

Witness Name: Chrishan Kamalan

Statement No: 1

Exhibits: 33

Dated: 14 November 2023

## UK COVID-19 INQUIRY

---

### WITNESS STATEMENT OF CHRISHAN KAMALAN

---

I, Susheel Chrishan Kamalan, state as follows:

#### **Preface**

1. Words cannot express the pain and suffering experienced arising from the Covid-19 global pandemic. In this context I extend my deepest sympathies to persons who have lost loved ones and empathy with those who contracted the coronavirus.

#### **Introduction**

2. I provide this statement in response to a request made by the Chair of the UK Covid-19 Public Inquiry (the Inquiry) pursuant to Rule 9 of the Inquiry Rules 2006, dated 26 June 2023, and referenced M2B/WG/CK/01 (the Rule 9 request).
3. The information provided is an overview of my background, experience, and roles in the emergency response to Covid-19 in Wales. I should state that my role during the Covid-19 pandemic period (including any role I had in supporting core political and administrative decision-making) was limited to what is outlined in the statement below, and for the time-period 1 January to mid-August 2020. This period broadly reflected Phase 1 of the pandemic. The chronology being:
  - a. From 1 January to 9 February 2020, I was the Head of the Communicable Disease Branch in the Public Health Division within the Directorate of the Chief Medical

Officer for Wales (CMO(W)). I had been in that post since early July 2018. That was a Grade 7 / Executive Band 2 role.

- b. From 10 February to 10 August 2020, I was an acting or interim Deputy Director / Senior Civil Servant (SCS 1) for the Covid-19 response. My role was positioned in the CMO(W) Directorate. Initially, public health headed up the organisational response. This evolved to including the rest of the Health and Social Services Group (HSSG). As from April 2020, and the establishment of a specialist Directorate, to undertake the 21-day reviews of legislation. Civil contingencies spearheaded the response from then on.
- c. I took agreed annual leave after my six-month temporary post came an end, returning to HSSG in September 2020. From September 2020 to December 2021, I worked in the Deputy Chief Medical Officer's Division on non-pandemic related matters. At the start of January 2022, I moved to an equalities and human rights role in the Communities and Tackling Poverty Directorate. I returned to my substantive Grade 7 / Executive Band 2 role as of 11 August 2020.

**Qualifications**

- 4. I am a lawyer by training. As of the end of 2019 my relevant qualifications were:

<b>Qualification</b>	<b>Institution</b>	<b>Date</b>
Master of Arts	Trinity College, University of Cambridge	1996
Solicitor (England and Wales)	Law Society of England and Wales	April 1997
Master of Laws (LLM) with Merit (distance learning and part-time)	University of London External c/o University and Queen Mary Colleges	2012 to 2016 Graduated in 2016
Executive Certificate in Public Leadership (in person)	John F. Kennedy School of Government, University of Harvard, United States of America	2018 to 2019

Alumnus and Associate Member (residential)	Blavatnik School of Government and Magdalen College, University of Oxford	September 2019
--	---	----------------

**Public health policy experience: July 2018 - December 2019**

5. At the start of July 2018, I was appointed and started in post as Head of the Communicable Disease Branch in the Public Health Division, within the HSSG. I reported to the Deputy Director of the Division who initially was Irfon Rees before he moved on secondment to the Welsh NHS. This was followed by an interregnum period with no person acting in post, and before the appointment of Neil Surman as permanent and full time Deputy Director. I line managed a team of five people as Head of Branch. I exhibit as **CK/1-INQ000300253** a Public Health Division organogram, dated October 2019.
  
6. During the 18-month period from July 2018 to December 2019 I led on: Brexit impacts in relation to public health; the Communicable Disease Monitoring Group; and the National Health Protection Service for Wales. I discuss these roles further below.

*Brexit impacts in relation to public health*

7. Preparations for Brexit featured heavily in my work remit from July 2018 to late December 2019. I sat on the Strategic Advisory Group to support the Health Impact Assessment (HIA). The HIA was undertaken from July to December 2018. It was published in 2019. I exhibit as **CK/2-INQ000321280** the HIA (dated 2019). Of the four nations comprising the United Kingdom, only Wales produced a HIA which focused on the potential impacts of the UK's withdrawal from the EU on population health and well-being, and the social determinants of health in Wales. The HIA commented on likely outcomes arising from the potential nature of the withdrawal agreement which was unknown for most of this period. Namely 'soft' Brexit, 'hard' Brexit, or a 'no-deal' Brexit.
  
