

Fourth Witness Statement of Chris Llewelyn
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2nd February 2024

IN THE MATTER OF MODULE 2B OF
THE UK COVID-19 PUBLIC INQUIRY

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SECOND WITNESS STATEMENT OF
CHRIS LLEWELYN
ON BEHALF OF
THE WELSH LOCAL GOVERNMENT ASSOCIATION

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Introduction

1. I am the Chief Executive of the Welsh Local Government Association (WLGA) which is a Core Participant in Module 2B of the COVID-19 Inquiry.
2. This is my second witness statement in this Module. My first was submitted on the 6 September 2023, and was drafted in response to (a) the revised Rule 9 letter to the WLGA dated 9 November 2022, and (b) the draft List of Issues published on 12 May 2023.
3. Since then, the Inquiry has issued an updated List of Issues on 30 October 2023, adding further issues for Module 2B, also the WLGA has been able to review a number of witness statements made available to it as a Core Participant in this Module.
4. As noted already in my first witness statement the WLGA believes that there are some important lessons that can be drawn from the experience of local government in terms of planning and implementing a collective response in the context of a pandemic emergency. As a result of these subsequent events, the WLGA wishes to provide some further evidence to the Inquiry, concerning the effectiveness of relationships and working arrangements that the Welsh Government and other core bodies had with local government.

Module 1 and Module 2B

5. The Inquiry will have already noted that there is a connection between Modules 1 and 2B. In oral and written submissions in the first Module, the WLGA advanced 13 recommendations that it suggested the Inquiry should adopt. The WLGA would like to remind the Inquiry of four of these recommendations, because, though they were made during Module 1 concerned with planning for civil contingencies such as pandemics, it seems to the Association that they are also particularly relevant to the events within Module 2B.

6. These are –

(4) Contingency arrangements are needed for the urgent deployment of pre-trained and appropriately skilled officers into emergency command and advisory roles, and this should include civil servants in the UK and Welsh Government and local government and emergency officers within local resilience for a partnerships and local government structures.

(5) Contingency arrangements are also necessary for the passing of immediate and comprehensive legislation and guidance, with draft modular laws and statutory instruments and guidance held in reserve at both the UK and Welsh levels.

(8) Reserve capacity, public sector workforce redeployment plans and logistical support and call-on contracts are necessary to stand up key support services such as mass testing, test and trace, and mass vaccinations.

(9) There should be plans, resources and flexibilities for the full recovery of public services, which might not be able to resume in meeting their statutory performance standards and targets for some time post pandemic.

7. The WLGA has always recognised and fully respects the fact that the Welsh Government has the ultimate responsibility and role to lead a national response to a national emergency, in partnership with the UK Government, and to make decisions for a devolved Wales. However, the WLGA maintains – as I have said in my first statement in this Module (and indeed my witness statement for Module 1) – that the involvement of local government, both to prepare for and to respond to, a national emergency, could and should be –

- Fuller – open and detailed consultation and involvement for example in drawing up strategy and making key decisions.

- Earlier and timelier – at the right point in time to inform and influence strategy and decision-making.
 - Consistent – that is to say, done systematically at both the political and official level.
8. I do not consider that this should be controversial. For instance, Claire Jenkins, a special adviser to Minister for Health and Social Services has said in her witness statement (INQ000315607) at paragraph 115 that regular engagement with internal/external stakeholders had been key. When this happened, this was indeed significant, and in particular, the degree of political engagement between Leaders and Ministers enabled the unlocking of a number of issues very quickly.
9. I would not accept that this always occurred as it should have, particularly at an official level. This is a notable differentiation as officials in local government, for example, through the vehicle of the Strategic Coordination Groups, were being engaged and directed under the Civil Contingencies legislative framework – one which has no prescribed role for local authority leaders in decision-making and oversight. And I would go further, if more timely engagement between officials had happened, then it can be argued that the planning and implementation of NPIs would have been more effective.
10. Overall, the WLGA believes that local government can and should be a trusted partner and be involved at the design stages of any future policy for deploying NPIs; this is a significant lesson that should be learnt in this Module 2B. If local government is seen merely as a deliverer of pre-determined policy, then the opportunities for co-production will be missed, and outcomes will inevitably be poorer.
11. Moreover, the proximity of local government to Welsh Government – through the smaller scale of the country and the small number of local authorities as a ratio to the central government – is a natural advantage which can be exploited when compared to the quite different situation in England. Engagement can be more easily organised and managed at both political and official levels in Wales. We have a positive culture of mutual respect and working in partnership as a platform for the future.

