

Witness Name: E Jones  
Statement No. 1  
Exhibits: E11 - E12  
Dated: 22 November 2023

## UK COVID-19 INQUIRY

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### WITNESS STATEMENT OF ELIN JONES

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I, The Right Honourable Elin Jones MS, will say as follows: -

#### **Introduction**

##### General background

1. Senedd Cymru, also known as the Welsh Parliament and generally known as the Senedd, is comprised of sixty elected Members representing all parts of Wales. It was established by section 1(1) of the Government of Wales Act 2006 ('GoWA') and has been known by its current title since May 2021. In this Witness Statement, I will refer to the institution as the 'Senedd'.<sup>1</sup>
2. In the current constitutional arrangements of the United Kingdom, the Senedd is usually described as the legislature for Wales. The role of the Senedd is (among other things) to make (i) Acts of the Senedd, (ii) approve or reject statutory instruments and (iii) hold the Welsh Government to account. For the purposes of this Witness Statement, I will concentrate on these three aspects of the Senedd's work. I will also set out below a description of my own role as Llywydd.

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<sup>1</sup> The institution was originally established in 1999 as the "National Assembly for Wales".

### My background

3. I represent the constituency of Ceredigion. I was first elected at the inaugural election of 1999. I have been re-elected at every subsequent general election. On 11 May 2016, following the Senedd general election that year, I was elected as Presiding Officer of the Senedd in accordance with section 25(1) of GoWA. Following the subsequent Senedd General Election of 2021, I was re-elected to the role on 13 May 2021. The Members of the Senedd choose the Presiding Officer. Although "Presiding Officer" is my statutory title, I use the Welsh equivalent "Llywydd".
4. Most of the pandemic took place during the Fifth Senedd (2016-2021). We are now in the Sixth Senedd which was elected in May 2021 and is expected to run until it is dissolved in April 2026 for a Senedd general election in May of that year.

### Llywydd's role

5. The Senedd meets in the Siambr ('Chamber'). Each Member has his or her own allocated seat. Votes take place electronically. The Senedd has always used technology in order to work efficiently and to be in line, so far as possible, with the rest of the working world.
6. The Senedd is a bilingual parliament. Members are free to speak in Welsh or English as they prefer. Simultaneous translation is available. My preference is for Welsh, but I speak both languages in the Siambr.
7. In the Siambr, it is my responsibility to chair plenary sessions. I maintain order. I ensure that standing orders are upheld. I see to it that Members are treated fairly and that views are freely expressed. In order to fulfil my role, I must maintain the confidence of all Members. The Members chose me and they have power to remove me. It is incumbent on me, therefore, to be politically impartial in my duties as Llywydd.
8. I want to set out at this early part of my statement that, as Llywydd, it was not (and is not) for me to state a view on the policy decisions made by the Welsh Government during the pandemic. This includes not just the rules put in place for the public but

also the legislative procedures adopted by the Welsh Government. I do not, therefore, express any views in this Witness Statement on those matters.

#### Senedd Committees

9. As will be evident from my comments below, the business of the Senedd cannot be entirely conducted in plenary sessions in the Siambr. Much work is conducted by committees of the Senedd comprising a smaller number of Members (usually no more than eight). Many Members serve on more than one committee.
  
10. Currently there are eighteen committees. They cover various policy areas. There are committees charged with scrutinising public finances and a committee which considers petitions submitted by members of the public. The Legislation, Justice and Constitution Committee has particular responsibilities for scrutiny of statutory instruments. A Standards of Conduct committee considers the conduct of Members.
  
11. Most committees meet on a regular basis while a few meet as and when needed. As an example, the Business Committee meets weekly. This is a Committee which I chair. Its function is to agree the business to be put before the Senedd and to set timetables for it. By contrast, the Committee for Scrutiny of the First Minister meets once a term.

#### Welsh Government

12. The Welsh Government was established under section 45(1) of GoWA. The Senedd and the Welsh Government are constitutionally separate. The Welsh Government is the Executive.
  