8. I was also a member of the four nations steering group comprised of government and public health officials from Wales, Scotland, Northern Ireland and England. In person meetings were held in Cardiff, Edinburgh, Belfast and London which I attended. Given the unique nature of the Wales HIA, there was extensive regard given to

recommendations which had wider read across to all four nations. Starting with recommendation one (see page 140):

*Policy makers and public services should consider the range of potential impacts of Brexit identified in this report (see Section 4) and the areas for future action (Section 7) and ensure co-ordinated actions are in place to address each. The report should also be considered by multi-agency structures that have been set up to prepare for and respond to Brexit, in order to provide co-ordination across activities and ensure interdependencies between them have been identified and addressed.*

#### *The Communicable Disease Monitoring Group*

9. I sat on the weekly Communicable Disease Monitoring Group comprised of internal colleagues and Public Health Wales (PHW). Meetings were scheduled on Monday lunchtimes, and these were subject to the agenda which was in the main set by PHW officials. The principal PHW officials and consultants were Dr Giri Shankar, Dr Chris Jones, Andrew Jones, and Dr Huw Brunt. Internal input came from Dr Chris Brereton (Chief Environmental Public Health Officer) and Dr Marion Lyons (Senior Medical Officer).
10. The Communicable Disease Monitoring Group met further to the PHW Communicable Disease Surveillance Centre (CDSC) Wales teleconferences which were held on Monday mornings. The purpose of the Communicable Disease Monitoring Group was to alert the CMO(W) to operational matters and health protection risks that were arising. Reports would be made to the CMO(W).
11. On a routine, weekly basis I reviewed these reports which set out current risks. Over the 18-month period leading to January 2020, the principal communicable disease matters included:
  - a. Control of Tuberculosis (TB). Powers contained in the Control of Disease (Public Health) Act 1984 were used by PHW and local authorities to apply to Magistrates' courts for Part 2A Orders to detain infected persons.

- b. An ongoing TB outbreak near Llanelli in west Wales. Hywel Dda Health Board was working with PHW to investigate the outbreak which had begun in 2012.
  - c. Monitoring of mumps and measles outbreaks in British universities, affecting those students who were resident in Wales. These tended to occur at the start of the higher education term and correlated with the uptake of the related MMR vaccine when students were infants.
  - d. A rarer communicable disease which required monitoring was the Middle East respiratory syndrome coronavirus (MERS-CoV). MERS-CoV was first reported in 2012 in Saudi Arabia and the communicable disease spread to other countries. During the annual Islamic season of Hajj when some UK residents would travel to Saudi Arabia, enhanced monitoring was undertaken by Public Health England (PHE) and PHW over any suspected cases amongst persons returning from a pilgrimage in Mecca.
12. In addition, from September 2018 onwards I worked specifically with PHW further to PHE being notified of two non-related cases of the monkeypox virus infecting two travelers returning to the UK from Nigeria. In one instance, the virus was transmitted from the patient to a health care worker in the UK. PHE had temporarily, suspended its Brexit preparation activities to focus on addressing the communicable disease risks associated with the virus. Monkeypox is a communicable disease whose incidence is rare in the UK. The outbreak of the virus engaged communicable disease protocols for the purpose of control and management of the disease. No related cases were identified in Wales further to the incidents which occurred in England. I exhibit as **CK/3-INQ000320692** a PHW briefing (dated 13 September 2018) entitled 'monkeypox guidance following cases in England'.
13. I reported to the Deputy Director whose responsibility was to appraise the CMO(W) on the consequences of this outbreak. A key outcome was that the absence of a High Consequence Infectious Disease (HCID) unit in Wales meant that patients who contracted a HCID such as monkeypox would have to be moved to one of only two HCID units in England. I exhibit as **CK/4-INQ000177379** an email dated 31 December 2019, which discusses this case of monkeypox.

## *National Health Protection Service for Wales*

14. In July 2018, I attended a meeting held with PHW at their offices, also attended by the CMO(W) and the Deputy Director (then Irfon Rees) at which there was initial and early discussion over strengthening the health protection services within the NHS. In Spring 2019, the Communicable Disease Branch convened a workshop with representatives from the NHS, to carry out a deep dive into needs around health protection. In part, this was informed by the experience of the monkeypox outbreak in the UK. In September 2019, I was engaged with the follow-on submission which was cleared by Dr Marion Lyons on behalf of Neil Surman. I exhibit as **CK/5-INQ000177552** the Ministerial Advice entitled “Strengthening and improving the National Health Protection Service in Wales”, dated 2 September 2019.
  
15. I subsequently met Andrew Goodall (then Director General for HSSG) and Ifan Evans (then an acting Director in HSSG) to discuss investment by the Welsh Ministers in the National Health Protection Service for Wales. That meeting took place at Ministers’ offices, in Cardiff Bay, and followed on from the submission. After that meeting the HSS Minister agreed the additional revenue funding necessary in 2019/20 (£1.068m) and 2020/21 (£6.035m) to deliver a strengthened and improved National Health Protection Service for Wales.

