

Witness Name: David Thomas Richards

Statement No: 1

Exhibits: 17

Dated: 30/10/2023

## **UK COVID-19 PUBLIC INQUIRY**

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### **WITNESS STATEMENT OF DAVID THOMAS RICHARDS**

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I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 26 January 2023 relating to the Propriety and Ethics Directorate and referenced M2B-PED-01.

I, David Richards, will say as follows: -

#### **Preface**

1. I would like to take this opportunity to express my sympathies to those that have lost loved ones during the Coronavirus pandemic. I think that the work of the Public Inquiry is hugely important, and I wish it every success in its work; I will certainly play whatever small part I can in assisting.

#### **Introduction**

2. I joined the Welsh Office in 1979 and I have remained a Civil Servant since that time.
3. I was the Finance Director for the Welsh Office and subsequently the Welsh Government from 1996 to 2006.
4. I took up the role of Director of Governance and Ethics around 2009. I am responsible for providing the Permanent Secretary with assurance on governance issues across the Welsh Government and this remains part of my role. I also advise the First Minister on matters in relation to the Ministerial Code.

5. Following a re-structure of the Welsh Government Directorates in April 2022, my title was changed to the Director of Propriety and Ethics. I make this statement in my capacity as Director of Propriety and Ethics within the Welsh Government.
6. In preparing this statement, I have been supported by [NR] who is a Senior Business Officer and Advisor in my Directorate and who has assisted me in locating the supporting information for this statement. I have also been assisted by [NR] [NR] Deputy Director and head of Audit, Assurance and Counter Fraud Division in respect of the paragraphs relating to Internal Audit Service. I have also been supported by the Welsh Government's Corporate Governance Centre of Excellence.
7. This statement relates to the period between 21 January 2020 and 30 May 2022.

#### **Role of the Directorate**

8. The Propriety and Ethics Directorate (PED) is a small directorate within the Welsh Government (WG) which is led by myself, the Director of Propriety and Ethics, with the assistance of two staff namely [NR] who I have referred to above and another colleague who provides administrative support. The main aim of the directorate is to support and advise Ministers, the Permanent Secretary, other Welsh Government officials, boards, and officers of other Welsh public service organisations on challenging and complex issues in relation to ethical matters, governance, Accounting Officer responsibilities and effective operation of boards.
9. As the Director of Propriety and Ethics, I would be regarded as the key official and key decision maker within the Directorate.
10. At the outset of the pandemic the directorate also included coordination of the Welsh Government's responsibilities in relation to the Well-being of Future Generations Act 2015. This involved taking forward the embedding of the sustainability principle and the five ways of working set out in the 2015 Act, as well as helping to raise awareness of the 2015 Act within the Welsh Government and wider Welsh public service. This responsibility passed out of the Directorate around February 2021 because a new Director post had been established by the Permanent Secretary and the responsibilities were better aligned with that new post.

11. Until 1 April 2022 the Directorate also included the line management of the Audit, Assurance and Counter Fraud Division; this passed over to the Finance Director. This division provides an internal audit service to the Welsh Government and some other public bodies, audits European funds, and provides professional counter fraud advice, both in protecting against fraud and dealing with fraud cases when they are discovered.
12. As part of my responsibilities, I am a member of the Executive Committee (ExCo) and of the Welsh Government's Board; I chair the whistleblowing panel of the Welsh Government (which considers and implements the Code of Practice on Whistleblowing policy in the Welsh Government and considers disclosures); the External Assurance Panel (which considers concerns raised in respect of Welsh Government funds awarded to external bodies); and the Grants Assurance Panel (which considers and provides a challenge function to proposals for new Welsh Government grant schemes). I meet new Accounting Officers in the public service and talk to Boards of our public bodies about governance, ethical behaviour and board performance. The Whistleblowing Panel also receives any allegations that there have been breaches of the Civil Service Code.
13. It is also a part of my role to advise the First Minister and other ministers on the application of the Ministerial Code and to consider cases where an allegation is made that the Ministerial Code has been breached.
14. Through me, the Directorate reports to the Permanent Secretary. It has no formal role in relation to the UK Government or other devolved governments but does keep in contact informally with opposite numbers in relation to governance matters.

#### **Role of the Directorate During the Covid-19 Pandemic**

15. The Directorate had a limited advisory and supporting role in connection with certain aspects of the organisation's management of and response to the pandemic. This included assisting the Permanent Secretary in setting up ExCovid and drafting the original terms of reference for that group, a copy of which is exhibited as **DTRM2BPEDW01/01-INQ000182393**. The terms of reference were agreed by the then Permanent Secretary, Shan Morgan. I understand that the establishment and purpose of ExCovid is set out in the first statements of Andrew Goodall namely statement M2B/WG/01 at paragraph 138 and as such, I will not rehearse the purpose

of ExCovid here. I was a member of ExCovid throughout the pandemic and contributed to the discussions in that forum.

