh local authorities throughout the pandemic response, using formal and informal mechanisms. At a formal level, there was the statutory Partnership Council for Wales which engaged the leaders of local authorities and other key organisations. The Minister for Local Government was responsible for the Partnership Council. From 2018 to 2021, the minister was Julie James MS and since May 2021, Rebecca Evans MS has been Minister for Finance and Local Government.

87. There would also be meetings with the Welsh Local Government Association. All the principal councils in Wales are members of the Association: it represents their collective views and interests and advises and supports individual authorities. In addition to the 22 principal councils in Wales, the Association has associate members consisting of the three Fire and Rescue Authorities and the three National Park Authorities in Wales. The Association is an observer, but not a statutory member, of the Partnership Council for Wales.

88. We were able to build upon this foundation of trust, developed pre-pandemic, to work cooperatively with local authorities in our response to the pandemic. I met the Welsh Local Government Association several times myself and my Special Adviser also attended meetings led by other ministers. I found the Welsh Local Government Association to be constructive, regardless of the political leadership within councils.

89. This was not to say that we did not have lengthy and high-spirited discussions with local authorities. On one occasion it became quite heated about supplies of personal protective equipment, and Camarthen county council sought to procure its own supplies as the Plaid Cymru council leader, Emlyn Dole was concerned that the Welsh Government would not deliver on its promise to provide supplies. It was a time of incredible pressure and there were palpable fears in local communities that created understandable tension.

90. Another occasion where local leaders challenged Welsh Government was when Conwy was placed under local lockdown in October 2020 resulting in the Council leader, Sam Rowlands issuing a statement and writing to the First Minister requesting local down measures were lifted to help its tourism industry.

91. Throughout the period in which the Welsh Government made decisions on non-pharmaceutical interventions, including the imposition and subsequent easing of restrictions, the Chair of the Welsh Local Government Association was invited to the Covid-19 Core Group meetings. He was able to receive information from the Chief Medical Officer(Wales) about the current rate of the infection and to contribute to the discussions around the Welsh Government response at that time. For example, when it became time to consider how and when to relax restrictions the practical effect this

would have on local authorities and the notice that they would require in advance of such a decision was discussed.

92. The Welsh Government structures meant that local government leaders had access to ministers and ministers would engage with local government directly on specific issues. For example, I engaged with local government in respect of Test, Trace and Protect as set out below. There would also be meetings between Welsh Government officials and local government teams working on Test, Trace, Protect.

5 Sources of medical and scientific expertise

93. Throughout the pandemic, within the Welsh Government we endeavoured to ensure that our decisions were based on the evidence and the advice that was available to us at that time.

94. There were some decisions and some considerations which could not be based upon science alone. For example, the decision about closing schools had to consider not only the potential effect on the virus, but also the effect on the children. We knew that closing schools would harm children's prospects for the future and that the least advantaged children were the most harmed. We knew that home may not be a safe place for every child of every adult. This had to be balanced against what we understood to be significant avoidable mortality. Science alone could not provide us with the answer to that decision.

95. Despite our best efforts, and those involved in providing the data and scientific expertise described below, we were trying to make the best decisions that we could in the face of some degree of uncertainty, for example around the pathogenic impact, transmission capability and the environmental factors affecting transmission. This was particularly true in the early days of the pandemic.

96. I reflected more than once in public and in government meetings that we acted on the advice and evidence we had at the time. Wherever we said that were following or being guided by the science, or similar, this was intended to help the Welsh public understand the rationale for the choices that we made. As set out below, we published that evidence and advice as far as possible. We did not intend to or attempt to avoid our responsibility to make decisions.

97. The earlier days were the most difficult in terms of understanding what was likely in terms of virus impact, response measures and their impact. As the pandemic developed we gained a greater understanding of the virus and the treatment responses.

SAGE

98. Representatives from the Welsh Government were not invited to attend SAGE until 13 February 2020, thereafter the Chief Scientific Adviser for Health or a member of his team would attend and provide updates which included information coming from the Scientific Pandemic Influenza Group on Modelling, a subgroup of SAGE. This was attended by Fliss Bennee who was part of the Chief Scientific Adviser for Health's team and worked closely with him. I understand that following the precautionary SAGE meeting on the 22 January 2020 the Chief Scientific Adviser for Health requested confirmation on attendance by devolved nations particularly from a health perspective and previous requests had been made in 2019 in respect to Brexit planning. The Chief Scientific Adviser for Health has provided evidence to the Inquiry and would be the appropriate person to provide further information the governance of SAGE and the relationship with the devolved governments.

The Joint Biosecurity Centre

99. The Joint Biosecurity Centre ("JBC") was established by the Prime Minister on 10 May 2020 to provide evidence-based, objective analysis, assessment and advice to inform local and national decision-making in response to Covid-19 outbreaks. This was announced before the Welsh Government had been informed or consulted in any way, which caused unnecessary friction.

100. The Joint Biosecurity Centre was established as a directorate within the UK Government's Department for Health and Social Care ('DHSC') to identify outbreaks of Covid-19, and to ensure local and national decision makers had access to the best possible information in their jurisdictions when responding to outbreaks. The Joint Biosecurity Centre had three main functions:

    a. Collection of data;

    b. Provision and analysis of decision making advice; and

c. Establishing a legal basis for setting a single UK-wide Covid-19 Alert Level, including consideration of regional variations in data where appropriate. The alert level would be determined by the four Chief Medical Officers, with advice from the Joint Biosecurity Centre .

101. The Welsh Government's participation in the Joint Biosecurity Centre was approved by the First Minister on 27 July 2020 and, following practical cooperation with the health ministers an agreement put in place to underpin the principles of a UK wide JBC as exhibited in **M2BVG01/07-INQ000299825**.

Chief Medical Officer (Wales)

102. There has been a Chief Medical Officer for Wales since 1969. The Chief Medical Officer is as a member of staff of the Welsh Government designated by the Welsh Ministers as the 'Chief Medical Officer for Wales'. The Chief Medical Officer for Wales is bound by the Civil Service Code but retains a high degree of independence and separation from the concerns of the Welsh Government.

103. The Chief Medical Officer is a director-level post with three functions:

a. Adviser to the Welsh Ministers and the Welsh Government, bringing a public health perspective to decision-making;

b. Medical Director of the NHS in Wales; and

c. An advocate for the better health of the people of Wales.

104. Before Covid-19, the Chief Medical Officer (Wales) and I would meet regularly. During the pandemic, the Chief Medical Officer (Wales) and I would speak regularly both formally and informally. From March 2020, the Chief Medical Officer (Wales) began attending Cabinet meetings to brief the Cabinet on the latest risk assessment and advice in respect of the virus. Initially, the Chief Medical Officer (Wales) attended Cabinet on an ad hoc basis and later he or a member of his team would attend every three weeks to inform the discussion on the review of the restrictions imposed by Health Protection (Coronavirus) (Wales) Regulations 2020.

105. The Chief Medical Officer (Wales) would submit or assist with advice for ministers relating to relevant to decisions. The Chief Medical Officer (Wales) would rely upon and feed to ministers information and data coming into the Chief Medical Officer's office from wider UK sources such as the other Chief Medical Officers in the UK, the Senior Clinicians Group and the Joint Biosecurity Centre as well as the sources in Wales via the Technical Advisory Cell, Knowledge and Analytical Services and Public Health Wales.

106. Throughout this statement I use the term 'Chief Medical Officer' to refer to the Chief Medical Officer for Wales and specify where I refer to the equivalent position for the UK or another nation (for example, 'the UK Government Chief Medical Officer').

Chief Scientific Adviser

107. The Chief Scientific Adviser (Wales) reviews the scientific advice provided to the Welsh Government and is tasked with ensuring that Science, Technology, Engineering and Mathematics ("STEM") subjects feature prominently in government policy. The Chief Scientific Adviser also acts as Head of Profession for science and technology staff inside the Welsh Government.

Chief Scientific Adviser for Health (Wales)

108. The Chief Scientific Adviser for Health is the professional lead for healthcare scientists in NHS Wales. The Chief Scientific Adviser for Health makes technical and scientific specialist advice on health science and protection. Dr Rob Orford was the Chief Scientific Adviser for Health during the pandemic and he led the Welsh Government's scientific and technical response, as well as establishing and co-chairing the Technical Advisory Group.

109. Although I was not involved in appointing the Chief Medical Officer nor the Chief Scientific Adviser for Health, I believed that they had the appropriate expertise to give the advice that they did. We relied upon and trusted their advice but, where necessary we would challenge or question it. Where appropriate we would discuss any differences in data or approach between Wales and the other four nations.

110. I believe that those providing advice to the Welsh Government at the time did so to the best of their ability and based on the information available at the time. The greatest

difficulty was that neither we nor they always understood the virus or how the pandemic would develop. The example of mass gatherings is a good representation of our attempt to follow the science and the evidence that was available to us when it was available to us, but that science was ever evolving and sometimes changed entirely.

The Technical Advisory Group

111. The Technical Advisory Group ("TAG") was established in March 2020. This was set up by the Chief Medical Officer and the Chief Scientific Advisor for Health with support from Public Health Wales. Its remit was to make sure that scientific and technical information and advice, including advice coming from SAGE, was developed and interpreted in order to ensure that the Welsh Government and the Welsh public sector had access to the most up-to-date scientific and technical information related to the outbreak. The terms of reference for the Technical Advisory Group are exhibited in **M2BVG01/08-INQ000177396**. The timing of and need for a Welsh Technical Advisory Group is I understand addressed in statement of the Chief Scientific Advisor for Health (paragraph 11 onwards of M2B-TAG-01).

112. Membership of the Technical Advisory Group included experts from the Welsh Government and Public Health Wales and scientific and technical experts from in and outside the Welsh Government who provided independent science advice and guidance to the Welsh Government in response to Covid-19.

The Technical Advisory Cell

113. The Technical Advisory Cell ("TAC") was set up on 27 February 2020 by the Chief Medical Officer and Chief Scientific Advisor for Health. The timing of and need for a Technical Advisory Cell is I understand addressed in statement of the Chief Scientific Advisor for Health (paragraph 11 onwards of M2B-TAG-01).

114. I attach its terms of refence in exhibit **M2BVG01/09-INQ000227962**. It was part of the Health and Social Services Group and was led by Fliss Bennee (Health and Social Services Deputy Director for Technology and Digital) and Dr Rob Orford, the Chief Scientific Adviser for Health.

115. The Technical Advisory Cell provided scientific and technical information interpreted for Wales in adherence to advice provided by SAGE In addition to the information coming from SAGE, it was receiving data from a variety of sources to inform their reports and briefings. The advice coming from The Technical Advisory Group included advice on prevalence of the virus, testing in care homes, infectiousness, discharge of asymptomatic patients, genomics, variants of concern, and Covid-19 associated deaths. It was helpful to have advice that understood the context of how decisions were made.

116. The Inquiry has the benefit of a witness statement from the Chief Medical Officer FAM-2B-CMO which in paragraphs 11-15 of that statement explains in greater detail how information flowed down to other key bodies and organisations such as Public Health Wales, NHS bodies and local authorities in Wales.

117. The Technical Advisory Cell would provide public facing reports and advice for ministers and in the form of briefing documents that followed a standard format and publication cycle. During the course of the pandemic, three regular scientific briefing documents were produced:

    a. The Technical Advisory Cell summary was produced almost weekly from 5 May 2020 until July 2021 when publication became fortnightly. It provided a summary of the latest Covid-19 surveillance and epidemiological data, any policy modelling updates, as well as summaries of, and links to, any high-quality published research on Covid-19. The Technical Advisory Cell summary was used as the basis for general updates provided by members of the team to Welsh Ministers and Welsh Government officials.

    b. The Covid-19 Situational Report ("CSR") was an update against agreed indicators and provided a concise summary of timely and accurate Covid-19 situational awareness data for Wales, to support decision making on matters relating to the pandemic in Wales. The first published edition of the Covid-19 Situational Report was produced on 8 April 2021. It was issued weekly between May and October 2021 and then fortnightly up until May 2022 when it was decommissioned. Whilst the Technical Advisory Cell

primarily led the process, the Covid-19 Situational Report was a product of the Welsh Government's Covid-19 Intelligence Cell ("CIC").

c. The Technical Advisory Cell provided a written advice to Cabinet by providing advice to Cabinet for each 21-day Covid-19 review cycle.

118. Of these documents I found the Technical Advisory Cell summaries and modelling advice that we received particularly helpful to ensure that ministers had the information that they needed in a clear format, without being buried by detail. This applied equally to the summary advice prepared by the Chief Medical Officer to inform the 21-day reviews. Although most ministers were only expected to rely upon these summaries, my actions and recommendations were informed by the entirety of the evidence available to me.

119. At an early stage I decided that both the Chief Medical Officer's advice and the Technical Advisory Cell summary upon which 21-day review decisions were made should be published to ensure that members of the public understood the Welsh Government's decisions and decision-making process.

Secure Anonymised Information Linkage

120. We had access to the Secure Anonymised Information Linkage ("SAIL") databank, based at Swansea University, which provided us with the Welsh Government's data analysis using anonymised health date. They examined the impact of Covid-19 on society and NHS, as well as the effectiveness of treatment options and other non-pharmaceutical interventions which could be used to produce sophisticated modelling on behalf of the Welsh Government.

121. On 25 March 2020, the Technical Advisory Cell considered a paper stating that SAIL could be used to identify high-risk groups in Wales and measure the effectiveness of the interventions within that group. SAIL provided data in relation to health, behavioural, education and social care which influenced the policy decisions made in those areas. Making use of the data from SAIL, in particular, allowed us to take account of the fact that Wales had a relatively high proportion of older people in Wales and areas with a higher older population.

6 Sources of data, statistics and modelling

122. We recognised from the outset the importance of accurate and useful data for understanding the virus and to inform the decisions that we made. As described above and as can be seen below, the nature of the data available and the reliability of that date varied and developed as the pandemic progressed.

123. In particular, re-infection prospects was an issue on which the data was unclear at the outset.

Knowledge and Analytical Services data monitor

124. From late March 2020, the Welsh Government's Knowledge and Analytical Service ("KAS") coordinated, with input from NHS Wales, a number of daily (seven days a week) data returns to both the Welsh and UK Governments. The scope of the daily dashboard return was varied and grew considerably over time. It initially covered topics such as testing, cases, deaths, ventilators and hospital activity. It grew to include a range of metrics on care homes, staff absence, shielding, food parcels, school attendance, cancer referrals and more.

125. From early April 2020, we had the benefit of a regular "data monitor" compiled by statisticians in the Welsh Government's Knowledge and Analytical Service which drew on a wide range of data sources to bring together the latest data on the pandemic under the following themes:

    a. Cases, deaths and vaccinations;

    b. Health and social care;

    c. Shielded and vulnerable people;

    d. Attitudes and behaviours;

    e. Economy and labour market; and

    f. Public services.

126. The data monitor was shared with Technical Advisory Cell, ministers and senior policy officials. The monitor, or a version of it was also later shared with external bodies such as the Police and Crime Commissioners and the Joint Military Command Wales Intelligence Cell. The monitor was generally updated on a weekly basis.

127. The themes covered in the data monitor covered the range of impacts from Covid-19 for which data were available. More detail about the monitor and the sources of data is provided in a witness statement on behalf of the Knowledge and Analytical Service (GJ-M2B-KAS-01) in paragraphs 45-49 of that statement. In short, the data monitor captured:

    a. Cases, deaths, and vaccination: this theme summarised some measures of the direct health-related harms from the pandemic such as infection rates and mortality, drawing on surveillance data from Public Health Wales and official statistics from the Office for National Statistics ("ONS). It was expanded over time to include more metrics related to testing (including turnaround times), contact tracing and Covid-19 vaccination. The theme initially included some international comparisons of mortality, but these were removed in 2020 as they were not felt to be widely used. Multiple sources were used for some topics, for example both Public Health Wales and the Office for National Statistics' data on Covid-19 prevalence and mortality. That was in order to provide the most well-rounded assessment of trends, given that each source had strengths and limitations in terms of coverage and timeliness.

    b. Health and social care: this theme summarised some of the pressures experienced by the NHS and social care. It included measures of Covid-19 and non-Covid-19 related hospital activity; calls to 111, NHS Direct and emergency ambulance services; NHS staff absence and measures of Covid-19 related to care homes. The data used in this theme drew heavily on NHS management information and data provided by Care Inspectorate Wales, as well as a new collection of timely NHS staff absence data. Changes in definition and coverage of NHS hospital data were highlighted in the monitor in order to ensure the trends were interpreted correctly.

c. Shielded and vulnerable people: data from the public sector, third sector and private companies was used in this theme to understand potential impacts on vulnerable people and the services provided for these groups. This included analysis of the shielding list and services for shielding people (e.g. food parcel delivery, supermarket ordering slots); status of social services; homelessness and rough sleeping; violent crime and hate crime; payments made through the discretionary assistance fund and use of advice services such as Citizen's Advice and the Live Fear Free domestic abuse helpline.

d. Attitudes and behaviours: data from a range of surveys was used to demonstrate trends in public opinion and behaviour, for example on awareness of and reported adherence to Covid-19 regulations. This was complemented by data on travel and mobility from the public and private sector.

e. Economy and labour market: this theme summarised the economic circumstances and harms of the pandemic, using traditional official statistics such as GDP and employment, alongside more timely measures based on card spending and business insight surveys from the Office for National Statistics. The use of support schemes for businesses, both the Welsh and UK Government schemes, was also monitored.

f. Public services: this theme included Covid-19 related data on activities and impacts on a range of other public services. This included school attendance; Covid-19 cases in higher education institutes; fixed penalty notices and environmental health enforcement; data on prisons and Fire and Rescue Services absence data.

Covid Intelligence Cell

128. The Covid Intelligence Cell was established on 21 September 2020. It was set up at this time as a result of learning from the first phase of the pandemic. As set out in the terms of reference exhibited in **M2BVG01/10-INQ000320918** the Cell's role was to undertake surveillance with regard to Covid-19 and provide a single authoritative source of situational awareness of transmission and provided a comprehensive

overview of the incidence of Covid-19 across Wales. It drew on national and local intelligence from, amongst others:

a. The Communicable Disease Surveillance Centre in Public Health Wales;

b. Data and intelligence from public health professionals about the local or regional context, including Consultants for Communicable Disease Control;

c. Directors of Public Protection;

d. Directors of Public Health;

e. Data from our Test, Trace, Protect systems, including on testing and contact tracing; and

f. Information from Incident Management Teams and Outbreak Control Teams.

129. The Cell's membership provided expertise from virology in Public Health Wales, the Welsh Government's Technical Advisory Cell and cross UK data and intelligence from the Joint Biosecurity Centre.

Public Health Wales

130. Public Health Wales led the collection, analysis, and dissemination of rapid surveillance data for Covid-19, covering topics such as test positivity, case rates, deaths and vaccination uptake.

131. In April 2020, following notification to the Welsh Government via Public Health Wales of under-reporting of Covid-19 related deaths by two Local Health Boards in Wales, a review was conducted to obtain assurance of the reporting system. As a result of the review the then Chief Statistician was asked by the First Minister to provide whole-system oversight of the reporting of rapid surveillance mortality data to Public Health Wales.

NHS data

132. We had rapid access to key information like bed numbers, intensive care unit ("ICU") numbers, length of stay, infection rates, mortality rates, socio economic mix of our

population, PPE stocks, testing capacity, turnaround times for testing, tracing rates and tracing times. Some were on weekly cycles, some daily. We had to develop the understanding of data around care homes given the dispersed nature of the sector.

Mobile phone data

133. As a result of advice received from the Technical Advisory Cell on 15 March 2020, which I exhibit in **M2BVG01/11-INQ000320757**, we used mobile phone data from the Department of Transport to estimate how many trips people were making on average to understand societal behaviours and the degree of compliance with control measures. An example of this is set out in exhibit **M2BVG01/12-INQ000320890.** The data showed how frequently and how far users were moving, which fed into the weekly Covid-19 statistics produced.

Wastewater sampling

134. In July 2020, a programme was introduced to sample wastewater to identify trends in the levels of Covid-19 and analysis for the Covid-19 pandemic. This work was done by an external consortium led by Bangor University, together with Cardiff University and Dwr Cymru Welsh Water.

Death rates

135. During the course of the pandemic, Public Health Wales sought to monitor and report on the number of deaths in confirmed hospitalised cases and care homes associated with the outbreak in a timely manner. The mechanism for ascertaining and reporting this information developed over time. During the containment phase (as defined in the UK wide Coronavirus Action Plan and which lasted until the 13 March 2020), the Chief Medical Officer issued a protocol that required all the deaths in individuals who had a Covid-19 positive test to be reported to the Chief Medical Officer and Public Health Wales' Medical Director.

136. The timely surveillance of mortality in confirmed Covid-19 cases was important, from a planning point of view, for public and professional awareness. It also informed real-time modelling of how the pandemic was progressing in Wales.

137. To facilitate this an electronic form for use by health boards was devised as well as a daily surveillance dashboard developed and launched by Public Health Wales in April 2020.

138. I commissioned work to ensure that we really understood the data around death rates, how and why our death rates differed from those of the UK Government so that we could learn lessons for the future. In particular, consideration of the figures reported on the number of the deaths on which Covid-19 was reported on the death certificate had to be considered in light of the fact that Wales has, on average, an older population. I thought that excess deaths would be a better marker of Covid-19 harm because it would capture identified Covid-19 harm and unidentified Covid-19 harm.

139. In July 2020, an excess death report was prepared which focused on the importance of learning what we could about intervention and about the vulnerabilities we had to the virus, in order to prevent harm in Wales and across the UK. A copy of this report is exhibited in **M2BVG01/13-INQ000320910**.

7 Covid-19 in Wales: January to March 2020

7.1 January 2020

140. I do not recall precisely how or when I first became aware Covid-19 or of the developing situation in Wuhan. As the Minister for Health and Social Services, the period immediately after Christmas and January is extremely busy as winter pressures increase the demand on NHS services across the UK. January 2020 was no different and on 8 January 2020 I was reassuring the public and Members of the Senedd about our plans for winter while also responding to an increased level of scrutiny through the Senedd and the media on matters such as ambulance response, performance against targets in urgent care and the general resilience of health and care services. In addition to direct scrutiny of the NHS, during January 2020 I was involved in scrutiny of the draft budget for 2020/21 and Stage 2 proceedings on the bill proposals for the Health and Social Care (Quality and Engagement) (Wales) Act.

141. Assisted by the contemporaneous documents, I note that on 16 January 2020 my office was sent an informal briefing from the Health Protection Policy and Legislation

Branch informing me that there was a suspected case of a novel coronavirus with links to Wuhan in a North Wales resident. The briefing set out some background on the virus and said that I would be informed of any significant developments. A copy of the informal briefing referred to is exhibited in **M2BVG01/13a-INQ000180596**. On 17 January 2020, my office was informed that the resident had tested negative for all coronaviruses.

142. I had been aware of the Welsh Government's preparedness plan for a serious influenza pandemic since the conduct of Exercise Cygnus in October 2016. Our pandemic response structures were by necessity integrated with UK-wide systems and processes. The sharing of information and advice by scientific and medical advisers was and is also an obvious requirement. Because of the disparity of resources between the UK Government and the Welsh Government, we are to some extent dependent upon scientific and other advice from UK bodies.

143. I do not think I saw the Pan-Wales Response Plan until January 2020. I think the plan had been referred to and briefed as part of the Cygnus exercise. As I outlined in my oral evidence in Module 1, this like other preparedness plans and guidance are not written for ministers. If ministers chose to read all the documents and plans referenced in formal advice notes within their brief, they would not get anything done. I reviewed the plan as the pandemic became more imminent and hit these shores, at which point new structures, such as the Technical Advisory Group and Health and Social Services Planning and Response group were developed.

144. Throughout January 2020 to March 2020 our main sources of information about Covid-19 were SAGE, COBR and COBR(O) which were considering the data, research and relevant information available in order to provide advice. During that period we were heavily reliant on the information and advice coming from SAGE and COBR. We now recognise that the information we received and acted upon did not always represent the complete picture but it was a fast moving situation and we were, at all times trying our best to understand and react to the developing situation.

145. The SAGE minutes from 22 January 2020 were shared with the Welsh Government with the agreement that the devolved governments would go through their Chief Medical Officers who would be liaising with one another.

146. On 23 January 2020, my office was sent a further informal briefing on the novel coronavirus. The risk to the UK had changed from 'very low' to 'low' but the World Health Organization ("WHO") had not declared the virus a public health emergency of international concern. A copy of the informal briefing referred to is exhibited in **M2BVG01/13b – INQ000376451.**

147. On 24 January 2020, I issued a written statement in relation to what, at the time, was called Wuhan novel coronavirus to inform the public that the severity of the illness was still being assessed but the risk to the UK was currently assessed as low, which reflected the information received from COBR. Where I referred to the close monitoring by the Welsh Government this referred to our engagement with COBR and the information coming in from SAGE. In addition, Public Health Wales was tasked with monitoring the situation and reporting into the Health and Social Services Group's Public Health Division.

148. At that time, we did not have a complete understanding of Covid-19. We did not know if or when it would arrive in the UK, and we did not know the potential consequences it might bring.

149. From 28 January 2020 I began receiving Novel Coronavirus updates from the Health and Social Services Group's Public Health Division which continued until 22 September 2020. The purpose of these updates was to provide an informal briefing on the evolving public health incident around 3pm each day following the latest sit rep from the UK Government as provided to Public Health Wales. This update would set out the UK Chief Medical Officer's risk assessment for the UK, information on testing, key advice and messaging and an overview of any four-nation engagement. These briefings, while directed to me, were also circulated to all ministers and key senior civil servants in the Welsh Government.

150. On 29 January 2020, I attended COBR, chaired by Matt Hancock MP. At that stage it was considered plausible that a pandemic affecting the UK may develop within weeks to months. The Reasonable Worst Case Scenario as described by the UK Chief Medical Officer, Dr Chris Whitty, at that time was similar to that for pandemic influenza, with a 10% likelihood of the Reasonable Worst Case Scenario happening, though we understood that figure had not been agreed by SAGE.

