

Witness Name: Mick Antoniwi
Statement No: 1 in M2B
Exhibits: 73
Dated:

UK COVID-19 PUBLIC INQUIRY

WITNESS STATEMENT OF MICK ANTONIW

I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 26 June 2023 and referenced M2B/WG/MA/01.

I, Mick Antoniwi, will say as follows: -

Introduction

1. I consider it appropriate at the beginning of my statement to express my condolences and sympathies to all those families who have lost loved ones as a consequence or in connection with Covid-19. My thoughts also continue to go to those who continue to suffer from Covid-19, either Long Covid or in other ways. As with so many others I have also lost loved ones and friends during this period to Covid-19, and I have friends who continue to experience illness as a consequence. I very much welcome this Inquiry and am confident it will do all it can to provide answers to all the questions families have and to analyse and identify the lessons that need to be learned for the future.

Background

2. I studied law at Cardiff Law School before progressing into private practice specialising in personal injury work before becoming a partner at Thompsons Solicitors. I practised as a solicitor from 1980 until March 2011. I specialised primarily in the fields of personal injury, occupational disease and corporate homicide.
3. I was first elected as a Member of the National Assembly for Wales ("AM") for Pontypridd in May 2011. From May 2011 I held various positions and was a member of a number of Committees such as the Assembly Standards Committee, and the Environment, Culture Committee. I represented the Assembly on the EU Committee of the Regions.

4. I was re-elected as an AM in 2016. Members subsequently became known as MS, or Members of the Senedd, when the Assembly was renamed Senedd Cymru, or the Welsh Parliament, in 2020. I was appointed Counsel General in June 2016, a role which I held until November 2017. I then left the Government, and was subsequently chair of the Legislation, Justice and Constitution Committee in the Senedd until May 2021. The Committee consisted of four members whose function was to scrutinise Welsh and UK legislation and Legislative Consent Memoranda. It did not generally scrutinise policy issues which were covered by other Committees but rather focused on legislative integrity, the rule of law, competence issues and Constitutional and intergovernmental issues. We did therefore play a role in scrutinising those aspects of the Coronavirus regulations during the first stage of the pandemic.
5. I was re-elected to the Senedd in May 2021. I was appointed Counsel General designate on 13 May 2021, and was sworn into office on 28 May 2021. In addition to my role as Counsel General I was appointed Minister for the Constitution. I continue to hold these positions.

Role of the Counsel General

6. I understand that my predecessor, Jeremy Miles, has explained the particular role of the Counsel General in his witness statement. I do not repeat that here. In short, I am the Welsh Government's Law Officer. For present purposes, my key roles are those of providing legal advice to the Welsh Government and overseeing the work of the Welsh Government's Legal Services Department. I am also responsible for overseeing prosecutions on behalf of the Welsh Government.
7. The Ministerial Code, which I exhibit as **MA/01-INQ000320695**, confirms that Cabinet papers must be based on full legal advice from the Legal Services Department, in consultation with the Counsel General. Paragraph 6.18 states that:

6.18 It will be appropriate to seek the Counsel General's opinion on certain legal questions, typically, those of greatest legal complexity, or political controversy or sensitivity, or which have the widest implications. The Counsel General's opinion should be sought via a reference from the Director of Legal Services. Whilst in exceptional situations, it may be necessary and appropriate for a minister to seek the Counsel General's view directly, any formal written advice from the Counsel General must be sought on instruction from the Director of Legal Services. The Counsel

General's opinion, or advice from the Legal Services Department, must be sought in good time before the Welsh Government is committed to critical decisions involving legal considerations.

6.19 Written opinions of the Counsel General, unlike certain other ministerial papers, are generally made available to succeeding Administrations. The fact that the Counsel General has advised (or has not advised) and the content of advice given by the Counsel General must not be disclosed outside the Welsh Government without the authority of the Counsel General.

8. Legal advice from myself or Legal Services is covered by legal professional privilege ("LPP"). The Law Officer's Convention means that neither the fact of seeking advice from the Counsel General, nor the content of such advice, is usually disclosed. However, for the purpose of this Inquiry, the Welsh Ministers have agreed to provide the Inquiry with privileged material. The First Minister has agreed (with my consent) that my involvement in the provision of legal advice, and, where relevant, the contents of that advice, may be disclosed to the Inquiry. I understand that the solicitors acting for the Welsh Government informed the inquiry of its position in correspondence. The Inquiry in turn set out the agreed position in its letter of 26 October 2022 which confirms that if, following the inquiry team's consideration of the disclosed documents, the Welsh Government wishes to assert privilege, then it may do so.

My Office and Relevant Staff

9. I am primarily supported in my role as Counsel General by a team in my Private Office, including a Private Secretaries and a Diary Secretary. I did not at the time have a dedicated Special Adviser, but I did have the assistance of one of the First Minister's advisers, Jane Runeckles, on occasion.
10. I would work and liaise regularly with Helen Lentle, the Director of the Welsh Government's Legal Services Department, and Dylan Hughes, the First Legislative Counsel. Meetings would be held virtually.

My role in practice – Counsel General and Minister for the Constitution

11. My responsibilities as Counsel General reflected my statutory role. In addition to the above, my portfolio as Minister for the Constitution included broader responsibilities in respect of the law and justice in Wales. They are defined in the Welsh Government's portfolio responsibilities document exhibited as **MA/02-INQ000066053** identifying portfolio responsibilities in October 2021 as:

- Liaison with the Legal Sector
- Chair of the Standing Committee for Cabinet on the Legislative Programme
- Accessibility of Welsh law
- Constitutional Convention and Constitutional Affairs
- Elections policy
- Justice policy and the response to the report of the Justice Commission
- Co-ordination of work on the Common Frameworks
- The UK Internal Market Act
- Tribunals policy

12. I am not a Welsh Minister appointed pursuant to section 48 of the Government of Wales Act 2006 ("GoWA"), nor a Deputy Welsh Minister appointed pursuant to section 50. Accordingly, any matter requiring a formal decision by the Welsh Ministers under a statutory power will be exercised by the First Minister or a nominated portfolio Minister. Where reference is made to myself as a Minister or Minister for the Constitution, this is a title reflecting my portfolio responsibilities. I am, however, automatically a member of the Welsh Government as a result of section 45 of GoWA. I also attend Cabinet at the invitation of the First Minister.

13. A key part of my role is to chair the Cabinet Sub-Committee on the Welsh Government's Legislative Programme and the Cabinet Sub-Committee on Justice. I do not recall Coronavirus related issues arising at these meetings.

14. Though I am the Welsh Government's Chief Legal Adviser, the nature and breadth of the Welsh Government's work means that it is not practicable for me to advise on every legal issue which arises. Rather, the Counsel General's role sits within a structure of legal service provision which means that I am available as required to discuss emerging issues before advice is provided to Ministers, and before advice is finalised for Cabinet Papers, or where I have identified particular constitutional or other issues. I attend Cabinet and am

able to advise in Cabinet as required. The approach I have adopted, as have all of my predecessors, is to ensure that systems are in place to ensure that legal advice is provided across government and in particular to Ministers when taking decisions in respect of their own portfolio or at Cabinet. The Counsel General is at the heart of discussions around legal issues and advice, as a result of regular dialogue between me, Legal Services and the Office of Legislative Counsel. Those regular meetings meant that during the pandemic period I was abreast of ongoing legal issues, able to guide discussion and advice as required and, ultimately, that the Director of Legal Services and her lawyers were able to advise across government's work.