16. I advised on the guidance which the Permanent Secretary issued to Additional Accounting Officers in the Welsh Government in relation to risk appetite through the pandemic, a copy of which is exhibited as **DTRM2BPEDW01/02-INQ000182408**.
17. I also undertook a review of the operation of the Emergency Coordination Centre Wales (ECCW) early on in the pandemic. I understand that an overview of ECCW has been set out in the first statements of Andrew Goodall at paragraphs 144 -146 of AG/WG/01. The review was commissioned by the Permanent Secretary in August 2020 and my report was submitted in January 2021. I understand that this report has already been provided to the Public Inquiry, but I attach a further copy for ease of reference/ the relevant reference is **DTRM2BPEDW01/03-INQ000066468**.
18. During the pandemic one member of my immediate team was seconded to the Covid-19 Project team for a brief period, this was done to provide resilience and support the demand in the Covid-19 Project team. The Deputy Director and one of her senior team who had responsibility for coordinating the Welsh Government's response to the Well-being of Future Generations Act 2015 were reallocated to work on the response to the pandemic.
19. I have addressed the Internal Audit Service separately below.
20. From September 2021 I took lead responsibility for the Welsh Government's preparations for the then forthcoming Public Inquiry. Responsibility for this passed to Alyson Francis at the beginning of 2023.

#### **Internal Audit Services**

21. The outbreak of the pandemic had a significant impact on the areas of Welsh Government activity that had been identified for Internal Audit Service (IAS) review in 2020/21. As a consequence of the crisis about 46% of IAS staff were seconded to other areas of the Welsh Government to assist with the pandemic response. This included the Deputy Director who headed the IAS team, Helen Morris. Furthermore, 12% of the European Audit Team and 50% of the secretariat to the Welsh Government's Audit and Risk Assurance Committee (ARAC), which sit within IAS, were also reallocated to assist with the pandemic response.

22. As a consequence of these redeployments, a modified audit and assurance approach was implemented that involved the maintenance of a core team of between five and seven officials (operating under a flexible resourcing model), with the objective of providing assurance and advice in connection with the new policy interventions that were being designed and implemented at pace as a direct response to the crisis. The focus of the core team was to ensure that such measures were designed and managed with full regard to propriety, regularity and value for money with sufficient proportionate governance, risk management and control.
23. The modification of the IAS activity was proposed to, and agreed by, the Welsh Government Audit & Risk Assurance Committee (ARAC). I produce here as Exhibit **DTRM2BPEDW01/04-INQ000182450**, the "Position Report", presented by the Head of IAS to the ARAC meeting of May 2020, which sought the Committee's agreement to the revised approach. The approach outlined in that report was followed for the first six months of the pandemic. The Head of IAS subsequently submitted a further "Position Report" to ARAC at its meeting in October 2020 which updated the Committee on the constraints that were continuing to impact the ability of the IAS team to resume normal audit and assurance work. This report is produced here as Exhibit **DTRM2BPEDW01/05-INQ000182559**. Its principal purpose was to seek the agreement of ARAC, alongside that of the Permanent Secretary, to a reduced "scope of work" on which to base the annual assurance opinion of the Head of IAS.
24. At that meeting, ARAC agreed that, for the remainder of the financial year, and considering the resourcing constraints, a modified programme of audit work should be implemented focusing sharply on critical risks and using clear criteria to identify audit work which still had corporate value in the context of Covid-19. The report, at paragraph 4, sets out the scope of this work. Paragraph 5 of the report sets out how due regard was given to the Public Sector Internal Audit Standards (PSIA) when proposing the revised programme of work, and in particular the sufficiency of that programme as a basis for the Head of IAS to provide an end of year assurance statement.
25. A key initiative of the core IAS team referred to in paragraph 21 above was the development, implementation and maintenance of a Welsh Government wide assurance framework tool termed the "Covid Assurance Dashboard". Produced here as Exhibit **DTRM2BPEDW01/06-INQ000182560** is the "Dashboard" for 2020/21 and

as Exhibit **DTRM2BPEDW01/07-INQ000182561**, the “Dashboard” 2021/22 which is an “assurance map” following the ‘Three Lines of Defence’ approach.

26. These Dashboards provided a summary of all key Covid-19 related policy interventions, categorising these interventions into specific policy areas and recording allocated expenditure, actual expenditure and the internal controls and assurance mechanisms applicable to each measure. The Dashboards also recorded the relevant formal ministerial advice submission (MA) which underpinned each measure. The Dashboards were maintained throughout 2020/21 and 2021/22 and were a key IAS tool in monitoring and assuring the large number of pandemic related interventions that had to be developed and implemented at pace throughout the relevant period.
27. From the end of 2020 and into 2021/22 and beyond, IAS staff gradually came back from specific Covid-19 related deployments, but the team continued to retain an agile audit planning approach, spending most of their time on Covid-19 related interventions. An index of relevant audit examinations and reports has previously been submitted to the Inquiry covering the work completed up to the start of August 2022. However, I now produce, as Exhibit **DTRM2BPEDW01/08-INQ000182562**, an updated index the showing the relevant work completed up to the point of providing this statement.
28. Up until April 2022, my directorate also had lead responsibility for counter fraud. In circumstances where it was necessary to develop, at considerable pace, new emergency financial support schemes for business and distribute the funds as a matter of urgency, the risk of fraud is clearly going to be a concern. However, the Welsh Government’s overall assessment is that levels of fraud across the business support schemes that it administered directly and across the schemes that were administered by its local authority agents, were at a relatively low level and based on the post completion checks undertaken, are likely to be at an overall rate of less than 1% of the total funds distributed. I produce here as Exhibits **DTRM2BPEDW01/09-INQ000066166**, the Welsh Government’s Consolidated Accounts for 2020/21 and as exhibit **DTRM2BPEDW01/10-INQ000350638** for 2021/22. The Permanent Secretary’s fraud assessment can be found on pages 140 and 141 of each set of accounts.