13. The members of the Welsh Government (the First Minister, the Welsh Ministers, the Deputy Welsh Ministers and the Counsel General) are drawn from the membership of the Senedd. There is an exception to this rule which is that the Counsel General may be drawn from outside of the Senedd. Members of the Welsh Government exercise powers given to them by law and are able to draw on funding from the Welsh Consolidated Fund to provide public services. All members of the Welsh

Government are equally answerable for all government policy in accordance with the principle of 'collective responsibility'.

14. The Senedd meets in plenary session on Tuesdays and Wednesdays during term time. There are three terms during the year. Autumn term runs from September to December. Spring term runs from January to Easter. Summer term runs from just after Easter until July. There is a period of recess between each term. These three periods are respectively known as the Christmas, Easter and summer recess. There is also a week-long recess (often described as "half-term") during each of the three terms.
15. The First Minister answers oral questions every Tuesday. He can be questioned on any aspect of his Government's policies and actions. Other Ministers answer questions (in rotation) on their portfolios. Members of the Government do not ask questions of one another. Questions are asked by government backbenchers and also by opposition Members. Members hold debates on matters within the Welsh Government's remit. Tuesday is the day on which the Welsh Government usually conducts its business. On Wednesdays, other Senedd business is held.

#### The Senedd Commission

16. I am chair of the Senedd Commission ("the Commission"). This is a statutory body established under section 27(1) of GoWA. Section 27(5) says-  
*'The Senedd Commission must –*  
*(a) provide to the Senedd or*  
*(b) ensure that the Senedd is provided with*  
*the property, staff and services for the Senedd's purposes'*
17. The Commission comprises four Members of the Senedd as well as myself. The Commission is a cross-party body which seeks to work on a non-party basis. While my four fellow Commissioners and I set the strategic direction of the Commission, for practical purposes, most of the day-to-day functions are delegated to the Clerk of the Senedd. The Clerk is a statutory office-holder under section 26 of GoWA. She, in turn, delegates functions to the staff of the Commission.

18. The Commission provides, among other things, accommodation for the Senedd and its Members, services such as security and ICT and a body of staff including clerks, researchers, legal advisers and many others who support Members in their parliamentary duties.

#### Acts and Statutory Instruments

19. One of the Senedd's primary functions is to make Acts of the Senedd. A proposal to make an Act is known as a Bill. If passed, a Bill receives Royal Assent and becomes an Act. The Senedd, on average, passes 4 or 5 Acts in a year, sometimes more. All Acts are bilingual.
20. Once introduced, a Bill goes through several stages. At Stage One, a committee considers the principles of the Bill. Those in charge of the Bill give evidence and are asked questions by Members. Other relevant witnesses give evidence and set out views on the Bill. At Stage Two, the committee debates the Bill in detail and suggests amendments. Committees also consider amendments tabled by the Welsh Government. Stage Three takes place in the Siambr where all Members may participate in debating the Bill and considering amendments to it. At Stage Four, the Senedd in plenary session decides whether or not to pass the Bill.
21. While the Welsh Government is in charge of most Bills, there are other ways in which Bills may be introduced. Periodically, there is a ballot in which Members may submit ideas for Bills. If successful in the ballot, the Member is given an opportunity to introduce a Bill subject to the consent of the whole Senedd. Bills may also be introduced by the Senedd Commission or by Committees of the Senedd.
22. In addition to Acts, a great deal of Welsh legislation is 'delegated' or 'secondary'. This means that Ministers make laws using powers given to them by Acts. Secondary legislation takes the form of Orders, Regulations or Rules and are usually made as 'statutory instruments'. Approximately 150 statutory instruments are made in an average year by the Welsh Government.
23. Although Ministers make statutory instruments, the Senedd also has a role. The Act which gives power to Ministers to make the instrument sets out the applicable

procedure. Most statutory instruments are made by the 'negative' procedure. This means that the instrument comes into force within 40 days of its being laid before the Senedd unless the Senedd resolves to annul it during this period. This process is often used for making legislation which is routine, non-controversial and/or adds detail which needs regular updating.