### **Initial response to the pandemic - January to March 2020**

16. I first became aware of a novel coronavirus emerging from Wuhan, China and as Head of the Communicable Disease Branch, in early January. The Senior Medical Officer (Dr Marion Lyons) and I were informed via the existing reporting mechanisms from PHW by Dr Giri Shankar. At that point, it was agreed that PHW would attend daily meetings convened by PHE to monitor the situation and update the Welsh Government via the Communicable Disease Branch. The Deputy Director and CMO(W) were informed accordingly.
  
17. On 13 January 2020 at the Communicable Disease Surveillance Centre (CDSC) Wales teleconference organized by PHW the agenda included reference to “International incident – novel coronavirus China – IMT (Incident Management Teams) commenced.”

This would have been discussed at the scheduled lunchtime meeting held the same day. I exhibit as **CK/6-INQ000320699** an email from Jane Salmon (PHW) dated 13 January 2020. I also exhibit as **CK/7-INQ000320700** the document which was attached to that email (also dated 13 January 2020) entitled “2020\_02\_CDSC Wales Teleconference\_13 Jan 2020”.

18. Around mid-January, I started to attend a regular set of daily meetings which were:

- a. ECC(W) bird-tables held in the dedicated ECC(W) rooms in Cathays Park. The Health Emergency Protection Unit (HEPU) were represented at these meetings by Dr Claudia Guy;
- b. Teleconferences held in the morning with the DHSC and other devolved administrations; and
- c. Teleconferences held in the afternoon with PHW.

19. I would action points arising for the Communicable Disease Branch. I also re-positioned the work of the Communicable Disease Branch to focus on the Wuhan coronavirus work. That meant for example that work on implementing Part 4 (Special Procedures) of the Public Health Act 2017 was discontinued. The specialist officer, Dr Sarah Jones, was re-deployed to work for Dr Marion Lyons on coronavirus.

20. On 16 January 2020, the Minister’s office was informed that PHW had been notified on 15 January 2020 of a possible case of novel coronavirus (nCoV) relating to a resident of north Wales with links to Wuhan, China. I exhibit as **CK/8-INQ000180596** the relevant email from [NR] to the Minister for Health and Social Services (MHSS) (dated 16 January 2020). On 17 January 2020, the Minister’s office was informed that tests carried out at a Liverpool hospital on that individual had proved to be negative. I exhibit the relevant email sent from [NR] to the MHSS (dated 17 January 2020) as **CK/9-INQ000180615**.

21. On 20 January 2020, the First Minister’s office was briefed. I exhibit as **CK/10-INQ000320701** an email from [NR] to Joseph Beese (dated 20 January 2020) copying in Marion Lyons, myself, Neil Surman and the CMO(W).

22. The week commencing 20 January 2020 saw the following developments. The receipt of daily email communications from PHE, sent early every evening, which commenced on

21 January 2020. I exhibit as **CK/11-INQ000320702** an example email from PHE (dated 21 January 2020) entitled "PHE Sit Rep 7 Wuhan novel coronavirus 2020". Also, the receipt of Department for Health and Social Care (DHSC) UK Government SitReps.

23. As from 28 January, I reviewed daily updates to the MHSS which followed the DHSC SitRep for that day. I exhibit as **CK/12-INQ000320708** an email chain (dated 28 January 2020) which shows an email sent by [redacted NR] to the MHSS. The clearance function would have sat with the Deputy Director. From 28 January to 9 February, I would have reviewed as Head of Branch.

24. From 31 January 2020 weekly CMO(W) updates were issued further to clearance by the CMO(W). I exhibit as **CK/13-INQ000320710** (dated 31 January 2020) an example.

25. During February, Neil Surman's time was increasingly taken up in liaising with colleagues outside of HSSG. I recollect that Neil Surman met with the Permanent Secretary, Dame Shan Morgan, bilaterally, in early February. Further to that meeting, I understood that Neil Surman had been asked by Dame Shan Morgan to work centrally on the proposed UK Coronavirus Bill and in doing so to draw on his experience of education policy. His role being that of Wales policy bill lead as I understood.

26. In mid-February, and further to a decision taken by the Director General for HSSG and the CMO(W), I was asked to act as an interim 'Deputy Director for Coronavirus'. I accepted this offer of a temporary arrangement which took effect from 10 February. I was also made the joint Senior Regulatory Officer (SRO) for the public health emergency along with Dr Gillian Richardson, Senior Medical Officer, who was on secondment from PHW. The rationale being that I would lead on policy and Gillian Richardson would act as the Senior Medical Officer lead.

27. During February, a Deputy Director, Mr. Peter Lloyd Jones, transferred to the Public Health Division and assumed line managerial responsibility for the work of all other branches. I received extra staff on a temporary basis to work under my direction, these temporary numbers reached around 20 – 25. I moved to meeting with these colleagues on the Microsoft Teams video platform relatively early on. I also requested administrative assistance. I was assigned a colleague to help but only for a limited period.