12. There is though, it would appear, a marked difference of view as between the Welsh Government and the WLGA, as to what actually happened. For instance, the WLGA notes the statement of Reg Kilpatrick, who had been Director General, COVID-19 Crisis Coordination for the Welsh Government (INQ000274156), and how he observes that there was regular communication with local government, and that there being strong pre-existing relationships with local authorities, both collectively and individually, at the outset of the pandemic.
13. Communication is not however the same as consultation and still less is it co-production. The WLGA considers that in several ways Mr Kilpatrick's views about the extent of communication fail to recognise the extent to which there was inadequate *early* engagement with local government – engagement which could have ensured that the operational issues which local government would encounter were properly taken into account and which, had they been, could have much improved outcomes.
14. In the next paragraphs of this statement, I shall draw the Inquiry's attention to particular events which show how relevant these points are.

Local authority public health and public protection roles

15. A notable example of this is the issue of the supply and control of PPE as the Welsh Government has acknowledged that the supply and control of PPE in the Pandemic period was inconsistent. This issue illustrates in clear terms why the WLGA considers that the Welsh Government should develop a better understanding of the wider public health and public protection roles of local authorities, and thus, how better information and consultation between local government and the Welsh Government could have worked better.
16. The starting point is to note how Andrew Slade Director General, Economy, Skills and Natural Resources has commented to the Inquiry that "the market was flooded with fraudulent or substandard PPE" (INQ000319508 - paragraph 23). The Trading

Standards testing programme operated in some local authority areas demonstrated how some of the PPE purchased by the public sector failed to meet the required standards and was falsely described.

17. Yet Directors of Public Protection, through their trading standards services, could have played a significant role in preventing this from happening. Had there been earlier communication of the issue by Welsh Government, there could have been an enhanced market surveillance regime introduced with more interventions conducted. It is regrettable that this was largely overlooked.

The National Health Protection Plan

18. Local government has proven itself it be flexible and adaptable in response, and fulfilled many roles and functions in the pandemic for which it is not set-up or resourced.
19. One of the successes in a devolved Wales was the *Test, Trace, Protect* initiative. Local government was central to the planning, management, resourcing, and delivery of this key protective service as a shared public service model.
20. That said, it was an oversight not to have engaged local government at an early stage. The National Health Protection Plan was drafted without any full understanding of how the small existing national test and trace service might be scaled up on an all-Wales basis, when required. Even as late as May 2020, it was seen as a service being led solely by Public Health Wales. Local Government was eventually and belatedly directed to assist as a key partner. This is an example of insular planning.

The development and implementation of NPIs

21. A more extensive example concerns the way in which NPIs were introduced, developed, and ended.

22. The Inquiry knows well that NPIs played a major role in bringing the UK through the pandemic. In Wales, local authorities, along with the police, had the leading role in implementing these NPIs, and it seems to the WLGA that it is almost inevitable that they would do so again, should there be a comparable crisis.

23. However, it will be recalled that during Module 1 it became clear that UK Government had not appreciated in the planning stage how important it was to act co-operatively with enforcement partners in making and deploying appropriate NPIs. Yet, the fact is that when the pandemic came, the Welsh Government had only limited engagement with local government before making NPIs and approving their implementation.

24. In my first statement in this Module 2B, I set out a chronology of the NPIs and national 'lockdowns' implemented by Welsh Government and explained to some extent of the involvement of the WLGA and local government in the decision-making for their design, implementation, and their eventual withdrawal or 'lifting.'

25. In Wales (and no doubt in the rest of the UK), it was obvious that, whether NPIs would be effective in helping to overcome the pandemic, depended principally on three key things –

- How clear and persuasive was the public communication of the detail of the NPIs and what was the reach of that communication,
- The extent to which the public would in fact be willing to listen, comply and conform,
- and
- Whether relevant public bodies had the capacity and capability to monitor public behaviours, to warn about the consequences of non-compliance, and, where necessary, to enforce them.

26. Each of these were matters to which local government - because of its enforcement role and the closeness that it has to its communities - had much to contribute. That is why it seems to the WLGA that the extent to which there was engagement before making these NPIs is a very significant issue for this Module. In short, the WLGA

considers that it had the engagement been more significant then there would have significant benefits.