151. In relation to border controls, at that time the risk was considered to come from China losing control of the situation rather than from flights.

152. I attended COBR meetings on behalf of the Welsh Government on this occasion, and two occasions in February 2020 because I was invited to do so. I did not ask the First Minister to attend with me and I did not consider it necessary to do so. My attending on behalf of the Welsh Government did not reflect a lack of priority accorded to the issue, nor did it affect our response to it.

153. On 30 January 2020, an update on the developing coronavirus situation from the Public Health Division reported that the World Health Organization was considering whether they should declare a Public Health Emergency of International Concern ("PHEIC"). The Chief Medical Officer and Public Health Wales may have had cause to engage with the World Health Organization but there was not mechanism by which the Welsh Government would liaise with the World Health Organization or seek to persuade them in this decision. In any event, the Welsh Government did not have a corporate position on this technical declaration. World Health Organization advice was provided to Public Health Wales and disseminated through them to the Ministers.

154. My own view was that the extent to which a Public Health Emergency of International Concern declaration would change the decision-making process would depend on the relevant factors at the time, for example the seriousness of the condition, how it manifested and how it was transmitted.

155. We were advised that, as of 30 January 2020, the risk to the UK, including Wales, was, assessed as low. There had been no imported cases of Covid-19 to Wales or the UK. At that time the Welsh Government was treating the situation as an enhanced public health incident and we were working with the other UK Nations. The Foreign and Commonwealth Office advised against all travel to Hubei Province and against all but essential travel to China.

156. On 31 January 2020, the Chief Medical Officer issued a written statement about Coronavirus to advise the public that, as a result of the situation in China and the decision by the World Health Organization to declare a Public Health Emergency of International Concern, the UK's risk level had raised from low to moderate. Advice was

issued to those returning from mainland China asking those who developed flu-like symptoms to self-isolate for 14 days.

7.2 February 2020

157. SAGE provided advice on 4 February 2020 in which it confirmed that ministers were using the Reasonable Worst Case Scenario for pandemic influenza for planning assumptions. The advice compared the current scientific understanding of Covid-19 compared to the Reasonable Worst Case Scenario for pandemic influenza. Whilst differences in infectivity and the proportion of patients that would be hospitalised was noted the number of excess deaths estimated was 520,000, as compared to 820,000 for flu.

158. I dialled into a COBR(M) meeting on 5 February 2020. Following that meeting I asked the Chief Medical Officer for an informal briefing on four topics: social care arrangements; the Pandemic Flu Bill; the UK-wide ministerial tabletop exercise which was due to take place on 12 February 2020 and an offer to Members of the Senedd for a face-to-face briefing with me or the Chief Medical Officer.

159. From 11 February 2020, Dr Rob Orford, the Chief Scientific Adviser for Health, attended SAGE and provided updates about the data and discussions. The SAGE meeting on 11 February 2020 considered the use of the Reasonable Worst Case Scenario for pandemic influenza was being used for the time being, but there was real uncertainty in that data at the time.

160. On 11 February 2020, I issued a Written Statement to update Members of the Senedd on the novel coronavirus. The UK Government had just introduced legislation with the primary purpose of enforcing supported isolation in England and I said that I was considering whether similar legislation was needed in Wales. I advised that the Chief Medical Officer would be updating Members in person later that day to advise on the current situation. I said that I would continue to provide them with written updates every Tuesday and more frequently if necessary. A list of my written statements is provided in exhibit **M2BVG01/14-INQ000321247**.

161. The update from the Chief Scientific Adviser for Health following the SAGE meeting on 14 February 2020 noted that in relation to border controls, restricting travel was

considered to be more disruptive than helpful in delaying the spread of the disease. School closures were expressly discussed and whilst the data on coronavirus was unclear closing schools had been shown to flatten or delay spread for pan-flu. However, there was a lack of certainty arising from a lack of information on infection rates in children. The disruptive effect of closures on exams and the selective closure of some years was considered, as was the likely effect of prolonged closures on the NHS workforce.

162. On 21 February 2020, the Health and Social Services Group Covid-19 Planning & Response Group ("HSSPRG") was established by the Director General of the Health and Social Services Group / Chief Executive NHS Wales and the Chief Medical Officer within the Welsh Government. The Group brought together strategic representatives of the Welsh Government's Health and Social Services Group, NHS Wales and Social Care. Its role was to:

    a. Consider the latest position Reasonable Worst Case (RWC) Covid-19 risk assessments;

    b. Co-ordinate contingency response planning across health & social care;

    c. Share information and communications to raise awareness on contingency arrangements and actions;

    d. Provide a strategic interface for health, social care services and Welsh Government HSSG officials;

    e. Act as an escalation point for actual or potential Covid-19 health or social care response concerns;

    f. Consider future and concurrent risks and threats;

    g. Provide timely communications and briefings to the Chief Medical Officer, Director General of Health & Social Services and the Director of Social Services; and

    h. Reflect on learning and experiences and apply this to strengthen future arrangements, as appropriate.

163. I was not directly involved in the work of the Health and Social Services Group Covid-19 Planning & Response Group which was convened and coordinated by Andrew Goodall. In terms of the timing for the establishment of this group, I understand that this is covered in Andrew Goodall's statement M2B-HSSG-01 in paragraphs 78-80.

164. On 25 February 2020, I updated Cabinet. The worldwide response was still in the containment stage and there had been no imported cases into the UK. The risk assessment to the UK was moderate but that was expected to change should there be a sustained transmission in Europe or any country with close connections to the UK and or the failure of certain countries to reduce the spread of the virus.

165. At that time civil contingency measures were being tested and the Emergency Co-ordination Centre (Wales) was ready to 'stand up' if and when required. Emergency legislation was being prepared by the UK Government and urgent consideration would be given to its application to Wales or whether to introduce an emergency Senedd Bill.

166. I attended COBR(M) with the Chief Medical Officer on 26 February 2020. At that time the UK Government was planning on the assumption that community spread in the UK would occur *"in time"*. The Foreign and Commonwealth Office advised against all but essential travel to the worst hit areas. Advice to schools was particularly problematic, especially as there were planned boarding school holidays and school trips. Public Health England's advice was not to close schools and the advice within Wales had been updated in line with the Public Health England advice.

7.3 March 2020

167. On 2 March 2020, there was a meeting of COBR(M) at which the Prime Minister set out the calibrated steps that the UK Government would be taking but that at that time "people should go about business and lives in normal manner." He said it was "business as usual - 'wash your hands'". At that time there were only two cases of community transmission in England and Dr Chris Whitty, the UK Government's Chief Medical Officer, told us that there would be a delay between a rapid rise. The current Reasonable Worst Case Scenario was that 80% of the population would be infected and 1% severely affected and that four million people would need hospitalisation. 10% of cases required ventilation in China, but having worked in the region, Dr Whitty believed there was a greater tendency to ventilate in Southeast Asia.

168. There was a need to specifically look at mass gatherings, home quarantine, school and university closures. At that time, the focus was on ensuring that schools remained open and Public Health England were working to that aim. A framework for decision making was shared, which was focused on the need to contain and slow the spread of the disease, as well as a communications strategy that emphasised the need to wash hands. It was planned to publish it that day. The purpose of the communications strategy was to get people to act, whilst also avoiding panic and alarm. There was a move from re-assurance to realism.

169. The First Minister confirmed that we were *'fully signed up'*. The First Minister believed that our resilience forums were prepared because they met regularly and had been well tested by the flooding that had occurred in Wales in the preceding three weeks. They were '*active and ready for [the] next challenge'*. In a follow-up call with the First Minister the priority was to formulate a communications plan that day. It was thought that the Chief Medical Officer should speak externally as he would be listened to. The First Minister requested that he and I be briefed on what aspects of NHS primary and secondary care could be "turned off" with regard to Primary and Secondary care in the NHS. We had to get ahead of the situation in relation to ventilators.

170. There was a Cabinet meeting on the afternoon of 2 March 2020 and the First Minister and I updated ministers on the COBR(M). At that point there were due to be twice weekly COBR(M) meetings on Mondays and Wednesdays with the Prime Minister chairing the Monday meetings.

171. On 3 March 2020, SAGE prepared a document summarising the current understanding of Covid-19 compared with Pandemic Influenza planning assumptions. A copy of this is exhibited in **M2BVG01/15-INQ000313345**. The key conclusions within that report were as follows:

    a. A Basic Reproductive Rate of 2.4 was assumed for the UK.

    b. The incubation period was 5 days on average, with a range of 1-11 days.

    c. The current understanding was that the transmission route was respiratory and via contact. Asymptomatic transmission could not be ruled out.

d. A case fatality rate of 2-3% and an infection fatality rate of 1%, with a wide variation depending on age; up to 2.21% for 61-69 year olds, 5.92% for 70-79 year olds and 8.76% for those aged 80 and over.

e. A single wave was predicted with 95% of cases in peak 9 weeks, 75% of cases in peak 5 weeks and 50% of cases in peak 3 weeks.

f. 8% of infected people would be hospitalised, increasing to 9.81% for those aged 50-59 years, 22.5% for those aged 60-69 years, 36.2% for those aged 70-79 years and 43.79% for those aged 80 and over.

g. 520,000 excess deaths were predicted.

172. On 3 March 2020, a joint action plan between the UK Government and devolved Governments in Wales, Scotland and Northern Ireland was published, 'Coronavirus action plan: a guide to what you can expect', as exhibited in **M2BVG01/16-INQ000066061.** I gave an oral statement about the novel coronavirus in the Senedd, a copy of which I have exhibited in **M2BVG01/17-INQ000321248**.

173. On 4 March 2020, I chaired the Cabinet meeting at which this advice was presented and discussed. The Chief Medical Officer briefed Cabinet about the total number of cases worldwide and in the UK. At that time there were 51 cases identified in the UK and only one in Wales. Most of these cases were as a result of people returning from infected areas but two had contracted the virus from within the UK and it was expected that there would be more cases. The Chief Medical Officer did not anticipate that, in contrast to influenza, Spring would bring any improvements.

174. Ministers noted that the spread of the virus would put added pressure on the NHS and the number of potential admissions would equate to a quarter of annual hospitalisations. Local Health Boards were being mobilised, with the potential to create extra beds but an impact on staff numbers was anticipated. A proportionate response was required, and at the moment there was a need to avoid cancelling routine operations and outpatient clinics to help prevent panic. The meeting noted that it was important to share information continuously across the four nations and to support the Third Sector to assist health professionals where possible.

175. I informed Cabinet that, in addition to the public facing action plan, the UK Government had produced an internal Reasonable Worst Case Scenario planning document, which included sections on business continuity, local and national economies, international implications, health and non-health matters, critical sectors and supply chains. The Welsh Government and partners had plans in place to deal with pandemic flu. The scale and seriousness of the infection would need to be aligned with current resilience plans and it would be important to ensure that local authorities were fully prepared.

176. The Welsh Government Covid -19 Operating Model was produced, which outlined cross-government activities and support for ministers and Cabinet. A copy of this is exhibited in **M2BVG01/18-INQ000048808**.

177. On 4 March 2020, I informed Cabinet that there were 87,000 cases worldwide, with just under 3,000 fatalities reported in China. There were also serious outbreaks in South Korea, Iran and Northern Italy. There were 51 cases in the UK, most of which were people returning from infected areas but there were two cases in which the virus had been contracted within the UK and more were expected. There was only one case in Wales. It was doubtful that, unlike seasonal flu, Spring would bring about any improvement. The focus remained on containment and research but planning for the delay and mitigation were already in motion to allow the NHS more time to prepare for the escalation of infection.

178. Also on 4 March 2020, I attended a meeting of COBR(M). The SAGE report was discussed and there were some questions about whether people would comply with the measures suggested. The Cabinet Office was tasked with coordinating the economic impacts of the non-pharmaceutical interventions and the isolation of the elderly and vulnerable, including asking supermarkets to deliver supplies. I specifically noted that consideration was required about using social care services for those aged over 65 and whether remote delivery was possible. I was *'very much in the camp of doing what the science says'*. Those at the meeting were trying to *'maintain an alignment'*. We considered schools and, at that time, we were not able to completely influence schools and there would be a tipping point at which we could be forced to close all schools. I explicitly said that I wanted the UK Government to take part in European co-ordination and understanding of the progress of Covid-19.

179. On 5 March 2020, I introduced secondary legislation to make the novel coronavirus a notifiable disease in Wales.

180. COBR(O) met on 5 March 2020 and was chaired by the Prime Minister and then by the UK Chief Medical Officer. I was informed by my official of the outcome of the meeting, and in turn arranged to meet with First Minister and the Chief Medical Officer. We were still in the Contain phase but there would be a need to move to the Delay phase in the next seven to 14 days based upon the modelling which at that time showed that there were 116 UK confirmed cases in total, including a second in Wales. We had seen the first death of a person with underlying health conditions and there were a number of community transmission cases. Three options were considered to increase the capability of Delay:

    a. Self-Isolation for symptomatic persons;

    b. Home Quarantine for a household in which one member of the household was symptomatic; and

    c. Cocooning vulnerable persons for up to three months.

181. For 'a' and 'c' it was believed that 50% of people would voluntarily comply. Doubts were expressed over 'b', especially around income earners within a household. The legal powers available were considered, which at that time were limited to quarantining symptomatic persons.

182. At this time school closures were ruled out because there was no strong scientific case. The advice was also that there was no scientific case to restrict mass gatherings. Any option should be considered as a balance between clinically appropriate and evidence based, and socio-economic costs. There was a discussion on the economic impact of these options: though it was expected to be limited the effect on the GDP was expected to be as much as minus 2%. It was expected that macro interventions would be more effective than sector specific ones.

183. At that time, the advice was that cocooning had been used in some countries but no details were provided of where or how or the impact of doing so. Modelling was commissioned by the Cabinet Secretary to consider the impact if over 65s were

included (as well as those susceptible to flu) in advance of the next scheduled COBR meeting of 9 March 2020.

184. The message coming from within COBR was explicitly '*Don't overreact, measures taken too early are wasted.*' Final decisions were expected on 6 March 2020 as to what would be included within the forthcoming Bill.

185. The Scottish Government and the Welsh Government's representatives specifically emphasised the need for a Four Nations' approach during this meeting. The Welsh Government was preparing – as other UK Nations were - for a change from the containment phase to delay. The focus in the containment phase was on catching cases early and tracing all contacts to avoid the spread of the disease. At the delay phase the focus was on putting measures in place to slow the rate of infections in order to place less strain on the NHS, protect the most vulnerable and buy time for drug and vaccine testing.

186. At that time we had strong concern over supply chains. I was informed by my officials of the outcome of the meeting, and in turn arranged to meet with the First Minister and the Chief Medical Officer.

187. On 9 March 2020, the Prime Minister chaired COBR(M). The number of cases was rising. The Prime Minister said that we had '*to be led by science and epidemiology'*. We were moving from Contain to Delay and he was proposing to announce that people who had serious flu like symptoms would need to self-isolate. Whole household isolation was the last resort. There was a need to safeguard the elderly and vulnerable '*in due course'.* The government would be advising against all but essential travel. Concerns were raised about the availability of ventilators and personnel trained to use them.

188. The Scottish First Minister noted that the Prime Minister's summary did not correlate with the papers received and, if there had been a change in the options available, there needed to be joint agreed advice from all of the UK's Chief Medical Officers. The First Minister and the Scottish First Minister both said that Scotland and Wales were showing different data. We were not all at the same stage of the curve, with Wales showing as behind the curve. The First Minister thought the statistics pointed towards

differential implementation, but a single message was preferable and the simpler the message, the better.

189. On 10 March 2020, the First Minister updated Cabinet following the COBR meeting of 9 March 2020. The principal messages from COBR were around the spread of the virus within the UK and when more restrictive measures on movement should be introduced. At that time there were only six cases in Wales and it was not yet considered the time to introduce such measures because it was believed that using them prematurely would lead to the population being less receptive to messages if and when the spread of the virus became more virulent. At that time, planning for the spread of the virus was the Welsh Government's top communications priority and the need for clear, concise and simplistic messaging was noted.

190. The World Health Organization labelled the coronavirus outbreak a pandemic on 11 March 2020. Also on 11 March 2020, the first case of "Community Transmission" was identified in Wales when a patient in Caerphilly without any travel history tested positive, with a second case arising at Wrexham Maelor Hospital on 12 March 2020.

191. The first meeting of the Covid-19 Core Group on 11 March 2020 was told that there were now 15 cases in Wales, with some community transmission taking place. The policy across the UK remained containment. It was expressly stated in that meeting by the First Minister's Office a decision would be made at COBR, which was meeting that afternoon, to decide whether to move from containment to the delay phase.

192. Again, the advice was that the science did not currently support banning mass gatherings and if behavioural interventions were too stringent it risked pushing the epidemic into the next period of NHS winter pressures. Ministers agreed in that meeting that there was a need for further discussions about the policy on mass gatherings, such as sporting and cultural events. The science suggested that such bans would reduce mortality rates by 2% but there was a need to consider the social impact, the size of events and whether they were outdoor or enclosed. There were also questions around mass transport hubs. It was noted that it would be difficult to justify not cancelling events, particularly when the Government was advising households to go into quarantine. It was agreed that whatever the decision it needed to be made the sooner the better and applied consistently.

193. At this time, the Welsh Government was sharing the data on Reasonable Worst Case Scenarios and social measures with local government Chief Executives. Meetings of local authority leaders were arranged and we were working with the Local Resilience Fora. We recognised the importance of engaging and working with local authorities in the response to the pandemic.

194. We were actively considering closing schools but at the time it was believed that there was a need to avoid the premature closure of schools, not least because of the forthcoming examinations.

195. In a COBR(M) pre-meeting on 12 March 2020, attended by myself, the First Minister, Chief Medical Officer and Chief Scientific Advisor for Health, we discussed the fact that the Republic of Ireland were closing schools and colleges, which I considered to be particularly relevant. In relation to mass gatherings, the Chief Scientific Adviser for Health said that the size of the event was not the issue. There was the same risk in a stadium or a pub for two hours and the worry was that compliance may run thin. Scotland were likely to be advising against mass gatherings but there was no power to forcibly close. The emergency powers contained in the Civil Contingencies Act 2004 had to be used by the UK Secretary of State for the Home Office. The First Minister was concerned about mixed messaging in telling people that they should self-isolate if they have the start of a cold but if they have been in contact with a confirmed case there is no need to self-isolate if they are not symptomatic.

196. The First Minister and I attended COBR(M) on 12 March 2020 at which the UK Government Chief Scientific Adviser ("GCSA") explained that there were 5000-10,000 cases in the UK and the UK was approximately four weeks behind Italy with the UK epidemic expected to follow the same trajectory. We were moving from the Contain to the Delay phase of Covid-19. Four potential interventions were considered at this stage:

    a. The whole household to stay at home for at least 14 days where one member was symptomatic;

    b. Reducing social contact where possible by advising to work from home etc, more rigorously applied for those who were considered more vulnerable (e.g. over 70s, those with long-term medical conditions and pregnant women);

c. Shielding the most vulnerable;

d. Advising against large gatherings.

197. We were told that SAGE felt there were strong arguments against doing so immediately given that the individuals captured by this may only have a cold. Implementing interventions too early would ask people to take a socioeconomic hit for the greater good and so the likely duration of such measures may undermine compliance.

198. In relation to school closures there was some evidence that school closures may work later in the epidemic but would have to be done for 13-16 weeks. SAGE advice had suggested that school closures could reduce peak hospital demand by 10-20%. School closures could also have a direct impact on the NHS workforce and so there was a strong argument not to implement this at the time but to keep it under review.

199. A discussion followed led by the GCSA but I do not recall who made which points. It was discussed that at that time, the hardest intervention to call was whether to cancel mass gatherings as the evidence was not there, especially for outdoor events. It was noted that the public had not grasped how cancelling mass gatherings would or would not impact upon the peak and there needed to be consistent messaging on this across the four nations. The GCSA confirmed that some thought that cancelling mass gatherings might positively impact upon people's behaviors. Overall, the advice from SAGE was that there was low confidence in the effectiveness of cancelling mass gatherings on limiting the spread of the virus.

200. Herd immunity was discussed at this meeting. The four governments had to protect the most vulnerable and so it was both challenging and important to find a way to explain herd immunity in an accessible way. The Chair summed up in line with the Government Chief Scientific Adviser's advice that there were downsides to implementing the interventions too early but, if applied too late, the most vulnerable may be exposed to the virus during the peak and therefore the timing of interventions was key to minimising the number of deaths and it was very important to communicate this to the public.

201. There is widespread misunderstanding about the phrase herd immunity. My understanding is that herd immunity is what protects us from harm from measles through vaccination for example, however in the context of Covid-19 this came to be seen as an approach that allowed the virus to spread and for natural immunity to be gained through infection and recovery. It was never our approach in Wales to let infections take place and deal with the consequences. The same applied to Covid-19 in Wales. We did not consider herd immunity as a strategy and, based on my understanding as outlined above, I do not consider it would have been an appropriate strategy.

202. On 13 March 2020, I made a public statement explaining that I had agreed a framework of actions within which local health and social care providers could make decisions in order to provide care and support to the most vulnerable people in our communities, whilst also making sure organisations and professionals are supported to make timely preparations for the expected increase in the number of confirmed cases of Covid-19. Before making this decision, I engaged with the NHS Chief Executives, the Health and Social Services Group Covid-19 Planning & Response Group and with local government representatives to ensure that they could feed into the decision-making.

203. The framework included the following actions which allowed for services and beds to be reallocated and for staff to be redeployed and retrained in priority areas:

    a. Suspend non-urgent outpatient appointments and ensure urgent appointments are prioritised;

    b. Suspend non-urgent surgical admissions and procedures (whilst ensuring access for emergency and urgent surgery);

    c. Prioritise use of Non-Emergency Patient Transport Services to focus on hospital discharge and ambulance emergency response;

    d. Expedite discharge of vulnerable patients from acute and community hospitals;

    e. Relax targets and monitoring arrangements across the health and care system;

    f. Minimise regulation requirements for health and care settings;

g. Fast track placements to care homes by suspending the current protocol which gives the right to a choice of home;

h. Permission to cancel internal and professional events, including study leave, to free up staff for preparations;

i. Relaxation of contract and monitoring arrangements for GPs and primary care practitioners;

j. Suspend NHS emergency service and health volunteer support to mass gatherings and events.

204. To assist in making this decision the Health and Social Services Group Covid-19 Planning & Response Group provided a brief on systems risks issues. As ever, the most vulnerable in Wales were at the heart of the decision making process with the briefing noting that '*the overriding priority is to ensure: health protection the safeguarding of vulnerable groups; staff welfare; to ensure NHS and social care preparedness; and systems resilience.*' We were mindful that Wales has a larger older population than the other home nations. This was also reflected in the age profiles within the health and social care workforce. The measures announced above were taken directly to protect those vulnerable groups.

205. The NHS Wales Executive Board took place monthly with a formal agenda, through the pandemic to provide executive leadership, direction and oversight of the performance, delivery, quality and safety of NHS services, workforce and functions in Wales. I did not usually attend these meetings.

206. In addition, regular national calls involving NHS Chief Executives or their deputies, were put in place by Andrew Goodall, usually weekly, to enable him to have operational oversight of the NHS and ensure system issues and pressures were visible across Wales. I attended these meetings where appropriate and before making my public statement of 13 March 2020. Whilst Andrew Goodall had been involved in discussions about these measures, this was a significant step for the NHS to take and I wanted to ensure that they were all on board.

207. There was a meeting of all local authority leaders on 12 March 2020 following which I issued a joint letter to all local authority leaders with the Welsh Local Government

Association Leader, Councillor Andrew Morgan, to explain to them the reasons for and effect of the decision. A copy of this letter is exhibited in **M2BVG01/19-INQ000320753.**

208. On 12 March 2020, the two Six Nations Rugby matches were cancelled, Wales' football match against the USA on 30 March 2020 was cancelled and the Premier League put on hold until at least April 2020. I was quoted at the time as saying '*There is little medical reason at the moment to ban such events'*. I have set out the timeline and the basis for this statement below.

209. On 13 March 2020, Gareth Davies, then Chairman of the Welsh Rugby Union, cancelled the Wales v Scotland Six Nations Rugby match scheduled for the next day. I believe that at this point this was a decision for the Welsh Rugby Union. Before this decision was made there were a number of contacts between me, the Chief Medical Officer and the Welsh Rugby Union. This included a phone call from myself to Gareth Davies on the 12 March 2020 in which I outlined the information received earlier in the day from COBR, which I have outlined above in paragraph 187, and confirming that I and my family intended to attend the match.

210. The Stereophonics played two concerts at the Motorpoint Arena in Cardiff on 14 and 15 March 2020. I was aware that these concerts were scheduled and I was aware that they went ahead.

211. As set out above, in decisions relating to whether or not to cancel mass gatherings we always followed the advice from the Technical Advisory Cell and SAGE. The discussions within COBR had repeatedly recorded that the science did not support or require us to do so. On 11 March 2020 we had received a Technical Advisory Cell briefing from SAGE outputs on Behavioural and Social interventions, a copy of which I exhibit in **M2BVG01/20-INQ000320750.** This reported that modelling evidence suggested that the restriction of mass gatherings, including the closure of sporting fixtures, bars, restaurants and cinemas whilst assumed to be effective were not supported by evidence. A modest reduction in the total number of cases (5%) and infection related deaths (2%) was predicted for restricting mass gatherings. This was thought to be due to the limit exposure time (5.3%) even if the transmission risk was weighted higher.

212. Looking back and with the benefit of studies and advice on transmission and superspreader events, I now believe that events themselves were not major vectors for transmission. I exhibit in **M2BVG01/20a-INQ000239509** a paper from Imperial College London by way of reference. The difficulty was in individuals attending pubs and bars, which might not have occurred had the events been stopped. Overall, with the benefit of hindsight, I would have put in place restrictions such as social distancing earlier including announcing lockdown. In terms of when I would have imposed a lockdown, this is an almost impossible question. With the benefit of hindsight, perhaps in the middle of March but as there were little to no cases in Wales there is a risk it would have seemed like an overreaction.