15. There are no hard and fast rules as to when the Counsel General will become personally involved in the provision of legal advice, but lawyers in the Legal Services Department will consider factors such as the complexity, importance and political sensitivity of a matter when considering whether to raise a particular issue with me. In effect, the provision of legal advice is delegated to departmental lawyers who are specialists within their field, with regular oversight by senior lawyers, and feedback through Directors and Deputy Directors to me.
16. However, that advice is almost always ultimately delivered by Legal Services either as part of Cabinet papers, contained in Ministerial Advice, or as stand-alone advice. It was not my practice, nor has it been the practice, as I understand it, of any Counsel General, to receive formal instructions and thereafter to advise Cabinet in writing. This is because I would work closely with Legal Services who would advise ministers and the First Minister. I would be copied into advice and would engage with Legal Services on issues that were specifically drawn to my attention or on which I would seek clarification or feel necessary to discuss further. Prior to Cabinet meetings I would regularly meet with Helen Lentle or other officials such as Dylan Hughes to discuss legal issues that might arise in Cabinet or legal issues that I considered needed to be raised in Cabinet. I understand that Jeremy Miles has provided a detailed explanation of these processes in his statement. I worked in the same way. Fundamentally, it provided an opportunity for me to be fore-warned in respect of upcoming Cabinet papers, and enabled me to provide Legal Services with a steer in terms of advice on contentious issues. The process, in my experience, worked well.
17. The primary source of legal advice for Ministers is their departmental lawyers. Ministerial Advice documents ("MAs") and Cabinet papers falling within a Minister's portfolio will be accompanied by legal advice provided by Legal Services. If the matter is particularly contentious or novel, then it is likely that I would have had some input into the development

of that advice through the meetings which I hold regularly with Helen Lentle, or with the various Directors and Deputy Directors within Legal Services who advise across government.

18. In relation to the matters covered by the rule 9 request, my focus would be particularly on the principal Covid-19 regulations in force and as they were amended. I would consider the necessity and proportionality of any restrictions and would consider the legal basis for any changes in the law. That would be viewed against the evidential basis as it stood at that point in time. There was therefore a relationship between the medical and scientific evidence before Cabinet and the exercise of powers by Welsh Government. My experience is that all of my Ministerial colleagues engaged meaningfully with that evidence.
19. The main powers which the Welsh Ministers exercised in connection with Covid-19 arose from the Public Health (Control of Diseases) Act 1984. Pursuant to powers under that Act, the Welsh Ministers made a series of regulations which imposed non-pharmaceutical interventions. At the time I became Counsel General, the principal set of regulations then in force were the Health Protection (Coronavirus Restrictions) (No. 5) Regulations 2020 ("the Regulations") which enabled the Welsh Ministers to take steps in connection with a Public Health emergency. The Welsh Ministers were required to review both the need for restrictions and requirements imposed by those regulations every 21 days.
20. I do not recall any occasion on which my view, and my legal advice, differed in any significant way to that of Legal Services. I maintained a continuous dialogue with Helen Lentle (Director of Legal Services) and Dylan Hughes (First Welsh Legislative Counsel) and their respective teams. In practice, there were three regular meetings at which legal issues were discussed, and my view was given. It is fair to say that a broad steer in terms of legal advice was sought from me, although that did not necessarily mean that I provided detailed legal advice in respect of every matter. The first of these meetings was a pre-Cabinet briefing with Helen Lentle at which legal issues in Cabinet papers would be discussed. The second was the regular meetings I have mentioned. The third was a weekly, scheduled meeting with various departmental Directors and Deputy Directors. These would take place on a rota basis so that there would be regular meetings across the Department.

Decision making during the pandemic

Cabinet

21. Cabinet is the principal decision-making body of the Welsh Government. It is ordinarily chaired by the First Minister and during the pandemic, was attended by all Ministers and Deputy Ministers. I attend as Counsel General and participate both by providing legal advice and by participating in discussions. I am a full member of Cabinet and contribute to discussions as such. From the time of my appointment as Counsel General, Cabinet has met weekly save for during recess periods.
22. Often the Permanent Secretary, Director of Legal Services and First Legislative Counsel attended Cabinet together with senior Welsh Government officials and various Special Advisors (SpADs).
23. Cabinet discussions are minuted with a public set of minutes published. There are also confidential minutes which record in some further detail the discussion at Cabinet. The principle of collective responsibility applies to Cabinet.
24. Ahead of Cabinet meetings an agenda is shared with specific papers for discussions also being disseminated to Ministers in advance. As above, each Cabinet paper which gives rise to any legal issues will contain legal advice.
25. By the time I was appointed as Counsel General there was already in place a standard approach to 21-day reviews. That was based, in part, upon standard guidance documents which my predecessor, Jeremy Miles, and others had agreed. I do not recall specifically reviewing the process nor approving the standard procedures that had been adopted. That said, I never saw the need to take issue with the same, either, because so far as I was concerned the machinery of collecting evidence and decision making worked well.
26. During the pandemic, and particularly when considering 21-day reviews, Cabinet was provided with detailed data and expert evidence. Policy officials would provide advice on the way forward, based on an analysis of this material and the latest available data which would include impact assessments and advice and consideration would be given to specific aspects such as for example equality issues and children's rights. We often received reports of discussions at UK level which the First Minister or Minister for Health and Social Services would have attended. There would be reports from the Chief Medical Officer (Wales) and those with other expert information. This was scrutinised and questions

asked and answered. The advice and evidence were always carefully considered, discussed and subsequently endorsed. If the information was not conclusive it might be deferred to another meeting or for further information. On a number of occasions decision would be left until later that day, or on occasion until a few days later.

27. During the discussion in respect of the 21-day reviews that were conducted at Cabinet meetings, I saw my role primarily as ensuring that decisions were arrived at lawfully and on the basis of the available evidence, taking account of the written legal advice provided by Legal Services with the Cabinet papers. I was always satisfied that decisions were arrived at in this way. Ministers would debate the issues, apply the relevant legal tests, and reach a decision. The First Minister would always encourage discussion and seek to reach decisions by consensus. I do not recall Cabinet having to vote on a decision during my time as Counsel General. My recollection of the First Minister's role in particular was that he would allow others to air their views before drawing the discussion to a conclusion. In effect, the First Minister would summarise the discussion and would outline the overall view. I do not recall there being a time when the First Minister had to impose a decision: rather, the consensus reached would carry the day and officials would thereafter set to work to put those decisions into effect. There were occasions where we were not able to reach a consensus decision, usually because we needed further advice or evidence on a particular issue. The First Minister would then adjourn the discussion and we would reconvene to make a decision.
28. Proportionality lay at the heart of Cabinet's discussions as to which, if any, restrictions to lift or impose. There were particular considerations in respect of proportionality following the vaccine roll-out because the harms were different: the risk of hospitalisation and the impact on the NHS was very different at that time to what it was at the outset of the pandemic. Having to balance the changing public health situation in the light of the vaccine was an important feature of Cabinet's balance of harms.
29. Consideration would also be given to the reasons or rationale of decisions taken in other parts of the UK and in other countries, and how these might be relevant to Wales. Often the issue was the variability of infection rates and the spread of infection in different parts of the country. For example, the Technical Advisory Group (TAG) briefing which was provided to Cabinet on 21 May 2021, and is exhibited as **MA/03-INQ000057822**, provided an overview of Variants of Concern which included the so-called 'South African' Variant. The advice from TAG and CMO(W) on 9 July set out the international position as regards

the spread of the virus in the Netherlands and in South Korea, a copy of which is attached as **MA/04-INQ000129985**.