28. My role as Acting or Interim Deputy Director evolved, starting with:

- a. When invited to do so, I attended Cabinet meetings and meetings with the First and Health Ministers. Providing briefings which was often non-written owing to speed of developments. Actioning public health policy matters arising from the meetings. I was never invited to attend ExCo which is the Management Board of the Welsh Government.
- b. Attending, along with Gillian Richardson, as an observer at the NHS Chief Executives' teleconferences. These were chaired by Andrew Goodall and involved all seven Health Boards and three NHS Trusts. As Senior Regulatory Officers for the public health response, we monitored related impacts arising.
- c. Supervising the work of colleagues who were adapting DHSC guidance for Welsh purposes.
- d. Advising Ministers and providing policy instructions on legislation to be made under Part 2A of the Public Health (Control of Disease) Act 1984 for purposes of controlling Covid-19. During January and February, the Welsh Government response was public health led. I exhibit as an example **CK/14-INQ000320723**, an email dated 13 February 2020 with the subject "Briefing on England COVID-19 Regulations and position in the UK as of 13 February".
- e. Advising the CMO(W) on suspected cases which were being handled by PHW. I exhibit as **CK/15-INQ000320698** a briefing from PHW, entitled "Cluster of pneumonia of unknown aetiology in Wuhan City, China" dated 8 January 2020. Suspected cases from January onwards were managed in line with the "Wales Framework for Managing Major Infectious Disease Emergencies". I exhibit this framework as **CK/16- INQ000184289** (dated October 2014).
- f. To note that Gillian Richardson and I 'sat within' the Welsh Government (Health) section (as depicted in Figure 1, see page 8); the Health (Team) (as depicted in Figure 2, see page 10); and were also involved with the Emergency Co-ordination Centre Wales (ECC(W)) (as depicted in Figure 2, see page 10).

29. The first confirmed case in Wales was notified in the public domain on 28 February 2020. I clearly recollect discharging my role as per the Wales Framework for Managing Major Infectious Disease Emergencies immediately prior to that announcement on the evening of 27 February.

30. In my role as Interim Deputy Director, I also reviewed Written Statements issued by the HSS Minister. Written Statements that were reviewed by myself include:

- a. Exhibit **CK/17-INQ000320706** (dated 24 January 2020);
- b. Exhibit **CK/18-INQ000320711** (dated 31 January 2020);
- c. Exhibit **CK/19-INQ000320714** (dated 4 February 2020);
- d. Exhibit **CK/20-INQ000320716** (dated 11 February 2020);
- e. Exhibit **CK/21-INQ000320728** (dated 18 February 2020);
- f. Exhibit **CK/22-INQ000320744** (dated 25 February 2020); and
- g. Exhibit **CK/23-INQ000320747** (dated 28 February 2020).

31. From March 2020, I would provide support to the CMO(W), HSS Minister and First Minister when they attended COBR meetings. I also continued to review Written Statements which related to public health policy. There was an increasing amount of government business which I had to review. As a rough indicator of volume of communication, see the below table:

<b>Month / period in 2020</b>	<b>Emails</b>
28 February - 9 April	1,467 received (including copied into)
10 April - 30 April	2,176 received (including copied into)
July	646 sent
1 - 15 August	687 sent

32. I exhibit the following organograms: **CK/1-INQ000300253** (dated October 2019); **CK/24-INQ000321207** (dated 2020); and **CK/25-INQ000321208** (dated 2020), and note that I agree with the positioning of public health in the wider organisational response.

33. From April 2020, I provided a secretariat for weekly four nations health Ministers meetings. These were established at the suggestion of Vaughan Gething MS. The

DHSC subsequently convened the meetings which were attended by Matt Hancock MP, Jenette Freeman MSP, and Robin Swann MLA. I would follow up on action points and engage with leads responsible for Test and Trace, PPE, shielding etc. I exhibit as **CK/26-INQ000320841** an email dated 27 April 2020 with the subject "Briefing and lines for Four Nations Health Ministers' weekly call - 27/4/2020".

34. The Rule 9 request has asked me to explain my understanding of the Welsh Government's initial strategy in relation to Covid-19 during January - March 2020. I both understood and experienced the Welsh Government's initial strategy to be a phased response, on a UK wide basis, of the following four phases: Contain; Delay; Research; and Phased.
35. The Rule 9 request also asks to what extent was the concept of herd-immunity considered by the Welsh Government as a strategy for responding to Covid-19 during this time period, and whether in my opinion herd-immunity was an appropriate strategy to respond to the initial threat of Covid-19 (i.e. in the period January to March 2020), and whether this approach was adequately considered by the Welsh Government. In response I would state that I was not aware of official consideration being given to the concept of herd-immunity. I do not hold an opinion on whether it was an appropriate strategy to respond to the initial threat. My understanding of herd-immunity was from the media reporting at the time which may or may not have been accurate.
36. The Rule 9 request has asked for my opinion on (focusing on the period between January to March 2020) whether Welsh Government appreciated the seriousness of the threat of Covid-19, and whether Welsh Government was making the necessary preparations to respond in the early stages of the pandemic. In my opinion, the Welsh Government appreciated the seriousness of the threat of Covid-19, and it made the necessary preparations to respond in the early stages of the pandemic.
37. The Rule 9 request asks questions in relation to two events which occurred in March 2020, namely a Stereophonics concert and a Six Nations Rugby match between Scotland and Wales. I was neither involved in, nor was aware, of discussions around the Stereophonics concert. The Covid-19 Preparedness Group discussed the Wales v Scotland rugby match which had been scheduled to take place on Saturday 14 March in Cardiff. I attended meetings of that group. As of Thursday 13 March 2020, no advice had