213. I attended a COBR meeting on 16 March 2020, together with the First Minister, though I was omitted from the official minutes. At that time the scientific advice was that we were a week further than we thought and so on the verge of a major upswing of cases over the next two to three weeks. Four key measures were introduced within the UK at that time, which it was hoped would lead to a very substantial reduction in the peak, it was thought possibly as much as 70% depending on the rate of compliance:

    a. The whole household was to stay at home for at least 14 days where one member was symptomatic;

    b. Reducing social contact where possible by advising to work from home etc, more rigorously applied for those who were considered more vulnerable (e.g. over 70's, those with long-term medical conditions and pregnant women);

    c. Shielding the most vulnerable; and

    d. Advising against large gatherings.

214. School closures were actively considered at this time. It was noted that the combination of other measures would make it all the more difficult to keep schools open. It was noted that there was a need to consider "mini-measures" to lift the administrative burden on headteachers. It was planned that the UK Secretary of State would get in touch with the Education ministers in the other three nations to discuss the points raised.

215. As a result of this meeting the Welsh Government, in conjunction with the UK Government, issued guidance advising those who were at increased risk of severe illness to be particularly stringent in following social distancing measures.

216. In making this decision, and in advance of attending COBR, we had the benefit of the Technical Advisory Cell briefing of 11 March 2020, as exhibited above in **M2BVG01/20-INQ000320750**. Whilst behavioral interventions could be helpful in containing an epidemic or changing the shape of the curve, any intervention would need to be Government policy for two to three months in order to see the benefit. Removing or relaxing the intervention could result in a new outbreak and potentially extend transmission of the virus into Winter 2020. A combination of the right measures could have a great impact on the curb but there was also the risk of a second wave. The timing of interventions would be critical: SAGE was monitoring case numbers daily to identify when and where there were any trigger points for activating any of the possible interventions. Those trigger points included the 'R number' and the number of people in intensive care units. This advice took account of the actions taken in Wuhan, Hong Kong and Singapore, as well as Italy. The effect and effectiveness of interventions taken in those locations was not clear cut.

217. These assessments of the possible interventions assumed 50% compliance levels or more over long periods of time. This was considered possibly unachievable in the UK population and uptake of measures was considered likely to vary across groups. In fact, experience later showed us that this was an underestimate and the Welsh people overwhelmingly complied with the measures imposed.

218. The COBR meeting on 16 March 2020 was the first time on which the advice was given that large gatherings should not go ahead and public and emergency services would not cover them. Even at that time it was advice but not an outright ban.

219. Following this a paper was prepared for the Health and Social Care Committee by the Chief Scientific Adviser for Health ahead of attendance by officials and myself on the 18 March 2020. A copy of this paper is exhibited in **M2BVG01/20b- INQ000376457**. This paper noted that whilst there was no outright ban on mass gatherings, social distancing measures meant that they should not take place in order to alleviate pressure on social services. The decision remained one for the event organisers.

220. When I attended COBR on 20 March 2020, it was noted that social distancing measures were having an effect, but we had to consider whether it was appropriate to go further because the virus was now at a doubling rate of four to five days and it took two to three weeks for any interventions to have an effect on the numbers in intensive care units. At that time it was likely that London would exceed their intensive care unit capacity in 13 days and others within 30 days or more. Whilst the evidence showed that there was a general compliance with social distancing measures, there was a need to move to enforced social distancing. In particular, there was a need to close pubs and bars which had a great deal of social mixing and decreased level of compliance. I agreed with the recommendations in the paper, admitting that my opinion of the measures had changed. I could see that the curve was increasing and that the evidence about the growth, spread and effect of the virus was developing. We knew then how long it would take for the impacts of the measures to be felt in intensive care units.

221. I did not want to wait much longer for those measures to be introduced and my preference was to make the announcement and closures that night to avoid any surge. Robert Jenrick MP (Secretary of State for Housing, Communities and Local Government) suggested that consideration be given to allowing people to return to work on Saturday 21 March 2020 to close down the business etc. Michael Gove MP as Chair stated that the measures should be brought in immediately to prevent people partying that night, accordingly the measures were collectively agreed by COBR with the expectation that there would be clear legal means to deal with people who did not comply once the additional legal measures were implemented. He agreed with my point about the need to coordinate better in the future and to start considering immediately the next steps.

222. If it was going to be a genuine enterprise between all four nations, I wanted the next stage to be considered immediately to decide what other measures would need to be implemented. I stressed that there needed to be an open conversation between all four governments.

223. At a follow up meeting between the Welsh Government attendees, I emphasised that we needed to prepare for what was coming in the next couple of days. To be ahead of and ready for the next set of measures as well as dealing with the announcement

of these measures. Following a discussion, it was agreed that the Welsh Government messaging should be that most people in Wales were doing the right thing but now we needed everyone to do the right thing, with an emphasis on stopping the virus and shielding rather than on "bad behaviors".

224. The change in approach was led by a change in the clinical and scientific advice we received. Our knowledge of Covid-19 was developing and the picture of increasing infections was too. The First Minister made the statement in Senedd and took questions on this decision as I was isolating at home and unfortunately my IT equipment failed me at the time. I appeared at Health and Social Care committee the next day online having resolved the IT issue.

225. On 18 March 2020, Kirsty Williams, the Minister for Education, announced that schools would close early for Easter on 20 March 2020 *"for statutory provision of education"*. However, schools were open to children who are vulnerable and children of key workers who could not be cared for at home.

226. I am aware that Kirsty Williams has provided a witness statement to the Inquiry in which paragraphs 84-112 of that statement explain the approach to school closures in detail, which will not be repeated here. I agreed with the decision taken at that time. We were influenced by the fact that schools were unilaterally closing in any event in response to fears of some parents and staff and in response to the effect of infections of staff members and/or their families, or the responsibility to care for vulnerable family members.

227. I am asked about my opinion on school closures now. We know more now than we did at the time about the effect of school closures on children. With the information we now have available I believe that keeping schools open for longer, with the use of the protective measures we later implemented in secondary schools, would have benefitted children.

228. On 18 March 2020, there was also a meeting of COBR at which we were informed that the data indicated people had made significant efforts to comply with the measures announced earlier that week but the UK Government Chief Scientific Adviser's view was that they were not enough and a further stringent package of measures was being considered including:

a. Closing all restaurants, bars and leisure (which would have the greatest impact);

b. Closing theatres and cinemas;

c. A stricter work from home approach, particularly for those who work indoors or in crowded workplaces; and

d. Closing non-essential retail.

229. On 20 March 2020, following an announcement by the UK Government, the First Minister announced that we were going to exercise our devolved powers under the Public Health Act 1984 to close restaurants, bar and other facilities where people gather, as well as leisure centres, gyms, cinemas, theatres and betting shops. He emphasised that most people had heeded the strong advice to avoid pubs, clubs, restaurants and other public places but that we now needed everyone to do that which most people were doing already.

230. On 23 March 2020, the Prime Minister chaired a meeting of COBR(M) in which he explained that people were not acting as expected. The Government Chief Scientific Adviser updated that the R Value was 2.6-2.8. This was similar to the numbers in Italy, Germany and Spain. Intensive care units were expected to come under severe pressure in 7-10 days. Though it was reduced, people were still seeing friends and family. Compliance was seen to be lower outside London. There were problems with intensive care capacity. The advice was now that we needed to bring the R value below 1 by avoiding contact between households. The Prime Minister noted the economic impact, which itself could be detrimental to people's health.

231. At Cabinet on 23 March 2023, the First Minister advised Cabinet that he and I had discussed a number of issues following the emerging advice from SAGE on the rate of transmission. A number of pubs and bars had not followed the advice to close so there would now be a need to enforce this decision. Local authorities would become the enforcement agencies and the consequences for those that defied the regulations would be significant. Local authorities and national parks would be closing footpaths using their powers and the intention was to close non-residential caravan parks and tourist attractions.

232. It was decided in COBR, and publicly announced, that all people were required to stay at home except for very limited purposes. Non-essential shops and community spaces would close, and gatherings of more than two people in public were prohibited. These measures would be enforceable by the police and other relevant authorities. The First Minister made a statement on the new measures. Ultimately, the decision to lockdown was made to save lives.

233. I believe that the decision to lockdown was the right choice in the circumstances that we faced at that time, I do not believe that it could have been avoided even with the benefit of what we know now about the virus. At this time the virus was spreading extremely quickly and we had neither a curative treatment nor a vaccine.

234. I also believe that to try and take a four nations approach to this decision was appropriate. By the end of March 2020 there was no other obvious effective tool available to deal with a novel condition that we did not fully understand, that spread quickly and had no effective curative treatment or a vaccine. We knew it was a significant intervention into people's lives and it would come with other harms.

235. The first national lockdown was effective in suppressing the spread of the virus and so, in hindsight, an earlier set of measures of the same type could well have saved more lives. I cannot be precise as to how much earlier the lockdown decision could have been made or what effect that might have had. I think a helpful visual aid which provided reassurance was the data in graph form showing the height of infections and the impact of the lockdown in flattening the curve. To demonstrate this, I refer to exhibit **M2BVG01/21-INQ000321076**.

236. In order to lockdown earlier we would have needed UK Treasury support to mitigate the extraordinary economic impact. The First Minister I understand has outlined in his statement M2B-WG-MD-02 the background to the national lockdown. In Wales we were conscious that from the 19 March 2020 a lockdown was a possibility and the First Minister and myself were briefed on the relevant legal powers. In terms of any discussions with the UK Treasury if these took place it would have been with the Minister for Finance. From 25 March 2020, the Welsh Government used the Star Chamber to gather and redistribute funding that could not be used within portfolios and to redistribute it to assist businesses and organisations affected by the pandemic.

Rebecca Evans, Minister for Finance and Local Government has provided evidence to the Inquiry and I refer to her statement for further information on the Star Chamber and the use of funding during the pandemic.

237. In order for restrictive measures such as lockdown to be effective we required public buy-in and the cooperation of the general public. At the time it was considered necessary for all four governments to make the same choices and portray the same public messages. It is now clear that behavioural science advice received at the time, and summarised above, underestimated the extent of public adherence. The public responded in a comprehensive manner.

238. We learned valuable lessons from the decision-making in this early period, and in the decision to enter the first national lockdown. As we moved forward, we had a better understanding of the cost for later interventions – the cost of acting and the cost of not acting. In all of the decisions we made thereafter, from easing lockdown restrictions in Autumn 2020 right through to 2021, we applied the difficult lessons we had learned in these early months of the pandemic. We knew that Covid-19 was far from over and that there would still be significant challenges and uncomfortable choices ahead. Our ability to shift and refocus the resources within the Welsh Government, both financial and physical, to respond to the pandemic gave hope for the challenges ahead.

239. I understood that the toll on our health and social care staff would be enormous and that we would not see the extent of that for some time yet.

8 Easing of lockdown

240. Under the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 which were approved by the First Minister and came into force on 26 March 2020 the restrictions imposed on individuals, businesses, and others applied for an emergency period which was to remain until a direction was given by the Welsh Ministers for their removal. The regulations required ministers to keep the need for the restrictions under review every 21-days. The first of these reviews took place on 14 April 2020.

241. In general terms, the process for the 21-day reviews involved a careful consideration of the latest advice from SAGE and advice from the Chief Medical Officer. This data and this advice was never taken at face value. I did not take anything for granted and

challenged the detail of the advice we had received. After the regulations were approved in cabinet they had to be scrutinised and agreed in Senedd, with answers provided to any Members' questions.

242. On 20 April 2020 Cabinet agreed to the principles for recovery from Covid-19, namely:

    a. To take an approach based on considerations of social justice, fair work and environmental sustainability and compliant with the requirements of the Well-being of Future Generations (Wales) Act 2015;

    b. To have particular regard for those who were economically or otherwise disadvantaged; and

    c. To have regard for the current programme of government, existing delivery structures and stakeholder relationships.

243. Cabinet also agreed to the establishment of an external advisory group to contribute external perspectives and constructive challenge to the task of planning for the recovery, inform development of a work programme and support ministers in their oversight of that programme. This work was led by the Counsel General.

244. At this time, the majority of the Welsh public trusted the Welsh Government and there was a greater awareness of our role than had previously existed. Whilst many wanted to see us work with the UK Government wherever possible, the process for easing lockdown showed that the agreement within the four nations was beginning to wear out and the differences in approach which are set out below showed that we did not always take the same view on the balance between lives and livelihoods. None the less we continued to try and engage, discuss and influence wherever we could.

245. On 24 April 2020, the Welsh Government published "Leading Wales out of the coronavirus pandemic", as exhibited in **M2BVG01/22-INQ000182406**, which described the framework for recovery within Wales and set out the three pillars upon which any decision about the change to the restrictions would be considered:

Pillar 1- Measures and evidence

"The most important consideration from a public health point of view is that relaxing from the current lockdown should not cause further harm in terms of the direct effects of the virus. We need to be able to show that the current outbreaks of infection are under control, and ensure that we understand the way the disease travels through our communities in Wales."

Pillar 2- Principles to evaluate changes to the restrictions

- To what extent would easing a restriction have a negative effect on containing the virus?
- Is the measure at the low end of risk of further infection?
- How can it be monitored and enforced?
- Is it capable of being rapidly reversed if it has unintended consequences?
- Is it a measure of relatively high positive economic benefit?
- Does it have a high impact on social and psychological well-being?
- Does it have a high impact on social and psychological well-being?

Pillar 3- Public health response

- Strand one: Enhancing Covid-19 Surveillance
- Strand two: Case Identification and Contact Management
- Strand three: Learning from International Experience
- Strand four: Engaging with Communities

246. We knew at this time that many members of the public were still very worried about the pandemic and would need to have their confidence rebuilt to re-engage. We also knew that there were many who were desperate to re-engage with the wider parts of their lives. We constantly had to balance the two.

247. Cabinet met on 7 May 2020 as part of the 21-day review process and agreed to relax the restrictions in place, including improving health and wellbeing by allowing greater use of outside space for the purpose of exercise. The amendments to the regulations and the accompanying guidance to clarify permissible incidental leisure activity during the course of that exercise were agreed and announced by the First Minister on 8 May 2020, as was the intention that they would come into force on Monday 12 May 2020.

248. That weekend, newspapers published photographs of me eating chips in a park whilst walking with my wife and son. At that time, walking and eating food purchased from a café or takeaway on the way was permitted under the Welsh Government regulations then in force. At the time some of the right-wing tabloid press and the opposition sought to link relaxing of the restrictions which came into force on 12 May 2020 with me eating take away food with my family and the press coverage. It colloquially became described as 'chipgate'. As outlined above, Cabinet had already agreed to relax the restrictions in place when it met on the 7 May 2020.

249. The tabloid headlines and social media were not a positive experience. The focus was unhelpful in adding to pressure during an extraordinary time. The rules in places permitted a single period of household exercise and my primary school aged son rode his scooter whilst we parents walked. We bought food in accordance with the rules and ate the food at a social distance from other families in accordance with the rules and guidance. Being watched and photographed by someone interested in a story not the truth was not pleasant. Initially a freelance reporter contacted me with a false claim that I had sat for 20 minutes, ultimately the story reported that it was far less than that. Predictably the Conservatives called for me to resign or be sacked. The same people did not of course make that demand of Mr Cummings following the Barnard Castle incident. That lack of consistency was noted by a number of people.

250. The First Minister was supportive in private as well as in public. No Senedd politician who commented in public that I should be removed from post ever took up the opportunity to ask me directly about it in the Senedd chamber despite having the opportunity to do so. If colleagues were critical of me none of them spoke to me to say so. I did however get contacted by other people who had done the same thing in walking with their families, buying food or drink and stopping to eat and drink before

completing their exercise. All of these people, including at least one person from a different political party, were supportive for which I was grateful.

251. I complained to the Independent Press Standards Organisation (IPSO) because I did not think that I should be photographed with my family and lied about. IPSO took the view that I was in public and had been given a right to reply. They were not interested in adjudicating on the truth.

252. Chipgate did not become a defining moment in the pandemic but afterwards I was more circumspect in what I did in public, especially with my family.

253. Plaid Cymru had previously called for my resignation in April 2020, when my microphone was not properly muted during a virtual Senedd session and I uttered an expletive off camera. I apologised immediately after the incident to my colleague and more generally. I have been asked to consider whether my own conduct, or that of other ministers, had an impact on public confidence in the rules or the public's compliance with them. I believe that, on the whole, the Welsh public were understanding about these two incidents and they did not impact on the public's compliance with the rules. Save for these examples I was not aware of any criticism of my personal conduct or that of other core decision makers in the Welsh Government.

254. On 11 May 2020, the UK Government published its approach to moving out of lockdown in England. I am aware that on 11 May 2020 the First Minister gave a press conference at which he was asked about the UK Government's proposals and said that the advice in Wales had always been consistent that if you were out taking your exercise and you saw someone that you knew, you could have contact with that person as long as you maintained social distancing. He gave the example of riding a bicycle to an allotment and seeing people along the way. The First Minister's answer correctly reflected the Welsh Government's position. There was a difference between incidentally meeting someone whilst legitimately taking your exercise, which was unavoidable and permitted, and arranging to meet people outdoors in order to try and circumvent the rules.

255. On 15 May 2009 the Welsh Government published a roadmap to reopening Wales "*Unlocking our Society and Economy*" which built upon the three pillars. A copy of this

is exhibited in **M2BVG01/23-INQ000320855.** We continued to favour a four nations approach and undertook to be governed by what we knew was happening with the virus. Prior to the publication of the UK and Welsh roadmaps there had been a call between the First Ministers of the devolved nations and the Chancellor of the Duchy of Lancaster, Michael Gove MP, at which both the UK and Wales had shared their plans. Our starting point was an acknowledgement that the virus would be with us for some time and behaviours including social distancing, hygiene practices etc. would need to become the new normal. Critical to avoiding a second, potentially larger, second peak was putting in place the infrastructure to manage future outbreaks, including Test, Trace, Protect and shielding. In particular, the information on infection rates and the ability to track how the virus was moving and patterns of transmission were central to our decision making on lockdown easing. This was built into the 21-day review process within the scientific updates and advice that we received.

256. The R rate at that time was thought to be between 0.7 and 0.9, and we acknowledged that any actions we took had the potential to affect the R rate, which itself could have had significant effect on the number of new infections and new deaths. We needed to have sufficient 'headroom' to accommodate any such change before we could ease any restrictions. We would ease or amend restrictions only when we were satisfied that any change would not threaten public health, but we would not maintain restrictions for which there was no longer a public health case.

257. We undertook to:

    a. Assess the potential impact of our decisions on containing the virus.

    b. Assess what measures we could put in place to reduce the effect of our decisions on containing the virus.

    c. Assess the impact of our decisions on general public health.

    d. Only then, would we assess the social, economic or environment impacts of our decisions.

258. We agreed that our approach would be informed not only by the expertise of the Chief Medical Officer, SAGE and the Technical Advisory Cell, but also by international

experience. We also said that we would consult employers and industry, health and care service providers, local government, civic society and the general public.

259. Our roadmap recognised that the most vulnerable in our society had been hit hardest by the virus, including those who were on low incomes, unemployed or homeless. We considered the growing body of evidence that Covid-19 was having a disproportionate effect on people from Black, Asian and Minority Ethnic backgrounds.

260. This document depicted a traffic light system for the categories below, ranging from lockdown through red, amber and green with green representing that those services were reopened to the public in full through with physical distancing or reasonable precautions in place:

    a. Education and care for children;

    b. Seeing family and friends;

    c. Getting around;

    d. Exercise, playing sport and games;

    e. Relaxing and special occasions;

    f. Working or running a business;

    g. Going shopping;

    h. Using public services; and

    i. Practicing faith.

261. We devised the traffic light system to try and help the public understand how we would be making the difficult decisions that we knew would arise. We wanted them to understand how serious the situation remained and the level of risk that existed. We knew that we could not say with any certainty at that time what we would be able to ease and when, because those decisions would be made through the 21-day review process and only upon consideration of advice from SAGE, the Technical Advisory

Cell and the Chief Medical Officer. We knew that it would take approximately three weeks to see the effect of any easing.

262. On 29 May 2020, the First Minister approved MA/FM/1722/20 which recommended that two households in the same area should be able to meet outdoors, including in private outdoor spaces such as gardens, but household members were still required to follow social distancing and strict hand hygiene practices.

263. On 18 June 2020, as part of the 21-day review process, the First Minister announced that from Monday 22 June 2020:

    a. Non-essential retail would reopen subject to social distancing.

    b. Childcare facilities would reopen on phased basis under new guidelines and protocols.

    c. House moves were permitted where viewings take place in vacant properties and where a sale had been agreed, but not yet completed.

    d. Restrictions on outdoor sports courts would be removed.

    e. Private prayer would be permitted in places of worship where social distancing was maintained and gatherings did not take place.

264. Before the First Minister's announcement Cabinet received and considered MA/FM/1937/20 and enclosures, including:

    a. Advice from the Chief Medical Officer;

    b. A comprehensive advice from TAC;

    c. An assessment of the pre-conditions and general mitigations (in line with the strategy set out above) including the R rate, Test, Trace, Protect capabilities, healthcare capacity and PPE availability;

    d. Assessments of the potential easements proposed at that time;

    e. An update on healthcare capacity and the progress in gradually opening up healthcare services; and

f. An Equality Impact Assessment.

265. Cabinet met on 18 June 2020. At that time the R rate in Wales was still below 1 and the number of Covid-19 patients in critical care beds was at 9% of overall occupancy. Fatalities from Covid-19 were the lowest they had been for at least 6 weeks and the number of deaths being recorded in care homes was no more than it had been in the same period in the last two year. The surveillance system in place included Test, Trace, Protect, the Joint Biosecurity and the ZOE app, as well as the analysis of wastewater. Dr Chris Jones, the Deputy Chief Medical Officer for Wales, advised that the summer period was a safer opportunity to ease restrictions but needed to be accompanied by strong messaging around social distancing and hand hygiene. In addition, 'circuit breakers' were being developed to enable restrictions to be re-imposed in specific areas should the rate of transmission increase.

266. Cabinet agreed the proposals in the Ministerial Advice. Although other options were discussed, including the requirement to stay local, due to the need for further evidence, there would be no further changes before 6 July 2020. Whilst local authorities and national parks were preparing to open facilities, certainty was required as to whether this could be safely achieved by 6 July 2020. It was agreed that the First Minister could signal the lifting of the stay local requirement on 6 July 2020 providing conditions allow.

267. I believe that this was the correct time for us to begin the process of easing restrictions. We knew that being outdoors reduced the risk of viral transmission and so summer, when people could be outside and businesses could operate outside, was the safest time to give people the greatest amount of freedom that safely could. We knew that the indirect harms of Covid-19 were very real: from education loss to domestic abuse and to the economy. At all times we were balancing the risk to lives against the risk to livelihoods and the other harms that were caused by the lockdown restrictions.

268. The First Minister also announced on 18 June 2020 that some activity in schools would recommence on 29 June 2020. This decision followed an announcement by the Minister for Education on 3 June 2020 of proposals to facilitate increasing operation of schools before the summer holidays. Cabinet had the benefit of an

assessment of the potential effect of lifting this restriction. This proposal had previously been considered on 28 May 2020 but had been constrained by the need for an effective Test, Trace, Protect system, which was launched on 1 June 2020 and had proved effective. The Minister for Education, Kirsty Williams has provided the Inquiry with a more detailed statement on this plan. I agreed with this decision and I still believe that it was right to try and allow children to have as much time in school as possible during the summer, and safer, months of the year.

269. On 3 July 2020, the First Minister announced that, as part of the 21-day review process, the following amendments would be made to the regulations to:

    a. Remove the 'stay local' provisions to allow for travel anywhere, in line with the undertaking of 26 June 2020 to review this requirement with the intention of lifting it by 6 July 2020.

    b. Provide that outdoor attractions that were able to open under the existing Regulations but remained closed because of the stay local restriction would be able to open subject to the requirement to take all reasonable measures to ensure 2m distance was maintained.

    c. To enable the formation of an extended household, consisting of two households joining together exclusively.

270. This decision to lift the 'stay local' provisions was a decision made by the First Minister based upon MA/FM/2107/20 which was submitted on 29 June 2020. This Ministerial Advice was not part of the usual 21-day review process but, as stated above, at the 18 June 2020 Cabinet meeting it was agreed in principle that the 'stay local' restrictions could be lifted on 6 July 2020 only if further work closer to the time was carried out to ensure that it would be safe to do so. MA/FM/2107/20 was, therefore, accompanied by advice from the Chief Medical Officer, an up-to-date impact assessment and an equality impact assessment.

271. As of 29 June 2020, the number of new Covid-19 cases continued to decrease, and the testing capacity continued to increase. Whilst a cluster of cases in Anglesey and in Merthyr Tydfil showed that the risk had not gone away, they were successfully contained. The direct harms from Covid-19 at that time continued to fall and there was

a growing risk that indirect harms were causing more harm than was reduced by prioritising efforts solely on Covid-19.

272. Also on 29 June 2020, the First Minister received MA/FM/2076/20 in relation to the formation of extended households. The formation of extended households was first considered on 18 June 2020. At that time, it was not considered that there was sufficient "headroom" in the NHS to take the same approach as in England and Scotland (which allowed extended households where one of those households was a single person) given the scope of the changes adopted at that time to retail, childcare and schools. It was agreed to return to the issue at this time and, accordingly, an up-to-date impact assessment was provided. This proposal was broader than that in place in England and Scotland, in that there was no requirement for one of the two households to be a single person household but certain conditions were put in place to mitigate the increased risk, including:

    a. The extended household needed to be exclusive.

    b. Where one person in an extended household had symptoms, the whole extended household was required to self-isolate.

    c. Early involvement with the Test, Trace, Protect system was essential.

    d. All members of an extended household should keep a diary of close contacts.

    e. All members of the extended household should agree ground rules.