30. In the lead up to Christmas 2021, when Cabinet met on 2, 6, 8 and 9 December 2021, the spread of the Omicron variant, not only across Wales but across the United Kingdom, was a particularly important factor. The evidence before Cabinet at that time referred to the understanding of the virus and the impact of restrictions from around the world: for example, the lack of evidence as to the effectiveness of nighttime curfews. It also identified that one confirmed case of the Omicron variant had been identified linked to travel to South Africa. Minutes are exhibited as **MA/05-INQ000022559**, and a discussion paper is exhibited as **MA/06-INQ000057943**.
31. There was also international evidence, data and studies drawn together and placed before Cabinet in the TAG and Chief Scientific Advisor for Health's briefing of 2 December 2021, which I exhibit as **MA/07-INQ000057952**.
32. The Cabinet paper in respect of the 21-day review that was before Cabinet on 9 December 2021 referred to evidence from UK, Welsh and international surveys which had identified harms arising from the restrictions imposed over the preceding 18 months, which I exhibit as **MA/08-INQ000057950**. The situational report also provided an update on the situation of the virus internationally, I exhibit this as **MA/09-INQ000057951**.
33. I reminded Ministers at Cabinet meetings of the need to ensure that any decisions we took had to be based on evidence. Following the evidence was the core basis of decision making although the scientific evidence could never dictate the answer. It was an inevitable part of decision making that Ministers had to weigh up and evaluate the five different harms in play: (1) the harm directly arising from Covid-19; (2) the indirect Covid-19 harms due to pressures on the health and social care systems; (3) harms arising from the Non Pharmaceutical Interventions themselves, such as educational harm, psychological harm and isolation/loneliness; (4) economic harms, caused by unemployment and reduced business income; and (5) harms arising from the way Covid-19 exacerbated existing, or introduced new, inequalities in our society. Those were identified in TAG's advice of 9 July 2021 which I exhibit as **MA/10-INQ000129985**. Where there were grey areas or uncertainty there would be full discussion or calls for more evidence/advice before final decisions were taken. I would satisfy myself that the regulations were made following an informed decision-making process that properly took account of, and weighed up, the evidence and

data available to Ministers. and could be justified, especially where they introduced restrictions on normal liberties and human rights.

34. In my role as Counsel General, the Ministerial Code expressly preserves my independence in respect of giving legal advice and ensuring that decisions are reached lawfully. Politically, however, I was bound by collective responsibility as regards the policy direction taken. As I have stated above, after my re-appointment as Counsel General in May 2021, I do not recall any situation where consensus was not ultimately reached after discussion and debate. I do not recall any occasion where a vote on the coronavirus regulation took place so the FM did not have the “casting” or “deciding” vote at any time. It was not necessary for me at any stage to consider my position within government as a consequence of any disagreement.
35. At the time I joined the Cabinet I think that systems were working efficiently. There was regular updating of evidence and data; there was good communication of meetings attended by particular Ministerial colleagues to Cabinet as a whole. In my opinion, the advice and evidence available to Cabinet was of a very high quality. Key advisers attended the meetings and were questioned and examined on the information and advice they provided.
36. Even with the benefit of hindsight I remain of the view that the decisions reached and which I was involved in were taken on the best evidence and information that was available.
37. During Cabinet meetings I would often take my own handwritten notes. These notes are not a record of what was said, nor of my contribution, but rather an aide memoire for myself. During the pandemic Cabinet meetings were virtual because of Covid-19 and consequently I felt it helpful to have a note of some of the items I felt were relevant or which I thought it would be useful to note so that I might reflect on them at a later time. I have disclosed these notebooks to the Inquiry.
38. I was a member of the Ministerial WhatsApp group from the time I was appointed Counsel General in May 2021. I have downloaded the WhatsApp messages from my phone and these will be made available to the public inquiry. The Ministerial WhatsApp group was not used to make or record decisions.
39. Prior to my appointment as Counsel General, I was also in contact with Ministers in the Welsh Government by text or WhatsApp relating the Welsh Government’s response to Covid-19. I have arranged for copies of those messages to be disclosed to the Inquiry.

Making/Amending Regulations

40. In terms of implementing decisions taken at Cabinet, the process was as follows. Cabinet would decide on a particular way forward and that would in turn lead officials to instruct the relevant lawyers, often the Office of Legislative Counsel, to draft the relevant material. Subsequently, formal Ministerial Advice would then be submitted to the First Minister to take the decision to make regulations implementing that decision.
41. Policy decisions were taken in Cabinet which were then translated into regulations. I did not play a role in the drafting of Regulations and neither did I advise on the minutiae of the same. My role was to maintain an overview of regulations to ensure that the decisions taken in Cabinet were accurately and lawfully reflected in the regulations. The draft regulations would not ordinarily be presented to Cabinet to approve and would be made available to the First Minister for review before the Ministerial Advice was copied to all Ministers and Deputy Ministers. When there were changes to the regulations often sector specific decisions would be taken by a portfolio minister, for example the wearing of face masks in schools. In that case, the legal advice would be set out in the Ministerial Advice and I would be provided with a copy of the same as a mandatory copy recipient. Those decisions would be flagged to me by my Private Office albeit that no decision was required on my part.
42. I would receive advice on the regulations from Welsh Government's Legal Services lawyers. I would discuss these and any issues that arose regarding competence, justification or any other legal concerns. I would raise these in Cabinet if there were particular issues in respect of the drafting of regulations.
43. This was a fast moving and rapidly changing environment. The spread of Covid-19, learning from other parts of the country, understanding better the treatment of Covid-19, the impact of the movement of members of the public around the country and internationally, and the emergence of new forms of Covid-19, required speedy decision making and regulations were being reviewed and changed as necessary depending on the evidence.
44. The regulations were made by the First Minister, and then laid before the Senedd. They were mostly made under "made affirmative" procedure under section 45R of the Public Health (Control of Disease) Act 1984. This was because of the speed at which they

needed to be implemented. I understand that this process has been described in the statement of Helen Lentle, and I do not repeat that here. Such regulations would be implemented and retrospectively scrutinised by the Legislation, Justice and Constitution Committee (“the LJC”) and then the Senedd. Other regulations were made subject to the negative procedure. Again, I understand that this process has been set out in Helen Lentle’s witness statement. As I have explained above, I chaired the Legislation and Justice Committee until the May 2021 elections, and thereafter became Counsel General. I understand that my predecessor as Counsel General, Jeremy Miles, has given evidence in respect of the Senedd’s scrutiny of the Covid-19 related legislation which was being made. That scrutiny of the legislation continued during my time as Counsel General in the same manner.