24. Instruments made under the 'affirmative' procedure are laid before the Senedd in draft. The Senedd votes on whether or not to approve the instrument. If approved, the instrument comes into force at a later date. Affirmative instruments are usually those considered to be more serious, significant or controversial.
25. The final procedure which I wish to describe is the 'made affirmative' procedure. This is highly unusual and applies only in very limited cases. An instrument under this procedure comes into force once it is made. The Minister is required subsequently to lay the instrument before the Senedd and to seek its approval. But laying before the Senedd is not required in order for the law to come into force.
26. I would add two further comments about the procedures. Firstly, while the Senedd may withhold approval for an instrument, it may not amend it. This is unlike Bills which can be amended. Secondly, parliamentarians use expressions like 'made affirmative' as shorthand. The laws which establish the procedures do not use this terminology.

#### **Start of the Pandemic (January 2020 to March 2020)**

27. I have taken some of the following information from diary entries held by my office because, while I remember certain events, I do not recall without checking, exactly when they happened.
28. I do not recall exactly when I first heard of coronavirus or 'covid' as we later started to call it. I remember the first ministerial statement which was issued on Friday 28 February 2020 (see [INQ000352835](#)). This was confirmation of the first case in Wales. Coincidentally, on the same day, I was given a report that a member of staff of the Senedd Commission had contracted covid while on holiday abroad.

29. On Wednesday 4 March 2020, I attended an event in Brussels (the 'Wales in Brussels' event) and I recall that attendees were asked not to shake hands. On Monday 9 March 2020, I was given briefing by officials on the developing situation. On Tuesday 10 March 2020, the Minister for Health and Social Services made a statement in plenary in which he told the Senedd that there were six confirmed cases in Wales. He set out some information about the Welsh Government's action plan. He went on to say the following-

*'We will therefore look to take new powers for Wales through the UK-wide Coronavirus Bill to be introduced in the House of Commons, to be able to help systems and services work more effectively in tackling the outbreak. The Bill will strengthen quarantine and mass gathering powers, and will allow for the closure of schools and colleges, if necessary, to contain the spread of coronavirus. All four UK Governments across the UK have agreed on a single piece of UK-wide legislation as the right approach.'*

30. I recall a meeting at the Welsh Government offices in Cathays Park in Cardiff. This took place on Monday 16 March 2020. The First Minister was present to give a briefing together with Adam Price MS, the then Leader of Plaid Cymru and Angela Burns MS standing in for the Leader of the Welsh Conservatives. I do not recall specific details but I know we were given detail about the current number of cases and the plans for a Coronavirus Bill at UK-level.

31. On the same day, the Senedd Commissioners also met and the minutes recorded the following-

*'Having been briefed, Commissioners considered actions already taken, what is being done and decisions needed at this point in time in response to coronavirus, Covid-19. They agreed actions in relation to current trigger points and discussed practical and business continuity arrangements. The Commission decided that public engagement activities will stop from Tuesday 17 March, and not resume before Sunday 26 April. Buildings will close to the public except for those attending or observing formal proceedings of the [Senedd]. The Commission also decided to postpone the Senedd's week of business in the north east [of Wales] later this*

*Summer. Commissioners also discussed the need to support staff directly and indirectly affected by the COVID-19 outbreak and the need to continue to provide relevant guidance to ... Members relating to their own staff and offices. Commissioners confirmed their support for the proposed approach and agreed the decision-making processes, recognising there would be a need for further decisions to be taken.'*

32. On Wednesday 18 March 2020, I met the then Trefnydd, who is responsible for the management of the Welsh Government's business (similar to the "Leader of the House" in the House of Commons). The Trefnydd at the time was Rebecca Evans MS and she and I met to discuss the impact of covid on government business.
33. I also recall that on Friday 20 March 2020 I developed a cough. I made a voluntary decision to self-isolate as a precaution. On Sunday 22 March I took a test. On Tuesday 24 March, I clearly remember a telephone from the Health Board telling me that I had tested positive and to self-isolate in my home. I was not therefore able to attend the Senedd for the immediate future (see below).