273. Ministerial Advice MA/2120/20, which was submitted to the First Minister and I on 3 July 2020, set out the necessary amendments to the legislation required to implement these decisions.

274. On 4 July 2020 the UK Government decided to change its advice on social distancing from two metres to one metre. The Welsh Government maintained its advice that social distancing of two metres should remain in place. We did so because we believed that this was more consistent with the SAGE advice that we had received at this time. Allowing people to be in closer proximity not only increased the physical risk of transmission, it also had consequences for the public messaging around the risk of

coronavirus and an effect on the number of people that could and were socialising in bars and restaurants. We did not believe the UK Government's approach would work and we did not think that the science supported it. The Welsh Government made the decision that it believed was best for the Welsh people. The Chief Medical Officer issued a statement to the public on the 8 July 2020 outlining the scientific reasoning for this decision. A copy of this statement is exhibited in **M2BVG01/24-INQ000320905**.

275. On 10 July 2020, the First Minister announced the latest in a week-by-week approach to lifting restrictions:

    a. From 11 July 2020, restrictions on self-contained accommodation would be removed.

    b. From 13 July 2020:

        i. Restrictions on hair salons and barbers and indoor visitor attractions would be removed.

        ii. Underground visitor attractions would remain closed.

        iii. Outdoor areas of hospitality would reopen.

        iv. Places of worship could restart services.

        v. Outdoor cinemas would reopen.

        vi. Organised outdoor activities could take place in accordance with Covid-19 secure guidelines.

        vii. Amendments to the 2m requirement would be made to create a broader duty to take reasonable measures to minimise exposure to Covid-19.

    c. From 20 July 2020, restrictions on playgrounds and outdoor gyms would be removed subject to advice and amendments to the regulations. Also from 20 July, there would be a phased return of public services in community centres once local authorities confirmed that settings could carry these out in a Covid-19-secure way.

d. To give a clear signal for further work and preparations to be made for a potential reopening from 25 July, subject to conditions remaining favourable, for:

    i. Remaining accommodation, such as campsites, with shared facilities;

    ii. Cinemas, museums, galleries and archive services; and

    iii. Close-contact services including nail and beauty salons; massage parlours; and establishments providing tanning services, body piercings, tattooing, electrolysis or acupuncture, this to include those services in spas.

e. To signal work to take place with industry to inform the 30 July review, covering:

    i. Indoor hospitality for cafes, pubs and restaurants;

    ii. Fully reopening the housing market;

    iii. Gyms, leisure centres, and fitness studios; and

    iv. Swimming pools.

276. This decision was made following a Cabinet meeting on 7 July 2020 which was arranged as part of the 21-day review process. The Chief Medical Officer attended Cabinet and advised that the situation was stable and improving. The R rate remained below 1 and the summer period presented a safer period to ease restrictions. Test, Trace, Protect was functioning well and we had the 'headroom' to consider easing restrictions. The planned easing of restrictions was based upon MA/FM/2211/20 which was supported by the Chief Medical Officer's advice and an equality impact assessment.

277. As can be seen from exhibit **M2BVG01/25-INQ000320906**, I carefully considered the advice we received and challenged it where I considered it appropriate and necessary, as did the First Minister.

278. On 24 July 2020, the First Minister announced that, as of 25 July 2020, the Welsh Government would:

a. Remove restrictions on the use of shared facilities to allow all self-contained holiday accommodation, such as campsites, to reopen;

b. Exempt supervised recreation for children and young people under 18 from the Regulations to allow for activities such as children's clubs.

c. To allow for any public services to be accessed (as distinct from critical public services);

d. Re-open underground attractions; and

e. Remove the requirement to work from home where it is practicable to do so.

279. From 27 July 2020, the Welsh Government would:

a. Re-open cinemas, museums, galleries and archive services, and fully open crematoria;

b. Allow amusement arcades (which include adult gaming centres and family entertainment centres) to operate;

c. Re-open close-contact services including: nail and beauty salons; massage parlours; and establishments providing tanning services, body piercings, tattooing, electrolysis or acupuncture. This included those services when provided in spas;

d. Permit activity relating to house rental or sales in all properties (not just unoccupied premises); and

e. Introduce new requirements to wear face coverings on public transport.

280. This decision was made outside of the 21-day review process by the First Minister based upon MA/FM/2363/20 which was supported by an update to the equality impact assessment.

281. On 28 July 2020, Cabinet carried out the latest 21-day review based upon a discussion paper received in advance. The Chief Medical Officer provided an update on the number of new cases, the R rate and hospital admissions which had been confirmed with the Joint Biosecurity Centre, all of which demonstrated that circumstances were favourable to continue to ease some of the restrictions. However, there was a need to monitor the situation, particularly given there had been an increase in cases in the Wrexham area believed to be linked to an outbreak at a food processing plant, as well as a spate of infections in a Gypsy and Traveller community near Welshpool that were well under control. It was agreed that from 3 August 2020:

    a. Pubs, bars, restaurants and cafes would be able to re-open indoors, as would indoor bowling alleys, auction houses and bingo halls; and

    b. Restrictions on meeting outdoors would be relaxed to enable up to 30 people to meet outdoors, but people were required to always maintain social distancing. These changes meant premises licensed to carry out marriages and civil ceremonies could re-open for small, socially distanced receptions.

282. Ministers also agreed that the First Minister should signal that a decision would be made the following week on the potential reopening of swimming pools, indoor fitness studios, gyms, spas and indoor leisure centres, subject to the usual caveats about the conditions remaining favourable.

283. On 31 July 2020, MA/FM/2437/20 invited the First Minister to give effect to the steer from Cabinet by making the necessary amendments to the Regulations. This was announced by the First Minister on the same day.

284. From 10 August 2020, the Regulations were amended to:

    a. Allow swimming pools, leisure centres, indoor fitness centres and gyms and Indoor play areas to re-open;

    b. Exempt attending an exercise class, a session with a personal trainer and other organised physical activities from the restrictions on indoor gatherings; and

c. Allow community centres to re-open for the provision of services otherwise allowable at other open premises and to remove the limitation that they only provide essential voluntary services or essential public services at the request of local authorities or the Welsh Ministers.

285. This was outside of the 21-day review and was based upon MA/FM/2533/2, dated 6 July 2020 which in turn reflected the steer from Cabinet on 28 July 2020. The Ministerial Advice was accompanied by advice from the Chief Medical Officer and an equality impact assessment.

286. On 14 August 2020, the First Minister made a Written Statement confirming that the regulations would be made clearer that collection of contact details for the purposes of contact tracing was a reasonable measure that higher-risk premises are expected to take. The statement also said that when it was necessary, the Welsh Government would require the use of face coverings in more settings as part of a planned response to any incident or outbreak. The statement also indicated that from 22 August, subject to conditions remaining favourable, some further cautious changes would be made:

a. Allowing extended households to include up to four households as part of a single exclusive extended household; and

b. Allowing indoor meals for up to 30 people following a wedding, civil partnership, or funeral.

287. This decision was made by the First Minister based upon MA/FM/2607/20 which was supported by advice from the Chief Medical Officer.

288. On 18 August 2020, Cabinet carried out the latest 21-day review with the benefit of a discussion paper. The Chief Medical Officer informed Cabinet that the number of new daily cases was between 15 and 24, the R rate was between 0.8-1.1 and hospital admissions had stabilised. An outbreak at Wrexham Maelor hospital was under control, but GPs were reporting sporadic suspected cases. Test, Trace, Protect and additional surveillance measures were in place to combat future outbreaks. It was believed that there was some headroom for further controlled easing in addition to preparing for schools to reopen but there was a need to be mindful of what was

happening elsewhere in the UK, with an increase of cases in England being a cause for concern. It was agreed that from 22 August 2020:

a. Up to four households, or two extended households, could merge into a larger extended household; and

b. Indoor meals for up to 30 people, following a wedding, civil partnership, or funeral, would be allowed. That would apply to open premises, and guidance would be in place to set out what conditions would apply.

289. Cabinet also agreed to signal for future weeks the piloting of small outdoor events and the opening of casinos. Cabinet further agreed that further consideration be given to whether people could visit relatives in care homes; how those whose home was their place of work could restart their businesses; and to what rules should be in place to allow community centres to accommodate more indoor activities.

290. On 18 August 2020, the Welsh Government published its Coronavirus Control Plan which set out its planned approach to controlling local outbreaks of Covid-19.

291. Following the Cabinet's decision to ease restrictions, the Ministerial Advice to amend the regulations accordingly was submitted to the First Minister on 20 August 2020 under MA/FM/2724/20. The paper was accompanied by an equality impact assessment.

292. On 27 August 2020, upon receipt of MA/VG/2826/20 and an equality impact assessment, I agreed that the Regulations should be amended to:

a. Explicitly enable visits (indoors) to residents and patients in care homes, hospices and secure accommodation;

b. Re-open casinos; and

c. Create a new offence of organising (or being involved in holding) an unlicensed music event for more than 30 people.

293. These amendments and the decision made were essentially implementing choices which had been discussed with the First Minister who at this time was taking a well-earned break.

9 Eat out to help out

294. Eat out to Help out was announced by Rishi Sunak MP, then Chancellor of the Exchequer in July 2020. The Welsh Government was not informed about the scheme before it was announced so this was not discussed with the First Minister or within the Welsh Government. We were not consulted about the scheme or given the option of whether or not to implement that scheme. It follows that we did not have access to any scientific advice about the potential effects of the scheme.

295. The way in which it had been announced without consultation was a source of significant frustration. As far as I can recall a request for the decision-making rationale and medical and scientific advice on this scheme was not made. I did not think it was helpful or productive to publicly criticise the UK Government or the scheme at that time. There were many within the hospitality sector that had been very badly affected by the restrictions, and I understood the desire to provide them with some support. We had already been developing measures to assist the operation of food businesses within Wales. For these reasons, I did not voice my concerns with 'Eat out to Help out' at the time.

10 Autumn 2020: local lockdowns and a national Firebreak

296. The 'Local Lockdowns' were announced by me on the 7 September 2020, when I outlined new restrictions being imposed on Caerphilly county borough after a spike in cases as set out in exhibit **M2BVG01/26-INQ000321012.** This announcement had followed discussion with the local authority leadership. We made sure that they had the information before the decision was announced to the public. The Technical Advisory Cell advice published on 11 September 2020 confirmed that there was a pattern of increasing cases is similar to the situation in February. Action needed to be taken to prevent significant harm arising from Covid-19 or another full lockdown. On the same day, the First Minister made a Written Statement acknowledging the rapid increase in cases across the UK and in Wales. He noted the local restrictions introduced in the Caerphilly County Borough Council area, and that rates in a number of other parts of Wales were being monitored. From Monday 14 September, all residents in Wales over the age of 11 were required to wear face coverings in indoor

public spaces, such as shops, and there was to be a maximum limit of six on the number of people who could meet indoors at any one time.

297. Throughout September 2020 and early October 2020, the Welsh Government responded to local outbreaks by introducing local health protection area provisions which came into force in Caerphilly on 8 September 2020 and in Rhondda Cynon Taf on 17 September 2020.

298. A Technical Advisory Cell advice summary on 18 September 2020 noted that the situation was serious and that a package of non-pharmaceutical interventions on local and national scale may be needed to bring R back below 1. This was discussed in Cabinet on 21 September 2020. The First Minister advised Cabinet that local restrictions would need to be extended to cover Merthyr, Blaenau Gwent, Bridgend and Newport on 22 September 2020. The restrictions in place were initially area-specific but were aligned on 22 September 2020. Again, there were no Cabinet members who raised objection to this from my recollection.

299. We were aware that some of the areas affected by these local restrictions had higher than average numbers of those within vulnerable groups, for example Caerphilly and Merthyr Tydfil had a higher number of people from low socio-economic backgrounds than other areas of Wales.

300. The First Minister reported a call with the Prime Minister at which they discussed the possibility of changing licensing arrangements, including earlier closing of the hospitality sector and the decision to reverse the call for people to return to work. The First Minister asked the Prime Minister to consider following the Welsh Government to encourage working from home and asked him to consider adopting the 'stay local' messaging.

301. The First Minister attended a UK-Wide COBR meeting on 22 September 2020 at which the need to introduce restrictions to control the rise of the virus at that time was agreed by all four nations. Some of these actions, such as the need for people to work from home wherever possible, were already in place in Wales but new measures would be introduced to come into force with those implemented by the UK Government, namely:

a. From Thursday 22 September 2020 at 6pm, hospitality businesses in Wales, including pubs, cafes, restaurants and casinos, would have to close at 10pm. They also had to provide table service only.

b. Off-licences, such as supermarkets, had to stop selling alcohol at 10pm.

302. On 25 September 2020, the Technical Advisory Cell advised that unless the current measures brought the R number below 1 then further restrictions would be needed to control the epidemic in Wales. Following a meeting of Cabinet and in response to the Technical Advisory Cell's advice, on 25 September 2020 the local restrictions were extended to the 13 electoral wards of Llanelli, the City and Country of Cardiff and the City and County of Swansea. Restrictions were later extended to Neath Port Talbot, the Vale of Glamorgan and Torfaen on 28 September 2020.

303. On 29 September 2020, the local health protection area was extended to include the local authority areas of Conwy, Denbighshire, Flintshire, and Wrexham. On 9 October 2020, local protection area restrictions extended to the eight wards around Bangor. These measures were designed to limit the spread of infection within Wales, specifically from areas of high prevalence to areas of lower prevalence.

304. It was clear to the Welsh Government at this time that infection rates were rising and that we needed to take action. We knew from events between January and March of the significant harm that could be caused by the virus spreading too quickly. The virus appeared to be spreading through social mixing and whilst we were urging people to behave responsibly but we could see that this was not enough. We did not want to take an approach that was too blunt or unnecessarily broad. It was hoped that local restrictions would both prevent that social mixing in the worse affected areas but also send a message to other areas that if rates continued to rise then the Welsh Government would be forced to take more serious measures. We were mindful that if we jumped to a national lockdown too quickly, this may affect support for and compliance with that lockdown. Ultimately, however, the virus continued to spread and we moved from local restrictions, to regional restrictions and ultimately to a national firebreak. I still believe that our approach was the correct one, that it was right to try and manage the infection at that time with localised restrictions to begin with.

305. Technical Advisory Cell advice received on 2 October 2020 warned that unless measures brought R back below 1, it was possible that infection incidence and hospital admissions would exceed scenario planning levels. The First Minister announced that, because of the deteriorating public health situation, there would be no major changes to the rules at a national level except for allowing skating rinks to open.

306. In the face of the worsening situation, Cabinet met on 15 October 2020. It agreed in principle to the application of a firebreak lockdown (sometimes described as a 'circuit breaker' in documents at the time) to the whole of Wales to reduce the significant increase in the transmission of the virus. Advice from the Chief Medical Officer, the Chief Scientific Adviser for Health and the Technical Advisory Cell all reflected that of the UK Government's Chief Scientific Adviser to COBR that the UK Government's proposals for a three-tier system would not stop the rapid spread of the virus and a firebreak was the preferred option. SAGE advice of 21 September 2020, which had advised that a firebreak should be considered for immediate action, was discussed.

307. Scientific advice was that a minimum of a two-week lockdown was required, but three weeks was preferable. However, there was a need to consider that the longer the restrictions remained in place, the greater the economic, financial and social impact on the well-being of individuals. Modelling based on Secure Anonymised Information Linkage data suggested that a two-week lockdown had the potential to reduce the R rate from around 1.4 to 0.8, dependent on the control measures remaining in place after the restrictions had been lifted.

308. Hospitals were reporting a significant increase in cases and intensive care unit capacity concerns. It would be difficult to maintain the system with the expected increase in Covid-19 cases. The effect on schools and businesses was discussed, and the need to continue working with local authorities to ensure they were ready to support the circuit breaker was noted. Whilst we recognised and agreed in principle at this meeting that a firebreak would be required, it was not imposed immediately in order for us to take advice and make decisions about what that firebreak should look like.

309. A substantive decision was taken in a further Cabinet meeting on 18 October 2020. In the meantime, the First Minister and I considered MA/FM/3503/20 and the question

whether to impose local restrictions on Gwynedd, Anglesey or Powys in advance of the circuit breaker. We concluded that the proposed regulations would not have a material effect in the days remaining before the introduction of the firebreak and so, bearing in mind the views of local authority leaders, we decided not to impose the local restrictions.

310. By 18 October 2020, Cabinet was told that Wales was in breach of several of the indicators that, once exceeded, would require national restrictions and action. There was high confidence that the others would be exceeded within two to three weeks. In the circumstances, the Technical Advisory Cell recommended urgent consideration of a two- to three-week national firebreak commencing on Friday 23 October 2020 until 9 November 2020.

311. The terms of the firebreak were agreed by Cabinet on 19 October 2020, following consideration of Technical Advisory Cell advice and that of the Chief Medical Officer. It would be a two-week lockdown with the following restrictions:

    a. People must stay at home, except for very limited purposes, such as for exercise.

    b. People must work from home wherever possible.

    c. People must not visit other households or meet other people they did not live with either indoors and outdoors.

    d. No gatherings would be allowed outdoors.

    e. All non-food retail, hospitality businesses, close contact services and events and tourism businesses, such as hotels must close; and

    f. Community centres, libraries and recycling centres would be required to close.

312. The First Minister has detailed the decision timeline for the firebreak in his statement M2B-WG-MD-02. The decision to impose a firebreak in October followed the advice the Welsh Government had received from SAGE and the Technical Advisory Cell which was taken seriously by the Welsh Government. In terms of the timeliness of the

decision I believe this was taken as soon as possible. The extent to which the October firebreak could have been avoided if more stringent restrictions had remained in place following the national lockdown is unclear especially given the impact of a porous border in the UK. If more stringent restrictions remained across all four nations then this may have been possible.

313. The October firebreak and local lockdowns highlighted travel issues due the porous borders in the UK, particularly so along the Wales/England border. Welsh Ministers had introduced measures such as travel restrictions to prevent the spread of Coronavirus within Wales, but those same precautions were not being taken in England in those areas where prevalence was high. The lack of restriction on people traveling from high-risk areas in England to low-risk areas of Wales risked undermining the efforts being made in Wales to prevent the spread of coronavirus. At that time, there was no legal requirement in England to prevent people travelling from high prevalence areas in England, which were otherwise under a range of other legal restrictions, to low prevalence areas in other parts of England or the UK (including Wales) and thus resulting in the spread of infections from those high prevalence areas and across borders.

314. To avoid this problem and ensure consistency and fairness Welsh Ministers applied the same restrictions on travel into low prevalence areas in Wales from high prevalence areas in other parts of the UK, including specific English regions, that already applied to people within Wales.

315. Following the firebreak in Wales, travel restrictions were in place for the whole of Wales which prevented people, without reasonable excuse, from traveling to or from areas of high prevalence in the rest of the UK.

316. People in Wales and England were very used to travelling freely across the border and this was a significant restriction on that freedom. In making this decision we were mindful of the social and economic impacts where people needed to travel across the border to England to visit friends and family and to access goods and services, the short and longer-term economic impacts on businesses and risk of displacing activity, and the need to balance equalities impacts such as including reasonable excuse exemptions.

317. The decision-making process for the firebreak lockdown exposed the difficulties that were then emerging in the relationship between the Welsh Government and the UK Government. In Autumn 2020, the UK Government was winding down the furlough scheme and refused to revisit support from the UK Treasury for the proposed firebreak. This meant that notwithstanding that SAGE had advised that we needed to act sooner rather than later in order to avoid lengthier lockdowns, Welsh businesses were going to be disadvantaged.

318. The impact of the firebreak was effective: it reduced new infections and gave us an opportunity to reset ahead of Christmas. However, the firebreak was highly contested politically with the Conservatives openly opposing it in Wales and from seats in the UK Government, including criticism from UK ministers in media interviews and on social media. The Prime Minister openly scorned the idea of introducing further restrictions, most notably during Prime Minister's questions. James Cleverly MP was also vocal on twitter, as was Brandon Lewis MP on the Andrew Marr show. This helped feed a more contested environment for the public to make their own choices. The UK Government subsequently announced a version of the firebreak for England on 31 October 2020 with effect from 5 November 2020 with strikingly similar provisions to Wales including restrictions on non-essential retail. The provisions in Wales lasted 17 days compared to four weeks in England.

319. The UK Treasury position on economic support was inevitably a factor in assessing whether the Firebreak could be 'long and shallow' or if by necessity, 'short and deep'. I will not rehearse the relationship with the UK Treasury or its position on economic support as this will be covered by Rebecca Evans, Minister for Finance and Local Government, but the availability of financial support for workers was part of the rationale for a short and deep approach. On timing of the firebreak we considered that having this covering the October half term would minimise the impact on learners and families.

11 Christmas 2020

320. On 24 November 2020, the four UK nations reached a joint decision on a package of relaxations for the festive period. The purpose of this was to put a framework, in

advance, around what was inevitably going to be a period of enhanced mixing; acknowledging people would want to socialise more over the festive period, the package was designed to help people plan to meet with their families and friends in as safe a way as possible. The core element of the package was a relaxation of mixing in private houses to allow three households to form a bubble from 23 to 27 December. Travel restrictions would also be lifted across the UK for this period to allow families from across the country to form the bubble, in recognition that the practical realities of recent restrictions meant extended households throughout restrictions were likely to have been local.

321. By the Cabinet meeting on 27 November 2020 we were already considering the imposition of non-pharmaceutical interventions so that there would be able to be some mixing over the Christmas period. The discussions on the approach for Christmas were detailed and nuanced covering the ins and outs and ups and downs of each of the potential options individually and then stepping back to view them as a "package of measures" and make the decision on whether to impose them or not.

322. On 29 November 2020 Cabinet met to finalise the restrictions to be implemented on 4 December 2020. Cabinet had advice from the CMO who described the current epidemiological trend, which was continuing on an upward trajectory. Cabinet also considered proposals designed to ensure that families could meet up for up to five days over the Christmas period in the safest way possible. Cabinet agreed that the rest of the national measures proposed would need to remain and there would be no changes to household bubbles, how many people could meet in public in indoor or outdoor places, or restrictions on other businesses. Cabinet agreed that for the Christmas period only, people in a flat or a shared house would be allowed to form a different Christmas bubble.

323. On 3 December 2020 I was sent a Ministerial Advice (MA/VG/4015/20) entitled 'Updated COVID-19 Reasonable Worst Case (RWC) scenario for Wales – November 2020' which recommended that I agree a Swansea University model for calculating the Reasonable Worst Case scenario in Wales. I agreed the recommendation.

324. A series of restrictions came into force at 6pm on 4 December 2020. The First Minister and I explained that these were necessary in order to be able to relax restrictions over the Christmas period so people could meet.

325. On 5 December 2020 I was sent Technical Advisory Group advice on the effect of non-pharmaceutical interventions in the pre-Christmas period. My office ensured that it was sent to other Ministers and I sent it to several Ministers directly for comments. It suggested that certain non-pharmaceutical interventions could be put in place before Christmas to mitigate the effects of people mixing over the Christmas period.

326. There was a Cabinet meeting on 7 December 2020. This meeting focused on matters other than Covid-19 but at the end of the meeting ministers were told that we would be sent an early draft paper later that evening on COVID-19 alert levels to enable us to have an initial discussion at the 9am call the following morning and there would be a formal Cabinet meeting on 9 December 2020 to consider the proposals.

327. By the time of a press conference I gave on 7 December 2020, the NHS in Wales was under severe pressure. Wales was the only part of the UK where infection rates were not falling in the last week in November. This was due to the fact that there were tighter restrictions in other parts of the UK.

328. The vaccine roll-out started on 8 December 2020 and I issued a joint statement to the press with the First Minister setting out that we would be working hard to deliver the vaccine in Wales. I also made a Written Statement to the Senedd as exhibited in **M2BVG01/27-INQ000321010**.

329. Following the four nations health ministers call on 7 December 2020, I asked for a meeting with the Chief Medical Officer to discuss reducing the self-isolation period.

330. Following advice from the Chief Medical Officer and noting that the Chief Medical Officers of all four nations were in agreement, I decided that the self-isolation period should be 10 days rather than 14 days. This came into force across the UK on 10 December 2020.

331. The Chief Medical Officer had commissioned some advice from Public Health Wales on 7 December and I was sent a copy of the advice on 8 December 2020. The advice recommended that *'urgent additional action before Christmas is required'*.

332. I was becoming concerned about the increasingly high rates of infection in Wales and the situation in schools. On 8 December 2020 I asked for a meeting with the Minister for Education, Kirsty Williams. I also asked the Chief Medical Officer and the Chief Scientific Advisor for Health to attend. In advance of the meeting I was sent some advice from the Chief Scientific Advisor for Health which suggested increased restrictions on schools in advance of Christmas.

333. It was clear from the ministerial call on 8 December 2020 that the situation in Wales was difficult as we went into December and the First Minister was, at this point, signalling the need for further restrictions to be put in place in the post-Christmas period.

334. There was a Cabinet Meeting on 9 December 2020. The purpose of the meeting was to consider proposals within the paper about further restrictions that might need to be put in place over the coming weeks, and specifically after Christmas, to help control the spread of the virus. At that meeting Cabinet agreed to adopt a traffic light system for Wales, which involved four Alert Levels:

    a. Alert Level 1- low risk

    b. Alert Level 2- medium risk

    c. Alert Level 3- high risk

    d. Alert Level 4- very high risk

335. We agreed in principle that Wales would move to Alert Level 4 Restrictions from 28 December 2020.

336. On 9 December 2020, I received a letter from the chairs of two of the Local Health Boards letting me know that they had concerns that the health system could be overwhelmed. On the same day I received an email from Dr Andrew Goodall, Director General of the Health and Social Services Group, which stated that there was a visible increase in overall and confirmed cases and that cases were running ahead of the number that he had shared with Cabinet as his personal worst case scenario.

337. I was sent information from Public Health Wales on 10 December 2020 that contained worrying information about the R value and doubling time by Local Health Board. I wrote to the Minister for Education and her advisers saying that I thought secondary schools should move to distance learning from the next week and I was *"more worried than ever before"*. I was invited to join a call between the First Minister and the Minister for Education to discuss this issue but I was in a Covid-O meeting with the UK Government and could not join. I received an email from the Chief Medical Officer recommending that schools move to online learning from the next week which I forwarded to the Minister for Education and her advisers.