45. The sheer volume of legislation together with the speed at which it was enacted gave rise to unique challenges as regards the accessibility of the law. It was important that people could see what the regulations were and could understand the restrictions that were being imposed. There was a section on the Welsh Government website which included all relevant Coronavirus legislation, including every Covid-19 related statutory instrument that was made. These were also available on free to use websites, such as www.legislation.gov.uk. Detailed amendments were often made at 21-day reviews, and so the Welsh Government also published a “red-line” versions of legislation, which identified revisions so that the public could easily see what had been changed.
46. There was also unprecedented media coverage of legislation with weekly press conferences dealing in detail with the contents of regulations. Finally, there was widespread publication of Welsh legislation on social media by the Welsh Government, its arms’ length bodies, and its partners. Notwithstanding that emergency procedures were used to lay the Regulations; I was entirely satisfied that once made they were published properly and were accessible.

Guidance

47. My role in terms of guidance that was issued by the Welsh Government was similar to the above. Primary responsibility for such guidance lay with the relevant portfolio minister with departmental lawyers, sometimes with the assistance of the Office of Legislative Counsel and officials, drafting the same.

48. It is important to note that by the time I was in position as Counsel General the overwhelming majority of guidance documents were living documents which changed as the regulations and policy changed. As such, there were very few new documents, being drafted afresh, which came into existence during that time. My involvement was to note the contents of guidance and to “clear” the same for publication. Detailed legal advice was provided by Legal Services with contentious issues being raised with me by Helen Lentle, as above. I had general oversight of the guidance which was being published, but the detailed work of drafting and advising fell to Legal Services and policy officials.

49. A particular issue was identifying what restrictions were set out in regulations, and therefore were enforceable, and what was guidance. With hindsight I think that there was some blurring of the line between the two. However, most people understood that there was an entire package of legislation and guidance which was being presented by the Welsh Government and that adherence to the whole package was the best way to protect one another. Of course, things happened at speed which inevitably gave rise to some confusion, but I am not of the view that using both regulations and guidance was in any way wrong as a matter of principle.

Ministerial Meetings

50. As well as Cabinet meetings, the Welsh Government held a weekly Ministerial call. These calls were information sharing, rather than decision making, unless the urgency of the situation required a decision. Minutes of these calls were recorded in an email, which was circulated to the relevant private offices.

Ministerial Decisions

51. Ministers remained able to make decisions in their own portfolio areas, and these decisions would be made after consideration of Ministerial Advice prepared by relevant officials. I have described the process of preparing a Ministerial Advice, and the input of Legal Services/the Counsel General, above. Being a copy minister did not indicate a requirement or expectation that I would provide any legal advice in respect of that Ministerial Advice, however. Any involvement on my part in the provision of legal advice came before the Ministerial Advice was finalised by virtue of my discussions with Helen Lentle and my monthly meetings with Director Generals or Deputy Directors.

52. It was not often that a Ministerial Advice would be sent to me for action. I recall a few occasions when I was asked to approve particular matters, before the substantive decision was taken by the relevant portfolio Minister. That arose, for example, when regulations gave rise to particular issues of legal or constitutional significance.

Shadow Social Partnership Council

53. During the pandemic, the Shadow Social Partnership Council (SSPC) provided an opportunity for social partners to engage with Welsh Ministers and Welsh Government officials in considering the response to, and recovery from Covid-19. The general approach was to consider matters at a high level and explore how social partnership could contribute to the more detailed planning which needed to happen. I understand that Andrew Goodall (M2B-WG-01) has as already explained the role of the Shadow Social Partnership Council, and I do not repeat that here. I attended the Shadow Social Partnership Council regularly, along with the First Minister and portfolio Ministers.

54. I attended the Shadow Social Partnership Council's meetings on 17 June 2021, 1 July 2021, 14 July 2021, 7 October 2021, 18 November 2021, 9 December 2021, 20 January 2022, 10 February 2022, 3 March 2022, 24 March 2022 and 13 April 2022. The minutes of which I exhibit as **MA/11-INQ000321223**, **MA/12-INQ000311844**, **MA/13-INQ000321216**, **MA/14-INQ000311651**, **MA/15-INQ000321224**, **MA/16-INQ000321219**, **MA/17-INQ000321225**, **MA/18-INQ000321215**, **MA/19-INQ000311954**, **MA/20-INQ000321226**, **and MA/21-INQ000321217**. I set out below when I had particular involvement such as presenting a paper or chairing the meeting.

55. In addition to the main meetings there have been three extraordinary meetings of the Shadow Social Partnership Council during my time as Counsel General. They were described as such because they took place between scheduled meetings. They took place on 16 and 22 December 2021 and on 13 January 2022 – I exhibit the minutes as **MA/22-INQ000321218**, **MA/23-INQ000321222** and **MA/24-INQ000321227**. Those offered an additional opportunity for engagement with social partners on proposed changes to NPIs to address the detailed operational planning needed in respect of particularly decisions. These meetings took place in the lead up to Christmas 2021 when the re-introduction of restrictions was being considered (and was ultimately actioned).

56. It was an important forum that enabled its members to be briefed on Covid-19 related issues but also to question decisions and make specific representations on Covid-19 related issues that affected them. The members of that partnership would often seek explanations for regulations, or ask for further details of the latest analysis, and themselves make suggestions or seek further clarification. Those discussions were candid and genuinely bi-lateral. It was an important part of the decision-making process and helped inform that process.

57. There was no formal role for the Counsel General at those meetings though I would contribute occasionally, usually in respect of queries relating to the regulations and the impact on workplaces. There would be detailed reports and data available to all attendees and ministers would report on steps being taken, the reason for them and there would be discussions - examples are exhibited as **MA/25-INQ000321144**, **MA/26-INQ000321220** and **MA/27-INQ000321221**. The meetings were constructive and cooperative.

Other Meetings with stakeholders

58. At the time I joined government in May 2021, there was a well-established process of communication and engagement with local government. That was both on an ad hoc basis with individual local authorities but also through the Welsh Local Government Association. Communication also took place through the Shadow Social Partnership Council described above. It appeared to me to be effective. These processes were an effective way of understanding what was happening on the ground, what was working, what wasn't, communication or delivery problems and so on. To the best of my recollections, I did not use WhatsApp, texts or iMessage to communicate with representatives of local government about the Welsh Government's response to Covid-19.

Other Groups

59. By the time I joined the Welsh Government, the Covid-19 Core Group had been disbanded. I understand that the roles of the Wales Resilience Forum, and TAG/TAC have been explained by others and I do not repeat that there. I did not attend any of these groups but received advice from TAG/TAC in Cabinet papers.