27. The WLGA does recognise that the NPIs were developed and issued by the Welsh Government, at pace and under pressure, particularly in the initial stages of the pandemic, and that further, in many respects, their content was without precedent. Yet it seems to the WLGA that this only serves to reinforce the point that, had there been adequate *advance* planning about the type and detail of possible pandemic NPIs, then there would have been less need for Governments to work so unilaterally, and under such pressure.

28. Moreover, the speed with which the NPIs were developed and deployed under such pressure had some significant consequences, because the Welsh Government proceeded on a *presumption* that the enforcement bodies had the necessary capacity and capability to inform the public and relevant undertakings, to warn against non-compliance, and, where necessary, to enforce the NPIs.

29. The WLGA is clear that this presumption existed, even though it is not made explicit in the documents that the WLGA has seen. This is because, (1) there was little or no advance assessment of extent of the resources available for enforcement (both financially and in terms of relevant and qualified personnel), (2) there was little or no consultation on these issues, and (3) there was no significant consideration of the capability of local authorities to carry out this work at the outset.

30. In due course this presumption rubbed up against the reality, and the WLGA had to negotiate for greater financial resources for local government specifically for enhancing public protection advisory and enforcement capacity (over and above the generic Hardship Fund support) Even so, looking back, the WLGA considers it ought to have been obvious that these omissions would lead – as they did - to backlogs in public protection priority work and other risks to public health and wellbeing as all specialist resources were deployed in response to the pandemic.

31. While there were inevitably areas of tension around funding and finances the overall impression that I would want to convey to the Inquiry is that this was an area where there was broad agreement and good working relationships. There was excellent partnership working between officials of the Welsh Government and local government finance officers that resolved immediate problems around cash flow, and the funding and administration of business support grants. While the initial operation of the Hardship Fund was not without initial problems, it proved to be a successful reimbursement scheme for income loss and additional pressures.
32. I do appreciate that opportunities for full consultation were limited at the outset and that, to an extent, there was a need to make decisions that met the specificities of the crisis, at pace. However, I would not agree with any suggestion that there was no opportunity for prompt and urgent consultation with enforcement partners to have taken place. It is therefore regrettable that this opportunity was not exploited.
33. The result was that the regulations and guidance at times followed the public announcement of the implementation of NPIs, leaving the enforcement agencies with questions over the legality of their powers to act to give effect to the announced NPIs, in some instances.
34. It led also to some confusion, and differing interpretation of key words and phrases of regulations, in local authorities. Had WLGA and local authorities not worked hard and fast to discuss and agree the likely intended meanings of the regulations, this could have led to different and non-comparable enforcement outcomes.
35. Whilst over time, there was greater communication with local government as Welsh Government settled into patterns of communication at a political and official level, the *style* of communication was generally one of informing rather than consulting. This is reflected in several of the statements made to this Inquiry Module from witnesses from Welsh Government.
36. For instance, during the 21-day review periods - where consideration was given to whether to continue with NPIs or to lift them - local government was briefed and

kept up to date. Whilst in this settled pattern of communications there was some opportunity for views to be expressed by local government leaders and senior officials, there was no structured consultation to gather views or evidence prior to decisions being made.

37. On the other hand, where regional 'lockdowns' were under consideration by Welsh Government, there was direct and inclusive engagement with the respective local authority political leaders and chief executives to assess the need for an intervention. This was a good example of pragmatic engagement 'in the moment.

38. Local government was not given any formal consultative role in helping evaluate the health, social and economic impacts of continuing with NPIs. Yet, local authorities were well-placed to advise here, given their extensive range of roles and their closeness to local communities of all types including sectors such as business and tourism. Local government was able to give an informed picture on the impacts of NPIs – positive and negative – on vulnerable individuals, particularly those in their care. The opportunity to consult in a full and systematic way was not exploited fully by Welsh Government.

39. I note how Thomas Smithson who had been the Welsh Government's Deputy Director COVID-19 Restart comments paragraph 26 of his evidence (INQ000282461) that local authorities were very positive about the inception of "forward guidance" and the "signalling" of changes to be implemented to regulation as the economy and society reopened. However, the WLGA, local authorities and the police forces, have together commented upon the lack of detail and the subsequent uncertainty that arose for enforcers. This is certainly another context in which greater involvement could have helped.

40. This is an example where co-production would have benefitted enforcers, industry, and the public generally on permissible actions to re-open.

41. At paragraph 57 Mr Smithson notes that there was a consensus that rules needed to be simplified, to reflect reality better and to provide opportunities for people to meet others. It is relevant that this is recognised as a consideration when, in fact,

the Welsh Government then introduced some complex and confusing requirements for compliance.