been given by the four Chief Medical Officers, on public health policy grounds, to call off the match. Had that been the case I would have communicated that position.

38. I am also asked for my views on the initial lockdown imposed in March 2020 across the UK, and whether I agree this was the most appropriate strategy to respond in the initial stages of Covid-19. I am also asked whether I have any comments on the timeliness of the implementation of the initial lockdown or its duration. In response I would say that my professional policy view is, and remains, that powers contained in Part 2A of the Public Health (Control of Disease) Act 1984 were legislated for further to the SARS (severe acute respiratory syndrome) pandemic of 2003. The powers include the option to impose lock downs for the purpose of controlling a communicable disease, as necessary and in doing so undertaking a balance of all harms exercise. In the case of Covid-19 there was clear evidence from northern Italy of the harms posed, and the benefits of the lockdown imposed. I would also state that I am not qualified to give a scientific opinion.
39. The Rule 9 request asks me for my comments regarding decisions made in respect of international travel during the early stages of the pandemic. In respect of international travel restrictions, my involvement with these regulations was limited to public health inputs. As an example, I exhibit as **CK/27-INQ000320850** an email chain (the last email of which is dated 15 May 2020).
40. I am also asked to explain whether, in my view, the Welsh Government was in any way curtailed or prevented from understanding the full scientific picture between January to March 2020 due to its access or lack of access to the medical and scientific advice being provided to the UK Government, with particular focus on whether the Welsh Government was sufficiently sighted on SAGE (Scientific Advisory Group for Emergencies) advice, or able to sufficiently participate in SAGE meetings, during this period. In response I would state that I did not have an observer status on SAGE nor was I an observer or member on the Welsh Government's Technical Advisory Group (TAG). Accordingly, I am not sighted to comment as to whether the Welsh Government was curtailed or prevented from understanding the full scientific picture. Further, although I am listed as a member of the revised Technical Advisory Cell (TAC), I do not recollect attending TAC meetings. I exhibit as **CK/28-INQ000320843** the Ministerial Advice (dated 28 April 2020) which lists me as a TAC member (see page 7).

41. I am also requested to comment on the extent to which I believe Welsh Government decisions from January to March 2020 aligned with the UK Government, whether the Welsh Government should have made more or less decisions independently of the UK Government during this stage of the pandemic, and whether I think the Welsh Government was curtailed in any way by the decisions of the UK Government during this stage of the pandemic. I believe that for the initial period from January to March 2020 the Welsh Government's decisions aligned with those of the UK Government. During an initial period of the outbreak of a communicable disease, where its effects and impacts are very similar on either side of a land border, I would expect decisions taken for Wales and those for England to align.

### **Role in core decision-making and advice provided to the Welsh Government**

42. I have outlined, earlier, the roles I played in core decisions taken by the Welsh Government during the course of my professional engagement with the Covid-19 pandemic from January to August 2020. I would enlarge, by way of illustration, the advice I gave further to a key COBR meeting. That meeting was held on the afternoon of 20 March 2020, prior to the UK wide lockdown, which was announced by the UK Prime Minister on 23 March 2020. At that meeting, which was chaired by the UK Prime Minister, the UK Government announced its intention to impose a lockdown by making regulations which would require certain businesses to close their premises.

43. I clearly recollect the question arising, either during or after the COBR meeting, as to whether the Welsh Ministers possessed powers equivalent to those of the Secretary of State to make similar regulations which applied to Wales. Arising from my policy experience of the primary legislation (as outlined elsewhere) I advised the Ministers present that they possessed the powers to make such regulations. This was brief oral advice given at the time. As part of the process of drafting this witness statement, I have been referred to a meeting note of that COBR meeting, and the follow up meeting (which commenced at 17:10), where it is recorded that I informed those present (including the Minister for Health and Social Services and the First Minister) that Ministers had the powers to make such regulations, arising from the Public Health (Control of Disease) Act 1984 (Part 2A). I exhibit this meeting note as **CK/29-INQ000352964**, dated 20 March 2020.