Coordination and Communication amongst the Welsh Government, UK Government and other Devolved Governments

60. Given the nature of my role there was very limited scope for inter-governmental relations. I did not, and in my view did not need to have, direct contact with other Law Officers at a UK Government level, nor in the Devolved Governments. In terms of communication, I was aware that there were discussions between the First Minister and his counterparts in the Devolved Governments; together with dialogue with the UK Government largely through the Chancellor of the Duchy of Lancaster.
61. I was aware that there was ongoing discussion between Chief Medical Officers and other officials within government. These would sometimes be reported on during Cabinet.
62. I did not use WhatsApp, texts or imessage to communicate with counterparts in the UK Government and other Devolved Governments. I do not know whether Senior Civil Servants and Special Advisers had any such exchanges.
63. By the time I joined the Welsh Government, there had already been divergence in the timing of NPIs amongst the four nations. I did not find this particularly surprising, as the Welsh Government's decisions were "evidence driven". The incidence of Covid-19, the infection rates, NHS capacity and the like varied country by country and indeed regionally within each country, which warranted a different response in each.
64. Cabinet discussions around restrictions were almost always conducted with consideration of what was happening elsewhere in the UK, and in England in particular. That was in part because there could be direct consequences upon Wales from what happened in England: for example, with the furlough scheme or through travel restrictions, vaccination requirements upon entry to the UK in particular into airports and so on. There is a large and porous border between Wales and England, so decisions taken in England inevitably impacted on Wales. However, the real issue for us as the Welsh Government was always to satisfy ourselves that the right decision for the population of Wales was being made at the right time. The incidence of Covid-19, the infection rates, NHS capacity and the like varied area-by-area. Looking back, I remain satisfied that where there was divergence, the decisions that were taken were informed by a consideration of the best evidence available and within the context of the need to protect public health and limit the spread of infection.
65. A cautious approach was often adopted by the Welsh Government. In turn attempts would be made to try to persuade the UK Government to adopt a similarly cautious approach, or alternatively to try to obtain from them further explanation of the rationale for decisions they

were taking. That was particularly the case where UK Government decisions were likely to impact on control of Covid-19 in Wales, for example decisions to allow residents of England from high infection areas to travel to Wales. Often, the end result was that the Welsh Government's decisions differed from UK Government decisions in respect of England. On no occasion do I recall any divergence arising simply for the sake of being different: the Welsh Government's decisions were always responding to the particular situation in Wales, which was at time different to elsewhere in the UK.

66. Divergences, where they occurred, did create challenges. Often, the UK-wide media did not explain adequately the differences that applied to different parts of the UK. This did improve as time went on. It was necessary for the Welsh Government to highlight differences where they existed. That was mainly done through regular press briefings, social media, government information sites, and so on. Individual Members of the Senedd, Members of Parliament and Councils played an important role in disseminating accurate information. It was important particularly with the growing misinformation beginning to appear on social media.

67. One area where I can recall that there were difficulties related to international travel. Often decisions were taken by the UK Government and were only communicated to Devolved Governments shortly before implementation. My recollection is that there was often little advance engagement in such changes. For example, changes to vaccination requirements upon entry from certain high infection countries clearly would have an impact on the situation in Wales because most international travel to Wales was via England; the failure to properly communicate advance intentions or to engage collaboratively created tensions and challenges. Discussions around these issues would be handled by relevant portfolio ministers or the First Minister and would then take place in Cabinet if required but were not matters that I was directly involved in as Counsel General or Minister for the Constitution. However, I was aware that inter-governmental tensions arose between the Welsh Government and the UK Government as a result.

68. The Inter-Governmental Relations Review was published in January 2022, it came towards the end of the pandemic and too late to have any material impact upon the work of the Welsh Government or its relationship with UK Government. I accept that the outcome of the review has the potential to assist the work of the Welsh and UK Governments in future. However, fundamentally, successful co-operation between the two depends upon the way the structures are operated by those who use them. In my view, there needs to be some

element of formal underpinning to those structures so that they have some constitutional status.

69. From my perspective there were no direct lessons learned from other multi-national or federal states.

Public Health Communications

70. Communicating the public health messaging was particularly important as was ensuring that the regulations and guidance in Wales were publicly available as soon as they were made. The regulations would be communicated in press conferences, and on social media sites. The media would discuss the changes made to the regulations in Wales. As noted above, the Welsh Government published copies of the regulations, and of guidance, on its website and social media platforms.

71. Press conferences and Ministerial announcements were very effective at ensuring that there were timely and detailed updates. The Welsh Ministers also took a conscious decision to try and set out the roadmap and decision-making process as clearly as possible.

72. In my capacity as a Member of the Senedd, once details of regulations or changes were made and publicly announced I would publish these on my social media Facebook page. This had thousands of views and through this as a Member of the Senedd I would answer queries raised by constituents. The main queries were regarding specific situations, travelling or returning from abroad, vaccination queries, testing to go abroad etc, unusual circumstances, people with particular circumstances. Members would engage with one another on such issues, share experiences, or seek answers and share them.

73. As a whole, I was of the view that the Welsh Government's communication strategy was an effective one.

NPIs: May 2021 to May 2022

(1) The Approach to 21-day reviews

74. As I have explained above, by the time of my appointment as Counsel General there was a settled and efficient approach to the 21-day review cycle. I understand that this has been

set out in the corporate witness statement of Andrew Goodall – M2B/WG/01, and I do not repeat that here.

75. There was also a well-established process of ensuring that the required evidence, medical/scientific advice and legal advice was before Cabinet and before the First Minister.
76. As the process was well established there was no requirement for me to formally review or approve what was happening. Once I started in my role as Counsel General I did not see any need to change that process and so it was left as it was. I had sight of the standard documents that were included in the Cabinet papers and was content that they were accurate and properly set out the position in law.
77. Legal Services provided legal advice on the Covid-19 restrictions that identified the lawful approach to decision making. I exhibit the Legal Advice from 13 May 2021 as **MA/28-INQ000057803**. That advice set out the legal issues that were relevant to Ministers when considering whether to lift restrictions or requirements imposed by the Coronavirus regulations. In very broad summary, the starting point was to consider whether the restrictions or requirements were necessary to prevent, protect against or control the spread of Coronavirus or provide a public health response to the pandemic and whether they are proportionate to that aim. It went on to identify potential Human Rights or discrimination issues that may arise together with identifying statutory duties placed upon Ministers.
78. Detailed evidence and advice would be gathered, which would be prepared by officials. We would also consider Summary Impact Assessments, when such assessments had been produced. I exhibit by way of example a summary impact assessment provided to Cabinet on 27 May 2021 as **MA/29-INQ000057820**. We always considered the impact on the NPIs under consideration on different groups, including those with protected characteristics. We sought to balance the five harms that I have described above.
79. Cabinet followed that approach in all of the 21-day reviews that I attended. We also considered questions of enforcement and voluntary public compliance before taking decisions on any review.
80. Public acceptance of the regulations was important. In considering regulations it was necessary to have regard to how they would be perceived by the public and what their

response would be. This was particularly the case with guidance rather than regulations which had a criminal sanction hence effective communication was essential.

(2) NPIs and imposing/easing restrictions: May 2021 onwards

81. The first Cabinet meeting which I attended as Counsel General following the May 2021 elections was held on 17 May 2021, and I exhibit the minutes as **MA/30-INQ000129948**. The First Minister at that meeting encouraged new Ministers to engage with and draw upon the experience of colleagues who had previously served. The CMO(W) gave very positive news: the 7-day average infection rate was around 10 in every 100,000 of the population. It was agreed that TAC would provide Ministers with information on the use of face coverings in education settings.
82. The first review that I attended took place at a Cabinet meeting on 27 May 2021 and I exhibit the minutes as **MA/31-INQ000022537**. I received a set of detailed papers for the review. These included the Cabinet Paper itself exhibited as **MA/32-INQ000057816**, together with the annexes to that paper which included a TAG briefing exhibited as **MA/33-INQ000057822**, a Summary Impact Assessment exhibited as **MA/34-INQ000057820**, and an interim report on test events exhibited as **MA/35-INQ000057823**. The papers included a paper of Legal Advice, which had been prepared by Legal Services, but discussed and agreed with me beforehand I exhibit this as **MA/36-INQ000057824**.
83. On 27 May 2021, the CMO (W) provided an update and the latest advice on transmission. We were advised that the overall situation remained favourable for continuing to ease restrictions. However, there was some concern surrounding the new Delta variant. The situation in England was less favourable. We also received an update from the Chief Executive of the NHS Wales. We considered the low rates and stable position in Wales, and the increasing economic and social costs of maintaining restrictions (particularly on those with lower wage levels, younger people and those with low skills). We also considered the particular impacts on disabled people, those with poor health and Black, Asian or Minority Ethnic people. We agreed that we wanted to continue with cautious and gradual steps to lift restrictions. However, if conditions remained stable over the next week, we would move to Alert Level 1. We agreed to meet again later in the week to confirm the position, when further evidence and advice on the spread and impact of the Delta variant would be provided. We discussed consequential amendments to social distancing requirements, and larger gatherings.