338. There was a Cabinet meeting on 10 December 2020. The purpose of the meeting was to confirm arrangements from 28 December, should there be no improvement in Covid-19 transmission rates. We agreed, in principle, that after the festive period, Wales could be classified as at Alert Level 4 and that this decision should be conveyed to the public as soon as possible.

339. I issued a written statement on NHS pressure on 10 December 2020 as exhibited in **M2BVG01/28-INQ000321013**.

340. On 14 December 2020, the Welsh Government published Coronavirus Control Plan: Alert Levels in Wales. An impact assessment on the Covid-19 alert levels and restrictions and their effects on children's rights was published on 21 December 2020 and a summary impact assessment of the restrictions set out in the document was published on 15 January 2021.

341. Also on 14 December 2020, I was informed that there was a new variant of Covid-19 that was circulating in the UK. I was informed that it was possible that this variant was more transmissible and that Public Health Wales was actively looking for the variant in Welsh samples. Andrew Goodall also informed me that the most recent numbers showed a worse position than the worst case scenario for Christmas and into January.

342. I received an email from Andrew Goodall on the morning of 15 December 2020 informing me that medical directors had written outlining their concerns clinically about the system's ability to manage into January, based on the high community prevalence. The forecasting was looking dire at this point. As Andrew Goodall stated "*If the Christmas Day forecast comes forward as is possible this week we could be looking*

at between 3500-4000 beds in use through January which would be 50-60% of our normal capacity only for covid. At our peak in April we were at 15-20%". A copy of this email is exhibited in **M2BVG01/29-INQ000321014.** I asked Andrew Goodall for an update after the NHS Board meeting and shared the information with the First Minister's office. He informed me that NHS Chief Executives were worried and in favour of greater restrictions. Officials were communicating a high level of concern across the health and social care sectors.

343. I asked officials to consider again the choice of national measures to reduce planned activity given the worrying numbers and the concerns expressed by the Respiratory and Intensive Care societies. I received a paper about the option of moving to level 4 restrictions in Wales before 28 December 2020 (the date previously envisaged for level 4 restrictions), a copy of this is exhibited in **M2BVG01/30-INQ000321016.**

344. I received a copy of the advice that Public Health Wales had written for the Chief Medical Officer dated 15 December 2020, a copy of this is exhibited in **M2BVG01/31-INQ000321018**. It recommended level 4 restrictions to be brought in immediately and a review of the planned relaxation of restrictions on 23 to 27 December 2020. I also received the Technical Advisory Cell summaries dated 11 December 2020 a copy of this is exhibited in **M2BVG01/32-INQ000321019**.

345. The First Minister scheduled a ministerial call for the evening of 15 December 2020. At this point the Chief Medical Officer was advising an immediate move to Level 4 restrictions and a change to the Christmas easing of restrictions.

346. There were further ministerial calls on 16 and 17 December 2020. We had to decide whether our position that the Christmas bubble should be two households only would remain guidance or would form part of the regulations. I recognised at the time that our rates were materially different to those in England and was in favour of moving to Level 4 restrictions immediately. Others were in favour of maintaining consistency across the Four Nations, believing that this would assist with enforcement. This was debated and all concerns and points of view were aired. Ultimately fell to the First Minister to make the decision to take action, as the first among equals.

347. I dialed into a four nations ministerial call on 17 December 2020. I also received an update on NHS pressures from Andrew Goodall on 17 December 2020. There had

been no improvement based on additional restrictions and any such improvements would take two to three weeks so would not be seen by the Christmas period.

348. On 18 December 2020, I shared the Technical Advisory Group alert modelling paper with other ministers, a copy of which is exhibited in **M2BVG01/33-INQ000321023**. It set out that *"[t]he most efficient way to reduce harm from covid-19 and pressure on the NHS is to remove the Christmas relaxation policy and move to alert level 4 restrictions as soon as practically possible (high confidence)".* The NHS daily update from Andrew Goodall on 18 December 2020 showed continued pressure.

349. I was asked if the Technical Advisory Group Reasonable Worst Case Scenario could be published on 18 December 2020.

350. On 18 December 2020, the First Minister accepted proposals in MA/FM/4278/20 and announced:

    a. The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 were made on that day and would come into effect from 21 December 2020.

    b. Due to the significantly deteriorating position, the regulations would allow only two households (with the option of including an additional single-person household) to form an exclusive Christmas bubble during the five-day Christmas period, more restrictive than the three household arrangements initially planned.

    c. Wales would move to Alert Level 4 at 6pm on 25 December 2020.

    d. Tighter restrictions on travel, household mixing, requirements to stay-at-home, and holiday accommodation would apply from 28 December, after the five-day Christmas period.

351. There was a Cabinet meeting on 19 December 2020. In advance of the meeting, we were told that the Prime Minister would be announcing significant new measures to control Covid-19 in London, Kent, Essex and the East of England. Andrew Goodall's NHS update stated that the number of Covid-19 patients in hospital was the highest ever. I received a draft of the announcement that the First Minister would be making

later that day (at 5.15pm) which imposed Level 4 restrictions with immediate effect and made changes to the Christmas arrangements so that two households could only meet on Christmas day.

352. On 20 December I was sent the details of a four nations officials call. The number of Covid-19 patients in hospital was at a record high. I shared a Public Health Wales briefing on the variant with other ministers, a copy of this is exhibited in **M2BVG01/34-INQ000321027.**

353. The NHS daily update for 21 December showed a reduction in patient demand over the weekend.

354. There was a ministerial call on 22 December 2020. A list of options had been prepared in advance of the call, a copy of this is exhibited in **M2BVG01/35-INQ000321029.** The issue was whether the advice to the clinically extremely vulnerable should change. I issued a written statement on this issue on 22 December 2020. A copy of this is exhibited in **M2BVG01/36-INQ000321032.**

355. There was a UK four nations ministers meeting on 24 December 2020. I indicated that schools were my biggest concern: Wales's current level four was the same as March/April with the exception that schools were open and I didn't want to close schools unless we had to. I requested that samples from South Wales (in addition to North Wales) be tested at a Lighthouse lab to help our understanding of what was happening with the virus in schools and children and young people as drivers of it.

356. I made an Oral Statement to the Senedd on 30 December 2020 and issued a Written Statement on 31 December 2020 with updates on the latest Covid-19 position in Wales, the vaccine and the pressures in the health and care system. Copies of these are exhibited in **M2BVG01/37-INQ000321249** and **M2BVG01/38-INQ000321038.**

357. The decision to move away from the four-nation agreement on expanded easements for five days over Christmas 2020 was not an easy one. In doing so we knew that we were acting ahead of other UK nations and there was no guarantee that other nations would follow suit, but our infections were still moving ahead of other UK nations.

358. If we could have persuaded the UK Government to act earlier, then we may have been able to act sooner. The UK Government took some time to come to a common position.

I found the messaging from the UK Government to be confusing, such as the strong criticism of the firebreak in Wales followed by four weeks of all England restrictions. It genuinely seemed that the UK Government did not have a consistent approach for England and could not engage in a four nation approach. It was still the case that we could have taken a more engaged four nation approach if there had been willingness to do so from UK Government. That willingness simply did not exist from the UK Government leadership.

359. Lockdown was and is a blunt policy tool with wider health, social and economic downsides but there was a real risk of significant mortality and that the health and wider social care system could be overrun with all of the appalling health, social and economic harm that would be caused. At the time we still did not have a vaccine or a clear picture of when one might be available. It is hard to overstate the enormity of the decision and understanding with even greater clarity the consequences compared to March 2020. I did not know how long the lockdown would last but urging people to reconsider their choices was not going to do what was needed to avoid very large loss of life. We were collectively better prepared than in March 2020. Schools in particular were in a better place than the firebreak when it came to remote learning. It made me regret even more that we had not been able to agree a way to recover more learning in summer 2020. However, in almost all the downsides we knew that harm from the virus and lockdown was not evenly shared across society. The public still trusted us to act and responded well to leadership from the Welsh Government. That required regular reassurance including when we could not be certain of future events ourselves. Our partnership with stakeholders and public openness on data helped to maintain large scale trust. There was no perfect choice but we still had to choose.

360. In my view the only way to have avoided a lockdown from Christmas onwards would have been much greater adherence to social distancing and reduced social mixing. I recognise of course that many people, not just those on the shielding list, were very cautious. One of our big challenges, society wide, was that in the autumn and winter we spend more time together indoors. Businesses wanted to be active to recover and many people wanted to see each other after the restrictions earlier in the year. It is hard to know from my perspective if there is more that we could have done from the Welsh Government.

12 Easing restrictions in 2021

361. On 6 January 2021, Cabinet carried out the latest 21-day review based upon a discussion paper received in advance and agreed that Wales should remain at Alert Level 4 for a further three weeks. The Chief Medical Officer advised that cases were very high in most parts of Wales and there were rapid increases in North East Wales, largely due to the new variant of the virus. Symptoms did not appear to be more serious, but the increased risk came from the fact this strain was more infectious. The decision to maintain Alert Level 4 was also informed by the decisions taken by the Scottish and UK Government to strengthen level 4 lockdown measures in Scotland (from 5 January) and lockdown in England (from 6 January) which brought those countries more closely in line with the approach adopted in Wales since 20 December 2020. Ministers also took into account the impact of the new variant and its greater transmissibility, the potential impact of increased transmission due to Christmas mixing which was not yet reflected in the data and data lags because of Christmas.

362. On 7 January 2021, MA/FM/4525/21 advised that the First Minister announce, in addition to the maintenance of Alert Level 4, that unless there was a significant reduction in cases before 29 January 2021, schools and colleges would continue to provide remote learning, in place of in person learning, until the February half-term, but would continue to provide education provision for vulnerable learners and children of critical workers, as well as facilitating attendance for learners to undertake essential exams and assessments. This approach was agreed at a reconvened Cabinet meeting on 7 January 2021, at which the Chief Scientific Adviser for Health advised that there was a body of evidence that demonstrated higher transmission amongst children when the virus was circulating more within communities. Schools remained safe, but the fact that the variant was more easily spread made contacts in unregulated settings outside the school environment the main risk. This applied equally to teachers and students. Schools being fully open involved a wider range of practical challenges to behaviour, which were outside the direct control of the teaching environment and contributed to wider social mixing. The First Minister accepted the proposals and made the announcement on 8 January 2021.

363. Cabinet met on 11 January 2021 to consider whether additional tightening restrictions were necessary and whether to introduce a new Alert Level 5 to the Coronavirus

Control Plan. These topics had been proposed during the Cabinet meeting on 6 January and an options paper was produced for Cabinet's consideration. The Chief Medical Officer advised that there had been a slight overall reduction in transmission rates across Wales, however there was still concern about the rate of increase in North East Wales, and still some uncertainty surrounding the spread of the new variant and cases could increase again in other parts of Wales, particularly the South. Hospitals were still under a great deal of pressure, but admissions were not increasing as exponentially as in some parts of England. Mortality rates were still high, but it was accepted that there was a lag in data due to the time people spent in hospital with symptoms.

364. Cabinet agreed to amend the regulations to include a specific requirement on all businesses and premises to undertake a Covid-19 risk assessment. However, it was agreed that it was in the best interests of children, families, registered settings and future generations of Wales for childcare venues to remain open, where they were able to do so safely. For options relating to places of worship, Cabinet agreed to rely on the existing approach of guidance and the leadership from faith communities to assess the specific risks and support closures. This reflected the continued engagement and partnership working the Welsh Government had developed with faith communities. Ministers agreed that a new Alert Level 5 should not be introduced at this stage, given the limited number of changes and the fact that certain sectors, such as the housing market, remained open.

365. On 15 January 2021, following the Cabinet agreement on 11 January 2021 and accepting the proposals in MA/FM/0204/21, the First Minister announced that the regulations would be amended to include the requirement on all businesses and premises to carry out a Coronavirus risk assessment and to strengthen the requirements on retail premises by specifying certain reasonable measures they had to take.

366. On 29 January 2021, the First Minister announced, following the latest 21-day review on 28 January, that:

    a. The whole of Wales would be maintained at Alert Level 4 until at least the next review on 18 February 2021.

b. Regulations would be amended to allow exercise with one other person, to allow support bubbles to break up and reform if there was a separation period of 10 days; and to enable all automatic car washes to open.

c. Opening up education remained a top priority, and that if numbers fell over the next month, the intention would be to see primary school pupils return in a phased and flexible way from 22 February. If there was sufficient headroom, small numbers of secondary and college learners would be brought back at the same time.

367. This announcement was based on MA/FM/0371/21 and following Cabinet discussion on 25 January 2021:

a. The Chief Medical Officer advised that community transmission rates across Wales had fallen since 8 January 2021. Only Pembrokeshire and Anglesey were now reporting increased cases, but this was from a low base. Cabinet agreed that, as indicators remained high across Wales and the capacity of the NHS was a matter of concern the country should remain at Alert Level 4 until the next review on 18 February. In proposing the amendment regarding exercising, the discussion paper circulated in advance of the Cabinet meeting noted that the risk of transmission between two people meeting outdoors but maintaining social distancing was limited, and that relaxing the regulations could also help some people with issues of loneliness and isolation and could support wellbeing more widely through increased exercise. The Chief Medical Officer indicated he supported this amendment, as well as the amendment regarding the reforming of support bubbles after 10 days of separation. Ministers agreed to both proposals.

368. Cabinet met on 16 February 2021 to consider the 21-day review due on 18 February 2020. The Chief Medical Officer advised that the situation was improving across Wales. Cabinet agreed, given current conditions, that the stay-at-home lockdown measures under Alert Level 4 should remain in place but that, should conditions continue to improve by the next review, it might be possible to begin moving out of the 'stay at home' restrictions. Cabinet also agreed that the regulations should be amended to provide for schools and college premises to open for Foundation Phase

and vocational learners and agreed to signal that, if the conditions continued to improve over the following three weeks, the intention would be to phase in from 15 March the return of the remainder of primary school children and those that would ordinarily be facing examinations that year.

369. On 17 February 2021, Cabinet reconvened to discuss possible revisions to the Coronavirus Control Plan and the potential unlocking sequence. The First Minister advised Cabinet that, rather than producing a revised plan at this stage, there would be an addendum to the original Alert Levels Framework, which would take into account the changes since the original plan had been published. This addendum highlighted the positive progress made with the roll-out of the vaccines and importance of the Test, Trace, Protect programme, but also balanced this against the virus mutations, particularly the so called 'Kent' variant, which had proven to be significantly more transmissible by between 30% and 50%. The document also outlined the implications for schools, childcare and Higher Education, highlighting that while education was not formally part of the Alert Level Framework, conclusions on re-opening were part of the decision making and 21-day review process. This reflected the Welsh Government's policy that childcare and education settings should be the last to close and the first to open. The addendum indicated a cautious approach to coming out of the lockdown, which reflected the advice of the World Health Organization, the Technical Advisory Cell and SAGE. This would also ensure that the vaccine programme was able to continue at pace to help those most at risk. There would be a gradual move from Alert Level 4 to Alert Level 3, based on the public health situation at the time of each review. This document was published on 19 February 2021.

370. Also on 19 February 2021, the First Minister issued a statement, based on the proposals in MA/FM/0751/22, that Wales would remain at Alert Level 4 until at least the next review on 11 March 2021 and that the amendments to the regulations agreed by Cabinet on 16 January and 16 February 2021 would come into force on 20 February 2021. He also signalled the intention to phase the return of primary learners and those facing exams to schools from 15 March 2021.

371. On 12 March 2021, the First Minister issued a Written Statement announcing that, as part of the latest 21-day review process, amendments would be made to the regulations to:

a. Remove the restrictions providing for school premises closures from 15 March 2021.

b. Replace the 'stay at home' restrictions with 'stay local' rules from 13 March 2021.

c. Allow for up to four people from two different households (or an extended household if more than four people) to meet outside, including in gardens and private outdoor spaces, from 13 March 2021.

d. Allow for outdoor sporting facilities (tennis courts, bowling greens, golf courses, outdoor gyms etc.) to reopen from 13 March 2021.

e. Include visits to residents of care homes as a reasonable excuse for gathering indoors with someone outside of a person's household or extended household from 13 March 2021.

f. Provide for hairdressers and barbers to reopen from 15 March 2021.

g. Provide for supermarkets and mixed retailers to sell non-essential items from 22 March 2021.

h. Provide for garden centres to be allowed to reopen from 22 March.

i. Remove the need for Ministers to specifically authorise individual elite sporting events from 13 March.

j. Allow the use of theatres for the purposes of rehearsals, irrespective of whether they were linked to a broadcast from 13 March.

k. Expressly prohibit canvassing for the election (preventing door-to-door and market stall-type activity). Leafletting would be allowed as 'stay at home' was lifted.

l. Amend the expiry date of the regulations to 31 May 2021.

372. The First Minister's announcement also indicated that, if public health conditions continued to be favourable, from 27 March:

a. The stay local restrictions would be lifted to allow people to travel within Wales.

b. Self-contained holiday accommodation would re-open to allow one household to stay overnight.

c. Organised children's activities outdoors would restart.

d. Libraries would reopen.

373. This announcement was based on MA/FM/1121/21 which was submitted on 11 March 2021, the measures having been discussed and agreed by Cabinet during meetings on 8 and 9 March 2021, at which:

a. COVID-19 Intelligence Cell and TAC briefings had indicated that the situation in Wales continued to improve to around the point at which the World Health Organization recommended prior to undertaking gradual easing. In addition, the number of people with confirmed Covid-19 in hospital and in intensive care units continued to decrease. The recommendation from the Covid Intelligence Cell was that Wales should very gradually reduce from Alert Level 4.

b. The Chief Medical Officer advised that, given the complications of the new variant, a staggered approach to the lifting of restrictions would allow better monitoring of the impact on the spread of the virus on the specific easements. Allowing too many easement measures at the same time could create a rapid increase in infection without being able to distinguish between measures and identify the specific risk. There would be a need to avoid increasing the risk over the Easter holidays. Opening public gardens where people could walk around were not an issue, providing the limits on households meeting outdoors were adhered to and it did not create the risk of different households mixing in such venues. The same principle applied to allowing the reopening of self-contained accommodation. Those places that would attract large crowds posed the greater risk, particularly where shelter from the elements indoors or under cover was easily available. The greatest risk to the spread of the virus came from people mixing, particularly given that the new variant was more transmissible, and there was not sufficient headroom at that time to allow more people to mix than was originally proposed. It was acknowledged there would

be an opportunity to consider opportunities for further mixing after Easter when the impact of the easement of current measures was better known.

374. A summary impact assessment in respect of the 11 March review was published on 29 March 2021 and a children's rights impact assessment in respect of the phased return of face-to-face teaching on 15 March was published on 25 May 2021.

375. On 19 March 2021, the First Minister and I published the updated 'Coronavirus Control Plan: Revised Alert Levels in Wales (March 2021)', which set out the pathway to relaxation of the restrictions, as well as moving quickly back up through the alert levels if necessary, taking into account of vaccinations and the dominant Kent variant. It confirmed that the uncertainty caused by the Kent variant meant that a wholesale jump from Alert Level 4 to Alert Level 3 would endanger the progress made, and a step-by-step approach would therefore be adopted.

376. On 26 March 2021, the First Minister issued a statement indicating that the regulations would be amended to:

    a. Allow self-contained accommodation to reopen to individual households from Wales and their support bubbles.

    b. Remove the 'stay local' restrictions within Wales.

    c. Restrict travel into and out of Wales until 12 April 2021. A risk assessment would be carried before 12 April on the risk of variants from other parts of the UK being seeded in Wales.

    d. Allow up to six people from two households to meet outdoors (including in gardens).

    e. Allow some outdoor heritage sites and historic parks and gardens, to reopen.

    f. Allow for all organised outdoor children's activities for under 18s.

    g. Allow libraries and archives to reopen.

377. These amendments were based on MA/FM/1495/21, following agreement of the proposals during the 11 March 2021 21-day review (MA/FM/1121/21). With respect to

allowing up to six people from two households to meet outdoors, the advice from the Chief Medical Officer and the Technical Advisory Cell was that clear, consistent risk communication was easier to comprehend and follow, and adopting the English position for the rule of six outdoors would support adherence, monitoring and enforcement. The risk outdoors was relatively low, as sunlight, ventilation and adherence to social distancing mitigated the risk, and six people from two different households meeting together outside would have a negligible difference in harm compared to four.

378. The First Minister's 26 March 2021 statement also noted that removal of 'stay local' represented a substantive move into Alert Level 3 and that over the coming weeks Wales would continue to move gradually to Alert Level 3 as described in 'Coronavirus Control Plan: Revised Alert Levels in Wales'.

379. On 1 April 2021, the First Minister announced that:

    a. All learners would return to on-site learning after the Easter holidays on 12 April 2021.

    b. Subject to the public health situation remaining favourable, regulations having effect from 12 April 2021 would be brought forward to:

        i. Allow for all non-essential retail to reopen.

        ii. Allow for all close contact services to resume, including mobile services.

        iii. Remove travel restrictions within the UK and Common Travel Area.

        iv. Include restrictions on international travel unless a person had a reasonable excuse.

        v. Remove restrictions on canvassing, subject to canvassers doing so safely.

        vi. To allow for wedding 'show-arounds' by appointment in hospitality or other premises otherwise required to close.

c. Cabinet had agreed the approach to the next review cycle from 22 April 2021, subject to the public health situation remaining favourable:

   i. From Monday 26 April 2021: outdoor attractions, including funfairs and theme parks, would be allowed to reopen and outdoor hospitality can resume, including at cafes, pubs and restaurants. Indoor hospitality would remain closed except for takeaways.

   ii. From Monday 3 May 2021: organised outdoor activities for adults for up to 30 people could again take place and wedding receptions could take place outdoors, but would also be limited to 30 people

   iii. From Monday 10 May 2021: gyms, fitness facilities, leisure centres and swimming pools could reopen with the exception of group exercise classes, and extended bubbles of two households would be considered.

380. This package of announcements was based on MA/FM/1527/21, following Cabinet agreement to the measures at meetings on 29 and 31 March 2021. At these meetings:

a. Cabinet was provided advice by the Technical Advisory Cell. In general terms, there was a stable situation, with some variation and hotspots, across Wales. The number of people with confirmed Covid-19 in hospital had decreased. Intensive care bed occupancy was also falling. In terms of the vaccination programme, it was likely that Milestone 2 would be met by the end of that week. Overall, the public health situation in Wales continued to improve.

b. Cabinet agreed to the easing of restrictions proposed for the 22 April 2021 review cycle, but raised concerns about timing given that there were plans to lift the restrictions earlier in England and that this could lead to people traveling across the border for hospitality and fitness activities and transmitting infections or potentially importing new variants. Further advice was requested on the public health implications of bringing the measures forward, and consolidated advice from Chief Medical Officer, the Chief Scientific Advisor for Health and the Technical Advisory Cell was duly provided for consideration at a reconvened Cabinet meeting on 31 March 2021. This confirmed that a period

of one week was insufficient to see any indication of changes to the data on the spread of the virus. Adding further relaxations at this early stage would increase risk, without the benefit of understanding the impact of lifting previous measures. This would not be in line with current public health principles, which sought to ensure sufficient time between significant changes. The cross-border concerns previously raised were only likely to have an impact on a specific and limited area of the country, but bringing forward proposals to align with England would create a greater risk of accelerating virus growth across the rest of Wales. Cabinet agreed not to bring the measures forward and to proceed with the proposed timetable from 26 April 2021.

381. A summary impact assessment in respect of the 1 April review was published on 12 May 2021.

382. On 9 April 2021, the First Minister issued a Written Statement confirming that the regulations had been amended that day to bring into force from 12 April 2021 the easing of restrictions referred to in his 1 April announcement. The statement also indicated that, subject to the public health position remaining favourable, the measures originally scheduled to come into effect on 3 May 2021 (regarding weddings and outdoor activities) and 10 May 2021 (regarding extended households and gyms, fitness facilities, swimming pools and leisure centres) would be brought forward by one week to 26 April and 3 May, respectively.

383. This announcement was based on MA/FM/1541/21 and advice from the Chief Medical Officer that the current transmission rates in Wales presented an opportunity to bring forward these elements of the timetable of easements forward by one week. Cabinet agreed this approach on 8 April 2021.

384. On 20 April 2021, the First Minister announced that amendments would be brought forward to allow for six people, excluding those under 11, from any number of households to meet outdoors from 24 April 2021, and confirmed that outdoor hospitality would be allowed to reopen from 26 April 2021 as previously signalled.

385. This was an agreement by Cabinet at a meeting on 19 April 2021 at which:

a. The Chief Medical Officer advised Cabinet that, in general terms, the situation was stable. Testing data indicated that positivity for Covid-19 continued to fall slowly, but consistently. This pattern was similar across the UK, with Wales still having the lowest case rates overall. The vaccination programme continued at pace, however, the extent to which it had broken the link between community transmission and direct Covid-19 harms was not yet clear. There was also a concern about transmission of new variants of the virus, particularly as international travel was expected to recommence from 17 May 2021.

b. Cabinet concluded that, as the public health context was improving and the reasons for continuing restrictions were reducing, it was a case of balancing the socio-economic harms against the risk to life. The public health situation had now improved to where conditions appeared conducive to returning to the Alert Level Framework and moving between the levels in a single step. Cabinet therefore agreed to a complete move to Alert Level 3 on 3 May 2021. The discussion paper circulated before the meeting recommended announcing a move to Alert Level 2 on either 17 or 24 May 2021. Cabinet agreed that there was no compelling case for delaying the move to Alert Level 2 by an additional week and it was therefore important to align with Scotland and England and indicate a move to Alert Level 2 from 17 May, dependent on the health conditions being favourable at that time.