44. The Inquiry have requested for me to provide an overview of these powers. These specific powers (to make regulations requiring businesses to close in response to the public health threat of Covid-19) are contained in the Public Health (Control of Disease) Act 1984 (see Part 2A (Public Health Protection)). Relevant sections being: 45C (3)(c) (the imposition of restrictions or requirements in relation to premises), 45I (power to order health measures in relation to premises), and 45I (2)(a) (the imposition of restrictions or requirements can include that premises be closed). The powers conferred upon the Welsh Ministers under the Public Health (Control of Disease) Act 1984 are extensive in scope. I have commented elsewhere in this witness statement regarding the use of powers under the Act (see paragraphs 11(a), 28(d), 38, and 56). A starting premise is that the power for Welsh Ministers to make Welsh regulations for Wales, is also contained within the Act itself (see section 45T (6), which defines the appropriate Minister as the Secretary of State (as respects England) and the Welsh Ministers (as respects Wales)). I understand that Dylan Hughes (First Legislative Counsel, and head of the Office of the Legislative Counsel (OLC)) has provided evidence to the Inquiry as part of Module 2B (reference M2B/WG/DH/01) and is, in my view, better placed to answer detailed questions in relation to legislative powers (as well as the legislative drafting process, both generally, and during the pandemic).

45. I was aware (from previous experience / knowledge) that Welsh Ministers possessed (as mentioned above) extensive, broad, powers to make regulations for Wales under the Public Health (Control of Disease) Act 1984. During the COBR meeting, I took care to advise as a policy lead. I requested / commissioned (via email) legal advice from Welsh Government Legal Services (LS) on the topic of the closure of premises, in addition to inquiring about whether there was legal support readily available to assist with drafting. I exhibit an email chain as **CK/30-INQ000352962**, dated 20 March 2020, which shows my initial commission and some advice that was subsequently provided to the Director of Legal Services. Following my email, LS and OLC assumed the lead in exploring the legal issues relating to the production of the regulations, which was taken forward as part of the drafting process. The process proceeded at pace, and the Health Protection (Coronavirus, Business Closure) (Wales) Regulations 2020 came into force the following afternoon (21 March 2020). Given the need to draft the regulations so quickly, and because LS and OLC explored the legal issues as part of the drafting process, my understanding is that a single, standalone, formal legal advice document was not produced.

46. The Rule 9 request asks whether I was involved in the preparation and provision of advice provided to the Welsh Government over the pandemic regarding its proposed and actual management of the Covid-19 pandemic, and for me to provide pieces of advice that I was directly involved in drafting. I draw the Inquiry's attention to the Ministerial Advice which I drafted, which I exhibit as **CK/31-INQ000320894**, dated 22 June 2020. This advice relates to the outbreak of Covid-19 in meat processing factories located in Wales during June 2020. This scenario was unique to Wales and went to the heart of the proposed and actual management of the pandemic in such settings.
47. I am also asked to explain the extent to which I played any role, including in the provision of information, data, analysis, or advice on decisions concerning the imposition of, easing of, or exceptions to non-pharmaceutical interventions (NPIs). In response I would state that my role in the Covid-19 response was from January to mid-August 2020 and covered the first phase of the pandemic. In that context and as acting Deputy Director with responsibility for public health policy on Covid-19 I did not play any role of significance with respect to NPIs such as: the closure of schools and education settings; the use of face-coverings; and the use of border controls. Over and above what has been discussed earlier in the statement, I reviewed guidance issued by the Public Health Division (or where the Division was engaged) in relation to the following NPIs: the initial lockdown including any local restrictions; working from home; minimising human contact and social distancing; and self-isolation requirements.
48. In terms of my working relationship with the CMO(W), I can say that I had a very good working relationship with the CMO(W) when working with him during the period January to mid-August 2020.
49. The Rule 9 request has asked me to identify any key areas which I consider worked well, and any key areas in which I consider there were issues, obstacles or missed opportunities, with regards to the lockdowns and other NPIs implemented in Wales over the course of the pandemic. I wish to commend the nature of the initial public health led response transitioning to an all organisation one. It greatly assisted that the initial effect of the first lockdown was to render non-Covid-19 related work to be nugatory. This required Ministers to reposition the priorities of their departments and release civil servants to work on a scenario which was analogous to a 'wartime conflict'.