84. Cabinet re-convened on 3 June to conclude the 21-day review – minutes have been previously exhibited as MA/31-INQ000022537. Updates were provided. Considerable uncertainty remained over the impact of the Delta variant. So far, Test, Trace, Protect appeared to be containing outbreaks in Wales to date. The public health advice was for the move to Alert 1 to be staggered to delay the riskiest relaxations (including those relating to indoor mixing and events). This delay would enable data to be gathered to determine whether the UK had entered a third wave, and the degree to which increased Delta cases translated into hospitalisations and deaths. We agreed to a move to Alert Level 1 beginning on 7 June, with mostly outdoor changes. The second stage would be the indoor elements of Alert Level 1, two weeks later on 21 June. These changes were implemented initially by The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 11) Regulations 2021.
85. Cabinet met again on 7 June 2021 and considered the Programme for Government together with a paper presented by the First Minister which sought Cabinet's views on the approach to restrictions once Alert Level 1 had been reached which I exhibit as **MA/37-INQ000129955**. The minutes of that Cabinet meeting are exhibited as **MA/38-INQ000129952**. It was agreed that there should be a plan for the lifting of the remaining restrictions and the roll-out of the vaccination programme should be part of it. Officials would develop that plan with consideration being given to the latest advice from SAGE. It was also agreed that an Alert Level 0 should be incorporated into the existing policy and legal framework, rather than developing a separate framework. That new Alert Level would set out what baseline measures should remain in place until the pandemic was no longer considered an emergency situation.
86. At the Cabinet meeting on 16 June 2021, an interim review of the pandemic restrictions was undertaken. Minutes are exhibited as **MA/39-INQ000057745**. There had been an exponential rise of Covid-19 cases over the previous two weeks and the CMO(W)'s advice was that further delaying the lifting of restrictions would enable more adults to take up the offer of a second dose of the vaccine which would provide significantly more protection to the public. Cabinet agreed to pause the move to Alert Level 1.
87. I attended my first meeting of the Shadow Social Partnership Committee on 17 June 2021 when the First Minister gave an update on the progress of the pandemic, restrictions and on support for business. A similar update was provided at the meeting on 1 July 2021 and 14 July 2021. I had no formal role at this meeting, but I attended to hear from our partners

about any particular difficulties they or their sectors were facing. Minutes for the meetings have been previously exhibited as MA/11-INQ000321223, MA/12-INQ000311844 and MA/13-INQ000321216.

88. The First Minister informed Cabinet, during its meeting on 21 June, that it was likely that the Senedd would need to be recalled over the summer to consider amendments to the Coronavirus Regulations following the three-week reviews. Minutes are exhibited as **MA/40-INQ000129961**. In the event the Legislation and Justice Committee scrutinised the various regulations made during that period when it re-convened on 13 September 2021 – I exhibit the agenda as **MA/41-INQ000321250**.

89. The position continued to improve over the summer. At Cabinet on 5 July we considered a paper on Baseline Measures, namely some minimal restrictions as opposed to lifting all restrictions completely. I exhibit the minutes as **MA/42-INQ000129963** and the paper as **MA/43-INQ000129964**. Cabinet expressed some concern that the UK Government was pressing ahead with a full lifting of restrictions given the risks. Cabinet agreed that the legal requirements to wear face coverings on public transport should remain in place and the messaging should be clear that this restriction was not a personal choice but protection for others, including the workforce. The need to wear facemasks would remain in place for hospitality and retail, in order to protect vulnerable individuals.

90. Further reviews were carried out over the summer with Wales moving to Alert Level 1 following the 21-day review on 14 July 2021. I exhibit minutes of that Cabinet meeting as **MA/44-INQ000129973**. Cabinet decided that face coverings should remain in place for all indoor settings to ensure the safety of the most vulnerable. On 14 July Cabinet further considered the evidence and decided that it remained proportionate for confirmed cases of Covid-19 to self-isolate but agreed that there would be an exception for individuals who had received two-doses of the vaccine given the reduced risk of wider harms. I exhibit Cabinet Papers as **MA/45-INQ000321068**, **MA/46-INQ000321069**, **MA/47-INQ000321066** and **MA/48-INQ000321067**.

91. Reviews continued on a three-week basis as was required by regulation 2 of The Health Protection (Coronavirus Restrictions) No. 5) (Wales) Regulations 2020. There was an initial discussion, ahead of the review due to take place on 5 August 2021, held by Cabinet on 29 July 2021; with Cabinet re-convening on 2 August 2021 to arrive at its conclusions. I exhibit the minutes as **MA/49-INQ000057896**. It was decided that Wales would move to

Alert Level 0 resulting in there being no limits on the number of people who could meet and all businesses being able to open. Some protections were maintained, such as the need for face coverings.

92. On 23 August 2021, Cabinet first considered proposals for a Covid-19 pass which would require individuals to provide proof of vaccination status, or that they were exempt, in order to gain entry to, for example, hospitality venues. The discussion included consideration of the paper entitled “Domestic Certification for COVID-19 Status (the Covid pass) CAB(21-22)23”, exhibited as **MA/50-INQ000057872**. We did not make any decisions at this time and noted the need to consider the proper legislative scheme for a potential Covid pass. The minutes are exhibited as **MA/51-INQ000057893**. We maintained Alert Level 0 at subsequent reviews in August and September.
93. Though I was not present at the Shadow Social Partnership Council meeting on 16 September 2021, I know from considering the minutes of the meeting that the First Minister confirmed that he would ask me to meet directly with the trade unions to discuss the legal issues regarding claims some employees are being pressurised into getting vaccinated in order to keep their jobs. These minutes are exhibited as **MA/52-INQ000311494**. The First Minister asked the trade unions if they would share their legal advice regarding risk assessments in the workplace for pregnant women. That meeting took place on 13 January 2022, and I deal with it below.
94. As we moved into the Autumn of 2021, we received regular updates on Covid-19 at Cabinet during the 21-day reviews. By October, Wales had the highest infection rate of the 4-nations. There had been a reduction in hospitalised cases, but the NHS remained under considerable pressure. We agreed to remain at Alert Level 0, but to emphasise the need for people to continue to take precautions and to encourage people to return to working from home during the winter months. Self-isolation requirements were reintroduced if a member of a household tested positive (with release to follow if a negative PCR test was received).
95. The Senedd voted on the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 17) Regulations 2021 on 5 October 2021 with the legislation passing by 28 to 27. Those regulations required individuals to show an NHS Covid pass in order to enter high risk venues such as nightclubs and large events, from 11 October 2021.