#### **Meetings with Welsh Government**

34. In addition to the meeting on Monday 16 March 2020, I attended numerous meetings with the First Minister during the pandemic. The Chief Medical Officer for Wales, Sir Frank Atherton, was often present at these meetings to give technical briefings on the developing health situation. I do not recall whether the Chief Medical Officer was present at all of these meetings but my diary notes meetings with the First Minister taking place on the following dates: 20 April 2020, 30 March 2021, 29 July 2021, 9 December 2021, 16 December 2021, 20 January 2022 and 10 February 2022.

#### **Operation of the Senedd during the early stages of the pandemic**

34. As noted above, the Senedd estate was closed to visitors from Tuesday 17 March 2020. Thankfully, in around 2018-2019, the Senedd Commission had embarked on a programme of replacing desktop computers with laptops. This investment proved to be prescient as it meant that Commission staff could be asked to work at



home. Members and their staff had also been given laptops at around the same time.

35. At the beginning of lockdown, emergency standing orders were agreed by the Senedd on Wednesday 18 March 2020 (see Exhibit EJ2). These allowed me to exclude the public from the public gallery. I used the opportunity to do so. I did not take this decision lightly but I was reassured that proceedings would be recorded so that the Welsh public would have an opportunity to view what was happening in their parliament. Unlike some legislatures, the Senedd is not constrained by a constitutional duty to meet in any particular location.
36. The emergency Standing Orders made provision for a Designated Temporary Presiding Officer to be appointed in the event that both I and my deputy were unable to act. They also allowed for an acting Chair of Plenary to be appointed.
37. On Saturday 21 March 2020, I wrote to all Members as follows-

*"The Senedd will meet on Tuesday 24th March to consider a Legislative Consent Memorandum (LCM) relating to the Coronavirus Bill currently before the UK Parliament. This follows a request from the First Minister in accordance with Standing Order 12.3, which I have agreed. Plenary will start at 10.00am. In addition to the LCM, business will include items currently scheduled for Wednesday 25th March. There will be no plenary meeting on Wednesday. The order of business and revised tabling deadlines for topical questions will be circulated to Members shortly. Members are encouraged to inform Members' Business Support if they are unable to attend Assembly Business due to sickness or self-isolation. This will assist in the logistical arrangements and public health considerations, such as social distancing in the Siambr. Business Committee is considering options for maintaining the continuity of essential Assembly Business over the coming weeks, balancing our continued ability to legislate and scrutinise matters relating to COVID-19 with public health considerations. I thank Members for their patience and flexibility in these difficult times."*

38. On Monday 23 March 2020, the then Prime Minister of the UK, Boris Johnson, made a statement to the public in which he said, among other things, *'From this evening I must give the British people a very simple instruction - you must stay at home.'*
39. The Senedd next met on Tuesday 24 March 2020. I was unable to be present owing to my covid test proving positive. The session was chaired by Ann Jones MS, the then Deputy Llywydd.
40. On this occasion, the Senedd agreed Standing Order 34 (see [INQ000352840](#)) in place of the emergency Standing Orders agreed the previous week. Standing Order 34 included the provisions previously agreed on Wednesday 18 March 2020 but also included additional provisions, notably for "weighted voting". This meant that a member of a political group could vote on behalf of all members in that group. As a result, the 24 March meeting took place with a reduced number of Members present. On that occasion, the Senedd agreed to consent to the Coronavirus Bill then passing through the Westminster Parliament (where Westminster proposes to legislate for Wales in a devolved area of policy, the Senedd is asked to give consent).
41. On Friday 27 March 2020, Business Committee agreed that the Senedd would meet on Wednesday 1 April 2020 again with a reduced number of Members present. Fifteen Members attended representing different political groups. I was advised that it would be lawful for Members to participate in plenary remotely. The Senedd held its first virtual plenary, therefore, on Wednesday 1 April 2020. This was the first parliamentary session to be held by video-conferencing in the UK. We used Zoom. We chose this option because we had tested various platforms and Zoom was the most reliable. It also allowed us to provide simultaneous translation which was not available on other platforms.
42. I was able to chair the session from my home in my constituency of Ceredigion which is many miles from Cardiff. The staff who usually support me (such as the clerks) were also at their own home. Only a very small number of technical staff (who work on broadcasting etc) were permitted to work in the Senedd building because their work could not be done remotely. This demonstrates how technology enabled the Senedd to work effectively. Members participated virtually via Zoom. However, not

all Members could participate at this point because of technological limitations. Subsequently, all Members were able to join by Zoom (see below).