50. I am also asked to provide an overview of my engagement with the UK Government and its representatives over the pandemic. I have set out my engagement with the UK Government elsewhere in this statement. I would say that there was a good working relationship between the respective health Ministers in the four nations as evidenced by the weekly meetings which were initiated by Vaughan Gething in April 2020.
51. The Inquiry also asks my view on whether the Welsh Government gave sufficient consideration in its decision-making to the impact of NPIs on at risk and vulnerable groups and those with protected characteristics considering existing inequalities, and to explain any role I played in identifying such groups / individuals and providing advice to the Welsh Government. In my view, the Minister for Social Justice, Jane Hutt MP, and her officials were very proactive in evaluating the impact of NPIs on at risk and vulnerable groups including persons with protected characteristics. I assert this based on my involvement with the Covid-19 Moral and Ethical Guidance for Wales Advisory Group (CMEAG-Wales). I attended CMEAG-Wales as a member until December 2019 (when I moved internally and out of the HSSG), and where I participated in discussions. I did not make any decisions on behalf of CMEAG-Wales and had no involvement with CMEAG-Wales during the specified period (1 January 2020 to 30 May 2022).
52. I am also asked my opinion in relation to lessons learnt by the Welsh Government from the approaches of other countries to the pandemic. In my opinion, and to the degree that was possible, lessons were learnt and applied in real time from the public health experience of northern Italy further to identification of its first case in late January 2020. I personally did not communicate with policy counterparts in northern Italy. My recollection is that the roles played by PHW and PHE were invaluable in communicating the actuality of the risks posed by Covid-19. Also, in their modelling working with policy officials using epidemiological data emerging within very time constrained scenarios.

## **Divergence**

53. The Inquiry has asked my view on the date or point in time the Welsh Government's approach began to diverge from UK Government, the factors leading to divergence, and whether the divergence came at the appropriate time. I am asked for advice / briefings I was involved in, either supporting or disagreeing with divergence relating specifically to



NPIs including the use of 'firebreak' lockdowns. I can only comment in relation to the period January to mid-August 2020. The only point of divergence which arose out of necessity and which I was involved with related to the meat processing factory out-breaks. This was unique to Wales and required a bespoke policy solution.

### **Public health communications**

54. I am asked to provide details of the role(s) I played in the use of public communications and behavioural management in the Welsh Government's emergency response to Covid-19. I am also asked to comment on which areas of public health communications worked well, and any areas in which I assess there were issues, obstacles or missed opportunities. I did not play any substantive role in the use of public communications and behavioural management in the Welsh Government's emergency response to Covid-19. As such I do not believe I can offer an informed view or analysis of the questions posed.

### **UK Coronavirus Action Plan**

55. The Rule 9 request has asked me to confirm what role I had in the preparation (or drafting) of the UK Coronavirus Action Plan (the Plan). I neither prepared nor drafted the Plan. I understand that David Goulding MBE as advisor to HEPU, and working with NHS planning colleagues, advised on the Plan. As I recollect, the time for doing so was restricted to a weekend and his considerable experience in health emergency planning meant that he was best placed to provide input on behalf of Welsh Government. I wish to acknowledge the value played by David Goulding especially in the context of the absence of two senior colleagues who had retired in 2019.

### **Legislation**

56. The United Kingdom made the decision to use existing, public health legislation as the legal framework for the UK Government's response to Covid-19 rather than the legislative framework of the Civil Contingencies Act 2004. I was not engaged in any considerations given to use of the Civil Contingencies Act 2004. I did not therefore advise on the use of public health legislation instead, or in addition to, the 2004 Act.

57. I played no role in relation to the drafting and contents of the Bill which became the Coronavirus Act 2020 (the Act). Neil Surman was the policy lead for Welsh Government

instructions on the Act. I did not advise on the use of powers (including those under the Act) used to pass subordinate legislation relating to the management of the pandemic within Wales.

58. The Inquiry has asked whether the decision to use public health legislation took into account the possibility that this could give rise to a greater divergence of approaches across the UK in respect of the response to Covid-19. In response I state that the Public Health (Control of Disease) Act 1984 was over 35 years old at the start of this decade. Part 2A (Public Health Protection) was inserted and came into force in April 2009. The making of Part 2A Orders for the purpose of controlling communicable diseases such as tuberculosis had been tried and tested for over ten years. Part 2A also gave effect to international health regulations and included the power to regulate international travel.

59. Whilst I am not sighted as to whether divergence of approach was a material factor taken into consideration by the UK Government in deciding to use public health legislation, what is fact, is that the UK Parliament deliberately legislated to vest regulation making powers contained in Part 2A in the 'appropriate Minister'. This / these being the Welsh Ministers in relation to Wales.

60. I am asked to provide an overview of the processes I was involved in for the drafting of Coronavirus laws and regulations that were proposed and enacted in Wales. I led on the legislation made under Part 2A during early 2020. I specifically recall being involved with the following:

- a. The Health Protection (Notification) (Wales) (Amendment) Regulations 2020. These were made on 5 March 2020 and came into force on 6 March 2020;
- b. The Health Protection (Coronavirus) (Wales) Regulations 2020, which were made and laid on 17 March 2020, coming into force on 18 March 2020;
- c. The Health Protection (Coronavirus, Business Closure) (Wales) Regulations 2020 (which came into force on 21 March 2020), where I acted as policy lead (in the absence of Neil Surman); and
- d. The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, which were made on 26 March 2020 and laid on 27 March 2020.