96. I attended the Shadow Social Partnership Council meetings on 7 October, 18 November and 9 December 2021. Regular updates were provided and proposals outlined for the next 21 day reviews. Minutes for these meetings have been previously exhibited as MA/14-INQ000311651, MA/15-INQ000321224 and MA/16-INQ000321219.
97. On the whole, the regulations were enforced by the police or by local authorities. Cabinet met on 29 November and it was agreed that more should be done to enforce the regulations. Minutes are exhibited as **MA/53-INQ000130006**. It was noted that the case brought by The City and County of Swansea against Cinema and Co Ltd, which had refused to comply with the relevant regulations, was being considered in Swansea Magistrate Court the following day. The background to that matter was that on 15 November 2021 Cinema & Co Ltd of 17 Castle Street, Swansea, SA1 1JE, had published a “manifesto” on social media which included a statement that it would not be implementing the Covid Pass scheme. The Local Authority visited the premises on 18 November 2021 and undertook an inspection which identified an absence of Covid-19 risk mitigating measures in contravention of the regulations. The Local Authority served a Premises Closure Notice, but the notice was ignored, and the premises remained open. The First Minister subsequently issued a Ministerial Direction under Schedule 22 to the Coronavirus Act 2020, directing that the premises close, which I exhibit as **MA/54-INQ000321078** and **MA/55-INQ000321080**.
98. By December 2021, concerns were being raised about the Omicron variant. Restrictions were retained, subject to any strengthening Ministers considered necessary to slow the spread of Omicron. Further updates were provided on Omicron that week.
99. Cabinet met on 2 December 2021 with those discussion re-convening on 6, 8 and 9 December. I exhibit those minutes as **MA/56-INQ000022562**. Initial consideration of the restrictions was held on 6 December where Cabinet considered Review of Coronavirus Restrictions (No. 5) Regulations CAB (20-21)61, exhibited as **MA/57-INQ000057950**. The paper outlined the current public health situation, which suggested a gradual improvement since the previous Thursday and cases of Covid-19 continued to fall across Wales. Covid-19 pressures in the NHS were also reducing. Therefore, Cabinet agreed that overall the regulations remained necessary and proportionate as a public health response to the current threat posed by coronavirus, subject to any strengthening Ministers considered necessary to slow the spread of Omicron.

100. Cabinet met again on 16 December 2021 and I exhibit the minutes as **MA/58-INQ000057970**. We were told that Omicron cases were rising rapidly across the UK, including in Wales. The trajectory of infection from Omicron was expected to be high and fast. There were reports of reduced severity in symptoms, but the large number of people infected was likely to lead to substantial pressure on the NHS. The First Minister informed Cabinet that he, along with the First Ministers of Scotland and Northern Ireland, had attended a meeting of COBR the previous day, where there had been a difficult discussion with the Chief Secretary to the Treasury, who refused to provide financial support to the Devolved Governments, should they need to re-introduce restrictions independently. Cabinet considered the worsening public health picture and agreed that there should be specific guidance to limit mixing, while encouraging people to take tests before going out.
101. Cabinet reconvened at 4:15pm. Following the additional advice from officials, we agreed there should be strong guidance about keeping safe over Christmas. It was agreed that regulations requiring people to work from home or remotely, wherever possible would be introduced; together with agreeing to the reintroduction of two metre social distancing along with one-way systems in offices, retail and other businesses to protect staff and customers after the Christmas period. The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 23) Regulations 2021, which implemented those changes.
102. Cabinet met again on 20 and 21 December. Given the increased transmissibility of Omicron and potential for vaccine escape, there was a greater risk of super-spreader events. Cabinet agreed that there was a need to introduce measures that would slow down transmission rates. Therefore, it was agreed all indoor and outdoor events should be closed to spectators from Boxing Day. Those restrictions were brought into force by the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 25) Regulations 2021. On 21 December Cabinet reconvened. The First Minister referred to the changing context since Cabinet last met, with the Scottish Government introducing similar measures to Wales for outdoor events and the UK Government announcing a £1bn support package for businesses in England hit by new Covid-19 cases. Cabinet agreed to reinstate the requirement for 2m physical distancing as a specific step in the regulations that must be taken before other measures. Given specific implications for public transport, it was agreed the sector should be removed from those premises covered by obligations in the regulations that applied to 'regulated premises'. I exhibit the minutes as **MA/59-INQ000022562**.

103. Ministers agreed a more flexible approach to gatherings in private dwellings with a focus on minimising contacts and taking a Lateral Flow Test before visiting; it was agreed that the rule of six should be reinstated.
104. A further extraordinary meeting of the Shadow Social Partnership Council was held on 22 December 2021, for which the minutes have previously been exhibited as **MA/23-INQ000321222**. At that meeting the Minister for Health and Social Services explained that extraordinary meeting had been called to provide members with an update on the Covid-19 Omicron variant and the measures which were being taken in response. Fliss Bennee, Co-Chair, Technical Advisory Group provided members with an update on current transmission levels across Wales.
105. At that meeting I explained that the working from home measures which were being introduced were being implemented on the basis of reasonable practicability. I explained that a fine would only be introduced in exceptional circumstances where there was a flagrant abuse of the working from home regulation and reiterated that the focus would remain on employer compliance. I also confirmed my view that the measure would empower and protect employees and their representatives in resisting unreasonable demands to come into work and potential action for non-compliance.
106. Cabinet met on 10 January 2022. I exhibit the minutes as **MA/60-INQ000057923**. There remained concerns about the impact of Omicron at that time with the CMO(W) advising Cabinet that Wales remained in a difficult situation with significant community transmission.
107. Cabinet then met on 13 January 2022 to consider its 21-day review. The minutes are exhibited as **MA/61-INQ000057924**. The public health evidence then was that the peak of the Omicron wave had either already passed or was about to arrive very soon. The position had changed rapidly over the previous 48 hours with a steep decline in cases. It was also noted that the rate of harm from Omicron for those who were vaccinated appeared to be less serious. Cabinet therefore agreed that a staggered approach to lifting restrictions was appropriate. The roll-out of the vaccine and the availability of NHS beds were two key features. Cabinet confirmed the Regulations would be amended from 21 January to remove the additional restrictions on outdoor activities.
108. There was a further meeting of SSPC on 13 January 2022 where the up-to-date position was discussed and which I exhibit as **MA/62-INQ000321227**. An indication of what measures might remain in place, and which might be relaxed was given. I emphasised that

the purpose of this meeting had been to provide early notice to members of the Welsh Government's current thinking regarding Covid-19 measures. I reiterated that all the proposals that had been outlined were based on transmission remaining on a downward trend and thanked the Shadow Social Partnership Council for their advice. I attended a further meeting on 20 January, 10 February, 3 March, and 24 March – minutes for these meetings have been previously exhibited as MA/17-INQ000321225, MA/18-INQ000321215, MA/19-INQ000311954 and MA/20-INQ000321226.