43. On Friday 3 April 2020, Business Committee agreed that, from Wednesday 8 April until further notice, the number of Members permitted to attend would increase. Twelve Labour Members, six Conservative Members, four Plaid Cymru Members and two Members of the Brexit Party would be permitted to attend (24 in total from political groups). There were four independent Members at this time all of whom were permitted to attend. If all those entitled to be present were there, 28 Members would be present in the Siambr.
44. On Monday 11 May 2020, Business Committee agreed to increase the permitted numbers as follows: Labour (16), Conservatives (8), Plaid Cymru (7) and the Brexit Party (3). With independent Members added in, 38 Members would be entitled to attend.
45. On Monday 18 May 2020, Business Committee agreed that all sixty Members should be permitted to attend virtual Plenary meetings from Wednesday 3 June 2020. They agreed that weighted voting would remain in place.
46. My priority was to ensure that the Senedd would continue to operate as normally as possible during the pandemic. It seemed to me vital that the Welsh Government would be fully held to account for its decisions and that all Members could have a say in these unprecedented circumstances. In this early period, I was permitted to relieve Ministers of their duty to answer oral questions, provided I consulted the Business Committee (Standing Order 34.18). I did so for the first few months of the pandemic. Instead, the First Minister gave weekly statements to the Senedd on which he was asked questions.
47. On Monday 15 June 2020, I indicated to Business Committee that I wanted Ministers to resume answering oral questions (see [INQ000352841](#) for the relevant extract from the minutes). Oral questions, therefore resumed on Wednesday 24 June 2020. On the same occasion, Business Committee agreed that remote electronic voting could take place '*... as soon as the Llywydd determines the system is ready for use.*' With

my agreement, therefore, remote electronic voting, which enabled Members to vote from anywhere, was used for the first time on Wednesday 8 July 2020. This replaced the weighted voting arrangement and meant that Members were able, once more, to cast an individual vote.

48. Additional categories of plenary business were added over the summer term, so that by September 2020, a full range of business was being considered in two plenary sessions per week.
49. On Wednesday 8 July 2020 and on Wednesday 15 July 2020, the Senedd met in hybrid format. During the Summer Recess of 2020, there were two recalls. Both were held as virtual meetings (Wednesday 5 August and Wednesday 26 August). The Senedd resumed meeting in hybrid from Tuesday 15 September 2020 but returned to a virtual format during the 'firebreak' lockdown for meetings held on Tuesday 3 November and Wednesday 4 November 2020. After that, hybrid continued to be the practice for the rest of 2020 save that on 30 December 2020 a virtual session was held. The latter was convened to deal with urgent business related to the UK's departure from the EU.
50. From Tuesday 12 January 2021 until Monday 12 April 2021 plenary meetings took place virtually. On 6 May 2021, a Senedd general election took place. Since the start of the Sixth Senedd, all plenary meetings have been hybrid. The only exception to hybrid was for a short period (14 December 2021 to 26 January 2022), owing to a surge in the Omicron variant, when the Senedd reverted to virtual meetings.
51. Otherwise, the hybrid meeting format has been the norm since September 2020 and the option of holding a fully virtual meeting has continued to be available.
52. On 13 July 2022, the Senedd agreed to make changes to Standing Orders. These would retain some of the aspects of adjustments to Standing Orders made during the pandemic which were intended to be temporary. The outcome of the changes is that remote participation in plenary and committee sessions is permitted. Additionally, among other changes (i) an acting chair of plenary may be appointed

and (ii) remote voting is permitted for plenary sessions. Standing Order 34 (referred to above) lapsed on that date.