386. On 23 April the First Minister issued a written statement announcing:

a. The previously announced easing of restrictions would come into effect on 24 and 26 April 2021 as planned.

b. Guidance had been amended to provide for the number of designated indoor visitors to be increased from 1 to 2 and to give more flexibility around visits from young children from 26 April 2021.

c. Changes were being made to the regulations to allow, from 26 April 2021:

i. A reasonable excuse to protest at Alert Levels 1, 2 and 3, where organised by a responsible body with appropriate mitigations, including undertaking a risk assessment.

ii. Working in other peoples' homes at Alert Levels 1, 2 and 3.

d. Subject to conditions remaining favourable complete, Wales would move completely to Alert Level 3 from 3 May 2021, meaning that all the remaining previously signalled changes would be brought forward to have effect from that date.

e. Subject to the conditions being favourable, preparations would be made for Wales to move to Alert Level 2 on 17 May 2021.

387. The announced measures were based on MA/FM/1598/21 following agreement by Cabinet at the meeting on 19 April 2021. A summary impact assessment in respect of the 22 April review was published on 14 June 2021.

388. On 30 April 2021, the First Minister issued a statement confirming the planned move to Alert Level 3 as indicated in his previous announcement. This was based on MA/FM/1622/21 which included advice from the Chief Medical Officer confirming that the move to Alert Level 3 remained consistent with the approach of cautious unlocking.

389. On 14 May 2021, the First Minister issued a statement following the latest 21-day review, announcing:

a. The regulations at Alert Level 2 would be amended so six people from different households, excluding children under 11 and carers, could meet indoors in regulated premises.

b. Confirmation that Wales would move to Alert Level 2 on 17 May 2021, such that:

i. Up to six people, as per the amended regulations, could meet at indoor hospitality, including pubs, restaurants and cafés, entertainment venues including cinemas, bingo halls, bowling alleys, indoor play centres and areas, casinos, amusement arcades and theatres, indoor visitor attractions, such as museums and galleries, and all remaining holiday accommodation and associated shared facilities, such as shower blocks in campsites.

ii. The number of people who could take part in organised activities would increase to 30 indoors and 50 outdoors, including wedding receptions and wakes in regulated premises.

iii. All premises would be required to assess the risks associated with Covid-19, collect contact details and take reasonable measures to minimise exposure to the virus, including ensuring adequate ventilation and providing table service where required.

c. The regulations would also be amended to allow cinemas, theatres, concert halls and sports grounds to sell food and drink as long as it was consumed in a seated area, while watching a performance.

d. Guidance would be updated to lift restrictions on the overall number of indoor visitors for people living in care homes from 24 May 2021.

e. Consideration would be given to moving Wales to Alert Level 1 at the next review on 3 June 2021, subject to the public health conditions.

f. Consideration would also be given to whether further changes could be made ahead of the next review, including around social distancing between friends and family and whether some smaller events could restart.

g. The Public Health (Protection from Eviction) (No.2) (Wales) (Coronavirus) Regulations 2021 would remain in place for the time being.

390. These measures were proposed in MA/FM/1649/21, following Cabinet discussion and agreement at meetings on 10 and 12 May 2021:

a. The Chief Medical Officer advised Cabinet on 10 May 2021 that the overall number of confirmed cases was gradually decreasing and the situation was relatively benign. Testing data demonstrated that test positivity for Covid-19 continued to fall consistently. The pattern was similar across the UK, but with Wales still having the lowest number of cases. The roll-out of the vaccination programme was continuing to move at pace, with a higher proportion of the population in Wales receiving their first and second doses than the rest of the UK. Over 75% of the adult population had received their first dose, with one in

four in receipt of their second. Cabinet agreed that the public health conditions supported the planned move to Alert Level 2 on 17 May 2021.

b. On 12 May 2021, the Cabinet reconvened to discuss whether social distancing rules should be relaxed to align with recently announced changes in Scotland and England. The Chief Medical Officer outlined some emerging concerns regarding the rapid spread of Delta that was referred to at the time as the 'Indian' variant of the virus in parts of London and the North West of England, close to the border with Wales. This variant was much more transmissible than the version that emerged from Kent and subsequently became dominant across the UK. Its spread would need to be addressed by all four nations of the UK. The Chief Scientific Adviser for Health confirmed that there were also concerns amongst the scientific community on the rapid spread of this variant. Cabinet agreed that it was too soon to take any decisions on relaxing social distancing requirements and there was need for more clarity on the spread of the Indian variant.

391. On 13 May 2021, I was appointed Minister for the Economy. I remained a member of Cabinet and continued in that capacity to be involved in the decision-making regarding the Covid-19 restrictions. However, I am aware that from 13 May 2021 onwards this is dealt with in detail in the statement of Eluned Morgan MS who was appointed to the role of Minister for Health and Social Services on that date and who, together with the First Minister, managed the Welsh Government's ongoing Covid-19 response.

392. Reflecting on the easing of restrictions in 2021, I believe we were cautious and with good reason. If we knew at the time how effective the vaccine would be, especially given how fast we rolled it out, we night have had some extra headroom to ease restrictions more quickly. We also had to consider the Welsh Parliament elections to the Senedd: on the one had we did not want to face a position where an election could not take place nor did we want an election where parties were disadvantaged. We also knew that once door to door canvassing started it would be the first time many people would have had people they did not know, and who were not essential workers, on their doorstep for a long time. The Christmas lockdown followed by the vaccine roll out and the managed easing of restrictions in stages made sense to me at the time and

was I think respected and supported by the great majority of the Welsh public. Each aspect helped to maintain trust as did the clarity and consistency of our approach.

13 Vulnerable Groups

393. As can be seen above at every stage of the Welsh Government's response to the Covid-19 pandemic we were aware of and mindful of the fact that there were certain individuals who, by reason of their age or pre-existing medical conditions, would be particularly vulnerable to the effects of Covid-19.

394. The need to shield the most vulnerable was one of the earliest measures to be discussed. We had regard to the fact that those from disadvantaged socio-economic groups were disproportionately likely to fall within this category. The effect on the measures proposed and decided upon, on those who could be considered vulnerable in this way was discussed and taken into account whenever a significant decision was to be made. Of course, again as can be seen above, the extent of our knowledge and understanding about who was vulnerable and how they may be affected developed throughout the pandemic.

395. The Data Monitor included a specific theme on shielded and vulnerable people setting out the data from the public sector, third sector and private companies to help us to understand potential impacts on vulnerable people and the services provided for these groups. This included analysis of the shielding list and services for shielding people (e.g. food parcel delivery, supermarket ordering slots); status of social services; homelessness and rough sleeping; violent crime and hate crime; payments made through the discretionary assistance fund and use of advice services such as Citizen's Advice and the Live Fear Free domestic abuse helpline. I understand details of the Data Monitor, which was regularly shared with Cabinet, are set out in M2B/WG/KAS/01.

396. In addition to the Data Monitor I would also receive advice from officials regarding proposals relating to or changes in the advice for the shielding and clinically extremely vulnerable. Copies of the Ministerial Advices ("MAs") have been provided to the Inquiry and I understand that shielding will be explored in detail in Module 3.

397. Initially, we were solely concerned with taking the necessary steps to avoid the scale of physical harm that we recognised was possible. This was rapidly followed by a recognition of the social and economic consequences of the action needed. Covid-19 presented both a public health and an economic emergency. There were identified groups that were at risk both in terms of their physical health but also their mental health, as a result of reduced social interaction, and groups that would be more affected by the economic effects. Striking the right balance on all of these factors was a constant challenge.

398. The impact on vulnerable groups was discussed by Ministers on the 9 April 2020, and I exhibit a summary of the call as **M2BVG01/38a-INQ000349305.** At this call domestic violence, Black, Asian and Ethnic Minority communities, Gypsies, Roma and Travellers and others were discussed. The vulnerability and isolation of older people was also discussed, as well as those who were digitally excluded and at risk of scams. Jane Hutt, Minister for Social Justice and Chief Whip took the lead in these areas and I understand has provided further detail in her statement on the information and advice received by Welsh Government how these considerations were fed into the decision making process for the imposition or easing of NPIs (M2B-WG-JH-01).

399. To ensure that we were making informed decisions that were in the best interests of the most vulnerable and the most affected in Wales we established the following groups, about which the Inquiry has received detailed evidence in paragraphs 283-300 of the witness statement of Andrew Goodall (M2B-WG-01):

    a. The Black, Asian and Minority Ethnic Covid-19 Advisory Group: To advise on effective measures that could be put in place to quantify and evaluate risk. This was supported by two sub-groups:

        i. Workforce Risk Assessment Subgroup - to develop a workplace risk assessment for frontline health and social care workers in Wales, suggest practical steps to mitigate the risk for the staff identified as vulnerable and consider the evolving evidence and implications for the wider community.

        ii. The Black, Asian and Minority Ethnic Socioeconomic Subgroup, a sub-group of the Black, Asian and Minority Ethnic Covid-19 Advisory Group,

was set up to examine the socio-economic impacts of the disproportionate impact of Covid-19 on Minority Ethnic people.

b. The Covid-19 Moral and Ethical Advisory Group for Wales: to gather and co-ordinate issues relating to moral, ethical, cultural and faith considerations, and provide a source of advice to public services on issues arising from the health and social care emergency response to the pandemic.

400. Additionally, we continued to engage with established groups such as the Disability Equality Forum: to provide an opportunity for stakeholders to advise the Welsh Government on the key issues that affected disabled people in Wales. It was also a forum for presentation and dissemination of best practice in addressing those issues.

401. We were mindful from a very early stage of the need to obtain and analyse accurate and representative data on this issue. A range of work was commissioned and undertaken by Public Health Wales and the Welsh Government's Knowledge and Analytical Services, which are described in detail in the corporate witness statement for Knowledge and Analytical Services (M2/WG/KAS/01) in paragraphs 45-82 of that statement.

402. Equality impact assessments are an important part of policy making, and the Welsh Government has either statutory obligations or has made commitments for the consideration of a number of areas of impact when developing policy. A list of the published Impact Assessments is exhibited in **M2BVG01/39-INQ000227405**. Of particular note are:

a. An equality impact assessment on the additional measures proposed from 6 July 2020, namely the removal of the stay local restrictions to allow travel across Wales and the UK and the exception to enable the formation of an extended household or bubble, a copy of this is exhibited in **M2BVG01/40-INQ000087143;**

b. Equality impact assessments prepared for the 21-day reviews of the Covid-19 measures, an example of which is exhibited in **M2BVG01/41-INQ000087135**;

c. An equality impact assessment of 19 August 2020 which considered the impact of shielding on vulnerable individuals, a copy of this is exhibited in **M2BVG01/42-INQ000087137;**

d. An update to the integrated impact assessment following the end of the 17-day firebreak in Wales dated 10 November 2020 a copy of this is exhibited in **M2BVG01/43-INQ000087130**; and

e. A review of the pre-Christmas restrictions dated 4 December 2020, a copy of this is exhibited in **M2BVG01/44-INQ000087129**.

403. Wales has a larger percentage of the population aged 65 years or older than the UK, Scotland or Northern Ireland. Decisions taken during the pandemic initially focused on immediate threat to life, viewing services through the lens of service users, and the social care workforce. At the start of the pandemic the prevention of the spread of infection was the overriding consideration and reflected the pressure to make swift and decisive decisions regarding PPE, testing and visiting in care homes which could not always be subject to consultation and explains the rationale for not completing Impact Assessments in all cases, since intuitively it was known action was required to help to mitigate risks and protect the most number of (vulnerable) people from potential harm. Guidance for providers, was drafted in conjunction with Care Inspectorate Wales, Care Forum Wales and the Older People's Commissioner. We set out to ensure that the rights of older people continuously informed and influenced our evidence gathering, analysis and decision making through a range of bespoke arrangements. Additionally, there was engagement, although not exclusively, through the Social Care Planning and Response Sub-group, the Covid-19 Moral and Ethical Advisory Group for Wales, the Ministerial Advisory Forum on Ageing and the regular meetings with Government Ministers and senior officials. Existing mechanisms such as the Disability and Race Equality Forums chaired by the Deputy Minister and Chief Whip also played a significant role in balancing our responsibilities.

404. We proactively sought engagement with the Older People's Commissioner to allow her to inform the decision-making process. In addition, the Chief Medical Officer, Chief Nursing Officer and Albert Heaney, Director of Social Services Integration all held meetings with the Older Person's Commissioner to ensure they were provided with

available scientific advice. Both I and the Deputy Minister for Health and Social Services also met with the Commissioner and whilst this took significant time on behalf of ministers and officials, we recognised that it was important.

405. Children were a prime consideration for Welsh Government ministers. We were acutely aware of the impact of lost education and the uneven impact of it with our least advantaged children having the hardest impact. We also knew that schools and social interaction were protective environments for our most vulnerable children and many teachers worried about not having direct contact with at risk children. Our most vulnerable children were also likely to have family members with co-morbidities. There is a social gradient to the harm that Covid-19 caused directly as well as indirectly. This all helps to explain why closing schools to in person teaching was our last resort short of lockdown and re-opening to in-person teaching was a priority easement.

14 Inequalities

406. In Wales we have committed to progressing a more equal Wales reflecting this in the statutory duties on our public bodies and in the development and delivery of policies.

407. The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 requires public bodies, including the Welsh Ministers to consider how they can positively contribute to fairer society through advancing equality and good relations in their day-to-day activities and that the public sector equality duty is built into the design and delivery of services.

408. In 2011, Wales also became the first country in the UK to incorporate children's rights into domestic law with the introduction of the Rights of Children and Young Persons (Wales) Measure 2011. The Measure requires the Welsh Ministers to consider children's rights in everything they do.

409. Additionally, Wales is the first country in the world to legislate for the well-being of current and future generations in a way that ties in with the United Nations Sustainable Development Goals. The Well-being of Future Generations Act 2015 puts in place a sustainable development principle which means when public bodies, included the Welsh Government, make decisions, they need to take into account the impact they could have on people living their lives in Wales in the future. The Well-being of Future

Generations (Wales) Act 2015 sets out seven well-being goals for national government, local government, local health boards and other specified public bodies which includes the goal of a more equal Wales meaning society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances).

410. During the pandemic, these statutory duties did not disappear nor did our commitment to progressing to a more equal Wales. We continued to assess the impact of the decisions we were making albeit not in the formal written way given the pace of decisions which were needed. What the pandemic did do is to more starkly highlight the obstacles devolved governments face with central finance and the long-term impact of UK Government policies such as austerity.

411. Because we had budget choices to make in the teeth of austerity, the NHS was prioritised. We made successive budget choices to reduce spend from other areas, notably local government, to try and maintain the health service. That came at a real cost to other services, including services that the NHS needed to work with. We were under resourced as a direct result of austerity compared to the challenge that we faced pre-pandemic.

412. As the Minister for Health and Social Services, I spent a large amount of my time both trying to mitigate the impact of austerity and set out a sustainable path for health and social care in Wales. That is why I spent so much time and political capital on the creation of our long-term plan for health and social care – 'A Healthier Wales'. I knew that we had to invest in the future of our staff as well as reform the way that health and social care worked together. We could not force local authorities to spend money in specific areas and they had service decreases – together with inevitable redundancies to make – that had to be addressed.

413. In Wales we worked and legislated to bring health and social care together and embed in that relationship equality principles. The Social Services and Well-Being (Wales) Act 2014 brought in Regional Partnership Boards to support co-operation and partnership working between health boards and local authorities which included pooling financial resources to deliver for the local area. The money was part of the point, working together to agree priorities (with a clear legislative framework committed to equality) was also an important deliberate factor.

414. Innovation did not however take away the realities of the position regardless of what UK Government Ministers may claim. Despite best efforts to mitigate the effect of austerity and build resilience in the system, during the pandemic delivering support for those in greatest need or who were impacted most by the effects of Covid-19 was incredibly challenging.

15 Public Health Legislation

415. In early February 2020, officials in the Welsh Government were contacted by the UK Cabinet Officer's Civil Contingencies Secretariat and asked to consider whether the draft provisions of the Pandemic Influenza Bill that was being developed on a four nations basis could be used to respond to a Reasonable Worst Case scenario in the current coronavirus outbreak.

416. At the same time the UK Government made the Health Protection (Coronavirus) Regulations 2020 ("the UK Regulations") on 10 February 2020 using powers contained in Part 2A of the Public Health (Control of Disease) Act 1984 ("1984 Act"). The UK Regulations supplemented the existing health protection regime found in Part 2A of the 1984 Act in the event of a serious and imminent threat to public health from the virus known as "Wuhan novel coronavirus (2019-nCoV)". The UK Government did not consult on this legislative choice but did provide the Welsh Government with an advance copy of their draft legislation on the 9 February 2020.

417. At the time I believe the UK Government was concerned about people entering the UK with coronavirus and absconding from quarantine and the regulations would enable them to take urgent steps to contain the virus without the need for a court order as the current legislation prescribed. The provisions of the UK Regulations only applied where the Secretary of State declared that the incidence or transmission of Coronavirus constituted a serious and imminent threat to public health. The necessary declaration was made in England on the 10 February 2020 shortly before the Regulations were made by the Secretary of State.

418. I met officials on 11 February 2020 to discuss whether equivalent regulations were required in Wales. At the time, the Chief Medical Officer's advice was that the threat was only 'moderate' in Wales and therefore I did not see the rationale for making

regulations or the declaration of a serious and imminent threat. However, I asked for lawyers and policy to be prepared to stand up similar legislation if the advice for Wales changed. In the meanwhile, officials continued to engage with UK Government on the development of Coronavirus Bill provisions. I was kept informed at every stage of drafting and was mindful of the need to be prepared for our own legislation in devolved areas if agreement could not be reached on devolved matters.

419. On 2 March 2020, at a meeting of COBR(M) the use of a UK Bill was debated. The proposal came from within the UK Government. The UK Government had looked at using the Civil Contingencies Act 2004, but it was not considered effective because, in their view, the Civil Contingencies Act was intended for use for unforeseeable events when there was no Parliamentary time to consider legislative options. It was stated during that meeting that the Civil Contingencies Act would depend upon Statutory Instruments being renewed every 7 days which would be problematic.

420. The view from within the UK Government was that they needed specific powers to address the virus and plan for the Reasonable Worst Case scenario. As noted above the Bill was based on the draft Pandemic Influenza Bill and while the Bill would need to be fast tracked through the legislative process it was considered that there was time for that to take place.

421. The Bill would ultimately be a UK Government Bill. The doctrine of sovereignty of Parliament provides that the UK Parliament retains the right to legislate on any area of law for Wales, however, section 107(6) of the Government of Wales Act 2006 ("GoWA") acknowledges that *"it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Senedd".*

422. The Coronavirus Bill had UK wide territorial scope and would be legislating within devolved areas (i.e. health, social care and education) and therefore the Senedd's agreement to a legislative consent motion ("LCM") was required. The First Minister raised this on 2 March 2020, although noting that there was still considerable work to be done to finalise the draft Bill. The Prime Minister confirmed that assurances would be given at the drafting stage for the legislative consent motion to proceed in the Senedd.

423. The normal process for the Welsh Government to seek a legislative consent motion in the Senedd is set out in Standing Order 29 and takes approximately 8 weeks in order for appropriate scrutiny and reporting time for the Senedd's Business Committee and any relevant subject matter committees. A debate on the legislative consent motion is then held usually within a week of the scrutiny report being published. Officials worked to ensure that the legislative consent motion process could be expedited and progressed as soon as a final Bill draft was agreed which was planned to be for 23 March 2020.

424. When COBR met on 20 March 2020 to discuss the need to move to enforced social distancing, the Attorney General for England and Wales, Suella Braverman, provided advice about the legislative options available. Evidence available suggested that interventions taken until that point were not having the appropriate level of effect. I noted at that meeting that I was not clear about the legal powers and I expected the lawyers from each meeting to join up immediately to ascertain what powers would be used. Michael Gove MP, as Chair of that COBR meeting, concluded that the additional measures decided upon during that meeting would be enforced by powers taken by the Health Secretary under the Public Health (Control of Disease) Act 1984.

425. At a follow up meeting with the First Minister and Welsh Government officials it was noted that whilst we agreed that it was the right decision, it was not a comfortable decision for a UK Secretary of State to take powers in a devolved space. Welsh Government officials were of the opinion that we did have powers under Part 2A of the Public Health (Control of Disease) Act 1984 but measures under the new Coronavirus Bill would be more appropriate in the long term. Draft regulations were to be drafted immediately for sign off that night by myself or the First Minister intended to be in place short term.

426. Initially the intention in all four nations was that the main legislative vehicle for responding to the pandemic would be the Coronavirus Act 2020 which was passed by the UK Parliament in March 2020 and provided the UK Government and devolved governments additional powers to respond to the Covid-19 pandemic.

427. The provisions in the 2020 Act were the result of significant and collaborative work between all four nations and cover a range of matters including specific powers for Wales to be exercised by the Welsh Ministers.

428. Provisions of the 2020 Act required the UK Government to review the non-devolved provisions of the Act every six months, however there was no statutory obligation on the Welsh Ministers to similarly report on the use of these powers.

429. Concern was raised about this during the debate held in the Senedd on the Bill provisions on 24 March 2020, principally by Mick Antoniw MS, who at the time was the Chair of the Legislation, Justice and Constitution Committee, noting that there was no requirement for Senedd oversight of the legislation. I responded as follows:

> *'I'm happy to give an undertaking on the record about the Welsh Government reporting to this Assembly on the use of powers on a regular basis. In practical terms, I think that in reality we'll be making public statements about the use of powers every time we use them, but then to want to gather together in one place a report on what's been done over a period of time. I'm happy to give that undertaking.*
>
> *The one note of caution I'd give in regard to some other responses provided to other Members is that, first of all, it's then for this institution to decide how it wants to use that report in terms of scrutiny or otherwise. And the second point is that, in terms of how the institution functions, not just in terms of reduced numbers, but we'll all need to have in our own minds that we may be in a different position in three months, six months or nine months, and just to be aware that we can't give absolute hard and fast guarantees about what definitely will happen. But, certainly there, from the Government's point of view, the reporting undertaken, I'm more than happy to provide.'*

430. As it transpired, alongside the powers in the 2020 Act, a wide range of coronavirus-related legislation using the Public Health (Control of Diseases) Act 1984 was made. Written Statements were issued to inform Members of the Senedd, and the public, of the making of key Covid-19-related legislation, for example the making of and subsequent amending of the Health Protection (Coronavirus Restrictions) (Wales)

(No.5) Regulations 2020 and the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020.

431. Consolidated reports outlining the use of not only the Coronavirus Act powers but also all Covid-19 legislation made were published on the following dates, and copies are exhibited to this statement:

    a. 19 August 2020, covering the period 4 February 2020 to 10 August 2020, exhibited in **M2BVG01/45-INQ000087092**.

    b. 19 April 2021, covering the period 10 August 2020 to 28 February 2021, exhibited in **M2BVG01/46-INQ000087094**.

    c. 1 October 2021, covering the period 10 August 2020 to 31 August 2021, exhibited in **M2BVG01/47-INQ000087096**.

    d. 11 April 2022, covering the period 1 September 2021 to 31 March 2022, exhibited in **M2BVG01/48-INQ000087098**.

432. I believe that the decision to use public health legislation rather than rely upon the Civil Contingencies Act was the correct approach. To rely upon the Civil Contingencies Act would have led to a centrally-driven response on devolved areas. To do so would have increased friction between the UK Government and elected devolved governments with a direct mandate and a requirement to act.

433. The Welsh Government sought to learn throughout the pandemic and to improve its response in all areas, including legislation. We learnt that a more general approach, rather than permitting specific activities was more effective when supplemented by clear guidance, which allowed for greater explanation than legislative drafting.

434. Throughout the difficult legislative process, the Welsh Government was well supported by drafting lawyers and civil servants and in the conduct of the 21-day review process. The Senedd in turn took its role seriously in scrutinising the legislation and the measures implemented.

16 Public Health Communications

435. The Welsh Government maintains a modern, multidisciplinary communications function which has been described in detail in the corporate witness statements of Andrew Goodall (M2B-WG-01) in paragraphs 321-323 and Toby Mason of the Communications Division (M2B/WG/CD/01) in paragraphs 12-20 of that statement, which have also described the manner in which the entire communications operation within the Welsh Government was refocused in response to the Covid-19 pandemic.

436. In short, it was the Welsh Government's intention that public health communications were as clear, transparent and honest as they could be throughout the pandemic. We wanted to provide the public with the information they required about the virus and about our decisions to keep themselves and their families safe.

437. The objective of the Welsh Ministers was to provide information as openly, honestly and transparently as possible. The televised press conferences were intended to be a trusted source of information for people in Wales. The First Minister and I would provide information about the current status of the virus and the action being taken to protect the public.

438. One of the pillars of the Welsh Government's communications strategy was the need for the Welsh Ministers and senior officials to speak openly and publicly. The Welsh Government held over 230 press conferences over the course of the pandemic, which were livestreamed on the Welsh Government social media channels as well as being broadcast on BBC Wales. To broaden the reach of our communications, journalists representing hyper-local, local Welsh and national media organisations participated in virtual press conferences.

439. We also took part in regular media interviews in order to explain the latest developments in the pandemic and in the Coronavirus regulations.

440. In the early stages of the pandemic response the restrictions in place were consistent across the four nations and, therefore, there was a consistent four nations approach to communications with the adoption of the *'Stay Home, Protect the NHS, Save Lives'* campaign.

441. When, in May 2020, there was a divergence between the UK and the other three nations about the lifting of the stay-at-home rule there was a consequent divergence in the communications strategy. There was an immediate need for more distinctive Welsh public health messaging and, with a significant proportion of people in Wales consuming London-based UK media, this was challenging.

442. The Welsh Government adopted the '*Keep Wales Safe'* campaign which promoted the actions that everyone should take to protect themselves, keep themselves safe, keep Wales safe and to help slow the spread of the virus.

443. There was a continuing challenge caused by UK ministers announcing changes to regulations in England without making clear that they did not apply in the devolved nations. The different communications from UK Government and the devolved governments was a real cause of political discord in the Senedd. More importantly, it adversely affected public understanding of what the Welsh rules required and it created wholly avoidable confusion at a time when the public's willingness to comply with restrictions was a vital element of containing the virus. I raised this problem within our health minister meetings where we also discussed the potential differences in approach.