109. On 13 January 2022 I also met with trade union representatives to discuss issues arising from the Shadow Social Partnership Council meeting in September 2021. The meeting was to the legal issues regarding claims workers are being pressurised into getting vaccinated in order to retain their jobs.
110. Concerns arose on the part of the Trade Unions with the development of what became known as “No jab, no job” practices: that is a situation where an employer would direct that getting a vaccination was a mandatory condition of continued employment or was a condition of employment for new starters. The Welsh Government recognised that there were significant ethical and moral issues in relation to the vaccination and the policy view adopted was that a “no jab, no job” approach was counter-productive, risked creating a source of discrimination and, ultimately, division with the community. The emphasis from a policy perspective had been to promote and facilitate vaccination by, for example, encouraging employers to give employees time off for their vaccine appointment. The Welsh Government's position was to engage, explain and encourage, not to enforce.
111. Of course, I could not provide legal advice to the Trade Unions, but the meeting was used to air their concerns as the potential for pressure to be applied to employees; and a discussion of the respective legal rights of employers and their employees.
112. As far as I can recall this was the most contentious issue that was raised across all the meetings that I had attended.
113. The public health position continued to improve as we moved through 2022. We began to consider removing legal restrictions and instead providing guidance on how to keep people safe. Before taking this step, we engaged with the Shadow Social Partnership Council to consider their views. Initially, we decided to retain self-isolation requirements in regulations - I exhibit minutes of the Cabinet meeting of 28 February as **MA/63-**

INQ000130041 - although this requirement was moved to guidance following the 24 March 2022 review. The minutes of Cabinet's decision are exhibited as **MA/64-INQ000058010**. here. We removed the requirement for face coverings indoors, save for retail, public transport and health and social care. Cabinet took the view that those settings were places where vulnerable individuals would most likely be required to attend, as opposed to being able to avoid them if they wanted to, and so the need to maintain as much protection as possible for those vulnerable individuals was a key consideration. The Covid pass was abolished. On 21 March, the legal requirement for face coverings to be worn in retail premises and on public transport were removed. However, to protect the vulnerable, the requirement for such coverings to be worn in Health and Social Care settings would remain in place. The wider use of face coverings would be set out in guidance.

114. A further review took place on 12 April, I exhibit Cabinet minutes as **MA/65-INQ000022576** and relevant paper as **MA/66-INQ000321112**. Cabinet agreed that from 18 April 2022 businesses and organisations would no longer be legally required to undertake specific coronavirus risk assessments and take reasonable measures to minimise the risk of contracting coronavirus. The legal requirement for face coverings to be worn in health and social care settings was retained, for the time being, to protect the most vulnerable and staff.
115. I chaired the meeting of the Shadow Social Partnership Council on 13 April 2022 – minutes have been previously exhibited as MA/21-INQ000321217. The CMO(W) presented a general update on Covid-19 transmission. I presented agenda item 2 covering the Covid-19 review cycle and the Deputy Minister for Social Services presented an item on the long-term impact of Covid-19 on her portfolio area. I provided an update on the latest Cabinet decisions and sought views on new guidance. I explained that moving forward, the Health and Safety Executive (HSE) and local authorities would revert to being the main bodies for ensuring compliance with workplace regulations. Practices such as good ventilation or social distancing would continue to form part of official guidance and emphasised that the removal of restrictions would always be contingent upon transmission remaining manageable.
116. On 23 May 2022, we decided that the Covid-19 regulations should be allowed to expire. Cabinet minutes are exhibited as **MA/67-INQ000130065**. Infection rates driven by the Omicron variant continued to wane and the high level of vaccination in Wales was limiting the number of people who were experiencing serious direct harm from the virus. CMO(W) advice was that it was timely to remove the remaining legal requirement relating to the use

of face coverings in health and care settings, however, he recommended the continued use of such coverings and limiting the number of visitors to health care settings. Taking into account the current public health situation, with case rates and hospital admissions continuing to fall, Cabinet concluded that it was no longer proportionate to retain the Regulations. Therefore, it was agreed the legal requirement to wear face coverings in health and care settings should be allowed to expire on 30 May 2022, to be replaced by guidance, similar to the approach adopted by the rest of the UK.

117. As the understanding in respect of the long-term health impacts of Covid-19, or “long covid” as it became known, were better understood, that featured in Cabinet’s discussion (see for example Cabinet’s minutes of 15 November 2021 exhibited as **MA/68-INQ000129994**). That was yet a further relevant matter for Cabinet to consider when weighing the balance of harms.

Issues which affected public confidence

118. On the whole, in Wales I believe that we managed to maintain public trust and confidence which enabled us to govern. I was not aware of any breaches of regulations or guidance by those in government nor by senior advisors.
119. I recall in particular that Dominic Cummings’ visit to Barnard Castle in April 2020 gave rise to a significant amount of anger and resentment. It undermined the public health messaging relating to ongoing risk.
120. I also recall that the revelations relating to Matt Hancock MP’s relationship with Gina Coladangelo had a similar impact.
121. In Wales I do recall there being a story run in the newspapers about the then Minister for Health, Vaughan Gething, eating chips on a park bench. That was around May 2020, at a time when I was not in Government. As I was not in Government at the time, I cannot comment on whether guidance was changed in the weeks following the incident. I am not aware of that incident having any impact on public confidence.
122. More generally I do not recall there being any particular issues with the actions of Welsh Government Ministers, officials and advisors upon public health messaging around restrictions. My own view is that the importance of leading by example during that difficult time was paramount. Generally, that is what happened. There were some breaches of

regulations and guidance by UK Government Ministers and advisors, as above, which gave rise to some resentment.

Oral / written evidence to Committees

123. I attended the Legislation, Justice and Constitution Committee on 20 September 2021 and exhibit the transcript as **MA/69 – INQ000321210**. I also attended on 29 November 2021 and exhibit the transcript as **MA/70 – INQ000321211**; 17 January 2022 and exhibit the transcript as **MA/71 – INQ000321212**; 31 January 2022 and exhibit the transcript as **MA/72–INQ000321213**; and 14 March 2022 and exhibit the transcript as **MA/73–INQ000321214**.

Reflections

124. The Covid-19 pandemic was an unprecedented challenge for government. Reflecting upon the response I am sure that the importance of devolved decision making and the ability of the Welsh Government to respond to the situation in Wales was an important factor. The sharing of information at a UK level was an important tool which enabled the Welsh Government to act, but the ability to decide matters based on the particular situation in Wales was key. The ability to take decisions based on the needs of the people of Wales was a strength of the Welsh Government during the pandemic.

125. There was, on the whole, a very good system of disseminating information and of public health communication in Wales, which seemed to develop over time. Ministers were scrutinised by the media and viewing figures were high for Ministerial statements and press conferences. That was important because it ensured that decision making was in the public limelight, and not hidden away.

126. The dissemination of information by Ministers through their own online channels was also something which I think worked well. For example, I would make videos and take questions and answers on social media which would attract 20,000 viewers on occasion. That direct line of communication to the public was important.

127. It became increasingly apparent to me that misinformation, particularly targeted campaigns to try and undermine the scientific consensus as to the safety of vaccines, for example, were a particular concern. There was a targeted social media campaign used by the Welsh

Government to address those concerns but in future those are issues which government will need to be in a position to address from the outset. Ensuring that scientifically sound and accurate information is available seems to me to be key to maintaining public confidence in the decisions that were being taken.

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: 04/12/2023