#### Committees during the pandemic

53. Before the pandemic, Senedd committees had, from time to time, met in a hybrid format with some Members and witnesses participating via video or teleconference. However, virtual committee proceedings had not previously been tested. On Tuesday 17 March 2020, the Business Committee took the view that *'for the foreseeable future committees should focus on essential business'*. Most committees did, indeed, stop all non-Covid related work. During this period, Committee Chairs worked together to co-ordinate scrutiny across committees, in particular, agreeing an approach for the Scrutiny of the First Minister on Covid-Recovery plans.
54. In April 2020, Business Committee agreed to give weekly slots to the Legislation, Justice and Constitution Committee, the Health and Social Care Committee, and the Children, Young People and Education Committee. This was in recognition of the important role these committees would play in terms of legislative scrutiny and scrutiny of health and education policy. Other committees were given fortnightly slots.
55. The majority of committees launched Covid inquiries to cover all issues in their portfolios. However, until mid-June 2020, the technological constraints of remote working prevented more than one public meeting taking place at a time. This reduced the meeting time available, leading to difficult choices about evidence-taking and witness time. Having said this, the scrutiny of matters relating to Covid remained a priority.

#### Coronavirus Legislation

56. The Health Protection (Coronavirus) (Wales) Regulations 2020 were made at 15.15 on Tuesday 17 March 2020, laid before the Senedd at 17.30 on that day and came into force on Wednesday 18 March 2020. This was the first item of legislation about Covid made in Wales. They were 'made affirmative' Regulations as described above.

57. During the pandemic, the Welsh Government principally relied on emergency powers set out in the Public Health (Control of Disease) Act 1984. I set out at Exhibit **INQ000352842** the relevant wording from section 45R ("emergency procedure"). In each case, the Minister was required to make a declaration that in his or her opinion '*...by reason of urgency, it is necessary to make the [instrument] without a draft being ... laid and approved.*' At **INQ000352843** by way of example, is the preamble to the Regulations. The declaration is set out.

58. The Senedd has 28 days (not counting days when the Senedd is in recess or dissolved for an election) in which to approve a 'made affirmative' instrument under the 1984 Act. If the Senedd simply does nothing, the instrument will lapse after 28 days. If the Senedd proactively withholds approval, the instrument ceases to have effect at the end of the day on which the Senedd makes that decision. In reality, all instruments made under these powers were approved by the Senedd during the 28 day window.

59. The Legislation, Justice and Constitution Committee ('LJC') is charged with reporting on statutory instruments in accordance with Standing Orders. On Friday 27 March 2020, Business Committee agreed to relieve LJC of its duty to do this. Instead, statutory instruments would be considered by the whole Senedd. On Thursday 2 April 2020, the Chair of LJC wrote to me (see Annex G) asking that LJC resume its usual functions. He pointed out-

*'The Welsh Government has been provided with extensive executive powers, unparalleled outside of times of conflict, to address the serious nature of the Coronavirus pandemic. It must also not be forgotten that the Welsh and UK governments are in the midst of preparing Wales and the UK for exiting the European Union. This task is largely being actioned through an extensive programme of subordinate legislation. It is important that, even in these most challenging times, the parliaments of the UK are providing the necessary level of scrutiny and that the actions of the executives remain subject to a thorough and robust system of checks and balances – this is a long-standing and fundamental constitutional principle.'*