61. Thereafter, I advised the CMO(W) on his 21-day statement which inputted into the 21-day review of the lockdown regulations. I exhibit as **CK/32-INQ000320864** an email (dated 28 May 2020) which attaches the CMO(W)'s advice pertaining to a 21-day review. I also exhibit as **CK/33-INQ000320865** the CMO(W)'s advice, dated 28 May 2020.

62. In relation to the regulations mentioned at paragraph 60:

- a. Advice on drafting was obtained from the Legal Services health team. The Deputy Director with responsibility for that team was Sarah Wakeling.
- b. The relevant regulations that I led on closely reflected provision made by the Secretary for State in England save for the necessary adaptations. Drafting would have been legally checked within Legal Services. I checked that the provision reflected the policy instructions.
- c. My understanding was that there was very limited need for consultation. As a matter of courtesy, the policy intent would have been communicated to PHW if not the actual sharing of drafts. This was particularly important in relation to provisions which vested powers in staff or employees of PHW.
- d. Time pressures did not allow for communication with other devolved legislatures. The nature of the secondary legislation was 'executive' and of primary concern to Ministers in whom powers may be vested.
- e. The regulations were communicated through email briefings.
- f. The regulations came into force the day after they were made.
- g. I am also asked by the Rule 9 request to outline the difference between Coronavirus laws, regulations and guidance as they operated in Wales, and how decisions were made about what should be included in the Coronavirus laws and regulations and what should be guidance. In relation to these regulations there was no material difference in this set of regulations nor initial guidance.
- h. Communication to the public was via the Welsh Government internet page.

63. The Rule 9 request has asked me to outline how the Coronavirus laws, regulations and guidance had regard to the Welsh Government's Public Sector Equality Duty, including the consideration of the vulnerable, those at risk, and those with protected characteristics under the Equality Act 2010. I am also asked to outline Regulatory Impact Assessments (RIAs) and Integrated Impact Assessments (IIAs). I can only comment on the regulations that I can specifically recall being directly involved with (see paragraph

60). In relation to those, RIAs or IIAs were not carried out due to the circumstances at the time, having had regard to the Welsh Ministers' Code of Practice. These regulations were all quickly prepared in a short timeframe, as they were urgently required to negate or mitigate a serious threat to human health and respond rapidly to circumstances resulting from that threat (being Covid-19). I have been asked whether this position, in relation to RIAs / IIAs, was maintained throughout the specified period. I do not have direct knowledge of this, and as mentioned can only comment on those regulations in which I recall being specifically involved.

## **Documents**

64. In relation to the documents requested by the Rule 9 request I have sought to provide key documents which I consider: answer, support or illustrate a matter addressed in this witness statement; provide important context for a matter addressed in it; or will otherwise assist the Inquiry in understanding matters I have addressed.

65. In relation to informal or private communications about the Welsh Government's response to Covid-19, in line with Welsh Government policy, I did not join any WhatsApp Groups. I note that I was not asked or invited to join any such groups. I did communicate with colleagues via text (SMS) messages from my Welsh Government issued work mobile phone as necessary. I cannot recollect with accuracy, the specific persons whom I would have communicated with, via text message. To the best of my recollection, the nature of the text messages were logistical / practical. This included liaising with others about developments or queries. The text messages were not decisions made by the Welsh Government in its response to the Covid-19 pandemic.

66. Unfortunately, these texts were lost when I was provided with a new Welsh Government phone (on 16 March 2022). I have been asked by the Inquiry why the older mobile phone (originally issued on 14 September 2018) was not preserved, when I exchanged phones. As outlined in this statement, I ceased working on Covid-19 related matters in mid-August 2020. Over 18 months had elapsed when I exchanged my old phone for the new one in March 2022. At the time, I did not consider whether text messages would be lost with an old phone and therefore any need to store messages. After receiving the Rule 9 request, I made internal inquiries with ICT services in August 2023. I understand that data, on my old work phone, would have been wiped for security reasons. Stored

text messages, therefore, would have been lost when the handset was wiped in line with standard operating procedures.

### Lessons learnt

67. I was involved in the public health response of the first phase of the pandemic from January to mid-August 2020. During the period from January to mid-March, the organisational response was public health led. I believe that the transition to the response being led by civil contingencies worked well from mid-March onwards. This was aided by Welsh Ministers releasing civil servants especially after lockdown when business as normal ceased in many portfolios.
68. I would say albeit not based on any professional experience of the Swine Flu Pandemic (2009 - 2010) that a second and subsequent phases were foreseeable. Until such time as an effective vaccine was rolled out to ensure sufficient health protection coverage amongst the population against Covid-19. With the benefit of hindsight, this understanding was not as widespread as it should have been during the summer of 2020.

### 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:** 14 November 2023