42. Examples include restricting the sale of certain items and requiring supermarkets to close aisles that held these goods whilst being open for the purchase of other permitted goods; allowing visitor attractions to open but advising people to stay local (5 miles) which made it impossible to visit attractions further afield. Full and timely consultation with enforcement agencies could have led to simpler and clearer guidance.

43. And at paragraph 144, Mr Smithson discusses the lessons learned and the full impacts of NPIs. A fuller understanding of the options to mitigate those impacts, were largely unknown at the time of their conception and had to be learned in real time with practical experience in the field of implementation. Had the expertise and local knowledge of local government been drawn upon then planning could have been improved at the outset.

Enforcement policy

44. In his evidence to the Inquiry in Module 2 given on 9 November 2023 (Exhibit CL/01 INQ000410949 – Transcript of Module 2 Public Hearing on 09 November 2023 – Page 26 Line 12 to Page 30 Line 15), Martin Hewitt, the former Chair of the National Police Chiefs Council (NPCC) expressed his frustration that many saw enforcement as being solely the remit of the Police whereas the local authorities, and the Trading Standards function specifically, had a key enforcement role.

45. The NPCC had created the strategy for Covid 19 enforcement; Engage, Explain, Encourage, Enforce which in March 2020 was distributed to all Police forces. However, as far as I am aware local government was not involved in the process of creating this guidance and not consulted on it. Similarly, the CPS created guidance for lawyers on how to prosecute breaches of the coronavirus regulations. This does not appear to have been shared with local authority level prosecutors.

46. Enforcement liaison began as, and remained, a 'bottom-up' and pragmatic approach at the point of implementation. This approach has attracted commentary over its inconsistency. It is worth noting that a large number of incorrect charges laid by the CPS had to be subsequently withdrawn because they were not legally enforceable.

Lessons learnt

47. Learning lessons from the way in which the Welsh Government approached the challenges posed by the pandemic is plainly extremely important, and of course the Inquiry is itself focused upon identifying and developing good practice in readiness and planning for the future eventuality of another pandemic. So, I must discuss the approach taken so far by the Welsh Government to learning lessons.

48. The WLGA is aware that there have been a number of internal reviews of the effectiveness of the Welsh response to the pandemic, and of future planning and resilience, have been undertaken/are being undertaken.

49. It would be easy for the Inquiry to get the wrong impression about these exercises. For instance it is notable that INQ000227454 – the Ex Covid stocktake and lessons learned (November 2020) says that the engagement between Welsh Government and local government was unprecedented, with a willingness to work toward a common goal, and that INQ000227671 observes that the Welsh Government continue the transparent, trusting, and co-productive ways of engaging with partners

50. The problem is that this does not fully reflect the WLGA's view of what happened; indeed, these Welsh Government reviews have in substance, if not exclusively, been undertaken within Welsh Government itself and have not involved key partners including local government. They have come to be known through the requests made by the Inquiry and not through any direct communication or engagement.

51. In the view of the WLGA this really is a significant omission since it means that these reviews have failed to gather a *comprehensive* picture and therefore cannot have been able to develop *whole-systems solutions* for future planning. I have become aware of Inquiry exhibit INQ000177516 and feel this is a good example of collective learning and reflection and such exercises should be the norm.
52. This lack of external input into the Welsh Government's lessons learned exercise and reviews has a significant consequence. For instance, the planning for the future makes little mention of the roles of the local authorities or the Directors of Public Health based within the Health Boards. In the WLGA's view, the 'real-time' lesson from the pandemic - that so much of the Welsh Government policy would have been less effective without the commitment, adaptability and capability of local authorities and their local partners – has not been captured and is overlooked.
53. In the view of the WLGA the key lesson learnt should be that we need collective and inclusive planning, led by Welsh Government, with a whole-systems approach engaging all partners who have a role to play. Local government is concerned that this learning is being lost, and that we might revert to the situation of inadequate planning and readiness for the next national emergency of the future which was explored in Module 1.
54. The size and scale of the public sector in Wales offers the opportunity for the development of expertise and enhanced understanding of the public health framework be that through secondments or formal training regimes. The most impactful teams in the pandemic were multidisciplinary and that must be embedded into any future planning and response.

I, Chris Llewelyn, declare that the contents of this my statement are true and accurate to the best of my knowledge and belief.

Personal data

Personal Data

Signed:

Dated: 2nd February 2024