### **Ministerial code and complaints.**

29. As I have indicated above, part of my role is to advise and consider the application of the Ministerial Code. The Ministerial Code requires Ministers of the Welsh Government to maintain high standards of behaviour and to behave in a way that upholds the highest standards of propriety. During the relevant period, the Ministerial Code was revised in August 2021, as such, I attach a copy of the Code pre- August 2021 as exhibit **DTRM2BPEDW01/11- INQ000320695** and post-August 2021 as exhibit **DTRM2BPEDW01/11A- INQ000066055**.

30. The Code provides guidance to Ministers, Deputy Ministers, and the Counsel General on how they should act and arrange their affairs in order to uphold the standards expected of them.

31. Where Ministers are uncertain about how to apply the Code to particular circumstances, and their private offices do not feel confident to give such advice, then the issue will usually be referred to me to advise upon. In addition, where there is an allegation or suggestion that a Minister has breached the Ministerial Code then the First Minister will look to me for advice. Where there appears to be a prima facie case that a breach has occurred then the First Minister would usually ask me to investigate the allegation and report back to him.

32. On 30 June 2021, I was asked to advise in relation to one case where there might have been a breach by Ministers of the Covid-19 Regulations in force in Wales. An allegation was made that during a party-political event, the First Minister had not worn a face mask at all times when he should have done, and the suggestion was that he had therefore breached the Ministerial Code. The First Minister had no recollection of not abiding by the rules and the correspondent was invited to provide the evidence which they said they had to support their allegation, but no response was received. After no response was received, I decided there was insufficient evidence to pursue the matter further. A copy of this email chain relating to this issue is attached with the name of the complainant redacted as Exhibit **DTRM2BPEDW01/12-INQ000182565**.

33. On 12 May 2020 the Sun newspaper ran an article alleging that the then Minister for Health and Social Services was seen eating chips with his wife and son on a bench in Cardiff Bay, and that this was a breach of the Covid-19 Regulations. The article carried a statement from the Welsh Government saying that the actions of the

Minister were consistent with the regulations. I was not asked to advise on this incident (though this should not be taken as an indication that I would have advised a different response).

34. In my role as Chair of the Welsh Government Whistleblowing Panel I dealt with one case where there was an allegation that two civil servants had breached the Covid-19 Regulations. An investigation found that there had not been a breach and the actions taken by the civil servants were consistent with the rules. An email capturing the position is set out in Exhibit **DTRM2BPEDW01/13-INQ000182455**
35. There was also one allegation that confidential information in relation to impending lockdowns had been passed to persons outside the Welsh Government. No evidence in support was provided by the correspondent. This issue was discussed in the Whistleblowing Panel Meeting on 2 February 2021, a copy of the redacted minutes of that meeting is attached as Exhibit **DTRM2BPEDW01/14-INQ000182563** and the issue was further discussed at a meeting on 4 May 2021, a copy of the redacted minutes of that meeting is attached as Exhibit **DTRM2BPEDW01/15-INQ000182564**
36. In addition, I was asked to advise Ministers on two occasions on the correct application of the rules in certain circumstances. As far as I know, my advice was followed in each case. The then Permanent Secretary included me, for assurance, in an exchange with the then Director General of NHS Wales seeking confirmation that a particular course of action was acceptable under the regulations. The then Permanent Secretary confirmed to the Director General that she thought the intended action was acceptable, and I did not dissent from that view. A copy of the email from the then Permanent Secretary is attached as Exhibit **DTRM2BPEDW01/16-INQ000182456**.
37. With the exception of the article in the Sun newspaper, none of the cases referred to above came into the public domain. I have no reason to think that public confidence was affected by any of the alleged breaches of rules or standards by Ministers, officials, and advisors.
38. In my experience during the pandemic, Ministers, officials, and advisors all sought to comply with the requirements of the regulations. I came across no cases where there appeared to be any wilful or negligent attempts to do otherwise. The early adoption of



the Welsh Government of working from home arrangements, in my view, helped to reinforce to colleagues the importance of following appropriate procedures.

39. To the best of my knowledge, PED does not hold any relevant documents which have not already been disclosed to the Inquiry.

**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.

**Personal Data**

**Signed:**

David Thomas Richards

**Dated:** \_\_\_\_\_ 30<sup>th</sup> October 2023 \_\_\_\_\_

Director, Propriety and Ethics Directorate