444. The Welsh Government's strategy was to address directly the differences between Wales and England by addressing the differences as well as the similarities in the Senedd and in press conferences. Even before the divergence emerged we had decided to share the summary advice upon which we made our decisions. Doing so allowed us to explain our decisions and the reasons for them in order to maintain public confidence in the Welsh Government's approach.

445. Another challenge was in areas which were more open to wider interpretation, such as the guidance on what 'stay local' meant, with confusion caused by Welsh Conservatives incorrectly describing the 'five mile' guidance as a rule.

446. We wanted the '*Keep Wales Safe'* campaign to be as accessible as possible to different groups and communities. That consideration became particularly important when it came to promoting the vaccination programme. A specialist agency was hired to provide advice on the most appropriate way to engage different communities. Multicultural and multilingual street teams were engaged in areas with high Minority

Ethnic populations to engage with people, businesses, community, education and religious facilities in the targeted area to help ease concerns, and to answer questions that may have arisen due to misinformation.

447. We listened to stakeholders about how to help communicate requirements. Key materials were provided in 28 different languages, as well as easy-to-read versions of the most important documents and strategies. All our press conferences were undertaken with British sign language translation from May 2020 onwards.

448. I believe that, on the whole, our public health communications were effective. Further information on this is, I understand, covered in the evidence provided in the Welsh Government corporate statement provided by Andrew Goodall (M2B-WG-01) and Toby Mason (M2B/WG/CD/01).

17 Border controls

449. For obvious reasons, I was involved in the discussions and decisions about border control. I have not been asked about these matters and so I have set out a high-level summary of the relevant decisions.

450. The overarching fact was that, although we followed advice, that advice was based on an emerging and inevitably incomplete, and sometimes not wholly consistent or clear, picture about the nature of the virus. All governments in the UK (and across the world) were required to make decisions on that basis.

451. Another significant factor was that a "Fortress UK" approach, i.e. one in which we closed our borders to the outside world, was never a practicable response because of the common travel area with Ireland and the hyper connected nature of London and other UK ports. In order to close down the aviation and international travel sector we would require not only UK Government co-operation, but also significant UK Treasury support and co-ordination with Ireland. The Welsh Government's overall assessment was that a "Fortress UK" option was disproportionate and, self-evidently, it was not a decision in the sole gift of the Welsh Government.

452. When making decisions about border controls the Welsh Government was mindful that there were many people who lived and worked across the English and Welsh border. Llanymynech in Powys straddles the border as does Saltney in Flintshire. Our

approach was to determine the best approach for Wales and, where this diverged with the UK Government approach, we would actively consider whether there was scope to reach a more common position which would improve the communication and likely the compliance. Where a common position was not possible, as described above, clear and consistent messaging was even more important.

453. There were some early discussions between officials of the UK Government and the devolved governments about the potential need to close borders. At the ministerial level, on 11 March 2020 we discussed at COBR the substance of travel advice and the arrangements for screening of travellers embarking or disembarking in the UK. At the time there was also a General Public Services Ministerial Implementation Group and an International Ministerial Implementation Group.

454. UK Borders are a reserved area as part of the reservation on national security, although ports policy and operations are devolved. The development of the Coronavirus Bill involved discussions around a range of different potential measures including border controls, some which ended up in the Bill as laid and others which were discounted.

455. My officials engaged with UK Government on the proposals. The advice from the UK Department of Health and Social Care was that the most effective way to manage health protection measures at the border was to make legislation using powers in the Public Health (Control of Diseases) 1984 Act to address the proposals for information gathering, screening, assessment, self-isolation and quarantine at the border. To ensure a consistent approach across the UK, the UK Government advised that equivalent regulations under the 1984 Act would need to be made by Wales and that the Scottish Government and Northern Ireland Executive would need to use their equivalent powers under legislation in Scotland and Northern Ireland respectively.

456. The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020/574 were subsequently made and brought into force on 8 June 2020. The regulations required certain persons arriving at ports from outside of the common travel area (which is the United Kingdom, the Channel Islands, the Isle of Man, and Ireland) to provide information about where they would reside when in Wales and to isolate for 14 days following arrival.

457. These regulations, like the domestic restrictions, were reviewed regularly to ensure the restrictions were proportionate to Welsh Ministers' aims and the public health justification for them. It was vital that the package of measures could be shown to be necessary to prevent danger to public health in order for them to be lawful, reasonable and desirable.

458. Advice on amendments, for example the addition or removal of countries which were subject to restriction if travelling from into Wales, would come for a decision to myself and the First Minister and the Minister for Finance and Trefnydd. The latter would be asked (due to convention) to decide to write to the Llywydd (Presiding Officer in the Senedd) in order to make her aware that the regulations had been made, and that the usual convention of regulations coming into force 21 days after laying had not been followed.

459. The science and advice informing decisions on border controls came from the UK Government and was regularly discussed on a four nations basis by the UK Chief Medical Officers, officials from all four nations and at ministerial level in Covid-O meetings.

460. Advice from the Chief Medical Officer early on had considered that it would be a nugatory exercise calling upon stretched Technical Advisory Cell resources to carry out a separate assessment for Wales (as undertaken in Scotland and Northern Ireland) and would therefore accept that the UK category of countries and territories applies to Wales. Further, given the nature of the porous England and Wales border, the view taken was that any independent assessment which hypothetically took place was unlikely to differ from the findings of Public Health England and the UK Government.

461. The Joint Biosecurity Centre provided a weekly summary on the international case rates which would inform decisions around which countries posed an increased risk from travellers coming into the UK. I was of the view that the data from the Joint Biosecurity Centre should be published to allow people to access the data which had informed decisions taken. From September 2020 I was urging the other four governments to publish a public facing report from the Joint Biosecurity Centre every week in order to aid transparency and provide the public with confidence in the decisions we were making.

462. All information and advice from the Joint Biosecurity Centre was carefully considered and assessed. We in general followed this advice and adopted a four nations approach to the list of countries subject to travel restrictions. Where the Welsh position however highlighted particular risks we would consider divergence.

463. We did introduce in summer 2020 a process of tracking travel routes and undertaking passenger testing for flights coming into Cardiff Airport. This was important to ensure we tracked the local impact as well as using the Joint Biosecurity Centre's data. For example, a flight from Zante arrived in Cardiff on 24 August 2020 and 16 of 187 passengers tested positive. This triggered incident and outbreak management protocols and the situation was assessed by Public Health Wales' Incident Management Team and the decision was taken to consider all passengers on the flight as close contacts thereby requiring them to self-isolate for 14 days and they were asked to have a Covid-19 test.

464. The Wales-specific risk from countries to and from which Welsh citizens were travelling frequently was not part of the Joint Biosecurity Centre's assessment. However, our testing data was showing clusters of infection linked to travel from Zante. On 1 September 2020, knowing that a flight was arriving from Zante that evening, I announced that all passengers arriving into Cardiff from Zante would be asked to self-isolate for 14 days and would be offered Covid-19 tests. We were aware that travellers may be returning to Wales from airports outside of Wales but we did not have agreement with the UK Government to add Zante and other Greek islands to the list of red countries to trigger the legal requirement to isolate on return.

465. I pressed for a meeting with my counterparts in the UK Government and the other devolved governments but, ultimately, on 3 September 2020, I decided that we should add mainland Portugal and six Greek Islands to the lists of countries within Wales that would require self-isolation upon return, though they were not included on the UK Government's list. While there remained a will to maintain a UK-wide approach, the data and the number of people who travelled to Wales from those areas posed a higher risk to Wales than the UK Government's modelling suggested. That decision was based on advice received from Public Health Wales. I kept the First Minister updated about the proposals.

466. I believe that the measures we ultimately adopted were necessary and proportionate. Nonetheless, I have accepted publicly that if we were to have the opportunity to do it all over again, we would have made different choices on borders for example stopping travel over the school half term holiday in February 2020 and also taking a more cautious approach to re-opening of international travel in Summer 2020. This is based upon what is now known as opposed to, on reflection, of what we knew at the time. With the benefit of what we know now I can see that greater surveillance measures, particularly in the period around the February half-term, and a more cautionary approach to international travel in the summer of 2020 may have assisted. To do so would have required significant UK Treasury financial support for the affected economic sectors.

18 Test, Trace, Protect

467. I was the lead minister with responsibility for Test, Trace, Protect ("TTP"). I had ministerial oversight of the programme which was overseen by Jo-Anne Daniels, Director of Test, Trace, Protect. I am aware that Jo-Anne has provided evidence to the Inquiry for Module 2B (M2B-JAD-01) and that this topic will form part of a dedicated Testing module so I have sought to address issues on decision-making and working with the four nations rather than present full details of the operation of the Test, Trace, Protect programme in Wales.

468. The Test, Trace, Protect programme in Wales was a mammoth task but, as outlined in a report by the Auditor General for Wales and exhibited in **M2BVG01/49-INQ000066525**, it had a number of strengths, blending national oversight from the Welsh Government with the technical expertise and experience that sits within Public Health Wales, health boards, local authorities, third sector and the NHS Wales Informatics Service (which is now part of Digital Health Care Wales).

469. At the start of the pandemic, all four nations were working to enhance their testing capacity. On 21 March 2020, Wales set a target of 6,000 tests a day by 1 April, 8,000 by 7 April and a target of 9,000 by the end of April. The targets set in March reflected work that was underway by Public Health Wales to increase testing capacity and included figures from a deal Public Health Wales had with Roche Diagnostic Ltd

("Roche") to procure test kits. This agreement between Roche and Public Health Wales did not subsequently materialise. I was informed by my officials that the agreement failed due to mis-communication of Wales's position by the UK Government who were also in negotiation with Roche. Roche entered an agreement with the UK Government to supply tests and Wales was allocated a share of these – around 900 per day. This was significantly less than had been anticipated as had the agreement been with Public Health Wales, I believe we anticipated 5000 tests for Wales. This was a source of disappointment and frustration. On 20 April 2020, the 9,000 tests by the end of April target was abandoned by the First Minister.

470. Alongside work to enhance testing capacity within Wales, the Welsh Government along with the other devolved governments worked collaboratively with the UK Department of Health and Social Care to provide testing across the UK. The agreement with the UK Government was that devolved governments would receive a "Barnett" share of National Testing Programme ("NTP") capacity in lieu of the consequential funding they would otherwise receive from health spending in England. A copy of the agreement is exhibited in **M2BVG01/50-INQ000182594**. That meant that we could not create the capacity ourselves and the UK did not offer the resource on a financial basis. To put this in context, Public Health Wales's laboratory capacity on a daily basis was by 2021 around 8,000 tests a day, but with the ability to surge to 15,000 tests if required. We of course invested in the NHS Wales capacity with an additional £32 million into the Public Health Wales lab network. However, the 8,000 capacity was predicated on the fact that Public Health Wales had to deliver other laboratory services as well, and those other laboratory services were critically important to ensuring that we could support clinicians in their diagnostic and treatment plans.

471. The capacity in terms of the UK Lighthouse Labs was 30,000 tests a day, so it was significantly greater than we had available within Wales. The UK Lighthouse Labs network gave us a degree of flexibility to respond to surges in testing demand that, were we to operate entirely on our own, we would not necessarily be able to accommodate. Being part of a wider network at a time of significant demand was important.

472. Another benefit of being part of the National Testing Programme was of course the new testing technologies that were scaled up at pace, such as lateral flow devices and

other point-of-care devices. We prioritised these in particular in our hospitals, helping the NHS, in particular at the front door, to identify patients who may have Covid-19 and then stream them appropriately. These tests were quicker than the traditional PCR lab tests and so they facilitated that patient flow and helped maintain NHS services.

473. Although there were these clear benefits of being part of the National Testing Programme, the reliance on UK Lighthouse Labs was not as smooth as it could have been had four nations discussions and communications been better. Initially, datasets from the Welsh and Lighthouse laboratories were treated separately which made data on test and cases difficult and risked duplicate entries. Public Health Wales, working with the Covid-19 analytical hub (part of the Welsh Government's Knowledge and Analytical Services), put in place a new method of data collection so the surveillance dashboard or data monitor would include a breakdown of the combined testing data by local authority.

474. In September 2020, the UK Government unilaterally announced that it was capping daily testing capacity in Lighthouse Labs in response to high demand for tests. This had not been communicated to myself or to my officials and was a source of frustration and the subject of difficult four nations ministerial discussions. Whilst the UK Government quickly released more tests for Wales, the episode highlighted some of the challenges associated with the hybrid testing system.

475. There were also other instances, as detailed in the Auditor General's report, such as the decision by the UK Lighthouse Labs to hold back on analysing swabs from the regular programme of asymptomatic care home testing which resulted in those swabs no longer being valid for analysis. Another example was the UK Government's portal for booking tests which directed residents to the geographically nearest testing site with available capacity, resulting in English residents travelling into Wales for tests, sometimes into areas that were in local lockdown, as well as reducing the number of tests available for Welsh residents. It also resulted in Welsh residents being offered tests in other parts of the UK.

476. For these reasons, if we had known what we would face, it would have helped us to jump start the development of our own testing capacity to enable us to have the flex

needed in our own system without the reliance on the UK Lighthouse Labs, or at least for less reliance.

477. The Trace element of Test, Trace, Protect was initially led by Public Health Wales which had been working from the outset of the pandemic to trace contacts of those who tested positive for Covid-19. It was soon realised that Public Health Wales did not have the capacity or capability to undertake the scale of the test and trace operation that was required. It was clear that a wider and co-ordinated public sector approach was needed. The Test, Trace, Protect model adopted for Wales crucially enabled us to maintain some ownership and control and more importantly enable our partners Public Health Wales, health boards and local authorities a seat at the table, recognising the importance in using local intelligence and knowledge to shape responses to the pandemic.

478. In considering the approach to be taken, we had the social and economic effects of self-isolation very much in mind and these informed the 'Protect' element of Test, Trace, Protect. That element also included financial, practical and emotional support funded by the Welsh Government. Support for individuals isolating as a result of being contacted by the Test, Trace, Protect contact tracers was provided by every local authority in Wales and it was co-ordinated by the Welsh Government. I spoke to Andrew Morgan, the Leader of the Welsh Local Government Association, about local government's willingness to redeploy staff to help provide the service for non-shielding vulnerable groups. A review of the support provided by local authorities in line with the Welsh Government advice and guidelines was published on 16 December 2020 and a copy is exhibited in **M2BVG01/51-INQ000321007.**

479. A copy of the Integrated Impact Assessment for the Test, Trace, Protect programme is exhibited in **M2BVG01/52-INQ000182588**. A specific assessment was also undertaken by the Test, Trace, Protect team of measures to support Black, Asian and Minority Ethnic communities to engage with the programme. As a result of this dedicated Black Asian and Minority Ethnic outreach workers were appointed in each Local Health Board area to maximise the outreach for Test, Trace, Protect.

480. Ensuring this public sector coordinated response was reactive to the needs of the population was a significant challenge but an important part of the Welsh response to Covid-19.

19 Face coverings

481. Starting in April/May 2020, there were increasing calls for mandating facemasks in the community. The Chief Medical Officer issued a statement on 12 May 2020 regarding face coverings in which he confirmed that compulsory wearing of face coverings by everyone outside the home was not recommended. He said that it was a matter of personal choice. Although the Chief Medical Officer recognised some benefits to wearing face masks, mainly in clinical settings, when his statement was made, PPE stocks were in high demand and the priority was ensuring sufficient supplies for hospital and care staff.

482. Early in June 2020, the First Minister and I requested advice on the benefits of face coverings, particularly in light of requirements being introduced in England mandating their use in hospitals and on public transport. A Welsh Government Action Group on PPE and Face Coverings was convened to consider the policy issues further in non-healthcare settings, including public transport and schools. A summary from the first meeting is exhibited in **M2BVG01/53-INQ000215452** and the note to ministers following the second meeting is exhibited **M2BVG01/54-INQ000299377**.

483. Technical Advisory Group advice on the use of face coverings was received in June 2020. A copy of this is exhibited in **M2BVG01/55-INQ000320896**. The advice said that face masks and face coverings were different, and that difference should be emphasised in advice given to the public and that communications from government should use the terms more consistently. 'Face coverings' was an alternative term for a "non-medical mask" as referred to in the World Health Organization guidance.

484. The Chief Medical Officer gave advice to ministers in June 2020. A copy of the advice to the First Minister is exhibited in **M2BVG01/56-INQ000281742**. Informed by that advice, on 9 June 2020, I recommended, but did not require, the use of three-layer

face masks in Wales. Their use was not made compulsory because that was not the advice of the medical or scientific advisers at the time.

485. On 27 July 2020, a new legal requirement was introduced requiring face coverings to be worn on public transport.

486. A further updated Technical Advisory Group advice was issued on 11 August 2020 which confirmed that the most recent New and Emerging Respiratory Virus Threats Advisory Group ("NERVTAG") paper suggested that cloth face coverings were likely to have some benefit in reducing the risk of aerosol transmission. Face coverings were noted to reduce the dispersion of respiratory droplets and small aerosols that carry the virus into the air from an infected person. They also provide some protection for the wearer against exposure to droplets but less protection against small aerosols. A copy of this Technical Advisory Group advice is exhibited in **M2BVG01/57-INQ000228031**.

487. On 14 August 2020, based on that advice from the Technical Advisory Group, the First Minister confirmed that when it was necessary, the Welsh Government would require the use of face coverings in more settings as part of a planned response to any incident or outbreak.

488. On 26 August 2020, I and the Minister for Education issued a joint statement recommending that face coverings be worn by *'all members of the public over 11 years in indoor settings in which social distancing cannot be maintained, including schools and school transport'*. A copy of the statement issued is exhibited in **M2BVG01/58-INQ000300223**. This was based on advice from the Technical Advisory Group on face coverings for children and young people under 18 in education settings, a copy of which is exhibited in **M2BVG01/59-INQ000066286**. Again, this was a recommendation, not a requirement, and all local authorities were asked to consider their estate and the feasibility of social distancing within them.

489. The First Minister subsequently issued a statement on 11 September 2020 confirming that from Monday 14 September, all residents in Wales over the age of 11 would be required to wear face coverings in indoor public spaces such as shops. Throughout the remainder of the pandemic period the rules around facemasks and the settings in which they applied changed in line with the advice received on the rationale for their use.

20 Infection prevention and control

490. During all phases of the Covid-19 pandemic, health and social care providers in Wales were asked to adhere to the UK infection prevention and control guidance. The guidance was based on a continuous review of the international evidence base and was issued jointly by the UK Department for Health and Social Care, Public Health Wales, Northern Ireland's Public Health Agency, Public Health Scotland, the UK Health Security Agency ("UKHSA") and NHS England – also referred to as the 'UK IPC Cell'. I endorsed the advice and professional leadership provided by the Chief Medical and Nursing Officers who liaised with both Public Health Wales and the UK IPC Cell.

491. Information on infections and mortality rates was typically provided to me and other ministers in the "data monitor", as deailed in paragraph 114 above.

492. Throughout the pandemic period, I and Cabinet were also provided with updates on NHS capacity as part of the 21-day review cycle from Andrew Goodall and members of the Health and Social Services Group. This covered the available headroom in the NHS and the general need to build capacity or free up beds. In terms of discharge of patients, I discussed this with Andrew Goodall and Albert Heaney, Director of Social Services and Integration, as well as NHS Chief Executives, in the lead up to the announcement on 13 March 2020 that there would be fast-track discharge of vulnerable patients from acute and community hospitals and their choice of home was to be suspended. A copy of this statement is exhibited in **M2BVG01/60-INQ000226942**.

493. At the time of that statement, testing of asymptomatic patients being discharged from hospital was not discussed with me. Testing of health and care workers and testing capacity more generally were matters which had been brought to my attention. This advice changed over time as the understanding and advice about asymptomatic individuals changed and the impact on the system of people who were not prepared to accept people without a test. On 20 March 2020, advice submitted by my officials as exhibited in **M2BVG01/61-INQ000235895** on Covid-19 Systems Risk Framework, included advice on acute hospital capacity needing to be released by, amongst others, "*expediting the discharge of vulnerable patients from acute and community hospitals*".

It also advised that there should be clarity on the testing of health and social care workers.

494. On 22 March 2020 I was sent an email from Albert Heaney, Director of Social Services and Integration, in response to a concern being raised by Member of the Senedd in relation to the admission of Covid-19 positive patients to care homes. In that email he confirmed that discharges need to continue ('*we need to take people out of hospital into care homes*'), there was no need for unnecessary testing because of limited capacity, testing capacity would increase in April and PPE should be worn when dealing with positive residents. Isolation facilities in care homes would be in place to manage such discharges. Officials were in discussion with Public Health Wales on testing at the time.

495. On 8 April 2020, Public Health Wales published '*Admission and care of residents during Covid-19 incident in a residential care setting in Wales'* which clarified that those who would be tested were: those in critical care with pneumonia, Acute Respiratory Distress Symptoms or flu like illness; all other patients requiring admission to hospital for those illnesses; and where an outbreak had occurred in a care setting. This guidance stated that '*negative tests are not required prior to transfers /admissions into the residential setting*'.

496. On the 16 April 2020 I made enquiries on, amongst other things, testing of care home residents on release from hospital in an email to the Chief Scientific Adviser for Health and Andrew Goodall. This was picked up with Public Health Wales and officials provided me with a briefing note on testing, which I exhibit in **M2BVG01/62 - INQ000320801**.

497. A Ministerial Advice 'Covid-19 testing strategy and care homes – policy position' was submitted to me at the end of April 2020, as exhibited in **M2BVG01/63 – INQ000116607**. The advice recognised the rapidly evolving evidence base and increased understanding around the constraints and issues around testing capacity and delivery of testing. It also recognised external pressure from the UK Government's announcements and that officials were not provided with full details of UK policy. The advice identified the current testing policy in care homes as the testing of all individuals discharged from hospital and extending the testing to people who were being

transferred between care homes and new admissions from the community. Individuals due to be discharged from hospital or transferred to a care home but who tested positive were to be provided with appropriate step-down care in local settings, such as community hospitals. It also stated that environmental health officers were working in partnership with social service colleagues, Public Health Wales and health boards were now providing direct support to care homes in Wales. They were maintaining regular or frequent contact based on need and working with those who had not reported cases to ensure mitigation was being put into effect. At the time, Scotland had no plans to expand their care home testing but England were blanket testing. Paragraph 16 dealt with the impact of asymptomatic residents and stated that it was generally accepted that individuals may be infectious for up to two days prior to the onset of symptoms and that there was some evidence that asymptotic patients were a source of infection, referring to a pilot carried out by Public Health England which found that 75% of residents in an outbreak were positive but only 25% were symptomatic. The policy proposed included testing all on discharge from hospital to care homes and clear guidance for care homes on environmental and hygiene measures.

498. A Technical Advisory Group consensus statement on care homes dated 6 May 2020 was issued and published on 15 May 2020 as exhibited in **M2BVG01/64-INQ000066455**. It stated that care homes were likely to have a high degree of internal transfer of infection, due to the mobility and unpredictability of patients. It recorded that a limited study by Public Health England pointed to care staff who worked in more than one care home as a significant infection vector. It stated that mobility of care staff between homes should be prevented if at all possible. It also stated that a study in New York found that the majority of those in care homes who were asymptomatic and positive were symptomatic within five days. There is now evidence available that Covid-19 in care homes was not solely imported from hospital – it was staff and visitors overwhelmingly. A consensus statement was issued by the UK Health Security Agency Epidemiology Modelling Review group on 25 May 2022, as exhibited in **M2BVG01/64a -INQ000338174**. The statement noted that hospital discharge was not the only mode of seeding – staff, visitors, new residents and visiting professionals all had the ability to seed and re-seed.

499. Testing of care home workers and residents was of course part of a package of measures that was put in place to limit the spread of infection within hospitals and care settings. As noted above in Wales we adopted the UK IPC Cell guidance and I am not aware of any issues regarding that approach, which I believe was a four nations approach. Testing of staff was progressed at pace by official building in testing capacity which I have outlined elsewhere in this statement. PPE is also covered later in this statement but suffice to say here that these were real concerns for myself and officials in the Health and Social Services Group.

500. I do not recall any incidences of hospitals refusing to admit patients with Covid-19 from care settings.

501. I am conscious that, and have indicated this in various public interviews, we could have made the decision to test all care home residents and staff earlier. At the time it was not a question of resource management but our understanding of the relative value of testing all staff, including those asymptomatic, and residents as was set out in a Technical Advisory Cell paper, exhibited in **M2BVG01/64b-INQ000066281,** and entitled 'Core principles for utilisation of RT-PCR tests for detection of SARS-COV-2'. This paper sets out the recommendation that the performance of the existing RT-PCR tests were at their best when their use is targeted. It was considered unsuited to the non-targeted screening of asymptomatic individuals, especially in populations with a low prevalence of infection.

502. With the knowledge we have now, we could have made different arrangements both to ensure the necessary flow out of hospital to ensure that people who needed hospital treatment could access it and if we had been able to increase testing capacity in advance we could have deployed it to provide assurance for hospital discharge to care homes and indeed to testing for staff. With hindsight we could have done this but acted at the time and with the information we had.

503. In respect of the suspension of inspections of hospitals, care settings and other health facilities by relevant inspection agencies, the inspection regime was not designed for inspecting pandemic provision. I understand that both Health Inspectorate Wales and Care Inspectorate Wales have provided evidence to the Inquiry for Module 2B and they would be best placed to address the decision they made to suspend inspections.

In my view however, the focus on inspections would have been a distraction away from the extraordinary demands of the pandemic.