60. On Friday 17 April 2020, therefore, Business Committee agreed that LJC would revert to its usual practice of reporting on statutory instruments.
61. The LJC Committee considered its first Covid-related piece of subordinate legislation on Tuesday 28 April 2020, namely the Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020. Between then and the Senedd General Election in May 2021, the Committee reported on 144 statutory instruments related to Covid. 74 were subject to the negative procedure and 61 to the made affirmative procedure. Others were either affirmative or, in rare cases, there was no procedure. LJC raised 383 reporting points during this period.
62. In particular, the Committee drew attention to the accessibility of the legislation, the use and accuracy of Welsh Government guidance and matters relating to compatibility with human rights. On this latter point, the Committee regularly reported on what it considered to be inadequacies in the Welsh Government's approach.
63. There was an excellent session of the Committee on Monday 8 June 2020 where these issues were thoroughly aired with members of the Welsh Government (See [INQ000352843](#))
64. My observation is that Members generally understood and supported the need for the Welsh Government to react quickly to a rapidly-developing public health emergency, but the frequent use of the made affirmative procedure was occasionally the cause of frustration for some Members.
65. Members' concerns were focussed on the timing of the debates of regulations which had already come into effect. Some Members, particularly those from opposition parties, were keen to debate new measures as early as possible after introduction. In practice, debates were often scheduled some weeks after the law came into force. On occasions, Regulations were superseded before Members had a chance of debating them. This led to particular dissatisfaction.

66. Where possible, the Welsh Government committed to scheduling debates within two weeks of regulations being made, although this placed considerable pressure on LJC to report quickly on instruments. In these circumstances the Business Committee maintained its commitment to ensuring committee scrutiny, recognising the importance of additional safeguards where important legislation was being made quickly in complex areas.

67. The benefits of this way of working seems to have been supported by the Minister for Health and Social Services, Vaughan Gething MS, in Plenary on Tuesday 6 October 2020 when he said:

*"I also welcome the fact that the committee has, from time to time, helped us with consistency in legislative provisions. That's part of the point of the scrutiny. We're making these regulations in a rapid manner because of the fast-changing picture with coronavirus, and I think there's value in having the committee undertaking its scrutiny function before the legislature is then able to exercise its function in determining whether these regulations can continue or not."*

68. Questions were raised in Business Committee on 6 October 2020 about the possibility of expediting the scrutiny process where the general provisions of a set of regulations had been considered previously in relation to an earlier provision. This possibility, which was ultimately rejected by the Business Committee, was the subject of correspondence with the LJC Committee: see my letter of 8 October 2020 [INQ000352844](#) and the response [INQ000352836](#)

69. In addition, for novel provisions (for example, the introduction of "firebreak" restrictions in November 2020), "in principle" debates were sometimes scheduled to provide an opportunity for early discussion. These debates were not binding, and there was still a requirement to hold formal debates to consider and approve the regulations following committee scrutiny. As an example on Tuesday 20 October 2020, the Senedd agreed the following motion-

*'[The Senedd] [a]grees that a short 'fire break' period as proposed by SAGE and the WG Technical Advisory Group should be introduced to bring down R, reduce chains*



*of onward transmission, minimise clusters of infection in the community and to further strengthen the Test Trace Protect system.'*

70. For the early part of the pandemic, the Senedd as a whole generally accepted both the content of the Welsh Government's Covid-related legislation and also the procedures adopted. Notably, Members generally accepted that statutory instruments had to come into force before being debated by Members given the nature of the public health emergency.
71. However, as the pandemic progressed, the unanimity between Members on both the policy and the process for making statutory instruments started to break down. Opposition Members became less willing to support policies and the "made affirmative" legislative approach. I will give one example of a debate that took place in the Senedd on Tuesday 11 January 2022, almost two years into the pandemic. On that occasion, Members were asked to give support to three sets of regulations, all of which had come into force on various dates between Saturday 11 December 2021 and Sunday 26 December 2021, some several weeks before the debate. Further detail of the Regulations are set out at [INQ000352837](#)
72. Russell George MS, a Conservative Member, made the following comments-

*"Can I say, Minister, I think it is entirely unacceptable at this point in the pandemic that we are voting on these regulations retrospectively? This was, of course, understood nearly two years ago at the beginning of the pandemic, but we are now in a virtual meeting, where meetings can be requested more easily, and we are now in a position where the regulations should be debated first before the regulations come into being. We also, I think, need to see the scientific evidence that's behind the regulations being provided much earlier, not late as they have been in the instance of these regulations as well.*

...

*You've outlined, Minister, that if these regulations are not supported today, the regulations will then cease and there'll be fewer restrictions in Wales. What I would say to that, Minister, is that the regulations need to come forward and be debated*

*before they come into force, along with the scientific evidence being published at that time as well, and then we would not be in the position as you set out..."*

73. Mabon ap Gwynfor MS, a Plaid Cymru Member made a statement in Welsh, the official translation of which appears below-

*"The regulations and guidance brought forward by Government over the past almost two years have, generally, been widely supported, but this support is waning, and this is following the decision to prevent more than 50 people attending outdoor events. Coronavirus, from the common cold to COVID-19, does spread at this time of year because people are gathering indoors. But, under the current regulations, people can view matches on televisions in clubs and pubs, as we've already heard, but they can't watch a match in the open air. Now, one understands the need to regulate the major sporting events with thousands of people using public transport and going into pubs, as I mentioned myself during the autumn internationals. And one understands, of course, the need to regulate and control that. But, these current rules that prevent games such as Llanuwchllyn against Porthmadog in the football, for example, are regulations that are disproportionate and, as I said, they put at risk the wide-scale support for the regulations that there has been in the past. So, will you review this element and, as Llyr Gruffydd mentioned earlier today, look at increasing that maximum for attendance at open-air sporting events and participation in parkruns, and do so as soon as possible, please?"*

74. Jane Dodds MS, a Liberal Democrat Member of the Senedd said-

*"I have on the whole supported, and continue to support, the pragmatic approach this Government has taken, but I cannot support fining workers for a decision that is completely out of their control. I look forward to hearing your thoughts on this, Minister, and wondered if you could clarify if amendment 23 relates only to those requirements on individual workers to work from home, and not provisions to fine employers who do not make provisions for individuals to safely work from home. If these regulations were not to be approved by the Senedd, would the provision to fine employers be removed from the regulations? Finally, will you commit to bringing forward amended regulations at the earliest possible opportunity that remove the provision to fine workers? Thank you."*

75. All three sets of Regulations were passed but, unlike in the early part of the pandemic, numerous Members either abstained or voted against the Regulations.

#### Mobile phones

76. I am aware that the Inquiry is interested to know how Members communicated during the pandemic and what use was made of mobile phones. The Senedd Commission offers all Members a mobile phone for use in discharge of their duties. Members are free to choose whether or not to have a Senedd Commission phone. At all times, the phone remains the property of the Senedd Commission, but the latter exercises almost no control over its use.
77. Members are data controllers and are responsible for the personal data held on their Commission-issued mobile phones. The Senedd Commission does not instruct Members to delete data held by them on their phones, either in the run-up to a Senedd general election or at any other time. Nor does the Senedd Commission prevent Members from using WhatsApp (or similar apps) on Senedd Commission phones. There is no back-up by the Senedd Commission of data stored on Member phones. Any back-up is done by the Member. If the phone malfunctions, the Senedd Commission's ICT team will endeavour to fix it. If the team cannot fix the phone, it is sent to the Apple Store for fixing (all Commission phones are Apple products). If the Member reports that the phone is lost, the Senedd Commission will disable the phone and render it unusable.
78. At INQ000352838 set out the information provided to Members about mobile phone use in the run-up to the 2021 Senedd General Election.

#### Lessons Learnt

79. These are some of my reflections on what I felt the Senedd learnt from the pandemic.
80. The Senedd is adaptable in a crisis; it has the agility to make temporary changes to procedure when necessary. Investment in technology is key. Provided remote working is secure, which I am satisfied that it is, it works well. Technology has the

potential to enable Members to strike a balance between presence in the constituency/region and presence in the Senedd.

81. Many of the methods adopted during the pandemic have become the norm. Plenary meets in hybrid format. Committees now often meet in a hybrid format. Hybrid committees are making the most of the opportunity to invite witnesses to give evidence from as far away as Australia. This increases participation in the work of the Senedd and expands the diversity of participants.
82. The new hybrid way of working has also encouraged us to re-think about the most effective use of the physical Senedd estate.

**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

Dated: 22/11/23