21 Shielding of the Clinically Extremely Vulnerable

504. The shielding programme was introduced by the Welsh Government on 16 March 2020 and ended on 31 March 2022. Early in the pandemic, members of the public were identified by health professionals as being clinically vulnerable ("CV"). The four national UK Chief Medical Officers, advised by clinical leaders, agreed the clinical criteria for those who were at even higher risk, the clinically extremely vulnerable ("CEV"), who would be to be advised to shield. The clinically extremely vulnerable individuals were identified based on the severity, history and treatment levels of their condition(s) and collated in a list referred to as the shielding patient list ("SPL"). These individuals were advised principally by the Chief Medical Officer and via Welsh Government policy and guidance to shield themselves from the risk of transmission by limiting their social contacts.

505. I did not provide advice to the First Minister or other ministers on the shielding programme but as the responsible minister I was kept up to date with changes in advice and I was asked to make decisions at key points. I also made statements to the public about the measures that were in place to protect and support them. Any decisions I was asked to take in respect of the shielding programme would have been via a Ministerial Advice, with advice from officials and the Chief Medical Officer included.

22 Vaccines

506. I was the responsible minister for vaccination in Wales. The development and approval for use of the Covid-19 vaccines was led by the Vaccine Taskforce and supporting a vaccine taskforce is one area the UK Government deserve credit for.

507. We did not have regulatory or advanced purchasing responsibility or financial capability to undertake research and development or procurement separately for Wales. When the CV002 vaccine study was launched, this was a phase 2/3 trial

investigating the efficacy and safety of the ChAdOx1 nCoV-19 vaccine (sponsored by the University of Oxford and funded by CEPI (Coalition for Epidemic Preparedness Innovations) UK Research and Innovation). The study was led by Public Health Wales with Aneurin Bevan University Health Board acting as a host site as part of the initial cohort in the 18-55 year age group, with over 480 volunteers primarily from health care settings vaccinated.

508. We were always hopeful for a vaccine but it was such a complex process for development there was little we could do to factor in the prospect of a vaccine in the approach for non-pharmaceutical interventions. As the responsible minister I gave advice to the public and to Members of the Senedd through oral or written written statements when vaccines were available and I continued to update that advice with officials on delivery, prioritisation and efficacy. While we waited for a vaccine, I also updated on non-covid-19 vaccinations.

509. On 7 July 2020, I made a statement regarding maintaining immunisation programmes as a key priority to protect public health from preventable infections. The Chief Medical Officer wrote to all general practitioners and health boards in March 2020 to emphasise the importance of continuing childhood immunisation programmes during the response to Covid-19 to protect public health not only during the outbreak but in the future. Provisional data from Public Health Wales indicates that as at June 2020, uptake of routine childhood immunisations in infants was stable. Uptake rates for the first dose of '6 in 1' vaccine at 4 months, the first dose of MMR vaccine at 13 months and the '4 in 1' vaccine at three years four months of age remained within the range recorded in the months prior to March 2020. Reports confirm that the enhanced safety measures put in place maintained public trust and parents and carers continued to bring their children to immunisation appointments.

510. Certain other immunisation programmes were suspended temporarily to allow available NHS resources to be directed to the effort to combat Covid-19. These included school age programmes such as teenage boosters and human papillomavirus (HPV) vaccines. Shingles vaccination for those aged 70 to 79 was temporarily suspended in March 2020 but was re-instated in early June 2020. High risk adults continued to be offered pneumococcal vaccination.

511. On 21 July 2020, officials advised me on co-circulation of flu and Covid-19 over the winter and the options for reducing pressure of the health and social care system. Influenza vaccination was noted as one of the most effective interventions and the advice from the Wales Immunisation Group was to increase the uptake of the flu vaccination in existing eligible groups, including health and social care staff, extending eligibility to members of shielded groups and (depending on vaccine availability) lower the eligibility age from 65 to 60 years and lower if possible, as well as expanding offers of injectables to eligible children who had refused the nasal spray. These recommendations were in line with plans being considered in the rest of the UK, apart from offering to prisoners. The additional vaccine required to offer to all prisoners was estimated to be relatively small and was considered to be beneficial to reduce transmission in these settings. I approved the recommendations and made a public announcement on the 24 July 2020.

512. While we awaited a vaccine to be developed and approved, the four nations' health ministers agreed a transparent process for agreeing on how vaccine supply would be shared between UK nations and a Memorandum of Understanding was put in place with the Department of Business, Energy and Industrial Strategy ("BEIS"), who acted as lead purchaser for the four nations. On the 20 August 2020, I agreed to enter into an Agency Agreement with the Department of Business, Energy and Industrial Strategy for the purchase of Covid-19 vaccines. Delivery of the vaccine programme was, however, a devolved function.

513. On 11 November 2020, the Chief Medical Officer confirmed the news that a Covid-19 vaccine could be ready that year. This was a huge relief and enable active planning on deployment to begin. On 17 November 2020, I made a Written Statement which provided a general update on vaccine deployment in Wales, as exhibited in **M2BVG01/65- INQ000320999.**

514. On 2 December 2020, the UK became the first country to give approval for use of the Pfizer–BioNTech vaccine, later branded as Comirnaty. This was in the form of a temporary authorisation given by the Medicines and Healthcare products Regulatory Agency ("MHRA") under Regulation 174 of the Human Medicines Regulations 2012. Regulatory approval for vaccines is reserved under the devolution settlement.

The first batch arrived in the UK the next day and was initially stored at an undisclosed central hub before being distributed to hospital vaccination centres across the country.

515. I issued a Written Statement confirming that Wales would now begin to receive its share of the vaccine and we would start deployment. It was noted that the UK Government had submitted its Phase III data for the Oxford/AstraZeneca vaccine, and a decision from the Medicines and Healthcare products Regulatory Agency was awaited for this vaccine. If approved as safe and effective for use, we were told to prepare for readiness for delivery later in December 2020.

516. Vaccination in Wales began of the 8 December 2020 starting with the administration of the first of two doses of the Pfizer-BioNTech Covid-19 vaccine. Preparatory work for the vaccination programme in Wales however commenced much earlier, on the 20 August 2020 when arrangements for the purchase of vaccines were put in place. There were three vaccines used between 2020 and 28 June 2022 following approval of the Pfizer–BioNTech Covid-19 vaccine (Comirnaty), vaccines developed by University of Oxford and AstraZeneca (Vaxzevria), and the United States National Institute of Allergy and Infectious Diseases and Moderna (Spikevax). These were purchased by the Department of Business, Energy and Industrial Strategy on behalf of all four nations, however distribution and prioritisations of vaccines in Wales was determined by the Welsh Government.

517. In respect of how this impacted on the strategic response to Covid-19 and the use of non-pharmaceutical interventions, once it started the vaccine roll out did raise questions on the reasonableness of the imposition of non-pharmaceutical interventions on the vaccinated population. Discussions on the use of the 'Covid pass' which enabled people to access venues, events and activities such as foreign travel on proof of vaccination were inevitable.

518. The use of the Covid pass was initially put in place in May 2021 in paper format via the Welsh Vaccination Certification Service, which was run by Swansea local authority on behalf of the Welsh Government, for people to present as proof of their vaccination status for the purpose of foreign travel. This was due to a four nations digital solution not being available at that time. From 25 June 2021 people in Wales were able to access their vaccine status via a digital NHS Covid Pass for the purpose of travel.

519. The UK Government was leading a review on the use of Covid passes domestically and within the Welsh Government discussions started to take place leading up to and over summer 2021 as to the feasibility and impact of vaccine certificates or Covid passes as a means to enable events, hospitality or entertainment venues to be opened up more in Wales. These discussions involved colleagues from the Technical Advisory Group who provided evidence on the likely protection arising from the Covid pass, colleagues from Digital Health and Care Wales (formerly NHS Wales Informatic Service) who were providing the digital services to enable the pass and colleagues in the Welsh Government reflecting the entertainment and hospitality sectors. The UK Government confirmed that, after the conclusion of its review on 21 June 2021, it did not intend to mandate the use of Covid passes. Instead, organisations in England could choose to use the certificate as a means to access services or premises on a discretionary basis, with the UK Government's digital Covid pass providing a conduit.

520. A paper was presented to Cabinet on 23 August 2021, as exhibited in **M2BVG01/66-INQ000057872.** The paper noted the considerable work required to establish a domestic covid pass system in Wales and requested a steer from Cabinet as to whether steps should be taken to develop the necessary infrastructure. Cabinet agreed that officials should explore the use of vaccine certification and this was publicly signalled at a press conference later that week. A further paper was submitted in September 2021 which requested that Cabinet make a decision whether to introduce mandatory Covid-19 certification from 1 October 2021. Cabinet concluded to introduce Covid passes for entry into all 'high risk' venues as soon as possible, albeit not on 1 October 2021, given the practical requirements needed. Subsequently, advice was submitted to the First Minister on 24 September 2021 on amending the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020 to introduce Covid passes as a condition for entry to nightclubs and similar entertainment venues, indoor non-seated events of more than 500 people, outdoor seated events of over 4,000 and any setting or event with over 10,000 people attending. The amendments introducing the Covid pass were debated in the Senedd on 5 October 2021 and came into force in Wales on 11 October 2021.

23 PPE

521. I was the lead minister responsible for Personal Protective Equipment (PPE). There was of course the additional part of PPE related to the procurement (which I understand will be considered in later modules) which Lee Waters, Deputy Minister for Economy and Transport provided additional ministerial support and challenge.

522. Under plans made as part of the UK Pandemic Influenza Strategy 2011, the Welsh Government maintained a range of medical countermeasures and consumables to deliver what the 2011 strategy termed 'a defence-in-depth' pandemic response. The Welsh Government is part of a UK health countermeasures structure that maintains these countermeasures in a state of readiness. All four UK nations hold stockpiles of antivirals, antibiotics, consumables and personal protection equipment for front line health and social care staff.

523. A Memorandum of Understanding ("MOU") was entered into on the 18 July 2018 between the devolved governments and the Secretary of State for Health (acting via Public Health England) in relation to the provision of procurement, storage and distribution services forming part of the Pandemic Influenza Preparedness Programme ("PIPP") and the Emergency Preparedness Resilience and Response ("EPRR") Programme. This was signed at official level rather than Ministerial level. Included in the Memorandum of Understanding is the procurement, storage and distribution of consumables which broadly include surgical facemasks, eye protection, liquid hand soap, aprons and gloves (PPE). A copy of this Memorandum is exhibited in **M2BVG01/67- INQ000177454.**

524. Under the Memorandum of Understanding, the UK Government acts as lead purchaser and undertakes procurement exercises on behalf of the four nations to ensure value for money and to enable governments to benefit from economies of scale. On 10 December 2019, I agreed to the continuation of the Memorandum to 2025 with Public Health England and other devolved governments on a four-nation approach to the procurement and distribution of medicines and health emergency countermeasures. A copy of the Ministerial Advice on the continuation of this agreement is exhibited in **M2BVG01/68- INQ000177473.**

525. The pandemic influenza stockpile of PPE was crucial during the first four months of the Covid-19 response but we underestimated how quickly the PPE pandemic stockpile would be used up, how rapidly supply chains would fail and frankly that a small amount of our stockpile was not fit for purpose.

526. In terms of my role and any advice to the First Minister or other core decision makers, I made key decisions which I will outline below. The Welsh Government Health Countermeasures Group, established from 12 February 2020, worked closely with the NHS Wales Shared Services Partnership Procurement and Health Courier Services and the NHS and social care sector in Wales to ensure availability and dissemination of PPE. We were, however, concerned about PPE supplies throughout. We had initial localised challenges in delivering through the whole system to front line staff. On 6 March 2020, I was asked by officials to agree the release of PPE from the stockpile held for Wales as part of the Influenza Pandemic Preparedness Strategy for use by GPs as soon as possible and for the NHS and social care when needed. Advice provided to me noted concern regarding supply and in particular primary care access to PPE. A copy of this advice is exhibited in **M2BVG01/69-INQ000226927**.

527. We had common sense systems for distribution and expanded the NHS system to provide for social care. On 21 March 2020, I set out in a Written Statement, exhibited in **M2BVG01/70** **INQ000383574**, that if PPE stock could not be accessed and while the Welsh Government prepared to distribute PPE stock to local authorities, arrangements had been made that care providers could approach Local Health Boards for urgent assistance. These arrangements were only to be utilised if a case of Covid-19 had been confirmed in these settings. The distribution of PPE stock was co-ordinated by the NHS Wales Shared Services Partnership who distributed the supply to the Joint Equipment Stores/Community Equipment Stores ("JES") that service local authorities. Any requests for stock would then be managed by the authority in conjunction with the Joint Equipment Stores and the care provider.

528. As we learned more about the virus, our advice and the demand for PPE increased. On the 2 April 2020, new UK PPE guidance advised *that 'All health and social care staff within 2m of a suspected or confirmed coronavirus patient should wear an apron, gloves, fluid repellent surgical mask and eye protection'*. Previously, as noted above, PPE was only required for the care of those people with symptoms. I am aware that

there were concerns that appropriate use of PPE, agreed on a UK-wide basis, changed according to what was available rather than what was needed and that there were communication issues, as outlined in the Senedd's Health, Social Care and Sport Committee report entitled "Inquiry into the Impact of the Covid-19 outbreak, and its management, on health and social care in Wales." These issues were experienced in the care home sector and I understand that Albert Heaney has provided a detailed statement (MB2-CSSO-01) which outlines the steps taken by the Welsh Government to support local authorities and the care sector with PPE including ensuring the supply of PPE for distribution in social care settings the free provision of PPE to all social care providers. If PPE stock could not be accessed while the Welsh Government was preparing to distribute PPE stock to local authorities, arrangements had been made that care providers could approach local health boards for urgent assistance.

529. Additional PPE supplies beyond the provision in UK agreements was needed. On 6 April 2020 in a joint letter to social care providers in Wales, exhibited in **M2BVG01/71-INQ000320785**, I and the Deputy Minister for Health and Social Services stated:

> *'We know a lot of people are concerned about their safety and are anxious about having the right personal protection equipment (PPE). The guidance has been reviewed and been updated last week. The Welsh Government is working hard to get extra supplies of PPE to all frontline social care staff – we have delivered more than 5 million extra items of PPE from our pandemic stocks, over and above the normal supplies available. Extra deliveries have been made to local authority distribution points for onward delivery to all social care settings. We are working with the UK Government, Scottish Government and Northern Ireland Executive to secure new supplies of PPE and with businesses and manufacturers in Wales to create our own made-in-Wales supply of PPE during the coronavirus pandemic…It is important the new guidance is followed properly and PPE used as specified. For every piece of PPE kit used unnecessarily, a piece of kit is unavailable to staff most at risk'.*

530. Ensuring PPE supplies for our health and social care system was my top priority. I publicly noted on the 21 April 2020 that Wales had only had enough stocks of all items to last for a few days. This was partly because of the mutual aid we received from other UK countries and partly because of the UK supplies from which Wales received

its population share were such that, we were not in a position to say that we had weeks and weeks of advanced stock on all of those items.

531. This was an area in which we had made real progress during April 2020 but we were not complacent about it nor did we see it as a done deal. My advice to the First Minister and others was that we needed more PPE and that we would run out if action was not taken. On 20 April 2020, Cabinet considered the Policy Co-ordination Dashboard, as exhibited in **M2BVG01/72-INQ000048968,** which set out the red/amber/green rating of projects. PPE supplies was rated red. On 27 April 2020, the First Minister, following discussion at Cabinet, confirmed in a Covid-19 public briefing that the Welsh Government was not relying simply on established links, but taking a multi-pronged approach to ensuring sustainable PPE supplies, including:

    a. Working with other UK nations to pool procurement efforts, bringing in new stocks and offering mutual aid in providing PPE;

    b. Procuring additional PPE supplies using the Welsh National Procurement Service;

    c. Continued international supplies, including masks from China and gowns from Cambodia; and

    d. Increased working with Welsh businesses through innovation and new manufacturing routes, to produce PPE including faceshields and scrubs, with Wales approaching self-sufficiency in the latter.

532. Our procurement systems for PPE were not compromised or circumvented by a VIP lane or anything similar. PPE procurement also came alongside what we were doing to manufacture PPE in Wales. We had more and more companies that were coming online making items such as hand sanitiser and eye protection equipment. Penderyn whiskey distillery, famously, made hand sanitiser and many others were producing that too. The Royal Mint and Rototherm and others were producing face protectors.

533. We received mutual aid from Scotland and England and we provided mutual aid to England and Northern Ireland – the balance is that we provided significantly more than we received.

534. We agreed a transparent way of highlighting the data on stock. On 21 June 2020, the first of a new weekly statistics release was published by the Welsh Government to provide transparent information on PPE supplied to health and social care in Wales. The last report dated the 31 March 2022 is exhibited in **M2BVG01/73-INQ000227378** and confirmed that since 9 March 2020, the NHS Wales Shared Services Partnership issued over 1.3 billion items of PPE to the health and social care sectors in Wales. Approximately 550 million of these were issued to the social care sector. The data also shows that the weekly number of PPE items issued generally increased from March 2020 reaching a peak of 20.2 million in May 2020. Since then, the number of items issued each week fluctuated but generally remained around 10 million with the exception of the week ending 28 March 2021 when 31.5 million items were issued.

535. We were conscious that we were going to use PPE at a much greater rate across health and social care for a long time, so for a long time we would need to both procure and manufacture our own PPE in different measures, and then assess what the balance should be for the future in having a robust and sustainable approach to PPE provision that involves the balancing of international procurement and then home provision and home manufacture.

536. Throughout the relevant period we did not run out of PPE on a national level and while we remained concerned, it did not adversely affect the actual choices we made regarding non-pharmaceutical interventions and the restrictions on the public.

537. Many of the matters covered above were discussed by myself in Senedd Committees attendances. A list of all my attendances at Senedd Committees during the specified period is exhibited in **M2BVG01/74-INQ000321246.**

24 Long Covid

538. The Welsh Government took prompt action as evidence began to emerge in the Spring of 2020 identifying the likely need for rehabilitation for people recovering from Covid-19, often referred to as 'long Covid'. We published a National Framework for Rehabilitation in May 2020, followed in the summer by a further suite of guidance and resources to support health boards and their partners to model their population needs

and to plan and develop their local rehabilitation services. Our approach to people recovering from Covid-19 focused on providing care and support as close to home as possible, tailored to meet an individual's specific needs. A copy of the National Framework for Rehabilitation is exhibited in **M2BVG01/74a- INQ000369596.**

539. Welsh clinicians participated in developing the National Institute for Health and Care Excellence ("NICE") guideline published in December 2020, and the Welsh Government and NHS Wales developed the 'All Wales Community Pathway' which aligned with both the NICE guideline and 'A Healthier Wales', to provide a framework for the development of services in each health board. The pathway used existing primary care services as the access point for patients. Each health board had developed local pathways so that GPs or community health professionals could help and/or direct patients to the right service for their individual needs. These pathways included: self-help, advice, multi-professional assessment, investigations, treatment or rehabilitation support.

540. On 20 January 2021, based on MA/VG/0078/21, I issued a written statement, as exhibited **M2BVG01/75- INQ000353384** which outlined our work on long Covid to date and announced that:

    a. Health Education and Improvement Wales had developed a digital platform to create a single 'landing page', enabling easy access to a wide range of resources to support health and care professionals as they provided help and advice to people managing their recovery.

    b. Health and Care Research Wales was creating a Wales COVID-19 Evidence Centre to analyse the impact of the virus and use research-based evidence to address new challenges as a result of the global pandemic. The dedicated team at the new Evidence Centre would work closely with the Welsh Government, the NHS and social care in Wales to provide the necessary evidence needed to make effective decisions to support people with their recovery.

25 Key challenges and lessons learned

541. The scale of the Covid-19 emergency was a significant challenge but also presented an opportunity to learn, which is why am grateful for the work of the Inquiry. We had never had to take decisions of this consequence, over this type of timeframe or with this regularity, pace and scale. We had avoided SARS and MERS becoming society-wide events on anything like this scale.

542. In terms of the key challenges, I would summarise these as follows:

a. Managing the rapid increase in cases against a desire not to panic the public when we were not certain about what would or was likely to happen was not straightforward.

b. Dealing with changing information – virus characteristics, transmission means, updated scientific advice. The pace at which new information and new challenges arose was without precedent.

c. Shifting – rapidly – the way that government and public services worked. Some activity was not possible, people had to be rapidly redeployed into what was possible and required whether that was PPE procurement with collapsed global supply lines or creating Test, Trace, Protect. All of this was done in a climate of uncertainty.

d. Balancing lives and livelihoods. The public health crisis – physical and mental health – was matched by an economic crisis. The downsides of choices were very real and not easy for the public or decision makers to address.

e. Creating and delivering new services at pace, from contact tracing at scale to laboratory capacity to a new vaccination programme with a new vaccine.

f. Managing so many different stakeholder relationships all at the same time. Doing this at this level of intensity had never been done before.

g. Austerity. Our resilience was affected by the realities of austerity. Public services were not as resilient and the population impact was that more people were living in poverty and more people had poor health. Wales has an older,

less wealthy and less healthy population that England. It is more comparable with some English regions.

543. All of these challenges were compounded by the approach in mainstream print and broadcast media which at times made communication of the Welsh Government position difficult. Many people get news sources in a way that is more diverse than at the start of devolution. Mainstream print and broadcast media have not frequently covered Wales only decisions in the past and some of the print media, and their online services, were determinedly critical. Misinformation also became a growing threat especially as opposition to protective measures became more muscular and vocal.

544. We had never had to mount the scale and regularity of the communication work that was required for the Covid-19 pandemic. In just under a year, I led 48 TV press conferences, including one jointly with the First Minister and Andrew Goodall, and gave over 200 interviews to local, Wales, UK and international media. The First Minister will probably have done more. The importance and regularity of the communication need had not happened before in devolution. It was much more significant a challenge than when we had, for example the Foot and Mouth outbreak. The regularity of communication became even more important in terms of keeping large scale public trust.

545. The challenge of creating balance between behaviour and rules was also significant. We shifted our approach and realised that not everyone would follow the law or the guidance if it was very complex. Having protective behaviour largely adopted was preferable to theoretically perfect rules that the public may not understand or could or would not follow.

546. On a human level the pandemic was draining, physically and emotionally. This was true for the whole population, with added challenges for key workers. We knew this and it added to the pressure upon officials and ministers but we still had to make decisions. That was an unceasing process with no let up.

547. People looked to the Welsh Government for leadership. The public, public services and the private sector looked to us. Ministers looked to each other. Without being able to demonstrate and communicate that sense of purpose and the rationale that underpinned our choices I do not believe we would have been able to manage as

cohesively as we did. Publishing summary advice from the Chief Medical Officer and the Technical Advisory Cell was an important feature of this. People, especially journalists, who wanted to read the advice could and did. The transparency helped in my view for those people who did not read it themselves but knew that we published scientific and clinical advice on a regular basis. We took the same approach with a wide range of information from PPE stocks, to Test, Trace, Protect stats.

548. Trust is earned and can be hard to recover if it is lost. The UK Government had extraordinarily high trust and approval ratings at the outset. Being open and providing regular information helped to build and retain trust. We were right to try and work with the UK Government wherever possible. We cannot proceed on the basis that devolved governments must fall into line with whatever the UK Government propose, regardless of the political complexion of the UK Government. There has to be much more maturity and trust between the four nations leadership when facing an emergency of this nature. However, the UK Government relationships were unsatisfactory. The move from broad agreement to a lack of trust and engagement hampered decision-making and led to second guessing as to what would happen, decisions being announced without any discussion on some occasions and then open hostility. The way in which the UK Treasury operated on an 'England first or not at all' basis around the firebreak and Omicron public health measures was appalling.

549. I am aware that some people have made an argument that devolved governments got in the way of the UK Government and that provision should be made for a central override of devolved governments in a future pandemic. That would be a constitutional outrage and a practical disaster.

550. In practical terms, no UK Government could understand or control devolved public services that it does not run. The capacity of any UK Government to step in and direct public services or devolved economic support functions simply does not exist. A fanciful exercise in redrawing and centralising responsibilities isn't just utterly impractical – it ignores what worked well and what did not work so well.

551. The relationships that have been built over time and the trust between stakeholders was an important aspect of what worked well. It made difficult conversations and decisions possible. A governor general figure acting over the head of devolved

governments would not be able to generate the trust, the capacity or the relationships in the time required.

552. Having regular and open relationships with opposition parties and local government made decision making and communication much more effective. It did not guarantee agreement but it avoided the time and energy it would have taken if we had been less trusting and open.

553. Our pre-existing partnerships and investments in relationships with the public, private and voluntary sectors made it much easier to make connections and choices. We should not take those for granted in the future – they need to be worked at and valued.

554. Our structures moved rapidly when the scale of the crisis became more apparent. The willingness to be flexible and act quickly – at ministerial and official level – was essential. Introducing Microsoft Teams across NHS Wales was not something we could have done anything like as quickly in normal times.

555. The armed forces' role should not be overlooked. Whilst not core decision-makers, their role in providing support on planning, logistics and being an honest broker helped us to do more and to do so much more quickly. It was much more than capacity that they provided.

556. We cannot get everything right. Where we needed to shift position, whether that was because of the evidence or making compromises to secure greater buy-in from the public or stakeholders, we had to be prepared to do so.

557. We had to be prepared to be unpopular with some people or sectors. There were difficult decisions to be made that some stakeholders would not respond to positively.

558. Reforms to intergovernmental structures are necessary as a result of lessons learned during the pandemic. SAGE should have a devolved nominee participating to ensure that information is shared and understood in the context that choices would have to be made across the four nations. I still believe further reform is needed which goes to the heart of the union.

559. In any future pandemic COBR, SAGE and the Ministerial Implementation Groups set up through the intergovernmental review are needed in order to facilitate effective

intergovernmental relations and a four nations response. The structures are there to be used and to function with the required urgency and regularity that a pandemic demanded. The willingness to use the structure and invest the required trust in sharing information to do so effectively require choices from decision-makers.

560. I have stated above that the response to the pandemic would have been assisted by improved communication between the UK Government and the devolved nations, as well as more effective and genuine engagement. Therefore, in order to improve the response to any future pandemic, consideration should be given to how to improve four nations structures and relationships.

Statement of Truth

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

Signed:

Personal Data

Vaughan Gething M.S.

Dated: 3 January 2024